

N302992

March 27, 2019

MAR-2 OT:RR:NC:N1:424

CATEGORY: Marking; Country of Origin

Ms. Kimberly Shultz-Lewis
Dick's Sporting Goods
345 Court Street
Coraopolis, PA 15108

RE: The country of origin marking of bicycles assembled in Taiwan using foreign components

Dear Ms. Lewis:

This is in response to your letter dated December 26, 2018, requesting a ruling on the country of origin marking of bicycles assembled in Taiwan using foreign components.

The models at issue are identified as the Girl's Nishiki Manitoba bicycle, the Women's Nishiki Manitoba bicycle, the Men's Nishiki Manitoba bicycle, the Boy's Nishiki Manitoba bicycle, the Women's Nishiki Anasazi bicycle, the Men's Nishiki Anasazi bicycle, and the Men's Nishiki Maricopa bicycle. In each case, the bicycles are classified in heading 8712, Harmonized Tariff Schedule of the United States (HTSUS).

In your submission, you are proposing all of the aforementioned bicycle models are to be marked "Made in Taiwan". Per the information provided, the components of the bicycle are produced in a variety of countries, such as China, Malaysia, Indonesia and Taiwan. You also indicate that the individual components are not marked with the respective country of origin from which they are sourced. The collective components are combined with one another in Taiwan and packaged together to form the complete unassembled bicycle. It is further noted that Dick's Sporting Goods will be importing the bicycles at issue into the United States with no further components to be added upon importation.

In HQ 735368, dated June 30, 1994, Customs issued a ruling on the country of origin of bicycles imported from Taiwan. In the ruling, we noted that the bicycle frame is the most costly component and is one of the essential components of the bicycle (if not the most essential component) imparting to the bicycle its overall shape, size and character. Consequently, it can be inferred that the essential character of a bicycle is imparted by its frame.

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the

article (or its 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 "country of origin" is defined in 19 CFR 134.1(b) as "the 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' within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin."

For tariff purposes, the courts have held that a substantial transformation occurs when an article emerges from a process with a new name, character or use different from that possessed by the article prior to processing. *United States v. Gibson-Thomsen Co., Inc.*, 27 CCPA 267, C.A.D. 98 (1940); *National Hand Tool Corp. v. United States*, 16 CIT 308 (1992), *aff'd*, 989 F. 2d 1201 (Fed. Cir. 1993). However, if the manufacturing or combining process is merely a minor one that leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026, 1029 (1982), *aff'd*, 702 F.2d 1022 (Fed. Cir. 1983).

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. 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.

As noted above, Dick's Sporting Goods assembles and packages all seven bicycle models in Taiwan from Chinese and other foreign origin components. According to the costed bill of materials documents submitted with your request, all of the bicycle frames, along with the handlebars are produced in China. Additional information provided by you indicates that all of the bicycle frames are cut, formed and welded in China prior to being shipped to Taiwan for component assembly. Additionally, the forks for all four Manitoba models and the Maricopa model are all produced in China. It is further noted that the majority of parts are made outside of Taiwan, then shipped as individual components to Taiwan whereby quality control is conducted. Subassemblies of the crank, wheels, brakes, handlebars, shifting system, etc. are done in Taiwan before joining the parts together with screws and creating completed assemblies.

After a thorough review of the bill of materials and the production process described in your submission, it is the opinion of this office that the component assembly operation, the inspection and the packaging performed in Taiwan do not result in a substantial transformation of the bicycle frames. Thus, the country of origin of all seven models of the aforementioned bicycles will be China. Therefore, the unassembled bicycles are considered a product of China for marking purposes at the time of importation into the United States.

Effective July 6, 2018, the Office of the United States Trade Representative (USTR) imposed an additional tariff on certain products of China classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(b), HTSUS. The USTR imposed additional tariffs, effective August 23, 2018, on products classified under the subheadings enumerated in

Section XXII, Chapter 99, Subchapter III U.S. Note 20(d), HTSUS. Subsequently, the USTR imposed further tariffs, effective September 24, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(f) and U.S. Note 20(g), HTSUS. For additional information, please see the relevant Federal Register notices dated June 20, 2018 (83 F.R. 28710), August 16, 2018 (83 F.R. 40823), and September 21, 2018 (83 F.R. 47974). Products of China that are provided for in subheading 9903.88.01, 9903.88.02, 9903.88.03, or 9903.88.04 and classified in one of the subheadings enumerated in U.S. Note 20(b), U.S. Note 20(d), U.S. Note 20(f) or U.S. Note 20(g) to subchapter III shall continue to be subject to antidumping, countervailing, or other duties, fees and charges that apply to such products, as well as to those imposed by the aforementioned Chapter 99 subheadings.

Products of China classified under heading 8712, HTSUS, unless specifically excluded, are subject to the additional 10 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.03, in addition to the HTSUS classifications.

The tariff is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Notice cited above and the applicable Chapter 99 subheading.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 CFR Part 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Roseanne Murphy at roseanne.j.murphy@cbp.dhs.gov.

Sincerely,

Steven A. Mack
Director
National Commodity Specialist Division