

## § 134.2

in the NAFTA Marking Rules as effecting a change in the article's country of origin.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the "ultimate purchaser." With respect to a good of a NAFTA country, if the manufacturing process does not result in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin, the consumer who purchases the article after processing will be regarded as the ultimate purchaser.

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser."

(4) If the imported article is distributed as a gift the recipient is the "ultimate purchaser", unless the good is a good of a NAFTA country. In that case, the purchaser of the gift is the ultimate purchaser.

(e) *United States*. "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(f) *Customs territory of the United States*. "Customs territory of the United States," as used in this chapter includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(g) *Good of a NAFTA country*. A "good of a NAFTA country" is an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.

(h) *NAFTA*. "NAFTA" means the North American Free Trade Agreement entered into by the United States, Canada and Mexico on August 13, 1992.

(i) *NAFTA country*. "NAFTA country" means the territory of the United States, Canada or Mexico, as defined in Annex 201.1 of the NAFTA.

(j) *NAFTA Marking Rules*. The "NAFTA Marking Rules" are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country.

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(k) *Conspicuous*. "Conspicuous" means capable of being easily seen with normal handling of the article or container.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94-1, 58 FR 69471, Dec. 30, 1993; T.D. 95-68, 60 FR 46362, Sept. 6, 1995]

### § 134.2 Additional duties.

Articles not marked as required by this part shall be subject to additional duties of 10 percent of the final appraised value unless exported or destroyed under Customs supervision prior to liquidation of the entry, as provided in 19 U.S.C. 1304(f). The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90-51, 55 FR 28190, July 10, 1990]

### § 134.3 Delivery withheld until marked and redelivery ordered.

(a) Any imported article (or its container) held in Customs custody for inspection, examination, or appraisal shall not be delivered until marked with its country of origin, or until estimated duties payable under 19 U.S.C. 1304(f), or adequate security for those duties (see §134.53(a)(2)), are deposited.

(b) The port director may demand redelivery to Customs custody of any article (or its container) previously released which is found to be not marked legally with its country of origin for the purpose of requiring the article (or its container) to be properly marked. A demand for redelivery shall be made, as required under §141.113(a) of this chapter, not later than 30 days after—

(1) The date of entry, in the case of merchandise examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(2) The date of examination, in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the port director.

(c) Nothing in this part shall be construed as excepting any article (or its