

Buyers' Learning Tools



Unit Five:

Proper Labeling of Imported Cookware and Bakeware

By law, the U.S. Customs Service states that products imported to the U.S. must be labeled clearly with the items country of origin. Failure to properly label can result in delays in clearing customs, and a marking duty penalty of ten percent of the customs value can also be assessed in addition to expensive marking at the point of entry.

(E)ach imported article produced abroad (is) to be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article permits, with the English name of the country of origin, to indicate to the ultimate purchaser in the United States the name of the country in which the article was manufactured or produced.

Note the key requirements of the marking:

- **Conspicuous**—Not hidden, but visible to casual inspection.
- **Legibly**--Type large enough and with enough contrast to enable the label to be read by the average person.
- **Indelibly**—Not an ink designed to fade or a label with inadequate adhesive

Permanently as the nature of the article permits—Subject to reasonable interpretation.

The purpose of the labeling rule is to indicate to the ultimate user the country from which the article originated. In cookware or bakeware, clearly the end ultimate user is the consumer, and not the retailer of the product.

Frequent Questions about Product Marking:

The product or the package? Since the intent of the law is that the product's country of origin be visible to the end purchaser, it would seem that how the product is displayed to the end user should dictate its labeling. If a pan is designed to be shown without its package, then the pan should be labeled. If it is part of a set that is contained within a color package, then the package should be labeled. If there is any doubt on the final placement or retailing of the product, then both the package and the product properly labeled would comply with both the letter and spirit of the law.

Permanently is how permanent? Importers argue, rightly, that the producer of goods may be producing for a number of differing countries, making it impractical to die mark the country of

origin. In most cases, adhesive labels can be used to mark the country of origin on the product in such a situation. Where items are exclusive to a U.S. importer, however, the argument can reasonably be made that marking should be cast-in-the-mold, etched, engraved or die-marked.

Mixed products: For products that are “mixed”, i.e. a imported glass cover and a U.S. made pan, labeling of the cover with its origin, or language on the packaging such as “cover made in Israel, pan made in U.S.A.” would comply.

Removal of labeling: There are numerous cases of retailers scraping off the adhesive label stating the country of origin. Doing so is a violation of law, but is practically unenforceable since customs typically inspects goods upon their entry and not their final destination. Manufacturers should specify adhesive of such quality that removal of proper and legal labels is difficult. The Federal Trade Commission has reached consent decrees with firms for removal of country of origin labels in the past however. (El Portal Luggage Stores, Inc.)

What about “Made In U.S.A.?” Made in U.S.A. claims come under the jurisdiction of the Federal Trade Commission. This agency has wrestled with this issue in the past. Provided the substantial transformation of the product occurred in the U.S., then Made in U.S.A. is permissible. The manufacturer does not have to be as certain that the majority of the raw materials entering the product were originally produced in the U.S. As a practical matter, substantial transformation would not include attaching a handle, packaging bulk produced product into individual boxes or mating pans with covers.

What about “Designed in U.S.” marking? Certainly the place of design may be included, but it does not substitute for country of origin labeling. You can reasonably assume that Customs would look askance at a larger “Designed” label than a “Made in” label.

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