



## ORIGIN LABELING IN INTERNATIONAL TRADE

We provide clarity and expertise on Country of Origin compliance markings, in the ever-demanding global regulatory landscape. Our clients trust us with their compliance needs, and expertise with the Country-of-Origin markings to assist their import and export operations.

### ORIGIN LABELING OVERVIEW

When providing goods to any market a business must have a clear understanding of the markings and labeling required to complete import or export formalities. Customs authorities view the purpose of marking a product is “to inform the 'ultimate purchaser' in which country the imported product was made.”

Origin marking also important for the following reasons:

- Can entitle the importer to preferential duty programs under Free Trade Agreements (FTA), ensuring they fulfill the criteria of Rules of Origin (RoO) under the relevant FTA.
- Determines the rate of duty applicable at import
- Confirms whether the goods can be legally imported and if a Certificate of Origin is required.
- Defines countries that are subject to quotas or are embargoed countries
- Provides statistical data to Customs Authorities on volumes of imports from specific countries.
- Allows products to clear Customs, as Customs Authorities are vigilant in verifying the accurate country of origin for products being imported or exported.

### ORIGIN LABELING IMPORTANCE

Product Origin labeling is a key function in having a successful exporting or importing strategy, ensuring that products have this in place on the product and shipping documents to complete Customs formalities.

The country of an origin of goods can operate as an absolute bar to import, while at the other end make them free from all duties and restrictions.

The origin marking is not just for Customs formalities but is also prevalent for Consumer Protection and Market Surveillance authorities.

For Consumer Protection country of origin affects consumer evaluation of products, and there are legal consequences of making incorrect claims about the products origin. Both Consumer Protection and Market Surveillance is in place to improve product safety, reduce counterfeiting and improve customer protection for products they can purchase.

The basic requirements for Country of Origin labeling are as follows:

**Permanent** — the country of origin must be noted permanently on an article and must be designed to remain on the article until it reaches the “end user”.

**Legible** — the marking must be in lettering which is clear, and which can be read without strain; and **Conspicuousness** — the marking must appear on the article in a place which is readily accessible, and where the marking can be found upon casual examination by any Customs Authority.



## **ORIGIN LABELING REGULATORY LAWS**

The legal basis regarding International Trade Origin labeling are:

- Article III and Article IX of GATT 1994, the WTO Agreement on Rules of Origin
- Madrid Agreement on Repression of False or Deceptive Indications (ARO)
- National Customs legislation
- National Consumer Protection legislation

Listed below are a few Origin labeling country requirements:

- In the United States, the marking statute, Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304) requires that, unless excepted, every article of foreign origin imported into the U.S.A shall be marked with its country of origin.
- There is **NO** EU legislation regarding marking or labeling on a product imported into EU of the country where it originates. Please note that according to EU customs legislation, the country of origin must always be indicated on the Commercial Invoice and in a specific box of the customs import declaration.
- In China PRC - Decree of the State Council of the People's Republic of China No. 416 defining the Origin of Import and Export Goods. Country of Origin must be clearly stated on paperwork and the product, with all products sold in China being marked in Chinese language.

Please be aware the Country of Origin markings as set at National levels and in Free Trade Arrangements and must be clearly understood.

## **HOW DOES A BUSINESS COMPLY?**

Rules of origin are complex and often misunderstood. These rules differ under each free trade program and national regulations. A business must adopt clear controls and processes, but an effective management program should include the following:

- Understand International / Regional and National standards to enable import and export for your product portfolio.
- Identification of applicable requirements, including regulatory requirements, market and customer drivers.
- Business ownership to ensure global country of origin requirements are adhered to for business product portfolio including Suppliers.
- Monitoring changes to regulations and laws that effect the product portfolio
- Creating a product assurance program to ensure documentation is centrally held including certificates of conformity and Binding Origin Rulings (BOI's).

## **ORIGIN LABELING PITFALLS, ENFORCEMENT & PENALTIES**

Importers are legally responsible for the accuracy of the information included in their Customs entries. Filing claims for duty free treatment without knowing that origin of those goods can be substantiated through documentary evidence is taking an unnecessary business risk.



In any case of Non-Compliance will result in Customs civil penalties, and these are used to ensure compliance with relevant customs law. Civil penalties are an appropriate sanction in such cases, although Civil Penalties and Prosecutions remain optional by the relevant National Customs Authority.

The maximum penalties provided are £2,500 or greater per contravention as determined by the National Customs Authority. There are 2 types of customs civil penalty action:

- a warning letter
- a financial penalty

When a business contravenes a duty, obligation, requirement or condition imposed by or under European Community or national customs legislation or under international rules (such as those provided in international agreements on tariff preferences) you may become subject to customs civil penalty action.

The Customs Authority will ultimately determine the monetary amount of the penalty based on the individual circumstances of the case. If there are multiple infringements this can result in the business losing any customs simplifications programs.

In cases where origin is a determining factor for duty free treatment under a Free Trade Agreement, and origin cannot be proven, duty free treatment will be denied. Also, Customs can collect back duties, and possibly assess massive civil penalties which will be a multiple of the duties (i.e., 400% in gross negligence cases) that must be paid to the government.

## **GLOBAL TRADE MANAGEMENT**

Our focus on Country of Origin Labeling for International Trade utilizes our global customs knowledge and use our experience of business best practices, regulatory controls and process and procedures to support your Country of Origin labeling program.

We offer the following key elements to support your Country of Origin labeling program:

- Assistance in building an effective program to prevent, detect and deal with non-conformity. to minimize the risk of enforcement actions, financial loss and reputational damage.
- Guidance on International / Regional and National laws regarding Country of Origin marking.
- Guidance on Country of Origin labeling within European Union (EU) and specific member state requirements at National level.
- Regulatory and research Q&A style support
- Country of Origin Marking Training.
- External Audit function to validate country of origin product declarations including reporting.

Please note Country of Origin markings are not the only requirement needed to gain Market Access into a country, there are specific to product licenses, certifications and product specific labeling needs.

**Find out how WTCS** can work with you for all your COUNTRY OF ORIGIN marking needs.