

U.S. Customs and Border Protection

General Notices

Docket No. USCBP-2008-0001

**Notice of Meeting of The Departmental Advisory Committee
on Commercial Operations of Customs and Border
Protection and Related Homeland Security Functions
(COAC)**

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

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection and Related Homeland Security Functions (popularly known as “COAC”) will meet on February 13, 2008 in Tucson, AZ. The meeting will be open to the public.

DATE: COAC will meet Wednesday, February 13th from 1 p.m. to 5 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the JW Marriott Starr Pass Resort & Spa, 3800 W. Starr Blvd., Tucson, AZ 85745. Written material and comments should reach the contact person listed below by February 7th. Requests to have a copy of your material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by February 7, 2008. Comments must be identified by USCBP-2008-0001 and may be submitted by one of the following methods:

- **Federal Rulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** traderelations@dhs.gov. Include the docket number in the subject line of the message.
- **Fax:** 202-344-2064.
- **Mail:** Ms. Wanda Tate, Office of International Affairs and Trade

Relations, U.S. Customs and Border Protection, Department of Homeland Security, Room 8.5C, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the COAC, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of International Affairs and Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Ave., NW., Room 8.5C, Washington, DC 20229; traderelations@dhs.gov; telephone 202-344-1440; facsimile 202-344-2064.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C., app.), DHS hereby announces the meeting of the Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection and Related Homeland Security Functions (COAC). COAC is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

The fifth meeting of the tenth term of COAC will be held at the date, time and location specified above. A tentative agenda for the meeting is set forth below.

Tentative Agenda

1. Secure Freight Initiative / Advance Trade Data (10+2).
2. International Container Security.
3. C-TPAT (Customs-Trade Partnership Against Terrorism).
4. ITDS (International Trade Data System).
5. International Trade Issues/Updates.
6. Import Safety.
7. Intellectual Property Rights.
8. World Customs Organization Updates.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished.

Participation in COAC deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

All visitors to the hotel must check-in with CBP officials at registration held in the lobby at the JW Marriott Starr Pass Resort & Spa. Since seating is limited, all persons attending this meeting should provide notice, preferably by close of business Thursday, February 8, 2008, to Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC 20229, telephone 202-344-1440; facsimile 202-344-2064.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

Dated: January 18, 2008

MICHAEL C. MULLEN,
*Assistant Commissioner,
Office of International Affairs and Trade Relations,
U.S. Customs and Border Protection.*

[Published in the Federal Register, January 24, 2008 (73 FR 4254)]



NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING PRINTERS

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 printers which may be offered to the United States Government under an undesignated government procurement contract. CBP has concluded that the operations performed in each of two scenarios will result in the goods being considered products of the Netherlands.

DATES: The final determination was issued on January 25, 2008. 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 January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-572-8792).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 25, 2008, pursuant to subpart B of part 177, CBP Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain printers which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H013150, was issued at the request of Océ North America 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). In the final determination, CBP concluded that the operations performed in each of two scenarios will result in the goods being considered products of the Netherlands.

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), provides that any party-at-interest, as defined in 19 CFR § 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the *Federal Register*.

Dated: January 25, 2008

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

DEPARTMENT OF HOMELAND SECURITY.
U.S. CUSTOMS AND BORDER PROTECTION,**HQ H013150**

January 25, 2008

MAR-2-05 OT:RR:CTF:VS

H013150 GOB

CATEGORY: Marking

DAVID M. MURPHY, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & KLESTADT LLP
399 Park Avenue
25th Floor
New York, NY 10022-4877

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Printers

DEAR MR. MURPHY:

This is in response to your letter dated May 30, 2007, which we received by facsimile transmission on June 19, 2007, requesting a final determination on behalf of Océ North America (“Océ”), pursuant to subpart B of Part 177, Customs and Border Protection (“CBP”) Regulations (19 CFR 177.21 *et seq.*). We received your revised submission on July 17, 2007. Pursuant to our request for additional information, you submitted correspondence of September 28, 2007, November 2, 2007, and November 26, 2007.

Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated 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. You state that Océ will be the importer of the subject merchandise.

This final determination concerns the country of origin of certain “Cobalt” printers. We note that Océ is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

You describe the pertinent facts as follows. The Cobalt printer is a newly-designed wide-format printer, incorporating revolutionary print technology which was developed by Océ Technologies BV in the Netherlands. The printer will be capable of printing wide format color documents using Océ’s advanced imaging devices. The subassemblies for this printer are: imaging devices; upper module; printer cartridges; cut and receiving unit; frame lower unit; power supply unit; controller, including embedded software; and media drawer. Based upon customer needs, customized software options, developed in the Netherlands and France, will be available. Some of the printer subassemblies will be assembled in the Netherlands, some will be assembled in Malaysia. You state that, after the subassemblies are completed, they will undergo a “substantial configuration” in either the Netherlands or the United States.

You claim that the imaging devices and the printer cartridges are the most important components of the printer system. The imaging devices are claimed to be the printer's most complex component and are the key to its function and capabilities because this particular printer is designed to create wide format printed sheets. The printer functions by converting a computer image signal into numerous signals and then steering each of the imaging devices, which perform the actual print process. The printing unit is steered by the printed board assembly of the imaging devices, which creates a fixed print onto a sheet of paper. The process allows the movement of the paper under the imaging devices, which require the use of printer ink/toner which is replenished with ink/toner from the cartridges when the ink/toner level lowers. The imaging devices will be produced in Océ Technologies' new manufacturing site in the Netherlands from parts of European origin obtained from European suppliers, including a printed board assembly. Each imaging device is filled with blank ink/toner and tested in the Netherlands. You state that "Océ Technologies employs trained and highly skilled operators and technicians to manufacture the imaging devices in its high tech manufacturing facility." The imaging devices comprise fifty three percent (53%) of the printer's value.

The printer cartridges contain color ink/toner which is used to print the image. The ink/toner cartridge will be produced in Océ Technologies' manufacturing facility in the Netherlands, using plastic parts sourced in China. The cartridges will be filled with ink/toner and an EPROM (chip) inserted in the Netherlands. The chip controls communication with the engine controller.

The following subassemblies will be assembled in Malaysia. The upper module, which is constructed from subunits consisting of various plates, guides, shafts, motors, printed circuit boards, and bundles, moves and guides the imaging devices along in a carriage. The upper module will be assembled in Malaysia from approximately 600 parts in a process primarily involving screwing operations using workers who are "low trained and low skilled." European parts constitute forty percent (40%) of the value of the upper module. The upper module comprises approximately twenty seven percent (27%) of the printer's value.

The controller, developed by Océ Technologies, converts the raw computer signal into specific signals to each imaging device. The keys to the controller are the mainboard, which will be sourced from a European supplier and of European origin, and its software, developed by Océ Technologies. The controller is assembled in Malaysia.

In Malaysia, the cut and receiving unit, the frame lower unit, the power supply unit, the controller, and the media drawer will be assembled. In the near future, the two customer options – the roll holder and the roll loader – will be assembled in Malaysia. The Malaysian assembly costs are approximately one-half of one percent (0.5%) of the value of the printer. You state that "[a] 'fool proof assembly design' will be used by the Malaysian manufacturer in its assembly operations. Unskilled workers with minimal training will use simple tools to perform manufacturing operations involving mainly screwing and similarly simple processing."

After the Malaysian operations, the subassemblies will either be sent to Océ Technologies' configuration center in the Netherlands or to the United States for "substantial configuration." The subassemblies will be unpacked and integrated into a printer. The first steps are the affixing and positioning

of the imaging devices to the upper module and the mounting of the upper module on the frame lower unit. The controller unit, power supply unit, media drawers, and cut and receiving unit are added. Blank ink/toner is flushed out of the imaging devices, which are filled with colored ink/toner. The printer is precision adjusted using Océ Technologies' calibration software. After testing and fine-tuning, the printer is packed and transported to the customer. The cost of this operation is approximately three percent (3%) of the value of the printer.

The values of the components relative to the finished printer are as follows: printer cartridge (includes toner and the chip) – one percent (1%); cut and receiving unit – four percent (4%); frame lower unit – three percent (3%); power supply unit – three percent (3%); media drawer – four percent (4%); imaging device – fifty three percent (53%); module upper – twenty seven percent (27%); and controller – five percent (5%).

You request an origin determination that the subject printer is either country of origin United States or country of origin Netherlands under the TAA, *i.e.*, if the “substantial configuration” is performed in the United States, you request that the United States is the country of origin and if the “substantial configuration” is performed in the Netherlands, you request that the Netherlands is the country of origin.

ISSUE:

What is the country of origin of the subject printers for the purpose 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 as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

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

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

See also, 19 CFR § 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (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. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

The courts and CBP have also considered the essential character of the imported article in making these determinations. *See*, for example, *Uniroyal, Inc. v. United States*, 542 F. Supp. 1026, 3 CIT 220, 224–225 (1982) (where it was determined that imported uppers were the essence of a completed shoe) and *National Juice Products Association, et al v. United States*, 628 F. Supp. 978, 10 CIT 48, 61 (1986) (where the court addressed each of the factors (name, character, and use) in finding that no substantial transformation occurred in the production of retail juice products from manufacturing concentrate).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

As stated above, there are eight subassemblies which form the completed printer: imaging devices; upper module; cartridges; cut and receiving unit; frame lower unit; power supply unit; controller; and media drawer. The imaging devices and the cartridges will be assembled in the Netherlands; the other six subassemblies will be assembled in Malaysia.

After certain of the operations are performed in Malaysia, the subassemblies will either be sent to Océ Technologies' configuration center in the Netherlands or to the United States. Under this procedure, the operations performed will be the same whether they are performed in the Netherlands or the United States. You request a determination with respect to each of these scenarios, *i.e.*, the country of origin if the configuration is performed in the Netherlands and the country of origin if the configuration is performed in the United States.

You state that the imaging devices and the cartridges are the most important components of the printer. You state that the imaging devices are the printer's most complex component and are the heart of the printer's function and capabilities. The printer functions by converting a computer image signal into numerous signals and then steering each of the imaging devices, which perform the actual print process. We have stated that the origin of components is a relevant factor in substantial transformation determinations and that the outcome may change depending on where the various components originate and where they are assembled. *See*, for example, HQ 734256, dated July 1, 1992. Based upon the description of the printer, which

is designed to create wide format printed sheets, we agree that the essential character of the printer is imparted by the imaging device, which is produced in the Netherlands. Based upon this fact, in connection with the final assembly operations performed in the Netherlands, we find that the country of origin for government procurement purposes is the Netherlands, *i.e.*, the goods which are imported into the Netherlands from Malaysia and combined with the goods already in the Netherlands are substantially transformed in the Netherlands. The cumulative effect of the operations performed in the Netherlands and the fact that the imaging devices and the printer cartridges, both of which will be assembled in the Netherlands, are the most important components of the printer, allow us to conclude that the origin is the Netherlands. The imaging devices, which comprise approximately 53% of the printer's value, are the key to the printer's function and capabilities.

Further, we find that if the above-described operations are performed in the United States, the country of origin for government procurement purposes is the Netherlands, *i.e.*, a substantial transformation does not occur in the United States. We note that none of these subassemblies is produced in the United States. We find that the assembly operations to be performed in the United States are not of such complexity and meaningfulness that they result in a substantial transformation of any of the subassemblies in the United States and that the origin of the printer will be imparted by the essential character of the printer, the imaging device.

HOLDINGS:

In the situation in which the final assembly of the printer is performed in the Netherlands, the country of origin for government procurement purposes is the Netherlands, the country in which the imaging device and toner cartridge are produced and in which the final assembly is performed.

In the instance in which the final assembly of the printer is performed in the United States, the country of origin for government procurement purposes is the Netherlands, the country in which the imaging device and toner cartridge are produced.

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

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

[Published in the Federal Register, January 31, 2008 (73 FR 5862)]

**19 CFR PARTS 4, 12, 18, 101, 103, 113, 122, 123,
141, 143, 149 AND 192**

USCBP-2007-0077

RIN 1651-AA70

**Importer Security Filing and Additional Carrier
Requirements**

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

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document provides an additional 15 days for interested persons to submit comments on the proposed rule to amend the Customs and Border Protection (CBP) regulations to require both importers and carriers to submit additional information pertaining to cargo before the cargo is brought into the United States by vessel. The proposed rule was published in the **Federal Register** on January 2, 2008, and the comment period was scheduled to expire on March 3, 2008.

DATES: Comments on the proposed rule must be received on or before March 18, 2008.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2007-0077.
- Mail: Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Ave., NW. (Mint Annex), Washington, D.C. 20229.

Instructions: All submissions received must include the agency name and document 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 the proposed rule.

Docket: For access to the docket to read the notice of proposed rulemaking, background documents, or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW, 5th Floor, Washington, D.C. Ar-

rangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Richard Di Nucci, Office of Field Operations, (202) 344-2513.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Notice of Proposed Rulemaking

CBP published a notice of proposed rulemaking in the **Federal Register** (73 FR 90) on January 2, 2008, proposing to require both importers and carriers to submit additional information pertaining to cargo before the cargo is brought into the United States by vessel. Under the proposed rule, CBP must receive this information by way of a CBP-approved electronic data interchange system. The proposed regulations are specifically intended to fulfill the requirements of section 203 of the Security and Accountability for Every (SAFE) Port Act of 2006 and section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002.

The notice of proposed rulemaking invited the public to comment on the proposal. Comments on the proposed rule were requested on or before March 3, 2008.

Extension of Comment Period

In response to the proposed rule published in the **Federal Register**, CBP has received correspondence requesting an extension of the comment period. A decision has been made to grant an extension of 15 days. Comments are now due on or before March 18, 2008.

Dated: January 29, 2008

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

[Published in the Federal Register, February 1, 2008 (73 FR 6061)]

GENERAL NOTICE

19 CFR PART 177

**PROPOSED REVOCATION AND MODIFICATION OF
RULING LETTERS AND REVOCATION OF TREATMENT
RELATING TO SUBHEADING 9801.00.20, HARMONIZED
TARIFF SCHEDULE OF THE UNITED STATES**

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

ACTION: Notice of proposed revocation and modification of ruling letters and revocation of treatment relating to subheading 9801.00.20, Harmonized Tariff Schedule of the United States (“HTSUS”); reopening of comment period.

SUMMARY: The comment period with respect to this subject expires on February 8, 2008. This document extends the comment period within which interested parties may submit comments on the proposal. Comments must now be received on or before February 29, 2008.

DATE: Comments on the proposal must be received on or before February 29, 2008.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments submitted may be inspected at the offices of Customs and Border Protection, 799 9th Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Gerry O’Brien, Valuation and Special Programs Branch Branch, (202) 572-8740.

SUPPLEMENTARY INFORMATION:

CBP published a notice of proposed revocation and modification of ruling letters and revocation of treatment relating to subheading 9801.00.20, HTSUS, in the Customs Bulletin on January 8, 2008. The notice invited the public to comment by February 8, 2008.

In response to the notice, CBP has very recently received requests for extensions of the comment period. CBP is extending the comment period. Comments are now due on or before February 29, 2008.

DATED: February 4, 2008

MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.