GENERAL NOTICE

Withdrawal of Proposal to Modify a Ruling Letter and Proposal to Revoke any Treatment Relating to the Eligibility of Certain Women's Pullovers for Preferential Tariff Treatment

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

ACTION: Notice of withdrawal of proposal to modify a ruling letter and of proposal to revoke any treatment relating to the eligibility of certain women's pullovers for preferential tariff treatment under the United States-Singapore Free Trade Agreement.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 1030182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is withdrawing a proposal to modify one ruling letter, New York Ruling Letter (NY) N024671, dated March 19, 2008, relating to the eligibility for preferential treatment under the United States-Singapore Free Trade Agreement of certain women's knit pullover garments. The proposal was published in the Customs Bulletin on August 20, 2009. Three comments were received and all opposed the proposed action. CBP is also withdrawing its proposal to revoke any treatment previously accorded by it to substantially identical transactions.

EFFECTIVE DATE: This notice is effective January 27, 2010.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Valuation and Special Classification Branch, (202) 325–0046.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade commu-

nity's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY N024671, dated March 19, 2008, relating to the eligibility for preferential treatment under the United States-Singapore Free Trade Agreement (SFTA) of certain women's knit pullover garments was published in the *Customs Bulletin*, Volume 43, Number 34, on August 20, 2009. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C.1625 (c)(2)), as amended by section 623 of Title VI, CBP proposed to revoke any treatment previously accorded by CBP to substantially identical transactions. Three comments were received in opposition to the proposed action.

In NY N024671, CBP determined that a certain woman's cotton knit pullover cut and sewn in Singapore from fabric knit in Singapore of U.S. yarns and featuring a patch pocket of fabric knit in China of Chinese yarns was eligible for preferential tariff treatment under the SFTA. CBP based that decision on Chapter Rule 2, Chapter 61 of General Note 25(o) which limits the application of a rule set forth therein to the component that determines the classification of the good. CBP determined that the body of the pullover was the component that determined the classification of the garment, and disregarded the pocket. CBP proposed modifying NY N024671 because the fabrics of both components are classifiable as knit fabrics of cotton and the garment is classified by application of General Rule of Interpretation 1; no single component is the component that determines the classification of the good.

In the proposed modification ruling, it was stated that the component that determines the classification of the garment is the cotton knit fabric. After review of the comments and additional research into the question, we agree with the commenters that it was an error to view the cotton knit fabric as a component. In the application of the language "the component that determines the classification of the good" to apparel, we agree that the term component is referring to a component of the apparel article.

CBP is withdrawing its proposal to modify N024671.

Dated: January 12, 2010

Myles B. Harmon,
Director
Commercial and Trade Facilitation Division

WITHDRAWAL OF A PROPOSED MODIFICATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE ELIGIBILITY UNDER THE DR-CAFTA OF CERTAIN HOSIERY

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

ACTION: Notice of Withdrawal of a proposed modification of a classification ruling letter and revocation of treatment relating to the eligibility under the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) of certain hosiery.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is withdrawing its proposal to modify a ruling letter relatinq to the eligibility under the DR-CAFTA of certain hosiery. CBP is also withdrawing its proposal to revoke any treatment previously accorded by it to substantially identical merchandise.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the June 12, 2009, CUSTOMS BULLETIN, Volume 43, Number 24, proposing to modify New York Ruling Letter (NY) N028235, dated May 20, 2008, and to revoke any treatment accorded to substantially identical merchandise. Eighteen comments were received in response to this notice. Due to insufficient information concerning whether the gimped yarns at issue meet the terms of Note 13 to Section XI, governing the classification of elastomeric yarns, we are withdrawing our proposal to modify NY 814027. Note 13 to Section XI, provides as follows: "For the purposes of this Section and, where applicable, throughout the tariff schedule, the expression "elastomeric yarn" means filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half

times its original length.” Additionally, due to the lack of sufficient information, we are unable to address the submitted comments at this juncture.

EFFECTIVE DATE: This notice is effective on January 27, 2010.

FOR FURTHER INFORMATION CONTACT: Kelly Herman, Tariff Classification and Marking Branch, 202–325–0026.

Dated: January 12, 2010

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

GRANT OF “LEVER-RULE” PROTECTION

AGENCY: Customs and Border Protection (CBP), Department of Homeland Security

ACTION: Notice of grant of “Lever-rule” protection.

SUMMARY: Pursuant to 19 CFR §133.2(f), this notice advises interested parties that CBP has granted “Lever-rule” protection to Red Bull GmbH (hereinafter referred to as “Red Bull”). Notice of the receipt of an application for “Lever-rule” protection was published in the December 17, 2009, issue of the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT: Suzanne Kane, Intellectual Property Rights and Restricted Merchandise Branch, Regulations & Rulings, (202) 325–0119.

Background

Pursuant to 19 CFR §133.2(f), this notice advises interested parties that CBP has granted “Lever-rule” protection for the following products: energy drinks bearing the Red Bull trademark that are intended for sale in the United States.

In accordance with the holding of Davidoff & CIE v. PLD Int’l Corp., 263 F. 3d 1297 (11th Cir. 2001), Societe Des Produits Nestle, S.A. v. Casa Helvetia, Inc., 982 F.2d 633 (1st Cir. 1992) and Ferrero U.S.A., Inc. v. Ozak Trading, Inc., 753 F. Supp. 1240 (D.N.J), aff’d 935 F.2d 1281 (3d Cir. 1991), CBP has determined that the gray market energy drink products differ physically and materially from their correlating drink products authorized for sale in the United States with respect to the following product characteristics: different in language, indicia, or phrases on can; different distributor contact information; different