

Bureau of Customs and Border Protection

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

Land Border Carrier Initiative Program

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Land Border Carrier Initiative Program (LBCIP). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 30, 2007, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, Tel. (202) 344-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the

use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Land Border Carrier Initiative Program

OMB Number: 1651-0077

Form Number: N/A

Abstract: LBCIP is a Program in which applicants are pre-screened in order to receive expedited processing at CBP land ports-of-entry. The Customs and Trade Partnership Against Terrorism (C-TPAT) Program supersedes LBCIP and expands it to include other entities, including air and sea. Its purpose is also to provide participants expedited processing at ports-of-entry. CBP requests that the name of this information collection be changed from Land Border Carrier Initiative Program (LBCIP) to Customs and Trade Partnership Against Terrorism (C-TPAT).

Current Actions: This submission is being submitted to extend the expiration date and to revise this information collection.

Type of Review: Extension (with change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 6,500

Estimated Time Per Respondent: 5 hours

Estimated Total Annual Burden Hours: 32,500

Estimated Total Annualized Cost on the Public: N/A

Dated: February 22, 2007

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

NOTICE OF ISSUANCE OF FINAL DETERMINATION
CONCERNING DIGITAL COLOR MULTIFUNCTIONAL
SYSTEMS

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 digital color multifunctional systems to be offered to the United States Government under an undesignated government procurement contract. Based on the facts presented, the final determination found that Japan is the country of origin of the subject digital color multifunctional systems for purposes of U.S. government procurement.

DATE: The final determination was issued on February 8, 2007. 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 February 28, 2007.

FOR FURTHER INFORMATION CONTACT: Daniel Cornette, Valuation and Special Programs Branch, Office of International Trade; telephone (202) 572-8731.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 8, 2007, 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 digital color multifunctional systems to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ 563491. This final determination was issued at the request of Sharp Electronics Corporation 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 Japan of Japanese and foreign components to create the subject digital color multifunctional systems substantially transformed the foreign components into a product of Japan.

Section 177.29, CBP 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, CBP Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judi-

cial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: February 21, 2007.

SANDRA L. BELL,
Executive Director,
Office of Regulations and Rulings,
Office of International Trade.

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 563491
February 8, 2007
MAR-2-05 RR:CTF:VS 563491 DCC
CATEGORY: Marking

MS. FUSAE NARA
PILLSBURY WINTHROP SHAW PITTMAN
1540 Broadway
New York, NY 10036-4039

REFERENCE: U.S. Government Procurement; Final Determination; country of origin of digital color multifunctional systems; substantial transformation; 19 C.F.R. Part 177

DEAR MS. NARA:

This is in response to your letter dated April 24, 2006, requesting a final determination on behalf of Sharp Electronics Corporation ("Sharp") pursuant to subpart B of Part 177, Customs and Border Protection ("CBP") Regulations (19 C.F.R. 177.21 et seq.). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (codified at 19 U.S.C. § 2411 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 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 certain digital color multifunctional systems that Sharp may sell to the U.S. Government. We note that Sharp is a party-at-interest within the meaning of 19 C.F.R. 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The products subject to this ruling are digital color multifunctional systems manufactured by Sharp, Model Nos. MX-2300NJ and MX-2700NJ (hereinafter the "J-Models"), imported from Japan for the purpose of sales to U.S. government agencies. The J-Models have photocopying, printing, faxing, and scanning functions. The primary difference between the two models is the speed at which they are able to process images. The MX-2300NJ prints 23 pages per minute compared to 27 pages per minute for the MX-2700NJ.

Sharp's parent company ("Sharp Japan") developed the J-Model in Japan, and performs the entire engineering, development, design, and art work pro-

cesses for both models in Japan. According to your submission, the production process may be broken down into four stages. In the first stage, the following key subassemblies are assembled: laser scanner unit (“LSU”) (assembled in China); first transfer unit subassembly (assembly begins in China and is finished in Japan); process unit subassembly (assembled in China); and controller unit subassembly (assembled in Japan). In addition, four minor subassemblies are assembled in China: first transfer cleaner unit; cabinet subassembly; auto document feeder subassembly, and fuser unit. The finished systems have one unit each of five different kinds of application-specific integrated circuits (“ASIC”), all of which are made in Japan.

The second stage is the final physical assembly of the J-Models. In the third stage, Sharp Japan makes adjustments and conducts testing of the J-Models. In the fourth stage, the J-Models undergo final inspection and packaging for shipment to the United States.

1. Subassembly Preparation

a) Laser Scanner Unit Subassembly

The LSU writes the image data of the documents or graphics onto the drum unit. While the components comprising the LSU are assembled in China, the charge coupled device (“CCD”) and the ASIC, which are mounted on the cabinet as well as the laser diodes (“LDs”), are made in Japan. Color images are created by exposing the laser lights of the LDs to four color-specific drums (black, cyan, magenta, and yellow). The ASIC is designed to control the exposure of the laser lights following the scanned data with speed and precision.

b) First Transfer Unit Subassembly

The first transfer unit is where the four color images, which are created by the four color drums, are transformed into an integrated color image that is then transferred onto paper. The image is transferred to the paper by a wide belt known as a transfer belt. The transfer belt rotates around the first transfer unit generating print images, while a cleaner cartridge continuously cleans the surface of the belt. The unfinished first transfer unit is manufactured in China and completed in Japan where the transfer belt is manufactured and installed.

c) Process Unit Subassembly

The process unit is a combination of the drum, developer, and toner cartridges. Because the J-Models are color multifunctional systems, they require four sets of the process units, which includes a drum, developer and toner for each of the four colors, *i.e.*, black, yellow, cyan, and magenta. The developer and toner materials, as well as the drums, are produced in Japan. The process unit subassembly is assembled by attaching each of the four drums to the four drum cartridges. The toner and developer cartridges are filled with toner and developer and installed on the subassembly for testing purposes.

d) Control Box Unit Subassembly

The control box unit is the “brain” of the J-Model machines. The control printed wiring board (“PWB”) and the mother PWB are populated in China with diodes, resistors, and condensers. In Japan, Sharp forms a harness for the hard disk (either from Malaysia or China) that is then fastened to the harness board of the control box unit with screws. The hard disk is affixed to the harness and then to the PWB. Cushioning is installed around the hard

disk and flash memory chips (*i.e.*, the boot flash ROM, and the program flash ROM) are inserted into designated slots on the control box.

2. Final Assembly

The final Japanese assembly process begins with the cabinet that houses the middle section of the finished product. The cabinet is fabricated in China and contains certain components, such as Japanese ASICs, that are installed in China. The major subassemblies described above are assembled into the cabinet as follows:

- a. The side panel of the cabinet is opened and the LSU subassembly is inserted and fastened to the cabinet with screws.
- b. The front panel of the cabinet is opened and the first transfer unit assembly is inserted into a slot and fastened to the cabinet with screws.
- c. Four drum cartridges, four developer cartridges, and four toner cartridges—one for each of the four colors (*i.e.*, black, yellow, cyan, and magenta)—are installed.
- d. A small panel on the back of the cabinet is removed and the control box unit is inserted into a slot in the cabinet assembly and secured with screws.
- e. The automatic document feeder is fastened to the hinge on top of the cabinet assembly with screws.

3. Testing

In Japan, extensive tests are conducted and adjustments are made to all functions, including scanning, image placement, color and darkness.

a. Adjustments. The following adjustments are made to each unit:

- Confirm data input circuitry by connecting the printer/scanner unit to a computer based on the destination of the finished unit.
- Inspect the card reader by running a test card with a simulation program.
- Apply high voltage to the printer unit and adjust it to be within the permitted range for each color.
- Measure the bias voltage to confirm that the voltage used to remove excess toner is proper.
- Confirm the rotation of the toner motor.
- Confirm the functioning of the hard disk and the hard disk output on the LCD display panel of the operation unit.
- Measure the distance between the drum “sleep” position and the toner cartridge magnet roller to ensure even print quality.
- Adjust the amount of developer by connecting the developer unit for each color.
- Attach the toner cartridge and adjust the darkness sensor.

b. Test Copying. After the assembly adjustments are complete, the unit undergoes alignments by running test copies to confirm the following functions: paper placement; print darkness; optical images; print placement; color balance for printer engine and print output; color pattern chart; manual copy; print and image output; two-sided copying; feeder functions; intermediate tone process control for various printing modes (*i.e.*, letter, photograph, and combination); print output from an attached computer; USB cable connection; and memory. After testing is complete, each unit is reset to the default position to prepare for final inspection and packaging for shipment.

4. Final Inspection and Packaging

The finished assembly is prepared for shipment by removing the drum cartridges, toner cartridges, and developer cartridges used for testing purposes and by cleaning the color toner pipes, printing mechanism, scanner surface, and exterior. New drum and developer cartridges are inserted and secured to the unit. An operator conducts a final inspection that includes testing the power supply, the LCD display panel, sensors, and proper operation of the unit. After final inspection, the finished unit is packaged for shipping.

ISSUE:

Whether the multifunctional systems manufactured by Sharp (Model Nos. MX-2300NJ and MX-2700NJ) are products of Japan 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). A substantial transformation “results in an article having a name, character, or use differing from that of the imported article.” *Uniroyal, Inc. v. United States*, 542 F. Supp. 1026, 1029 (Ct. Int’l Trade 1982), *aff’d*, 702 F.2d 1022 (Fed. Cir. 1983).

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. *See Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int’l Trade 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.

CBP has held in a number of cases involving similar merchandise that complex and meaningful assembly operations involving a large number of components will generally result in a substantial transformation. In Headquarters Ruling Letter (“HRL”) 562936, 69 Fed. Reg. 13577 (March 23, 2004), we addressed the country of origin of certain multifunction printers assembled in Japan of various Japanese- and Chinese-origin parts. In that ruling, we determined that the multifunction printer was a product of Japan based on the fact that a “substantial portion of the printer’s individual components and subassemblies [were] of Japanese origin.” Furthermore, we noted that some of the Japanese components and subassemblies were essential parts of the finished article, and other Japanese parts, including the reader scanner unit and the control panel unit, were critical to the production of the printer. Finally, HRL 562936 noted that the Japanese processing operations were complex and meaningful, that required “the assembly of a large number of components, and render[ed] a new and distinct article of commerce that possess[e]d a new name, character, and use.”

In HRL 562495, dated November 13, 2002, color ink jet printers were assembled in Singapore of components imported from a number of other countries. In that ruling, we determined that the imported components were substantially transformed during assembly such that the country of origin of the assembled ink jet printers was Singapore. In support of this determination, we considered the processing occurring within Singapore to be complex and extensive, requiring the integration of 13 major subassemblies to the chassis, and that the resulting product was a new and distinct article of commerce that possessed a new name, character, and use.

In HRL 561734, dated March 22, 2001, published in the Federal Register on March 29, 2001 (66 Fed. Reg. 17222), we held that certain multifunctional machines (consisting of printer, copier, and fax machines) assembled in Japan were a product of that country for purposes of U.S. Government procurement. The multifunctional machines were assembled from 227 parts (108 parts obtained from Japan, 92 from Thailand, 3 from China, and 24 from other countries) and eight subassemblies, each of which was assembled in Japan. One of the subassemblies produced in Japan, referred to as the scanner unit, was described as the “heart of the machine.” In finding that the imported parts were substantially transformed in Japan, we stated that the individual parts and components lost their separate identities when they became part of the multifunctional machine. *See also* HRL 561568, dated March 22, 2001, published in the Federal Register on March 29, 2001 (66 Fed. Reg. 17222).

By contrast, assembly operations that are minimal or simple will generally not result in a substantial transformation. For example, in HRL 734050, dated June 17, 1991, we determined that Japanese-origin components were not substantially transformed in China when assembled in that country to form finished printers. The printers consisted of five main components identified as the “head,” “mechanism,” “circuit,” “power source,” and “outer case.” The circuit, power source and outer case units were entirely assembled or molded in Japan. The head and mechanical units were made in Japan but exported to China in an unassembled state. All five units were exported to China where the head and mechanical units were assembled with screws and screwdrivers. Thereafter, the head, mechanism, circuit, and

power source units were mounted onto the outer case with screws. In holding that the country of origin for marking purposes was Japan, CBP recognized that the vast majority of the printer's parts were of Japanese origin and that the operations performed in China were relatively simple assembly operations.

In order to determine whether a substantial transformation occurs when components of various origins are assembled to form multifunctional machines, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The primary considerations in such cases are the country of origin of the machine's components and subassemblies, extent of processing that occurs within a given country, and whether such processing renders a product with a new name, character, and use. In addition, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skills required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no single factor is determinative.

Based on the facts and law of this case, we find that the assembled J-Model multifunctional systems are products of Japan for purposes of U.S. Government procurement. Although several of the subassemblies are assembled in China, we find that enough of the Japanese subassemblies and individual components serve major functions and are high in value, in particular, the transfer belt, control box unit, application-specific integrated circuits, charged couple device, and laser diodes. The process unit subassembly is also crucial in the performance of the multifunctional systems. While it is assembled in China, its key components, the developer and toner materials, and drums are produced in Japan.

Furthermore, it is significant that although the PWB is of Chinese origin, the firmware for the control box unit subassembly is developed in Japan. This firmware programming controls the print engine, readout mechanism, processes images for the copier, printer, fax, and scanner, and controls the operation panel display. We further note that the testing and adjustments performed in Japan are technical and complex. Finally, the assembly operations that occur in Japan are sufficiently complex and meaningful. Through the product assembly and testing and adjustment operations, the individual components and subassemblies of Japanese and foreign-origin are subsumed into a new and distinct article of commerce that has a new name, character, and use. Therefore, we find that the country of origin of the J-Models digital color multifunctional systems for purposes of U.S. Government procurement is Japan.

HOLDING:

Based on the facts of this case, we find that the processing in Japan substantially transforms the non-Japanese components. Therefore, the country of origin of the Sharp digital color multifunctional systems (Model Nos. MX-2300NJ and MX-2700NJ) is Japan for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register as required by 19 C.F.R. 177.29. Any party-at-interest other than the party that requested this final determination may request, pursuant to 19 C.F.R.

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 reference above, seek judicial review of this final determination before the U.S. Court of International Trade.

SANDRA L. BELL,
Executive Director;
Office of Regulations and Rulings,
Office of International Trade.

[Published in the Federal Register, February 28, 2007 (72 FR 9014)]

