



**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 21-01

RIN 1515-AE59

Extension of Import Restrictions Imposed on Categories of Archaeological Material of Italy

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

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain categories of archaeological material of the Italian Republic (Italy). The restrictions, which were originally imposed by Treasury Decision 01-06 and last extended by CBP Decision (CBP Dec.) 16-02, are due to expire on January 12, 2021. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for extending the import restrictions that previously existed and entered into a new Memorandum of Understanding (MOU) with Italy to reflect the extension of these import restrictions. The new MOU supersedes the existing MOU that was entered into on January 19, 2001, and previously extended, most recently until January 12, 2021. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this extension until January 12, 2026. CBP Dec. 11-03 contains the amended Designated List of archaeological material of Italy to which the restrictions apply.

DATES: Effective on January 12, 2021.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0300, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Genevieve S. Dozier, Management and Program Analyst, Commercial Targeting and Analysis Center, Trade Policy and Programs, Office of Trade, (202) 945-2942, CTAC@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.* (hereinafter, “the Cultural Property Implementation Act”) which implements the 1970 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 (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Italian Republic (Italy) on January 19, 2001, concerning the imposition of import restrictions on archaeological material representing the pre-Classical, Classical, and Imperial Roman periods (“the prior MOU”).

On January 23, 2001, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published Treasury Decision 01-06 in the *Federal Register* (66 FR 7399), which amended § 12.104g(a) of Title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions and included a list covering certain types of archaeological material.

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.

Since the final rule was published on January 23, 2001, the import restrictions that became effective on January 19, 2001, have been extended three times pursuant to exchanges of diplomatic notes as reflected in subsequent final rules. First, on January 19, 2006, CBP published CBP Decision (CBP Dec.) 06-01 in the *Federal Register* (71 FR 3000) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of five years. Second, on January 19, 2011, CBP published CBP Dec. 11-03 in the *Federal Register* (76 FR 3012) to extend the import restrictions for an additional five-year period. CBP Dec. 11-03 also reflects an amendment to the Designated List to include the subcategory “Coins of Italian Types” as part of the category entitled “Metal,” pursuant to 19 U.S.C. 2604. Third, on January 15, 2016, CBP published CBP Dec. 16-02 in the *Federal Register* (81 FR 2086) to further extend the import restrictions. This extension was pursuant to the exchange of diplomatic notes that took place between the United States and Italy, with entry into force on January 12, 2016, thus the extension of the import restrictions was implemented for an additional five-year period ending on January 12, 2021. *See* 19 CFR 12.104g(a); 81 FR 2086.

On September 29, 2020, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, determined that the cultural heritage of Italy continues to be in jeopardy from pillage of certain archaeological material representing the pre-Classical, Classical, and Imperial Roman periods and that the import restrictions should be extended for an additional five years. Subsequently, a new MOU was concluded between the United States and Italy on October 29, 2020. The new MOU supersedes and replaces the prior MOU of January 19, 2001, as amended and extended. The new MOU extends the import restrictions that went into effect under the prior MOU, as amended and extended, for five years from entry into force of the new MOU on January 12, 2021. The new MOU is titled: “Memorandum of Understanding between the Government of the United States of America and the Government of the Italian Republic Concerning the Imposition of Import Restrictions on Categories of Archaeological Material of

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

The restrictions on the importation of categories of archaeological material of Italy are to continue in effect until January 12, 2026. Importation of such materials from Italy continues to be restricted until that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List of pre-Classical, Classical and Imperial Roman period archaeological material from Italy covered by these import restrictions is set forth in CBP Dec. 11-03. The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting the materials for “Italy.”

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 under 5 U.S.C. 553(a)(1). For the same reason, 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 Orders 12866 and 13771

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 or Executive Order 13771 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866 and section 4(a) of Executive Order 13771.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury’s authority (or that of his/her delegate) to approve regulations

related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendments to the 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, amend the table in paragraph (a), in the entry for Italy, by removing the words “CBP Dec. 16-02” and adding in their place the words “CBP Dec. 21-01”.

Mark A. Morgan, the Chief Operating Officer and Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this notice document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the Federal Register.

Robert F. Altneu
Director, Regulations & Disclosure Law Division
Regulations & Rulings
Office of Trade
U.S. Customs and Border Protection.

Approved: January 7, 2021

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.

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