



SANDLER, TRAVIS & ROSENBERG, P.A.  
International Trade, Customs & Export Law

## Advanced Country of Origin

ATCC– 2/17/25  
Lenny Feldman, Esq.  
Managing Partner



# I. Origin

## Why Do We Need to Know the Origin?



- “The evident purpose is to mark the goods so that at the time of purchase the **ultimate purchaser may, by knowing where the goods were produced**, be able to buy or refuse to buy them, if such marking should influence his will. *United States v. Friedlaender & Co. Inc., (1940)*
- *United States v. Pentex Corp. (1999)* – country of origin is always or nearly always material. It has the potential to affect all of Customs’ core decisions. False country of origin declarations has the potential to affect decisions as to whether to bring unfair trade action, which could impact duties.

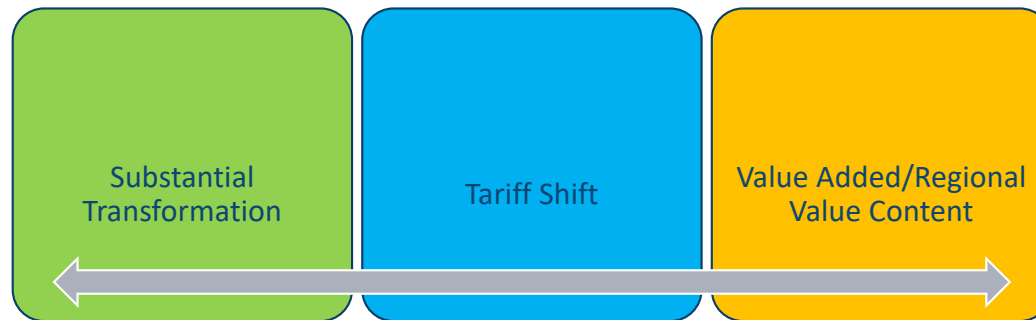
# Why Do We Need to Know the Origin?

- **Required for Import**
  - Entry Declaration
  - Country of Origin Marking of Imported Goods
- **Determines Import Duties/Admissibility**
  - Certificate of Origin and Preferential Treatment (e.g. FTAs)
  - Section 301, Antidumping/Countervailing Duties
  - Quota/Visa Restrictions
  - Government Procurement (Buy American Act, Berry Amendment, Trade Agreements Act of 1979)
  - Medical Device Labeling
  - Embargoes/Sanctions
- **Improper origin claims can lead to inadmissibility or penalties**



# Rules of origin – three types

1. Substantial Transformation for basic Origin & Marking
2. 35% Regional Value Content Added Rule (RVC) for duty-free treatment (pre-NAFTA negotiated preferential programs)
3. Tariff Shift and Tariff Shift plus RVC for duty-free treatment (Modern Preferential Trade Agreements)



# 1. Substantial Transformation Origin Determination

- Section 134.1(b), Customs Regulations (19 CFR 134.1(b)), defines the country of origin of an article as:
  - the country of manufacture, production, or growth of any article of foreign origin entering the U.S.
  - Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the country of origin for country of origin marking purposes. A substantial transformation occurs when articles lose their identity and become new articles having a new name, character or use. *United States v. Gibson-Thomsen Co.*, 27 CCPA 267, 270 (1940).



# Basic U.S. Rule of Origin

Country of Origin for U.S. Duty/Marking purposes

=

SUBSTANTIAL TRANSFORMATION

- New NAME
- New CHARACTER or
- New USE



GREEN COFFEE BEANS



MANUFACTURE PROCESS



INSTANT COFFEE

\* See HQ 733814, dated June 24, 1991

# Substantial Transformation

- 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.
- Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. In the *Energizer Battery* case, court found that imported lenses, levers and LEDs retained their name and identity after being assembled into flashlights and that assembly of components that have a “pre-determined use” is generally considered insufficient to result in a substantial transformation.
- CBP looks at a “totality of the circumstances” to determine substantial transformation; determinations made on case-by-case basis.
- *Cyber Power* case involved components of uninterruptible power supplies and a surge voltage protector including the printed circuit board assemblies. Not adopting an essence or component-based interpretation, rather consider the nature of the potentially transformative processing.





## Factors to Consider

- Has there been a physical change in the material or article;
- The time involved in the manufacturing or processing;
- The complexity of the manufacturing or processing;
- The level or degree of skill and/or technology required in the manufacturing or processing operations;
- The value added to the article or material.



# Operations NOT Considered Substantial Transformation

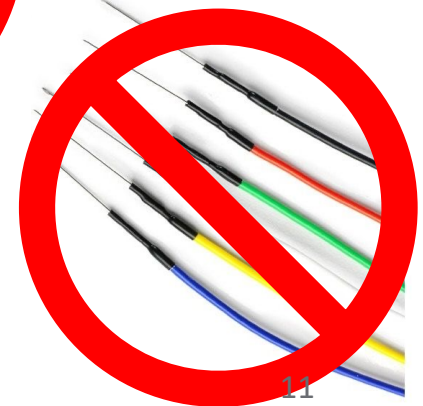
- Operations necessary for the preservation of goods during transportation or storage;
- Operations to improve the packaging or the marketable quality of the goods or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, repacking;
- Simple assembly operations;
- Mixing of goods of different origin, provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed.



# Assembly Process

## Non-complex Assembly – not substantial transformation:

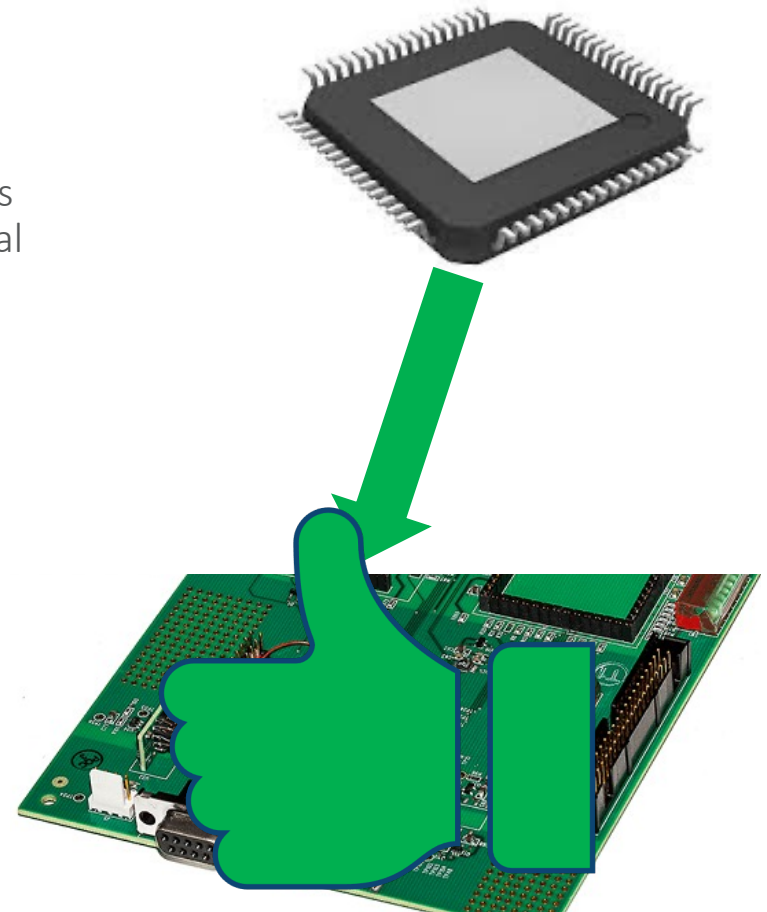
- Combining fully functional electronic components of stereo rack system into decorative housing did not constitute substantial transformation
- Adding legs to a table top
- Soldering a lead wire to a needle electrode
- *Essential Character remains the same – pre and post assembly process*



# Assembly Process

## More Complex Assembly Could Constitute Substantial Transformation

- Final assembly, testing, inspection, and packaging that is *complex and meaningful* usually qualifies for substantial transformation
- *Semiconductor chip to Integrated circuit*
  - Silicon slices containing fabricated components, *scribed* and *broken*
  - Chips *mounted, wired, encased* in plastic
  - Lead frame strips *trimmed*
  - *Severed* into individual integrated circuits and photodiodes
- “use, character, name, and value of a finished integrated circuit [is] substantially different from a semiconductor chip.” *Texas Instruments, Inc. v. US*, 681 F.2d 778 (CCPA 1982).



# Substantial Transformation Analysis

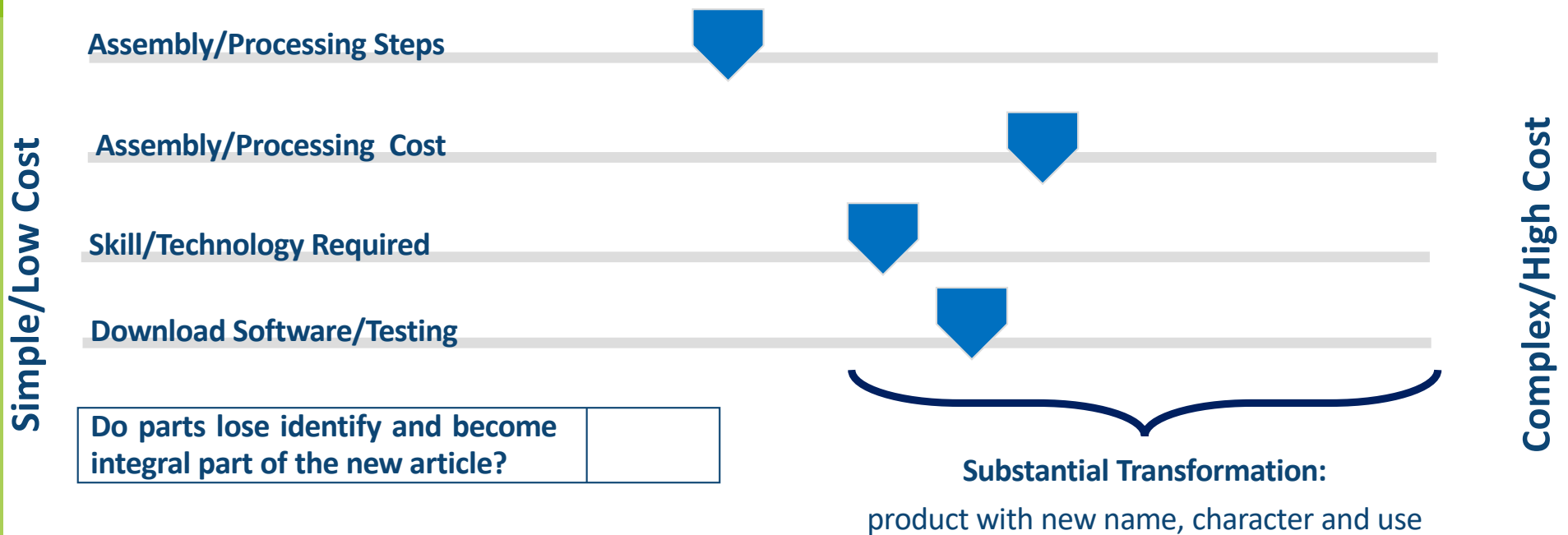
## 1 – Trace Production Process

- a) origin/cost of components
- b) production processes

## 2 – Analyze Production Process

- a) Work backwards to evaluate each production process

Extent of operations and whether the parts lose their identify and become and integral part of the new article



## 2. Preferential Duties – 35%/Direct Ship Rule

- Certain trade agreements\* negotiated prior to NAFTA have two requirements:

- 1) 35%\*\* of the origin must be originating - includes
  - a. The cost or value of the materials produced
  - b. The direct costs of processing operations
- 2) Must be shipped directly from the origin country to the US

### *Double substantial transformation requirement*

Iron ore -> Steel plate -> Steel Chair.



\*GSP, West Bank/Gaza/QIZs, US-Israel, AGOA, CBERA, US-Jordan

\*\*In some instances 15% of the 35% may be U.S. origin.

## 3. Origin Rules: Preferential Treatment

### PREFERENTIAL TREATMENT

(FTA rules of origin)

- Tariff Shift or
- Tariff shift plus Regional Value Content (RVC)

PLUS

- Direct Shipment



# Free Trade Agreements

## Origin requirements

- Wholly obtained or produced entirely in the territory
- Tariff Shift or Tariff Shift plus RVC (each FTA has different rules)
- Importer is responsible for maintenance of the records to support the claims.
- No specific Certificate of Origin (changed from NAFTA to USMCA)





# FTA Rule of Origin Example

## Motor Example 8501.40.6040, HTSUS

1. CLASSIFY FINISHED PRODUCT
2. CLASSIFY COMPONENT PARTS
3. LOOK UP RULE OF ORIGIN in HTSUS
4. VALUE AND ORIGIN OF COMPONENT PARTS AND FINISHED PRODUCT (value needed for RVC and de minimis calculation if necessary for the analysis)
5. **CONSIDER ORIGIN RULE APPLICABLE TO SPECIAL RETALIATORY DUTIES**



# Rules of Origin for USMCA Eligibility

## ➤ Rules of Origin

- Wholly Obtained/Produced –Preference A
  - Tariff Shift and/or RVC – Preference B
  - From Originating Materials – Preference C
  - Classified with materials or are “unassembled goods” and meets RVC of 60% (TV) or 50% (net costs)\* - Preference D
  - Provided for under Chapter 2 tariff provisions (ADPs, semiconductors, LANs)– Preference E
- Specific Data Elements but not COO Form
  - Separate Marking Rules – Subject to Rulemaking



**\*Not Chapters 61-63**

© Sandler, Travis & Rosenberg, P.A. | [www.strtrade.com](http://www.strtrade.com) | All rights reserved.

# USMCA Rules of Origin

1. USMCA RULES OF ORIGIN FOR DUTY-FREE TREATMENT (HTSUS General Note 11)



2. "NAFTA" RULES OF ORIGIN FOR MARKING (19 C.F.R. §102)



# USMCA Non-Preferential Rules of Origin - NPRM

- No marking rules as part of USMCA
- CBP published NPRM that **PROPOSED** to apply the rules of origin in 19 CFR Part 102 to goods from Mexico and Canada for non-preferential purposes
  - For example, if non-preferential rules indicate China origin would be subject to Sec. 301 regardless of USMCA duty-free preferential status


  
**35422** Federal Register / Vol. 86, No. 126 / Tuesday, July 6, 2021 / Proposed Rules

---

**DEPARTMENT OF HOMELAND SECURITY**

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

**DEPARTMENT OF THE TREASURY**

**19 CFR Parts 102 and 177**

[USCBP–2021–0025]

RIN 1515–AE63

**Non-Preferential Origin Determinations for Merchandise Imported From Canada or Mexico for Implementation of the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA)**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations regarding non-preferential origin determinations for merchandise imported from Canada or Mexico. Specifically, this document proposes that CBP will apply certain tariff-based rules of origin in the CBP regulations for all non-preferential determinations made by CBP, specifically, to determine when a good imported from Canada or Mexico has been substantially transformed resulting in an article with a new name, character, or use. For consistency, this document also proposes to modify the CBP regulations for certain country of origin determinations for government procurement. Collectively, the proposed amendments in this notice of proposed rulemaking (NPRM) are intended to

2021–00X25 by one of the following methods:

- Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Due to COVID-19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Due to the relevant COVID-19-related restrictions, CBP has temporarily suspended on-site public inspection of the public comments.

**FOR FURTHER INFORMATION CONTACT:**  
*Operational Aspects:* Queena Fan, Director, USMCA Center, Office of Trade, U.S. Customs and Border Protection, (202) 738–8946 or [usmca@cbp.dhs.gov](mailto:usmca@cbp.dhs.gov).  
*Legal Aspects:* Craig T. Clark, Director, Commercial and Trade Facilitation Division, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, (202) 325–0276 or [craig.t.clark@cbp.dhs.gov](mailto:craig.t.clark@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

country of origin of merchandise determines the rate of duty, admissibility, quota, eligibility for procurement by government agencies, and marking requirements. There are various rules of origin for goods imported into the customs territory of the United States, generally referred to as “preferential” and “non-preferential” rules of origin. “Preferential” rules are those that apply to merchandise to determine eligibility for special treatment, including reduced or zero tariff rates, under various trade agreements or duty preference legislation, e.g., Generalized System of Preferences. “Non-preferential” rules are those that generally apply for all other purposes.<sup>1</sup> CBP uses the substantial transformation standard to determine the country of origin of goods for non-preferential purposes. For a substantial transformation to occur, “a new and different article must emerge, having a distinctive name, character or use.” *Anheuser-Busch Brewing Ass’n v. United States*, 207 U.S. 556, 562 (1908) (quoting *Hartranft v. Wiegmann*, 121 U.S. 609, 615 (1887)).

CBP applies two different methods for determining if merchandise has been substantially transformed. One method involves case-by-case adjudication, relying primarily on tests articulated in judicial precedent and past administrative rulings. The other method consists of codified rules in part 102 of title 19 of the Code of Federal Regulations (19 CFR part 102) (referred to as the part 102 rules), which are primarily expressed through specified differences in the Harmonized Tariff Schedule of the United States (HTSUS) classification of the good and its materials. This method is often referred to as the “change in tariff classification”



## USMCA Non-Preferential Rules of Origin - NPRM

- NPRM proposed to amend regulations to apply Part 102 tariff-based rules of origin to determine when goods imported from Canada or Mexico have been “substantially transformed”
- Would apply to CBP origin determinations, including those for Section 301 trade remedies
- CBP Part 102 rules provide more certainty, transparency, and consistency in application of origin determinations than “case-by-case” substantial transformation analysis
- Does not apply to origin determinations made by other agencies (i.e. Department of Commerce, FDA, etc.).
- Proposal only applied Part 102 rules to goods from Canada and Mexico
- **However, note that 102.21 textile & apparel origin apply to all countries except Israel**
- **DECIDED: “The rules set forth in §§102.1 – 102.18 and 102.20 determine country of origin for marking purposes of imports between the USMCA.”**



# “NAFTA” Non-Preferential Rules of Origin Hierarchy – 19 CFR 102.11

- (a) The country of origin is the country in which:
  - (1) The good is wholly obtained or produced;
  - (2) The good is exclusively from domestic materials; or
  - (3) Each foreign material incorporated in the good undergoes an applicable change in tariff classification set out in 102.20 and satisfies any other applicable requirements of that section and of the rules
- (b) Except for a good described in the HTS as set or classified as a set, where the country of origin cannot be determined under (a):
  - (1) The country of origin of the good is the country or countries of origin of the single material that imparts the essential character of the good, or
  - (2) If the material that imparts the essential character to the good is fungible, has been commingled, and direct physical identification of the origin of the commingled material is not practical, the country or countries of origin may be determined based on an inventory management method



# USMCA Rules of Origin – Tariff Preference

General Note 12, Chapter 85(1) provides that goods will qualify as originating for USMCA tariff preference as follows:

- (A) A change to heading 8501 from any other heading, except from tariff items 8503.00.35, 8503.00.45 or 8503.00.65 or
- (B) A change to heading 8501 from tariff items 8503.00.35, 8503.00.45 or 8503.00.65, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:
  - (1) 60 percent where the transaction value method is used, or
  - (2) 50 percent where the net cost method is used.



# NAFTA/USMCA Rules of Origin - Marking

Under Section 102.20, the applicable COO tariff shift rule for the Motor provides as follows:

- 8501. A change to heading 8501 from any other heading.



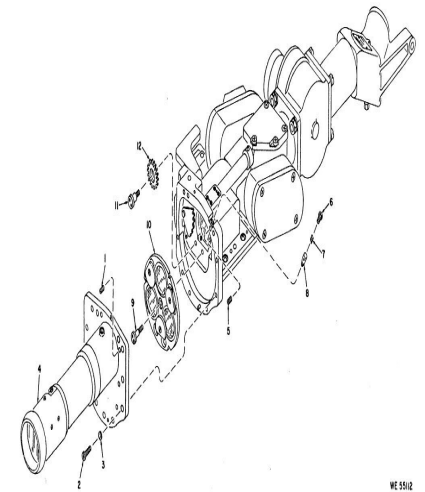


# NAFTA/USMCA Rules of Origin

What is the Country of Origin?

- “NAFTA” Country of Origin Rules Marking (19 C.F.R. § 102.20)
- tariff shift rules for the engine (8501.10.40) requires a change to heading 8501 (motors) from any other heading.
- The imported engine components are classified under heading 8503 (motor parts) and meet the tariff shift requirements

**MADE IN  
MEXICO**



## Section 301 Duties – Substantial Transformation

Made in  
China = + 25%

- BUT..
  - For Section 301 (other trade remedy tariffs, safeguards)
  - Origin determined by SUBSTANTIAL TRANSFORMATION analysis
  - Simple assembly does NOT result in substantial transformation, the origin for Section 301 is CHINA (origin of parts)
    - NYRL N299096\* (July 25, 2018)
    - HRL H300226\* (Sept. 13, 2018)
    - HRL H301619 (Nov. 6, 2018): 8503 components from CN assembled into 8501 motor in MX = Marking MX, 301 CN
- \* = modified



# Section 301 Duties – Substantial Transformation?

## Summary

- **HRL 734291 (October 17, 1989). Electric motors**
  - Finished components fabricated from raw materials in HK.
  - China construction into three major electric motor subassemblies. Subassemblies assembled into finished motors. 80 -90% of labor occurs in China.
  - CBP Decision: China COO
- **HRL 734292 (May 26, 1992). Electric motors**
  - Brazilian unwound motor components/subassemblies (rotor and shaft).
  - Bearings and stator winding in U.S.
  - CBP Decision: U.S. COO
- **NY N305251 (August 1, 2019). Electric stepper brushless motor**
  - Stamping steel slits, pressed into stator and rotor stacks in Japan or Vietnam
  - Stator and rotor machined, wire wound, soldered to board, housing/endcaps screwed together in China
  - CBP Decision: Japan or Vietnam COO



# Section 301 Duties – Substantial Transformation?

## Summary

- **NY N319707 (March 11, 2020). Fan blower assembly**
  - Stator wire, housing, insulator sheets, shaft in China. Rotor shaft, impeller, housing in China.
  - Stator subassembly, wire wound on core, PCBA connected in Mexico. Rotor retaining ring installed, ball bearings bonded, magnetic yolk assembly bonded, impeller fitted in Mexico.
  - CBP Decision: Mexico COO
- **NY N325810 (May 25, 2022). Electronic HVAC motor**
  - Stator, structural bracket, bearing, shaft, magnets, hardware from China.
  - Rotor stamping and pressing and soldering components onto PCBA for drive electronics in Thailand.
  - CBP Decision: Thailand COO
- **NY N320693 (July 28, 2021). PMDC motor**
  - Stator housing in China
  - Rotor steel sheet stamping, lamination stacking, inserting shaft/coupling in Vietnam
  - Assemble rotor and brush holder subassemblies, final manufacture in Mexico.
  - CBP Decision: Mexico COO



# Origin Engineering – Case Study NY Kuling N305251

- Electric stepper motor – brushless, synchronous motor that converts digital pulses into mechanical shaft rotation.
- Stator & Rotor
- Stamping steel slits form coils, then pressed into stack in 1.) Japan, 2.) China, 3.) Vietnam
- 
- Pully, bearing shaft
- Assembly
- 1.) China, 2.) Thailand/Vietnam, 3.) China



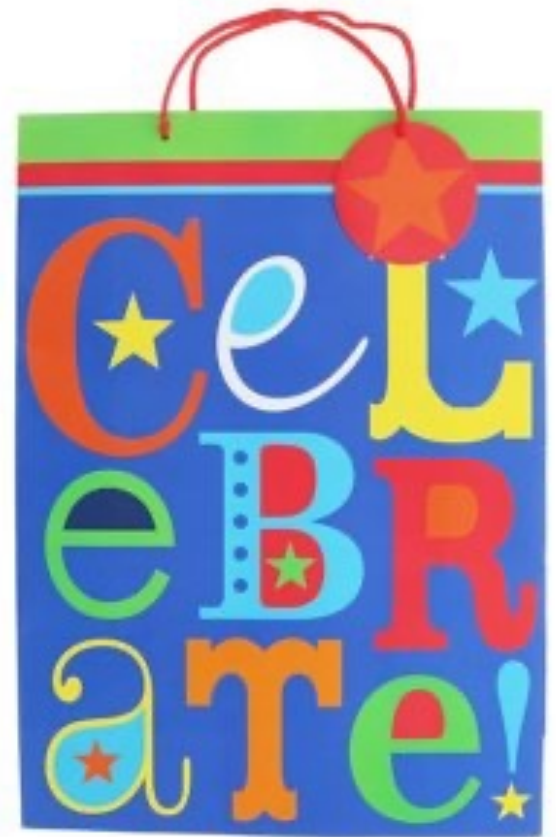
# Origin Engineering – Case Study NY Ruling N305251

- **Scenario 1: Stator and rotor** manufactured in **Japan** by **stamping** steel slits from coils, then **pressed** into stator and rotor stack. Pulley, bearing, shaft, end caps from China where stator and rotor are machined, painted, wire wound, shaft and bearing affixed to rotor, wire soldered to connecting board, housing and endcaps screwed together. **COO: Japan**
- **Scenario 2: Stator, rotor** steel slits **stamped** in **China** from coils then **pressed** into stator and rotor stack. Wire from Taiwan, bearing from Thailand. Rest of components from Vietnam. Machining, painting, winding, affixing, soldering, screwing in Vietnam. **COO: China**
- **Scenario 3: Stator and rotor** steel slits **stamped** in **Vietnam** then **pressed** into stator and rotor stack. Wire, pulley, shaft, bearing from China. End caps, insulators, etc. from Vietnam. Machining, painting, winding, affixing, soldering and screwing in Vietnam. **COO: Vietnam**



# Substantial Transformation Example – Paper Gift Bags

- **S. Korea**
  - Paper produced, printed cut to shape
- **China**
  - Laminating film glued to printed paper
  - Paper folded and glued
  - Paperboard components glued in bag
  - Holes punched, grommets inserted and handles/hang tags attached
- **Country of Origin = South Korea (HQ 559964)**
  - (Same scenario, but cutting of paper takes place in Philippines - Country of Origin = Philippines (HQ 961241))



# Most Important Assembly Example

## Shirt Origin Russia, HQ 961048

### China

- cutting of fabric into component parts
- patch pocket assembled and attached to left front panel
- logo label attached
- cuffs subassembled
- buttons attached, button holes sewn
- labels (including size, content and origin) are attached to collar or yoke
- yoke attached to back panel
- collar subassembled
- front plackets are attached to front panels
- buttons attached, button holes are sewn
- sleeve plackets are subassembled
- buttons attached, button holes are sewn

### Russia

- front panels are sewn to back panel at the shoulder seams
- sleeves are sewn together
- cuffs are joined to the sleeves
- sleeves are attached to the shirt
- care label is attached to side seam
- side seams of shirt are sewn
- collar is attached to shirt

### China

- hemming, inspection, ironing and packing





# Most Important Assembly Example

## Shirt Origin Russia, HQ 961048

### China

- cutting of fabric into component parts
- patch pocket assembled and attached to left front panel
- logo label attached
- cuffs subassembled
- buttons attached, button holes sewn
- labels (including size, content and origin) are attached to collar or yoke
- yoke attached to back panel
- collar subassembled
- front plackets are attached to front panels
- buttons attached, button holes are sewn
- sleeve plackets are subassembled
- buttons attached, button holes are sewn

### Russia

- front panels are sewn to back panel at the shoulder seams
- sleeves are sewn together
- cuffs are joined to the sleeves
- sleeves are attached to the shirt
- care label is attached to side seam
- side seams of shirt are sewn
- collar is attached to shirt

### China

- hemming, inspection, ironing and packing



# Most Important Assembly Example

## Backpack Origin S. Korea, HQ 959417

### S. Korea

- Fabric formed

### China

- Cutting
- Minor subassemblies



### S. Korea

- Assembly of front panel, back panel, shoulder straps, gusset with zipper, and front pocket into a finished backpack

## II. Marking

# Methods for Marking

U.S. Customs requires that each imported article be marked:

- Conspicuously, legibly and indelibly
- Permanently
- in English
- to indicate to the *ultimate purchaser*
- the country of origin of the article





# Methods for Marking

- **PERMANENTLY**

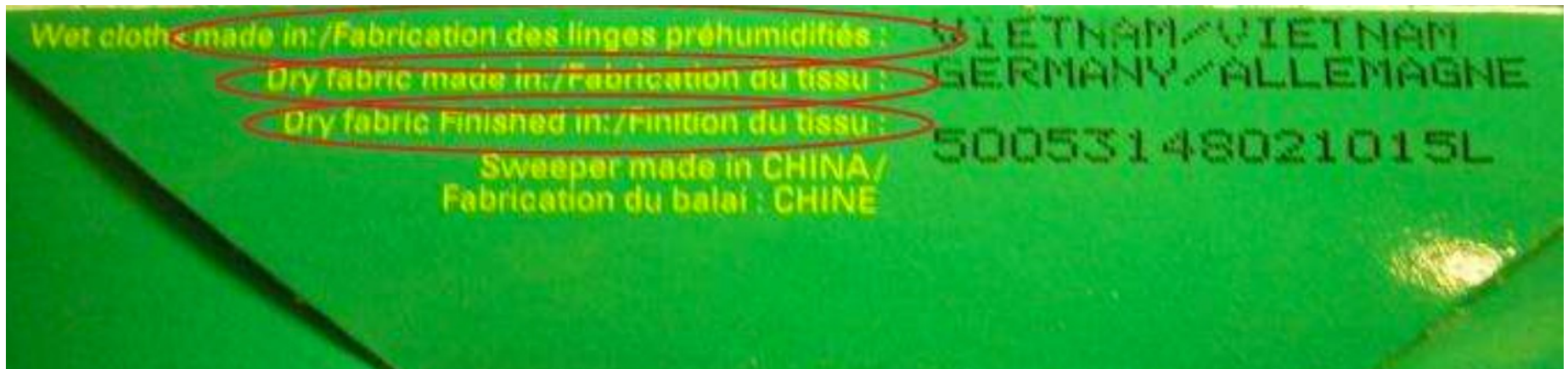
- “Permanence” must insure that in any reasonably foreseeable circumstance, the marking will reach the ultimate purchaser unless it is deliberately removed.
- The marking must survive
- normal distribution
- and store handling.



# Methods for Marking

“TO INDICATE TO THE ULTIMATE PURCHASER”

“THE COUNTRY OF ORIGIN”



# Exceptions

- Exceptions to the marking requirements include, most notably:
  - a) Not feasible or economical to mark;
  - b) Marking of the container suffices;
  - c) Articles either destined solely for use by the importer or to be further processed by the importer;
  - d) Origin is obvious from their nature;
  - e) Articles produced more than 20 years
    - before importation into the U.S.; and
  - f) Articles on the J-list.
  
- Containers must be marked instead!





# Containers/holders

- Containers/holders can be marked in lieu of marking the article provided the goods are likely to reach the ultimate purchaser in its condition as imported.
- If *reusable, e.g., cases*, the containers must bear their own country of origin marking.
- If *imported to be filled*, the person who will fill them is deemed to be the ultimate purchaser and the containers are excepted from the marking requirements.



# Specific Method Required

- Die Stamping
- Cast-in-the-mold lettering
- Etching
- Engraving
- Cloth Labels



# Acceptable Terminology

If name of country or location other than country of manufacture and may mislead or deceive

## MUST USE:

- “PRODUCT OF ...”
- “MADE IN ...”
- Or similar...
  
- Legible, permanent, comparable size and proximity to country or locality



# “Made in the USA”



## Federal Trade Commission



"Assembled in USA"

- “All or virtually all” standard for unqualified claim
- Qualified claims:
  - Made in the USA with Imported Components
  - Assembled in the USA

**MADE IN USA**  
WITH IMPORTED COMPONENTS

### III. AD/CVD

# Origin Determinations by the DOC

AD/CVD orders are issued for a “class or kind of foreign merchandise”—orders apply to merchandise from a specific country

The DOC seeks to answer two questions:

- (1) whether a product produced in a country subject to the AD/CVD investigation (“subject country”) with component materials from a third-country should be treated as a product of the subject country, and
- (2) whether a product produced in a third-country using component materials from the subject country should be treated as the a product of the subject country.



## Origin Determinations by the DOC

- The DOC makes country of origin determinations in two basic categories of AD/CVD proceedings:
  - original AD/CVD investigations, administrative reviews, and related scope investigations; and
  - investigations of alleged “circumvention” of an existing AD/CVD order.
- While the DOC’s approach in its origin determinations resembles Customs’ approach, the DOC is not bound by Customs’ origin determinations and has often reached origin determinations different from, often opposing, CBP’s position, even with respect to the same type of merchandise and production process.



# Determining the Scope of an Order

- Scope Language of Order
- Previous scope rulings issued by Commerce under a particular order
- Under 19 CFR 351.225(j), Commerce *may* apply a substantial transformation analysis that consider the following on a case-by-case basis:
  - Whether the processed downstream product is a different class or kind of merchandise than the upstream product;
  - Physical characteristics of the product;
  - Intended end-use of the downstream product;
  - Cost of production/value-add of third country processing;
  - Nature and sophistication of the third country processing;
  - Level of investment in third country.
- Commerce may also consider where the essential component of the product is produced or where the essential character of the product is imparted.





## Anti-Circumvention Inquiries Under 19 U.S.C. § 1677j:

- In an anti-circumvention inquiry, the DOC examines whether a product outside an order's literal scope should nonetheless be included within the scope as part of the "class or kind of merchandise" subject to the AD/CVD order.
- Anticircumvention measures may be adopted in a limited number of circumstances:
  - Minor Alterations of Merchandise;
  - Merchandise Completed or Assembled in U.S. or Third Country; or
  - **Newly Assembled Merchandise ("Later-Developed Merchandise").**

## Merchandise Assembled in Third Countries

- Same class or kind of merchandise subject to order
- Merchandise assembled or completed in a third country using parts from the country subject to the order
- The process of assembly is minor or insignificant
- The value of the parts or components is a significant portion of total value



## CSMS #18-000421. Identifying Antidumping & Countervail Duty Order Third Country Case Numbers in ACE 7/3/18

- Merchandise produced in the country of an AD/CVD order undergoes further processing in a third country prior to export or sale to U.S.
- Despite further processing in third country, merchandise remains subject to AD/CVD order from original country.
- Goods fall under scope of order of original country, yet for CBP purposes are have a CBP country of origin of third country where further processing occurred.
- In entry summary, country of AD/CVD case number must match CBP COO.
- To ensure proper reporting for AD/CVD and CBP, Commerce establishes third country AD./CVD case numbers associated with relevant order and COO.



## CSMS #18-000421 (Cont'd)

- Third country case name and short description provided in ACE consistent with Case Name and Short Description of relevant AD/CVD order.
- For third country case number, at end of Short Description and Official Case Name there is also a reference to country of relevant AD/CVD order
- Despite further processing in third country, merchandise remains subject to AD/CVD order from original country.



## CSMS #18-000421 (Example)

- Merchandise produced in China. Further processed in Lithuania.
- After additional processing, merchandise remains under AD order on solar cells from China, but for CBP purposes now has Lithuania COO.
- Commerce creates third country case number to correspond to AD order on solar cells from China and CBP COO Lithuania.

ACE AD/CVD Case Header Information	AD/CVD Order	Third Country Case
Country Name	People's Republic of China	Lithuania
Case Number	A-570-979	A-451-988
Official Case Name	Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules	Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules (People's Republic of China)
Short Description	Solar Cells	Solar Cells (China)



## Examples of Third Country Cases

- A570124, C570125: Vertical shaft engines and parts from China assembled into (or mounted onto) non-hand-held outdoor power equipment (*i.e.*, walk-behind lawn mowers and pressure washers) in Mexico.
- A570967, C570968: Chinese aluminum extrusions processed into aluminum jalousie shutters in the Dominican Republic.
- A570026, C570027: Corrosion-resistant steel products completed in Costa Rica or United Arab Emirates from hot-rolled steel and/or cold—rolled steel substrate input from China.
- A570028: Hydrofluorocarbon (HFC) blends for cooling/refrigerant produced in India using one or more HFC components of Chinese origin.
- A570979, C570980: Solar cells from China assembled into modules, laminates, or panels in Austria, Canada, Lithuania or Malaysia.
- A583856: Taiwanese corrosion resistant steel annealed, tempered, painted, varnished, trimmed, cut, punched, slit, or otherwise processed in Malaysia.
- A583853: Taiwanese solar cells assembled into modules, laminates and panels in Singapore.



# Thank You!



Lenny Feldman  
Managing Partner,  
Operating Committee  
305.894.1011  
lfeldman@strtrade.com

