

U.S. Customs and Border Protection



AGENCY INFORMATION COLLECTION ACTIVITIES; REVISION OF EXISTING COLLECTION; U.S. CUSTOMS DECLARATION (CBP FORM 6059B)

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

ACTION: 30-Day Notice and request for comments.

SUMMARY: U.S. Customs and Border Protection (CBP), Department of Homeland Security, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 27, 2023) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (88 FR 13452) on March 03, 2023, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: U.S. Customs Declaration.

OMB Number: 1651-0009.

Form Number: 6059B.

Current Actions: CBP is submitting a revision package to terminate the APC Program, announce MPC Expansion, and add the CBP One Mobile Application to the collection.

Type of Review: Revision.

Affected Public: Individuals.

Abstract: CBP Form 6059B, Customs Declaration, is used as a standard report of the identity and residence of each person arriving in the United States. This form is also used to declare imported articles to U.S. Customs and Border Protection (CBP) in accordance with 19 CFR 122.27, 148.12, 148.13, 148.110, 148.111; 31 U.S.C. 5316 and Section 498 of the Tariff Act of 1930, as amended (19 U.S.C. 1498).

Section 148.13 of the CBP regulations prescribes the use of the CBP Form 6059B when a written declaration is required of a traveler entering the United States. Generally, written declarations are re-

quired from travelers arriving by air or sea. Section 148.12 requires verbal declarations from travelers entering the United States. Generally, verbal declarations are required from travelers arriving by land.

CBP continues to find ways to improve the entry process through the use of mobile technology to ensure it is safe and efficient. To that end, CBP has deployed a process which allows travelers to use a mobile app to submit information to CBP prior to arrival in domestic locations and prior to departure at preclearance locations. This process, called Mobile Passport Control (MPC) allows travelers to self-segment upon arrival into the United States or departing a preclearance location. The MPC process also helps determine under what circumstances CBP should require a written customs declaration (CBP Form 6059B) and when it is beneficial to admit travelers who make an oral customs declaration during the primary inspection. MPC eliminates the administrative tasks performed by the officer during a traditional inspection and in most cases will eliminate the need for respondents/ travelers to fill out a paper declaration. MPC provides a more efficient and secure in person inspection between the CBP Officer and the traveler.

Another electronic process that CBP has in lieu of the paper 6059B is the Automated Passport Control (APC). This is a CBP program that facilitates the entry process for travelers by providing self-service kiosks in CBP's Primary Inspection area that travelers can use to make their declaration.

Both APC and MPC allow an electronic method for travelers to answer the questions that appear on form 6059B without filling out a paper form. APC program will continue to collect this information until the program is terminated on September 30, 2023.

A sample of CBP Form 6059B can be found at: <https://www.cbp.gov/newsroom/publications/forms?title=6059>.

This collection is available in the following languages: English, French, Vietnamese, German, Italian, Japanese, Korean, Polish, Portuguese, Russian, Chinese, Hebrew, Spanish, Dutch, Arabic, Farsi, and Punjabi.

New Change

APC Program Termination

The Automated Passport Control (APC) program is terminated as of September 30, 2023. Termination of the APC program will allow CBP passenger processing to streamline into a single Simplified Arrival workflow without need of interacting with a kiosk. The removal of the

kiosk space will also provide additional queuing space for travelers that will utilize MPC to expedite their entry process into the United States.

MPC Expansion

Mobile Passport Control (MPC) program will expand to include U.S. Legal permanent residents (LPR) and Visa Waiver Program (VWP) country visitors arriving for their second visit to the United States. The Automated Passport Control (APC) program previously captured this population, and CBP is now expanding the MPC program to be used by these populations. U.S. LPRs are eligible for SA's photo biometric confirmation upon arrival into the United States. Other classes of admission eligible for SA's photo biometric confirmation will be considered for MPC inclusion as a future update.

CBP One™ Mobile Application

A new mobile application testing the operational effectiveness of a process which allows travelers to use a mobile application to submit information to CBP, in advance, prior to arrival. This second mobile capability is under the current CBP One™ application which is a platform application that serves as a single portal for travelers and stakeholders to virtually interact with CBP. The CBP One™ application will also allow travelers to self-segment upon arrival at land borders in the United States.

Similar to the MPC application, the CBP One™ application eliminates the administrative tasks performed by the officer during a traditional inspection and in most cases will eliminate the need for respondents/travelers to fill out a paper declaration. In addition, the CBP One™ application will also provide a more efficient and secure in person inspection between the CBP Officer and the traveler at the land border.

Unique to the CBP One™ application is that while the MPC submission is completed upon arrival, the CBP One™ application must be submitted in advance and will require the additional data elements:

1. Traveler Identify the Port of Entry (POE).
2. Time and/or date of arrival.

In addition, like the MPC application, travelers will provide their answers to CBP's questions, take a self-picture/ selfie and submit the information via the CBP One™ application, after the plane lands. This will allow for advance vetting and proper resource management

at the POE. This capability through the CBP One™ application is available to all travelers arriving with authorized travel documents, including foreign nationals.

Type of Information Collection: Customs Declarations (Form 6059B).

Estimated Number of Respondents: 34,006,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 34,006,000.

Estimated Time per Response: 4 minutes.

Estimated Total Annual Burden Hours: 2,278,402.

Type of Information Collection: Verbal Declarations.

Estimated Number of Respondents: 233,000,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 233,000,000.

Estimated Time per Response: 10 seconds.

Estimated Total Annual Burden Hours: 699,000.

Type of Information Collection: MPC APP.

Estimated Number of Respondents: 3,500,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 3,500,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 115,500.

Type of Information Collection: CBP One APP.

Estimated Number of Respondents: 500,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 500,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 16,500.

Dated: October 24, 2023.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

GRANT OF “LEVER-RULE” PROTECTION

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

ACTION: Notice of grant of application for “Lever-Rule” protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has granted an application from The Procter & Gamble Co., (“Procter & Gamble”) seeking “Lever-Rule” protection against importations of certain electronic replacement toothbrush heads manufactured in Germany and not labelled for sale in the United States that bear the federally registered and recorded “ORAL-B” trademark. Notice of the receipt of an application for “Lever-rule” protection was published in the October 25, 2023 issue of the *Customs Bulletin*.

FOR FURTHER INFORMATION CONTACT: Amanda Stevenson, Intellectual Property Enforcement Branch, Regulations & Rulings, amanda.e.stevenson@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has granted “Lever-rule” protection for Procter & Gamble ORAL-B iO electric toothbrush replacement heads manufactured in Germany, intended for sale in countries outside the United States, that bear the “ORAL-B” mark, U.S. Trademark Registration No. 2,910,847/ CBP Recordation No. TMK 08–01198.

In accordance with *Lever Bros. Co. v. United States*, 981 F.2d 1330 (D.C. Cir. 1993), CBP has determined that the above-referenced gray market ORAL-B iO electric toothbrush replacement heads manufactured in Germany and not labelled for sale in the United States differ physically and materially from ORAL-B iO electric toothbrush replacement heads authorized for sale in the United States with respect to the following product characteristics: compliance with regulatory requirements and packaging features.

ENFORCEMENT

Importation of ORAL-B iO electric toothbrush replacement heads manufactured in Germany and not labelled for sale in the U.S. is restricted, unless the labeling requirements of 19 CFR 133.2 (b) are satisfied.

Dated: October 26, 2023

ZACHARY KEEGAN
Acting Chief,
Intellectual Property Enforcement
Regulations and Rulings, Office of Trade

U.S. Court of International Trade

Slip Op. 23–156

AMERICAN MANUFACTURERS OF MULTILAYERED WOOD FLOORING, Plaintiff,
UNITED STATES, Defendant, and JIANGSU SENMAO BAMBOO AND WOOD
INDUSTRY Co., LTD., et al., Defendant-Intervenors.

Before: Richard K. Eaton, Judge
Court No. 20–03948

[U.S. Department of Commerce’s Final Results of Redetermination Pursuant to Court Remand are sustained.]

Dated: October 30, 2023

Stephanie M. Bell, Wiley Rein LLP, of Washington, D.C., argued for Plaintiff American Manufacturers of Multilayered Wood Flooring. With her on the brief were *Timothy C. Brightbill* and *Tessa V. Capeloto*.

Sonia M. Orfield, Trial Counsel, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, of Washington, D.C., argued for Defendant the United States. With her on the brief were *Brian M. Boynton*, Acting Assistant Attorney General, *Jeanne E. Davidson*, Director, and *Tara K. Hogan*, Assistant Director. Of counsel on the brief was *Rachel A. Bogdan*, Attorney, Office of the Chief Counsel for Trade Enforcement and Compliance, U.S. Department of Commerce.

Stephen W. Brophy, Husch Blackwell LLP, of Washington, D.C., for Defendant-Intervenors Jiangsu Senmao Bamboo and Wood Industry Co., Ltd., Jiangsu Keri Wood Co., Ltd., and Sino-Maple (Jiangsu) Co., Ltd. With him on the brief was *Jeffrey S. Neeley*.

Wenhui (Flora) Ji, Mowry & Grimson, PLLC, of Washington, D.C., for Defendant-Intervenor Yihua Lifestyle Technology Co., Ltd. With her on the brief was *Kristin H. Mowry* and *Sarah M. Wyss*.¹

Mark R. Ludwikowski, Clark Hill PLC, of Washington, D.C., for Defendant-Intervenor Jiangsu Guyu International Trading Co., Ltd. With him on the brief was *Courtney G. Taylor*.

Ronald M. Wisla, Fox Rothschild LLP, of Washington, D.C., for Defendant-Intervenors Metropolitan Hardwood Floors, Inc., Galleher Corp., and Galleher LLC. With him on the brief were *Lizbeth R. Levinson* and *Brittney R. Powell*.

MEMORANDUM

Eaton, Judge:

Before the court are the U.S. Department of Commerce’s (“Commerce” or the “Department”) final results of redetermination pursu-

¹ On May 22, 2023, the court granted the motion of counsel for Yihua Lifestyle Technology Co., Ltd. (“Yihua”) to withdraw from the case. See Order (May 22, 2023), ECF No. 75. Since then, Yihua has not appeared through new counsel, and did not file comments on the Remand Results. See USCIT R. 75(b) (providing that corporations “must appear through an attorney authorized to practice before the court”). Nothing on the record indicates that Yihua has any objection to the Remand Results.

ant to the court's remand order in *American Manufacturers of Multilayered Wood Flooring v. United States*, 47 CIT __, 639 F. Supp. 3d 1216 (2023) ("*American Manufacturers I*"). See Final Results of Redetermination Pursuant to Court Remand, ECF No. 81-1 ("Remand Results").

Plaintiff American Manufacturers of Multilayered Wood Flooring and Defendant-Intervenor Jiangsu Guyu International Trading Co., Ltd. (the only mandatory respondent that was a party to this action) each filed comments indicating that they do not contest the Remand Results. See Pl.'s Cmts. Remand Determination ("Pl.'s Cmts."), ECF No. 84; Jiangsu Guyu's Cmts. Remand Results ("Guyu's Cmts."), ECF No. 83. No other party filed comments.

In *American Manufacturers I*, the court considered Plaintiff's challenge to Commerce's selection of the surrogate value for glue, as well as its calculation of the surrogate financial ratio for manufacturing overhead and the surrogate hourly labor value in the final results of the seventh administrative review of the antidumping duty order on multilayered wood flooring from the People's Republic of China. See *American Manufacturers I*, 47 CIT at __, 639 F. Supp. 3d at 1220; see also *Multilayered Wood Flooring From the People's Republic of China*, 85 Fed. Reg. 78,118 (Dep't of Commerce Dec. 3, 2020) and accompanying Issues and Decision Mem. (Nov. 20, 2020), PR 468.

The court found that Commerce's selection of the surrogate value for the glue input was supported by substantial evidence. *American Manufacturers I*, 47 CIT at __, 639 F. Supp. 3d at 1236. The court also found, however, that neither the calculation of the surrogate financial ratio for manufacturing overhead nor the calculation of the surrogate hourly labor value was supported by substantial evidence. *Id.* at 1229, 1234.

For the manufacturing overhead ratio, the court found that Commerce had not explained why it did not place in the numerator the whole amount of indirect production expenses identified in the surrogate financial statement.² *Id.* at 1229. The court thus remanded for Commerce to either place this whole amount in the numerator or explain why it chose not to do so, and, if Commerce chose the latter option, to "state why other categories of overhead normally placed in the numerator were not placed in the numerator here." *Id.* at 1237.

The court further found that Commerce had failed to explain the source of the numbers used to calculate the hourly labor value and "did not provide a reasonable explanation, supported by substantial

² Instead of using the amount for indirect production expenses, Commerce summed three entries from the profit and loss account (depreciation, other materials, and third-party service expenses) to serve as the numerator of the manufacturing overhead ratio. See *American Manufacturers I*, 47 CIT at __, 639 F. Supp. 3d at 1227.

evidence, for rejecting Plaintiff's proposed data." *Id.* at 1232–34. The court remanded for Commerce to “reconsider the Labor Rate Policy’s use in this case,” and, if it continued to use it, to “explain its source and the reason why it is reasonable to use it here, including how it would be more specific for use in Romania than the source provided by Plaintiff.” *Id.* at 1237.

On August 24, 2023, Commerce issued its Remand Results. Commerce recalculated the manufacturing overhead ratio using the amount for indirect production expenses identified in the surrogate financial statement in the numerator of the ratio. *See* Remand Results at 5. Concluding that this amount included energy costs, however, Commerce subtracted energy costs from the indirect production expenses and placed them in the denominator, which included direct expenses, i.e., materials, labor, and energy. *Id.* at 6, 15–18.

To substantiate the source of the numbers used in its Labor Rate Policy, Commerce placed on the record data from the International Labor Organization (“ILO”) based on which Commerce concluded that there are 24 working days per month, 8 hours per day, and 5.5 days per week for workers in ILO member nations, including the surrogate country, Romania. *Id.* at 8. Then, to calculate the surrogate hourly labor value, Commerce used ILO data that Plaintiff placed on the record reflecting the hours actually worked per week in Romania, from which it calculated an amount for the hours actually worked per month. *Id.* at 9, 19. Commerce divided the undisputed monthly average net earnings in Romania for employees that manufacture wood products by the hours worked per month to reach the surrogate hourly labor value. *Id.* at 19.

JURISDICTION AND STANDARD OF REVIEW

Jurisdiction lies under 28 U.S.C. § 1581(c) (2018) and 19 U.S.C. § 1516a(a)(2)(B)(iii) (2018). The court will sustain a determination by Commerce unless it is “unsupported by substantial evidence on the record, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(B)(i).

DISCUSSION

Commerce’s calculation of the manufacturing overhead ratio complies with the court’s remand order because it used the amount for indirect production expenses in the numerator of the ratio and stated its reasons for subtracting energy costs from this amount and placing them in the denominator. This was reasonable because energy costs are normally included in the denominator. *See Dorbest Ltd. v. United States*, 30 CIT 1671, 1715 n.36, 462 F. Supp. 2d 1262, 1301 n.36 (2006) (explaining the calculation of the manufacturing overhead value). In

addition, Commerce reasonably used the Romanian ILO data to calculate the surrogate hourly labor value because this data reflects hours actually worked in the surrogate country. Even so, Commerce substantiated the source of the numbers contained in its Labor Rate Policy by placing on the record the ILO data and demonstrating how it calculated each of the numbers. Therefore, the court finds that Commerce's uncontested Remand Results comply with the court's remand order and are supported by substantial evidence.

CONCLUSION

For the foregoing reasons, the court sustains the Remand Results. Judgment will be entered accordingly.

Dated: October 30, 2023
New York, New York

/s/ Richard K. Eaton

JUDGE

Index

Customs Bulletin and Decisions
Vol. 57, No. 42, November 15, 2023

U.S. Customs and Border Protection

General Notices

	<i>Page</i>
Agency Information Collection Activities; Revision of Existing Collection; U.S. Customs Declaration (CBP Form 6059B)	1
Grant of “Lever-Rule” Protection	6

U.S. Court of International Trade

Slip Opinions

	<i>Slip Op. No.</i>	<i>Page</i>
American Manufacturers of Multilayered Wood Flooring, Plaintiff, United States, Defendant, and Jiangsu Senmao Bamboo and Wood Industry Co., Ltd., et al., Defendant- Intervenors.	23–156	11