

## **Substantial Transformation**

When an item in trade does not come entirely from a single country, this legal principle is used to determine the origin of the item for purposes of recording trade data, assessing duties, marking, or applying other measures. As developed by U.S. courts (see 19 U.S. Code section 1304), the term means that the item underwent a fundamental change (normally as a result of processing or manufacturing in the country claiming origin) in form, appearance, nature, or character, which adds to its value an amount or percentage that is significant in comparison to the value which the item (or its components or materials) had when exported from the country in which it was first made or grown. Usually a new article of commerce—normally one with a different name—is found to result from any process that Customs decides has brought about a “substantial transformation” in the pre-existing elements. Imports into the United States must be marked or labeled in English with their country of origin, based on this principle, under rules laid out in Customs regulations in order to tell ultimate consumers the origin of the goods they buy or use; there are exceptions for items that cannot be marked without damaging them or for goods that will be significantly changed before reaching the ultimate purchaser. Other countries and the WTO Agreement on Rules of Origin utilize this concept to determine “country of origin,” though they may represent the concept in varying ways, such as changes of tariff classification, value added, specified processing operations, or combinations of these criteria.

Examples:

Sugar from country A, flour from country B, dairy products from country C, and nuts from country D are taken to country E and undergo manufacturing to result in cookies. (The inputs were substantially transformed into a product of country E, in that a new type of goods resulted from processing.)

Fresh vegetables grown in various countries are taken to another country to be mixed together and frozen. (The vegetables were not substantially transformed into products of the country where mixing and freezing occurred, and the mixture must be labeled with the origin of each ingredient.)

Repackaging, dilution with water, and similar minor processes usually do not cause a substantial transformation. Assembly or disassembly may result in a substantial transformation, depending on the nature of the products involved and the complexity of the operations.