

Bureau of Customs and Border Protection

CBP Decisions

(CBP Dec. 05–08)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR FEBRUARY, 2005

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 05–05 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): February 21, 2005

Denmark krone

February 7, 2005	0.171636
February 8, 2005	0.171759
February 9, 2005	0.171948

Norway krone

February 4, 2005	0.155877
February 5, 2005	0.155877
February 6, 2005	0.155877
February 7, 2005	0.152842
February 8, 2005	0.152434
February 9, 2005	0.152877
February 10, 2005	0.152760
February 11, 2005	0.152686
February 12, 2005	0.152686
February 13, 2005	0.152686
February 14, 2005	0.154543
February 15, 2005	0.154967
February 16, 2005	0.155424

South Africa rand:

February 1, 2005	0.166625
February 2, 2005	0.166450
February 3, 2005	0.163247

FOREIGN CURRENCIES—Variances from quarterly rates for February 2005 (continued):

South Africa rand: (continued):

February 4, 2005	0.163066
February 5, 2005	0.163066
February 6, 2005	0.163066
February 7, 2005	0.161355
February 8, 2005	0.160452
February 9, 2005	0.160707
February 10, 2005	0.163409
February 11, 2005	0.164913
February 12, 2005	0.164913
February 13, 2005	0.164913
February 14, 2005	0.165549
February 15, 2005	0.166945
February 16, 2005	0.166581
February 17, 2005	0.168719
February 18, 2005	0.168435
February 19, 2005	0.168435
February 20, 2005	0.168435
February 21, 2005	0.168435

Sweeden krona

February 4, 2005	0.142403
February 5, 2005	0.142403
February 6, 2005	0.142403
February 7, 2005	0.140619
February 8, 2005	0.140750
February 9, 2005	0.141103
February 10, 2005	0.141713
February 11, 2005	0.141439
February 12, 2005	0.141439
February 13, 2005	0.141439

Switzerland franc

February 4, 2005	0.829256
February 5, 2005	0.829256
February 6, 2005	0.829256
February 7, 2005	0.818197
February 8, 2005	0.819471
February 9, 2005	0.821693
February 10, 2005	0.827335
February 11, 2005	0.826788
February 12, 2005	0.826788
February 13, 2005	0.826788

Dated: March 1, 2005

MARGARET T. BLOM,
Acting Chief,
Customs Information Exchange.

(CBP Dec. 05–09)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR
FEBRUARY, 2005

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): February 21, 2005

European Union euro:

February 1, 2005	1.301700
February 2, 2005	1.301500
February 3, 2005	1.295900
February 4, 2005	1.292700
February 5, 2005	1.292700
February 6, 2005	1.292700
February 7, 2005	1.277300
February 8, 2005	1.278300
February 9, 2005	1.279700
February 10, 2005	1.288200
February 11, 2005	1.286400
February 12, 2005	1.286400
February 13, 2005	1.286400
February 14, 2005	1.298100
February 15, 2005	1.298600
February 16, 2005	1.299400
February 17, 2005	1.308300
February 18, 2005	1.307500
February 19, 2005	1.307500
February 20, 2005	1.307500
February 21, 2005	1.307500
February 22, 2005	1.323000
February 23, 2005	1.320800
February 24, 2005	1.320500
February 25, 2005	1.319500
February 26, 2005	1.319500
February 27, 2005	1.319500
February 28, 2005	1.327400

South Korea won:

February 1, 2005	0.000973
February 2, 2005	0.000973
February 3, 2005	0.000976
February 4, 2005	0.000974
February 5, 2005	0.000974
February 6, 2005	0.000974

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for February 2005 (continued):

South Korea won: (continued):

February 7, 2005	0.000972
February 8, 2005	0.000965
February 9, 2005	0.000962
February 10, 2005	0.000958
February 11, 2005	0.000968
February 12, 2005	0.000968
February 13, 2005	0.000968
February 14, 2005	0.000976
February 15, 2005	0.000974
February 16, 2005	0.000974
February 17, 2005	0.000975
February 18, 2005	0.000977
February 19, 2005	0.000977
February 20, 2005	0.000977
February 21, 2005	0.000977
February 22, 2005	0.000995
February 23, 2005	0.000997
February 24, 2005	0.000993
February 25, 2005	0.000992
February 26, 2005	0.000992
February 27, 2005	0.000992
February 28, 2005	0.000999

Taiwan N.T. dollar:

February 1, 2005	0.031456
February 2, 2005	0.031556
February 3, 2005	0.031591
February 4, 2005	0.031706
February 5, 2005	0.031706
February 6, 2005	0.031706
February 7, 2005	0.031641
February 8, 2005	0.031476
February 9, 2005	0.031456
February 10, 2005	0.031521
February 11, 2005	0.031606
February 12, 2005	0.031606
February 13, 2005	0.031606
February 14, 2005	0.031711
February 15, 2005	0.031802
February 16, 2005	0.031656
February 17, 2005	0.031776
February 18, 2005	0.031786
February 19, 2005	0.031786
February 20, 2005	0.031786
February 21, 2005	0.031786
February 22, 2005	0.032139
February 23, 2005	0.032056
February 24, 2005	0.032036
February 25, 2005	0.032087

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for February 2005 (continued):

Taiwan N.T. dollar: (continued):

February 26, 2005	0.032087
February 27, 2005	0.032087
February 28, 2005	0.032196

Dated: March 1, 2005

MARGARET T. BLOM,
Acting Chief,
Customs Information Exchange.

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

**Arrival and Departure Record:
(Forms I-94, I-94W and I-94T)**

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Arrival and Departure Record, Form I-94 and alternate versions. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 2, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Arrival and Departure Record

OMB Number: 1651-0111

Form Number: I-94, I-94W and I-94T

Abstract: These forms are used to deliver to the CBP Officers at the port of arrival lists or manifests of persons on board arriving and departing vessels and aircrafts. These forms are completed by the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (with change)

Affected Public: Individuals

Estimated Number of Respondents: 18,124,380

Estimated Time Per Respondent: 24 hours

Estimated Total Annual Burden Hours: 1,352,209

Estimated Total Annualized Cost on the Public: \$120,958,321

Dated: March 7, 2005

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, March 2, 2005 (70 FR 10108)]

PROPOSED COLLECTION; COMMENT REQUEST
Establishment of a Bonded Warehouse:
Bonded Warehouse Regulations

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Estab-

lishment of a Bonded Warehouse (Bonded Warehouse Regulations). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 2, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Establishment of a Bonded Warehouse (Bonded Warehouse Regulations)

OMB Number: 1651–0041

Form Number: N/A

Abstract: 19 CFR Section 19 sets forth requirements for bonded warehouses. This includes applications needed to establish a bonded warehouse; to receive free materials the warehouse; and to make alterations, suspensions, relocation or discontinuance of a bonded warehouse.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (with change)

Affected Public: Businesses, Institutions
Estimated Number of Respondents: 198
Estimated Time Per Respondent: 24 hours
Estimated Total Annual Burden Hours: 4,910
Estimated Total Annualized Cost on the Public: \$108,020

Dated: March 7, 2005

TRACEY DENNING,
Agency Clearance Officer;
Information Services Group.

[Published in the Federal Register, March 2, 2005 (70 FR 10108)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
North American Free Trade Agreement Duty Deferral**

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: NAFTA Duty Deferral. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76954) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 1, 2005.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, Washington, D.C. 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: North American Free Trade Agreement Duty Deferral

OMB Number: 1651-0071

Form Number: N/A

Abstract: The North American Free Trade Agreement Duty Deferral Program prescribe the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program for exportation to another NAFTA country.

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

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 50

Estimated Time Per Respondent: 5.6 hours

Estimated Total Annual Burden Hours: 280

Estimated Total Annualized Cost on the Public: \$754.65

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: February 23, 2005

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, March 2, 2005 (70 FR 10107)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, March 2, 2005,

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

Sandra L. Bell for MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

**PROPOSED MODIFICATION OF RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF WATER BOTTLES**

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

ACTION: Notice of proposed modification of tariff classification ruling letters and revocation of treatment relating to the classification of water bottles.

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 modify three ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of water bottles. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before April 15, 2005.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted com-

ments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, General Classification Branch, at (202) 572-8721.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify three ruling letters relating to the tariff classification of certain water bottles. Although in this notice CBP is specifically referring to the modification of New York Ruling Letter (NY) 897965, dated June 10, 1994, NY 880582, dated November 30, 1992, and NY 867193 dated October 17, 1991, (Attachments A, B, and C, respectively), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the three identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP previous interpretation of the HTSUS. Any person involved with substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY 880582, NY 897965, and NY 867193, CBP classified certain water bottles in subheading 3923.30.00, HTSUS, as articles for the conveyance or packing of goods, of plastics: carboys, bottles, flasks and similar articles, other. Based on our analysis of the scope of the terms of heading 3923, HTSUS, that the water bottles are not articles for conveyance of goods, we now believe that the water bottles subject to this notice are classified in subheading 3926.90.9880, HTSUS, as "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY 880582, NY 897965, NY 867193, and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letters (HQs) 967540, 967541 and 967542 (Attachments D, E and F respectively). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that is contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: February 23, 2005

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY 897965
June 10, 1994
CLA-2-42:S:N:N6:341 897965
CATEGORY: Classification
TARIFF NO.: 4202.92.3030; 3923.30.0090

MS. MONA WEBSTER
TARGET STORES
33 South Sixth St.
P.O. Box 1392
Minneapolis, MN 55440-1392

RE: The tariff classification of a waist bag containing a water bottle from Taiwan.

DEAR MS. WEBSTER:

In your letter dated May 13, 1994, you requested a classification ruling for a waist bag containing a water bottle.

The sample submitted, style 60101, is a waist bag composed of textile man-made material designed with an insulated holder containing a plastic travel water bottle. The water bottle is secured within the holder by a permanently affixed elastic strap. The bag has a large zippered storage pouch to contain personal effects during travel and leisure activities. There is an additional front mesh storage pocket which is secured by means of a hook and loop fastener. The item has a padded back pad for extra support and a webbed waist strap with a quick release buckle fastener. The top of the bag features the "Sport Works" trademark. Your sample is being returned as you requested.

The applicable subheading for the waist bag of textile man-made material will be 4202.92.3030, Harmonized Tariff Schedule of the United States (HTS), which provides for travel, sports and similar bags, with outer surface of textile materials, other, of man-made fibers, other. The duty rate will be 20 percent ad valorem.

Items classifiable under 4202.92.3030 fall within textile category designation 670. As a product of Taiwan this merchandise is subject to visa requirements and quota restraints based upon international textile trade agreements.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report On Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

The applicable subheading for the plastic travel water bottle will be 3923.30.0090, HTS, which provides for articles for the conveyance

or packing of goods, of plastics . . . carboys, bottles, flasks and similar articles, other. The duty rate will be 3 percent ad valorem.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
*Area Director,
New York Seaport.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY 880582
November 30, 1992
CLA-2-39:S:N:N3D:221 880582
CATEGORY: Classification
TARIFF NO.: 3923.30.0090; 4202.92.9020

MR. STEVE MCFARLAND
GLOBAL PROMOTIONS, INC.
820 Livingston Street, P.O. Box 186
Tewksbury, Massachusetts 01876

RE: The tariff classification of a waist pack with a plastic travel type water bottle from Taiwan.

DEAR MR. MCFARLAND:

In your letter dated November 20, 1992, you requested a tariff classification ruling. The waist pack is composed of nylon and insulated with a foamed plastic material. The waist pack, which is similar to a holster, has a nylon webbing strap so that it can be worn around the waist. The waist pack is used to hold the plastic water bottle during leisure activities and travel.

The waist pack will be imported both with the bottle and separately from the bottle.

The applicable subheading for the waist pack and water bottle, when imported together, will be 3923.30.0090, Harmonized Tariff Schedule of the United States (HTS), which provides for articles for the conveyance or packing of goods, of plastics, carboys, bottles, flasks and similar articles, other. The rate of duty will be 3 percent ad valorem.

The applicable subheading for the waist pack, when imported separately from the water bottle, will be 4202.92.9020, HTS, which provides for trunks, suitcases, camera cases and similar containers, with outer surface of textile materials, other, of man-made fibers. The rate of duty will be 20 percent ad valorem.

The waist pack, when imported separately from the water bottle, falls within textile category designation 670. Based upon international textile trade agreements, products of Taiwan are presently subject to quota and the requirement of a visa.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report On Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
*Area Director,
New York Seaport.*

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY 867193
October 17, 1991
CLA-2-95:S:N:N3D:225 867193
CATEGORY: Classification
TARIFF NO.: 9503.90.6000, 3923.30.0090,
8714.99.9000, 9503.49.0020

MS. KRISTINE A. QUIGLEY
TOTAL LOGISTICS RESOURCE, INC.
*P.O. Box 30419
Portland, Oregon 97230*

RE: The tariff classification of toys, a plastic water bottle, a bicycle horn and bicycle siren from China

DEAR MS. QUIGLEY:

In your letter dated September 17, 1991, you requested a tariff classification ruling on behalf of your client Performance Concepts/MB Sales. Four samples and a picture were enclosed with your inquiry. The first item is called "Egon Spinner". The item is designed for attachment to the handlebars of a bicycle. "Egon" is a plastic molded figure of a man holding a gun. He is unable to stand alone due to peg extensions from each foot. The figure attaches to a platform which is connected to a wind activated propeller. Wind

forces the propeller to spin which in turn activates another gear causing the figure to rotate on its platform. The essential character of this item is to amuse and therefore qualifies as a toy article.

The second sample is referred to as "P.K.E. Water Bottle". The water bottle measures approximately 6 inches in height and 3 inches in width. The bottle snaps into a frame which attaches to either the bicycle handle bars or any cross bar of the bike. The plastic container is intended to carry drinking water for the cyclist.

The third item is called "Slimer Horn". This horn attaches to the handle bars of a bicycle. "Slimer" depicts a ghost character from the popular "Ghostbuster" movie. The horn sounds when the character is squeezed.

The next article is called "Ecto Siren". This too attaches to the handle bars of a bicycle. The item depicts the "Ghost-busters-Ecto Ambulance" with a hand operated crank in the rear. A child can wind the crank and produce the siren sound.

The final item is a bath squeeze toy known as "Slimer". This article, made of PVC, resembles the same ghost character described above.

The applicable subheading for the "Egon Spinner" will be 9503.90.6000, Harmonized Tariff Schedule of the United States (HTS), which provides for other toys (except models), not having a spring mechanism. The duty rate will be 6.8 percent ad valorem.

The applicable subheading for the "P.K.E. Water Bottle" will be 3923.30.0090, HTS, which provides for articles for the conveyance or packing of goods, of plastics: carboys, bottles, flasks and similar articles, other. The duty rate will be 3 percent ad valorem.

The applicable subheading for the "Slimer Horn" and "Ecto Siren" will be 8714.99.9000, HTS, which provides for parts and accessories of bicycles: other: other: other. The duty rate will be 10 percent ad valorem.

The applicable subheading for the "Slimer" squeeze toy will be 9503.49.0020, HTS, which provides for toys representing animals or non-human creatures: not having a spring mechanism:

other. The duty rate will be 6.8 percent ad valorem.

Your letter indicates that the above toys will be separately packaged in a polybag with paper inserts and printed decals. The polybags, inserts and decals are properly classified with the respective articles they are entered with according to GRI 3(b) which reads in part "goods put up in sets for retail sale . . .

shall be classified as if they consisted of the material or component which gives them their essential character". Additionally, GRI 5(b) states in part "packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods". Clearly the polybags are a usual packaging for the items described above.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the docu-

ments have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

**JEAN F. MAGUIRE,
Area Director,
New York Seaport.**

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967540
CLA-2 RR:CR:GC 967540 RSD
CATEGORY: Classification
TARIFF NO. 3926.90.9880

MR. STEVE MCFARLAND
GLOBAL PROMOTIONS, INC.
820 Livingston Street
P.O. Box 186
Tewksbury, Massachusetts 01876

RE: Modification of NY 880582 with respect to the tariff classification of a plastic water bottle.

DEAR MR. MCFARLAND:

This is in reference to New York Ruling Letter (NY) 880582, issued on November 30, 1992, by the Customs and Border Protection (CBP), National Commodity Specialist Division, regarding the classification of a water bottle that comes with a waist pack under the Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered NY 880582 and determined that the classification of the water bottle is not correct.

FACTS:

The merchandise under consideration in NY 880582 was a waist pack composed of nylon and insulated with a foamed plastic material. The waist pack, was described in the ruling as similar to a holster with a nylon-webbing strap so that it can be worn around the waist. The waist pack was used to hold the plastic water bottle during leisure activities and travel. The waist pack was imported both with the bottle and separately from the bottle. In NY 880582, CBP found that the water bottle was classified in heading 3923, HTSUS, as articles for the conveyance or packing of goods, of plastics.

ISSUE:

Whether the water bottle under consideration in NY 880582 is classified in heading 3923, HTSUS, as articles for the conveyance or packing of goods, or in heading 3926, HTSUS, as other articles of plastic?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative sec-

tion or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs.

The HTSUS provisions under consideration are as follows:

3923 Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics:

3923.30.00 Carboys, bottles, flasks and similar articles

* * * * *

3926 Other articles of plastics and articles of other materials of headings 3901 to 3914:

3926.90 Other:

3926.90.98 Other

* * * * *

We note initially that if heading 3923, HTSUS, is inapplicable, the residual heading, 3926, HTSUS, which provides for other articles of plastics, will apply. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. The ENs, although neither dispositive nor legally binding, facilitate classification by providing 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.

EN 39.23 states, in pertinent part:

This heading covers all articles of plastics commonly used for the . . . conveyance of all kinds of products.

...

EN 39.26 states, in pertinent part:

This heading covers articles, not elsewhere specified or included, of plastics . . .

In HQ 952264, dated November 25, 1992, CBP addressed EN 39.23 as it relates to heading 3923, HTSUS. In that ruling, CBP distinguished the plastic sports bottles at issue therein from the ENs description of plastics commonly used for the conveyance of all kinds of products, holding that heading 3923, HTSUS, pertained only to products for the conveyance of commercial goods, but not personal items, i.e., containers for packing and shipping bulk and commercial goods. Therefore, subheading 3923.30.00, HTSUS, would apply only to bottles, such as beverage bottles, that are designed to be filled and sold to the ultimate consumer with a beverage therein, but not containers that will be filled by the end user. As such, the plastic sports bottles at issue therein, which were not designed to be filled prior to sale, could not be classified under subheading 3923.30.00, HTSUS. CBP has repeatedly adhered to this standard as set forth in HQ 952264. See HQ 963204, dated August 15, 2001, HQ 961434, dated March 19, 1999, HQ 960373, dated February 8, 1999, HQ 955407, dated October 6, 1994, and HQ 954072, dated September 2, 1993.

Similarly, the water bottle that accompanied the waist pack at issue in NY 880582 was neither designed to hold nor contain a beverage when sold to the ultimate consumer. Therefore, we find that the water bottle does not meet the terms of heading 3923, HTSUS. As a result, it is classified in the residual heading for other articles of plastics, heading 3926, HTSUS. It is specifically provided for in subheading 3926.90.98, HTSUS, wherein CBP has repeatedly classified similar products. See NY K82067, dated January 14, 2004, NY J85490, dated June 19, 2003, HQ 962403, dated January 17, 2001, HQ 962655, dated July 7, 2000, and HQ 960373, dated February 8, 1999. As the holding in NY 880582 with respect to the water bottle is inconsistent with the classification of similar merchandise, as previously discussed, NY 880582 with respect to the waist pack water bottle is modified, accordingly.

HOLDING:

The waist pack water bottle is classified in subheading 3926.90.9880, HTSUSA, as: "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other."

EFFECT ON OTHER RULINGS:

NY 880582 dated November 30 1994, is modified with respect to the classification of the water bottle. The classification of the other item that is described in NY 880582 is unchanged.

MYLES B HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967541
CLA-2 RR:CR:GC 967541 RSD
CATEGORY: Classification
TARIFF NO. 3926.90.9880

MS. MONA WEBSTER
TARGET STORES
33 South Sixth Street
P.O. Box 1392
Minneapolis, Minnesota 55440-1392

RE: Modification of NY 897965 with respect to the tariff classification of the plastic water bottle.

DEAR MS. WEBSTER:

This is in reference to New York Ruling Letter (NY) 897965, issued on June 10, 1994, by the Customs and Border Protection (CBP), National Commodity Specialist Division, regarding the classification of a waist bag containing a water bottle under the Harmonized Tariff Schedule of the United

States (HTSUS). We have reconsidered NY 897965 and have determined that the classification of the water bottle is not correct.

FACTS:

In NY 897965 CBP considered the classification of a waist bag containing a water bottle. The ruling described the merchandise as a waist bag composed of textile man-made material designed with an insulated holder containing a plastic travel water bottle. The water bottle was secured within the holder by a permanently affixed elastic strap. In NY 897965, CBP found that the water bottle was classified in heading 3923, HTSUS, as articles for the conveyance or packing of goods, of plastics.

ISSUE:

Whether the water bottle is classified in heading 3923, HTSUS, as an article for the conveyance or packing of goods or as an article of plastic under heading 3926, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs.

The HTSUS provisions under consideration are as follows:

3923	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics:
3923.30.00	Carboys, bottles, flasks and similar articles
* * *	* * * * *
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
* * *	* * * * *

We note initially that if heading 3923, HTSUS, is inapplicable, the residual heading, 3926, HTSUS, which provides for other articles of plastics, will apply. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. The ENs, although neither dispositive nor legally binding, facilitate classification by providing 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.

EN 39.23 states, in pertinent part:

This heading covers all articles of plastics commonly used for the . . . conveyance of all kinds of products.

...

EN 39.26 states, in pertinent part:

This heading covers articles, not elsewhere specified or included, of plastics . . .

In HQ 952264, dated November 25, 1992, CBP addressed EN 39.23 as it relates to heading 3923, HTSUS. In that ruling, CBP distinguished the plastic sports bottles at issue therein from the ENs description of plastics commonly used for the conveyance of all kinds of products, holding that heading 3923, HTSUS, pertained only to products for the conveyance of commercial goods, but not personal items, i.e., containers for packing and shipping bulk and commercial goods. Therefore, subheading 3923.30.00, HTSUS, would apply only to bottles, such as beverage bottles, that are designed to be filled and sold to the ultimate consumer with a beverage therein, but not containers that will be filled by the end user. As such, the plastic sports bottles at issue therein, which were not designed to be filled prior to sale, could not be classified under heading 3923, HTSUS. CBP has repeatedly adhered to this standard as set forth in HQ 952264. *See* HQ 963204, dated August 15, 2001, HQ 961434, dated March 19, 1999, HQ 960373, dated February 8, 1999, HQ 955407, dated October 6, 1994, and HQ 954072, dated September 2, 1993.

Similarly, the water bottle at issue in NY 897965 was neither designed to hold nor contain a beverage when sold to the ultimate consumer. Therefore, we find that the water bottle does not meet the terms of heading 3923, HTSUS. As a result, it is classified in the residual heading for other articles of plastics, heading 3926, HTSUS. It is specifically provided for in subheading 3926.90.98, HTSUS, wherein CBP has repeatedly classified similar products. *See* NY K82067, dated January 14, 2004, NY J85490, dated June 19, 2003, HQ 962403, dated January 17, 2001, HQ 962655, dated July 7, 2000, and HQ 960373, dated February 8, 1999. As the holding of NY 897965 with respect to the water bottle is inconsistent with the classification of similar merchandise, as previously discussed, NY 897965 is accordingly modified.

HOLDING:

The sports water bottles are classified in subheading 3926.90.9880, HTSUS, as: "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other."

EFFECT ON OTHER RULINGS:

NY 897965 dated June 10, 1994, is modified with respect to the classification of the water bottle. The classification of the other item that is described in NY 897965 is unchanged.

MYLES B HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 967542
CLA-2 RR:CR:GC 967542 RSD
CATEGORY: Classification
TARIFF NO. 3926.90.9880

MS. KRISTINE A. QUIGLEY
TOTAL LOGISTICS RESOURCE, INC.
P.O. Box 30419
Portland, Oregon 97230

RE: Modification of NY 867193 with respect to the tariff classification of the plastic water bottle.

DEAR MS. QUIGLEY:

This is in reference to New York Ruling Letter (NY) 867193, issued on October 17, 1991, by the Customs and Border Protection (CBP), National Commodity Specialist Division, regarding the classification of a P.K.E. water bottle designed to be used with a bicycle, among other things, under the Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered NY 867193 and determined that the classification of the water bottle is not correct.

FACTS:

The item under consideration in NY 867193 was referred to as a "P.K.E. Water Bottle". According to the description provided in NY 867193, the water bottle measured approximately 6 inches in height and 3 inches in width. The bottle snaps into a frame of a bicycle. The plastic container is intended to carry drinking water for a cyclist. In NY 867193, CBP found that the water bottle was classified in heading 3923, HTSUS, as articles for the conveyance or packing of goods, of plastics.

ISSUE:

Whether the P.K.E. water bottle is classified in heading 3923, HTSUS, as an article for the conveyance or packing of goods, or as an article of plastic under heading 3926, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs.

The HTSUS provisions under consideration are as follows:

3923 Articles for the conveyance or packing of goods, of plastics;
 stoppers, lids, caps and other closures, of plastics:

3923.30.00 Carboys, bottles, flasks and similar articles

* * * * * * * * * * * *

3926 Other articles of plastics and articles of other materials of headings 3901 to 3914:
 3926.90 Other:
 3926.90.98 Other
 * * * * *

We note initially that if heading 3923, HTSUS, is inapplicable, the residual heading, 3926, HTSUS, which provides for other articles of plastics, will apply. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. The ENs, although neither dispositive nor legally binding, facilitate classification by providing 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.

EN 39.23 states, in pertinent part:

This heading covers all articles of plastics commonly used for the . . . conveyance of all kinds of products.

...

EN 39.26 states, in pertinent part:

This heading covers articles, not elsewhere specified or included, of plastics . . .

In HQ 952264, dated November 25, 1992, CBP addressed EN 39.23 as it relates to heading 3923, HTSUS. In that ruling, CBP distinguished the plastic sports bottles at issue therein from the ENs description of plastics commonly used for the conveyance of all kinds of products, holding that heading 3923, HTSUS, pertained only to products for the conveyance of commercial goods, but not personal items, i.e., containers for packing and shipping bulk and commercial goods. Therefore, subheading 3923.30.00, HTSUS, would apply only to bottles, such as beverage bottles, that are designed to be filled and sold to the ultimate consumer with a beverage therein, but not containers that will be filled by the end user. As such, the plastic sports bottles at issue therein, which were not designed to be filled prior to sale, could not be classified under heading 3923, HTSUS. CBP has repeatedly adhered to this standard as set forth in HQ 952264. See HQ 963204, dated August 15, 2001, HQ 961434, dated March 19, 1999, HQ 960373, dated February 8, 1999, HQ 955407, dated October 6, 1994, and HQ 954072, dated September 2, 1993.

Similarly, the water bottle at issue in NY 867193 was neither designed to hold nor contain a beverage when sold to the ultimate consumer. Therefore, we find that the P.K.E. water bottle does not meet the term of heading 3923, HTSUS. As a result, it is classified in the residual heading for other articles of plastics, in heading 3926. It is specifically, provided for in subheading 3926.90.98, HTSUS, wherein CBP has repeatedly classified similar products. See NY K82067, dated January 14, 2004, NY J85490, dated June 19, 2003, HQ 962403, dated January 17, 2001, HQ 962655, dated July 7, 2000, and HQ 960373, dated February 8, 1999. As the holding in NY 867193 with respect to the P.K.E. water bottle is inconsistent with the classification of

similar merchandise, as previously discussed, NY 867193 is modified accordingly.

HOLDING:

The P.K.E. water bottle is classified in subheading 3926.90.9880, HTSUSA as "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other.

EFFECT ON OTHER RULINGS:

NY 867193 dated October 17, 1991, is modified with respect to the classification of the P.K.E. water bottle. The classification of the other items that are described in NY 867193 is unchanged.

MYLES B HARMON,
Director,
Commercial Rulings Division.

19 CFR PART 177

**MODIFICATION OF RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE ENTRY OF CERTAIN
KNIVES**

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

ACTION: Notice of modification of ruling letter and revocation of treatment relating to the entry of certain knives.

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 and Border Protection ("CBP") is modifying a ruling letter pertaining to the entry of certain knives and is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed actions was published in the Customs Bulletin on January 26, 2005. No comments were received in response to the notice. One request for reconsideration of another ruling was received. That request will be considered separately from this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after (60 days from the date of publication of notice in the Customs Bulletin).

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Entry Procedures and Carriers Branch, (202) 572-8792.

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the Customs Bulletin on January 26, 2005, proposing to modify HQ 116229 dated July 8, 2004, which involved the entry of certain knives. No comments were received in response to the notice. One request for reconsideration of another ruling was received. That request will be considered separately from this notice.

As stated in the proposed notice, this modification will cover any rulings on the subject merchandise which may exist but which 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 have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to the same merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party or CBP personnel applying a ruling of a third party to importations of the same or similar merchandise. 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 the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying HQ 116229 according to the analysis set forth in HQ 116315, attached.

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

DATED: March 1, 2005

CHARLES D. RESSIN,
Acting Director,
International Trade Compliance Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 116315
March 1, 2005
RES-2-23 RR:IT:EC 116315 GOB
CATEGORY: Restricted Merchandise

THOMAS M. KEATING, ESQ.
HODES, KEATING & PILON
39 South LaSalle Street
Suite 1020
Chicago, IL 60603-1731

RE: HQ 116229 Modified; Knives; Switchblade Knives; 15 U.S.C. §§ 1241-1245; 19 CFR §§ 12.95-12.97

DEAR MR. KEATING:

This letter is in reply to your letter of September 17, 2004 on behalf of Fiskars Brands, Inc. ("Fiskars"), requesting reconsideration of HQ 116229, dated July 8, 2004. You made an additional submission of December 14, 2004 and participated in a telephone conference on October 29, 2004. We have reviewed HQ 116229 and have determined that it should be modified.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 116229, as described below, was published in the Customs Bulletin on January 26, 2005. No comments were received in response to the notice. One request for reconsideration of another ruling was received. That request will be considered separately from the subject notice.

FACTS:

You request reconsideration of HQ 116229, wherein we determined that the knives at issue were switchblades and therefore prohibited entry into the United States pursuant to the Switchblade Knife Act (15 U.S.C. §§ 1241-1245).

You describe the knives as follows:

The subject merchandise are release assisted knives designed to be primarily used as a “general carry.” The knife’s features, such as the belt clip and serrated edge, are characteristic of a jackknife or pocket knife, rather than a weapon. There are two versions of the knives at issue. Part number 22–0761 [07161] is a serrated blade version (previously attached as Sample A) and part number 22–07162 is a fine edged version (previously attached as Sample B) [Footnote omitted.]

. . . part number 22–07161 (Exhibit A) is a folding blade knife made in Taiwan. The knife is made of metal and includes a pocket clip on the side of the handle. The knife has the visual appearance of a jackknife or pocketknife. The knife measures 4 ¼ inches long when closed. When extended, the blade of the knife measures 3 inches total. The blade has a serrated section measuring 1 ¼ inches. The overall length of the knife, when extended, is 7 ¼ inches. There is a 3/16 inch thumb stud on each side of the unsharpened edge near the base of the blade used for pulling the blade open. The blade has a single edge and can be locked into an open position by the use of a safety device. The same safety device is used to lock the knife in the closed position. This device does not act to open or close the knife — its sole function is to keep the knife locked in the knife’s then-existing position. The knife also has a lock mechanism that must be released to close the knife once the knife is open. This mechanism is not engaged in any way to open the knife. Release assisted knife, part number 22–07162 (Exhibit B), is identical in description to part number 22–07161 (Exhibit A), except that it has a fine edge, not a serrated blade.

ISSUE:

Whether the subject knives are prohibited entry into the United States pursuant to the Switchblade Knife Act, 15 U.S.C. §§ 1241–1245.

LAW AND ANALYSIS:

Statutory and Regulatory Background

Pursuant to the Act of August 12, 1958 (Pub. L. 85–623, codified at 15 U.S.C. §§ 1241–1245, otherwise known as the “Switchblade Knife Act”), whoever knowingly introduces, or manufactures for introduction, into interstate commerce, or transports or distributes in interstate commerce, any switchblade knife, shall be fined or imprisoned, or both.

The Customs and Border Protection (“CBP”) Regulations promulgated pursuant to the Switchblade Knife Act are set forth in 19 CFR §§ 12.95–12.103. In this regard we note the following definitions:

§ 12.95 Definitions.

Terms as used in §§ 12.96 through 12.103 of this part are defined as follows:

(a) *Switchblade knife*. . . any imported knife, . . . including “Bali-song”, “butterfly” . . . knives, which has one or more of the following characteristics or identities:

- (1) A blade which opens automatically by hand pressure applied to a button or device in the handle of the knife, or any

knife with a blade which opens automatically by operation of inertia, gravity, or both;

- (2) Knives which, by insignificant preliminary preparation, as described in paragraph (b) of this section, can be altered or converted so as to open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both;
- (3) Unassembled knife kits or knife handles without blades which, when fully assembled with added blades, springs, or other parts, are knives which open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both; or
- (4) Knives with a detachable blade that is propelled by a spring-operated mechanism, and components thereof.

...

- (c) *Utilitarian use.* "Utilitarian use" includes but is not necessarily limited to use:
 - (1) For a customary household purpose;
 - (2) For usual personal convenience, including grooming;
 - (3) In the practice of a profession, trade, or commercial or employment activity;
 - (4) In the performance of a craft or hobby;
 - (5) In the course of such outdoor pursuits as hunting and fishing; and
 - (6) In scouting activities.

Other pertinent regulations are as follows:

§ 12.96 Imports unrestricted under the Act.

- (a) *Common and special purpose knives.* Imported knives with a blade style designed for a primary utilitarian use, as defined in § 12.95(c), shall be admitted to unrestricted entry provided that in condition as entered the imported knife is not a switchblade knife as defined in § 12.95(a)(1). . . .

§ 12.97 Importations contrary to law.

Importations of switchblade knives, except as permitted by 15 U.S.C. 1244, are importations contrary to law and are subject to forfeiture under 19 U.S.C. 1595a(c).

HQ 116229

In HQ 116229, dated July 8, 2004, this office ruled that the subject knives were switchblades within the meaning of 19 CFR 12.95(a)(4) and were therefore prohibited entry into the U.S. pursuant to the Switchblade Knife Act. HQ 116229 did not address whether the knives were switchblades within the meaning of 19 CFR 12.95(a)(1) or whether they had a utilitarian use pursuant to 19 CFR 12.95(c).

Your Claims

In your submission of December 14, 2004, you made the following claims:

(1) The subject knives are not switchblade knives within the meaning of 19 CFR 12.95(a)(1).

(2) In HQ 114990 CBP found that knives similar to the subject knives had blades designed for utilitarian uses within the meaning of 19 CFR 12.95(c).

(3) Marketing and promotional materials with respect to the subject knives are not yet available as Fiskars has not begun commercially importing the knives. You submitted various marketing materials with respect to other Fiskars' products, some of which are similar to the subject knives. Such similar knives, which are within the same class of lightweight folding knives as the subject knives, are the "E-Z-Out," "Gator" and "L.S.T." knives. Promotional materials for the Gator knives provide that they are "used by a wide assortment of people including fishing and hunting enthusiasts, electricians and repairmen and many more." Materials for the E-Z-Out knives provide: "A hard working electrician, repairman, policeman or home repair person seldom has both hands free to retrieve a knife. With the E-Z-Out they need only one hand to reach down, grab the knife, open it, use it and put it away." Materials for the L.S.T. knives refer to them as "the perfect pocket knives." They are "light enough to be carried everywhere, strong enough for everyday activities, and tough enough to do Zanything."

You therefore contend that the subject knives should be admitted to unrestricted entry pursuant to 19 CFR 12.96(a).

Our Analysis and Determination

As indicated above, in HQ 116229 this office found that the subject knives are switchblades within the meaning of 19 CFR 12.95(a)(4). Upon further review, however, we have now determined that the subject knives are not switchblades within the meaning of 19 CFR 12.95(a)(1) because they do not meet the criteria therein, *i.e.*, they do not open automatically by hand pressure applied to a button or device in the handle, nor do they open automatically by operation of inertia, gravity, or both. We find additionally that the subject knives have a blade style designed for a primary utilitarian use within the meaning of 19 CFR 12.95(c).

Accordingly, we conclude that the requirements of 19 CFR 12.96(a) are satisfied, *i.e.*, the subject knives have a blade style designed for a primary utilitarian use as defined in 19 CFR 12.95(c) and they are not switchblades within the meaning of 19 CFR 12.95(a)(1). Therefore, pursuant to 19 CFR 12.96(a), the subject knives (part nos. 22-07161 and 22-07162) are permitted unrestricted entry into the United States.

HOLDING:

The subject knives (part nos. 22-07161 and 22-07162) are permitted unrestricted entry into the United States pursuant to 19 CFR 12.96(a).

EFFECT ON OTHER RULINGS:

HQ 116229 is modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

CHARLES D. RESSIN,
Acting Director;
International Trade Compliance Division.