

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[FEMA-3295-EM]

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

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Louisiana (FEMA-3295-EM), dated September 11, 2008, and related determinations.

DATES: *Effective Date:* November 7, 2008.

FOR FURTHER INFORMATION CONTACT:

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective November 7, 2008.

(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; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8-27966 Filed 11-24-08; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[FEMA-1792-DR]

Louisiana; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Louisiana (FEMA-1792-DR), dated September 13, 2008 and related determinations.

DATES: *Effective Date:* November 7, 2008.

FOR FURTHER INFORMATION CONTACT:

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective November 7, 2008.

(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; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8-27964 Filed 11-24-08; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****Notice of Issuance of Final Determination Concerning Multifunctional Machines**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain multifunctional machines which may be offered to the United States Government under a government procurement contract. Based upon the facts presented, in the final determination CBP concluded that Japan is the country of origin of the multifunctional machines for purposes of U.S. Government procurement.

DATES: The final determination was issued on November 7, 2008. 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 December 26, 2008.

FOR FURTHER INFORMATION CONTACT:

Karen S. Greene, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-572-8838).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multifunctional machines which may be offered to the United States Government under a government procurement contract. This final determination, in HQ H020516, was issued at the request of Sharp Electronics 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). In the final determination, CBP concluded that, based upon the facts presented, certain articles will be substantially transformed in Japan. Therefore, CBP found that Japan is the country of origin of the finished articles for purposes of U.S. Government procurement.

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, CBP Regulations (19 CFR § 177.30), provides 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**.

Dated: November 20, 2008.

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

HQ H020516

November 7, 2008.

OT: RR:CTF:VS H020516 KSG.
Mr. Edmund Baumgartner, Esq.,
Pillsbury Winthrop Shaw Pittman LLP,
1540 Broadway,
New York, NY 10036.

Re: U.S. Government Procurement;

country of origin of multifunctional machines; substantial transformation.

Dear Mr. Baumgartner:

This is in response to your letter, dated November 26, 2007, requesting a final determination on behalf of Sharp Electronics Corporation (“Sharp”)

pursuant to subpart B of 19 CFR Part 177.

Under these regulations, which implement 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 as to 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.

This final determination concerns the country of origin of certain multifunctional machines that Sharp may sell to the U.S. Government. We note that Sharp is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination. A conference was held on this matter at Headquarters on August 25, 2008.

Facts:

This case involves the Sharp Andromeda II J-models (Sharp model # AR-M257J, AR-M317J). These models have monochrome copying, printing, faxing and scanning functions. Model #AR-M257J and ARM-317J are designed to print 25 and 31 pages per minute.

Sharp Corporation, Sharp's parent company ("Sharp Japan") developed the Andromeda J-models in Japan; all the engineering, development, design and art work processes were developed in Japan.

There are 8 main subassemblies that compose the Andromeda II J-models. Two subassemblies involve processing in Japan: The multifunctional printer ("MFP") control unit and process unit. Subassemblies made in China include: The laser scanner unit ("LSU"); transfer unit; the MFP cabinet unit; the developer unit ("DV") unit; fusing unit; and the reversible single pass feeder ("RSPF").

The MFP control unit is the combination of a printed circuit board with a number of sophisticated integrated circuits. The flash read-only memory ("ROM"), which you state is the primary component, is manufactured in Japan. The CPU, the integrated circuit for the main control unit ("MCU"), and the printed wiring board ("PCB") for the integrated memory controller, which you state are the key parts of the control printer boards, are produced in Japan. Other components such as diodes, resistors and capacitors are installed on the control printer board in China.

The process unit subassembly houses the drum used for creating images. The

drum is produced and installed in Japan using parts made in China, such as the flanges and the gear. Assembly in China includes integration of the drum support frame and the main charger unit.

The LSU unit creates text or images on the photoconductor drum. The LSU unit is assembled in China. The laser diode and the synchronous lenses, which you state are critical components, are produced in Japan.

The transfer unit uses a roller to place the image created on the drum onto the paper. This unit is assembled in China. The transfer rollers are made in Japan.

The MPF cabinet unit is the outer body of the multifunctional system. Several parts are made in Japan including the motor driver, parts of the scanner, the application-specific integrated circuits ("ASIC"), the CPU, the flash ROM and the program for the ASIC. You state that when the unit leaves China, it is not functional because there is no process unit, transfer unit or fusing unit. You state that the core parts for forming the images, such as the main board, the transfer unit, the DV unit and the process unit, are installed in Japan.

The DV unit is used to transfer toner evenly over the latent image created on the drum unit. The unit is assembled in China. The developer (iron powder beads), the toner cartridge and the toner are produced in Japan.

The fusing unit is used to fix the transferred image onto paper. It is assembled in China. Certain components such as the fusing gear, the separator pawl and thermostat, which you state are critical, are produced and tested in Japan.

Lastly, the RSPF transports the original document to the part of the machine used for scanning the image. It is assembled in China.

The final assembly of the machines takes place in Japan. Sharp Japan starts with a MFP cabinet unit subassembly and assembles the key subassemblies described above into the cabinet by screws. The flash ROM is installed into the slot on the rear of the MFP cabinet unit and fixed with screws. The Andromeda II J-models consist of 2914 pieces of parts, and over 30 percent of them are assembled in Japan.

Extensive testing and final inspection and packaging of the units for shipment to the U.S. occurs in Japan.

The imported J-models are classified in subheading 8443.31 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The subassemblies imported into Japan are classified in subheading 8443.99.5015, HTSUS.

Issue

What is the country of origin of the subject multifunctional machines for the purpose of U.S. Government procurement?

Law and Analysis

Pursuant to 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 as to 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).

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 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). 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. 89-118, C.S.D. 90-51, and C.S.D. 90-97. In C.S.D. 85-25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences ("GSP"), 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. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the

article, and the overall employment generated by the manufacturing process.

The courts and CBP have also considered the essential character of the imported article in making these determinations. See *Uniroyal, Inc. v. United States*, 542 F. Supp. 1026, 3 CIT 220, 224–225 (1982) (where it was determined that imported uppers were the essence of a completed shoe) and *National Juice Products Association, et al v. United States*, 628 F. Supp. 978, 10 CIT 48, 61 (1986) (where the court addressed each of the factors (name, character, and use) in finding that no substantial transformation occurred in the production of retail juice products from manufacturing concentrate).

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 and makes such determinations on a case-by-case basis. 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. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

CBP has held in a number of cases involving similar merchandise that complex and meaningful assembly operations involving a large number of components result in a substantial transformation. In Headquarters Ruling Letter ("HRL") 563491 (February 8, 2007), CBP addressed the country of origin of certain digital color multifunctional systems manufactured by Sharp and assembled in Japan of various Japanese—and Chinese—origin parts. In that ruling, CBP determined that color multifunctional systems were a product of Japan based on the fact that "although several subassemblies are assembled in China, enough of the Japanese subassemblies and individual components serve major functions and are high in value, in particular, the transfer belt, control box unit, application-specific integrated circuits, charged couple device, and laser diodes." Further CBP found that the testing and adjustments performed in Japan were technical and complex and the assembly operations that occurred in Japan were sufficiently complex and

meaningful. Thus, through the product assembly and testing and adjustment operations, the individual components and subassemblies of Japanese and foreign-origin were subsumed into a new and distinct article of commerce that had a new name, character, and use. See also HRL 562936, dated March 17, 2004.

In HRL 561734, dated March 22, 2001, CBP held that certain multifunctional machines (consisting of printer, copier, and fax machines) assembled in Japan were a product of that country for the purposes of U.S. government procurement. The multifunctional machines were assembled from 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. See also HRL 561568, dated March 22, 2001.

Counsel states that the engineering, design and development of these machines takes place entirely in Japan. A number of components that are claimed to be critical such as the flash ROM, CPU, ASIC's, transfer roller, a charge-coupled device ("CCD"), synchronous lenses, laser diodes, drums, developer and toner are made in Japan. The final assembly and adjustment/alignment/testing procedures required for these J-model are also performed in Japan and claimed to be extremely sophisticated. Counsel states that unless the J-models are properly adjusted and aligned, they do not become marketable products and this adjustment process requires a high level of technical skills.

We agree that the J-models discussed in this ruling are considered a product of Japan. As noted above, the engineering, design and development of the multifunctional machines occurs in Japan. Moreover, a substantial portion of the components and assemblies are of Japanese origin. Sharp describes many of these components as critical. We note that several of the components used in the Chinese-origin subassemblies are of Japanese origin. Further, the processing that occurs in Japan is complex and meaningful, requiring the assembly of a large number of components, that results in a new and distinct article of commerce with a new name, character and use. As Japan is the final country of production and a substantial amount of work is performed there, we find that the Andromeda II-J multifunctional machines are products of Japan for the purposes of U.S. Government procurement.

Holding

Based on the facts of this case, we find that the processing in Japan substantially transforms the non-Japanese components. Therefore, the country of origin of the Sharp Andromeda II J-model multifunctional machines is Japan 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 CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, 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
Executive Director, Office of Regulations and Rulings, Office of International Trade

[FR Doc. E8–28014 Filed 11–24–08; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N0296; 1112–000–81420–F2]

Habitat Conservation Plan for Pacific Gas & Electric Company's Operation, Maintenance, and Minor New Construction Activities in the North Coast, Central Coast, Sacramento Valley, and Sierra Regions, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), we, the U.S. Fish and Wildlife Service (Service), are issuing this notice to advise the public that we intend to gather information necessary to prepare, in coordination with the California Department of Fish and Game (DFG) and Pacific Gas & Electric Company (PG&E), a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the PG&E Multiple-Region (North Coast, Central Coast, Sacramento Valley, Sierra) Operations, Maintenance, and Minor New Construction Habitat Conservation Plan (HCP). The HCP is being prepared under Section 10(a)(1)(B) of the Federal Endangered