

U.S. Customs and Border Protection

**Country of Origin Determination
and Government Procurement**

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July 13, 2006**

Discussion of Regulations

- U.S. Customs and Border Protection (Customs) issues country-of-origin advisory rulings and final determinations relating to Government procurement granting waivers of “Buy American” restrictions.
- An article is a product of a country or instrumentality only if;
 - (1) It is wholly the growth, product, or manufacture of that country or instrumentality, or
 - (2) In the case of an article, that 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.
- The term "instrumentality" is an arrangement, such as the European Union, and does not include agencies or divisions of the government of a country.
- An advisory ruling is a non-binding, non-reviewable written statement issued by Customs Headquarters, that calls attention to a well established interpretation or principal of law relating to the country of origin, without applying it to a particular set of facts.
- Customs will issue an advisory ruling in response to a request for a final determination if:
 - The request suggests that general information, rather than a final determination, is actually being sought,
 - The request is incomplete or otherwise fails to meet its regulatory requirements set forth in, or
 - The ruling requested cannot be issued for any other reason, and Customs believes that the general information provided by an advisory ruling will be of benefit to the requestor.
- An advisory ruling is not a binding ruling issued prior to importation.
- A final determination is a binding judicially reviewable decision issued by Customs Headquarters, that interprets and applies the provisions of law and regulation relating to the country of origin to a specific set of facts.
- A final determination may be issued to a party-at-interest prior to actual importation.
- Party-at-interest:
 - A foreign manufacturer, producer, or exporter, or a United States importer of merchandise,
 - A manufacturer, producer, or wholesaler in the United States of a like product,
 - United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and
 - A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

- A request may be filed by an authorized attorney or agent on behalf of an individual or organization. A corporate officer must sign a request filed by a corporation, and a partner must sign a request filed by a partnership.
- A request for an advisory ruling must be in writing and must contain information to enable Customs to provide the requester with the applicable principle of law or well-established interpretation relating to the particular country of origin.
- A request for a final determination must be in writing and contain the following information,
 - The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request;
 - A description of the existing article for which a country-of-origin determination is requested,
 - The country or instrumentality an article is claimed to be the product of,
 - Any other information that will enable Customs to determine if an article is a product of a specific country or instrumentality, and
 - If applicable, the specific procurement for which the final determination is requested.
- The request is filed with the Office of Regulations and Rulings, Headquarters, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. Washington, DC 20229.
- You may request an opportunity for an oral discussion if Customs is considering a determination that is not in your client's interest.
- You must request the oral discussion when you make your submission to Customs.
- If the request does not meet these requirements, Customs may decline to issue a final determination or may issue an advisory ruling.
- Requests for final determinations are suppose to be given expeditions treatment.
- Notice of a final determination must be published in the Federal Register within 60 days of its issuance.
- Any party-at-interest may seek judicial review of a final determination within 30 days after publication of the determination in the Federal Register or within 30 days of Customs, refusal to issue a final determination.
 - The Court of International Trade has exclusive jurisdiction to review a final determination or a refusal to issue a final determination.

- A party-at-interest, other than the party receiving the final determination may ask Customs to reconsider the matter and issue, on an expedited basis, a new final determination.
- This request must specifically identify the previous final determination.
- Customs will issue a new final determination within five working days of receipt of the request unless:
 - The previous final determination is the subject of a contested lawsuit timely filed in the Court of International Trade, or
 - The final determination was tendered and deemed responsive to the request for proposals or an invitation for bids in a competitive procurement subject to the Buy American Act and a contract under such procurement was finalized.
- Any new final determination issued under this section must be published in the Federal Register.


Example A

Example – A

TRADE AGREEMENT ACT OF 1979 – GOVERNMENT PROCUREMENT -

SUBSTANTIAL TRANSFORMATION –

MERCHANDISE MADE IN CANADA WITH THE USE OF CANADIAN AND OTHER FOREIGN COMPONENTS

HQ 559255 

August 21, 1995

MAR-2-05 R: C: S 559255 AT

CATEGORY: Marking

[]

RE: U.S. Government Procurement; Final Determination - concerning the country of origin of [] units; Substantial Transformation; Title III, Trade Agreements Act of 1979 ([19 U.S.C. 2511](#)); Subpart B, Part 177, Customs Regulations ([19 CFR 177.21](#) et seq.)

Dear []:

This is in response to your requests dated June 7 and 12, and July 21, 1995, for a final determination under Subpart B of Part 177, Customs Regulations ([19 CFR 177.21](#) et seq.). Under these regulations, which implement 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 as to whether, 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, an article is or would be a product of a designated foreign country or instrumentality.

This final determination concerns the country of origin of [] units which are being offered to the United States Air Force ("U.S. Air Force") in a procurement designated under U.S. Air Force Solicitation [], also referred to as "Desktop V". You are counsel to [] U.S. company that will manufacture the [] units in question. Accordingly, [] is a party-at-interest within the meaning of [19 CFR 177.22\(d\)\(1\)](#), and is entitled to request this final determination.

Contained in your submission is material which you claim as business proprietary information and request that Customs make no public disclosure of this information. We have agreed to your request. The confidential information is bracketed and will not be disclosed in copies of this final determination made available to the public. Should other persons request public disclosure of the information under the Freedom of Information Act or otherwise, this office will provide you with the opportunity to defend your interests in confidential treatment.

FACTS:

Your submission states that [] intends to manufacture [] units in the United States to sell to the U.S. Air Force ("Air Force"), under procurement designated under Air Force Solicitation [] also referred to as "Desktop V". In the United States the [] units will be manufactured from parts and

components of U.S., and [] origin.

The [] unit is a device which is designed to be installed in IBM PC compatible computers. The [] unit accepts electronic devices known as "PCMCIA cards" for the purpose of interfacing those PCMCIA cards with the computer in which the [] unit is installed. The PCMCIA cards which are inserted into a [] unit can therefore be accessed by the computer in which the [] unit is installed. These cards include hard disk cards, modem cards, sound cards, network cards, memory cards and other electronic components designed to work in conjunction with computers operating under the MS-DOS/PC-DOS operating systems.

A [] unit consisting of hardware and software is installed in a desktop computer by the purchaser of the [] unit. The combination of the [] hardware and software allows the computer to access the functionality and features of numerous PCMCIA type cards which may then be inserted into the PCMCIA slots on the [] unit as if the functionality of those cards had been built into the desktop machine itself, that is, as if a hard disk drive PCMCIA card that is inserted into the [] unit was a hard disk actually installed inside the desktop machine.

Components of CardDock

The [] consists of several components. One component is an interface card ("ISA card") which is inserted into an Industry Standard Architecture slot or bus inside the desktop computer. This card connects the [] Main unit with the desktop computer. The ISA card is connected to the [] Main Unit ("Main Unit") through four cables each of which is plugged into the ISA card on one end and into the Bay Board circuit board within the Main Unit on the other. The Main Unit consists of an injection molded ABS plastic frame and a printed circuit board (also known as the Bay Board), containing electronic components and connectors. The Bay Board is electrically and mechanically connected to the frame.

The Main Unit, which is electrically connected to the ISA card by the four cables attached to the Bay Board, is inserted into the desktop computer and secured in a half height "drive bay" with four supplied mounting screws.

The [] unit includes a 22 page printed Operation's Manual and a 72 page printed User's Manual and one 3 1/2 inch floppy disk which contains the software that is required for the [] unit to function.

The [] unit cannot function unless the user installs the software contained on the supplied floppy disk into the user's system in such a way that this software is accessible by the computer's central processing unit prior to any attempted use of the [] unit. Typically, this software is made accessible by requiring the desktop computer to load the software into the desktop computer's memory system each time the desktop is powered up.

Manufacturing Steps

Two integrated circuits, manufactured in the U.S., and one integrated circuit manufactured in [] are purchased by [] in the U.S. and exported to [] to be used in the manufacture of the ISA board. These three circuits represent the principal electronic component cost for the ISA board.

In [], the ISA board will be manufactured and these three integrated circuits will be installed on the [] manufactured circuit board, together with other electronic components in the nature of diodes, resistors, capacitors and integrated circuits. The completed ISA boards are then exported to the U.S. for further processing.

The injection molded plastic frame assembly is entirely manufactured in [] and then exported to the U.S. to be used by [] in the manufacture of [] units. The frame is created using tools/dies manufactured in [] and owned by [].

A circuit board to be mated to the frame, namely the "Bay Board" is designed and manufactured in the U.S. After the U.S. manufacture of the circuit board, electronic components and electrical connectors are installed on the board in the U.S. The nature of the components installed on the board is as follows. Numerous small resistors, of [] origin, two wire connectors of U.S. origin, four header connectors of [] or [] origin, two PCMCIA connectors of U.S. origin are installed onto the circuit board to make the Bay Board. After the Bay Board has been manufactured, it is physically examined for visually apparent defects. Once the Bay Board has been physically inspected for defects, two electrical connections are made between the Bay Board and the frame by inserting connectors from the frame into each of two connectors on the Bay Board. Next, the Bay Board is precisely physically positioned in reference to the frame by the insertion, one at a time, of four screws. This positioning must be done carefully by a trained worker. If the Bay Board is not positioned properly the connectors will be damaged and the unit will not be functional.

Thereafter, the Main Unit, consisting of the frame and the Bay Board are tested. Each and every Main Unit and each and every PCMCIA card connector on each Bay Board will be individually tested in the U.S. Only one Main Unit can be tested at a time and each Main Unit must be tested on an MS-DOS type computer. The testing is accomplished as follows:

The Bay Board is connected to an ISA board through a U.S. designed Test Fixture unit. The testing suite is then implemented through a U.S. designed test software program which provides a full functional testing of the Main Unit. Next, a PCMCIA card is inserted into the left hand [] PCMCIA connector.

Subsequent to the insertion of the PCMCIA card into the left-hand connector, the test operator loads the custom test software (which software was designed and programmed in the U.S.) into the desktop computer. Under the tester's direction, the test software commences a series of test operations. These operations test for

- a) the voltage required for the inserted PCMCIA card, three or five volts;
 - b) the electrical integrity of each of the 68 connector pins beginning on the ISA card and into the Bay Board and continuing through the connections to the PCMCIA card inserted into the [] unit;
 - c) the software present on the PCMCIA card to determine its revision, compatibility and functionality; d) whether the PCMCIA card is responding as anticipated.
- PCMCIA card response means a determination, for example, if the inserted card is a hard drive, if it is properly reading and writing information; if it is a memory card, if it is properly storing and retrieving information and so forth.

A variety of types of PCMCIA cards are used in testing the [] units. If the left [] slot passes the test, then the same or different PCMCIA card is inserted into the right [] slot and the test suite is repeated. If the [] unit passes the test suite, it is physically disconnected from the Test Fixture Card. After the Main Unit passes these tests, a serial number tag is affixed to the frame.

Next, the mounting hardware of U.S. origin is sealed in a plastic bag and added to the components of the completed [] unit.

Finally, one end of each of the four cables of [] origin is physically and electrically attached to the ISA card and the other end of each of the four cables is electrically and physically connected to

the Main Unit such that the IAS card, the cables and the Main Unit form a finished product, a [] unit. The [] unit is then packaged into a cardboard box with the two manuals, the installation software and the warranty registration card.

In conclusion, you assert that the foreign parts (ISA circuit cards, plastic frame assemblies and cable connectors) which are used to manufacture [] units in the United States are substantially transformed as a result of the assembly operations described above, and thus the [] units may be considered as products of the United States.

ISSUE:

Do the assembly operations performed in the United States in the manner described above effect a substantial transformation of the foreign components such that the [] units may be considered as products of the United States?

LAW AND ANALYSIS:

As prescribed under Title III of the Trade Agreements Act of 1979, the origin of an article not wholly the growth, product, or manufacture of a single country is to be determined by the rule of substantial transformation. [19 U.S.C. 2518\(4\)](#). Such an article is not a product of a country unless it has been substantially transformed there into a new and different article of commerce with a name, character, or use different from that of the article or articles from which it was transformed.

The inquiry must resolve whether, under the facts presented in this case, the processing performed in the U.S. results in an article having a new name, character or use. A secondary, supporting inquiry is whether the operations are complex, require skill, entail expense, or add value; these findings are ordinarily corroborative of the new name, character or use finding. In our experience, these inquiries are highly fact-and-product specific; generalizations are troublesome and potentially misleading. The determination is in this instance "a mixed question of technology and customs law, mostly the latter." *Texas Instruments, Inc. v. United States*, 681 F.2d. 778, 783 (C.C.P.A. 1982).

In making this final determination, we must rely upon the judicial and administrative precedents that have considered the issue of substantial transformation.

According to your submission, the manufacturing of the Bay Board in the U.S. involves installing electronic components and electrical connectors of both domestic and foreign origin onto a U.S. manufactured circuit board. Thus, the first issue that must be determined is what is the country of origin of the Bay Boards.

In C.S.D. 85-25, 19 Cust Bull 844 (1985), Customs held that for purposes of the General System of Preferences, the assembly of a large number of fabricated components, including resistors, capacitors, diodes, integrated circuits, sockets and connectors, onto a printed circuit board was a substantial transformation. Similarly, in this case, we find that the foreign electronic components and electrical connectors are substantially transformed as a result of being installed onto the U.S. origin circuit boards during the manufacturing of the Bay Boards. The name, character and use of the foreign components changes as a result of the operations performed in the U.S. to make the Bay Boards. Accordingly, the country of origin of the Bay Boards that are to be used in the manufacture of [] units in the U.S. by [] is the U.S.

Also, consistent with Customs holding in C.S.D. 85-25, we find that the two integrated circuits of U.S. origin and the integrated circuit of [] origin which are installed onto a [] manufactured circuit board with other electronic components (diodes, resistors, capacitors and integrated circuits), to be used in the manufacture of the ISA Boards in [] are substantially transformed by the [] operations. Accordingly, the country of origin of the ISA Boards exported from [] to be used in

the manufacture of the [] units in the U.S. by [] is []. Next, as stated in your submission, foreign components consisting of ISA boards, plastic frame assemblies and connector cables, will be further processed, and assembled with U.S. origin Bay Boards to manufacture the [] units in the U.S. Thus, the critical issue that must be addressed in determining the country of origin of the [] units is whether the foreign components are substantially transformed as a result of the operations performed in the U.S. That is, does the name, character or use of the foreign components change as a result of the processing and assembly operations performed to manufacture the [] units in the U.S.

Customs has previously considered the issue of whether the processing and assembly of electronic components into a finished article results in a substantial transformation of the individual components.

In HQ [711967](#) (March 17, 1980), Customs held that television sets which were assembled in Mexico with printed circuit boards, power transformers, yokes and tuners from Korea and picture tubes, cabinets, and additional wiring from the U.S. were products of Mexico for country of origin marking purposes. The U.S. and Korean parts were substantially transformed by the processing performed in Mexico and all the components lost their individual identities to become integral parts of the new article--a television. In HQ [730952](#) (May 18, 1988), Customs held that electrical components consisting of coils, capacitors and cases were substantially transformed as a result of being assembled into plug-in adapters (e.g., rectifiers). Customs stated that the individual parts lost their separate identities as a result of the assembly operation in that they became integral parts of a new article--a plug-in adapter. In HQ [732350](#) (June 23, 1989), Customs held that foreign transducers which were assembled with U.S. components to make hearing aids in the U.S. were substantially transformed as a result of the U.S. operations. Customs stated that the transducers lose their separate identity as a result of the assembly operation in that they become an integral part of a new article of commerce--a hearing aid--with a new, name, character and use. In HQ [734045](#) (October 8, 1991), Customs held that foreign subassemblies and other components imported into Hong Kong which were processed and assembled with other domestic components to make laptop and notebook personal computers were substantially transformed as a result of the Hong Kong operations. Customs stated that the subassemblies and other components when combined together to make the computer lose their separate identity, acquire new attributes, and become part of a new article of commerce--the personal computer. Customs also stated that the Hong Kong processing results in an article that has a new name, that of a personal computer, a new character that is visibly different than any of the individual components, and a new use in that it can process and display information.

Based on the totality of the circumstances of this case and consistent with the Customs rulings cited above, we find that the foreign components that are processed and assembled with U.S. origin Bay Boards (an essential component of the finished article) in the manufacture of [] units in the U.S., in the manner described above, are substantially transformed as a result of the operations performed in the U.S. The name, character, and use of the ISA boards, frame assemblies and connector cables change as a result of the assembly operations performed in the U.S. Like the electrical components in HQ [730952](#) and the transducers in HQ [732350](#), the ISA boards, frame assemblies and connector cables after being assembled with U.S. origins Bay Board lose their separate identity and become an integral part of a [] unit as a result of the assembly operations. The character and use of the foreign components are changed as a result of the assembly operations performed in that the finished article, a [] unit, is visibly different from any of the individual foreign components and acquires a new use, which is the processing of information.

Based on the reasons stated above, we find that the foreign components (ISA boards, frame assemblies and connector cables) which are assembled with U.S. origin Bay Boards into [] units in the United States, in the manner described above, are substantially transformed as a result of the U.S. operations. Accordingly, the country of origin of the [] units is the United States.

HOLDING:

Based on the facts presented, foreign ISA boards, frame assemblies and connector cables which are assembled with U.S. origin Bay Boards into [] units in the United States, in the manner described above, are substantially transformed as a result of the U.S. operations. Accordingly, the country of origin of the [] units 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,

Harvey B. Fox, Director
Office of Regulations and Rulings


Example B

Example – B

TRADE AGREEMENT ACT OF 1979 – GOVERNMENT PROCUREMENT -

SUBSTANTIAL TRANSFORMATION –

MERCHANDISE MADE IN THE UNITED STATES WITH THE USE OF THE UNITED STATES
AND FOREIGN COMPONENTS

HQ **559089** 

August 24, 1995

MAR-2-05 R: C: S **559089** AT

CATEGORY: Marking

RE: U.S. Government Procurement; Final Determination -
concerning the country of origin of electrical raceways;
Substantial Transformation; Title III, Trade Agreements Act
of 1979, as amended ([19 U.S.C. 2511](#) et seq.); Subpart B,
Part 177, Customs Regulations ([19 CFR 177.21](#) et seq.)

Dear Mr. []:

This is in response to your requests dated March 10 and July 7, 1995, for a final determination under Subpart B of Part 177, Customs Regulations ([19 CFR 177.21](#) et seq.). Under these regulations, which implement 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 as to whether, 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, an article is or would be a product of a designated foreign country or instrumentality.

This final determination concerns the country of origin of electrical raceways, which are to be offered to the United States Government under a undesignated government procurement contract. You are counsel to [] Canada Inc. ("[]"), a Canadian company that will manufacture the electrical raceways in question. Accordingly, [] is a party-at-interest within the meaning of [19 CFR 177.22\(d\)\(1\)](#), and is entitled to request this final determination. Contained in your submission is material, which you claim as business proprietary information and request that Customs make no public disclosure of this information. We have agreed to your request. The confidential information is bracketed and will not be disclosed in copies of this final determination made available to the public. Should other persons request public disclosure of the information under the Freedom of Information Act or otherwise, this office will provide you with the opportunity to defend your interests in confidential treatment.

FACTS:

According to your submission, [] intends to manufacture various types of electrical raceways (wireways and busways, cable trays, surface and under floor raceways, and boxes; cut-out, junction, and pull) in Canada. The primary material that will be used in the manufacture of the raceways is sheet metal. Specifically, cold rolled steel, as well as galvanized, satin-coat, and

stainless steel are used and range in thickness from 20 to 10 gauge (0.036 to 0.135 inches). Electrical raceways may also be manufactured of aluminum, also ranging in thickness from 20 to 10 gauge (0.032 to 0.0102 inches). Fittings, which may accompany these raceways, are constructed of steel, aluminum or brass. You state that the stainless steel that is to be used to manufacture the raceways will be of either Canadian or [] origin. The aluminum sheet metal will be of either Canadian or foreign origin. All non-stainless steel sheet metal that is to be used in the manufacture of the electrical raceways is of Canadian origin. You further state that in most instances, all other materials, such as nuts, bolts and other small parts, which are to be used in the manufacture of the electrical raceways, will be of Canadian origin. However, foreign materials may be used in the manufacture of the electrical raceways when Canadian materials are not available.

You state that the manufacturing processes used in the production of the electrical raceways in Canada involve approximately 25 workers and consist of the following operations:

The sheet metal is sheared according to the gross dimensions of the part to be constructed. The sheared metal piece is then formed using a press break to bend the material into the required shapes (i.e., 90 degrees, 45 degrees, etc. bends or flanges). If holes, louvers, hinges, plates, flanges, gaskets or other features are required, the material is passed through a punch press or other machine to create these features. Once all bending and punching operations are completed, assembly of the electrical raceways begins. Primary stages of assembly may include spot, mig or tig welding and powder coating (painting) of the components. The powder coating process involves a wash rinse, and drying of the work pieces, followed by the powder paint application and finally curing of the coating in a bake oven. Once coated, the components are fitted together (i.e., attachment of lids, clasps, etc.) to form the final product by means of tapping, screw installation, and/or clasp. The finished electrical raceways are then packaged for delivery to the U.S.

ISSUE:

Do the processing operations performed in Canada as described above effect a substantial transformation of the foreign components such that the electrical raceways may be considered as products of Canada?

LAW AND ANALYSIS:

Pursuant to Title III, Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-2518, Customs has the authority to issue country of origin advisory rulings and final determinations as to whether, 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, an article is or would be a product of a designated foreign country or instrumentality under the Agreement on Government Procurement and the North American Free Trade Agreement ("NAFTA").

[19 U.S.C. 2515\(b\)\)](#) provides:

(1) Advisory rulings and final determinations.--For purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.

[19 U.S.C. 2511\(b\)](#), Designation of eligible countries and instrumentalities, states:

The President may designate a foreign country or instrumentality for purposes of subsection (a) of this section only if he determines that such country or instrumentality - (1) is a country or instrumentality which (A) has become a party to the Agreement or the North American Free Trade Agreement, and (B) will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. (Emphasis added).

Pursuant to 48 CFR 25.401, Canada is a designated country under the NAFTA. Since Canada is a NAFTA country, the standard set forth in 19 U.S.C. 2518(4)(B) must be used to determine whether an article is a product of Canada. Section 2518(4)(B) provides that:

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. (Emphasis added).

The inquiry must resolve whether, under the facts presented in this case, the processing performed in Canada results in an article having a new name, character or use. A secondary, supporting inquiry is whether the operations are complex, require skill, entail expense, or add value; these findings are ordinarily corroborative of the new name, character or use finding. In our experience, these inquiries are highly fact-and-product specific; generalizations are troublesome and potentially misleading. The determination is in this instance "a mixed question of technology and customs law, mostly the latter." *Texas Instruments, Inc. v. United States*, 681 F.2d. 778, 783 (C.C.P.A. 1982).

In making this final determination, we must rely upon the judicial and administrative precedents that have considered the issue of substantial transformation.

As stated in your submission, foreign materials consisting of stainless steel, aluminum sheeting and other small parts will be further processed, assembled and used in the manufacture of electrical raceways in Canada. Thus, the critical issue that must be addressed in determining the country of origin of the electrical raceways is whether the foreign materials are substantially transformed as a result of the operations performed in Canada. That is, does the name, character or use of the foreign materials change as a result of the processing and assembly operations performed to manufacture the electrical raceways in Canada.

Customs has previously considered the issue of whether the processing and assembly of electronic components into a finished article results in a substantial transformation of the individual components.

In HQ [730952](#) (May 18, 1988), Customs held that electrical components consisting of coils, capacitors and cases were substantially transformed as a result of being assembled into plug-in adapters (e.g., rectifiers). Customs stated that the individual parts lost their separate identities as a result of the assembly operation in that they became integral parts of a new article--a plug-in adapter. In HQ [732350](#) (June 23, 1989), Customs held that foreign transducers which were assembled with U.S. components to make hearing aids in the U.S. were substantially transformed

as a result of the U.S. operations. Customs stated that the transducers lose their separate identity as a result of the assembly operation in that they become an integral part of a new article of commerce--a hearing aid--with a new name, character and use. In HQ [735346](#) (February 23, 1995), Customs held that Taiwanese DC to DC converters which were imported into the U.S. (Scenario 1) or the Netherlands (Scenario II) and which were processed and assembled with other domestic components (e.g., power interface board assembly, power distribution board assembly, cigarette adapter cable, computer adapter cable), to make auto/marine adapters were substantially transformed as a result of the operations performed in either of the two countries. Customs stated that the processing performed in the U.S. or the Netherlands results in an article that has a new name, that of an auto/marine adapter, a new character that is visibly different than the DC to DC converter, and a new use in that it can be a power source for automatic data processing machines.

Based on the totality of the circumstances of this case and consistent with the Customs rulings cited above, we find that the foreign materials consisting of stainless steel sheeting, aluminum sheeting and other small parts that are used in the manufacture of electrical raceways in Canada in the manner described above are substantially transformed as a result of the operations performed in Canada. The name, character and use of the foreign materials change as a result of the processing and assembly operations performed in Canada. Like the electrical components in HQ [730952](#), the foreign materials lose their separate identity and become an integral part of an electrical raceway as a result of the assembly operations. The character and use of the foreign materials are changed as a result of the assembly operations performed in that the finished article, an electrical raceway, is visibly different than any of the individual foreign materials, acquiring a new use, which is a conduit for electricity.

We also take notice of the fact that, in this case, essential foreign materials are not only assembled in Canada into a finished article, but are fabricated before being assembled. For example, the stainless steel and aluminum sheeting are cut, pressed, and bent into various shapes (i.e., 90 degrees, 45 degrees, etc. bends or flanges), prior to being assembled into electrical raceways. Customs has consistently held that cutting, or bending materials to defined shapes or patterns suitable for use in making finished articles, as in this case, constitutes a substantial transformation. See, HQ [556215](#) (October 18, 1991) (Customs held that the cutting, shearing, boring and bending of U.S. stainless steel coils and sheets in Brazil to specific shapes and sizes suitable for use as components for the manufacture of railway passenger car body shells constituted a substantial transformation of the U.S. steel); HQ [557159](#) (January 11, 1994) (Customs held that four cutting operations, consisting of straight cuts, miter cuts to 45 degree angles, miter cut to an angle other than 45 degrees and notch cut or 90 degree cutting, of U.S. extruded aluminum in Mexico and the subsequent bending to shape of the aluminum to form louver and grille frames as well as the shearing and bending to shape of U.S. sheet material to form louver and grill components constituted a substantial transformation of the extruded aluminum and sheet material).

Based on the reasons stated above, we find that the foreign materials (stainless steel, aluminum sheeting and other small parts) which are further processed and assembled into electrical raceways in Canada, in the manner described above, are substantially transformed as a result of the Canadian operations. Accordingly, the country of origin of the electrical raceways is Canada.

HOLDING:

Based on the facts presented, foreign materials consisting of stainless steel, aluminum sheeting and other small parts, which are further processed and assembled into electrical raceways in Canada, in the manner described above, are substantially transformed as a result of the Canadian operations. Accordingly, the country of origin of the electrical raceways is Canada. 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.

Pursuant to [19 CFR 177.30](#), any party-at-interest, as defined at [19 CFR 177.22\(d\)](#), 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,

Harvey B. Fox, Director
Office of Regulations and Rulings

