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CATEGORY: CLASSIFICATION

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RE: NAFTA; Used Alternator and Starter Cores and Parts; 19 CFR
181.132; Disassembly; Accumulation

Dear Mr. Johnston:

This is in reply to your letter dated July 22, 2005, on behalf of [REDACTED], requesting a prospective binding ruling pursuant to Part 177, Customs and Border Protection (CBP) Regulations. The request concerns the applicability of the North American Free Trade Agreement (NAFTA) regulation on disassembly, set forth at 19 CFR 181.132, to certain automotive components. [REDACTED] is requesting a ruling that its operations result in materials that qualify as originating within the meaning of the NAFTA.

FACTS:

[REDACTED], working with affiliates and independent suppliers, operates a business in remanufactured automotive alternators and starters. The production cycle consists of acquisition by [REDACTED] of used non-operative alternators and starters known as "cores" from individuals or automotive repair facilities. The cores are recovered from vehicles by disassembly. [REDACTED] states that the cores have been disassembled from vehicles in the territory of one or more of the NAFTA Parties.

[REDACTED] then supplies the used cores to its contracted manufacturers in Mexico who further disassemble the cores into stators, rotors, armatures and other parts. Parts that are not reusable are discarded. Reusable parts are cleaned or repaired as necessary. Then the cleaned or repaired parts, together with new parts as necessary, are assembled into remanufactured alternators and starters. The rebuilt components are then

shipped by the remanufacturers back to [REDACTED] in the U.S. for distribution to end users.

[REDACTED] has not asked for a prospective ruling with regard to the alternators and starters rebuilt in Mexico that it will import into the U.S. [REDACTED] notes that whether these goods qualify as NAFTA originating goods requires consideration of the origin and possibly the regional value content (RVC) of all the inputs, including the recovered cores. Such information was not included in the instant submission. The scope of this ruling is therefore limited to whether the used cores, stators, rotors, armatures and other parts of alternators and starters taken from used vehicles qualify as NAFTA originating materials.

[REDACTED] plans to claim eligibility for NAFTA preferential tariff treatment for the rebuilt alternators and starters when importing them into the U.S. In calculating NAFTA eligibility it would consider the cores and their parts, recovered from vehicles in NAFTA territories, as originating NAFTA materials that are used in production of the remanufactured alternators and starters. [REDACTED] seeks a ruling that recovery of the cores from vehicles by disassembly in a NAFTA territory would, pursuant to 19 CFR 181.132, satisfy the NAFTA rule of origin applicable to alternators and starters. It further requests a ruling that obtaining stators, rotors, armatures and other parts of alternators and starters by disassembly of the above-referenced cores in a NAFTA territory would satisfy the NAFTA rule of origin applicable to parts of alternators and starters. Here also, [REDACTED] seeks application of 19 CFR 181.32 by which the disassembly operations are recognized as production for purposes of the rule of origin. [REDACTED] would consider the used cores and their parts as NAFTA originating materials in preparing its certification that alternators and starters rebuilt in Mexico are NAFTA originating goods.

[REDACTED] proceeds from the assumption that any vehicle from which cores are removed is non-originating. The activity that takes place in one of the three NAFTA territories is the removal of used cores from the non-originating vehicles, followed by disassembly of the cores to recover parts. The cores are assumed to be classified in HTSUS subheadings 8511.40 (starters) and 8511.50 (alternators). The recovered parts, including stators, rotors and armatures are assumed to be classified in HTSUS subheading 8511.90. The vehicles from which the cores are disassembled are for the most part classified in HTSUS heading 87.03, or in other headings of HTSUS Chapter 87, which provides for vehicles and their parts.

ISSUE:

Whether the alternator and starter cores and their parts, including stators, rotors and armatures, qualify as NAFTA originating materials for the purpose

of certifying the NAFTA eligibility of alternators and starters rebuilt in Mexico using these components.

LAW & ANALYSIS:

Article 401 of the NAFTA provides, in relevant part, that a good shall originate in the territory of a Party where:

.....
 (b) each of the non-originating goods used in the production of the good undergoes an applicable change in tariff classification set out in Annex 401 as a result of production occurring entirely in the territory of one or more of the Parties, or the good otherwise satisfies the requirements of that Annex where no change in tariff classification is required...

General Note 12, HTSUS, incorporates Article 401 of NAFTA into the HTSUS. General Note 12(a)(ii) provides, in pertinent part:

Goods that originate in the territory of a NAFTA party under the terms of subdivision (b) of this note and that qualify to be marked as goods of Mexico under the terms of the marking rules set forth in regulations issued by the Secretary of the Treasury (without regard to whether the goods are marked), when such goods are imported into the customs territory of the United States and are entered under a subheading for which a rate of duty appears in the "Special" subcolumn followed by the symbol "MX" in parentheses, are eligible for such duty rate, in accordance with section 201 of the NAFTA Implementation Act.

Accordingly, the rebuilt alternators and starters will be eligible for the "Special" "MX" rate of duty provided they are NAFTA "originating" goods under General Note 12(b), HTSUS, and qualify to be marked as products of Mexico under the marking rules. General Note 12(b), HTSUS, provides, in pertinent part:

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.

The specific rules of origin of NAFTA Annex 401 are set forth at GN 12(t). This office confirms that the classification of automotive starters is in subheading 8511.40, HTSUS. Automotive alternators are classified in subheading 8511.50, HTSUS. Parts of goods classified in subheadings 8511.40 and 8511.50, HTSUS, are classified in subheading 8511.90, HTSUS.

Origin of Used Cores

Under the facts presented the key issue is whether the recovered used cores and their parts may be considered as NAFTA originating materials that are used to produce NAFTA originating rebuilt alternators and starters. Pursuant to 19 CFR 181.92(b)(6)(v), CBP may issue an advance ruling on whether a good qualifies as an originating good under GN 12 HTSUS and under the Appendix to Part 181 of the CBP Regulations. The GN 12 NAFTA rules of origin are used to determine the originating status of both goods and of materials used in the production of those goods. [REDACTED] submits that the change by disassembly in a NAFTA party to alternators or starters in HTSUS subheadings 8511.40 and 8511.50 from vehicles in HTSUS Chapter 87 (assumed to be non-originating) satisfies the NAFTA GN 12(t) rule of origin for alternators and starters. On this basis it would consider the core alternators and starters as NAFTA originating materials.

For goods classified in subheadings 8511.40 and 8511.50, HTSUS, the specific rule of origin under GN 12(t)/85.22 requires:

- (A) A change to subheadings 8511.10 through 8511.80 from any other heading; or
- (B) A change to subheadings 8511.10 through 8511.80 from subheading 8511.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:
 - (1) 60 percent where the transaction value method is used; or
 - (2) 50 percent where the net cost method is used.

In the present context, a change to starters or alternators classified in subheadings 8511.40 or 8511.50 from non-originating materials classified in

Chapter 87 (vehicles) satisfies the requirement of GN 12(t)/85.22(A) that there be a change from (at least) a different HTSUS heading, *i.e.*, at the four digit level of the nomenclature. (The regional value content (RVC) requirement need not be met if the tariff shift requirement is satisfied.)

Disassembly

Under both Article 401 and GN 12, qualifying changes in tariff classification must take place by reason of "production". The recent CBP Final Rule on disassembly confirms that, with certain exceptions, disassembly operations are to be considered as production in the context of applying the NAFTA tariff shift rules. The Final Rule, published at 70 FR 37669 (June 30, 2005), added a new section 181.132 to the CBP Regulations providing as follows:

§ 181.132 Disassembly.

(a) Treated as production. For purposes of implementing the rules of origin provisions of General Note 12, HTSUS, and Chapter Four of the NAFTA, except as provided in paragraph (b) of this section, disassembly is considered to be production, and a component recovered from a good disassembled in the territory of a Party will be considered to be originating as the result of such disassembly provided that the recovered component satisfies all applicable requirements of Annex 401 and this part.

(b) Exception: new goods. Disassembly, as provided in paragraph (a) of this section, will not be considered production in the case of components that are recovered from new goods. For purposes of this paragraph, a "new good" means a good which is in the same condition as it was when it was manufactured and which meets the commercial standards for new goods in the relevant industry.

A component recovered from a good (other than a new good) by disassembly is therefore eligible to be considered as a NAFTA originating good or material provided that the recovered component satisfies the applicable GN 12(t) rule of origin and satisfies other applicable requirements. In its Final Rule CBP noted that

CBP finds no evidence showing that the NAFTA intended not to treat "disassembly" as a production process. The term "production" includes a broad range of economic activity. Moreover, the goals of the NAFTA include elimination of barriers to trade, facilitation of cross-border movement of goods, promotion of economic activity in

North America, and protection of the environment. Thus, it is consistent with the free trade purposes of NAFTA to treat the recovery of goods by disassembly as "production" under the NAFTA rules of origin.

70 FR at 37671. CBP further observed that

It is likely that the used good will be assumed to be non-originating. However, the new regulation allows the component recovered from the used good to qualify as an originating good. If the recovered component meets the Annex 401 rule applicable to that component, the recovered component will be considered to be an originating good (or material).

70 FR at 37674.

██████████ will assume that the vehicles from which the cores are recovered are non-originating. Pursuant to 19 CFR 181.132, the recovery of cores from non-originating vehicles by disassembly is considered "production" for the purposes of the NAFTA rules of origin. The change to used cores (alternators and starters) of subheadings 8511.40 and 8511.50, HTSUS from vehicles of Chapter 87, HTSUS, satisfies the applicable tariff shift rule of origin, *i.e.*, that there is a change to these subheadings from (at least) a different heading of the HTSUS. Therefore, assuming all other applicable requirements are met, the producer or exporter may consider used cores recovered from used vehicles within one or more NAFTA territories as originating materials.

Accumulation

The cores will be further disassembled into parts of stators and alternators. For the parts classified in subheading 8511.90, HTSUS, disassembly consists of operations in two NAFTA territories: 1) recovery in the U.S. of used cores from non-originating vehicles; and 2) disassembly of the cores in Mexico to produce parts of alternators and starters. Under the NAFTA, production in more than one NAFTA territory by more than one producer may be accumulated, *i.e.*, considered as taking place in a single NAFTA territory. As provided in GN 12(e), HTSUS:

- (i) For purposes of determining whether a good is an originating good, the production of the good in the territory of Canada, Mexico and/or the United States by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of a NAFTA party by that exporter or producer, provided that--

- (A) all non-originating materials used in the production of the good undergo an applicable tariff classification set out in subdivision (t) of this note,
 - (B) the good satisfies any applicable regional value-content requirement, entirely in the territory of one or more of the NAFTA parties; and
 - (C) the good satisfies all other applicable requirements of this note.
- (ii) For purposes of subdivision (c)(viii) of this note, the production of a producer that chooses to accumulate its production with that of other producers under subdivision (e)(i) shall be considered to be the production of a single producer.

Given that the change to parts of alternators and starters of subheading 8511.90 from vehicles of heading 87.03 satisfies the required tariff shift, a producer or exporter of alternators or starters rebuilt in Mexico as set forth in this submission may invoke the GN 12(e) accumulation provision. The producer or exporter may treat Mexico as the country in which production takes place, notwithstanding that disassembly occurs in both the U.S. and Mexico. Also, the producer or exporter may consider the production to be that of a single producer. In preparing the Certificate of Origin for alternators and starters rebuilt using such recovered parts, the producer or exporter is entitled to consider the alternator or starter parts (including rotors, stators and armatures) as materials originating in Mexico.

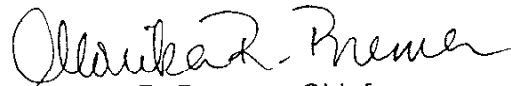
However, this ruling does not address whether the alternators and starters rebuilt in Mexico from used cores qualify as NAFTA originating goods when imported into the U.S. To qualify, production of the rebuilt alternators and starters would have to satisfy the applicable tariff shift or RVC requirements of GN 12(t)/22 and any other applicable requirements. Further, pursuant to GN 12(a)(ii), the rebuilt alternators or starters must qualify to be marked as goods of Mexico. For your information, the country of origin of a good for NAFTA marking purposes would be determined by application of the rules set forth in Part 102, CBP Regulations (19 CFR Part 102) ("NAFTA Marking Rules").

HOLDING:

Production by disassembly of used alternators and starters known as "cores", and of parts of alternators and starters including rotors, stators and armatures satisfies applicable origin requirements of the NAFTA. The cores may be considered NAFTA originating materials. The rotors, stators, armatures and other parts of alternators and starters produced as set forth above may be considered by the producer or exporter of rebuilt alternators or starters as materials originating in Mexico for the purpose of executing a NAFTA Certificate of Origin for the rebuilt goods.

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are 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,

A handwritten signature in black ink, appearing to read "Monika R. Brenner". The signature is written in a cursive style with a large initial "M".

Monika R. Brenner, Chief,
Valuation & Special
Programs Branch