

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 relating 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