

HQ 561543

August 21, 2000

MAR-05 RR:CR:SM 561543 KKV

CATEGORY: Marking

Manuel Ochoa Texas Citrus Exchange P.O. Box 793 Mission, TX 78573-0793

RE: Request for a ruling regarding the country of origin marking requirements; abbreviations; 19 CFR 134.45; 19 CFR 134.46

Dear Mr. Ochoa:

This is in response to your letter dated November 4, 1998 (and subsequent facsimile dated April 13, 2000), requesting a binding ruling regarding the availability of certain abbreviations for use in compliance with the country of origin marking requirements of 19 U.S.C. 1304.

FACTS:

We understand that, in the production of beverages, Texas Citrus Exchange imports and uses foreign-origin concentrate from a variety of sources. Accordingly, you submit the following list of proposed abbreviations and request our determination as to their acceptability under 19 CFR 134.45:

Country	Proposed Abbreviation			
Argentina	Argen	Austria	Austri	Belize
Chile	Chile	China	China	Costa Rica
Republic	Dom Rep	Germany	Germ	Guatemala
Honduras	Hond			
Indonesia	Indo	Italy	Italy	Jamaica
Philippines	Philip	Poland	Pol	Puerto Rico
Afri Thailand	Thai	Turkey	Turkey	United States of America
Venezuela	Venez			

ISSUE: Whether the proposed country of origin abbreviations satisfy the requirements of 19 U.S.C. 1304 and 19 CFR 134.

LAW AND ANALYSIS:

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. 1304 was "that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the good is the product. The evident purpose is to mark the goods so that at time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will." *United States v. Friedlaender & Co.* 27 C.C. P. A. 297 at 302; C.A.D. 104 (1940). Part 134, Customs Regulations (19 C.F.R. Part 134), implements the country of origin marking requirements and the exceptions of 19 U.S.C. 1304. Section 134.46, Customs Regulations (19 CFR 134.46), provides that:

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced, appear on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

The purpose of the more stringent marking requirements of 19 CFR 134.46 is to ensure that an ultimate purchaser is not misled or deceived by a non-origin reference into believing that the country of origin is other than the actual country of origin from reading the non-origin reference. In fact, when applying the special marking requirements of 19 CFR 134.46, Customs takes into account the question of whether the presence of words or symbols on an imported article or its container can mislead or deceive the ultimate purchaser as to the actual country of origin of the article. Insufficient information has been submitted to permit a determination as to the applicability of the special marking requirements of 19 CFR 134.46 in this particular instance. However, if it is concluded that any non-origin locality reference would not mislead or deceive an ultimate purchaser as to the actual country of origin of the imported article, Customs policy is that the special marking requirements of section 134.46 are not triggered, and the origin marking only needs to satisfy the general marking requirements of permanency, legibility and conspicuousness under 19 U.S.C. 1304 and 19 CFR Part 134.

Section 134.45(b)(2) of the Customs Regulations (19 CFR 134.45(b)(2)), provides that an article may be properly marked using an abbreviation for the country if it unmistakably indicates the name of a country." The purpose of the marking statute, as explained in *American Burtonizing v. United States*, 13 Ct. Cust. Appls. 652 (1926):

[W]as to require a marking such as would be understood by purchasers of foreign-made goods as giving definite and reliable information as to the country of origin. It is not reasonable to suppose that Congress, by use of the word 'indicate' meant only that words used should hint at the country of origin. The object sought to be obtained by the legislature could best be obtained by an indication which was clear, plain, and unambiguous and which did more than merely hint at the country of origin. We do not think that Congress intended that American purchasers, consumers, or users of foreign-made goods should be required to speculate, investigate or interpret in order that they ascertain the country of origin.

The instances in which Customs has permitted the use of abbreviations instead of the entire name of the country of origin have been limited. It is our view that most abbreviations do not "unmistakably" identify the country of origin and are therefore unacceptable. "The ultimate purchaser should be able to ascertain the country of origin at a glance without any guesswork...." Headquarters Ruling Letter **(HRL) 731799**, dated May 15, 1989 (rejecting the abbreviations "VZLA" or "VENZLA"). The following are additional examples of abbreviations which Customs has previously rejected: "Arg" or "Argtin" for Argentina and "Hun" or "Hung" for Hungary **(HRL 733104**, dated March 15, 1990); "IN" for Indonesia **(HRL 734443**, dated June 3, 1992); "H.K." for Hong Kong **(HRL 735281**, dated February 24, 1994); "Mex" for Mexico **(HRL 561442**, dated July 19, 1999); "CAN" and "CDN" for Canada **(HRL 731760**, dated December 27, 1989. See also **HRL 722566** dated September 14, 1983 and **HRL 560108**, dated December 17, 1996); ?Phil? for Philippines **(HRL 727843**, dated July 3, 1985) and ?RF? for Russian Federation **(HRL 559931**, dated July 11, 1996).

Similarly in this situation, we do not believe that the following abbreviations unmistakably identify their respective countries of origin and their use on a product is not acceptable to meet the requirements of 19 U.S.C. 1304: "Argen," "Austri," "Beliz," "Braz," "C Rica," "Dom Rep," "Germ," "Guate," "Hond," "Indo," "Jam," "Malay," "Philip," "Pol," "P Rico," "S Afri," and "Venez." Likewise, although Customs has approved the use of the term "Thai" in its adjectival form (or as an adverb, e.g., "Thai Dyed," see Treasury Decision (T.D.) 73-0247), its use as an abbreviation in the absence of a verb or noun, is impermissible. However, inasmuch as the terms "Chile," "China" and "Italy" unmistakably denote the country of origin of the product upon which they will be printed, these markings are acceptable for purposes of 19 U.S.C. 1304.

With regard to the abbreviation of other words, we note that on September 23, 1997, Customs published in the Federal Register (62 Fed Reg. 49597, 31 Cust. Bull. No. 40 (October 1, 1997)) a reminder of its interpretation of the application of the country of origin marking law to imported fruit juice concentrate as set forth in T.D. 89-66 (23 Cust. Bull. 328 (1989)), in which Customs held that a

processor could list up to ten countries of origin which accounted for at least 75% of the foreign concentrate used. In addition to its renewed support of the applicability of the major source rule to imported fruit juice concentrate, Customs also addressed the use of abbreviations in conjunction with origin marking under the major source rule, specifically stating that, "it is incorrect to abbreviate the word 'concentrate' to 'conc' when disclosing the origin of juice concentrate since the ultimate purchaser will not unmistakably identify 'conc' as an abbreviation for the word 'concentrate'." Likewise, inasmuch as the more restrictive special marking requirements of 19 CFR 134.46 require the phrases "Made In," "Product of" or "words of similar meaning," (emphasis added) without any reference to the abbreviated form of such words, we hold that the term "Prod" is unacceptable when used in the context of 19 CFR 134.46.

With regard to the use of the abbreviation "USA," we note that while this abbreviation unmistakably indicates the country of origin of an article, the phrase "Made in the USA" or other claims of U.S. origin is a matter under the jurisdiction of the Federal Trade Commission (FTC). Therefore, we suggest that you contact that agency at the following address for a determination as to whether the use of this abbreviation as a claim of domestic origin is appropriate:

Federal Trade Commission Division of Enforcement Attn: Investigator Steve Eckland 600
Pennsylvania Avenue, N.W. Washington, D.C. 20580
Or, if you prefer, Mr. Ecklund may be reached by telephone at (202)326-2841.

HOLDING:

Because the following abbreviations do not unmistakably identify their respective countries of origin, their use as an abbreviation for the country of origin of a product is not acceptable for purposes of 19 U.S.C. 1304 and 19 CFR Part 134: "Argen," "Austri," "Beliz," "Braz," "C Rica," "Dom Rep," "Germ," "Guate," "Hond," "Indo," "Jam," "Malay," "Philip," "Pol," "P Rico," "S Afri," "Thai" and "Venez." Likewise, the term "Prod" is unacceptable as an abbreviation when used in the context of the special marking requirements of 19 CFR 134.46.

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,
Commercial Rulings Division

John Durant

Director