

This section provides specific U.S. Customs country of origin marking instructions, which must be conveyed to all foreign suppliers to U.S. based units, including suppliers that are Tyco companies.

2.10.1 – Marking Requirements to Foreign Suppliers

Background

Tyco Valves & Controls units which import merchandise into the United States are legally responsible for compliance with U.S. country of origin marking requirements, and may face substantial fines or penalties for the failure to mark merchandise properly at the time of importation. It is, therefore, critical that Tyco Valves & Controls foreign suppliers are reminded of these requirements and the consequence to them of non-compliance. That is, Tyco Valves & Controls rejection, at the foreign supplier's expense, of any non-conforming goods.

Instructions to Tyco Foreign Suppliers

In order to ensure compliance with the marking regulations to demonstrate reasonable care, Tyco Valves & Controls LP units adopt the follow procedure.

First, every individual product shipped in a container to a Tyco U.S. based unit must have a country of origin marking that complies with these instructions.

Second, every container in which products are shipped to a Tyco U.S. based unit must bear a country of origin marking that complies with these instructions.

Foreign suppliers should not deviate from these rules unless approval for the exception is provided by the International Transaction Compliance Officer on the advise of the Corporate Legal Department.

While this procedure addresses the particular marking requirements under U.S. law, other countries may have similar marking laws that are to be followed when shipping to non-U.S. based Tyco Valves & Controls units.

1. **Conspicuous location.** All country of origin markings on products must be placed in a location which will be easily found by the ultimate purchaser. For example, a marking on the outside of the article will normally be satisfactory. A marking on the interior of the product will not satisfy this requirement. With respect to containers, a large, printed country of origin statement (e.g., "Made in China") appearing on the top of the container will normally suffice.
2. **Ultimate Purchaser.** The "ultimate purchaser" is generally the last person in the United States who will receive the product in the form in which it was imported. The question of who is the ultimate purchaser must be evaluated on a case-by-case basis. For example, if the imported product is to be sold at retail in its imported form, the retail purchaser is the ultimate purchaser. On the other hand, Tyco U.S. based units may be the ultimate purchase of the imported product if they subject it to a manufacturing process (i.e., a "substantial transformation") that results in a new product with a name, character and use that is different from that of the imported product.

3. **Legibility.** The country of origin marking on a product must be large enough so that it can be read easily without strain. It must also be easily distinguished from the product (e.g., the use of contrasting-colored lettering in the case of printed markings).
4. **Indelibly/permanently marked.** All country of origin markings must be sufficiently secure so as to remain on the article until it reaches the ultimate purchaser. The marking must be accomplished by secure means, such as working the country of origin statement onto the product at the time of manufacturing, by etching, engraving or indelible paint stenciling. [The ITCO should be consulted if the supplier intends to manufacture and ship iron, steel or stainless steel pipes or steel, stainless steel, chrome-moly steel or cast and malleable iron pipe fittings]. Also, please note that, irrespective of the method of markings, the other requirements of these instructions must be satisfied.
5. **English name.** Each product must be marked in English with the country of origin.
6. **Container markings.** The shipping containers of all products must also be marked with the country of origin of its contents. The container markings must also be conspicuous, legible and permanent. A large printed origin statement (e.g., “made in China”) appearing on the top of the container would normally suffice.
7. **References to location other than the country of origin.** Additional requirements apply whenever the imported article, or its container, bears a reference to a location other than the country of origin. This would apply, for example, if “USA” or the U.S. address of a Tyco Valves & Controls unit appears on the product (or container). In such case, the country of origin preceded by the language “Made in”, “Product of” would have to appear legibly and permanently in close proximity to the “USA” reference or the U.S. address, and in letters of at least a comparable size.
8. **Covering or removal of country of origin markings.** The country of origin marking should never be removed or defaced, nor may it be covered, obscured or concealed by other labels, such as freight forwarding or shipping labels or instructions, on the article or container.
9. **Exceptions.** The U.S. Customs laws provide for limited exceptions to the requirements for marking imported products. Each of these exceptions must be evaluated on a case-by-case basis by the ITCO. The most important ones are the following:
 - A. *Products for which the marking of the containers will reasonably indicate the country of origin of the products.* Under this exception, as long as the ultimate purchaser receives the products in a container that is properly marked with the country of origin of the products, the product does not have to be individually marked. As a general rule, this exception requires that the containers remain sealed from the time of importation until they reach the ultimate purchaser.
 - B. *Products that are incapable of being marked.* The U.S. Customs laws recognize that some products are not capable of being individually marked. For instance, a product may be too small or its composition may not permit a conspicuous, legible, and indelible marking. Customs has determined, for example, that fastener products such as bolts, nails, nuts, rivets, screws, spikes, staples and wooden dowels are exempted from individual product markings requirements. Regardless of whether this exception applies, the container in which the products reach the ultimate purchaser must be marked with the country of origin.

- C. *The J-List.* In its regulations, U.S. Customs publishes a list of products that are exempted administratively from individual marking. This list is known as the “J-List” and it specifies specific and very limited products that are exempted from individual marking. For instance, certain metal blanks and bars appear on this list. Again, regardless of whether this exception applies, the container in which the products reach the ultimate purchaser must be marked with the country of origin.

- D. *Marking After Importation.* As noted at the outset, the first general rule is that each product must be marked with the country of origin at the time of importation. In very limited cases, Customs may grant permission to the Importer of Record that the goods be marked after importation as long as the U.S. Customs Port Director is satisfied that the U.S. importer has procedures in place to ensure that the proper marking of the products occur. Permission must be granted prior to the foreign supplier shipping the product to the U.S. based Tyco Valves & Controls units.

Products of different sizes and shapes may require different markings. When in doubt as to the particular form of markings to be used for a given article (e.g., the location, size, etc.), the foreign supplier should contact the Tyco Valves & Controls Purchasing Manager who will work with the ITCO to resolve any doubts.

In addition, should any other questions arise with respect to any of these instructions, foreign suppliers should contact the Tyco Valves & Controls Purchasing Manager and the ITCO. Tyco reserves the right to reject any products that do not conform to these requirements. Tyco foreign suppliers will bear the responsibility for the costs and expenses of rejecting non-conforming products.

When in doubt, don't ship or proceed with the transaction, but seek guidance from the Purchase Manager and International Transaction Compliance Officer (ITCO) who will seek guidance from the Tyco Corporate Legal Department.