



The Month So Far: June 4 through 11, 2016

- EFFECTIVE June 15, 2016: ACE is the sole CBP-authorized EDI system for electronic entry and entry summary filings for importations of specific FDA entry types. – See [CBP Bulletin](#)

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

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CONSUMER PRODUCT SAFETY COMMISSION

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Revisions to Safety Standard for Carriages and Strollers

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- A new standard is scheduled to take effect October 2, 2016, revising industry voluntary standard ASTM F833-15. It includes definitions of *convertible car seat/stroller* and “*locking and stop positions of the tray/grab bar,*” new requirements for *static load associated with step/footrest, combination units* and testing requirements for *Containment/Foot Opening, Testing Tray/Grab Bar Locking Positions, and Testing Tray/Grab Bar Position.*

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Related Resources for Non-Children's Products:

[Rules Requiring a General Certificate of Conformity](#)

[General Certificate of Conformity](#) [Sample General Certificate of Conformity \(GCC\)](#)

Third Party Testing FAQ

THIRD PARTY TESTING is required to support a certification of compliance to the rules shown below for children's products that are manufactured after the effective dates listed with each rule. The laboratories in this list have been accepted as accredited to test products to one or more of these children's product safety rules, as identified in the accreditation scope for each laboratory. A manufacturer of a children's [Eleanor Rose Recalls Children's Loungewear Due to Violation of Federal Flammability Standard](#) product that must comply with one or more of these rules must support its certification of compliance with test results from one of these laboratories. -**CHECK THE:** [List of Accredited Testing Laboratories](#)

- Search the [CPSC Recalls and Safety News Page](#)

CPSC RECALLS & UPDATES

- [360 Electrical Recalls Surge Protectors Due to Shock and Fire Hazards](#)
- [AR500 Armor Recalls Level III Body Armor Due to Risk of Gunshot Injury or Death](#)
- [Rhino Metals Recalls Handgun Security Safes Due to a Serious Risk of Injury](#)
- [Far East Brokers Recalls Children's Chairs and Swings Due to Violation of Federal Lead Paint Standard](#)
- [Kwik Tek Recalls Sleds Due to Crash Hazard](#)

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General Notices

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Proposed Revocation of a Ruling Letter and Proposed Revocation of Treatment Relating to the Tariff Classification of Cast Iron Ring Carriers1

DATES: Comments must be received on or before July 8, 2016.

...
In [] ruling, NY N073512, CBP determined that the ring carriers (also referred to as “inserts”) were classified as finished parts suitable for use solely or principally with the engines of heading 8407 or 8408, HTSUS, under subheading 8409.91.50, HTSUS, which provides for “Parts suitable for use solely or principally with the engines of heading 8407 or 8408: Other: Suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines): Other: For vehicles of subheading 8701.20, or heading 8702, 8703, or 8704: Other.” It is now CBP’s position that the ring carriers are properly classified under subheading 8409.91.10, HTSUS, which provides for “Parts suitable for use solely or principally with the engines of heading 8407 or 8408: Other: Suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines): Cast-iron parts, not advanced beyond cleaning and machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery.”

...
ISSUE: *Whether cast iron ring carriers, also known as inserts, for use in spark- ignition engine pistons are classifiable under subheading 8409.91.10, HTSUS, as cast iron parts not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery, or under subheading 8409.91.99, HTSUS, as other parts.¹*

LAW AND ANALYSIS:

There is no dispute that by application of GRI 1, the subject ring carriers are classified in heading 8409, HTSUS, which provides for: “Parts suitable for use solely or principally with engines of heading 8407 or 8408.” There is also no dispute that the subject parts are classified in subheading 8409.91, HTSUS, as parts “suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines). At issue is classification at the eight-digit level by application of GRI 6. Specifically, resolution of this matter rests upon whether the subject merchandise is advanced beyond cleaning, and machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery.

¹ In ruling letter NY N073512, the merchandise was incorrectly classified in subheading 8409.91.50, HTSUS which provides for parts for vehicles. The merchandise is for heat and power generator sets, which would not have been classifiable as parts for vehicles.

According to the pre-importation processing description, the turning and cooling operations are integral to the casting process, and the slicing and cleaning of the piston ring carriers are processes and operations that at most, prepare and permit the piston ring carriers to be cast with the piston casting mold, the finishing machinery. See ruling letter HQ 954989, dated September 28, 1993, which found that processing integral to the casting process did not constitute an advancement beyond cleaning for the purposes of subheading 8409.99.10, HTSUS. Consequently, while the description of the post-importation processing operation does not indicate whether the merchandise, as imported, was advanced beyond what is permitted in subheading 8409.91.10, HTSUS, those post-importation processes and finishing machinery descriptions are relevant to the classification determination of the ring carriers.

Upon examination of the condition of the ring carriers at the time of importation and the subsequent post-importation processes performed on the merchandise, CBP finds that the imported articles were not advanced beyond cleaning, and they were machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery. Accordingly, the ring carriers are fully described by the terms of subheading 8409.91.10, HTSUS, and are therefore classifiable in subheading 8409.91.10, by application of GRI 6 and GRI 1.

HOLDING: *By application of GRI 1, the ring carriers are classified under heading 8409, HTSUS. Specifically, by application of GRI 6 and GRI 1, they are classified in subheading 8409.91.10, HTSUS, which provides for “Parts suitable for use solely or principally with engines of heading 8407 or 8408: Other: Suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines): Cast-iron parts, not advanced beyond cleaning and machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery.” The 2016 column one, general rate of duty is Free.*

Modification of One Ruling Letter, Revocation of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Aluminum Composite Sheets 11

EFFECTIVE DATE: *This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.*

In CBP Ruling NY 230615, CBP ruled that painted beBond ACP sheets, consisting of one polyethylene layer bonded between two aluminum sheets and having peelable plastic protective film on both sides, are to be classified under HTSUS subheading 7607.19.3000, which provides for “Aluminum foil (whether or not printed, or backed with paper, paperboard, plastics, or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm, not backed, other, other, cut to shape, of a thickness not exceeding 0.15 mm”; or HTSUS subheading 7607.19.6000, which provides for “Aluminum foil (whether or not printed, or backed with paper, paperboard, plastics, or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm, not backed, other, other”, depending on the thickness of the ACP sheet. The referenced ruling is incorrect with respect to painted beBond ACP sheets because as a composite consisting of Aluminum Sheet/Polyethylene/ Aluminum Sheet, painted beBond ACP sheets do not meet the descriptions provided in the subheadings noted above in this paragraph. It more appropriately falls within the description of “aluminum foil (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm” under heading 7607. As aluminum foil that is backed and does not exceed 0.2 mm, painted beBond ACP sheets, as described in NY N230615, is properly classifiable under HTSUS subheading 7607.20.50 as “Aluminum foil (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness excluding any backing) not exceeding 0.2 mm: Backed: Other:.....”

In CBP Ruling NY N200119, CBP ruled that ACP sheets known by the name SIGNABOND®, consisting of one polyethylene layer bonded between two aluminum sheets, are to be classified under either HTSUS subheading 7606.11.3060, which provides for “Aluminum plates, sheets and strip, of a thickness exceeding 0.2 mm, rectangular (including square), of aluminum, not alloyed, not clad, with a thickness of 6.3 mm or

less”; or HTSUS subheading 7607.19.3000, which provides for “Aluminum foil, (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm, not backed, other, other, cut to shape, of a thickness not exceeding 0.15 mm”; or HTSUS subheading 7607.19.6000, which provides for “Aluminum foil, (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm, not backed, other, other...² The particular subheading depended on the thickness of the ACP sheet. The referenced ruling is incorrect because as a composite consisting of Aluminum Sheet/Polyethylene/ Aluminum Sheet, SIGNABOND® does not meet the descriptions provided in the subheadings noted above in this paragraph. It more appropriately falls within the description of “aluminum foil (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm” under heading 7607. As aluminum foil that is backed and does not exceed 0.2 mm, SIGNABOND®, as described in NY N200119, is properly classifiable under HTSUS subheading 7607.20.50 as “Aluminum foil (whether or not printed, or backed with paper, paperboard, plastics or similar backing materials) of a thickness excluding any backing) not exceeding 0.2 mm: Backed: Other.....”

Modification of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of a Mobile Pumper 23

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.

In NY N049598, CBP classified the Mobile FRAC Pumper under subheading 8705.90.00, HTSUS, which provides for “Special purpose motor vehicles, other than those principally designed for the transport of persons or goods...: Other.”

It is now CBP’s position that the Mobile FRAC Pumper is properly classified as a reciprocating positive displacement pump for liquids, in subheading 8413.50.00, HTSUS, which provides, “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof: Other reciprocating positive displacement pumps.” The remainder of the ruling which addresses whether the goods qualify for NAFTA preferential treatment remains intact and is not affected by this revocation.

...
ISSUE: *Whether the subject Mobile FRAC Pumper is a pump for liquids of heading 8413, HTSUS, or whether it is a special purpose motor vehicle of heading 8705, HTSUS.*

...
The HTSUS provisions under consideration in this case are as follows:

8413 Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof:
8413.50.00 Other reciprocating positive displacement pumps

8705 Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, wreckers, mobile cranes, fire fighting vehicles, concrete mixers, road sweepers, spraying vehicles, mobile workshops, mobile radiological units):

8705.90 Other
Note 1(l) to Section XVI, which covers Chapter 84 states that Articles of Section XVII, which covers Chapter 87, are not classified therein. Therefore, if the subject merchandise is classified in heading 8705, HTSUS, then it is precluded from classification in heading 8413, HTSUS. Note 3 to Section XVI, HTSUS, provides, in pertinent part, the following:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

...

The main components of the subject merchandise are either one or two radiators, an engine, a torque converter, a transmission, diesel fuel tanks, on-board control systems, batteries and a pump. The pumper is permanently bolted or affixed to a chassis trailer. The trailer itself, is not self-propelled, rather it must be hitched to a truck tractor for travel to the site. The pumper does not have any of the following features: a propelling engine, gear box and controls for gear-changing, and steering and braking facilities. See EN 87.05, HTSUS, which states that goods classified therein have those features. Hence, the merchandise is not described by heading 8705, HTSUS, and Note 1(I) does not exclude it from classification in Chapter 84.

The Mobile FRAC Pumper is used to pump chemical mixtures into an oil or gas well, which is mounted onto its prime mover, i.e. a diesel engine on a non-driven trailer chassis. Once the pumper is transported to a fracking site, it pumps chemical mixtures into the well. It relies on a reciprocating plunger to displace the liquid which is being pumped into the wells. This is a description of a positive displacement liquid pump. Under Note 3 to Section XVI, HTSUS, the merchandise is classified according to its principal function. Thus, the principal function of the subject merchandise is as a pump. It is described by the terms of heading 8413, HTSUS, as a pump for liquids. This is consistent with prior CBP rulings of similar goods. See NY N239029, dated March 26, 2013 (classifying a trailer mounted unit which pumps chemicals into the well service as a rotary positive displacement pump of heading 8413, HTSUS); NY E85413, dated August 17, 1999 (classifying axial piston pumps in heading 8413, HTSUS); and see NY 850742, dated April 26, 1990 (classifying a chassis mounted concrete pump in heading 8413, HTSUS).

HOLDING: By application of GRI 1, the subject Mobile FRAC Pumper is classified in heading 8413, HTSUS, specifically subheading 8413.50.0090, HTSUS A (Annotated), which provides for: "Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof: Other reciprocating positive displacement pumps: Other." The general column one rate of duty is free.

Proposed Revocation of One Ruling Letter and Modification of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Cotton Knit Yarn 29

DATES: Comments must be received on or before July 8, 2016.

In NY N200641, CBP classified the yarn called "Hooked Zopagetti"² in subheading 5607.90.900, HTSUS, which provides for "Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber, or plastics: Other: Other." It is now CBP's opinion that the goods are properly classified in subheading 5606.00.0010, HTSUSA (Annotated), which provides for loop wale-yarn.

Similarly, in NY N244143 CBP classified Hooooked Zpagetti yarn sold as part of a craft kit in subheading 5607.90.9000, HTSUSA. It is now CBP's opinion that the craft kit, with the yarn imparting the kit's essential character, is also properly classified in subheading 5606.00.0010, HTSUSA.

...

ISSUE: What is the classification of a tubular knit yarn, described as 92% cotton and 8% elastane, with a decitex over 20,000.

LAW AND ANALYSIS:

...

The rulings at issue here relied on Note 3(A)(e) to Section XI, to classify yarn of vegetable fiber which is more than 20,000 in decitex, as twine, cordage, ropes and cables. While the subject textile is cotton of the requisite decitex it is **not** produced by twisting, plaiting or braiding, as is the case with twine, cordage, ropes and cables. And further, pursuant to the EN 56.07 the subject cotton yarn is not manufactured as binder twine for tying packages, towing, or loading. Rather, it is a knitted yarn. Therefore it is not described by the tariff terms of heading 5607, HTSUS. The subject textile is 98% cotton and 2%

² The sample named in NY N200641 is Hooked Zopagetti. This is a typographical error. The company and product are called Hooooked Zpagetti. The three "o"s in "Hooooked" are not a typo. The extra "o" in Zpagetti is a typo. See www.zpagetti.com.au

elastene³. It is a knit tubular yarn which features successive interlocking loops. This is called loop wale-yarn. The General EN to Section XI, Section (I), Subsection (B) Yarn, Table 1 directs that loop wale-yarn is, “in all cases” to be classified in heading 5606, HTSUS.

This classification comports with the Informed Compliance Publication, entitled, “What Every Member of the Trade Community Should Know About: Classification of Fibers and Yarns under the HTSUS” (published in September 2011). Therein, CBP clarifies that “Loop Wale-Yarn” is described as a textile created by knitting a fabric that is narrow enough to have the appearance of a yarn, with successive interlocking loops typical of knit construction. The ICP further cites the ENs, which state that in all cases, it is to be classified in heading 5606, HTSUS, and is excluded from classification in heading 5607, HTSUS, under the EN 56.07(1)(b).

HOLDING: By application of GRI 1, the subject Hoooked Zpagetti tubular knit yarn is classified in heading 5606, HTSUS. It is specifically provided for under subheading 5606.00.0010, HTSUSA (Annotated), which provides for, “Gimped yarn, and strip and the like of heading 5404 or 5405, gimped (other than those of heading 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn: Containing elastomeric filaments.” The column one, general rate of duty is 8% ad valorem.

Modification of Two Ruling Letters and Revocation of Treatment Relating to the Tariff Classification of Women’s Suit-Type Jackets and Pants40

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.

...

In NY N086736 and N086592, CBP classified certain styles of women’s jackets and pants separately in heading 6204, HTSUS, specifically in subheading 6204.33.50, HTSUS, and 6204.63.35. CBP has reviewed N086736 and N086592 and has determined the ruling letters to be in error. It is now CBP’s position that the garments are properly classified as “suits”, by operation of GRI 1, in heading 6204, HTSUS, specifically in subheading 6204.13.20, HTSUS, which provides for: “Women’s or girl’s suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts: Suits: Of Synthetic Fibers: Other.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N086736 and N086592 and revoking any other ruling not specifically identified to reflect the tariff classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter (“HQ”) H110416, set forth as Attachment “A” to this notice.

...

In NY N086736, U.S. Customs and Border Protection (“CBP”) classified the jackets of Styles 37715–05 and 171897–05 as “suit-type jackets and blazers” under subheading 6204.33.50, Harmonized Tariff Schedule of the United States (“HTSUS”) which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Suit-type jackets and blazers: Of synthetic fibers: other.” CBP classified the corresponding pants of Styles 37715–05 and 171897–05 as “trousers...” under subheading 6204.63.35, HTSUS, which provides for “Women’s or girls’, suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other: Other.”

In NY N086592, CBP classified the jackets of Styles 17821–05, 37821–05, and 17828–40 in HTSUS subheading 6204.33.55, which provides for “Women’s or girls’, suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear):

³ Chapter 52 provides for cotton textiles. However, Note 4(A)(b)(i) through (iii) provides a weight limit on goods classified in Chapter 52. The subject cotton yarn exceeds that weight limit and thus cannot be classified therein, or as goods “put up for retail sale”, as that phrase is understood in Note 4.

Suit-type jackets and blazers: Of synthetic fibers: Other.” CBP classified the corresponding pants for each style at issue as “trousers...” in subheading 6204.63.35, HTSUS, which provides for “Women’s or girls’, suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other.”

...
Each style at issue consists of a set of garments consisting of a jacket and a pair of pants in the same style, color, construction, and composition. Each garment is made from synthetic fabric consisting of 63% polyester, 33% rayon, and 4% spandex. The jackets are not lined.

ISSUE: *Whether the instant garments are classified together as suits in subheading 6204.13, HTSUS, or as “suit-type jackets and blazers” and “trousers” in subheading 6204.33, HTSUS, and 6204.63, respectively?*

Because the instant classification dispute occurs beyond the four-digit heading level, GRI 6 is implicated. GRI 6 states:

For legal purposes, the classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, mutatis mutandis, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires

...
There is no dispute that the subject women’s garments are classified in heading 6204, HTSUS. To the contrary, the dispute is at the 6-digit level. You argue that the instant garments should be classified as “suits” in subheading 6204.13, HTSUS, whereas in NY N086736 and NY N086592, CBP classified the jacket and pants of each style at issue separately, in subheadings 6204.33 and 6204.63, HTSUS.

Note 3(a) to Chapter 62, HTSUS, defines the term “suit” as “a set of garments composed of two or three pieces made up, in respect of their outer surface, in identical fabric, and which are comprised of one of a number of specific type of garments designed to cover the lower body and a suit coat or suit jacket. See Headquarters Ruling Letter (HQ) 962125, dated May 5, 2000. Thus, we must evaluate each pair of garments as a whole before we can determine if the individual articles meet the criteria for suit jackets and suit pants. In this case, we are presented with garments each composed of a jacket and a pair of pants. The components of each style at issue are of the same fabric construction, style, color, and composition. Each pant and jackets are also of corresponding sizes. See HQ 953237, dated February 2, 1993. Accordingly, the first definitional requirement is met.

Note 3(a) requires that the outer shell of suit-jackets in heading 6204, HTSUS, consist of at least four panels. Each jacket presented meets this requirement as each jacket features at least four panels, as noted above. Therefore, we find that the instant merchandise, Styles 37715–05, 171897–05, 37821–05, 17821–05, and 17828–40 each meet the requirements of Note 3(a) to Chapter 62, HTSUS. Accordingly, by operation of GRI 1, the instant merchandise are classified in subheading 6204.13.20, HTSUS, as “Women’s or girl suits...: Suits: Of Synthetic fibers: Other.”

HOLDING: *By application of GRI 1, the women’s pants suits, Styles 37715–05, 171897–05, 37821–05, 17821–05, and 17828–40 are classified in heading 6204, HTSUS, and specifically in subheading 6204.13.20.10, HTSUSA, which provides for “Women’s or girl’s suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts: Suits: Of Synthetic Fibers: Other: Women’s.” Under the 2015 HTSUS, the column one, general rate of duty is 35.3¢/kg + 25.9% ad valorem.*

Revocation of Three Ruling Letters, Modification of One Ruling Letter, and Revocation of Treatment Relating to the Tariff Classification of Luo Han Guo Powder and Liquid Products47

EFFECTIVE DATE: *This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.*

In NY K84522, CBP classified a luo han guo powder comprised 80 percent of mogrosides in subheading 3824.90.91, HTSUS (2004), which provided for “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: Other: Other: Other: Other: Other.”⁴ CBP affirmed that ruling in HQ W967214. In HQ H106785, CBP classified a luo han guo liquid comprised 55.90 percent mogrosides in subheading 1302.19.91, HTSUS, which provides for “Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products: Vegetable saps and extracts: Other: Other.” In NY N046672, CBP classified a luo han guo liquid comprised 80 percent of mogrosides in subheading 3824.90.92, HTSUS. It is now CBP’s position that the luo han guo powder of HQ W967214 and NY K84522 and the luo han guo liquid of NY N046672 are properly classified, by operation of GRI 1, in heading 2938, HTSUS, specifically in subheading 2938.90.00, HTSUS, which provides for “Glycosides, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives: Other.” It is also our position that the luo han guo liquid of HQ H106785 is properly classified, by operation of GRI 1, in heading 3824, HTSUS, specifically in subheading 3824.90.92, HTSUS, which provides for “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: Other: Other: Other: Other: Other.”

...
ISSUE: Whether the subject luo han guo products are classified as extracts in heading 1302, HTSUS, as glycosides in heading 2938, HTSUS, or as other chemical mixtures in heading 3824, HTSUS?

...At the outset, we note that the subject products can only be classified in heading 3824, HTSUS, if they are not classifiable in heading 2938, or more specifically classifiable in heading 1302. See Chapter 29, Note 1, HTSUS (“Except where the context otherwise requires, the headings of this chapter apply only to...separate chemically defined organic compounds.”); Chapter 38, Note 1, HTSUS (“This chapter does not cover...separate chemically defined elements or compounds.”); see also *Cargill, Inc. v. United States*, 318 F. Supp. 2d 1279, 1278–88 (Ct. Int’l. Trade 2004) (characterizing heading 3824 as a basket provision). Moreover, the subject products can only be classified in heading 1302, HTSUS, if they are not classifiable in heading 2938. See Chapter 13, Note 2, HTSUS (“The heading does not apply to... Camphor, glycyrrhizin or other products of heading 2914 or 2938.”). Consequently, we first consider whether the subject products are classifiable in heading 2938; if they are not, we will consider heading 1302 before finally considering heading 3824.

Heading 2938 describes glycosides and their derivatives. ...

Per Note 1(a) and the EN to Chapter 29, a substance is classifiable within heading 29 where it is comprised almost entirely by a single molecular structure, so long as any structural deviations, i.e., impurities, are the result of processing. [citations omitted] Note 1(c) and EN 29.38 establish an even broader degree of permissible chemical heterogeneity in specific relation to glycoside products, insofar as they set the scope of heading 2938 to include mixtures consisting of multiple, varying glycosidic structures in addition to any incidental impurities.⁵

Notwithstanding this allowance for impurities, it is CBP’s position that there do exist limits to the proportional weights of permissible impurities in a Chapter 29 product. Specifically, any impurities cannot be so prevalent so as to marginalize the product’s chemical identity and render it a chemical mixture classifiable elsewhere. Compare HQ 967971, dated March 2, 2006 (classifying extract with 80 percent silymarin content in heading 2932 on the grounds that remaining 20 percent content, comprised of starting

⁴ In accordance with 2007 revisions to the HTSUS, subheading 3824.90.91, HTSUS, has been replaced by subheading 3824.90.92, HTSUS. Subheading 3824.90.92, HTSUS, contains language identical to that of former subheading 3824.90.91, HTSUS.

⁵ While Note 1(c) does not specifically carve out an allowance for impurities, one can be read in by implication, as the note would otherwise be rendered de facto inoperable. See *Hawley’s*, supra, at 685 (“It is impossible to prepare an ideally pure substance”).

material and solvent, constituted permissible impurities) with HQ 966448, dated July 9, 2004 (excluding extracts containing between 6 percent and 30 percent alkaloids as well as maltodextrin and ash from heading 2939); see also HQ W968424, dated December 19, 2006 (excluding from a product containing “proanthocyanidin, in concentrations of 76 percent or greater to the exclusion of other constituents” from Chapter 29); see Hawley’s, *supra*, at 685 (defining impurity as “[t]he presence of one substance in another, often in such low concentration that it cannot be measured quantitatively by ordinary analytical methods...”).

Here, each of the instant products contains varying amounts of mogrosides, which comprise a group of chemical compounds within the broader glycoside family. Our research indicates that mogrosides in toto encompass several different individual chemical compounds, most commonly mogrosides I-V, each of which bears a unique molecular make-up. See Dr. Subhuti Dharmananda, Luo Han Guo: Sweet Fruit Used as Sugar Substitute and Medicinal Herb, Institute for Traditional Medicine, Jan. 2004, <http://www.itmonline.org/arts/luohanguo.htm>. Our research further indicates that while mogroside V is typically the largest component by weight in luo han guo extracts, these extracts generally contain other mogroside compounds, albeit in much smaller amounts. Id. Even when mixed together, however, these individual mogroside compounds remain classifiable in heading 2938, HTSUS, by operation of Chapter 29, Note 1(c).

In HQ W967214, NY K84522, and NY N046672, unspecified mogrosides account for 80 percent of the respective subject products’ chemical compositions, with the remaining 20 percent constituent matter comprised of various undefined materials. Assuming they lack glycosidic content, these 20 percent remainder portions qualify as impurities if they result from processing such as purification. According to CBP’s analyses of the manufacturing flowcharts you submitted, the powder at issue in HQ W967214 and NY K84522 is subjected to filtration, centrifugation, and column chromatographic procedures designed to remove certain materials from the substance. Specifically, we noted in HQ W967214 that the ion exchange resin used in the chromatographic procedure enables disposal of unwanted sulfur-containing compounds, and that, additionally, 50 percent of the unwanted methylene chloride extractable volatiles fractions and various off-flavor materials are removed. As a result, the remaining 20 percent constituent matter can be characterized as either unconverted starting materials or impurities in the starting materials. Likewise, CBP concluded in NY N046672 that the luo han guo liquid at issue has been extensively processed; hence, the remaining materials left unaffected by this processing can be considered impurities. Consequently, both the luo han guo powder of HQ W967214 and NY K84522 and the luo han guo liquid of NY N046672 are classifiable in heading 2938, HTSUS, as glycosides not chemically defined containing impurities from the starting material.

In HQ H106785, by contrast, the subject luo han guo liquid contains only 55.90 percent mogrosides as its most predominant chemical constituent, although an additional 37.9 percent of the liquid is comprised by glucose, fructose and sucrose. The presence of a sugar may in some cases be indicative of glycoside content, as the latter by definition includes the former as a constituent part, but it is not necessarily dispositive of such. Hawley’s, *supra*, at 616 (defining glycosides as “acetals derived from a combination of various hydroxyl compounds with various sugars”). In HQ H106785, it is unclear whether the constituent sugars are incorporated into glycosides. In addition, the mixture contains other non-glycosidic substances. Therefore, the presence of glycosides combined with other materials renders the liquid a heterogeneous mixture rather than a mixture of glycosides for classification purposes. As such, it is excluded from Chapter 29 and must be classified elsewhere.

We accordingly consider whether the liquid is classifiable in heading 1302, HTSUS, which covers vegetable extracts. EN 13.02 provides, in relevant part, as follows:

The heading covers saps and extracts (vegetable products usually obtained by natural exudation or by incision, or extracted by solvents)...

The saps and extracts classified here include:

*(1) Opium, the dried sap of the unripe capsules of the poppy (*Papaver somniferum*) obtained by incision of, or by extraction from, the stems or seed pods. It is generally in the form of balls or cakes of varying size and shape. However, concentrates of poppy straw containing not less than 50% are excluded from this heading...*

(11) *Quassia amara* extract, obtained from the wood of the shrub of the same name (Simaroubaceae family), which grows in South America. Quassin, the principal bitter extract of the wood of the *Quassia amara*, is a heterocyclic compound of heading 29.32 ...

(18) Papaw juice, whether or not dried, but not purified as papain enzyme. (The agglomerated latex globules can still be observed on microscopic examination.). Papain is excluded (heading 35.07)...

(20) Cashew nutshell extract. The polymers of cashew nutshell liquid extract are, however, excluded (generally heading 39.11)...

The vegetable saps and extracts of this heading are generally raw materials for various manufactured products...

It is our long-standing position that, consistent with EN 13.02, heading 1302 applies to products that have been created through standard extraction methods, but not to those that have subsequently been enriched, purified, or otherwise refined so as to increase the contents of certain desirable compounds. See HQ H106785, dated October 14, 2010 (“CBP has determined that extensive processing can exclude a product from 1302.”); HQ 959099, dated May 1, 1998 (“As pointed out in the ENs to heading 1302, what is covered in the heading are vegetable products obtained by natural exudation or by incision or by solvent extraction.”). In HQ H195716, dated February 19, 2015, we provided the following justification for this position:

CBP’s position is supported by the text of EN 13.02. For example, opium is the dried sap of the unripe capsules of the poppy (*Papaver somniferum*), obtained by incision of or extraction from the stems or seed pods. Opium contains about 10% morphine. However, concentrate of poppy straw is a different product. A procedure for obtaining concentrate of poppy straw was first patented in 1935, and describes a process of drying the stems and pods of the poppy plant, treating them with sodium bisulphite, concentrating the aqueous solution into a paste by application of a vacuum, treating the paste with alcohol, and then precipitating the morphine base by treating the solution with ammonium sulphate and benzene, to yield a product with over 50% morphine. EN(1) to 13.02 (and Note 1(f) to Chapter 13, HTSUS) excludes concentrates of poppy straw containing not less than 50% by weight of alkaloids. In another example, See also HQ H061203, dated August 12, 2010 (“There appears to be a limit on the degree and extent of purification that can occur for the product to remain in heading 1302. For instance, EN 13.02, explicitly excludes certain refined extracts of opium, quassia amara, papaw juice, and cashew nut shell liquid, once the refining process concentrates a certain group of chemical compounds to a particular point. Hence, poppy straw concentrates containing more than 50% alkaloids are excluded from heading 1302. Likewise, quassin, a chemical compound extracted and refined from the quassia amara shrub is classified in Chapter 29. Papain enzyme, once purified from the extraction process of papaw juice, is classified as an enzyme of Chapter [35]. And polymers extracted and refined from cashew nut shell liquid are classified in Chapter 39 as polymers.”); HQ H237599, dated May 27, 2015; and HQ W968424, dated December 19, 2006.

Accordingly, we have consistently ruled that products in which certain chemical compounds have deliberately been targeted and enriched cannot be classified in heading 1302. ...

The luohan guo liquid of HQ H106785 is initially extracted with water and ethanol, but is subsequently subjected to additional processes such as centrifugation and decompression. These steps, which are methods of concentrating desired chemical compounds, yield a product that contains 55.90 percent mogrosides among other naturally-occurring materials. See Hawley’s at 254. Additionally, our review of patents for the processing of luohan guo plants indicates that a chemical composition in which mogrosides account for as much as 55.90 percent of the constituent content is virtually unattainable but for the application of post-extraction enrichment. U.S. Patent No. 8,449,933 (filed June 30, 2004) (describing process of involving microfiltration of luohan guo fruit juice that yields product containing at most 25 percent mogrosides); U.S. Patent No. 5,411,755 (filed Jan. 26, 1994) (describing process involving fractionalization of Cucurbitaceae fruit juice that yields product containing at most 15 percent mogrosides); U.S. Patent No. 2,425,721 (filed June 30, 2004) (demonstrating use of column separation to increase mogroside content in extracts from 35 percent to 60 to 87 percent). In light of this, we conclude that the luohan guo liquid of HQ H106785 has been deliberately enriched with mogrosides

through the use of post-extraction processing. Consequently, like the products of HQ H195716, HQ W968424, HQ H023701, and HQ H056377, **the instant liquid cannot be classified in heading 1302.**

Having excluded the remaining *luo han guo* liquid from headings 2938 and 1302, we now consider whether it is classifiable under heading 3824. Heading 3824 provides for “chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included.” General Note 1 to Chapter 38 provides, in relevant part, that “[t]his Chapter...does not cover chemically defined elements or compounds (usually classified in Chapter 28 or 29...” Additionally, EN 38.24 states, in pertinent part, as follows:

(B) CHEMICAL PRODUCTS AND CHEMICAL OR OTHER PREPARATIONS

With only three exceptions... this heading does not apply to separate chemically defined elements or compounds.

The chemical products classified here are therefore products whose composition is not chemically defined, whether they are obtained as by-products of the manufacture of other substances (this applies, for example, to naphthenic acids) or prepared directly.

The chemical or other preparations are either mixtures (of which emulsions and dispersions are special forms) or occasionally solutions...

Consistent with General Note 1 to Chapter 38 and the EN 38.24, it is CBP’s practice to classify products in heading 3824 where they lack the chemical purity to qualify as a product of Chapter 29, yet have been so purified so as to fall outside the scope of heading 1302. See HQ H061203; HQ 959099, dated May 1, 1998. As in our previous cases, the *luo han guo* liquid of HQ H106785, as a purified chemical product or preparation lacking chemical definition, is classifiable in heading 3824.

HOLDING: Under the authority of GRI 1, the *luo han guo* powder of HQ 967214 and NY K84522 and the *luo han guo* liquid of NY N046672 are classified in heading 2938, HTSUS, specifically in subheading 2938.90.0000, HTSUSA, which provides for “Glycosides, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives: Other.” The 2015 column one general rate of duty rate is 3.7% ad valorem.

By application of GRI 1, the *luo han guo* liquid of HQ H106785 is classified in heading 3824, HTSUS, specifically in subheading 3824.90.9290, HTSUSA, which provides for “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: Other: Other: Other: Other: Other.” The 2015 column one general rate of duty is 5.0% ad valorem.

Proposed Revocation of Three Ruling Letters and Revocation of Treatment Relating to the Tariff Classification of Security Analytics Appliances62

DATES: Comments must be received on or before July 8, 2016.

In NY N213277, CBP classified the Blue Coat full proxy edition Proxy SG 900/9000 in heading 8517, HTSUS, specifically in subheading 8517.62.00, HTSUS, which provides for “Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” Similarly, in NY N247242, CBP classified the Blue Coat full proxy edition of the Proxy SG in subheading 8517.62.00, HTSUS. Also, in NY N247732, CBP classified the Blue Coat SSL network device in subheading 8517.62.00, HTSUS.

CBP has reviewed NY N213277, NY N247242, and NY N247732 and has determined the ruling letters to be in error. It is now CBP’s position that these products are properly classified, by operation of GRI 1, in heading 8543, HTSUS, specifically in subheading 8543.70.96, HTSUS, which provides for ““Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N213277, NY N247242, and NY N247732 and to revoke any other ruling not specifically identified to reflect the tariff classification of the subject merchandise according to the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H271470, set forth as Attachment D to this notice.

...

ISSUE: Whether merchandise which receives data, processes data, and transmits data over a wired or wireless network is classified in heading 8471 as automatic data processing machines, in heading 8517 as apparatus for communication in a wireless network, or whether it is classified in heading 8543 as other electrical apparatus.

LAW AND ANALYSIS:

...

The subject appliances are user specific data processing devices. The function of these network security devices is to receive, record, and process data in an effort to ensure a secure network environment. They run security programs against the incoming data to check for security issues, to ensure a secure network environment. If or once a threat is identified, it is flagged for the user or monitor. The appliances are not freely programmable. While they operate within a network, the network would transmit and receive data without these devices. These appliances scan and identify threats, pursuant to an algorithm. This is why such large amounts of data storage are needed and included with the product.

Note 5(A) to Chapter 84 defines “automatic data processing machines” as articles which satisfy four enumerated requirements. The merchandise described in NY N213277, NY N247242, and NY N247732 are not freely programmable, and therefore do not meet the terms of Note 5(A), and are excluded from classification in heading 8471, HTSUS. Furthermore, as the subject appliances communicate identified threats within a specified network (whether wired or wireless), they are also excluded from heading 8471, pursuant to Note 5(D) to Chapter 84.

Note 3 to Section XVI states that machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component which performs the principal function. As noted above, the subject appliances have multiple key functions. The first function is to process incoming transmissions to identify threats. The processing function is described by the heading text of 8543, HTSUS. The second function is to communicate those threats to the system or the user. This function is described as the transmission of data in a wired or wireless network, of goods of heading 8517, HTSUS.

In HQ W967550, dated January 28, 2008, this office classified a similar product which had two functions, one each in heading 8517 and 8543, HTSUS. There we noted that Additional U.S. Rule of Interpretation 1(a) was relevant when determining the “principal use” of the class or kind of good to which an imported good belongs. In citing the “Carborundum Factors”⁶, CBP found that the functions (so-called primary and secondary by the importer) were in fact equal. In applying the General ENs to Section XVI with respect to multi-function and composite machines: “Where it is not possible to determine the principal function, and where, as provided in Note 3 to the Section, the context does not otherwise require, it is necessary to apply GRI 3(c)”. GRI 3(c) provides that goods cannot be classified by reference to GRI 3(a) or (b) must be classified in the heading which occurs last in numerical order among those which equally merit consideration.

Here, the two functions work in tandem and are necessary for the security appliances to work. The appliances must identify incoming threats, and transmit and communicate those threats within the network to the end-user by reproducing the data. One without the others is useless. As such, no single principal

⁶ The Carborundum factors include: (1) general physical characteristics, (2) expectation of the ultimate purchaser, (3) channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), (4) use in the same manner as merchandise which defines the class, (5) economic practicality of so using the import, and (6) recognition in the trade of this use. *United States v. Carborundum Co.*, 63 C.C.P.A 98, 102, 536 F.2d 373, 377 (1976).

function can be identified, and classification pursuant to GRI 3(c) is appropriate. Under GRI 3(c) the Blue Coat full proxy Proxy SG900/9000 appliance, SG-S500 Proxy SG appliance, and the Blue Coat SSL Visibility appliance are provided for in heading 8543, HTSUS, which is the last in the tariff of the headings under consideration.

HOLDING: *By application of GRI 1, the subject merchandise is classified in heading 8543, HTSUS. Specifically, it is provided for in subheading 8543.70.9650, HTSUSA (Annotated) which provides for, “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other: Other.” The 2015 column one, general rate of duty for merchandise of this subheading is 2.6% ad valorem.*

Revocation of One Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of “Tapeffiti” Design Guide Book, Tape, and Cutter Set74

EFFECTIVE DATE: *This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.*

In NY N248844, CBP classified Fashion Angels’ “Tapeffiti Design Guide Book” under subheading 8479.89.9899, HTSUS, which provides for “Machines and mechanical appliances having individual functions, not specified or included elsewhere (in chapter 84): other machines and mechanical appliances: Other: Other: Other: Other.” It is now CBP’s position that the classification was in error, and the set should be classified as a toy, under subheading 9503.00.00, HTSUS.

...
...this office confirms that the subject merchandise is packaged containing three items: (1) a spiral bound design book, composed of cardboard and paper, (2) twelve (12) rolls of thin plastic adhesive tape, and (3) a plastic manual tape cutting device. The packaging of the sample provided to this office states that the product is recommended for ages 6 and up.

ISSUE: *What is the tariff classification of the subject “Tapeffiti Design Guide Book,” Item number 11734, which is comprised of a spiral bound design guide book, twelve rolls of fashion tape, and a manual tape cutting device, under the HTSUS.*

...
*Although neither heading 9503, HTSUS nor the relevant chapter notes explicitly state that an item’s classification as a “toy” is dependent upon how it is used, the courts have found inherent in the above definitions the concept that an object is a toy only if it is designed and used for diversion, amusement, or play, rather than for practical purposes. The CIT specifically concluded that heading 9503, HTSUS, is a “principal use” provision as it pertains to “toys.” See *Minnetonka Brands, Inc.*, 110 F. Supp. 2d at 1026, 37 (construing 9503 as a “principal use” provision).*

*Because heading 9503, HTSUS in relevant part, is a “principal use” provision, classification under this provision is controlled by the principal use of goods of that class or kind to which the imported goods belong in the United States at or immediately prior to the date of importation, and the controlling use is the principal use. See Additional US Rule of Interpretation 1(a). The CIT has stressed that it is the principal use of the “class or kind of goods to which the imports belong[ed],” at or immediately prior to the dates of importation, “and not the principal use of the specific imports[,] that is controlling under the Rules of Interpretation.” *Grp. Italglass U.S.A., Inc. v. United States*, 17 CIT 1177, 1177, 839 F. Supp. 866, 867 (1993). “Principal use” is defined as the use “which exceeds any other single use of the article.” *Conversion of the Tariff Schedules of the United States Annotated Into the Nomenclature Structure of the Harmonized System: Submitting Report at 34-35 (USITC Pub. No. 1400) (June 1983). Ultimately, the “class or kind” of articles considered to be “toys” under heading 9503 are articles whose principal use is for amusement, diversion, or play of children or adults. This use must exceed any other single use of that class or kind of article, such as practicality or utility.**

.. The subject merchandise is an educational toy in accordance with the CIT's decision in *Minnetonka Brands, Inc. v. United States*, 24 C.I.T. 645, *supra.*, and is progeny. Its principal use is as a toy and the value of the items individually is subservient to the play value of all of the items used together.

As noted, the book is largely pictorial and in cases where there are step-by-step instructions, they don't number more than a few steps and are accompanied by pictures. In circumstances where the child does not follow the book exactly, the opportunity to twist or manipulate the tape into shapes or onto objects provides an opportunity for play utilizing the child's imagination and creativity. If the child does follow the instructions this play will lead to learning basic skills: design of various objects, following step-by-step directions, and creating small crafts. The child derives amusement value from the creation of the products and the amusement exceeds the utilitarian function of any of the items decorated. Completed projects or assembled crafts utilizing the tape (for example, a mask template whereby the user places tape on the guide and cuts it out with scissors from the book), will be flimsy given the material and it is unlikely the child will keep the product for very long. An object, such as a phone case or a picture frame, decorated with the tape may last longer. Furthermore, the practicality of the finished product is secondary to the play value of creating that object. See *Spring Creative Prods. Group v. United States*, 35 Int'l Trade Rep. 1955 (Ct. Int'l Trade Aug. 16, 2013). The merchandise is sold in toy stores, or alongside other items that would be recognizable as toys. For example, one large online retailer sells the product, and other similar Fashion Angels products, under its "Toys and Games" section, specifically, it is available under "Kids Arts and Crafts."

...
In the instant case, the printed fashion tape and its corresponding cutter and idea book, is exclusively focused on crafts that utilize the tape in creative designs and projects depicted in the book. It also contains about the amount of tape needed for the projects described and labelled in the book. Since the cutter is particularly flimsy, it is likely that the child would have amused him/herself decorating or creating a few items over the course of a few sittings and would subsequently discard the cutter and possibly the book, and use up the tape. Like other Tapeffiti craft kits classified as toys, it is composed of several articles, all essentially designed for the amusement and creativity of children over a short duration of time. [citations omitted]

This Tapeffiti Design Guide kit is an educational toy, consistent with CBP's prior rulings addressing similar issues. It encourages self-learning, direction following as well as fostering imagination, and supporting manipulative play value. [citations omitted].

HOLDING: By application of GRI 1, the subject merchandise is classified under heading 9503, HTSUS. Specifically, it is provided for under subheading 9503.00.0073, HTSUSA (Annotated), which provides for "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced scale models, working or not; puzzles of all kinds; parts and accessories thereof: "Children's products" as defined in 15 U.S.C. § 2052: Other: Labeled or determined by importer as intended for use by persons: 3 to 12 years of age." The column one duty rate is free.

Revocation of 13 Ruling Letters and Revocation of Treatment Relating to the Tariff Classification of Roadside Emergency Kits 85

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2016.

... CBP found that emergency roadside kits containing a range of articles packaged together to enable motorists to address roadside emergencies did not constitute a retail set for purposes of GRI 3(b), and classified the items separately pursuant to GRI 1.

CBP has reviewed these rulings and determined that the classification decisions set forth therein are incorrect. It is now CBP's position that the emergency roadside kits in each ruling are properly classified pursuant to GRI 3(b) as "retail sets."

Pursuant to 19 U.S.C. § 1625(c)(1), **CBP is revoking** HQ 964937, dated March 19, 2002, HQ 084074, dated July 3, 1989, HQ 965021, dated March 19, 2002, HQ 950678, dated December 30, 1991, HQ 951092, dated February 11, 1992, HQ 951943, dated June 26, 1992, NY D87008, dated February 3, 1999, NY E80250, dated April 19, 1999, NY E81728, dated May 17, 1999, NY I81218, dated May 17, 2002, NY J86419, dated July 1, 2003, NY N008721, dated April 9, 2007, and NY N080536, dated November 13, 2009, and revoking any other ruling not specifically identified to reflect the tariff classification of the subject merchandise according to the analysis contained in HQ H031458, set forth as Attachment “A” to this notice.

...
The products at issue were described as follows in HQ 964937:

The “99 piece Emergency Roadside Kit” (Stock # SDA178) consists of a 10’ battery booster cable, accident information guide, emergency thermal blanket, radiator water bag, 2 light sticks, 2 hose clamps, gas siphon, vinyl glove, a paper flag that reads “Emergency Help Call Police,” red shop towel, multi-function knife, flashlight, 2 D-size batteries, poncho, roll of radiator repair tape, 6 blade fuses, 27 cable nylon ties, flammable tire sealer and first aid kit, all packed inside a soft-sided plastic, reinforced, zippered bag with straps. The bagged is monogrammed with the words “Emergency Roadside Kit” and the triangular yellow symbol for emergencies. The kit is intended to be stored in a vehicle.

...
We note that we are presented with an assortment of items that are packaged and sold in a carrying case. The goods are potentially classifiable under more than one heading because they consist of separate components and no one heading in the tariff provides for the goods as entered. The kit consists of 99 items and includes a 10’ battery booster cable, accident information guide, emergency thermal blanket, radiator water bag, 2 light sticks, 2 hose clamps, gas siphon, vinyl glove, a paper flag that reads “Emergency Help Call Police,” flag and the remaining items of the set. Since no heading of the HTSUS completely the goods, and they are prima facie classifiable in two or more headings, the kits may not be classified solely on the basis of GRI 1. Thus, classification must fall to GRI 3.

...
GRI 3 provides, in pertinent part, as follows:

When, by application of rule 2(b) [not applicable in this case] or any other reason, goods are, prima facie, classifiable under two or more heading, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description [...] (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

...
GRI 3(b) provides for the classification of goods put up in retail sets. Applying the definition of the phrase “goods put up as sets for retail sale” provided in EN (X) to GRI 3(b), the subject merchandise meets the first requirement because the product consists of two or more goods, which are prima facie classifiable in two or more headings of the HTSUS. In addition, the subject merchandise meets the second requirement because the items are put up together to assist the particular needs of motorists who experience a roadside emergency. The goods are put up in a manner suitable for sale because the goods are packaged in a carrying bag suitable for retail sale. Therefore, the subject 99 Piece Emergency Roadside Kit qualifies as a set for purposes of GRI 3(b).

CBP has addressed the **particular need or specific activity requirement of EN(X)(b) to GRI 3 as requiring a relationship between the articles contained in a group, and such relationship must establish that the articles are clearly intended for use together for a single purpose or activity to comprise a set under GRI 3(b).** See, e.g., Headquarters Ruling Letter (HQ) 953472, dated March 21, 1994. Consistent with CBP’s analysis of GRI 3(b), the United States Court of International Trade (CIT) agreed that “for goods put up together to meet the ‘particular need’ or ‘specific activity’ requirement and thereby be

deemed a set, they must be so related as to be clearly intended for use together or in conjunction with one another for a single purpose or activity.” The bag facilitates the storage and transportation of the items and is directly related to the activity of managing roadside emergencies. [citations omitted] In Estee Lauder, the CIT considered the classification of cosmetic items put up together for the activity of applying makeup, and concluded that because each item by itself was specifically related to makeup and had an identifiable, individual use that was intended for use together or in conjunction with one another for the single activity of putting on makeup, the cosmetic items met a particular need and were therefore “retail sets” pursuant to GRI 3(b). Estee Lauder, 815 F. Supp. 2d at 1295–1296. See also HQ H190656, dated July 21, 2014, in which we classified certain medical supplies as retail sets.

The Explanatory Notes (ENs) to GRI 3(b) provide that, if this rule applies, goods shall be classified as if they consisted of the material or component which gives them their essential character. EN Rule 3(b)(VIII) lists as factors to help determine the essential character of such goods: the nature of the materials or components, their bulk, quantity, weight or value, and the role of a constituent material in relation to the use of the goods.

As stated by the Court of International Trade in Structural industries v. United States, 360 F. Supp. 2d 1330, 1336 (citations omitted) (2005), “the essential character of an article is that which is indispensable to the structure, core or condition of the article, i.e., what it is. “See also Conair Corporation v. United States, 29 Ct. Int’l Trade, 888, 895 (citations omitted) (2005), (discussing “the concept of ‘essential character’ found in GRI 3(b)”).

The emergency kits are being imported to provide motorists with the supplies necessary to address roadside emergencies. Each kit in the aforementioned rulings varies in its contents and thus, the essential character will vary according to each kit’s contents. Without such information, we therefore conclude that the emergency kits are classified as “retail sets” pursuant to GRI 3(b) in the heading that provides the kits with its essential character.

HOLDING: By application of GRI 3(b), the emergency kits are classified in the heading in which the emergency kit’s item provides the essential character. Accordingly, HQ 964937 is revoked.

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- CSMS [16000464](#) **ACE Production deployment, Tues. 6/7/16 @0500ET, impact ACE CargoRel & EntrySumm**
- CSMS [16000463](#) **ACE PRODUCTION FILING EXERCISES FOR 6/15 MANDATORY DATE**
- CSMS [16000462](#) *[same as above, 16000463]*
- CSMS [16000461](#) **SO message timing causing different statuses for same PGA data/line**
- CSMS [16000460](#) **ATF Supplemental Guidance for ACE V1.12, May 19, 2016**
- CSMS [16000459](#) *[same as above, 16000460]*
- CSMS [16000458](#) **DEA Supplemental Guidance for ACE V2.3, May 10, 2016**
- CSMS [16000457](#) *[same as above, 16000458]*
- CSMS [16000456](#) **ACE Cargo Release Deployment - 6/4/2016**
- CSMS [16000455](#) **ACE Production Outage, Saturday, June 4, 2016 @ 2200 to 0200 ET Sunday, June 5**
- CSMS [16000454](#) **ACE Air Manifest: FWS Disposition codes & updated CAMIR Appendix A**

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PROPOSED RULES

Guide Concerning Fuel Economy Advertising for New Automobiles

[\[TEXT\]](#) [\[PDF\]](#)

FISH & WILDLIFE [F&W Importing / Exporting Website](#)

FOOD & DRUG ADMINISTRATION

FDA Recalls Market Withdrawals, & Safety Alerts

- [Warning: Aspirin-Containing Antacid Medicines Can Cause Bleeding](#)
- [Webinar on the Voluntary Sodium Reduction Targets Draft Guidance](#)
- [Publix Recalls Nut, Seed and Raisin Mix Due To Possible Health Risk](#)
- [Nature Made® Recalls Various Products Because of Possible Health Risk](#)
- [Chelsea Food Services Issues Allergy Alert On Undeclared Egg In Product](#)
- [Problems with E-Cigarettes, Vape Products, Hookah, Cigarettes or Tobacco? Tell FDA](#)
- [Brown & Haley Expands Voluntary Recall of Mountain Thins "Trail Mix" Flavor Because of Possible Health Risk](#)
- [Rucker's Wholesale and Service Co. Recalls Sunflower Kernel, Sweet & Salty Mix, Cajun Hot Mix Because Of Possible Health Risk](#)
- [Rucker's Makin' Batch Candies Issues Food Recall of Cajun Mix - Because of Possible Health Risk, due to Potential Presence of Listeria Monocytogenes](#)
- [SunOpta Announces Second Expansion of Voluntarily Recall on Market District Pre-Packaged and Bulk Sunflower Seeds Sold at Select Giant Eagle and Market District Stores](#)
- [Taylors Candy Inc. Recalls "Stuckey's Sunflower Kernels" Because of Possible Health Risk](#)
- [Herr Foods Inc. Announces Voluntary Recall of Waffle Works Brand of 4 oz. Double Chocolate Waffle Sandwiches due to Undeclared Milk: Allergy Concern for Those With Milk Allergy](#)
- [The Body Shot Bar Issues Voluntary Nationwide Recall of Step 2 Due to Undeclared Sibutramine](#)
- [Frito-Lay Issues Voluntary Recall of Select Rold Gold Tiny Twists, Rold Gold Thins, Rold Gold Sticks and Rold Gold Honey Wheat Braided Due to Potential Undeclared Peanut Allergen](#)
- [Nature's One Voluntarily Recalls 'PediaSmart® Dairy Vanilla' Because of Possible Under-Delivery of Nutrition Using Included Scoop](#)
- [First Source Expanded Recall Of "Various Products Containing Sunflower Kernels Received From Our Supplier Sunopta" Because Of Possible Health Risk](#)
- [Maranatha Brand Voluntarily Recalls Certain Lots of Sunflower Seed Butter Because of Possible Health Risk](#)
- [Hy-Vee Voluntarily Recalls One Salad Topping and Additional Trail Mix Products Due to Expanded Sunflower Seed Recall in the U.S.](#)

- [Hostess Brands, LLC Issues Recall On Possible Undeclared Peanut Residue In Certain Snack Cake And Donut Products](#)
- [Kashi Company Voluntarily Recalls Two Varieties of Snack Bars and Two Varieties of Bear Naked® Granola Due to Potential Health Risk After Sunflower Seed Supplier Increases Scope of Impacted Products](#)

FDA Investigates Low Levels of Peanut Residue Found in Limited Flour and Flour Products

- [Cinnabon Stix](#)
- [Safeway 8" Single Layer Red Velvet Cake](#)
- [ACME 12" Decorated Chocolate Chip Cookie](#)
- [Jewel 12" Decorated Chocolate Chip Cookie](#)
- [Chick-fil-A Chocolate Chunk Cookies](#)
- [Hostess Snack Cake and Donut Products](#)

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FOREIGN ASSETS CONTROL OFFICE

NOTICES

Publication of the names of three individuals whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13712, and whose names have been added to OFAC's list of *Specially Designated Nationals and Blocked Persons* [\[TEXT\]](#) [\[PDF\]](#)

Publication of the name of one entity whose property and interests in property has been unblocked pursuant to the *Foreign Narcotics Kingpin Designation Act* [\[TEXT\]](#) [\[PDF\]](#)

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Hizballah Financial Sanctions Regulations: Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts [\[TEXT\]](#) [\[PDF\]](#)

[Specially Designated Nationals List](#)

[Resource Center](#)

[OFAC Recent Actions](#)

FOREIGN- TRADE ZONES BOARD

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Production Activity Authorizations:

Klaussner Furniture Industries, Inc., Subzone 230D, Asheboro and Candor, NC [\[TEXT\]](#) [\[PDF\]](#)

Thoma-Sea Marine Constructors, L.L.C., Foreign-Trade Subzone 279A, Houma, LA [\[TEXT\]](#) [\[PDF\]](#)

Proposed Production Activities:

SICK, Inc., Foreign-Trade Zone 119 - Minneapolis, MN [\[TEXT\]](#) [\[PDF\]](#)

Subzone Applications:

Next Level Apparel, Foreign-Trade Zone 233, Dothan, AL [\[TEXT\]](#) [\[PDF\]](#)

INTERNATIONAL TRADE ADMINISTRATION

NOTICES

Implementation of Determinations Pursuant to Section 129 of the Uruguay Round Agreements Act

[\[TEXT\]](#) [\[PDF\]](#)

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:

Initiation of Antidumping and Countervailing Duty Administrative Reviews [\[TEXT\]](#) [\[PDF\]](#)

Ball Bearings and Parts Thereof From Japan and the United Kingdom [\[TEXT\]](#) [\[PDF\]](#)

Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review; 2014-2015 [\[TEXT\]](#) [\[PDF\]](#)

Furfuryl Alcohol from the People's Republic of China [\[TEXT\]](#) [\[PDF\]](#)

Magnesium Metal from the People's Republic of China [\[TEXT\]](#) [\[PDF\]](#)

Certain New Pneumatic Off-the-Road Tires From India [\[TEXT\]](#) [\[PDF\]](#)

Diamond Sawblades and Parts Thereof From the People's Republic of China [\[TEXT\]](#) [\[PDF\]](#)

Diamond Sawblades and Parts Thereof from the People's Republic of China	[TEXT] [PDF]
Passenger Vehicle and Light Truck Tires From the People's Republic of China	
Initiation of Countervailing Duty New Shipper Review; 2014-2016	[TEXT] [PDF]
Initiation of Antidumping Duty New Shipper Review; 2015-2016	[TEXT] [PDF]
Polyethylene Retail Carrier Bags from Thailand	[TEXT] [PDF]
Porcelain-on-Steel Cooking Ware from the People's Republic of China	[TEXT] [PDF]
Certain Steel Nails from the United Arab Emirates	[TEXT] [PDF]
Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China	[TEXT] [PDF]
Circular Welded Carbon Steel Pipes and Tubes From Turkey	[TEXT] [PDF]
<u>Determinations of Sales at Less Than Fair Value:</u>	
Certain Iron Mechanical Transfer Drive Components from Canada	[TEXT] [PDF]
Certain Iron Mechanical Transfer Drive Components from the People's Republic of China	[TEXT] [PDF]
Certain Oil Country Tubular Goods from the Republic of Turkey	[TEXT] [PDF]
Circular Welded Carbon-Quality Steel Pipe from Pakistan	[TEXT] [PDF]
Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam	[TEXT] [PDF]
Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman	[TEXT] [PDF]
Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates	[TEXT] [PDF]
<u>Meetings:</u>	
United States Investment Advisory Council	[TEXT] [PDF]
United States Travel and Tourism Advisory Board	[TEXT] [PDF]

INTERNATIONAL TRADE COMMISSION

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Investigations; Determinations, Modifications, and Rulings, etc.:

Aquarium Fittings and Parts Thereof	[TEXT] [PDF]
Certain Composite Aerogel Insulation Materials & Methods for Manufacturing the Same	[TEXT] [PDF]
Certain Mobile and Portable Electronic Devices Incorporating Haptics (Including Smartphones and Laptops) and Components Thereof	[TEXT] [PDF]
Certain Recombinant Factor VIII Products	[TEXT] [PDF]
Certain Wireless Standard Compliant Electronic Devices, Including Communication Devices and Tablet Computers	[TEXT] [PDF]

[Certain Tissue Paper Products from China](#)

[Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam](#)

[Certain L-Tryptophan, L-Tryptophan Products, and Their Methods of Production](#)

[Certain Composite Aerogel Insulation Materials and Methods for Manufacturing Same](#)

[Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand](#)

[Certain Mobile and Portable Electronic Devices Incorporating Haptics \(Including Smartphones and Laptops\) and Components Thereof](#)

CALIFORNIA

[Office of Environmental Health Hazard Assessment](#)

[Proposition 65 List dated 08/25/15](#)

[Latest 60 Day Notices](#)

[AG Number 2016-00557\(View Details\)](#)

Chemical: Lead

Source: Cobra brand of metal wire

Comments: This Notice Amends the Notice AG 2016-00462 issued on May 18, 2016.

[AG Number 2016-00556\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Wiggo Eyes

[AG Number 2016-00555\(View Details\)](#)

Chemical: Lead

Source: Clamps, Key Chains

[AG Number 2016-00554\(View Details\)](#)

Chemical: Di-n-butyl phthalate (DBP)

Source: Braid Cord, Craft Gimp

[AG Number 2016-00553\(View Details\)](#)

Chemical: Diisononyl phthalate (DINP)

Source: Neck ID Holder, UPC No. 725838025147

[AG Number 2016-00552\(View Details\)](#)

Chemical: Lead and lead compounds

Source: Shrimp paste

[AG Number 2016-00551\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP), Diisononyl phthalate (DINP)

Source: Exercise Mats

[AG Number 2016-00550\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Cutlery organizing trays

[AG Number 2016-00549\(View Details\)](#)

Chemical: Cadmium and cadmium compounds, Lead and lead compounds

Source: Canned smoked mussels

[AG Number 2016-00548\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Bath pillow

[AG Number 2016-00547\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Photo Albums

[AG Number 2016-00546\(View Details\)](#)

Chemical: Cadmium and cadmium compounds, Lead and lead compounds

Source: Canned smoked mussels

[AG Number 2016-00545\(View Details\)](#)

Chemical: Lead and lead compounds

Source: Turmeric

[AG Number 2016-00544\(View Details\)](#)

Chemical: Lead and lead compounds

Source: JEWELRY BOXES

[AG Number 2016-00543\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Vinyl bedding storage cases

Comments: This is a supplement to AG Notice 2016-00402 to add distributor only

[AG Number 2016-00542\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP), Diisononyl phthalate (DINP)

Source: MAWA Grippy Hangers

Comments: This is a supplement to AG Notice 2016-00086 to add a discovered manufacturer

[AG Number 2016-00541\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Lumb-r-Grip Hanger Hook

Comments: This is a supplement to AG Notice 2016-00087

[AG Number 2016-00540\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP), Diisononyl phthalate (DINP)

Source: PVC rainwear, PVC Decoy Cord

Comments: This is a second supplemental to AG Notice 2015-01061 and AG Notice 2015-01144 for the purpose of adding a newly identified distributor

[AG Number 2016-00539\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP), Di-isodecyl phthalate (DIDP), Diisononyl phthalate (DINP)

Source: PVC rainwear and cases

Comments: This is a supplement to AG Notice 2015-01095 to add chemicals DINP and DIDP

[AG Number 2016-00538\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: PVC rainwear and cases

Comments: This is a supplement to AG Notice 2015-00898 to add a discovered distributor only

[AG Number 2016-00537\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: PVC rainwear and cases

Comments: This is a supplement to AG Notice 2015-00898 to add a discovered distributor only

[AG Number 2016-00536\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: PVC rainwear

Comments: This is a supplement to AG Notice 2015-01098 to add a discovered supplier only

[AG Number 2016-00535\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP), Diisononyl phthalate (DINP)

Source: vinyl-coated clothes hangers

[AG Number 2016-00534\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Spring Clamps with vinyl grips and tips

[AG Number 2016-00533\(View Details\)](#)

Chemical: Di-isodecyl phthalate (DIDP), Diisononyl phthalate (DINP)

Source: Happy Flight Vinyl Travel Accessories

[AG Number 2016-00532\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Onyx Rain Suit, UPC no. 043311000086

[AG Number 2016-00531\(View Details\)](#)

Chemical: Wood dust

Source: Sierra Supreme Wood Pellets

[AG Number 2016-00530\(View Details\)](#)

Chemical: Di(2-ethylhexyl)phthalate (DEHP)

Source: Hawk Safety 2 Piece Industrial Safety Equipment Set - Goggles, UPC No. 768537001524

[AG Number 2016-00529\(View Details\)](#)

Chemical: Arsenic (inorganic arsenic compounds), Cadmium, Lead and lead compounds

Source: Dietary Supplements

[AG Number 2016-00528\(View Details\)](#)

Chemical: Lead and lead compounds

Source: Dietary Supplements


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Report an Incident Involving a Consumer Product or a Cosmetic

Incident report forms: www.healthcanada.gc.ca/reportaproduct ***Recalls & Safety Alerts:***

RECALLS & ALERTS:

- ◆ [Cabela's Classic Candies brand Cajun Hot Mix and Uncle Buck's brand Cajun Hot Mix, Sunflower Kernel, and Sweet & Salty Trail Mix recalled due to Listeria monocytogenes](#)
 - ◆ [Operation Pangea highlights the dangers of buying health products online](#)
 - ◆ [Canamex Inc. recalls Capilo Shampoos](#)
 - ◆ [Expanded Recall: Southwire Company LLC recalls Non-Contact Voltage Detectors](#)
 - ◆ [NEWMAR issued a recall on the DUTCH STAR CLASS A MOTORHOME model](#)
 - ◆ [Bounce brand Apple Cinnamon Protein Punch Energy Balls recalled due to Listeria monocytogenes](#)
 - ◆ [Kashi brand Trail Mix Whole Grain Bars recalled due to Listeria monocytogenes](#)
 - ◆ [Jululu Bijoux recalls pacifier clips](#)
 - ◆ [Osprey Child Safety Products LLC recalls Poco AG, Poco AG Plus and Poco AG Premium Child Carriers](#)
 - ◆ [Cyntur recalls Mini Lithium-Ion Jump Starter](#)
 - ◆ [SamaN recalls LEGEND protective Tung oil](#)
- [Health Canada advises consumers about fire hazard associated with Tommee Tippee Closer to Nature Electric Food and Bottle Warmer](#)
- ◆ [VOLKSWAGEN issued a recall on the A8, and S8 models](#)

ANTIDUMPING:

[Notice of Initiation of Investigations - Gypsum Board](#)

* * *

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