

highways." Like the applicant, NTEA was "unaware of any device that would meet the requirements of FMVSS 224 while allowing this particular type of trailer to perform its intended function." It reminded us that we have temporarily exempted similar types of trailers from compliance with Standard No. 224.

The Agency's Findings in Support of an Exemption

Columbia's present average production of only 12 trailers a year has been insufficient to generate a net profit for the company, and its net loss of over \$750,000 in 2001 reflects a severe downturn in the company's financial fortunes. It anticipates that it could realize \$750,000 in sales of 14 trailers of the type for which it has requested exemption, and for which potential customers have requested a price quotation. The company has investigated, unsuccessfully, means of compliance with Standard No. 224. There seems to be agreement, as indicated by NTEA's comment, that there is no feasible way for these trailers to be brought into compliance without compromising the function for which they were designed.

The public interest is served by allowing the production of these special-purpose road construction trailers, balanced against the limited number in which they are produced and the relatively limited time that they spend in transit on the public roads from one job site to another. Further, there is no substantial difference between Columbia Body's petition and other hardship applications that we have granted in the past (*e.g.*, Red River Manufacturing, Inc. and Dan Hill & Associates, Inc., 66 FR 20028).

Accordingly, for the reasons set above, we hereby find that compliance with Standard No. 224 would cause substantial economic hardship to Columbia Body, which has tried in good faith to comply with Standard No. 224, and we further find that an exemption would be in the public interest and consistent with the objectives of traffic safety. We accordingly grant NHTSA Temporary Exemption No. 2003-1 to Columbia Body Manufacturing Co. for its dump body type trailer only, from 49 CFR 571.224 Standard No. 224, Rear Impact Protection, expiring February 1, 2006.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on February 10, 2003.

Jeffrey W. Runge,
Administrator.

[FR Doc. 03-3588 Filed 2-12-03; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Issuance of Final Determination Concerning Bowling Pinsetters

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that Customs has issued a final determination concerning the country of origin of certain bowling pinsetters which are installed at military facilities in the United States and which will be offered to the United States Government. The final determination found that based upon the facts presented, the country of origin of the bowling pinsetters is the United States.

DATES: The final determination was issued on February 7, 2003. 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 13, 2003.

FOR FURTHER INFORMATION CONTACT:

Karen S. Greene, Special Classification and Marking Branch, Office of Regulations and Rulings (202-572-8838).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 7, 2003, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), Customs issued a final determination concerning the country of origin of certain bowling pinsetters offered to the United States Government. The U.S. Customs ruling number is HQ 562583. This final determination was issued at the request of Brunswick 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 the United States of numerous foreign and U.S. subassemblies and parts to create the pinsetters and the installation of the pinsetters in facilities in the United States result in a substantial transformation of the foreign subassemblies. Accordingly, the country of origin of the bowling pinsetters is the United States.

Section 177.29, Customs 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, Customs Regulations (19 CFR 177.30), states 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**.

Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of (date of publication in the **Federal Register**).

Dated: February 7, 2003.

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations and Rulings.

Attachment.

HQ 562583

MAR-05 RR:CR:SM 562583 KSG
February 7, 2003.

Category: Marking

Richard M. Belanger, Esq.,
Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005.

Re: Country of origin of bowling pinsetters; substantial transformation; 19 CFR 177.22; procurement.

Dear Mr. Belanger: This is in response to your letters dated November 18, 2002, and January 17, 2003, on behalf of Brunswick Corporation, requesting a final determination of origin pursuant to 19 CFR 177.22(c) regarding U.S. Government procurement of certain bowling pinsetters assembled in the United States.

Facts

Brunswick Corporation is the importer of the components of the bowling pinsetters and therefore, is a party-in-interest as defined in 19 CFR 177.22(d).

This case involves the GS-X model of bowling pinsetters, which are automated machines designed to return bowling balls, pick up standing bowling pins and clear the deck at bowling facilities. The pinsetters are sold to military installations and other U.S. Government entities. This request involves a contract for installation of the GS-X pinsetters at bowling alleys located inside the United States. Brunswick anticipates that it will enter into contracts in the future for facilities at U.S. military bases in foreign countries as well as in the United States.

The GS-X pinsetter is typically sold in sets of two mechanical subassemblies and one electrical controller assembly plus other parts, although Brunswick may occasionally sell a single mechanical assembly with an attached electrical controller. The electrical assembly is manufactured in the United States by Controls, Inc., an unrelated company.

The mechanical assemblies are comprised of seven subassemblies consisting of thousands of components from numerous countries. The mechanical assemblies consist of three major parts: (1) The central block; (2) the "six-pack"; and (3) the ball accelerator. The central block is a large steel box that contains four subassemblies: the sweep wagon subassembly; the setting table subassembly; the drive frame sub-assembly; and the distributor subassemblies. Included in the drive frame subassembly are three

motors, including the distributor motor, the sweep motor and the table motor. The distributor subassembly, which resembles a conveyor belt assembly line, takes the pins from the pin elevator subassembly and places them in the setting table subassembly. The setting table subassembly picks up the standing pins from the lane and takes them again from the distributor subassembly before setting them down on the lane. Between the time when the setting table picks up the standing pins and sets them down again, the sweep wagon subassembly sweeps away felled pins. The drive frame subassembly houses three of the motors that are needed to run the central block and six-pack.

The six-pack assembly contains the pin elevator subassembly with two pin elevators and the ball pit subassembly with two ball cushions and two rollers. The pin elevator subassembly receives the pins from the ball pit subassembly and raises them into the distributor subassembly. The ball pit subassembly handles the initial impact of the pins and ball and cycles them through the pinsetter to get ready for the next ball.

The ball accelerator includes the ball accelerator motor. The ball accelerator subassembly returns the ball to the bowler.

In addition to the above-described mechanical subassemblies, the complete pinsetter, as installed, contains the U.S.-origin electrical controller assembly as well as other U.S. parts.

In foreign country X, Brunswick constructs the large steel frame that houses the central block. Numerous other parts from various countries are also shipped to foreign country X for assembly of the seven principal subassemblies of the mechanical assembly. Brunswick then attaches the distributor subassembly to the steel casing of the central block. The six remaining subassemblies and the central block casing are then shipped to a manufacturing facility in Muskegon, Michigan.

I. Processing Performed at Michigan Plant

In the United States (Muskegon, Michigan), Brunswick integrates the sweep wagon and setting table subassemblies, as well as the three motors of the drive frame subassembly, into the central block.

The integration of the sweep wagon mechanical subassembly involves installing it into the central block in a front orientation at a 45 degree diagonal position, with the right end being placed into the right sweep track first. Brunswick then adjusts the rollers to a minimum clearance of five millimeters on each side between the roller screw, taking care to ensure that adequate clearance is maintained during the entire length of travel by manually running the wagon forward and aft. Brunswick then attaches the sweep wagon to the sweep crank arms with nylon bushings, large flat shim washers and retaining rings. This procedure is then repeated on the opposite side. Finally, Brunswick adjusts the clearance to an average of ten millimeters between the gutter adapter and the flat gutter, with slots and screws provided in both adapters. This final adjustment must be made at the midpoint of wagon travel to allow the necessary clearance at extreme front and rear positions.

Brunswick integrates the setting table mechanical subassembly into the central block. This process involves the initial placement of spacers onto the corners of the test stand deck. The assembly team then delivers the setting table to the test stand deck and sets it onto the spacers, ensuring that the spacers are clear of the spotting tong attachment screws that protrude from the underside of the setting table. Brunswick then manually turns the setting table drive pulley on the left side of the drive frame to drop the left and right deck racks to the lowest point. The deck rack teeth are aligned to the drive gear teeth and plumb. Brunswick removes the hex nuts and lock washers from the setting table studs and installs the feet of the deck rack onto studs. Brunswick then rotates the bottom hex nuts until the first interference is detected against the deck rack feet. The top hardware is reinstalled and tightened. Brunswick manually turns the setting table drive pulley in the opposite direction to raise the setting table slightly so that the spacers can be removed. The setting table is re-lowered to the lowest position. Brunswick verifies that a 5 to 15 millimeter gap exists on all points between the setting table frame and the deck of the test stand. If proper clearance is not correct, or if the table frame is not level, appropriate adjustments are made. The top sections are then assembled for the telescoping square drive shafts for each of the setting table pivot shafts, and the spotting tongs with hardware are provided. Finally, Brunswick assembles and routes the setting table function switch and solenoid cable into the conduit channel at the front of the machine.

Brunswick integrates the distributor motor of the drive frame subassembly into the central block. This involves the assembly and placement of the motor pulley to the motor shaft. A 60 Hz sheave must be facing away from the motor assembly. The motor and mount assembly must first be placed into the forward motor location in the left drive frame and then be assembled into the frame with bushing, spacer and hitch pins. Brunswick then assembles the tension spring from the mount to the frame. Brunswick assembles the V-belt to the motor pulley and drive pulley.

The sweep motor of the drive frame subassembly is integrated into the central block. This involves a process identical to the assembly of the distributor motor described above except that the assembly is located in the middle motor location of the drive frame.

The setting table step motor of the drive frame subassembly is integrated into the central block. This involves a process identical to the assembly of the distributor and sweep motors described above except that the assembly is located in the rear motor location of the drive frame.

After assembly of the three subassemblies into the central block, the fully assembled central block is quality tested at the Michigan facility. Each central block undergoes 400 cycles of testing, which can take several hours.

Counsel states that the processing performed at the Michigan facility requires complex and detail-oriented labor and precise calibrations performed by highly skilled employees.

II. Processing Performed at Bowling Facility

At the bowling facility, the ball pit and pin elevator subassemblies are joined to create the six-pack component of the mechanical assembly. The central block, six-pack, and ball accelerator are then assembled to form the mechanical assemblies, after which the U.S.-made electrical controller assembly and other miscellaneous parts are integrated into the mechanical assemblies to form the GS-X pinsetter.

The GS-X pinsetter is installed into the bowling facility. This process takes approximately 20 hours of skilled labor per pinsetter, using tools and large moving equipment specially constructed for that particular installation. The project manager and field foreman manage the quality-assurance procedures and certify that each pinsetter is installed and functioning according to Brunswick specifications, which counsel states surpass those of the American Bowling Congress.

Issue

Whether the bowling pinsetters are substantially transformed in the United States so that they become products of the United States for U.S. Government procurement purposes.

Law and Analysis

Under 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.*), the Customs Service 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).

If the manufacturing or combining process is a minor one which leaves the identity of the imported article intact, a substantial transformation has not occurred. *See Uniroyal Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026 (CIT 1982). Assembly operations which 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, and C.S.D. 90-97.

Customs ruled in Headquarters Ruling Letter ("HRL") 561734, dated March 22, 2001, 66 FR 17222, that Sharp multifunctional machines (printer, copier and fax machine) assembled in Japan were a product of Japan for procurement purposes. The machines were comprised of 227 parts (108 parts sourced from Japan, 92 parts from

Thailand, 3 parts from China, and 24 parts from other countries) and eight subassemblies, each of which was also assembled in Japan. Further, the scanner unit (one of the eight subassemblies) which was assembled in Japan was characterized as "the heart of the machine." See also HRL 561568, dated March 22, 2001, 66 FR 17222.

In HRL 560433, dated September 19, 1997, Customs held that the assembly in the United Kingdom of audio/video stereo receivers from 16 subassemblies and other components originating from various countries resulted in a substantial transformation. Customs noted in that ruling that numerous skilled workers assembled the stereo receivers from numerous components and hundreds of raw materials. In HRL 734045, dated October 8, 1991, Customs held that foreign subassemblies and other components imported into Hong Kong which were processed and assembled with other Hong Kong components to make laptop and notebook personal computers were substantially transformed as a result of the Hong Kong operations.

In HRL 558919, dated March 20, 1995, Customs held that an extruder subassembly manufactured in England was substantially transformed in the United States when it was wired and combined with U.S. components (motor, electrical controls and extruder screw) to create a vertical extruder. In HRL 559887, dated October 3, 1996, Customs held that swivel joints and torsion spring balance assemblies from India were substantially transformed when assembled in the U.S. with

U.S.-origin components to produce top and bottom loading/unloading arms (petroleum handling equipment). Therefore, the loading arms were considered products of the United States. Customs recently ruled in HRL 562502, dated November 8, 2002, that a Chinese-origin transfer feeder unit and Chinese-origin outer covers were substantially transformed when assembled in Japan with a Japanese-origin laser scanner unit to produce a printer engine. "When taken together, the manufacture of the laser scanner unit and the final assembly of the printer engine is complex and meaningful." Therefore, for procurement purposes, the printer engines were considered to be products of Japan.

In this case, the complex assembly of the central block from three subassemblies, including the incorporation of three motors from the drive frame subassembly into the central block, combined with the subsequent assembly of the central block, six-pack, ball accelerator, and U.S.-origin electrical controller assembly and the installation of the pinsetters in bowling facilities in the United States, when taken together, result in a substantial transformation of the foreign-origin subassemblies involved. The processing in the United States requires precise calibration and involves the assembly of numerous parts and subassemblies and highly skilled labor. The name, character and use of the foreign-origin subassemblies and parts change as a result of the processing and other assembly operations performed in the United States. Therefore, pursuant to 19

U.S.C. 2518(4)(B), and 19 CFR 177.22(a), we find that the country of origin of the bowling pinsetters is the United States.

Holding

Based on the facts presented, the components imported into the United States that are used in the manufacture of the bowling pinsetters involved in this case are substantially transformed in the United States. Accordingly, pursuant to 19 U.S.C. 2518(4)(B), and 19 CFR 177.22(a), the country of origin of the bowling pinsetters is the United States.

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 this final determination may request, pursuant to 19 CFR 177.31, that Customs 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.

Sincerely,

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations & Rulings.

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