

N301975

December 21, 2018

CLA-2-85:OT:RR:NC:N2:220

CATEGORY: Classification; Marking; Trade Programs

TARIFF NO.: [8501.31.2000](#)

Thomas Keating  
Hodes Keating & Pilon  
134 North LaSalle Street  
Suite 1300  
Chicago, Illinois 60602

RE: The tariff classification, status, and country of origin marking under the North American Free Trade Agreement (NAFTA), of electric motors from Mexico; Article 509

Dear Mr. Keating:

In your letter dated November 20, 2018 you requested a tariff classification and status under the NAFTA on behalf of your client, Johnson Electric North America.

The item under consideration is identified as PN 1999-1031206 which is described as a brushed permanent magnet direct current motor with a peak output power of 42.4 watts. You state the motor is manufactured in Mexico from components that originate in Mexico, the United States, China, and Japan. As part of your request you suggest the subject electric motor qualifies as a product of Mexico and qualifies for NAFTA preferential treatment because all components make the required tariff shift.

The manufacturing process the subject electric motor undergoes consists of component-level production of the subassemblies, assembly, and testing. After a thorough review of the bill of materials and the provided process roadmap, we are of the opinion that significant production operations are employed to produce the motor, such as the stamping and forming of metal housings and components, the soldering of electrical components, and more.

As an initial matter, we would note our agreement with your suggested classification of the motor in [8501.31.2000](#), Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Electric motors...: Other DC motors; DC generators: Of an output not exceeding 750 W: Motors: Exceeding 37.5 W but not exceeding 74.6 W".

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. § 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. 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 an ultimate purchaser in the United States the English name of the country of origin of the article. The regulations implementing the requirements and exception to 19 U.S.C. § 1304 are set forth in Part 134, Customs and Border Protection Regulations (19 C.F.R. Part 134).

19 C.F.R. § 134.1(b) provides as follows:

Country of origin means the country of manufacture, production, or growth of any article of foreign origin entering the United States. 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.

Since Mexico is a NAFTA country, the NAFTA Marking Rules must be applied in this case for purposes of determining the country of origin for purposes of marking. Part 102, Customs and Border Protection Regulations (19 C.F.R. Part 102), sets forth the NAFTA Marking Rules. Section 102.11 provides a required hierarchy for determining the country of origin of a good for marking purposes. See 19 C.F.R. § 102.11. Applied in sequential order, the required hierarchy establishes that the country of origin of a good is the country in which:

(a)(1) The good is wholly obtained or produced;

(a)(2) The good is produced exclusively from domestic materials; or

(a)(3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in Section 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

Sections 102.11(a)(1) and 102.11(a)(2) do not apply to the facts presented in this case because the subject electric motor is neither wholly obtained nor produced exclusively from "domestic" materials. Because the analysis of sections 102.11(a)(1) and 102.11(a)(2) does not yield a country of origin determination, we look to section 102.11(a)(3). "Foreign material" is defined in 19 C.F.R. § 102.1(e) as "a material whose country of origin as determined under these rules is not the same country as the country in which the good is produced." The applicable rule for subheading [8501.31.2000](#), HTSUS, in section 102.20 requires:

A change to heading 8501 from any other heading.

As previously stated, the materials that comprise the subject electric motor originate from Mexico, the United States, China, and Japan. The individual material components are diverse and range from raw materials and wire to subassemblies such as the commutator. However, all of the components that make up the electric motor are classifiable outside heading 8501 and as such, the tariff shift requirements are met. Thus, for purposes of marking, the country of origin of the electric motor PN 1999-1031206 is Mexico.

With regard to the status of the electric motor, General Note 12(b), HTSUS, sets forth the criteria for determining whether a good is originating under the NAFTA. General Note 12(b), HTSUS, (19 U.S.C. § 1202) states, in pertinent part, that:

For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as "goods originating in the territory of a NAFTA party" only if--

(i) they are goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States; or

(ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--

(A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the

production of such goods undergoes a change in tariff classification described in subdivisions (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivisions (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note; or

(iii) they are goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials; or

(iv) they are produced entirely in the territory of Canada, Mexico and/or the United States but one or more of the nonoriginating materials falling under provisions for "parts" and used in the production of such goods does not undergo a change in tariff classification because--

(A) the goods were imported into the territory of Canada, Mexico and/or the United States in unassembled or disassembled form but were classified as assembled goods pursuant to general rule of interpretation 2(a), or

(B) the tariff headings for such goods provide for and specifically describe both the goods themselves and their parts and is not further divided into subheadings, or the subheadings for such goods provide for and specifically describe both the goods themselves and their parts, provided that such goods do not fall under chapters 61 through 63, inclusive, of the tariff schedule, and provided further that the regional value content of such goods, determined in accordance with subdivision (c) of this note, is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used, and such goods satisfy all other applicable provisions of this note.

Based on the facts provided, the goods described above qualify for NAFTA preferential treatment, because they will meet the tariff shift requirements of HTSUS General Note 12(b)(ii)(A). The goods will therefore be entitled to a Free rate of duty under the NAFTA upon compliance with all applicable laws, regulations, and agreements.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <https://hts.usitc.gov/current>.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Karl Moosbrugger at [karl.moosbrugger@cbp.dhs.gov](mailto:karl.moosbrugger@cbp.dhs.gov).

Sincerely,

Steven A. Mack  
Director  
National Commodity Specialist Division