

U.S. Customs and Border Protection

19 CFR Parts 10, 24, 162, 163, and 178

CBP Dec. 16-1

RIN 1515-AD59

UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with one change, interim amendments to the U.S. Customs and Border Protection (CBP) regulations that were published in the **Federal Register** on February 10, 2015, as CBP Dec. 15- 03, to implement the preferential tariff treatment and other customs-related provisions of the United States-Australia Free Trade Agreement.

DATES: Effective February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Textile Operational Aspects: Anita Harris, Textile Operations Branch, Office of International Trade, (202) 863- 6241.

Other Operational Aspects: Seth Mazze, Trade Policy and Programs, Office of International Trade, (202) 863- 6567.

Legal Aspects: Yuliya Gulis, Regulations and Rulings, Office of International Trade, (202) 325-0042.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 2004, the United States and Australia (the “Parties”) signed the United States-Australia Free Trade Agreement (“AFTA” or “Agreement”). On August 3, 2004, the President signed into law the United States-Australian Free Trade Agreement Implementation Act (the “Act”), Public Law 108-286, 118 Stat. 919 (19 U.S.C. 3805 note), which approved and made statutory changes to implement the AFTA.

On December 20, 2004, the President signed Proclamation 7857 to implement the AFTA. The Proclamation, which was published in the **Federal Register** on December 23, 2004 (69 FR 77133), modified the Harmonized Tariff Schedule of the United States (“HTSUS”) as set forth in Annexes I and II of Publication 3722 of the U.S. International Trade Commission.

On February 10, 2015, CBP published CBP Dec. 15–03 in the **Federal Register** (80 FR 7303) setting forth interim amendments to implement the preferential tariff treatment and other customs-related provisions of the AFTA and the Act. The majority of the AFTA implementing regulations set forth in CBP Dec. 15–03 and adopted, with one change, as final in this document have been included within new Subpart L of Part 10 of the CBP regulations (19 CFR part 10). In those cases in which AFTA implementation is more appropriate in the context of an existing regulatory provision, however, the AFTA regulatory text has been incorporated into an existing part within the CBP regulations. CBP Dec. 15–03 also sets forth a number of cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new AFTA implementing regulations. Please refer to that document for further background information.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on February 10, 2015, CBP Dec. 15–03 provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule. The prescribed public comment closed on April 13, 2015. CBP received one comment on CBP Dec. 15–03.

Discussion of Comments

One response was received to the solicitation of comments on the interim rule set forth in CBP Dec. 15–03. The comment is discussed below.

Comment

One commenter questioned whether the AFTA requires that Australian exporters be consulted before the interim regulations take effect.

CBP Response

The changes proposed in the interim regulations took effect on the date of publication of the interim regulations. As indicated above, CBP Dec. 15–03 provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule. All interested parties, including Australian exporters,

were given the opportunity to submit public comments. No such public comments were received from or submitted by any party in response to CBP Dec. 15–03 that objected to the changes in the interim rules being included in a final rule.

Other Amendment

This document clarifies 19 CFR 10.725(c) by removing the parenthetical cross reference to §§ 10.746 and 10.747 and, instead, stating that the importer’s actions must be “pursuant to” those CBP regulations.

Conclusion

After further review of the matter, including consideration of the above-mentioned comment submitted in response to CBP’s solicitation of public comment, CBP has determined to adopt as final, with a clarification, the interim rule published in the **Federal Register** (80 FR 7303) on February 10, 2015.

Executive Order 12866

This document is not a regulation subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

CBP Dec. 15–03 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act (APA). As no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information contained in these regulations have previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117, which covers many of the free trade agreement requirements that CBP administers, and 1651–0076, which covers general

recordkeeping requirements. The collections of information in these regulations are in §§ 10.723, 10.724, and 10.727 of title 19 of the Code of Federal Regulations (19 CFR 10.723, 10.724, and 10.727). This information is required in connection with general recordkeeping requirements (§ 10.727), as well as claims for preferential tariff treatment under the AFTA and the Act and will be used by CBP to determine eligibility for tariff preference under the AFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

The estimated total annual reporting burden associated with the collection of information in this final rule is 4,000 hours. Under the Paperwork Reduction Act, an agency may not conduct or sponsor and a person is not required to respond to a collection of information, unless it displays a valid OMB control number.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons stated above, the interim rule amending Parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR parts 10, 24, 162, 163, and 178), which was published at 80 FR 7303 on February 10, 2015, is adopted as a final rule with the following change:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10, and the specific authority citation for Subpart L, continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Sections 10.721 through 10.748 also issued under 19 U.S.C. 1202 (General Note 28, HTSUS) and Pub. L. 108–286, 118 Stat. 919 (19 U.S.C. 3805 note).

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§ 10.725 [Amended]

■ 2. In § 10.725, paragraph (c) is amended by removing the language, “(see §§ 10.746 and 10.747 of this subpart)” and adding in its place the language, “pursuant to §§ 10.746 and 10.747 of this subpart”.

Dated: January 11, 2016.

R. GIL KERLIKOWSKA,
Commissioner.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, January 15, 2016 (81 FR 2058)]

19 CFR Part 12**CBP Dec. 16-02****RIN 1515-AE07****EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON
ARCHAEOLOGICAL MATERIAL ORIGINATING IN ITALY
AND REPRESENTING THE PRE-CLASSICAL, CLASSICAL,
AND IMPERIAL ROMAN PERIODS**

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 originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods of its cultural heritage, ranging in date from approximately the 9th century B.C. through approximately the 4th century A.D. The restrictions, which were originally imposed by Treasury Decision (T.D.) 01-06 and extended by CBP Decision (CBP Dec.) 06-01 and CBP Dec. 11-03 are due to expire on January 19, 2016. 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 five years, and the CBP regulations are being amended to reflect this extension until January 19, 2021. 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. CBP Dec. 11-03 contains the Designated List of archaeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods to which the restrictions apply.

DATES: *Effective Date:* January 19, 2016.

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) 325-0215. 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 Italy on January 19, 2001, concerning the imposition of import restrictions on archeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods. On January 23, 2001, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published T.D. 01-06 in the **Federal Register** (66 FR 7399), which amended 19 CFR 12.104g(a) to indicate the imposition of these restrictions and included a list designating the types of archaeological material 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 can be extended for additional periods not to exceed 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 January 23, 2001, the import restrictions were extended twice. First, on January 19, 2006, CBP published 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. Subsequently, on January 19, 2011, CBP published CBP Dec. 11-03 in the **Federal Register** (76 FR 3012) to extend the import restriction for an additional five-year period to January 19, 2016. 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.

On December 23, 2014, the Department of State received a request by the Government of the Republic of Italy 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 Edu-

cational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Italy continues to be in jeopardy from pillage of archaeological material representing the pre-Classical, Classical, and Imperial Roman periods 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-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 accompanying image database may also be found at the following Internet Web site address: <http://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements/italy>.

The restrictions on the importation of these archaeological materials from the Republic of Italy are to continue in effect for an additional five 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

It has been determined that this rule is not a significant regulatory action under 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; 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 Italy by removing the reference to “CBP Dec. 11–03” and adding in its place “CBP Dec. 16–02”.

Dated: January 12, 2016.

R. GIL KERLIKOWSKE,
Commissioner,

U.S. Customs and Border Protection.

TIMOTHY E. SKUD,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, January 15, 2016 (81 FR 2086)]

ACCREDITATION AND APPROVAL OF CAMIN CARGO CONTROL, INC., AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc., has been approved to gauge and

accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of December 2, 2014.

DATES: Effective dates: The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on December 2, 2014. The next triennial inspection date will be scheduled for December 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202– 344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 1301 Metropolitan Ave., Thorofare, NJ 08086, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–08.....	ASTM D–86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–48.....	ASTM D–4052	Standard test method for density and relative density of liquids by digital density meter.
27–58.....	ASTM D–5191	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.

CBPL No.	ASTM	Title
N/A	ASTM D1319	Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.
N/A	ASTM D-3606	Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography.
N/A	ASTM D-5769	Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/ Mass Spectrometry.
N/A	ASTM D-2699	Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel.
N/A	ASTM D-2700	Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel.
N/A	ASTM D-4815	Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol and C1 to C4 Alcohols in Gasoline by Gas Chromatography.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for the current CBP Approved Gaugers and Accredited Laboratories List.

<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: January 8, 2016.

IRA S. REESE,
*Executive Director,
Laboratories and Scientific
Services Directorate.*

[Published in the Federal Register, January 15, 2016 (81 FR 2226)]