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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 15-13

RIN 1515-AE05

Extension of Import Restrictions on Certain Categories of Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua

AGENCY: Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of Nicaragua. The restrictions, which were originally imposed by Treasury Decision (T.D.) 00-75 and extended by CBP Decision (CBP Dec.) 05-33 and CBP Dec. 10-32 are due to expire on October 20, 2015. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors continue to warrant the imposition of import restrictions and no cause for suspension exists. Accordingly, these import restrictions will remain in effect for an additional 5 years, and the CBP regulations are being

amended to reflect this extension until October 20, 2020. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act that implemented the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 00-75 contains the Designated List of archaeological material representing Pre-Hispanic cultures of Nicaragua to which the restrictions apply.

DATES: Effective: October 20, 2015.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0030. For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6554, William.R.Scopa@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, implemented by the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 et seq.), the United States entered into a bilateral agreement with the Republic of Nicaragua concerning the imposition of import restrictions on certain categories of archeological material from the Pre-Hispanic cultures of the Republic of Nicaragua on June 16, 1999,

and following completion by the Government of Nicaragua of all internal legal requirements, the agreement entered into force on October 20, 2000. On October 26, 2000, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published T.D. 00-75 in the **Federal Register** (65 FR 64140), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are “effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists” (19 CFR 12.104g(a)).

Since the initial notice was published on October 26, 2000, the import restrictions were extended twice. First, on October 20, 2005, CBP published CBP Dec. 05-33 in the **Federal Register** (70 FR 61031) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of 5 years. Subsequently, on October 20, 2010, CBP published CBP Dec. 10-32 in the **Federal Register** (75 FR 64654) to extend the import restriction for an additional five year period to October 20, 2015.

On October 17, 2014, the Department of State received a request by the Government of the Republic of Nicaragua to extend the Agreement. Subsequently, the Department of State proposed to extend the Agreement. After considering the views and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Nicaragua continues to be in jeopardy from pillage of Pre-

Hispanic archaeological materials, and made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged, reflecting the extension of those restrictions for an additional five year period.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect this extension of the import restrictions.

The Designated List of Pre-Hispanic Archaeological Material from Nicaragua covered by these import restrictions is set forth in T.D. 00-75. The Designated List and accompanying image database may also be found at the following Internet Web site address: <http://exchanges.state.gov/heritage/culprop/nifact.html>.

The restrictions on the importation of these archaeological materials from the Republic of Nicaragua are to continue in effect for an additional 5 years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the table is amended in the entry for

Nicaragua in the “Decision No.” column by removing the reference to “CBP Dec. 10-32” and adding in its place “CBP Dec. 15- 13 ”.

R. Gil Kerlikowske

Commissioner
U.S. Customs and Border Protection

Approved: October 1, 2015

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

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