

December 23, 2009

CATEGORY: Classification
TARIFF NO.: 9506.91.0030

Mr. Santa Claus
PO Box 100
North Pole

RE: The tariff classification of a hula hoop, and other matters

Dear Mr. Claus,

This letter is in response to your inquiry of September 24, 1963, regarding the correct classification of a hula hoop under the newly-enacted Tariff Schedules of the United States (TSUS). We apologize for the 46-year delay in our response.

Given the fact that the TSUS has not been in effect since 1988, we have reviewed this classification request using the Harmonized Tariff Schedule of the United States (HTSUS). But before we address your specific hula hoop classification request, we wish to use this letter as an opportunity to address a number of outstanding import- and export-related issues (several of which are brought forth at the behest of other federal agencies), itemized as follows:

We have been advised by OFAC (the Treasury Department's Office of Foreign Asset Controls) that last year you delivered (to little Johnny Smith, of Davenport, Iowa) a Burmese python in violation of OFAC's sanctions against Burma, under which imports of Burmese origin are prohibited. Consequently, OFAC has advised that the addition of "SANTA CLAUS" to the Specially Designated Naughtyies (SDN) List is imminent. Your known aliases, among them "JOLLY OLD ST. NICK", "KRIS KRINGLE" and "FATHER CHRISTMAS" will also be published in the SDN List. With further regards to the python, it is our belief that you failed to submit the required Fish & Wildlife forms (USFWS Form 3-177, etc.) for this importation.

In another apparent violation of Fish and Wildlife regulations, the reindeer (Rudolf and his associates) used in traveling to your appointed rounds are considered to be wild animals, and are thus subject to the full range of FWS regulations. No evidence of compliance with these regulations can be found.

The FCC (Federal Communications Commission) has expressed concerns about the red nose of your lead reindeer, Rudolf. Monitoring devices at one of our arctic scientific stations detected excessive spectral interference from a blinking red object at the North Pole, and the source of this interference has been determined to be the aforementioned crimson nose. The FCC can find no evidence that the nose has received the required FCC certification, no evidence that an FCC Form 740 was ever previously filed, nor that the nose is labeled to indicate compliance with FCC regulations.

With further regards to your reindeer, and the varied and copious emissions these animals are known to produce, the EPA Administrator has informed me that you are likely in violation the Clean Air Act (Chapter 85 of 42 U.S.C.), not to mention the TSCA regulations (40 C.F.R. §§700-766). Also with regards to emissions, it is our opinion—after consultation with the U.S. ITC (International Trade Commission)—that your reindeer may be subject to a truly unique antidumping order. You may expect

to hear from the ITC and the ITA (the Commerce Department's International Trade Administration) on this malodorous matter.

The OAC (the Commerce Department's Office of Antiboycott Compliance) has expressed their opinion that you may be engaging in transactions which meet the definition of an illegal boycott (15 C.F.R. §760). Your well-known mission of servicing those on a "nice" list—while refusing to do business with anyone on a "naughty" list—clearly indicates your intention to engage in prohibited boycott activity. Making such a list, and checking it twice, will be considered to be aggravating rather than mitigating factors when OAC determines the appropriate penalty. OAC will, if necessary, issue a subpoena to secure as evidence your copy of the lyrics to "Santa Claus is Coming to Town."

We have also received word from the State Department that they have reason to believe that your sleigh's navigation system contains an unlicensed QRS-11 chip in violation of the ITAR (International Traffic in Arms Regulations). The Directorate of Defense Trade Controls (DDTC) has no record of any export licensing activity (not a DSP-5, a DSP-61 or a DSP-73), nor do they believe that you ever bothered to register your enterprise with State. It is further believed, dependent on your unresolved status as a U.S. person, that your activities are controlled under the brokering provisions of the ITAR (22 CFR §129). An investigation has been initiated.

We are also looking into an allegation by an anonymous informant that you have imported a bowl full of jelly each year without proper approval (see 21 CFR for more details) from the Food and Drug Administration (FDA). We also have reason to believe that you delivered a crate of live oysters to Chad Oliander, of Hot Springs, Arkansas, last December 24th. FDA Form 3038, which is required for all interstate shellfish transactions, was never filed.

The parents of Molly Johnson, of Eureka, California, have filed complaints with the Federal Trade Commission (FTC) and the Consumer Products Safety Commission (CPSC) regarding an action-figure toy of Chinese origin. Mr. Johnson, a chemist, determined that the toy contained unacceptable levels of lead and mercury. Although the investigation of this matter is still in its early stages, the toy has been traced to a delivery you made to the Johnson home in the early morning hours of December 25, 2007. (See 16 CFR for more details about the FTC and CPSC regulations.)

Separate from these specific import-related requirements that you evidently failed to follow last December (and, evidently, in all previous Decembers going back to 1789), we believe you have chronically failed to file the most basic of import forms; we have no record of any CBP-3461 and CBP-7501 ever being filed—nor any payments of estimated duties—by you or your enterprise. At a minimum, we will begin administrative actions pursuant to the fraud provisions of Section 592 (19 CFR §1592), and we will likely refer this matter to the Department of Justice for criminal indictments under the applicable smuggling statute (18 U.S.C. §545) and, potentially, under the RICO statutes (Chapter 96 of 18 U.S.C.).

We have learned of an outstanding warrant for your arrest as a consequence of unpaid child support payments with regards to several of the younger elves in your employ. While we try to be as discreet as possible when apprehending a perp, we cannot guarantee that Mrs. Claus will remain unaware of your elf-capades. The FBI, in a joint effort with Interpol (and at the urging of The Office of the United Nations High Commissioner for Human Rights (OHCHR)), are also looking into accusations of child labor violations, as it appears that many elves in your toy factories (including your foreign subsidiaries in Thailand and Mozambique, and your Maquiladora operations in Reynosa) have not attained the age of

legal elfhood. Be advised that a composite sketch based on our last known sighting of you within our borders has been distributed to all federal and international law enforcement agencies as an aid to your apprehension and arrest.

Further, you are hereby directed to cease wearing your red suit and to divest yourself of Rudolf due to trademark violations, as both the red suit and Rudolf's nose are intellectual property owned by the estate of Michael Jackson.

Finally, please be advised that hula hoops are classified per GRI 3(a) under 9506.91.0030, which carries a Column 1 general duty rate in 2009 of 4.6% (not that you had any intention of being good, for goodness' sake). Once again, we regret the delayed response to your inquiry. Have a happy holiday.

Sincerely,

E. Screwg
Director, Humbug Division

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