

Additionally, you state that significant resources are expended on the chair's design and that development research continues in HM's U.S. design studios to ensure that it remains the benchmark when compared to other available work chairs.

ISSUE:

Whether the assembled HM chairs are considered to be products of the United States for purposes of U.S. Government procurement.

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.*), CBP 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 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 (CIT 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). In *Carlson Furniture Industries et al. v. United States*, 65 Cust. Ct. 474 (1970), the court ruled that U.S. operations on imported chair parts constituted a substantial transformation and thus conferred U.S. origin on the finished chair. The court stated:

The imported articles are not chairs in unassembled or knocked-down condition. They are at best the wooden parts which go into the making of chairs. [I]t is not contemplated that these imported chair parts are to be sold [* * *] in the condition in which they are imported.

[A]dditional work would have to be performed on them and materials added to them to create with them a functional article of commerce.

We regard these operations as being substantial in nature, and more than the mere assembly of parts together. And the end result of the activities performed on the imported articles by the plaintiff Carlson Furniture is the transformation of parts into a functional whole—giving rise to a new and different article* * *

Customs has also previously considered, in a number of cases, whether components imported into a country for assembly have been substantially transformed as a result of such processing. 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. 85–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), we held that for purposes of the Generalized System of Preferences, 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.

In Headquarters Ruling Letter ("HRL") 563110, dated October 20, 2004, Customs addressed whether assembly of fishing fly reels in the U.S. of imported and U.S.-origin components resulted in a substantial transformation. The reels comprised over 20 separate parts and the U.S.-origin components accounted for over 50 percent of the total cost of each assembled reel. In addition, some of the imported components were further processed in the U.S. before final assembly into fishing fly reels. Based on the totality of the circumstances, Customs held that the imported reel components were substantially transformed as a result of the assembly operations in the U.S.

In HRL 561734, dated March 22, 2001, 66 FR 17222, Customs ruled that Sharp multifunctional machines (printer, copier and fax machines) assembled in Japan were a product of Japan for purposes of government procurement. The machines in that case were comprised of 227 parts (108 parts obtained from Japan, 92 from Thailand, 3 from China, and 24 from "other" countries) and eight subassemblies, each of which was assembled in Japan. It was further noted that the scanner unit (one of the eight subassemblies assembled in Japan) was characterized as "the heart of the machine." *See also*, HRL 561568 dated March 22, 2001, 66 FR 17222.

As the cases set forth above demonstrate, in order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed articles, Customs considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

Like the importer in *Carlson Furniture*, you inform us that HM does not import chairs in knock-down condition. You claim that the imported components alone are insufficient to create a finished chair and that substantial additional work and materials are added to the imported components in the U.S. to

produce a finished chair. Additionally, we are advised that the assembly operation in the U.S. involves a large number of parts and the addition of high-value U.S. subassemblies. We find that the assembly processing that occurs in the U.S. is complex and meaningful, requires the assembly of a large number of components, and renders a new and distinct article of commerce that possesses a new name, character, and use. We further note that the U.S.-origin seat and back frame assemblies, which are made with your trademark fabric, together with the tilt assembly, are of U.S. origin and give the chair its unique design profile and essential character.

Therefore, we find that the imported components lose their individual identities and become an integral part of the chair as a result of the U.S. assembly operations and combination with U.S. components; and that the components acquire a different name, character, and use as a result of the assembly operations performed in the U.S. Accordingly, the assembled chair will be considered a product of the United States for purposes of U.S. Government procurement in making this determination.

HOLDING:

On the basis of the information provided, we find that the assembly in the U.S. substantially transforms the components of foreign origin. Therefore, the country of origin of the chair is the United States for purposes of U.S. Government procurement.

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,

Sandra L. Bell,

Acting Assistant Commissioner, Office of Regulations and Rulings

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1652–DR]

Maryland; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maryland (FEMA–1652–DR),

dated July 2, 2006, and related determinations.

DATES: Effective Date: July 26, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maryland is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 2006:

Montgomery County for Public Assistance. (The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-3267-EM]

Missouri; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Missouri (FEMA-3267-EM), dated July 21, 2006, and related determinations.

DATES: Effective Date: July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective July 21, 2006.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-3267-EM]

Missouri; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Missouri (FEMA-3267-EM), dated July 21, 2006, and related determinations.

DATES: *Effective Date:* July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 21, 2006, the President declared an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Missouri resulting from severe storms beginning on July 19, 2006, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act). Therefore, I declare that such an emergency exists in the State of Missouri.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act,

to save lives, to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared emergency:

The independent City of St. Louis and the counties of Dent, Iron, Jefferson, St. Charles, St. Louis, and Washington for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

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