



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 24-01]

RIN 1515–AE87

Extension of Import Restrictions Imposed on Certain Archaeological Material from China

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

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to extend import restrictions on certain archaeological material from China. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determinations for extending the import restrictions, which were originally imposed by CBP Dec. 09–03 and last extended by CBP Dec. 19–02. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension through January 14, 2029.

DATES: Effective January 14, 2024.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945–7064, 1USGBranch@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (CPIA), 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 Convention), allows for the conclusion of an agreement between the United States and another party to the Convention to impose import restrictions on eligible archaeological and ethnological materials. Under the CPIA and the applicable U.S. Customs and Border Protection (CBP) regulations, found in § 12.104 of title 19 of the Code of Federal Regulations (19 CFR 12.104), the restrictions are effective for no more than five years beginning on the date on which an agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, each extension not to exceed five years, if it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On January 14, 2009, the United States entered into a bilateral agreement with the People's Republic of China (China) to impose import restrictions on certain archaeological material representing China's cultural heritage from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907), and monumental sculpture and wall art at least 250 years old. On January 16, 2009, CBP published a final rule (CBP Dec. 09–03) in the *Federal Register* (74 FR 2838), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, including a list designating the types of archaeological materials covered by the restrictions.

The import restrictions were subsequently extended two more times in accordance with 19 U.S.C. 2602(e) and 19 CFR 12.104g(a), and the designated list was amended once. On January 13, 2014, CBP published a final rule (CBP Dec. 14–02) in the *Federal Register* (79 FR 2088), which amended § 12.104g(a) to reflect the extension of these import restrictions for an additional five years. By request of China, this document also amended the Designated List to

clarify that the restrictions as to monumental sculpture and wall art at least 250 years old were to be calculated as of January 14, 2009, the date the agreement became effective.

Subsequently, on January 10, 2019, the United States and China entered into a new memorandum of understanding (2019 MOU), that superseded and replaced the prior agreement, extending the import restrictions for an additional five years. The new MOU added a new subcategory of glass objects from the Zhou period through the Tang period and revised the Designated List of cultural property described in CBP Dec. 14–02. On January 14, 2019, CBP published a final rule (CBP Dec. 19–02) in the *Federal Register* (84 FR 107), which amended § 12.104g(a) to reflect the extension of these import restrictions for an additional five years and amended the Designated List to include the new subcategory of glass objects from the Zhou period through the Tang Period. These import restrictions are due to expire on January 14, 2024.

On May 19, 2023, the United States Department of State proposed in the *Federal Register* (88 FR 32264) to extend the 2019 MOU. On November 14, 2023, after considering the views and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the necessary determinations to extend the import restrictions for an additional five years. Following an exchange of diplomatic notes, the United States Department of State and the Government of the People’s Republic of China have agreed to extend the restrictions for an additional five-year period, through January 14, 2029.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of these import restrictions. The restrictions on the importation of archaeological material from China will continue in effect through January 14, 2029. Importation of such material from China continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

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 material for “China.”

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).

Executive Orders 12866 and 13563

Executive Orders 12866 (as amended by Executive Order 14994) and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Orders 12866 and 13563 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, by extension, Executive Order 13563.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

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 the Secretary's delegate) to approve regulations related to customs revenue functions.

Troy A. Miller, the Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director (or Acting Director, if applicable) of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

List of Subjects in 19 CFR Part 12

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

Amendment 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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2. In § 12.104g, amend the table in paragraph (a) by revising the entry for the People's Republic of China to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property						Decision No.
* * *	*	*	*	*	*	*	
People's Republic of China	Archaeological materials representing China's cultural heritage from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907) and monumental sculpture and wall art at least 250 years old as of January 14, 2009.						CBP Dec. 19-02, extended by CBP Dec. 24-01
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Robert F. Altneu,
Director,
Regulations and Disclosure Law Division, Regulations and Rulings,
Office of Trade,
U.S. Customs and Border Protection.

Approved:

Thomas C. West, Jr.,
Deputy Assistant Secretary of the Treasury for Tax Policy.
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