

TOMPKINS & DAVIDSON, LLP
Counselors At Law

5 Hanover Square
15th Floor
New York, N.Y. 10004

Phone: (212) 944-6611
Fax: (212) 944-9779
e-mail: customs@tdllp.com
internet: <http://www.tdllp.com>

July 28, 2008

TO CLIENTS & FRIENDS:

CBP PROPOSES UNIFORM RULES OF ORIGIN FOR IMPORTED MERCHANDISE

In an effort to achieve uniformity, U.S. Customs and Border Protection is proposing to do away with the *substantial transformation* test and rely strictly on tariff shift rules when determining the country of origin of imported merchandise. Comments on the CBP proposal are due September 23, 2008.

Specifically, CBP is proposing to extend application of the rules of origin found in Part 102 of the Customs Regulations to all country of origin determinations made under the customs and related laws and the navigation laws of the United States, unless otherwise specified. The Part 102 rules of origin will not be used for purposes of determining origin for preferential trade agreements, if the agreements specify another origin test for that purpose.

For example, application of tariff benefits under NAFTA are determined by the preference origin rules set out in Chapter Four of that agreement. The Part 102 rules will not be used for making preference determinations for goods other than textile and apparel goods under the United States-Israel and United States-Jordan Free Trade Agreements. CBP will use the appropriate sections of Part 102 to make all other origin determinations (non-preference or preference) regarding goods from Israel and Jordan.

The Part 102 rules of origin will also be used to administer current free trade agreements that use the substantial transformation standard as part of the test to determine whether products qualify for reduced tariffs where the parties have an understanding that the codified rules under Part 102 should guide those determinations, examples being the United States-Bahrain and United States-Morocco Free Trade Agreements. It is also CBP's intent to apply the Part 102 rules to any FTA negotiated in the future using the substantial transformation standard, unless otherwise specified. However, CBP notes that the Department of Commerce will continue to make its own origin determinations when administering the trade remedy laws.

In addition, the CBP notice contains proposed rule changes for the following articles:

Pipe Fittings and Flanges, Greeting Cards, Glass Optical Fiber, Rice Preparations, and Certain Textile Products.

If you have any questions or would like additional information concerning potential impact on your imports, please do not hesitate to call us.

Sincerely,

TOMPKINS & DAVIDSON, LLP

Firm Contacts: Louis Shoichet (lshoichet@tdllp.com)
Robert Stack (rstack@tdllp.com)
Barbara Wierbicki (bywierbicki@tdllp.com)

Note: The above comments are intended for general information only, and not as legal advice. Legal advice can only be offered after a review of a client's specific facts and circumstances, which may affect the applicability of any general comments contained herein.