

N320677

August 25, 2021

CLA-2-72:OT:RR:NC:N1:117

CATEGORY: Country of Origin

Ashlee Glastetter
Aqseptence Group, Inc.
1950 Old Hwy 8 NW
New Brighton, MN 55112

RE: The country of origin of stainless steel wire

Dear Ms. Glastetter:

In your letter dated July 16, 2021, you requested a country of origin ruling.

The product under consideration is stainless steel round wire. According to your submission, Grade 304 or Grade 316 irregularly wound stainless steel feed (wire) rod from South Korea, Taiwan or India measuring 5.5 mm and 7.5 mm in diameter is sent to Australia. Here, the rod undergoes the following operations to produce wire: cleaning, drying, stretching, cold-drawing, annealing and re-spooling. Upon completion, the resulting wire, which is available in six different sizes ranging from 1.8288 mm - 5.4888 mm in diameter, will be imported to the United States (U.S.) and ultimately used in the manufacture of filtration, separation and water technology solution products. While you contend that a substantial transformation has taken place in Australia, we disagree.

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements of 19 U.S.C. §1304. Pursuant to 19 CFR 134.1(b), "country of origin" means the country of manufacture, production, or growth of any article of foreign origin entering the U.S. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the country of origin.

A substantial transformation occurs when an article emerges from a process with a new name, character or use different from that possessed by the article prior to processing. *United States v. Gibson-Thomsen Co., Inc.*, 27 CCPA 267, C.A.D. 98 (1940); *National Hand Tool Corp. v. United States*, 16 CIT 308 (1992), *aff'd*, 989 F.2d 1201 (Fed. Cir. 1993). However, if the manufacturing or combining process is merely a minor one that leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026, 1029 (1982), *aff'd*, 702 F.2d 1022 (Fed. Cir. 1983).

The court in *Superior Wire v. United States*, 669 F. Supp. 472 (CIT 1987), *aff'd*, 867 F.2d 1409 (Fed. Cir. 1989), held that the drawing of wire rod into wire did not constitute a substantial transformation, as there was no significant change in the use or character of the wire, and only a relatively insignificant change in name. Wire was not viewed as a new and different product, but rather the last stage in the processing operation.

You cite *Ferrostaal* focusing on the annealing process to support a finding of substantial transformation. In *Ferrostaal*, the court held that "hot-dip galvanizing" cold-rolled steel sheet substantially transformed the steel sheet. The process involved two steps: annealing, undertaken to restore the steel's ductility lost in previous cold-rolling, and galvanizing, or dipping the steel in molten zinc, thus changing the steel's chemical composition to improve its

resistance to rust. It is important to note that the court in Ferrostaal did not hold that either the annealing or the galvanizing alone constituted a substantial transformation but determined that the multiple manufacturing processes effected the requisite changes necessary for such a finding. CBP has held that annealing which is not extensive or complex and does not transform or narrow the uses of the article, is not a substantial transformation. Annealing is commonly performed subsequent to the wire-drawing process and on its own does not generally create a unique product used in limited applications.

Under prior CBP rulings, whether annealing results in a substantial transformation has generally depended upon the extent of the heat treatment, in terms of processing time, costs, and complexity, the value added by the treatment, and the effect on the steel's mechanical properties and uses. Although the annealing is stated to alter the mechanical properties (i.e., increase ductility and reduce hardness), we find that it does not change the very nature of the stainless steel wire in that it does not transform it into an article for a specific use. The annealing does not enhance the wire by providing any unique or outstanding characteristic(s) nor does it ready the wire for any particular application including those within the filtration, separation and water technology environment. Furthermore, while the heat treatment alters the mechanical properties, you have not offered any specifics regarding the value added, the cost breakdown or the time spent on the annealing process. As such, we find the country of origin for the stainless steel wire to be South Korea, Taiwan or India.

On March 8, 2018, Presidential proclamations 9704 and 9705 imposed additional tariffs and quotas on a number of steel and aluminum mill products. Exemptions have been made on a temporary basis for some countries. Quantitative limitations or quotas may apply for certain exempted countries and can also be found in Chapter 99. Additional duties for steel of 25 percent and for aluminum of 10 percent are reflected in Chapter 99, subheading 9903.80.01 for steel and subheading 9903.85.01 for aluminum. Products classified under subheadings 7223.00.1061 and 7223.00.1076, Harmonized Tariff Schedule of the United States (HTSUS), may be subject to additional duties or quota. At the time of importation, you must report the Chapter 99 subheading applicable to your product classification in addition to the Chapter 72, 73 or 76 subheading listed above.

The Proclamations are subject to periodic amendment of the exclusions, so you should exercise reasonable care in monitoring the status of goods covered by the Proclamations and the applicable Chapter 99 subheadings.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist April Cutuli at april.a.cutuli@cbp.dhs.gov.

Sincerely,

Steven A. Mack
Director
National Commodity Specialist Division