

Australian Owned recognises the Australian Competition & Consumer Commission (ACCC) & Australian Consumer Law (ACL) guideline concerning substantial transformation to assist in determinations regarding exclusion of assembly when assessing applications for an Australian Owned licence. The following has been partly extracted from the ACCC website.

Substantial transformation test

Goods are substantially transformed in a country if:

- they were 'grown in' or 'produced in' that country, or
- as a result of processing in that country, the goods are fundamentally different in identity, nature, or essential character from all of their imported ingredients or components.

If you are trying to determine whether you have substantially transformed something, you should consider the ordinary meaning of these terms.

- Identity—the condition, character, or distinguishing features of a thing.
- Nature—the particular combination of qualities belonging to a thing by birth or constitution; native or inherent character.
- Essential character - the necessary or indispensable qualities that distinguish one thing from others.

According to ACL, goods that can carry a claim that they were 'grown in' or 'produced in' a particular country may also safely claim to have been 'made in' that country. For example, a herbal supplement made in Australia from Australian ingredients could claim to be 'Australian Grown', 'Produced in Australia' or 'Australian Made'. It would be up to the business to decide which label to use.

As to whether a product with imported ingredients or components has been substantially transformed, this will require a closer assessment of the processing undertaken in that country and its effect on the final product. To be safe under the ACL, the good must have undergone its last substantial transformation in that country such that its inherent characteristics (i.e. its identity, nature or essential character) are fundamentally different when compared to each imported input.

Examples of substantial transformation in relation to imported ingredients or components include:

- the mixing and baking of raw ingredients into food items
- moulding of sheet metal into a car panel
- weaving of fibre into a rug
- cutting, assembling and finishing imported wood to make furniture.

- Examples -

Insect repellent

A business imports insect repellent in bulk for sale in Australia. The business packages the liquid in roll-on bottles and markets the product as 'Made in Australia'.

The business would not satisfy the ACL threshold for a 'made in' claim because the imported liquid is unchanged. Whilst changing the method of delivery (i.e. bottle vs roll-on) may result in a more convenient product, it does not result in a product that is fundamentally different in identity, nature or essential character.

Leather boots

A company imports leather into Australia from China which it uses to manufacture boots. The cutting, sewing, construction and finishing of the shoes occurs in Australia. The business would be able to safely make a 'made in' claim as the final processing occurred in Australia and resulted in a product that is fundamentally different from the raw imported components (i.e. leather).

However, if the shoes were cut and constructed in China, then imported into Australia where the eyelets are added, this superficial change is unlikely to amount to substantial transformation.

Mattresses

A company imports wire springs, fabric and padding materials into Australia. These materials are used to produce mattresses. Even if important parts of the manufacturing process had occurred overseas (e.g. manufacture of the wire coils, cutting of the padding) the business would still be able to claim that the final or 'last' substantial transformation occurred in Australia. This is because the final processing in Australia (e.g. quilting, assembly and edging) would still result in a fundamentally different product from any of the individual imported components that went into it.

Necklaces

A jeweller produces a line of glass pendant necklaces from wholly imported components. These pieces are made by gluing a decorative image between an imported glass bead and the pendant backing. These necklaces are advertised as 'Made in Australia.' In this instance it is unlikely that the mere assembly of the imported necklace parts and the addition of a decorative element would result in a fundamentally different product. Accordingly, the business would be unlikely to be able to rely on the 'made in' safe harbour for the glass necklaces.

The following table sets out the ACCC's views on further instances where processing is likely or unlikely to result in a 'fundamentally different' product.

These examples are provided as general guidance only and businesses are encouraged to seek their own independent legal advice to determine the application of the test to their own circumstances.

Furniture and flooring

Processing Substantially transformed?

- Cutting, assembling and finishing imported wood to make a chair: Yes
- Constructing and upholstering a lounge frame using imported materials: Yes (e.g. springs, webbing, lining, foam, stuffing, pre-cut fabric)
- Constructing a mattress using imported spring coils, foam and other materials: Yes
- Processing imported yarn to make carpet: Yes
- Adding a stain to imported wood flooring: No
- Assembling a table using imported finished wooden pieces: No
- Adding a fabric seat cover to an imported chair: No
- Sewing fabric handles onto an imported mattress: No
- Adding a secondary backing to imported tufted carpet: No
- Dyeing imported carpet: No

Clothing, footwear, and textiles

Processing Substantially transformed?

- Cutting and sewing imported fabric to make a t-shirt: Yes
- Cutting, sewing and finishing imported leather to make shoes: Yes
- Lasting an imported shoe upper and injection moulding a sole onto it to produce an industrial boot or shoe: Yes
- Adding a decorative print to an imported t-shirt: No
- Adding buttons to an imported jacket: No
- Adding trimming to imported shoes: No
- Gluing a sole onto an imported shoe upper (e.g. ugg boot): No
- Cutting and sewing imported rolls of fabric to make towels and face washers: No
- Hemming pre-cut/pre-spun imported sheets or blankets: No

Cosmetics and personal care

Processing Substantially transformed?

- Imported soap noodles combined with pigments, fragrances and other components to create bars of soap: Yes
- Imported wood pulp processed to make tissues: Yes
- Mixing imported mineral powders to make a skin bronzer: No
- Cutting blocks of imported soap into individual bars: No
- Imported lotion combined with pigments and fragrances to make a fragrant body lotion: No

*Other test claims can be found in the [Country of Origin Claims & the Australian Consumer Law Guide](#).
This is provided as a guide only and Australian Owned retains the right to make the final determination in accordance with the AO Rules.*