

KOLLMORGEN CORPORATION

Marking of Country of Origin on U.S. Imports

Acceptable Terminology and Methods for Marking

General Information

Every article of foreign origin entering the United States must be legibly marked with the English name of the country of origin unless an exception from marking is provided for in the law.

What is the purpose of marking?

To inform the ultimate purchaser in the United States of the country in which the imported article was made.

Who is the ultimate purchaser?

The ultimate purchaser is generally the last person in the United States who will receive the article in the form in which it was imported.

If the article will be used in manufacture, the manufacturer or processor in the United States is the ultimate purchaser if the processing of the imported article results in a substantial transformation of the imported article, becomes a good of the United States under the NAFTA Marking Rules (19 CFR Part 102), or becomes a good of the United States under the textile rules of origin (19 CFR 102.21), as applicable.

What is meant by “country”?

Country means the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of the mother country may be considered separate countries.

What is the country of origin?

The country of manufacture, production, or growth of the article.

Does altering the article in a second country change the country of origin?

The country of origin of an article may be changed in a secondary country if one of the following occurs:

1. If the further work or material added to an article in the second country constitutes a substantial transformation. A substantial transformation occurs if a new article with a different name, character, and use is created.
2. For a good from a NAFTA country: if under the NAFTA Marking Rules (19 CFR Part 102) the second country is determined to be the country of origin of the good; or

3. For an article considered to be a textile or apparel product (regardless of whether it is a good from a NAFTA country): if the country of origin is determined by the general rules set forth in 19 CFR Part 102.21 to be the second country. For purposes of determining whether a textile or apparel product is from Israel, the general rules in 19 CFR 12.130 apply.

Is it necessary for the words *made in* or *product of* to precede the name of the country of origin?

The phrase “made in” is required only in the case where the name of any locality other than the country or locality in which the article was manufactured appears on the article or its container and may mislead or deceive the ultimate purchaser. The marking “made in (country)” or other words of similar meaning must appear in close proximity to, and in comparable size letters of, the other locality to avoid possible confusion.

Use of the words “assembled in” may be used to indicate the country of origin of an article where the country of origin of the article is the country in which the article was finally assembled. “Assembled in” may be followed by the statement “from components of (the name of the country or countries of origin of all the components).”

Should the marking be of a particular size?

The marking must be legible. This means it must be of an adequate size, and clear enough, to be read easily by a person of normal vision.

Where should the marking be located?

The marking should be located in a conspicuous place. It need not be in the most conspicuous place, but it must be where it can be seen with a casual handling of the article. Markings must be in a position where they will not be covered or concealed by subsequent attachments or additions. The marking must be visible without disassembling the item or removing or changing the position of any parts.

How permanent must the marking be?

The article should be marked as indelibly and permanently as the nature of the product will permit. Marking that will not remain on the article during handling or for any other reason except deliberate removal is not a proper marking.

Abbreviations and Variant Spellings

Abbreviations that unmistakably indicate the name of a country, such as “Gt. Britain” for Great Britain or “Luxemb” for Luxembourg, are acceptable. Variant spellings which clearly indicate the English name of the country of origin, such as “Brasil” for Brazil and “Italie” for Italy are acceptable. However, it is always preferable to spell out the country’s name in full, because any abbreviation may be a cause for confusion.

However, “E.C.” or “E.U.” for European Community or European Union, respectively, are not acceptable abbreviations since they do not indicate the individual country of origin of the good.

Forms of Marking

What are the acceptable forms of marking?

The best form of marking is one which becomes a part of the article itself, such as branding, stenciling, stamping, printing, molding, and similar methods.

Other forms of marking will also be acceptable if it is certain that the marking will remain legible and conspicuous until the article reaches the ultimate purchaser in the United States. It is important that this marking withstand handling. This means it must be of a type that can be defaced, destroyed, removed, altered, obliterated, or obscured only by a deliberate act.

What about tags?

When tags are used, they must be attached in a conspicuous place and in a manner that assures that, unless deliberately removed, they will remain on the article until it reaches the ultimate purchaser.

May adhesive labels be used?

Labels may be used in some instances, but this is not a recommended form. Often labels become loose due to weather, unsatisfactory adhesive, or other conditions. If this happens, the importer may be subject to the expense of remarking the merchandise.

Marking of Combined Articles

An article that is to be combined with another article in the United States but which will retain its identity and will not undergo a change in origin must be marked “(Name of imported article) *made in* (country).”

Marking of Containers

Usual containers imported filled must be marked with the name of the country of origin of the contents of the usual container, unless the contents are marked with the country of origin and the usual containers can be readily opened for inspection of the contents.

Usual containers imported empty to be filled may be excepted from individual marking if they reach the person or firm that will fill them in a carton or other container marked with the country of origin.

Unusual containers imported empty, to be filled in the United States, must be marked “Container made in (country).”

What is a usual container?

The container in which an imported article will ordinarily reach the ultimate purchaser. Usual containers or holders are not required to be marked with their own origin when imported filled.

Usual containers, which are goods from a NAFTA country, are not required to be marked with their own origin, whether or not filled.

What is an unusual container?

These may include containers not ordinarily sold at retail with their contents, or containers which have further use or value after their contents are consumed.

Unusual types of containers must be marked to indicate their own origin when imported filled, in addition to any marking required to indicate the origin of their contents. For example, a vase made in France containing candy made in England must be marked: "Vase made in France, candy made in England."

Special Statutory Marking**Special Markings on Certain Articles**

The following articles and parts thereof, unless otherwise subject to the marking exceptions provided for in 19 U.S.C. 1304, must be marked legibly and conspicuously with their country of origin by die-stamping, cast-in-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets:

Knives, forks, steels

Cleavers, clippers, shears

Scissors, safety razors, blades for safety razors

Surgical instruments, dental instruments

Scientific and laboratory instruments

Pliers, pincers, nippers and hinged hand-tools for holding and splicing wire

Vacuum containers and parts of the above articles

What are the special marking requirements for other articles?

Pipes and pipe fittings of iron, steel or stainless steel must be marked by means of die stamping, cast-in-mold lettering, etching, engraving, or continuous paint stenciling. If it is commercially or technically infeasible to mark by one of these five methods, the marking may be done by an equally permanent method of marking, or, in the case of small-diameter pipe tube and fittings, by tagging the bundles.

Compressed gas cylinders designed for use in the transport and storage of compressed gases must be marked by means of die stamping, molding, etching, raised lettering or an equally permanent method of marking.

Articles Not Requiring Marking

What articles are excepted from marking by 19 U.S.C. 1304?

- A. An article that is incapable of being marked;
- B. An article that cannot be marked prior to shipment to the United States without injury to the article;
- C. An article that cannot be marked prior to shipment to the United States except at an expense economically prohibitive of its importation;
- D. When the container of an article reasonably indicates the article's origin; that is, the marked container reaches the ultimate purchaser unopened;
- E. The article is a crude substance;
- F. The article is imported for use by the importer and is not intended for sale in its imported or any other form;
- G. The article is to be processed in the United States by the importer, or for his account, in such a manner that any marking would be permanently concealed, obliterated, or destroyed;
- H. When the ultimate purchaser, by reason of the article's character or by reason of the circumstances of its importation, necessarily must know, or in the case of a good from a NAFTA country, reasonably must know, the country of origin of such article even though it is not marked to indicate its origin;
- I. The article was produced more than 20 years prior to its importation into the United States;
- J. Articles of a class or kind (listed below) imported in substantial quantities for a five year period immediately preceding January 1, 1937, and which were not required to be marked.

Bands, steel.

Bearings, ball 5/8-inch or less in diameter.

Blanks, metal, to be plated.

Bolts, nuts, and washers.

Metal bars, except concrete reinforcement bars; billets; blocks; blooms; ingots; pigs; plates; sheets, except galvanized sheets; shafting, slabs, and metal in similar forms.

Nails, spikes, and staples.

Parts for machines imported from some country as parts.

Rivets.

Rope, including wire rope; cordage; cords; twines, threads, and yarns.

Scrap and waste.

Screws.

Wire, except barbed.

Are there other articles not required to be marked with the country of origin?

Yes, the following:

1. Articles valued at not more than \$200 that are passed without the filing of a customs entry.
2. Articles brought into a foreign trade zone or a bonded warehouse for immediate exportation or for transportation and exportation.
3. Products of American fisheries which are free of duty.
4. Products of possessions of the United States.
5. Products of the United States exported and returned.
6. Bona fide gifts from persons in foreign countries, provided the aggregate value of articles received by one person on one day and exempted from the payment of duty should not exceed \$100 retail value.
7. Goods of a NAFTA country that are original works of art.
8. Ceramic bricks; diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, electronic integrated circuits and microassemblies that are goods of a NAFTA country.
9. Certain coffee and tea products.
10. Certain spice products.
11. Silk scarves and silk fabric.

When an article is not required to be marked with the country of origin, does the immediate container have to be marked?

Yes, unless that article is excepted from marking under clause (F), (G), or (H) indicated above, or the article is specifically not subject to the statutory marking requirements of 19 U.S.C. 1304.

Repacked Articles

Are articles that are to be repacked in the United States subject to the marking requirements of 19 U.S.C. 1304?

Yes, unless the repacker is the ultimate purchaser.

What are the obligations of an importer concerning the marking of repacked goods?

If an article is intended to be repacked in new containers for sale to an ultimate purchaser after its release from U.S. Customs and Border Protection custody, the importer must certify that if he does the repacking, he shall not obscure or conceal the country of origin marking, or that the new container will be properly marked. If the article is intended to be sold or transferred to a subsequent purchaser or repacker, the importer must certify that he/she will notify the subsequent purchaser or repacker (in writing) of the marking requirements.

Failure to comply with the certification requirements may subject the importer to additional duty and penalties.

Sanctions for Not Marking**Marking duties**

Articles that are not marked with the English name of their country of origin at the time of their importation into the United States shall be subject to additional duties unless properly marked, exported, or destroyed under CBP supervision prior to liquidation of the entry.

Criminal penalties for removal of markings

Any person who removes, destroys, alters, covers, or obliterates with the intent of concealing the country of origin marking on an imported article could be subject to prosecution and criminal penalties.