

HQ 559703

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CATEGORY: Marking

Kathleen M. Murphy, Esq.  
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525 West Monroe Street  
Chicago, Illinois 60661-3693

RE: Country of origin marking of engine parts and components

Dear Ms. Murphy:

This is in reference to a letter from your office dated February 20, 1996, on behalf of General Electric Aircraft Engines ("GEAE"), requesting country of origin marking requirements for certain engine parts and components.

FACTS:

GEAE is engaged in a joint venture with a foreign company ("X"), to produce and sell civil aircraft engines to various purchasers in the U.S. Each party has the responsibility for the production or sourcing of designated components of the finished engine, and either party may assemble the engine in part from components and subassemblies ("modules") produced internally and in part from components imported from the other party.

The production parts used by GEAE and X Company to manufacture their respective modules may be sourced from vendors located in the U.S. and/or other countries. Many parts may be sourced from multiple vendors. Each module consists of thousands of parts and is assembled by GEAE in the U.S., or by X Company at its facility abroad, as designated. Engines sold to customers in the U.S. may be assembled by GEAE in the U.S. or by X Company at its foreign location.

As part of the customary contract of purchase, GEAE agrees to provide repair and maintenance services for these engines. When required, the engines are sent to GEAE's facility in Wales, England, where they are taken apart and inspected for routine service or necessary repairs. Each engine is assigned a work order number, based on its manufacturer's serial number.

A typical engine overhaul involves stripping down the engine by removing a group of parts or subassemblies. The subassemblies are then further broken down into production parts. The Wales facility then makes as many on-site repairs or replacements of parts for each engine as possible. Those parts that cannot be repaired or replaced by the Wales facility are returned to GEAC or X Company, depending on place of manufacture or source of the individual part, or directly to an approved vendor of the part, for repair or replacement. Under certain circumstances, where a short turn-around time is required, the Wales facility does not clean or examine the parts, but merely ships the removed parts to the engine's manufacturer or an approved vendor for inspection, determination of work scope, replacement, and/or repair or return.

You state that during the tear-down process, parts from a particular engine are separated from those removed from other engines, and if shipped, are never commingled with parts from other engines. The engines themselves usually stay at the Wales facility, in tear-down condition, awaiting the reinstallation of the repaired or replacement parts.

When GEAE receives an engine's parts in the U.S., it repairs or replaces the parts as necessary. In certain cases, if the parts cannot be repaired expeditiously, they are placed in GEAE's parts pool to meet future production (for an aircraft engine to be built in the U.S.), as a spare part, or for re-exportation. You state that the parts that are shipped back to the Wales facility are reinstalled into the same engine model from which they were removed, and that parts from one engine

model serviced by the Wales facility are never used to repair or replace parts from another engine model, even in an engine made by the same manufacturer.

ISSUE:

What is the country of origin of the imported engine parts?

LAW AND ANALYSIS:

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. The purpose of the marking statute is outlined in *United States v. Friedlaender & Co.*, 27 CCPA 297 at 302 C.A.D. 104 (1940), where the court stated that: "Congress intended that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the goods is the product. 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."

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. 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 C.C.P.A. 267 at 270 (1940).

Accordingly, the first question we must address is whether the imported parts initially undergo a substantial transformation as a result of their assembly into engine modules, and then into the aircraft engine, either in the U.S. or abroad.

In C.S.D. 85-25, 19 Cust. Bull. 544 (1985) (HRL 071827 dated September 25, 1984), Customs held that for purposes of the Generalized System of Preferences (GSP), an assembly process will not constitute a substantial transformation unless the operation is "complex and meaningful." Whether or not an operation is "complex and meaningful" depends on the nature of the operation, including the number of components assembled, number of different operations involved, and whether a significant period of time, skill, detail and quality control are necessary for the assembly operation.

In Headquarters Ruling Letter (HRL) 555756 dated March 25, 1991, chain saws were manufactured in Mexico with the use of engines that were assembled in Mexico from Mexican and other foreign origin components, and 125 U.S. components. These components were first formed into various subassemblies of the engine (manual oil pump, fuel and oil tank, flywheel, starter, pump, handle/throttle lock and crankshaft piston), which were then further assembled into the engine. The engine was then assembled with 20 additional components to form the chain saw. Customs held that the components which made up the gasoline engine had undergone a substantial transformation because there clearly was a name change from components such as nuts, bolts, contact ignition switch, sparkplugs, cylinders, etc., to a gasoline engine. Moreover, the processing operations changed the character and use of the components by designating them to a specific use, i.e., an engine to start and operate chain saws. In that case, over 100 discrete components were combined in operations, such as mounting, welding, bolting, and quality control testing which increased the components' value and endowed them with new attributes. Therefore, the engine was held to be a substantially transformed constituent material of the chain saw, thereby enabling the cost or value of the engine materials to be counted toward the 35 percent value-content requirement for purposes of the GSP. See also HRL 556976 dated June 9, 1994, where we held that the production of automobile engines in a Foreign Trade Zone (FTZ) resulted in a substantial transformation of the foreign and domestic parts, for purposes of determining the applicability of subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS).

In the instant case, the assembly of numerous parts to create various subassemblies ("modules"), and the assembly of these modules to produce the aircraft engine, ultimately involving thousands of individual parts, is a complex operation requiring specialized skills and expertise. The assembled individual components and subassemblies undergo a change in use, character and identity and become an integral part of the aircraft engine. Accordingly, we find that the operations performed in the U.S. or abroad leading to production of the engine result in a substantial transformation of the imported parts. Therefore, the country of origin of the parts will be the country where the engine was produced.

The next issue to be addressed is whether the subsequent disassembly of the engines and other operations which take place at the Wales facility results in a change in the country of origin of the imported parts from the country of origin of the engines.

Section 134.1(b), Customs Regulations (19 CFR 134.1(b)), provides in pertinent part that "Country of origin" means country of manufacture, production, or growth of any article of foreign origin entering the United States. 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." Emphasis added.

In Headquarters Ruling Letter (HRL) 732258 dated March 28, 1990, Customs held that for country of origin marking purposes automotive alternators that were sent to Mexico to be cleaned, disassembled, rebuilt with new parts and electronically tested were not substantially transformed and did not become products of Mexico. We found in that case that the rebuilt alternators did not have a new name, character or use, but merely were made functional again. See also HRL 556609 dated July 23, 1992, where we held that the disassembly of steering gear assemblies in Mexico for purposes of repair did not substantially transform the assemblies into a product of Mexico for country of origin marking purposes.

In the instant case, the various parts assembled to produce the aircraft engine are substantially transformed during this process. The parts of the engine which are subsequently disassembled and imported by GEAE for repair (or replacement) do not undergo a change in character or use as a result of such disassembly, but retain their identity as parts of the engine from which they were removed. Therefore, since these parts do not undergo a substantial transformation as a result of such disassembly, the country of origin of such parts remains the country where the engine was produced and they must be marked accordingly. Foreign parts remaining in the U.S. and subsequently re-exported must undergo a substantial transformation in order to effect a change in the country of origin.

**HOLDING:**

Foreign and domestic parts used in the production of aircraft engines undergo a substantial transformation as a result of such operations. Subsequent disassembly of the engines abroad and removal of parts for purposes of repair and reassembly will not effect a substantial transformation of the parts. Therefore, the country of origin of the parts imported for repair (or replacement) will be the country where the related engine was produced and they must be marked accordingly. Foreign parts remaining in the U.S. and subsequently re-exported and returned must undergo a substantial transformation in the U.S. in order to render the U.S. the country of origin. This decision relates to country of origin marking determinations only.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

Sincerely,

John Durant,  
Director  
Tariff Classification Appeals Division