



The Bottom Line

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EXECUTIVE ORDER CHANGES HONG KONG MARKING RULES

Summary

The President issued an Executive Order on July 14, 2020 suspending the application of section 201(a) of the United States–Hong Kong policy of 1992. Pursuant to that action, the administration has ruled that imported goods produced in Hong Kong may no longer be marked to indicate “Hong Kong” as their origin but must be marked to indicate “China.”

Background

On July 1, 1997, after 156 years of British colonial rule, Hong Kong became a Special Administrative Region (SAR) of the People’s Republic of China. Under the concept of “one country, two systems,” Hong Kong was guaranteed a high degree of autonomy, except in foreign affairs and defense, and a promise that the social and economic system, lifestyle, and the rights and freedoms enjoyed by the Hong Kong people would remain unchanged for at least 50 years. Section 201(a) of the U.S.–Hong Kong Policy Act of 1992 stated that U.S. laws—with regard to Hong Kong under Chinese rule—would not change from what they were under British rule.

On the eve of the 23rd anniversary of the handover, Chinese lawmakers voted unanimously to circumvent Hong Kong’s politicians and curtail most of those freedoms. Since then, the United States has ruled that Hong Kong is no longer sufficiently autonomous to justify differential treatment in relation to China.

Current Status

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 United States shall be marked in a conspicuous place as legibly, indelibly, and

permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin in the article. Such goods when entered or withdrawn from warehouse for consumption into the United States after November 9, 2020, must be marked to indicate that their origin is “China.” Goods that are not marked properly after the transition period may be brought into a Foreign Trade Zone to be properly marked under a permit to manipulate issued by the Port Director. Customs has stressed, however, that this rule relates only to the marking of the goods. The country of origin for Customs purposes is still considered to be Hong Kong. This distinction is critical as goods of Chinese origin are subject to punitive section 301 tariffs and goods of Hong Kong origin are not.

Impact

A transition period through November 9, 2020 will be granted for importers to implement marking consistent with this position for imported goods produced in Hong Kong. Failure to mark an article in accordance with the requirements of 19 U.S.C. 1304 shall result in the levy of a duty of ten percent ad valorem, plus the added expense of remarking goods in a Foreign Trade Zone or bonded warehouse. At this time, the rule does not change the country of origin for duty determination. As the relationship between the United States and China continues to deteriorate, however, it’s a possible next step for the administration.

RESOURCES:

[Country of Origin Marking of Products of Hong Kong \(FR\)](#)
[President’s Executive Order on Hong Kong Normalization \(FR\)](#)
[Guidance on Marking of Goods of Hong Kong \(CBP\)](#)