

[HQ 563033](#)

July 6, 2004 MAR-2 RR:CR:SM 563033 KSG

CATEGORY: Marking

Lizabeth R. Levinson Garvey Schubert Barer Fifth Floor 1000 Potomac Street, NW Washington, D.C. , 20007-3501 RE: Country of origin of imported shrimp; substantial transformation

Dear Ms. Levinson:

This is in response to your letter dated May 6, 2004, on behalf of Hindustan Lever, Ltd., requesting a country of origin ruling regarding imported shrimp from Bangladesh.

FACTS:

Hindustan Lever proposes to purchase shrimp that is grown and harvested in Bangladesh and process the shrimp at its facilities in India. The processing in India will consist of heading, shelling, deveining, cooking, freezing or some combination of these processes. The processed shrimp will then be exported to the U.S.

ISSUE:

What is the country of origin of imported shrimp which is processed as described above?

LAW AND ANALYSIS:

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304), as amended, provides that unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

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), the country of origin is 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" within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

A substantial transformation occurs when a new and different article of commerce 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).

In *National Juice Products Association v. United States*, 628 F. Supp. 978 (CIT 1986), the court considered whether foreign manufacturing concentrate processed into frozen concentrated orange juice in the U.S. and reconstituted orange juice was considered substantially transformed. The U.S. processing involved blending the manufacturing concentrate with other ingredients to create the end product; the manufacturing concentrate was mixed with purified and dechlorinated water, orange essences, orange oil, and in some cases, fresh juice. The foreign manufacturing concentrate was blended with domestic concentrate, with ratios of 50/50 or 30/70 (foreign/ domestic).

The court considered that the U.S. processing added relatively minor value to the product and that the manufacturing concentrate imparted the essential character to the juice and made it orange juice. The court concluded that the foreign manufacturing juice concentrate was not substantially transformed in the U.S. when it was processed into retail orange juice products.

In *Koru North America v. United States*, 701 F. Supp. 229 (CIT 1988), the Court considered whether the processing of headed and gutted fish in South Korea by thawing, skinning, boning, trimming, freezing, and packaging constituted a substantial transformation. The Court concluded that the processing performed in South Korea into "quick-frozen" fillets substantially transformed the headed fish because there was a change in name and character. The Court noted that while the fish arrive in South Korea with the look of a whole fish, when they leave they no longer possess the essential shape of a fish. The fillets are considered discrete commercial goods and are also have a different tariff classification

As you noted in your letter, CBP ruled in Headquarters Ruling Letter ("HRL") 731763, dated May 17, 1989, that raw shrimp that was peeled, deveined, cooked, frozen and repackaged was not substantially transformed. Customs distinguished *Koru* because the processing of the shrimp was considered a minor change which merely rendered the product more suitable for consumption. The character of the shrimp (i.e., its size and quality) was not changed by the processing. Also see [HRL 731472](#), dated June 23, 1988.

In accordance with [HRL 731763](#), we concur with your conclusion that the shrimp processed in India as described above, would not be substantially transformed. The country of origin of the imported shrimp would be Bangladesh.

HOLDING:

The imported shrimp would not be substantially transformed in India. The country of origin of the imported shrimp would be Bangladesh.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

Sincerely, Myles B. Harmon, Director

Commercial Rulings Division