

U.S. Customs and Border Protection



NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING A WOOD CHEST

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of a certain wood chest. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the wood chest for purposes of U.S. government procurement.

DATES: The final determination was issued on March 23, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 C.F.R. § 177.22(d), may seek judicial review of this final determination within April 28, 2010.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch: (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 23, 2010, pursuant to subpart B of part 177, Customs Regulations (19 C.F.R. part 177, subpart B), CBP issued a final determination concerning the country of origin of the wood chest which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in Headquarters Ruling Letter (“HQ”) H083693, was issued at the request of J. Squared, Inc. d/b/a University Loft Company under procedures set forth at 19 C.F.R. 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 has concluded that, based upon the facts presented, the wood chest, assembled in the U.S. from parts made in Malaysia and the U.S., is substantially transformed in the U.S., such that the U.S. is the country of origin of the finished article for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 C.F.R. § 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 C.F.R. § 177.30), provides that any party-at-interest, as defined in 19 C.F.R. § 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the *Federal Register*.

Dated: March 23, 2010

MYLES B. HARMON
Acting Executive Director
Regulations and Rulings Office of
International Trade

Attachment

HQ H083693

March 23, 2010

OT:RR:CTF:VS H083693 EE

CATEGORY: Marking

LISA A. CROSBY
SIDLEY AUSTIN, LLP
1501 K STREET, NW
WASHINGTON, D.C. 20005

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

DEAR Ms. CROSBY:

This is in response to your correspondence of November 4, 2009, requesting a final determination on behalf of J. Squared, Inc. d/b/a University Loft Company (“ULC”), pursuant to subpart B of part 177, Customs and Border Protection (“CBP”) Regulations (19 C.F.R. § 177.21 *et seq.*). Under the pertinent regulations, which implement 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 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 the G10624–30 Wood Chest. We note that ULC 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:

You describe the pertinent facts as follows. ULC’s principal place of business is in Greenfield, Indiana. The company manufactures the wood chest at its facility in Greenfield, Indiana. The wood chest is a self-centering, stackable, two-drawer chest made of environmentally farmed hevea brasiliensis wood in a natural finish. Its dimensions are: 36 1/4” wide, 21 13/16” deep and 18 11/16” high. ULC designed this chest wholly within the U.S. ULC makes the wood chest from U.S. and imported components at its facility in Greenfield, Indiana.

You state that the wood chest contains over twenty components plus screws and other hardware. All of the materials are of U.S. or Malaysian origin. Production and packaging of the chest occurs in the U.S.

You submitted the bill of materials for the wood chest. Of the total cost of production, 40 percent is attributable to materials of U.S. origin, U.S. warehouse overhead and U.S. labor costs (including overhead). Some of the components from Malaysia include the following: drawers, panels, drawer frame pieces, top shelf frame pieces, drawer slides, and screws. The laminate top originates in the U.S. You submitted a photographic illustration of the U.S. production. The production of the wood chest takes approximately forty-one minutes. You claim that each step is completed by skilled workers who undergo an extensive training process.

The production of the wood chest begins by staging the left and right side panels for assembly. These panels are moved into the slide attachment workstation, where two drawer slides are drilled into place on each side panel

using screws. A jig is used to ensure exact placement of the drawer slides. Next, two drawer frame assemblies and one top frame assembly are constructed from wood pieces imported from Malaysia. The wood pieces are hand-fitted together with glue and measured against a jig to ensure the frames meet exact specifications. After the various frame pieces are glued together, the frame is clamped and bradded to maintain a tight fit until the glue dries. The three frame assemblies (two drawer frames and one top frame) are then attached to the left and right side panel assemblies using screws and glue. The laminate top (U.S.-origin) and back panel are then affixed to the frame/side panel assembly using glue and screws.

On a separate production line, drawer assemblies are staged for production. A jig is used to align the drawer slides and attach them to the drawer assemblies with screws. The drawer assemblies with slides are then inserted into the chest and adjustments are made as necessary to meet specifications and ensure a smooth operation.

After final assembly, the wood chest undergoes a quality control review, during which the contract manufacturer and “Friends of the World” labels (reflecting that the wood is sustainably harvested) are affixed to the inside of the top drawer. The chest is then packaged using shrink-wrap and recycled cardboard. Finally, the packaged chest is palletized and labeled for shipment/delivery.

ISSUE:

What is the country of origin of the wood chest for the purpose of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 C.F.R. § 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 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government’s purchase of products to U.S.-made or desig-

nated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define “U.S.-made end product” as:

...an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States 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 transformed.
48 C.F.R. § 25.003.

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 the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Carlson Furniture Industries v. United States*, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In HQ W563456, dated July 31, 2006, CBP held that certain office chairs assembled in the U.S. were a product of the U.S. for purposes of U.S. government procurement. The office chairs were assembled from seventy U.S. and foreign components. The imported components alone were insufficient to create the finished chairs and substantial additional work and materials were added to the imported components in the U.S. to produce the finished chairs. In finding that the imported parts were substantially transformed in the U.S., CBP stated that the components lost their individual identities when they became part of the chair as a result of the U.S. assembly operations and combination with U.S. components. In HQ 561258, dated April 15, 1999, CBP determined that the assembly of numerous imported workstation components with the U.S.-origin work surface into finished workstations constituted a substantial transformation. CBP held that the imported components lost their identity as leg brackets, drawer units, panels etc. when they were assembled together to form a workstation.

This case involves twenty main components which are proposed to be assembled in the U.S., largely by skilled workers. The laminate top, of U.S. origin, will be assembled into the wood chest in a twenty step process which will take approximately forty-one minutes. Under the described assembly process, we find that the foreign components lose their individual identities

and become an integral part of a new article, the wood chest, possessing a new name, character and use. Based upon the information before us, we find that the components that are used to manufacture the wood chest, when combined with a U.S. origin laminate top, are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the wood chest for government procurement purposes is the U.S.

HOLDING:

The imported components that are used to manufacture the wood chest are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, we find that the country of origin of the wood chest for government procurement purposes is the U.S.

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 which 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. Pursuant to 19 C.F.R. § 177.30, 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.

Sincerely,

MYLES B. HARMON

*Acting Executive Director
Regulations and Rulings Office of
International Trade*

[Published in the Federal Register, March 29, 2010 (75 FR 15448)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

United States-Caribbean Basin Trade Partnership Act

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

ACTION: 60-Day Notice and request for comments; Revision of an existing collection of information: 1651-0083.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the United States-Caribbean Basin Trade Partnership Act. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 28, 2010, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

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. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. 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: United States-Caribbean Basin Trade Partnership Act

OMB Number: 1651-0083

Form Number: 450

Abstract: This collection of information is required to implement the duty preference provisions of the United States-Caribbean Basin Trade Partnership Act (CBTPA). The provisions of CBTPA were adopted by the U.S. with the enactment of the Trade and Development Act of 2000 (PL.106-200). The objective of the CBTPA is to expand trade benefits to countries in the Caribbean Basin. For preferential treatment under CBTPA, importers are required to have CBTPA Certification of Origin (Form 450) in their possession at the time of the claim, and to provide it to CBP upon request. CBP uses the information provided on Form 450 to determine if an importer is entitled to preferential duty treatment under the provisions of the CBTPA.

Current Actions: This submission is being made to revise the burden hours as a result of revised estimates of the number of Form 450s are prepared and/or submitted to CBP.

Type of Review: Extension with a change to the burden hours.

Affected Public: Businesses

Estimated Number of Respondents: 84

Estimated Number of Responses per Respondent: 57.2

Estimated Number of Total Annual Responses: 4,804

Estimated Time Per Response 15 minutes

Estimated Total Annual Burden Hours: 1,201

Dated: March 23, 2010

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection

[Published in the Federal Register, March 29, 2010 (75 FR 15446)]