



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 24-10

RIN 1515-AE89

**Import Restrictions Imposed on Archaeological and Ethnological Material from Ecuador;
Correction**

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

ACTION: Final rule; correction.

SUMMARY: On February 14, 2020, U.S. Customs and Border Protection (CBP) published a final rule in the *Federal Register* (CBP Dec. 20-03) imposing import restrictions on certain archaeological and ethnological material from Ecuador, pursuant to a memorandum of understanding between the United States and Ecuador. This document corrects the expiration date of the import restrictions to February 11, 2025, to correspond with the date the import restrictions entered into force. The CBP regulations are being amended to reflect this correction. The Designated List of materials to which the restrictions apply remains unchanged.

DATES: The final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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,

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SUPPLEMENTARY INFORMATION:

Correction

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 applicable U.S. Customs and Border Protection (CBP) regulations, found in section 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)).

On May 22, 2019, the United States concluded a memorandum of understanding (“the MOU”) with the Republic of Ecuador, concerning the imposition of import restrictions on certain categories of archaeological and ethnological material of Ecuador. Pursuant to the terms of the MOU, the MOU entered into force upon the completion of the exchange of diplomatic notes on February 11, 2020. On February 14, 2020, CBP published a final rule, CBP Dec. 20-03, in the *Federal Register* (85 FR 8389) (“the final rule”) amending title 19 of the Code of Federal Regulations (CFR) part 12, specifically § 12.104g(a), to reflect the imposition of restrictions on this material, including a list designating the types of archaeological and ethnological materials covered by the restrictions.

The final rule erroneously stated the import restrictions entered into force on May 22, 2019, citing to the date of the signing of the MOU by both parties, and would expire on May 22, 2024. However, in accordance with the terms of the MOU, the restrictions actually entered into

force upon the completion of the exchange of diplomatic notes. The parties exchanged the diplomatic notes on February 11, 2020, and not May 22, 2019, as the final rule stated. Thus, consistent with the requirements of 19 U.S.C. 2602(b) and 19 CFR 12.104g, the import restrictions will expire on February 11, 2025, unless extended. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the correction of the expiration date.

The Designated list remains unchanged and can be found in CBP Dec. 20-03, and at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting the material for “Ecuador.”

Inapplicability of Notice and Delayed Effective Date

This rule 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 14094) 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, the table in paragraph (a) is amended by revising the entry for Ecuador to read as follows:

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

(a) * * *

State party	Cultural property			Decision No.
*	*	*	*	*
Ecuador	Archaeological and ethnological material representing Ecuador's cultural heritage that is at least 250 years old, dating from the Pre-ceramic (approximately 12,000 B.C.), Formative, Regional development, Integration, Inka periods and into the Colonial period to A.D. 1769			CBP Dec. 20-03, corrected by CBP Dec. 24-10
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Emily K. Rick, Acting Director
Regulations & Disclosure Law Division,
Regulations & Rulings, Office of Trade
U.S. Customs and Border Protection.

Approved:

Aviva R. Aron-Dine

Acting Assistant Secretary of the Treasury for Tax Policy.

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