



**U.S. Customs and  
Border Protection**

**HQ H354096**

March 10, 2026

**OT:RR:CTF:VSP JH**

**CATEGORY:** Classification

**TARIFF NO.:** 9817.00.96

Elizabeth Merritt  
5674 El Camino Real,  
Suite N,  
Carlsbad, CA 92008

RE: Articles for the handicapped; Subheading 9817.00.96; Elevate Sstep Foot Drop Sock

Dear Ms. Merritt,

This is in response to your letter dated October 2, 2025 requesting reconsideration of New York Ruling Letter (“NY”) N350749, dated August 4, 2025 on behalf of Thorwear Inc. dba Elevate Movement (“Elevate”). In that ruling, the National Commodity Specialist Division (“NCSD”) classified the Sstep Foot Drop Sock (“Sstep”) under subheading 6115.96.60, Harmonized Tariff Schedule of the United States (“HTSUS”), instead of subheading 9021.10.00, HTSUS, as requested, and also disagreed with your request for duty-free treatment under subheading 9817.00.96, HTSUS.

The product at issue is described as an ambulatory aid that lifts the forefoot and stabilizes the ankle. Sstep consists of an adjustable calf band with an inner silicone grip for added suspension, an integrated cable support system that lifts the foot with an “easy-to-use” adjustment dial at the front of the calf; a dual-layer sock with a ribbed outer layer; moisture-wicking, “soft” interior, silicone grip on the bottom surface for improved traction; and medial/lateral placement indicators to facilitate proper use for ankle dorsiflexion. When the integrated cable support system is tightened via the adjustment dial, the front of the foot is lifted. It is designed to treat foot drop, also known as drop foot, which is a general term to describe a patient’s inability to lift the front part of the foot caused by weakness or paralysis of muscles involved in lifting the forefoot. It is claimed that Foot drop may result in an altered gait which can increase the risk of tripping and falling and may cause mobility challenges impacting quality of life and the ability to navigate daily activities. Sstep helps the body clear the foot during the swing phase of gait. By preventing the front of the foot from dropping while walking, Sstep is intended to restore a more normal gait for individuals and reduce the risk of falls and increase participation in daily activities.

In NY N350749, U.S. Customs and Border Protection (CBP) held that the applicable subheading for Sstep was 6115.96.60, HTSUS which provides for pantyhose, tights, stockings, socks and other hosiery..., and determined that because Sstep potentially was not predominantly for the benefit of individuals with chronic or permanent disabilities, it was not eligible for duty-free treatment under subheading 9817.00.96, HTSUS. Elevate believes this decision was wrong for the following reasons:

- Elevate believes that Sstep is an orthopedic appliance and should be classified under 9021.10.00, rather than 6115.96.60, HTSUS. Elevate asserts that the Sstep does not share the characteristics outlined in the explanatory note (“EN”) to heading 6115. They suggest that Sstep instead falls into the description outlined in heading 9021 which includes ankle and foot supports.
- Elevate believes that because the Sstep is designed for persons with foot drop, it satisfies the requirement for it to be for the benefit of physically handicapped persons according to *Sigvaris, Inc. v. United States*, 227 F. Supp 3d 1327, 1336 (Ct. Int’l Trade 2017), *aff’d*, 899 F.3d 1308 (Fed. Cir. 2018).
- Elevate believes that the brace satisfies each of the five factors outlined in the *Sigvaris* decision, namely that:
  1. Sstep is specifically designed to address symptoms of foot drop and would not provide benefit to non-handicapped persons;
  2. Sstep’s characteristics and functions are for the targeted population of individuals suffering from foot drop, making the possibility of use by the general public “fugitive”;
  3. Elevate is a recognized manufacturer of ambulatory aids that are “similar” to ankle-foot orthoses (“AFO”) for individuals with foot drop, and is widely trusted by clinicians across the United States (“U.S.”), Canada, European Union, and Australia;
  4. Sstep is distributed via medical professionals and can be purchased through sales channels directed toward handicapped individuals; and
  5. Sstep is imported into the U.S. in individual packaging with instructions for use, a patient care guide, warnings, and warranty information.
- Elevate believes that Sstep is not a therapeutic article because it does not directly heal or cure foot drop or the underlying condition that causes it, but instead functions comparative to an ambulatory aid to help compensate for and adapt to the impairment.

## 1. Classification of Sstep

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 will then be applied in order.

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, mutatis mutandis, to GRIs 1 through 5, on the understanding that only subheadings at the same level are comparable. For the purposes of GRI 6, the relative section and chapter notes also apply, unless the context otherwise requires.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level.<sup>1</sup>

The HTSUS headings and subheadings under consideration are as follows:

- 6115 Panty hose, tights, stockings, socks and other hosiery, including graduated compression hosiery (for example, stockings for varicose veins) and footwear without applied soles, knitted or crocheted:  
\* \* \* \* \*
- 9021 Orthopedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; parts and accessories thereof:

Note 6 to Chapter 90, HTSUS, which pertains to the scope of heading 9021, HTSUS, reads:

For the purposes of heading 9021, the expression “orthopedic appliances” means appliances for:

- (a) Preventing or correcting bodily deformities; or
- (b) Supporting or holding parts of the body following an illness, operation or injury.

Orthopedic appliances include footwear and special insoles designed to correct orthopedic conditions, provided that they are either (1) made to measure or (2) mass-produced, entered singly and not in pairs and designed to fit either foot equally.

A “deformity” is defined by Taber’s Cyclopedic Medical Dictionary as “an alteration in or distortion of the natural form of a part, organ, or the entire body. It may be acquired or congenital. If present after injury, deformity usually implies the presence of bone fracture, bone dislocation, or both. appliances are due to extensive swelling, extravasation of blood, or rupture of muscles and severe contracture of scar tissue.”<sup>2</sup> Further, Headquarter Ruling (“HQ”) 965234, dated December 5, 2001, states that items which may be used to prevent sprains or strains and to support the area of the body where they are worn are not considered to be of the class or kind of

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<sup>1</sup> See Treasury Decision (T.D.) 89-80, 54 Fed. Reg. 35127, 35127–28 (Aug. 23, 1989).

<sup>2</sup> See *Deformity*, Taber's Medical Dictionary <https://www.tabers.com/tabersonline/view/Tabers-Dictionary/744438/4/deformity>.

appliance used with recovery from bodily deformity or used following illnesses or operations of an incapacitating nature.

In this case, Sstep is not “ejusdem generis” or “of the same kind” of merchandise as the orthopedic appliances listed in heading 9021. In response to a question on your website’s frequently asked questions (“FAQs”) whether Sstep is a replacement for an individual’s AFO, you stated that Sstep is “not” a replacement for an AFO, which are prescribed by doctors for post-surgery recovery, due to its inability to provide the same support that an AFO can.<sup>3</sup> Also, in your submission, you described Sstep as an alternative when a rigid AFO is not practical. Therefore, Sstep is not intended to prevent or correct bodily deformities, or support or hold parts of the body following an illness, operation or injury like orthopedic appliances listed in heading 9021, HTSUS (splints and other fracture appliances). Rather, Sstep provides support for an individual to “improve” their ability to participate in daily activities and reduce their risk of injury by falling when additional stability is not necessary. Hence, we find that the NCSO correctly classified the Sstep under subheading 6115.96.60, HTSUS.

## 2. Sstep’s Eligibility for subheading 9817.00.96, HTSUS, treatment

The Nairobi Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials of 1982, Pub. L. No. 97-446, 96 Stat. 2329, 2346 (1983) established duty-free treatment for certain articles for the handicapped. Presidential Proclamation 5978 and Section 1121 of the Omnibus Trade and Competitiveness Act of 1988, provided for the implementation of the Nairobi Protocol into subheadings 9817.00.92, 9817.00.94, and 9817.00.96, HTSUS.

Subheading 9817.00.96, HTSUS, covers: “[a]rticles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons; parts and accessories (except parts and accessories of braces and artificial limb prosthetics) that are specially designed or adapted for use in the foregoing articles: [o]ther.” The term “blind or other physically or mentally handicapped persons” includes “any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.” U.S. Note 4(a), Subchapter XVII, Chapter 98, HTSUS. Subheading 9817.00.60, HTSUS, excludes “(i) articles for acute or transient disability; (ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled; (iii) therapeutic and diagnostic articles; or, (iv) medicine or drugs.” U.S. Note 4(b), Subchapter XVII, Chapter 98, HTSUS.

The issue of what constitutes a “therapeutic” article under the Nairobi Protocol was addressed in *Richards Medical Co. v. United States*, 720 F.Supp. 998 (CIT 1989), aff’d, 910 F.2d 828 (Fed.Cir.1990), which held that “therapeutic” articles are those that are used to heal or cure the condition causing a handicap, as opposed to those articles which are designed to compensate for, or adapt to, the handicapped condition.

In *Sigvaris*, the U.S. Court of International Trade (CIT) explained that “specially” means “to an extent greater than in other cases or towards others” and “designed” means something that

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<sup>3</sup> See Martina Todorovska, *What Is An AFO Brace Used For? (Everything You Need To Know)*, (Oct. 2, 2024), <https://loaids.com/afo-brace-uses/>.

is “done, performed, or made with purpose and intent often despite an appearance of being accidental, spontaneous, or natural.” We must first evaluate “for whose, if anyone’s, use and benefit is the article specially designed,” and then, whether “those persons [are] physically handicapped.” *Sigvaris*, 899 F.3d at 1314. The Court of Appeals for the Federal Circuit (CAFC) clarified in *Sigvaris*, 899 F.3d at 1314-15 that to be “specially designed,” the merchandise “must be intended for the use or benefit of a specific class of persons to an extent greater than for the use or benefit of others” and adopted the five factors used by CBP:

- (1) the physical properties of the article itself (i.e., whether the article is easily distinguishable by properties of the design, form, and the corresponding use specific to this unique design, from articles useful to non-handicapped persons);
- (2) whether any characteristics are present that create a substantial probability of use by the chronically handicapped so that the article is easily distinguishable from articles useful to the general public and any use thereof by the general public is so improbable that it would be fugitive; (3) whether articles are imported by manufacturers or distributors recognized or proven to be involved in this class or kind of articles for the handicapped; (4) whether the articles are sold in specialty stores which serve handicapped individuals; and, (5) whether the condition of the articles at the time of importation indicates that these articles are for the handicapped.

*Sigvaris*, supra. While you reaffirm your claim that Sstep is in alignment with the definition of “specially designed” outlined in the *Sigvaris*, we agree with the NCSO that it is not. You claim that foot drop is a chronic or permanent condition, rather, we find that foot drop can be temporary and treated through physical and occupational therapy.<sup>4</sup> Further, the population of people who may develop foot drop are not always those who suffer from long-standing disabilities, as it can be caused by other reasons such as injuries that compress the peroneal nerve and a nerve root injury (“pinched nerve”).<sup>5</sup> See <https://www.mayoclinic.org/diseases-conditions/foot-drop/symptoms-causes/syc-20372628>. With that, we find there is high possibility that Sstep will be used by non-disabled individuals, similar to other standard braces and foot appliances.

CBP affirms the finding of N350749 that the Sstep Foot Drop Sock is correctly classified under subheading 6115.96.60 HTSUS. Further, CBP affirms that the Sstep Foot Drop Sock is not eligible for duty free treatment under subheading 9817.00.96, HTSUS.

Sincerely,

Monika R. Brenner, Chief  
Valuation & Special Programs Branch

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<sup>4</sup> See *Foot Drop*, (May 1, 2018), <https://my.clevelandclinic.org/health/symptoms/17814-foot-drop>.

<sup>5</sup> *Foot drop - Symptoms and causes*, (Jan. 5, 2023), <https://www.mayoclinic.org/diseases-conditions/foot-drop/symptoms-causes/syc-20372628>.