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General Notices

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Modification of a Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of Certain Carrying Cases 1

In NY M87216, CBP determined, in relevant part, that the “Intellect Legend Case P/N 27133” is classified under subheading 4202.92.30, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “travel, sports and similar bags.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify NY M87216 with respect to the “Intellect Legend Case P/N 27133,” and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H035447.

...

In the instant case, we agree that the “Intellect Legend Case P/N 27133” is specially molded to the shape of the electrotherapy system it is designed to carry. The interior of the case is padded on all sides to protect the system during transport. The padding and the sleeve cannot be removed without destroying the case. The three-sided zippered opening is designed to allow the user to use the medical equipment without removing it from the bag. The interior pockets are designed for the system’s accessories. This case has the same characteristics and functions as other specialty cases such as medical instrument cases, camera cases, binocular cases and compact disk cases.

Like the carrying cases in HQ 964615 dated August 21, 2001, and in HQ 962132, dated October 26, 2000, the “Intellect Legend Case P/N 27133” carrying case is exclusively designed to hold and carry specific medical equipment. It is excluded from classification as a travel, sports and similar bag by operation of Additional U.S. Note 1 to Chapter 42, HTSUS. Therefore, it is properly classified under subheading 4202.92.90, HTSUS, as a specialty case.

Regarding the “Intellect Transport Case P/N 27467,” we have no doubt that the carrying case is used to carry medical equipment. However, it is designed to carry personal effects as well. It is not specially shaped or fitted to hold the medical equipment. The carrying case has the appearance and characteristics of an ordinary travel bag. It is in the nature of a travel bag for carrying medical equipment and personal effects, and a reasonable consumer may purchase it to carry goods other than medical equipment. This is not a carrying case that has little or no use apart from its content. It is used to transport personal effects and medical equipment during travel and as such is classified in subheading 4202.92.30, HTSUS, as a travel, sports and similar bag.

We next turn to the question whether the carrying cases are specially designed for the handicapped and as such are classified duty-free in subheading 9817.00.96, HTSUS. You claim that the carrying cases are used to carry electrotherapy systems designed to relieve pain and promote healing in those suffering from musculoskeletal disorders (“MSDs”), which can lead to a permanent or chronic physical impairment if treatment is not satisfactory. The Agreement on the Importation of Educational, Scientific and Cultural Materials, 17 U.S.T. 1835, TIAS 6129, known as the Florence Agreement provides for the duty-free treatment of certain materials including scientific instruments and apparatus and articles for the blind. The Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials Act of 1982 expanded the scope of the Florence Agreement to provide duty free treatment for certain articles for the use or benefit of the handicapped. The 97th Congress passed Pub. L. 97-446 to ratify the Nairobi Protocol in the United States. Subheading 9817.00.96, HTSUS covers certain articles specifically designed or adapted for the use or benefit of other physically or mentally handicapped persons. U.S. Note 4(b), subchapter XVII, Chapter 98, HTSUS, states that subheading 9817.00.96, HTSUS does not cover “(i) articles for acute or transient disability.” U.S. Note 4(a), subchapter XVII, Chapter 98, HTSUS, provides that the term “blind or other physically or mentally handicapped persons” includes any person suffering from a permanent or chronic physical or mental impairment, which substantially limits one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.” (emphasis added).

The product at issue has to be “specially designed or adapted” for the use or benefit of handicapped persons within the meaning of the Nairobi Protocol. CBP set forth factors it would consider in making this determination. These factors include: (1) physical properties of the article itself (e.g., whether the article is easily distinguishable in design, form and use from articles useful to non-handicapped persons); (2) presence of any characteristics that create a substantial probability of use by the chronically handicapped so that the article is easily distinguishable from articles useful to the general public and any use thereof by the general public is so improbable that it would be fugitive; (3) importation by manufacturers or distributors recognized or proven to be involved in this class or kind of articles for the

handicapped; (4) sale in specialty stores that serve handicapped individuals; and (5) indication at the time of importation that the article is for the handicapped. HQ H074876 dated November 19, 2009. These factors are weighed against each other to determine whether an article is specially designed or adapted for the handicapped. HQ H055815 dated May 26, 2010.

In this case, the goods at issue consist of two different models of carrying cases. The “Intellect Transport Case P/N 27467” is a product that would be used by the general public and by persons who have no disability. It is not specially shaped or fitted to hold electrotherapy equipment and has the appearance of an ordinary travel bag. It is available for purchase on the Internet and is not limited to specialty stores that serve the handicapped. The description of the article does not indicate that it is for the use or benefit of handicapped individuals. Therefore, we conclude that the “Intellect Transport Case P/N 27467” was not specially designed or adapted for the use of handicapped persons.

The “Intellect Legend Case P/N 27133” is specially molded to the shape of the electrotherapy unit it is designed to transport. Its interior is padded and the three-sided zippered opening allows use the electrotherapy unit without removing it from the bag. The electrotherapy unit is routinely used by medical professionals in treating patients whose impairment is “acute or transient disability” such as a moderate sports injury. Unlike in N095267 dated March 18, 2010, and NY J83008 dated April 10, 2003, this carrying case is used to transport electrotherapy equipment that is not specially designed and adapted for the benefit of persons suffering from a permanent or chronic physical impairment such as sleep apnea or diabetes. The electrotherapy equipment that the case transports is designed to stimulate injured joints and muscles to activate the body’s natural processes for relieving pain, building strength, and promoting healing in those suffering from MSDs. While permanent disability is possible in chronic cases if treatment is unsatisfactory, the electrotherapy equipment is not designed exclusively for the use of handicapped persons. Therefore, the “Intellect Legend Case P/N 27133” is not specially designed or adapted to carry medical equipment that is specially designed and adapted for the use of handicapped persons.

In addition, there is no evidence that the “Intellect Legend Case P/N 27133” is offered for sale in specialty stores that solely serve handicapped individuals, that it is imported by manufacturers/distributors recognized to be involved in this kind of articles for the handicapped, and that it was described as an article for the handicapped at the time of importation. This carrying case has not been described and/or marketed as a product for the handicapped. Thus, the “Intellect Legend Case P/N 27133” is within the exception for acute and transient disabilities and is not designed for the needs of persons suffering from permanent or chronic physical impairment. Accordingly, neither carrying case is classified duty free in subheading 9817.00.96, HTSUS, as equipment specially designed for the handicapped.

Pursuant to GRI 6, the “Intellect Legend Case P/N 27133” is classifiable under subheading 4202.92.90, HTSUS, which covers specialty cases. The column one, general rate of duty is 17.6% ad valorem. The textile quota category is 670. The carrying cases are not eligible for duty-free treatment pursuant to subheading 9817.00.96, HTSUS. Duty rates and quota categories

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 5, 2012. [no duty impact]

Proposed Revocation of a Ruling Letter and Proposed Revocation of Treatment Relating to the Tariff Classification of a Children’s Dress-Up Vests. 9

In NY N097116, CBP classified children’s dress-up vests under heading 6217, HTSUS, which provides for: “[o]ther made up clothing accessories; parts of garments or of clothing accessories, other than those of heading 6212.” Upon our review of NY N097116, we have determined that the merchandise described in that ruling is properly classified under heading 9505, HTSUS, which provides for: “[f]estive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof.”

The subject vests are composed of 100% nonwoven polypropylene fabric and are worn over clothing. They have the dimensions of 16.5" x 19.25", are pulled over the head, feature a rounded neckline, have oversized armholes with open sides and a hook/ loop velcro strip closure, and hemmed edges. The side and bottom seams feature a 1/3" folded hem that contains 8-stitches per inch. The vests come in four different styles that distinguish the wearer as a member of a police, fire rescue, army, or construction crew. Each style is created by the vests' coloring and by simple screen-printing of designs and words that identify what the wearer is dressed up as. The vests retail in the importer's stores for \$1.00.

CBP, in previous rulings regarding textile costume articles, has consistently interpreted the legal notes and ENs to mean that such articles are classifiable under heading 9505 as "festive articles" if the textile costumes: have a flimsy nature and construction; are lacking in durability; and are generally recognized as not being normal articles of apparel.

... in regard to the fifth textile costume at issue in HQ 961447 that CBP determined not to be classifiable as a festive article, CBP cited the type of sewing used to construct it, the durable bias tape used to cap the ruffled collar, wrists, and ankles, the lack of raw and exposed edges, and the substantiality of the sewing on the elastic at the wrist and ankles as styling features supporting that the article was well constructed and durable. In addition, other rulings also cite examples of features that are indicative of substantial and durable garments, such as zipper closures, a fitted bodice with darts, a clown suit with a fabric encased wire hoop, petal shaped panels sewn into a waistline, and sheer/decorative panels sewn into the seams of costumes.

Furthermore, the Court of Appeals for the Federal Circuit ("CAFC") affirmed CBP's analytical approach in regard to the classification of textile costumes as festive articles.

... In addition, the features and characteristics used to distinguish between textile costumes classifiable as "festive articles" of Chapter 95, HTSUS, and "fancy dress" of Chapters 61 or 62, HTSUS, has been set forth in the CBP Informed Compliance Publication (ICP), What Every Member of the Trade Community Should Know About: Textile Costumes under the HTSUS, August 2006 ("Textile Costumes under the HTSUS"). As noted in this publication, CBP generally considers four areas in making classification determinations for textile costumes: "styling", "construction", "finishing touches", and "embellishments".

From previous CBP rulings, the court in Rubie's Costume Co., and the ICP, the pertinent factors used in analyzing whether a textile costume is of a flimsy nature and non-durable construction include: styling, construction, finishing touches, and embellishments. Although not explicitly enumerated, but implied, are other factors such as comparison of an article to other analogous durable and non-durable items, cleaning durability, disposability, etc. Applying these factors, we can determine whether children's dress-up vests are festive articles. A physical examination of samples of the children's dress-up vests at issue here in light of these factors is as follows:

Styling: There are no zippers, pockets, buttons, inset panels, intricate stitching, or other tailoring elements on the vests at issue. The vests simply consist of a single layer of woven fabric on the front and back panel.

Construction: The vests are made up of two parts of nonwoven material which are stitched together at the shoulders with a single basic straight stitch that appears to be fairly sturdy. The neck and the arm holes are sewn with a visible overlock stitching, of which the loops of the stitching are loose enough that they can be pulled on and loosened with one's fingers or when in use, can easily be snagged on something and ripped or pulled apart. Even though there are no raw edges in the neck or arm holes, the looseness and visibility of the overlock stitching, according to the ICP, are indicative of flimsy construction. Overall, the construction of the vests is a factor that weighs in favor of flimsy construction and non-durability.

Finishing Touches: There are no raw or exposed edges in the vests' construction. The side and bottom edges of the vest have a 1/3 inch folded hem with a single basic stitch that is securely sewn. Similar to the

ends of the stitches with the shoulder stitches, the ends of the folded hem are loose and not tightly secured. In addition, the vests lack any closures that are reflective of being well-made, such as zippers or buttons with button holes. Instead, the vests have small velcro tabs that act as closures. Such small closures are supportive of a flimsy construction and lack of durability. Finally, the tension of the overlock stitching on the neck and the arm holes is loosely sewn. Overall, the vests have features that are indicative of flimsy construction such as loose ends of the stitching, small velcro tab closures, and the looseness of the overlock stitching.

Embellishments: Two of the sample dress-up vests have screen-printed stripes on them. One dress-up vest labeled as “construction” on the front has two orange-yellow stripes perpendicular to a single horizontal stripe on both the front and back of the vest. A second dress-up vest labeled as “fire rescue” on the front has a single yellow and silver stripe on the front and back of the vest.

Therefore, given a consideration of the instant garment as a whole, along with its styling, construction, finishing touches, and embellishments, CBP finds that the vests are of a flimsy and non-durable construction. Hence, the children’s dress-up vests are classifiable as “festive articles” in heading 9505, HTSUS.

...

Pursuant to GRI 1, the children’s dress-up vests are classified under subheading 9505.90.6000, HTSUSA, as “[f]estive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: [o]ther: [o]ther.” Articles classified under this subheading are duty free.

[Decreasing the duty from 14.6 percent ad valorem to Free]

Proposed Modification of Ruling Letter and Proposed Revocation of Treatment Relating to the NAFTA Eligibility and Country of Origin of the Product “Coco Peat”. 19

In NY N054636, CBP determined that the product known as “CoCo Peat” was classified in heading 1404, HTSUS, specifically under subheading 1404.90.90, HTSUS, which provides for “Vegetable products not elsewhere specified or included: Other: Other: Other”. Furthermore, CBP determined that the subject merchandise was not NAFTA originating, and that its country of origin was Sri Lanka. It is now CBP’s position that the subject merchandise is “waste and scrap” within the meaning of both GN 12(n)(ix)(B), HTSUS, and 19 C.F.R. §102.11(g)(9)(ii), that Canada is its country of origin under 19 C.F.R. §102.11(a)(i), and that it is eligible for NAFTA preferential treatment under GN 12(a)(i), HTSUS.

Pursuant to 19 U.S.C. §1625(c)(1), CBP proposes to modify NY N054636, and to revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the “CoCo Peat” according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H061739.

We have reviewed NY N054636 and found it to be incorrect with respect to the NAFTA eligibility determination and country of origin. For the reasons set forth below, we intend to modify that ruling.

The merchandise in question, identified as “CoCo Peat,” is comprised of used coconut shell coir pith. “Coir” is the outside layer of husk that surrounds the outside shell of the coconut. “Coir pith” is the cork-like substance between the fibers. It has been widely recognized as a superior growing medium for tomatoes, roses, and other crops.

The coir pith is originally imported into Canada from Sri Lanka in plastic bags, where it is used for the hydroponic growing of vegetables in Canada. You state that the coir pith degrades (converts to smaller granules) during the single season crop cycle, such that poor performance would be expected if the grow bag was used for more than one season. You further state that, after one season of use, the coir pith is no longer suitable for use in the hydroponic growing of vegetables, and is normally discarded by the greenhouses. As a service to the growers, Envirotex collects the used coir pith directly from the greenhouses and ships it to their Canadian facility. At this location, the used coir pith is transformed into the product identified as CoCo Peat. The used coir pith is subjected to a process which removes the plastic growing bags, other bits of plastic, and plant residue. It is then run through a number of screens

to break the product down to a fine medium. The CoCo Peat is then imported to the United States, where it is sold to The Scott Company. It is blended with other raw materials such as peat moss and compost, and used as an ingredient in The Scott Company's "Miracle Gro® Potting Soil Mix" product.

I. Classification

...

CBP notes that this ruling is consistent with NY G87468, dated March 1, 2001, and NY 814194, dated September 18, 1995, both of which classified bricks of coir pith under heading 1404, HTSUS.

II. NAFTA Eligibility

...

It is CBP's position that the used coir pith constitutes used goods collected within the territory of a NAFTA party, and that the used coir pith is fit only for the recovery of its raw materials.

However, Envirotex recycles the used coir pith. They collect it from the growers in Canada, filter the plastic bag material, and remove impurities such as roots left behind at the end of the growing season. Once the used coir pith has been cleaned and filtered, it is further broken down to finer sized granules. By this process, Envirotex creates the instant merchandise, CoCo Peat. This product is sold to The Scott Company, as an ingredient for the "Miracle Gro® Potting Soil Mix" product. The CoCo peat is derived from the used coir pith, and it cannot be used for growing hydroponic vegetables. Therefore, it is now CBP's position that CoCo Peat is "waste and scrap" within the meaning of GN 12(n)(ix)(B), HTSUS, and that it is a NAFTA originating good under GN 12(b)(i), HTSUS.

III. Country of Origin

Part 102, CBP Regulations (19 C.F.R. Part 102), sets forth the NAFTA Marking Rules. Section 102.11 provides a required hierarchy for determining the country of origin of a good for marking purposes. Applied in sequential order, the required hierarchy establishes that the country of origin of a good is the country in which:

(a)(1) The good is wholly obtained or produced;

(a)(2) The good is produced exclusively from domestic materials; or

(a)(3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in Section 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

...

CBP finds that the used coir pith constitutes used goods collected within Canada, that CoCo peat is derived from used coir pith, and CoCo Peat cannot be used for growing hydroponic vegetables. Therefore, it is now CBP's position that CoCo Peat is "waste and scrap" within the meaning of 19 C.F.R. §102.1(g)(9)(ii), and that it may be marked as a product of Canada under 19 C.F.R. §102.11(a)(i).

IV. Conclusion

The instant CoCo Peat product is a NAFTA originating good under the provisions of GN 12(b), HTSUS, and it qualifies to be marked as a product of Canada under the NAFTA Marking Rules set forth in 19 C.F.R. §102. Therefore, it is eligible for the "Special" "CA" rate of duty.

The instant CoCo Peat product is classified under heading 1404, HTSUS, specifically under subheading 1404.90.90, HTSUS, which provides for "Vegetable products not elsewhere specified or included: Other: Other". The general, column one rate of duty is free.

...

The instant CoCo Peat product is a NAFTA originating good under the provisions of GN 12(b), HTSUS, and it qualifies to be marked as a product of Canada under the NAFTA Marking Rules set forth in 19 C.F.R. §102. Therefore, it is eligible for the "Special" "CA" rate of duty.

[no duty impact]

Proposed Modification of Ruling Letter and Revocation of Treatment Relating to the Tariff Classification of a Certain Lighting Fixture 32

In NY N032539, CBP classified an article identified as the “Wing Reflector with lamp-holder” in heading 9405, HTSUS, specifically subheading 9405.10.8020, HTSUSA, as “Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included . . . : Chandeliers and other electric ceiling or wall lighting fittings . . . : Other: Other.” It is now CBP’s position that the article is classified in subheading 9405.10.6020, HTSUSA, which provides for “Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included . . . : Chandeliers and other electric ceiling or wall lighting fittings . . . : Of base metal: Other: Other.” . . .

U.S. Customs and Border Protection (CBP) has reviewed the tariff classification of the Wing Reflector with lamp-holder and has determined that the cited ruling is in error. Therefore, NY N032539 is modified for the reasons set forth in this ruling. . . .

There is no question that the Wing Reflector with lamp-holder is a lamp or lighting fitting not elsewhere specified or included and is thus described eo nomine by heading 9405, HTSUS. Accordingly, this matter is governed by GRI 6, which states the following:

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

Subheading 9405.10, HTSUS, provides for electric ceiling or wall light fittings of base metal and the subject article is composed of aluminum and steel, both of which are base metals as defined Note 3, Section XV, HTSUS.¹ The Wing Reflector with lamp-holder is thus provided for eo nomine by subheading 9405.10, HTSUS.

The Wing Reflector with lamp-holder is composed of base metals other than brass and is designed for use in commercial greenhouses. Therefore, the applicable subheading for the article will be 9405.10.6020, HTSUSA, which provides for electric ceiling or wall lighting fittings of base metal other than brass, for other than household use.

By application of GRIs 1 and 6, the subject merchandise identified as the “Wing Reflector with lamp-holder” is classifiable under heading 9405, HTSUS. Specifically, it is classifiable under subheading 9405.10.6020, HTSUS, which provides for “Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included; Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thoroughfares: Of base metal: Other: Other.” The column one, general rate of duty is 7.6 percent ad valorem.

[Increasing the duty from 6 to 7.6 percent, ad valorem]

Withdrawal of Modification of One Ruling Letter and Revocation of One Ruling Letter and Withdrawal of Revocation of Treatment Concerning the

Classification of a Surgical Light System and Certain Component Parts 39

This modification had been proposed in CBP’s Bulletin of June 23, 2010 [summarized in our June Update # 4 of 2010] According to this Bulletin, two cases decided by the Court of International Trade provides instructive guidance on the classification of this type of merchandise. Accordingly, CBP is withdrawing the proposal to modify/revoke HQ 967159 and NY L83104. The proposal would have resulted in reducing duty from 6% to Free for some parts and No Change for other parts.

¹ Note 3, Section XVI, HTSUS, states that “[u]nless 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.

***Proposed Revocation of Ruling Letter and Proposed Revocation of Treatment Relating to the Tariff Classification of Stacking Drawers* 41**

In NY N042968, CBP determined that three plastic stacking drawers were classified in heading 3924, HTSUS, which provides for “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:”

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY N042968 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the stacking drawers in heading 9403, HTSUS.

...

The General Notes to the EN to Chapter 39 state that “heading 39.26 is a residual heading which covers articles, not specified elsewhere or included, of plastics or of other materials of headings 39.01 to 39.14.” General (EN) (4)(B)(i) to Chapter 94, HTSUS, reads as follows:

For the purposes of this Chapter, the term ‘furniture’ means:

(B) The following:

(i) Cupboards, bookcases, other shelved furniture and unit furniture, designed to be hung, to be fixed to the wall or to stand one on the other or side by side, for holding various objects or articles (books, crockery, kitchen utensils, glassware, linen, medicaments, toilet articles, radio or television receivers, ornaments, etc.) and separately presented elements of unit furniture.

EN 94.03 provides, in pertinent part:

This heading covers furniture and parts thereof, not covered by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritaires, bookcases, and other shelved furniture, etc.), and also furniture for special uses.

The heading includes furnitures for:

(1) Private dwellings, hotels, etc., such as : cabinets, linen chests, bread chests, log chests; chests of drawers, ...

Classification within Chapter 39 is subject to Legal Note 2(x), which excludes articles of Chapter 94 from classification in Chapter 39. Therefore, if the instant drawers are classifiable in heading 9403, HTSUS, they are excluded from classification in any of the provisions of Chapters 39, even if described therein. We will therefore first address the classification in Chapter 94 of the instant merchandise.

Legal Note 2 to Chapter 94 states that “the articles (other than parts) referred to in headings 9401 to 9403 are to be classified in those headings only if they are designed for placing on the floor or ground.” General EN 4(A) to Chapter 94 defines furniture as: “[a]ny ‘movable’ articles...which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings and other places.”

Although the individual drawer units are imported and presented separately, they are designed to be used as a free standing drawer system, with each drawer interlocking with and standing on the one below. Thus, while only the bottom drawer will be placed on the ground, the interlocked drawers constitute a single, movable unit designed for placing on the floor or ground, which has the utilitarian purpose of storing clothing and other personal items. The drawer set is also of a class or kind with those articles enumerated in EN 94.03 which are designed for a similar purpose, such as chests of drawers and dressers.

Note 2 to Chapter 94 further states that cupboards, bookcases and other shelved or unit furniture remains in that Chapter even if designed to stand one on the other. While the term “unit furniture is not defined in the tariff or ENs, CBP has consistently held that “unit furniture” refers to different elements of furniture which are designed and intended to be used to create one unit. See e.g., HQ 966672, dated March 8, 2004; HQ 950246, dated November See e.g., HQ 966672, dated March 8, 2004; HQ 950246, dated November 22, 1991; NY N013745, dated July 10, 2007; NY N003710, dated December 4, 2006. In

StoreWALL, LLC v. United States, the Court of International Trade further defined “unit furniture” as follows:

- (a) [**6] fitted with other pieces to form a larger system or which is itself composed of smaller complementary items,*
- (b) designed to be hung, to be fixed to the wall, or to stand one on the other or side by side, and*
- (c) assembled together in various ways to suit the consumer’s individual needs to hold various objects or articles, but*
- (d) excludes other wall fixtures such as coat, hat and similar racks, key racks, clothes brush hangers, and newspaper racks.*

See StoreWALL, LLC v. United States, 675 F. Supp. 2d 1200 (Ct. Int’l Trade 2009), aff’d 644 F.3d 1358 (Fed. Cir. 2011).

Each drawer may thus be considered to be a separately presented element of unit furniture pursuant to the General EN to heading 9403, HTSUS. That the individual drawers are designed to stand on each other therefore does not take them out of heading 9403, HTSUS.

Based on the above discussion, the instant drawers are classified as furniture of heading 9403, HTSUS.

By application of GRI, the instant drawers are classified in heading 9403, HTSUS, specifically in subheading 9403.70.80, HTSUS, which provides for “Other furniture and parts thereof: Furniture of plastics: Other.” The 2011 column one, general rate of duty is Free.

[Decreasing the duty from 32 to 3.4 percent ad valorem to Free]

CARGO SYSTEMS MESSAGING SERVICE [#12-000001 not posted]

CSMS #12-000006 – Title: [Updated Status on Slow Responses to ACE Portal](#)

CSMS #12-000005 – Title: [Detroit Client Reps Phones are Down](#)

CSMS #12-000004 – Title: [Potential Additional ACE Outage beginning January 15, 2012](#)

CSMS #12-000003 – Title: [Reports of Slow Responses to ACE Portal](#)

CSMS #12-000002 – Title: [New Arrival Functionality in ACE MI](#)

CONSUMER PRODUCT SAFETY COMMISSION

NOTICES

Commission Meeting - Open to the Public

Wednesday, January 18, 2012 10:00 a.m. – 11:00 a.m.

Hearing Room 420

Matter to be Discussed

Briefing Matter: Infant Swings – Notice of Proposed Rulemaking

- A live webcast of the Meeting can be viewed at <http://www.cpsc.gov/webcast>

Consumer Product Safety Information Database: www.SaferProducts.gov

[What’s Popular](#), [Public Calendar](#), [Import Safety](#) and [International Activities](#),

[Industry Guidance](#), [Product Safety Standards](#),

[Recalls](#) [[View All Recalls](#)] [[Previous Month](#)] [[Next Month](#)] [[Recalls Page](#)]

[Third Party Testing and Firewalled Laboratories - Questions and Answers, December 2009](#)

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 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](#)

For details or additional information please contact: bywierbicki@tdllp.com

CPSC RECALLS & UPDATES

- [Kaz USA Recalls Honeywell Portable Electric Heaters Due to Burn Hazard](#)
- [Big Lots Recalls Floor Lamps Due to Shock Hazard](#)
- [Chariot Carriers Recalls Child Bicycle Trailers and Conversion Kits Due to Injury Hazard](#)
- [Demdaco Recalls Carruth Candleholder Collection Tea Light Candles Due to Fire Hazard](#)
- [The Land of Nod Recalls Bed Frames Due to Entrapment Hazard](#)
- [Proactive at the Ports: CPSC Stops Unsafe Products Before They Reach Consumers](#)

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

FOOD & DRUG ADMINISTRATION

NOTICES

Determination: AVALIDE (Hydrochlorothiazide and Irbesartan), Oral Tablets, 25 Milligrams/300 Milligrams and 12.5 Milligrams/75 Milligrams [\[TEXT\]](#) [\[PDF\]](#)

[Import Alerts](#) View by ● [Country](#) ● [Import Alerts by Number](#) ● [Industry](#) ● [Last Published Date](#)

FDA RECALLS

After Clicking [HERE](#) Scroll Down A Bit And To The Right is the Search Box

Recent FDA Recalls, Market Withdrawals, & Safety Alerts:

- [Herbadashery LLC Issues Allergy Alert on Undeclared Anchovy in Pine Ridge BBQ and Dipping Sauce and Pine Ridge Jalapeño BBQ and Dipping Sauce](#)
- [Gilster-Mary Lee, Corp. Announces Recall Of Hill Country Fare Brand Of Lasagna Dinner Mix Due To The Presence Of Undeclared Soy](#)
- [Jan. 18 Webinar: Reporting Bad Reactions From Cosmetics](#)
- [Blount Fine Foods Announces Rip Roar'N Crab Soup Recall For Undeclared Milk, Wheat And Crab Allergens](#)
- [Bedford Laboratories Issues Guidance On 2011 Voluntary Recall Of Polymyxin B For Injection USP And Vecuronium Bromide For Injection Related To Glass Particles](#)
- [ZIP INTERNATIONAL GROUP LLC, Issues An Alert On Listeria In Sliced Herring Fillet In Oil \(Forelka\)](#)
- [D.F. Stauffer Biscuit Co., Inc. Issues Allergy Alert and Voluntary Recall on Safeway Snack Artist Sugar Free Bite-Sized Chocolate Chip Cookies Due to Mislabeling and Undeclared Allergens](#)
- [Pepin Heights Orchards Issues Cider Advisory](#)
- [Novartis Consumer Health Inc. Issues Voluntary Nationwide Recall Of Certain Over-The-Counter Products Due to Potential Presence Of Foreign Tablets Or Chipped Or Broken Tablets Or Gelcaps](#)
- [Bloch's Best Inc. Issues Allergy Alert On Undeclared Eggs in Laromme Brand Vanilla Rugelach in 14 oz. Round Containers](#)
- [FDA Warns About Stem Cell Therapy Claims](#)

FOREIGN TRADE ZONES BOARD

NOTICES

Applications for Reorganization under Alternative Site Framework:

Foreign-Trade Zone 100, Dayton, OH

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

INTERNATIONAL TRADE ADMINISTRATION

NOTICES

Carbazole Violet Pigment 23 from the People's Republic of China - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)

For details or additional information please contact: bywierbicki@tdllp.com

- Citric Acid and Certain Citrate Salts from the People's Republic of China* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China* - Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Certain Frozen Fish Fillets from the Socialist Republic of Vietnam* - New Shipper Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Hand Trucks and Certain Parts Thereof from the People's Republic of China* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Honey from Argentina* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- High Pressure Steel Cylinders from the People's Republic of China* - Postponement of Final Determination of Antidumping Duty Investigation [\[TEXT\]](#) [\[PDF\]](#)
- Low Enriched Uranium from France* - Initiation of Antidumping Duty Changed Circumstances Reviews [\[TEXT\]](#) [\[PDF\]](#)
- Light-Walled Rectangular Pipe and Tube from Mexico* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Polyethylene Terephthalate Film, Sheet and Strip from India* - Countervailing Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Tapered Roller Bearings and Parts Thereof, Finished & Unfinished from the People's Republic of China* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)
- Wooden Bedroom Furniture from the People's Republic of China* - Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc. [\[TEXT\]](#) [\[PDF\]](#)

INTERNATIONAL TRADE COMMISSION

NOTICES

Investigations:

- Certain Integrated Circuits, Chipsets and Products Containing Same, Including Televisions [\[TEXT\]](#) [\[PDF\]](#)
- Certain Kinesiotherapy Devices and Components Thereof [\[TEXT\]](#) [\[PDF\]](#)
- Stainless Steel Wire Rod from India [\[TEXT\]](#) [\[PDF\]](#)
- Certain Blu-Ray Disc Players, Components Thereof and Products Containing Same [\[TEXT\]](#) [\[PDF\]](#)
- Certain Video Game Systems and Controllers [\[TEXT\]](#) [\[PDF\]](#)
- Certain Silicon Microphone Packages and Products Containing Same [\[TEXT\]](#) [\[PDF\]](#)

Reviews:

- Antidumping and Countervailing Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Large Residential Washers from Korea and Mexico [\[TEXT\]](#) [\[PDF\]](#)

Investigations; Terminations, Modifications and Rulings:

- Certain Portable Electronic Devices and Related Software [\[TEXT\]](#) [\[PDF\]](#)

Intellectual Property Rights

[Certain Silicon Microphone Packages and Products Containing Same](#)

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

NOTICES

- Generalized System of Preferences: 2010 Annual Review [\[TEXT\]](#) [\[PDF\]](#)
- U.S.–EU High Level Working Group on Jobs and Growth [\[TEXT\]](#) [\[PDF\]](#)

CALIFORNIA *Latest 60 Day Notices*

AG Number: 2012-00001**Chemical:** Lead and lead compounds **Source:** Honey; Kombucha; Maple syrup; Soy sauce; Vinegar

AG Number: 2012-00002**Chemical:** Ethylbenzene **Source:** SeaSense liquid electrical tape

AG Number: 2012-00003**Chemical:** Arsenic (inorganic arsenic compounds); Cadmium; Lead **Source:** Zinc oxide powder

AG Number: 2012-00004**Chemical:** Ethylbenzene **Source:** Liquid electrical tape

AG Number: 2012-00005**Chemical:** Lead **Source:** Whole oysters in water

AG Number: 2012-00006**Chemical:** Lead **Source:** Whole smoked oysters in cottonseed oil

AG Number: 2012-00007**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00008**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00009**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00010**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00011**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00012**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00013**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00014**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00015**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00016**Chemical:** Lead **Source:** Dietary supplement

AG Number: 2012-00017**Chemical:** Lead **Source:** Dietary supplement

Canada [What's New](#) [HEALTH CANADA](#)
[Consumer Product Safety](#) [Canada Consumer Product Safety Act Page](#)
[Trade Compliance Post-Release Verifications – January 2012](#)

– Verification priorities (VPs) are determined through a risk-based, evergreen process; i.e., new VPs may be added throughout the fiscal year. VP verifications may also be carried over from previous years. The VPs are in the areas of Tariff Classification, Valuation and Origin and include various areas, such as Jewellery, Pet Toys, Safety Headgear and Cocoa Powder.

RECALLS

- ▶ Dora, Spider-Man or Sesame Street Water Bottles
http://cpsr-rspc.hc-sc.gc.ca/PR-RP/recall-retrait-eng.jsp?re_id=1506
- ▶ "Zip Zap" Brand Sleepers by Brecrest Babywear Ltd.
http://cpsr-rspc.hc-sc.gc.ca/PR-RP/recall-retrait-eng.jsp?re_id=1508

ANTIDUMPING

- ▶ Certain Potassium Silicates Solids - Notice of Initiation of Investigations - 2012-01-06
<http://www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html>

* * *

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