more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–267–2326, or fax 202–267–4814, for questions on these documents; or telephone Ms. Andrea M. Jenkins, Program Manager, Docket Operations, 202–366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION: *Public participation and request for comments.* We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*; they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2005–21722], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Information Collection Request

Title: The National Recreational Boating Survey.

OMB Control Number: 1625–0089.

Summary: The mission of the U.S. Coast Guard's National Recreational Boating Safety (RBS) Program is to minimize the loss of life, personal injury, property damage, and environmental impact associated with the use of recreational boats. The National Recreational Boating Survey information collection enables the Coast Guard to better identify safety priorities, coordinate and focus research efforts, and encourage consistency in the information that is collected as well as methods of analysis that are employed. Working with our State partners, collecting this type of information from boaters across the nation is essential in our efforts to implement effective accident prevention strategies.

Need: The National Recreational Boating Survey is needed as a means for the Coast Guard to: (1) Collect reliable and consistent data for use in developing valid safety performance measures, (2) collect information in regard to the changing demographics of boaters, the numbers of boats and type of boating activity essential for national RBS program direction and policy, and (3) better define and measure the effectiveness of RBS program activities in reducing the number of boating accidents.

Respondents: Recreational boaters.

Frequency: Every two to three years.

Burden Estimate: The estimated burden remains the same, 11,458 hours a year.

Dated: July 1, 2005.

Nathaniel S. Heiner,

Acting, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 05–13575 Filed 7–8–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of U.S. Customs and Border Protection

19 CFR Part 177

Notice of Issuance of Final Determination Concerning Multi-Line Telephone Sets

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain multi-line telephone sets to be offered to the United States Government under an undesignated government procurement contract. The final determination found that, based upon the facts presented, the country of origin of the Avaya Partner multi-line telephone set is Mexico.

DATES: The final determination was issued on July 1, 2005. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of July 11, 2005.

FOR FURTHER INFORMATION CONTACT: Ed Caldwell, Special Classification and Marking Branch, Office of Regulations and Rulings (202) 572–8872.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on July 1, 2005, pursuant to Subpart B of Part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multi-line telephone sets to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ 563236. This final determination was issued at the request of Avaya, Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18).

The final determination concluded that, based upon the facts presented, the assembly in Mexico of parts of various origins to create Avaya Partner multi-line telephone sets substantially transformed certain imported parts into a product of Mexico.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: July 6, 2005.

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations and Rulings Attachment.

BILLING CODE 4820–02–P

U.S. Department of Homeland Security
Washington, DC 20229

U.S. Customs and
Border Protection

HQ 563236

July 6, 2005
MAR-2-05 RR:CR:SM 563236 EAC

CATEGORY: Marking

Mr. Dean L. Grayson
Corporate Counsel
Avaya, Inc.
1212 New York Avenue, Suite 1212
Washington, DC 20005

RE: U.S. Government Procurement; Final Determination; country of origin of multi-line telephone sets; substantial transformation; 19 CFR Part 177

Dear Mr. Grayson:

This is in response to your letter dated March 15, 2005, requesting a final determination on behalf of Avaya Inc. (hereinafter "Avaya"), pursuant to subpart B of Part 177, Customs Regulations (19 CFR 177.21 et seq.). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. §2411 et seq.), U.S. Customs and Border Protection ("CBP") issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of multi-line telephone sets marketed under the name "Partner", which Avaya is considering selling to the U.S. Government. We note that Avaya is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The Partner multi-line telephone sets are assembled from approximately 36 constituent components (consisting of individual parts and more complex subassemblies) at an Avaya facility in Monterrey, Mexico. Some of the parts utilized in the assembly process have been identified as plastic upper housings, plastic lower housings, plastic mechanical levers known as a "plungers", wire spring assemblies, keypad assemblies that contain no electronics, backlights, liquid crystal displays ("LCD's"), other parts used to make LCD display assemblies, printed circuit assemblies, jacks, speaker assemblies, microphone assemblies, handsets and stands.

You state that some of the parts from which the telephones are assembled are manufactured within Mexico and that others are imported into Mexico from countries such as Malaysia, China, and the United States. Among the components imported into Mexico are printed circuit assemblies which are assembled in Malaysia during a process that requires approximately 8 minutes and involves more than 250 components. Among the components manufactured within Mexico are the handsets, LCD assemblies, microphone assemblies and stands. We are informed that, prior to assembly, none of the component parts is capable of performing any useful function or performing the function of a telephone (*i.e.*, for converting voice to a transmittable digital/analog signal, and in reverse, converting a digital/analog signal to sound that resembles the voice or tones transmitted from the other end of the telephone line) and that neither the printed circuit assemblies, LED displays, or audio amplifiers within the handsets can function without being assembled into the telephone sets.

The Partner multi-line telephone sets are assembled by skilled workers in approximately 20 minutes. The assembly process involves a number of quality control measures, including a quality audit which is performed after the telephone sets have been packaged. Pertinent parts of the assembly process, as set forth in an attachment to the above-referenced letter of March 15, 2005, are as follows:

1. The imported and Mexican parts are received, logged into the system, assigned bar codes if the parts are significant (i.e., the housing, the printed circuit assembly) and placed into bins at the appropriate assembly station.

2. The telephone set's upper housing is visually inspected to determine whether it is defective.

3. The upper housing is cleaned.

4. The plunger is assembled into the telephone set's upper housing.

5. The spring assembly is assembled into the upper housing.

6. The keypad assembly is assembled into the upper housing.

7. The LCD display assembly is assembled from component parts that include a liquid crystal display, a backlight and LCD upper and lower housing components.

8. The LCD display assembly is assembled into the telephone set's upper housing.

9. The printed circuit assembly is assembled into the telephone set's upper housing.

10. The printed circuit assembly is connected to the keypad assembly that was previously assembled into the upper housing.

11. The printed circuit assembly is connected to the LCD display assembly that was previously assembled into the upper housing.

12. The jack is connected to the upper housing. The jack is used to connect the telephone to the handset.

13. The speaker assembly, which is the hearing function of the telephone, is assembled into the upper housing.

14. The speaker assembly is soldered to the printed circuit assembly that was previously assembled into the upper housing.

15. The microphone assembly is assembled from component parts.

16. The microphone assembly, which is the speaking function of the telephone, is assembled into the upper housing.

17. The microphone assembly is soldered to the printed circuit assembly that was previously assembled into the upper housing.

18. The upper and lower housing are screwed together.

19. The handset is connected to the jack that was previously connected to the upper housing.

20. The line cable assembly is assembled into the upper housing. The line cable is used to connect the telephone to a wall jack.

21. The telephone set is visually inspected for defects and a "functional" test of the telephone set is performed.

22. The telephone stand is assembled from plastic pieces molded in Mexico.

23. Four rubber buttons/feet are attached to the bottom of the telephone stand.

24. The telephone set, stand and documents relating to the telephone, including a user guide, are packaged.

ISSUE:

Whether the assembled Partner multi-line telephone sets are considered to be products of Mexico for purposes of U.S. Government procurement.

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. §2511 et seq.), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. §2518(4)(B):

> An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. Belcrest Linens v. United States, 573 F. Supp. 1149 (CIT 1983), aff'd, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See, C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97. In C.S.D. 85-25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences ("GSP"), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled.

In Headquarters Ruling Letter ("HRL") 557208 dated July 24, 1993, cordless telephones were produced in Mexico from various components including three printed circuit board ("PCB") subassemblies identified as base unit circuit boards, base unit control boards, and handset mainboards. The PCB subassemblies were "stuffed" in Mexico by incorporating various parts (such as diodes and resistors) onto bare printed circuit boards which were imported into Mexico from the United States, Japan and other countries abroad. The base unit circuit board was produced in a 13-step process involving 212 parts; the base unit control board was produced in a 7-step process involving 74 parts; and, the handset main board was produced in a 12-step process involving 274 parts. The three stuffed PCB assemblies were thereafter utilized to produce finished cordless telephones in a separate 58-step process that involved 95 parts.

At issue in HRL 557208 was whether, for purposes of determining eligibility under the GSP, the components imported into Mexico and used in the production of the finished cordless telephones underwent a double substantial transformation during assembly. Upon consideration of this matter, CBP held that assembling the imported components onto the circuit boards, control boards, and handset boards resulted in an initial substantial transformation. It was also determined that a second substantial transformation occurred when the PCB assemblies were subsequently assembled with other components to form finished telephones because the cordless telephones were readily identifiable as distinct articles of commerce differing in name, character and use from the PCB subassemblies. See also, HRL 735097 dated September 7, 1993 (under the same facts as considered in HRL 557208, CBP concluded that the country of origin of the cordless telephones for marking purposes was Mexico).

In HRL 734979 dated September 3, 1993, non-functional telephone shells were imported into the United States where they were combined with U.S.-origin control boards to form operational telephone sets. As entered into the United States, the shells consisted of housings, plastic and electronic subassemblies, and other parts of a telephone which were all assembled together to form the shell. The plastic parts used to form the telephone housings, buttons, and pads were made in China as were the printed circuit boards utilized for the keypads. The shell was also assembled into the plastic housing in China. In finding that the imported shells were substantially transformed in the United States when combined with U.S.-origin control boards, it was noted that the shells (which resembled telephones upon entry) were unable to function until the control boards were installed. CBP additionally stated that: "Although shells as imported contain some electronics and a circuit board for the key pads, they are apparently minor electronic components as compared to the control boards because they do not perform the sophisticated functions that the control boards do." Moreover, the relatively sophisticated control boards were manufactured *and* installed in the United States.

Whereas complex and meaningful assembly operations may substantially transform imported telephone components, CBP has consistently held that simple assembly and/or packaging operations do not result in a substantial transformation of imported components. See, for example, HRL 734046 dated May 10, 1991 (a base unit headset, headset cord and telephone cord which are imported as a telephone set are not substantially transformed when packed together); HRL 734560 dated July 20, 1992 (telephone components packed together as a set are not substantially transformed by virtue of being assembled into a telephone unit); and, HRL 559067 dated September 19, 1995 (telephone components packed together as a set are not substantially transformed when packaged as a unit for sale as a telephone set).

As the cases set forth above demonstrate, in order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed telephones, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. Further guiding our analysis is the principle that the "essence" of finished telephone sets is housed in the telephone

base and the handset. See, Uniden America Corporation and Uniden Financial, Inc., v United States, 24 C.I.T. 1191, 1195, 120 F.Supp. 2d 1091, 1096 (2000). Moreover, the determination in this case will ultimately be "a mixed question of technology and customs law, mostly the latter." Texas Instruments, Inc. v. United States, 681 F.2d 778, 783 (C.C.P.A. 1982).

As applied, it is our opinion that the various components (individual parts and subassemblies) which are imported into Mexico for assembly into the Partner multi-line telephone sets are substantially transformed during the processing which occurs in that country. In making this determination, we note that trained workers assemble the telephones in a process which can be described as complex and meaningful. During such assembly operations, the various components lose their separate identities and are subsumed into a product that possesses a new name, character and use. As noted, *supra*, many of the components have no function alone and can only perform their function when assembled to form completed telephone sets. Moreover, the finished telephone sets are comprised of certain essential parts (such as the handsets) which are of Mexican origin. Therefore, based upon the specific circumstances of this case, we find that the assembled Partner multi-line telephone sets are a product of Mexico for purposes of U.S. Government procurement.

HOLDING:

Based upon the specific facts of this case, we find that the components imported into Mexico for use in the Partner multi-line telephone sets are substantially transformed when assembled in the manner set forth above. Therefore, the country of origin of the finished Partner multi-line telephone sets for purposes of U.S. Government procurement is Mexico.

Notice of this final determination will be given in the Federal Register as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

CERTIFIED COPY

Michael T. Schmitz,
Assistant Commissioner
Office of Regulations and Rulings

[FR Doc. 05–13534 Filed 7–8–05; 8:45 am]
BILLING CODE 4820–02–C