

U.S. Customs Service

General Notices

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, January 2, 2003.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
(for Michael T. Schmitz, Assistant Commissioner,
Office of Regulations and Rulings.)

PROPOSED REVOCATION OF RULING LETTER AND TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF MICROCRYSTALLINE CELLULOSE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter and treatment relating to the classification of microcrystalline cellulose.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling concerning the tariff classification of microcrystalline cellulose under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATE: Comments must be received on or before February 14, 2003.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulation and Rulings, Attention: Regulations Branch,

1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at 799 9th St. N.W. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Allyson Mattanah, General Classification Branch, (202) 572-8784.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of microcrystalline cellulose. Although in this notice Customs is specifically referring to New York Ruling Letter (NY) H87232, dated January 31, 2002, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially

identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 his agents for importations of merchandise subsequent to this notice.

In NY H87232, Customs ruled that a microcrystalline cellulose was classified in subheading 3913.90.20, HTSUS, the provision for "[n]atural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms: [o]ther: [p]olysaccharides and their derivatives." NY H87232 is set forth as Attachment A to this document.

It is now Customs position that this substance was not correctly classified in NY H87232 because it is more specifically provided for in subheading 3912.90.00, HTSUS, the provision for "[c]ellulose and its chemical derivatives, not elsewhere specified or included, in primary forms: [o]ther."

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to revoke NY H87232 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) 966069. (*see* Attachment B to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: December 26, 2002.

JOHN G. BLACK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, January 31, 2002.
CLA-2-39:RR:NC:SP:237 H87232
Category: Classification
Tariff No. 3913.90.2010

MR. JOSEPH J. CHIVINI
DIRECTOR OF OPERATIONS
AUSTIN CHEMICAL COMPANY, INC.
*1565 Barclay Boulevard
Buffalo Grove, IL 60089*

Re: The tariff classification of microcrystalline cellulose CAS-9004-34-6 from China.

DEAR MR. CHIVINI:

In your letter dated January 15, 2002 you requested a tariff classification ruling for microcrystalline cellulose CAS-9004-34-6 imported for use in producing a pharmaceutical intermediate.

The applicable subheading for microcrystalline cellulose CAS-9004-34-6 will be 3913.90.2010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for a-cellulose in granular, microcrystalline or powdered forms. The rate of duty is 5.8 percent ad valorem.

This merchandise may be subject to the requirements of the Toxic Substances Control Act (TSCA), administered by the U.S. Environmental Protection Agency. You may contact them at 402 M Street, S.W., Washington, D.C. 20460, telephone number (202) 554-1404, or at EPA Region II telephone number (908) 321-6669.

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 Frank Cantone at 646-733-3038.

ROBERT B. SWIERUPSKI,

*Director,
National Commodity Specialist Division.*

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:GC 966069 AM
Category: Classification
Tariff No. 3912.90.00

MR. JOSEPH CHIVINI
AUSTIN CHEMICAL COMPANY INC.
*1565 Barclay Blvd.
Buffalo Grove, IL 60089*

Re: NY H87232 revoked; microcrystalline cellulose CAS 9004-34-6.

DEAR MR. CHIVINI:

This is in reference to New York Ruling Letter (NY) H87232 issued to you on January 31, 2002, by the Director, Customs National Commodity Specialist Division, concerning the classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of microcrystalline cellulose CAS 9004-34-6. We have had an opportunity to review this ruling and believe it is incorrect.

Facts:

Cellulose and microcrystalline cellulose have the chemical formula $(C_6H_{10}O_5)_n$ and are assigned CAS 9004-34-6. Cellulose and microcrystalline cellulose have the same absolute density and solubility, neither is soluble in water. Microcrystalline cellulose is used in producing a pharmaceutical intermediate.

Customs Laboratory Report SJ20020074, dated January 30, 2002, analyzing a microcrystalline cellulose in another case, states, in pertinent part, the following: “[t]he sample, a white powder, is microcrystalline cellulose. The sample is a modified natural polymer of derivated polysaccharides.”

Cellulose is “a natural carbohydrate high polymer (polysaccharide) consisting of anhydroglucose units joined by an oxygen linkage to form long molecular chains. * * * The degree of polymerization is from 1000 for wood pulp to 3500 for cotton fiber, giving a molecular weight from 160,000 to 560,000. Cellulose exists in three forms— α , β and γ .” *Hawley’s Condensed Chemical Dictionary*, 12th Ed., pp. 236–7, Van Nostrand Reinhold Company, New York (1993). However, “the molecular weight of isolated cellulose is approximately 50,000.” “Evaluation of the Health Aspects of Cellulose and Certain Cellulose Derivatives as Food Ingredients,” Food and Drug Administration Report BF-78-7, November, 1974.

The instant cellulose has been prepared in a microcrystalline form. The process involves breaking up the network of microcrystals by acid hydrolysis and separating them by mechanical agitation. On the microscopic level, these substances are composed of colloidal microcrystals connected by molecular chains. Microcrystalline cellulose is defined as a highly purified particulate form of cellulose. *Id.* at 107, 784–5. Due to the decreased number of glucose monomers in the microcrystalline cellulose chain, the degree of polymerization of microcrystalline cellulose is lower than that of cellulose. Hence, the molecular weight of microcrystalline cellulose is approximately 24,000–57,000.

Issue:

What is the classification, under the HTSUS, of microcrystalline cellulose?

Law and Analysis:

Merchandise imported into the U.S. is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context that requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs.

In interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The HTSUS headings under consideration are as follows:

- 3912 Cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms:
- 3913 Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms:

EN 39.12 states, in pertinent part, the following:

(A) CELLULOSE

Cellulose is a carbohydrate of high molecular weight, forming the solid structure of vegetable matter. It is contained in cotton in almost a pure state. Cellulose not elsewhere specified or included, in primary forms, falls in this heading.

Through the formation of microcrystalline cellulose, the molecular weight decreases. Although the ENs describe cellulose as a carbohydrate of high molecular weight, this statement does not preclude microcrystalline cellulose from being classified as such. Mi-

crocrystalline cellulose remains a carbohydrate with the same chemical formula as cellulose. Microcrystalline cellulose has a molecular weight within the range of isolated cellulose. Microcrystalline cellulose is known as a highly purified particulate form of cellulose within the technical literature noted above. As such, the product is more specifically provided for in heading 3912, HTSUS, as cellulose than in heading 3913, HTSUS, as a natural polymer, not elsewhere specified or included.

Our determination is consistent with a recent decision on similar merchandise published in the *Compendium of Classification Opinions* on the Harmonized Commodity Description and Coding System where the classification of "Cellulose powder, microcrystalline, white, obtained from alpha cellulose by acid hydrolysis which breaks up the fibres, * * *" is classified in 3912.90 of the Harmonized Tariff Schedule (HTS). See Opinion No. 3912.90 of the WCO's *Compendium of Classification Opinions*, Amending Supplement No. 25 (January 2000). As we stated in T.D. 89-80, decisions in the *Compendium of Classification Opinions* should be treated in the same manner as the ENs, i.e., while neither legally binding nor dispositive, they provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. T.D. 89-80 further states that ENs and decisions in the *Compendium of Classification Opinions* "should receive considerable weight."

Holding:

Microcrystalline cellulose is classified in subheading 3912.90.00, HTSUS, the provision for "[c]ellulose and its chemical derivatives, not elsewhere specified or included, in primary forms: [o]ther."

Effect on Other Rulings:

NY H87232 is revoked.

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

REVOCATION OF RULING LETTER AND TREATMENT
RELATING TO TARIFF CLASSIFICATION OF BOROL®
SOLUTION, A LIQUID SODIUM BOROHYDRIDE PRODUCT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of ruling letter and treatment relating to the tariff classification of Borol® solution, a liquid sodium borohydrate (LSBH) product.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling concerning the tariff classification of Borol® solution, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed revocations was published on November 13, 2002, in Volume 36, Number 46, of the CUSTOMS BULLETIN. No comments were received in response to this notice.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after March 17, 2003.

FOR FURTHER INFORMATION CONTACT: Allyson Mattanah, General Classification Branch, (202) 572-8784.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts, which emerge from the law, are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs 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 Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), Customs published a notice in the November 13, 2002, CUSTOMS BULLETIN, Volume 36, Number 46, proposing to revoke New York Ruling Letter (NY) D88824, dated April 8, 1999, and to revoke any treatment accorded to substantially identical merchandise. No comments were received in response to this notice.

In NY D88824 it was determined that Borol[®] solution was classifiable in subheading 3824.90.39, HTSUS, which provides for "[p]repared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: [r]esidual products of the chemical or allied industries, not elsewhere specified or included: [o]ther."

We now believe the merchandise is classified in subheading 3809.92.50, HTSUS, the provision for "[f]inishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included: [o]f a kind used in the paper or like industries: [o]ther; because it is more specifically described by its use in the paper industry.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs is revoking

any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, have been the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations involving the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should have advised Customs during the notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Customs, pursuant to section 625(c)(1), is revoking NY D88824 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 965797 set forth as an attachment to this notice. Additionally, pursuant to section 625(c)(2), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions.

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

Dated: December 26, 2002.

JOHN G. BLACK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, December 26, 2002.
CLA-2 RR:CR:GC 965797 AM
Category: Classification
Tariff No. 3809.92.50

MR. JAMES W. LAWLESS
C.H. POWELL COMPANY
*1 Intercontinental Way
Peobody, MA 01960*

Re: Revocation of NY D88824; Borol[®] solution, a liquid sodium borohydride product.

DEAR MR. LAWLESS:

This is in reference to New York Ruling Letter (NY) D88824, issued to you on April 8, 1999, by the Customs Service National Commodity Specialist Division, concerning the classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of Borol[®], a liquid sodium borohydride (LSBH) product.

In NY D88824, the merchandise was classified in subheading 3824.90.39, HTSUS, the provision for “[p]repared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: [r]esidual products of the chemical or allied industries, not elsewhere specified or included: [o]ther.” We have reviewed this ruling and consider it to be incorrect.

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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act, (Pub. L. 103–82, 107 Stat. 2057, 2186), notice of the revocation of NY D88824 was published on November 13, 2002, in the CUSTOMS BULLETIN, Volume 36, Number 46. No comments were received in response to this notice.

Facts:

Borol® consists of 12 % sodium borohydride, CAS 16940–66–2, 40% Sodium Hydroxide, CAS 1310–73–2, and water. Borol® belongs to a class of products known as LSBH products. *The Kirk-Othmer Concise Encyclopedia of Chemical Technology*, 4th edition, (John Wiley & Sons, Inc., p.284) states, in pertinent part, “[t]he predominant use for sodium borohydride is in wood pulp (qv) bleaching. The next largest commercial use is as a reducing agent of functional groups in organic synthesis. A significant application in pharmaceutical synthesis is the stereospecific and selective reduction in steroid production.”

Customs Laboratory report 2–1999–20932, dated March 23, 1999, states, in pertinent part, that the sample is used as an “intermediate to produce a bleach used in the paper industry” and consists of a “mixture of inorganic chemicals.”

After entry, Borol® solution and a 38% sodium bisulphite solution are simultaneously mixed in the pulp stream to form a 100% active hydrosulfite bleach. “Bleaching,” as it applies to the paper making industry, is “the process of chemically treating pulp to alter the coloring matter so that the pulp has a higher brightness. This is usually accompanied by partial removal of noncellulosic materials. The two classes of chemicals used are oxidizing agents * * * and reducing agents (such as sulfur dioxide and hydrosulfites).” *The Dictionary of Paper*, Third Edition, American Paper and Pulp Association, (New York, 1965) p. 70.

Issue:

What is the classification of Borol® solution, a liquid sodium borohydride product, under the HTSUS?

Law and Analysis:

Merchandise imported into the U.S. is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context that requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs. Additional U.S. Rule of Interpretation 1(a) states that “a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.”

In interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

The following HTSUS headings are relevant to the classification of this product:

- 3809: Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included:

3824: Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:

EN 38.09 states, in pertinent part, the following:

This heading covers a wide range of products and preparations, of a kind generally used during processing or finishing of yarns, fabrics, paper, paperboard, leather or similar materials, not specified or included elsewhere in the Nomenclature.

They may be identified as falling in this heading because of their composition and presentation which give them a specific use in the industries cited in the heading and like industries, e.g., the textile floor carpeting industry, the vulcanised fibre manufacturing industry and the fur industry. Such products and preparations (e.g., textile softening agents) destined for domestic rather than industrial use are also covered by the heading.

Included here are:

* * * * *

(B) Products and preparations used in the paper, paperboard or like industries:

- (1) Binders used to bind the pigment particles in the coating mixture. They are preparations based on natural products such as casein, starch, starch derivatives, soya protein, animal glue, alginates or cellulose derivatives.
- (2) Sizing agents or sizing additives used in paper processing to improve printability, smoothness and gloss and to impart writing properties to the paper. These preparations may be based on rosin soaps, fortified resins, wax dispersions, paraffin dispersions, acrylic polymers, starch and carboxymethylcellulose or vegetable gum.
- (3) Wet-strengthening agents. These preparations are used to increase tensile strength, tearing strength, bursting strength and resistance to abrasion of wet paper or nonwovens.

Heading 3809, HTSUS, is a principal use provision covering a wide range of products. The court in *E.M. Chemicals v. United States*, 923 F. Supp. 202 (Ct. Int'l Trade, 1996) explained the application of principal use provisions thus: “[w]hen applying a “principal use” provision, the Court must ascertain the class or kind of goods which are involved and decide whether the subject merchandise is a member of that class. See, *supra*, Additional U.S. Rule of Interpretation 1 to the HTSUS.” EN 38.09 specifically includes binders, sizing agents and wet-strengthening agents as those products “of a kind used in the paper industry.”

Kirk-Othmer, *supra*, contains a description of papermaking additives. It characterizes such additives as either process aids, functional internal additives, or functional surface treatments. *Id.* at 1447-9. Binders are listed as functional surface treatments and wet-strengthening agents and sizing agents are listed as functional internal additives. Bleach or LSBH products are not listed, but appear to be process aids. HQ 950801, dated April 9, 1992, classified a defoamer, listed as a process aid in Kirk-Othmer, in heading 3809, HTSUS. Hence, LSBH products such as Borol® solution, belong to the class or kind of goods that are used in the paper industry. As such, Borol® solution is more specifically provided for in heading 3809 than in heading 3824, HTSUS.

Holding:

Borol® solution is classified in subheading 3809.92.50, HTSUS, the provision for “[f]inishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included: [o]f a kind used in the paper or like industries: [o]ther.”

Effect on Other Rulings:

NY D88824 is revoked.
 In accordance with 19 U.S.C. §1625(c)(1), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

JOHN G. BLACK,
 (for Myles B. Harmon, Acting Director,
 Commercial Rulings Division.)