

# U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR PART 12

CBP DEC. 17-03

RIN 1515-AE29

## EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIALS FROM PERU

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological and ethnological materials from Peru. The restrictions, which were originally imposed by Treasury Decision (T.D.) 97-50 and last extended by CBP Dec. 12-11, are due to expire on June 9, 2017, unless extended. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. The Designated List of archaeological and ethnological materials described in T.D. 97-50 is revised in this document to reflect the addition of Colonial period documents and manuscripts. Accordingly, the restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to indicate this fourth extension. 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, 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.

**EFFECTIVE DATE:** June 9, 2017.

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## **SUPPLEMENTARY INFORMATION:**

### **Background**

Pursuant to the provisions of the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, in U.S. law, the United States entered into a bilateral agreement with the Republic of Peru on June 9, 1997, concerning the imposition of import restrictions on archaeological material from the Pre-Hispanic cultures and certain ethnological material from the Colonial period of Peru (“the Memorandum of Understanding between the United States and the Republic of Peru”). On June 11, 1997, the former United States Customs Service published T.D. 97-50 in the **Federal Register** (62 FR 31713), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological and ethnological materials covered by the restrictions. These restrictions continued the protection of archaeological materials from the Sipán Archaeological Region forming part of the remains of the Moche culture that were first subject to emergency import restriction on May 7, 1990 (T.D. 90-37).

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 no 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)).

On June 6, 2002, the former United States Customs Service published T.D. 02-30 in the **Federal Register** (67 FR 38877), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2007.

On June 6, 2007, U.S. Customs and Border Protection (CBP), published CBP Dec. 07-27 in the **Federal Register** (72 FR 31176), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2012.

On June 7, 2012, CBP published CBP Dec. 12–11 in the **Federal Register** (77 FR 33624), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2017.

On January 11, 2017, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Peru continues to be in jeopardy from pillage of archaeological and certain ethnological materials, made the necessary statutory determinations and decided to extend the import restrictions for an additional five-year period. Diplomatic notes have been exchanged reflecting the extension of those restrictions for an additional five-year period and amendment of their coverage to include Colonial manuscripts and documents. CBP is amending 19 CFR 12.104g(a) accordingly.

### **Amended Designated List**

The Designated List of Archaeological and Ethnological Materials from Peru is amended to include Colonial period documents and manuscripts. For the reader's convenience, the Designated List from T.D. 97–50 is reproduced below with the additional category of Colonial manuscripts and documents. Note that the Designated List also subsumes those categories of Moche objects from the Sipán Archaeological Region of Peru for which import restrictions have been in place since 1990 (*see* T.D. 90–37).

The Designated List includes archaeological materials known to originate in Peru, ranging in date from approximately 12,000 B.C. to A.D. 1532, and including, but not limited to, objects comprised of textiles, metals, ceramics, lithics, perishable remains, and human remains that represent cultures that include, but are not limited to, the Chavín, Paracas, Vicús, Moche, Virú, Lima, Nazca, Recuay, Tiahuanaco, Huari, Chimú, Chancay, Cuzco, and Inca cultures. The Designated List also includes certain categories of ethnological materials from Peru dating to the Colonial period (A.D. 1532–1821), limited to: (1) Objects directly related to the pre-Columbian past, whose pre-Columbian design and function are maintained with some Colonial characteristics and may include textiles, metal objects, and ceremonial wood, ceramic and stone vessels; (2) objects used for religious evangelism among indigenous peoples and including Colonial paintings and sculpture with distinct indigenous iconography; and (3) Colonial manuscripts and documents. The Designated List may also be found online at: <https://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements/peru>.

The list is divided into seven categories of objects:

- I. Pre-Columbian Textiles
- II. Pre-Columbian Metals
- III. Pre-Columbian Ceramics
- IV. Pre-Columbian Lithics
- V. Pre-Columbian Perishable Remains
- VI. Pre-Columbian Human Remains
- VII. Ethnological Objects
  - A. Objects Directly Related to the Pre-Columbian Past
  - B. Objects Used for Religious Evangelism Among Indigenous Peoples
  - C. Colonial Manuscripts and Documents.

What follows immediately is a chart of chronological periods and cultural classifications currently widely used for identifying archaeological remains in Peru. All dates are approximate.

	Rowe	Lumbreras
1440–1532 A.D .....	Late Horizon.....	Inca Empire.
1100–1440 A.D.....	Late Intermediate Period .....	Regional states and kingdoms.
600–1100 A.D.....	Middle Horizon.....	Huari Empire.
200 B.C.–600 A.D.....	Early Intermediate Period.....	Regional Cultures.
1000–200 B.C .....	Early Horizon .....	Middle and Late Formative.
1700–1000 B.C .....	Initial Period .....	Early Formative.
2500–1800 B.C .....	Late Pre-ceramic .....	Late Archaic.
4500–2500 B.C .....	Middle Pre-ceramic .....	Middle Archaic.
6000–4500 B.C .....	Early Pre-ceramic .....	Early Archaic.
12000–6000 B.C .....	Early Pre-ceramic .....	Hunter-Gatherers.

The following Designated List is representational and may be amended as appropriate.

**I. Pre-Columbian Textiles**

Textiles representing these principal cultures and main classes of objects:

### A. *Chimú*

*Pillow*—Piece of cloth sewn into a bag shape and stuffed with cotton or vegetal fibers. Generally the cloth is made in tapestry technique. 60 cm. x 40 cm.

*Painted Cloth*—Flat cloth of cotton on which designs are painted. Range between 20 cm. and 6.1 m.

*Headdress*—Headdresses are usually made of feathers, especially white, green, and dark brown, which are attached to cloth and fitted to a cane or basketry frame. Feathers on the upper part are arranged to stand upright.

*Feather Cloth*—decorated with bird feathers, especially panels and tunics. They vary in shape and size; generally they depict geometric motif and volutes. Vary from 20 cm.—3 m. in length, and may be up to 1.5 m. in width.

*Panels*—Chimú panels may be of two types: Tapestry weave or plain-weave cotton. Isolated anthropomorphic designs predominate and may be associated with zoomorphic motifs. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

*Belts and Sashes*—Generally made in tapestry technique, and predominantly of red, white, ocher, and black. As with other Chimú textiles, they generally depict human figures with rayed headdresses. Up to 2.20 m. in length.

### B. *Chancay*

*Loom*—Looms are commonly found in Chancay culture, sometimes with pieces of the textile still on the loom. Often these pieces of cloth show varied techniques and are referred to as “samples.” 50 cm. x 20 cm.

*Loincloth*—Triangular panels of cloth with tapestry woven borders.

*Dolls*—Three dimensional human figures stuffed with vegetal fiber to which hair and other decorations are added. Sometimes they depict lone females; in other cases they are arranged in groups. Most important, the eyes are woven in tapestry technique; in fakes, they have embroidered features. Usually 20 cm. tall and 8 cm. wide.

*False Head*—In Chancay culture, false heads are made on a cotton or vegetal fiber cushion covered with plain-weave cloth, decorated with shells, beads, metal, wood, or painting to depict facial features. They sometimes have real hair. Usually 30 cm. x 35 cm.

*Unku/Tunic*—Varied sizes and styles. Some are in plain weave, others in gauze, still others are in tapestry technique or brocade. They are recognized by their iconography, which includes geometric motifs, birds, fish, plants, and human figures. Miniatures are tiny; regular size examples are about 50 cm. x 50 cm.

*Belt*—Chancay belts are multicolored, with geometric motifs rendered in tapestry technique. Sometimes the ends are finished in faux-velour technique. 2 m. x 5 cm.

*Panels*—Chancay panels may be made in tapestry technique or may be painted on plain weave cloth. In these latter cases, the panels may depict fish, parrots, monkeys, viszcachas, felines, foxes, and human figures. Vary in size from miniatures to 4 m. x 2 m.

*Standards*—Chancay standards are supported on a frame of straight reeds covered with cotton cloth which is painted in anthropomorphic designs in ochers and black. Sometimes they have a handle. 20 cm. x 20 cm.

*Gauze*—Pieces of cloth made in openwork gauze technique, with very fine cotton threads. May have embroidered designs in the same thread that depict birds or other flora and fauna. Usually 80 cm. x 80 cm.; some are smaller.

### C. Nazca

*Three-Dimensional Cloth*—Cloth made in three dimensions, using needles. Of many and bright colors, knitted in long strips. Each figure is approx. 5 cm. long x 2 cm. wide.

*Unku/Tunic*—These include miniature and regular-sized tunics. They are generally of one color, mostly light brown. The neck edges, hem, and fringes have multicolored geometric designs. Fringes end in woven braids. Vary in size from miniatures up to approx. 1.5 m. x .8 m.

*Bags*—There are bags of many sizes, from miniatures to large ones, generally with a narrow opening and a wide pouch. Some are decorated with fringe. Their iconography resembles the unku (tunic), stylized designs in yellow, red, and dark and light blue.

*Sash*—Nazca sashes are made on special looms. Their ends are decorated with plied fringe.

*Tie-Dye (Painted) Cloth*—Most common are those made in the tie-dye technique, in which the textile is knotted and tied before it is dyed, so that when it is untied, there are negative images of diamonds, squares, and concentric dots. Most common are orange, red, blue, green, and yellow colors. Vary from approx. 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

*Patchwork Cloth*—Variant of the Tie-Dye cloth, in which little panels are made and later sewn together so that the resulting textile includes rectangles of tie-dyed panels of different colors. The cloth may have a decorative fringe. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

*Wara / Loincloth*—Generally made of a flat piece of cloth with colorful borders depicting stylized geometric motifs. They terminate in fringe. 50 cm. x 30 cm.

*Fans*—The frame is of vegetal fiber provided with twisted cord into which feathers are inserted. Commonly two colors of feathers are attached in this way, such as orange and green, or yellow and blue. 30 cm. x 20 cm.

#### D. *Huari*

*Panel*—Characterized by a complex and abstract iconography. Made in tapestry technique with a range of colors, including browns, beiges, yellows, reds, oranges, and greens. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

*Unku / tunic*—Large with an abstract and geometric iconography. Commonly the designs repeat in vertical bands. Generally these tunics have a cotton warp and camelid fiber weft. Some are so finely woven that there are 100 threads per cm<sup>2</sup>. Vary in size from miniatures up to 1.5 m. x 80 cm.

*Caps*—Most common are the so-called “four-corner hats” made in a faux-velour technique that results in a velvety texture. On the base cloth, small tufts of brightly-colored wool are inserted.

*Vincha / headband or sashes*—These garments are made in tapestry weave or faux-velour technique and depict geometric motifs.

*Bags*—Bags have an opening which is somewhat narrower than the body, with designs depicting felines, camelids, human faces, and faces with animal attributes.

#### E. *Paracas*

*Esclavina / Small shoulder poncho*—Paracas esclavinas are unique for their decoration with brightly colored images in Paracas style such as birds, flowers, animals, and human figures. Vary in size from miniatures up to 60 cm. x 30 cm.

*Mantle*—Paracas mantles can be divided into five types, based on their decoration. All are approximately 2.5 m. x 1.6 m.

- a. Mantles with a plain field and woven borders;
- b. Mantles with decorative (embroidered) borders and plain field;
- c. Mantles with decorative (embroidered) borders and a decorative stripe in the center field;
- d. Mantles with embroidered borders and center field embroidered in checkerboard-fashion;
- e. Mantles with embroidered borders and alternating diagonals of embroidered figures in the center field.

*Gauzes*—Paracas gauzes are made of one color, such as lilac, yellow, red, or grey. They are generally rectangular and have a soft and delicate texture. Approx. 1 m. x 1 m.

*Panels*—Paracas panels are generally of cloth and may have been used for utilitarian purposes. They are generally undecorated. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

*Skirts*—Paracas skirts are of two types: Some are plain, made of cotton with decoration reserved for the ends; there are others that are elaborately embroidered with colorful images rendered in wool. These often form sets with mantles and other garments. Skirts are rectangular and very wide, with two fringed ties. 3 m. long and 70 cm. wide.

*Wara / Loincloth*—Made of cotton, not as large as skirts, and may have embroidered edges.

*Slings*—Paracas slings are decorated in Cavernas style, made of vegetal fiber, and are of small size, generally 1.5 m. x 5 cm.

*Furs*—There are numerous examples of animal skins reported from Paracas contexts, including the skins of the fox, vizcacha, guinea pig. Most are poorly preserved.

#### *F. Moche*

*Bags*—Moche bags are usually square, small, and have a short handle. They are made in tapestry technique with brightly-woven designs. Principal colors used are white, black, red, light blue, and ocher.

*Panels*—Recognizable by their iconography, these tapestry-technique panels may show people on balsa-reed rafts surrounded by a retinue. They are rendered in a geometric fashion, and are outlined in black and shown in profile. Scenes of marine life and fauna predominate. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

*Ornamental canes*—Small canes are “woven” together in a twill technique using colorful threads that depict anthropomorphic designs. Approx. 10 cm. x 10 cm.

#### *G. Lambayeque*

*Panels*—Lambayeque panels are small, made in tapestry technique, of cotton and wool. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

#### *H. Inca*

*Sling*—There are two types of Inca slings. Ceremonial ones are oversize and elaborately decorated with geometric motifs, with long fringes. The other type is smaller and utilitarian, almost always with decoration only on the pouch and far ends. The decoration is geometric and the slings have fringed ends.

*Unku / tunic*—Inca tunics are well-made and colorful, mostly in red, olive green, black, and yellow. Decorative elements may be arrayed checkerboard fashion and are found on the upper and lower part of the garment. Vary in size from miniatures up to approx. 1.5 m. x 80 cm.

*Bags*—Recognized by their bright colors, they have an opening that is narrower than the body and a wide pouch with long fringe and handle. Vary in size from miniatures up to 30 cm. x 20 cm.

*Panels*—Some are made in cotton using the double-cloth technique, based on light brown and beige. Lines of geometrically-rendered llamas predominate. Vary in size from 20 cm. x 20 cm. to 2 m. x 1.8 m.

*Mantles*—Inca mantles are of standard dimensions, sometime more than a meter long, generally rectangular. They are multi-colored and made of cotton warp and wool weft. Most common colors are dark red, olive green, white, and black. Generally 2.5 m. x 1.6 m.

*Kipu / quipu*—Inca quipus (knotted string mnemonic devices) are made of cotton and wool cords, sometimes with the two fibers plied together. Rarely is their original color preserved, though sometime one sees light blues and browns. Some are wrapped with colorful threads on the ends of the cords. 80 cm. x 50 cm.

## **I. Pre-Columbian Metal Objects**

### *A. Idols*

Anthropomorphic or zoomorphic figures, some of which are hollow and others which are solid. They may be of gold and silver, they may be gilded, or of copper, or bronze. Sizes vary from 2 cm.—20 cm. in height.

### *B. Small Plaques*

Thin sheets of gold, silver, copper, or gilded copper, used to cover the body and made in pieces. They have repoussé or punched designs on the edge and middle of the sheet. Average .6 cm in height.

### *C. Axes*

Almost always T-shaped and solid. There are also axes in a traditional axe head shape. May be of bronze or copper.

### *D. Mace Heads*

These come in a great variety of shapes, including star-shaped, flat, or of two or three levels. They may be made of copper or bronze. Most have a central hole through which a wooden handle was affixed.

### *E. Musical Instruments*

*Trumpets:* Wind instrument with a tubular body and flaring end, fastened at the joint. May be of copper or bronze.

*Bells:* Of varying shapes and materials (including gold, silver, copper, and silver-plated copper).

*Conos:* Instrument shaped from a sheet of hammered metal, with or without a clapper. Can be of copper or silver. Up to .5 m. in height.

*Rattles:* Musical instrument with a central hold to accommodate a handle. May be of copper or bronze. Vary from 6 cm.–25 cm. in height.

*Jingle Bells:* Spherical bells with an opening on the lower part and a handle on the upper part so they can be suspended from a sash or other garment. They contain a small stone or a little ball of metal. The handles may be decorated. Jingle bells may decorate another object, such as rhythm sticks, and may be of gold, silver, or bronze. Used in all pre-Columbian cultures of Peru.

*Chalchachas:* Instruments shaped like a bivalve with repoussé decoration. Made of copper.

*Quenas (flutes):* Tubular instruments, generally of silver, with perforations to vary the tone.

### *F. Knives*

Knives vary depending on their provenance. They can have little or no decoration and can be of different metals or made of two metals. The best known are the *tumis* from the Sicán culture, which have a straight or trapezoidal handle and a half-moon blade. The solid handle may have carved or stamped designs. Generally made of gold, silver, or copper. In ceremonial examples, the blade and upper part may depict an anthropomorphic figure standing or seated, or simply a face or mask with an elaborate headdress, earspools, and inset semi-precious stones. Tumi handles can be triangular, rectangular, or trapezoidal, and blades can be ovaloid or shaped like a half-moon.

### *G. Pins*

With a straight shaft and pointed end, pins can be flat or cylindrical in cross-section. Most are hammered, and some are hollow. They can be of gold, silver, copper, bronze, gold-plated silver or may be made of two metals. Some pins are zoomorphic; others have floral images, and still others depict fish. Some have a round head; others have a flat, circular head; still others have the shape of a half-moon. There are hollow-headed rattle pins; others have solid anthropomorphic images. Most are up to 50 cm. in length, with heads that are up to 10 cm. in diameter. The small pins are about 5 cm. in length.

### *H. Vessels*

There are a variety of metal vessels; they may be made of gold, silver, gilded silver, gilded copper, silver-covered copper, and bronze. There are miniatures, as well as full-size vessels. Such vessels are known from all cultures. Forms include beakers, bowls, open plates, globular vessels, and stirrup-spout bottles. The exact form and surface decoration varies from culture to culture. Shapes include beakers, bowls, and plates. Average .5 m.—3 m. in height.

#### *I. [Reserved]*

### *J. Masks*

May be made of gold, silver, gilded silver, copper, gilded copper, silver-covered copper, or may be made of two metals. They vary greatly in shape and design. The best known examples come from the following cultures: Moche, Sicán, Chimú, Huari, Inca, Nazca, and Chincha. The northern coast examples often have insets of shell, precious or semi-precious stones, and may have plant resins to depict the eyes and teeth. Almost all examples that have not been cleaned have a surface coloring of red cinnabar. Examples from Sicán measure up to 49 cm. in width by 29 cm. in height. Miniature examples can measure 7 cm. x 5 cm. Miniature masks are also used as decorations on other objects. Copper examples generally show heavy oxidation.

### *K. Crowns*

Thin or thick sheets of metal made to encircle the head. They may be of silver, gold, copper, gilded silver, silver-covered copper, or may be made of two metals. Some examples have a curved central part, and may be decorated with pieces of metal and real or artificial feathers that are attached with small clamps. Found in all cultures.

#### *L. Penachos (Stylized Metal Feathers)*

Stylized metal feathers used to decorate crowns. May be made of gold, silver, copper, or silver-covered copper.

#### *M. Tocados (Headdresses)*

Headdress ornaments which may be simple or complex. They may be made of one part, or may include many pieces. Found in all cultures. They may take the form of crowns, diadems, or small crowns. They may have two stylized feathers to decorate the crown

and to hold it to the hair (especially the Chimú examples). Paracas examples generally have rayed appendages, with pierced disks suspended from the ends of the rays.

#### *N. Turbans*

Long pieces of cloth that are wrapped around the head. Metal ornaments may be sewn on turbans. Found in all cultures; the metal decorations and the cloth vary from culture to culture.

#### *O. Spoons*

Utilitarian object of gold, silver, or copper.

#### *P. Lime Spatulas*

Miniature spatula: A straight handle has a slightly spoon-shaped end. The handle may have an anthropomorphic figure. Made of gold, silver, or copper.

#### *Q. Ear Spools*

Ear spools are generally made of a large cylinder which fits through the earlobe and an even larger disk or decorative sheet on one side. The disk may be decorated with repoussé, stamped, or engraved designs, or may have inset stone or shell. May be made of gold, silver, copper, or made of two metals. Ear spools are found in all cultures. The largest measure up to 15 cm. height; typical diameter: 5 cm.–14 cm.

#### *R. Nose Ornaments*

Of varied shapes, nose ornaments can be as simple as a straight tube or as complex as a flat sheet with repoussé design. In the upper part, there are two points to attach the ornament to the septum. They may be of gold, silver, or copper or may be made of two metals.

#### *S. Earrings*

Decoration to be suspended from the earlobes.

#### *T. Rings*

Simple bands with or without designs. Some are two bands united by filigree spirals. Some have inset stones. May be of silver, gold, copper, or alloys.

#### *U. Bracelets*

Bracelets are made of sheets of metal with a straight or slightly trapezoidal shape, with stamped or repoussé designs. Some are

simple, narrow bands. Found in all cultures and with varied designs. May be of gold, silver, bronze, or alloys of copper. Generally 4 cm.–14 cm. in width.

#### V. *Necklaces*

Necklaces are made of beads and/or small carved beads. May be of shell, bone, stone, gold, silver, copper, or bronze. The beads are of varied shapes. All beads have two lateral perforations to hold the cord.

#### W. *Tweezers*

Made in one piece, with two identical ends and a flexed central handle. They are of varied shapes, including triangular, trapezoidal, and ovaloid. The middle of the handle may have a hole so the tweezers can be suspended from a cord.

#### X. *Feather Carrier*

Conical objects with a pointed, hollow end, into which feathers, llama skin, or monkey tails are inserted and held in place with tar. They may be made of gold, silver, or gilded or silver-plated copper.

### III. **Pre-Columbian Ceramics**

#### A. *Chavín*

Date: 1200–200 B.C.

##### Characteristics

Decoration: A grey-black color. Incised, modeled, and high and low-relief are combined to work out designs in grays and browns. The surface may also juxtapose polishing and matte finish in different design zones.

Forms: Bottles, plates, and bowls.

Size: 5 cm.–30 cm.

Identifying: Characteristic traits of Cupisnique and Chavín ceramics include: Globular body with a flat base and stirrup spout; thick neck with an obvious and everted lip. Chavín style also includes long-necked bottles, bowls with flaring walls, and highly-polished relief-decorated surfaces.

Styles: Chavín influence is seen in Cupisnique, Chongoyape, Po-emape, Tembladera, Patapo, and Chilete.

#### B. *Vicús*

Date: 900 B.C.–A.D. 500.

##### Characteristics

Decoration: Geometric designs in white on red, made using negative technique. There are also monochrome examples.

Forms: Anthropomorphic, zoomorphic and plant-shaped vessels. Some have a double body linked by a tube or common opening.

Size: 30 cm.–40 cm. tall.

### *C. Virú or Gallinazo*

#### Characteristics

Decoration: Negative technique over orange background.

Forms: Faced anthropomorphic and zoomorphic vessels, face bottles for daily use in dwellings, “cancheros” (type of pot without a neck and with a horn-shaped handle).

Size: Up to 15 cm. high.

Identifying: The surface is basically orange; the vessels have a truncated spout, an arched bridge (like a tube) as handle, and geometric symbols in negative technique (concentric circles, frets and wavy lines). When the vessels represent a face, the eyes are like “coffee beans,” applied on the surface and with a transverse cut.

### *D. Pucara*

Date: 300 B.C.–300 A.D.

#### Characteristics

Decoration: Slip-painted and incised. Modeled elements include stylized felines and camelids, along with an anthropomorphic image characteristically depicted with a staff in each hand. Vessels are typically decorated in yellows, black, and white on the red background of the vessel. Designs are characteristically outlined by incision. There may be modeled decoration, such as feline heads, attached to the vessels.

Shapes: Tall bowls with annular ring bases predominate, along with vessels that depict anthropomorphic images.

Size: Bowls are up to 20 cm. in diameter and 20 cm. in height.

### *E. Paracas*

Date: Developed around 200 B.C.

#### Characteristics

Vessels are typically incised, with post-fired resin painting on a black background.

Size: 10 cm.–15 cm. high.

*F. Nazca*

Date: A.D. 100–600.

## Characteristics

Color: Typically very colorful, with a range of slips including cream, black, red, violet, orange, gray, all in a range of tones.

Slip: Background slip is generally cream or orange.

Shapes: Cups, bowls, beakers, plates, double-spout-and-bridge bottles, anthropomorphic figures, and musical instruments.

Decoration: Realistic drawings of fantastic creatures, including the “Flying God.” In late Nazca, bottles are broader and flatter and the designs are arrayed in broad bands. Typically have decorations of trophy heads, geometric motifs, and painted female faces.

Size: 5 cm.–20 cm.

*G. Recuay*

Date: A.D. 100–700.

## Characteristics

Slip: Both positive and negative slip-painting is found, generally in colors of black, cream and red.

Shapes: Sculptural, especially ceremonial jars known as “Paccha” which have an elaborate outlet to serve a liquid.

Decoration: Usually show groups of religious or mythical personages.

Size: 20 cm.—35 cm. in height.

*H. Pashash*

Date: A.D. 1–600.

## Characteristics

Decoration: Positive decoration in black, red, and orange on a creamy-white background. Some show negative painting.

Shapes: Anthropomorphic vessels, bottles in the form of snakes, bowls with annular base, and large vessels with lids.

Size: The anthropomorphic vessels are up to 20 cm. in height, serpent bottles are around 25 cm. wide x 10 cm. tall, and lidded vessels are more than 30 cm. in height.

Motifs: The decorations are rendered in positive or negative painting in zones that depict profile-face images of zoomorphic figures, serpents, or worms, seen from above and with trapezoidal heads.

### *I. Cajamarca*

Date: A.D. 500–900.

#### Characteristics

Decoration: Pre-fired slip painting with geometric designs, including stepped triangles, circles, lines, dots, and rows of volutes. They may include stylized birds, felines, camelids, batrachians, and serpents. Spiral figures may include a step-fret motif in the base of the bowls.

Shapes: Pedestal base bowls, tripod bowls, bottles with annular ring base, goblets, spoons with modeled handles, bowls with carinated edges.

### *J. Moche*

Date: A.D. 200–700.

#### Characteristics

Forms: Stirrup-spout vessels, vessels in the shape of humans, animals, or plants.

Colors: Generally red and white.

Manufacture: Often mold-made.

Size: 15 cm.–25 cm. in height.

Decoration: Wide range of images showing scenes of real life or mythical scenes depicting gods, warriors, and other images.

### *K. Tiahuanaco*

Date: A.D. 200–700.

#### Characteristics

Decoration: Pre-fired slip painting on a highly polished surface. Background is generally a red-orange, with depictions of human, animal, and geometric images, generally outlined in black and white lines.

Shapes: Plates, cups, jars, beakers, open-backed incense burners on a flat base.

### *L. Lima*

Date: A.D. 200–700.

#### Characteristics

Decoration: Pre-fired slip painting with interlocking fish and snake designs, geometric motifs, including zig-zags, lines, circles, and dots.

Shapes: Breast-shaped bottles, cups, plates, bowls, and cook pots.

Styles: Related to Playa Grande, Nievera, and Pachacamac styles.

*M. Huari*

Date: A.D. 500–1000.

## Characteristics

Colors: Orange, cream, violet, white, black, and red.

Motifs: Anthropomorphic, zoomorphic, and plant shapes, both stylized and realistic. In Pachacamac style one finds vessels with a globular body and long, conical neck. In Atarco style, there is slip painting that retains Nazca motifs, especially in the full-body felines shown running.

Slip: Background slip is commonly cream, red, or black.

Styles: Related to Vinaque, Atarco, Pachacamac, Qosqopa, Robles Moqo, Conchopata, and Caquipampa styles.

Size: Most are around 25 cm. tall. Robles Moqo urns may be up to 1 m. in height.

*N. Santa*

Date: Derived from Huari style, around A.D. 800.

## Characteristics

Decoration: Slip painted with figures and designs in black and white on a red background. There are also face-neck jars.

Shapes: Effigy vessels, face-neck jars, double-body vessels.

Sizes: 12 cm.–20 cm. tall.

Shapes: Jars have a globular body and face on the neck. The border may have black and white checkerboard. The body sometimes takes the shape of a stylized llama head. Common are white lines dotted with black. Double-body vessels generally have an anthropomorphic image on the front vessel, and a plain back vessel.

*O. Chancay*

Date: A.D. 1000–1300.

## Characteristics

Treatment: Rubbed surface.

Slip: White or cream with black or dark brown designs.

Molds: Molds are commonly used, especially for the anthropomorphic figures called “cuchimilcos,” which represent naked male and female figures with short arms stretched to the sides.

Size: 3 cm.–1 m.

*P. Ica-Chincha*

Date: Began to be developed in A.D. 1200.

### Characteristics

Decoration: Polychrome painting in black and white on red.

Designs: Geometric motifs combined with fish and birds.

Shapes: Bottles with globular bodies and tall necks and with flaring rims. Cups and pots.

Size: 5 cm.–30 cm. high.

#### *Q. Chimú*

Date: A.D. 900–1500.

### Characteristics

Slip: Monochrome. Usually black or red.

Shapes: Varied shapes. Commonly made in molds. They may represent fish, birds, animals, fruit, people, and architectural forms. One sees globular bodies with a stirrup spout and a small bird or monkey at the base of the neck.

Size: Between 30 cm.–40 cm. in height.

#### *R. Lambayeque*

Date: A.D. 700–1100.

### Characteristics

Color: Generally black; a few are cream with red decoration.

Shapes: Double spout and bridge vessels on a pedestal base are common. At the base of the spout one sees modeled heads and the bridge also often has modeled heads.

Size: 15 cm.–25 cm. in height.

#### *S. Inca*

Date: A.D. 1300–1500.

### Characteristics

Decoration: Slip painted in black, red, white, yellow, and orange.

Designs: Geometric designs (rhomboids and triangles) and stylized bees, butterflies, and animals.

Sizes: 1 cm. to 1.5 m. in height.

## **IV. Pre-Columbian Lithics**

### *A. Chipped Stone: Projectile Points*

#### Paiján Type Points

Size: 8 cm.–18 cm.

Shape: Triangular or heart-shaped.

Color: Generally reddish, orange, or yellow. Can be made of quartz.

### Leaf-Shaped Points

Size: 2.5 cm.–15 cm.

Shape: Leaf-shaped. Can be ovaloid or lanceolate.

Color: Generally bright reds, yellows, ochers, quartz crystals, milky whites, greens and blacks.

### Paracas Type Points

Size: .3 cm.–25 cm.

Shape: Triangular and lanceolate. Show marks of pressure-flaking. Often they are broken.

Color: Generally black.

### Chivateros-Type Blanks

Size: .8 cm.–18 cm.

Shape: Concave indentations on the surface from working.

Color: Greens, reds, and yellows.

### *B. Polished Stone*

*Bowl*—Vessels of dark colored-stone, sometimes streaked. They have a highly polished, very smooth surface. Some show external carved decoration. Diameters range from 12 cm–55 cm.

*Cups*—Also vessels of dark-colored stone. Generally have flaring sides. Typical of the Late Horizon. They are highly polished and may have external carved designs or may be in the shape of heads. 18 cm.–28 cm. in height.

*Conopas*—Small vessels in the form of camelids with a hollow opening on the back. They are black to greenish-black and highly polished. .8 cm.–16 cm. in length.

*Idols*—Small anthropomorphic figurines, frequently found in Middle Horizon contexts. The almond-shaped eyes with tear-bands are characteristic of the style. Larger examples tend to be of lighter-colored stone while the smaller ones are of dark stones. 12 cm.– 28 cm. in height.

*Mace head*—Varying shapes, most commonly are doughnut-shaped or star-shaped heads, generally associated with Late Intermediate Period and Inca cultures. Commonly black, gray, or white, .8 cm.–20 cm. in diameter.

*Metal-working hammer*—Elongated shapes, frequently with one flat surface; highly polished. Generally of dark-colored stone, 3 cm.–12 cm.

### C. Carved Material

*Tenon head*—These heads have an anthropomorphic face, prominent lips, and enormous noses. Some, especially those carved of diorite, have snake-like traits. The carved surface is highly polished.

*Tablets*—with high-relief design. The upper surface has a patina. They range from 20 cm. to more than 1 m. in length.

## V. Pre-Columbian Perishable Remains

### A. Wood

*Keros (Beakers)*—The most common form is a bell-shaped beaker with a flat base, though some have a pedestal like a goblet. Decoration varies with the period:

Pre-Inca: Very rare, they have straight sides and incised or high-relief decoration. Some have inset shells.

Inca: Generally they are incised with geometric designs on the entire exterior.

Colonial Inca: Lacquer painted on the exterior to depict scenes of daily life, nature, and war.

*Staffs*—Objects of ritual or ceremonial use made of a single piece of wood. They can be distinguished on the basis of two or three of the following traits:

On the lower third, the staff may have a metal decoration.

The body itself is cylindrical and of variable length.

The upper third may have decorations, including inset shell, stone, or metal. Some staffs function as rattles, and in these cases, the rattle is in the upper part.

*Carvings*—Worked blocks of wood, such as wooden columns (or cones) to support the roofs of houses: Chinchá, Chimú, and Chancay cultures. Individuals may be depicted standing or seated on a pedestal. In the upper part there is a notch to support the beams, which generally has a face, sometimes painted, at the base of the notch. Their length varies, but they are generally at least a meter or more.

*Box*—Small lidded boxes, carved of two pieces of wood. Generally the outer surface of box and lid are carved in relief. Chimú-Inca cultures. They measure approximately 20 cm. x 10 cm.

*Mirror*—Wooden supports for a reflective surface of polished anthracite or pyrite. In some cases the upper part of backs of mirrors are worked in relief or have inset of shell. Moche culture.

*Paddle and rudder*—Large carvings made of a single piece of wood. Paddles have three parts: The blade and the handle (sometimes decorated), and an upper decorated part, which can have metal plaques or decorative painting. Rudders have two parts: The blade

and a handle which may be carved in relief. Chincha culture. Paddles can be 2.30 m. in length and rudders are up to 1.4 m.

*Utensils*—Bowls and spoons made of wood decorated with zoomorphic or anthropomorphic motifs.

*Musical instruments*—Trumpets and whistles. Trumpets can be up to 1.2 m. long and are generally decorated on the upper third of the instrument. Whistles vary a great deal from the undecorated to those decorated with human forms. Moche, Huari, and Inca cultures.

### B. Bone

*Worked bone*—Most interesting are Chavín pieces with incised decorations. The bones are generally the long bones of mammals. They vary from 10 cm.—25 cm. in length.

*Balance weights*—Flat rectangles of bone about 10 cm. in length. Chincha culture.

*Musical instruments*—Quenas (flutes) and antaras (panpipes) in various shapes. Paracas, Chincha, and Ancon cultures.

### C. Gourds

*Vessels*—Bowls, pots, and holders for lime (for coca chewing). Most interesting are those which are carved or pyroengraved. Produced from the Preceramic onward.

*Musical instruments*—Ocarinas, small flutes, and whistles. Inca examples may have incised decoration, or decoration with cords and feathers.

### D. Cane

*Musical instruments*—Flutes (especially in Chancay culture), panpipes, and whistles. Flutes are often pyroengraved. Panpipes can have one or two tiers of pipes, which may be lashed together with colored thread. Nazca culture.

### E. Straw

*Weaving baskets*—Basketry over a cane armature, in the shape of a lidded box. Sometimes the basketry is made of several colors of fiber to work out geometric designs. Some still hold their original contents: Needles, spindle whorls, spindles, balls of thread, loose thread, etc. Chancay culture.

### F. Shell

*Musical instruments*—Marine shells (*Strombus galeatus*, *Malea ringens*, etc.), some, especially those from the Formative Period, with incised decoration.

*Jewelry*—Small beads and charms worked of shell, chiefly *Spondylus princeps*, used mainly in necklaces and pectorals. Moche, Chimú, and Inca cultures.

## VI. Pre-Columbian Human Remains

The human remains included in this listing demonstrate modifications of the remains due to ritualistic practices or other intentional treatment of the deceased.

### A. *Mummies*

Peruvian mummies were formed by natural mummification due to the conditions of burial; they have generally not been eviscerated. Usually found in flexed position, with extremities tied together, resulting in a fetal position. In many cases the cords used to tie the body in this position are preserved.

### B. *Deformed Skulls*

Many ancient Peruvian cultures practiced cranial deformation. Such skulls are easily recognized by their unnatural shapes.

### C. *Skulls Displaying Trepanation*

Trepanation is an operation performed on a skull; the resulting cuts, easily visible on a bare skull, take various forms. Cuts may be less easily distinguished if skin and hair are present:

#### Principal Techniques

- a. Straight cuts: These cuts are pointed at the ends and wider in the center. Openings made this way have a polygonal shape.
- b. Cylindrical-conical openings: The openings form a discontinuous line. The resulting opening has a serrated edge.
- c. Circular: Generally made by a file. The resulting hole is round or elliptical, with beveled or straight edges. This is the most common form of trepanation.

### D. *Pre-Columbian Trophy Heads*

Trophy heads can be identified by the hole made in the forehead to accommodate a carrying cord. When the skin is intact, the eyes and the mouth are held shut with cactus thorns. Finally, the occiput is missing since that is how the brain was removed when the trophy head was prepared.

### *E. Shrunken Trophy Heads From the Amazon*

These heads have had the bones removed and then have been cured to shrink them. They are recognizable because they conserve all the traits of the original skin, including hair and hair follicles. The mouth is sewn shut and generally there are carrying cords attached. There may be an obvious seam to repair the cuts made when the skin was removed from the skull. Finally, the skin is thick (up to 2.5 mm.) and has a dark color. Trophy heads vary between 9.5 cm. and 15.5 cm. in height.

### *F. Tattoos*

Tattooing in pre-Columbian Peru was practiced mainly on the wrists. Most common are geometric designs, including bands of triangles and rhomboids of a bluish color.

### *G. False Shrunken Heads*

False shrunken heads can be recognized because they are made of the skin of a mammal, with some of the fur left where the human hair would be. The skin is first smoked, then pressed into a mold to give it a face-like shape. The eyes, nose, mouth and ears are simple bumps without real holes. Further, the skin is very thin and yellowish in color. Often the “heads” have eyebrows and moustaches formed by leaving some of the animal hair, but these features are grotesque because they appear to grow upside down.

## **VII. Ethnological Objects**

- A. Objects directly related to the pre-Columbian past, whose pre-Columbian design and function are maintained with some Colonial modifications or additions in technique and/or iconography.*

### *Colonial Indigenous Textiles*

Predominant materials: Cotton and wool.

Description: These textiles are characterized by the cut of the cloth, with the four borders or selvages finished on the same loom. Clothes are untailed and made from smaller pieces of convenient sizes which were then sewn together. Colonial indigenous textiles of the period are differentiated from pre-Columbian textiles primarily by their decoration: Western motifs such as lions, heraldic emblems, and Spanish personages are incorporated into the designs; sometimes fibers distinct from cotton or wool (threads of silver, gold, and silk) are woven into the cloth; and the colors tend to be more vivid because the fabrics were made more recently. Another important characteristic of

the clothing is the presence of tocapus or horizontal bands of small squares with anthropomorphic, zoomorphic, phytomorphic and geometric ideographs and designs. Characteristic textiles include:

*Panels*: Rectangular or square pieces of various sizes.

*Anacus*: Untailored woman's dress consisting of two or three long horizontal pieces of cloth sewn together that was wound around the body and held in place with "tupus" (pins).

*Unku/Tunic*: Man's shirt with an opening for the head. Sometimes has sleeves.

*Lliclla/Shoulder Mantle*: Rectangular piece of cloth that women put over their shoulders and held in place by a tupu; standard size: 40" x 45". Generally has a tripartite design based on contrasting panels that alternate bands with decoration and bands with solid colors.

*Chumpi/Belt*: A woven belt, generally using tapestry technique.

### *Tupus*

Material: Silver, gilded silver, copper, bronze. May have inlays of precious or semi-precious stones.

Description: Tupus were used to hold in place llicllas and ancus. They are pins with a round or elliptical head, with piercing, repoussé, and incised decorations. The difference between pre-Columbian and ethnological tupus can be seen in the introduction of Western designs, for example bi-frontal eagles and heraldic motifs.

### *Keros*

Material: Wood.

Description: The most common form is a beaker like cup with truncated base. After the Conquest, keros started to be decorated with pictorial scenes. The most frequently used techniques include incision, inlaying pigments in wood, and painting. Ideography includes geometric designs, figures under a rainbow (an Inca symbol), ceremonial rituals, scenes of war, and agricultural scenes. Sometimes are in the form of human or zoomorphic heads.

### *Cochas or Cocchas*

Material: Ceramic.

Description: Ceremonial vessels with two or more concentric interior compartments which are linked. Often decorated with volutes representing reptiles.

### *Aribalos*

Material: Ceramic.

Description: The post-Conquest aribalos have a flat base, often using a glaze for finishing, and the decoration includes Inca and Hispanic motifs.

### *Pacchas*

Material: Stone, ceramic.

Description: One of the characteristics of pacchas is that they have a drain which is used to sprinkle an offering on the ground. They have pictorial or sculpted relief decorations symbolizing the benefits hoped for from the ritual.

#### *B. Objects that were used for religious evangelism among indigenous peoples.*

In Colonial paintings and sculptures Western religious themes were reinterpreted by indigenous and mestizo artists who added their own images and other characteristics to create a distinct iconography.

Specific types of objects used for religious evangelism during the Colonial period include the following:

### *Sculpture*

Types of statues include:

*A three-dimensional sculpted image:* In the Peruvian Colonial period these were made of maguey (a soft wood) and occasionally of cedar or walnut.

*Images made of a dough composed of sawdust, glue and plaster:* After they are sculpted, figures are dressed with cloth dipped in plaster.

*Images to be dressed:* These are wooden frames resembling mannequins, with only the head and arms sculpted in wood (cedar or maguey). The images are dressed with embroidered clothes and jewelry. Frequently other elements were added, such as teeth and false eyelashes, wigs of real hair, eyes of colored glass, and palates made of glass.

### *Paintings*

Catholic priests provided indigenous and mestizo artists with canvases and reproductions of Western works of art, which the artists then “interpreted” with their own images and other indigenous characteristics. These may include symbolically associating Christian religious figures with indigenous divinities, or rendering the figures with Andean facial characteristics or in traditional Andean costume.

In addition, each church, convent, monastery, and town venerated an effigy of its patron or tutelar saint, some of them native to Peru.

### *Retables*

Retables (*retablos*) are architectonic structures made of stone, wood, or other material that are placed behind the altar and include attached paintings, sculptures or other religious objects.

### *Liturgical Objects*

*Objects Used for Mass Ritual:* Chalices, cibaries, candelabras, vials for christening or consecrated oil, reliquaries, vessels for wine and water, incense burners, patens, monstrances, pelicans and crucifixes. Made out of silver, gold or gilded silver, often inlaid with pearls or precious stones. Techniques: Casting, engraving, piercing, repoussé, filigree.

*Fixtures for sculpted images:* Areoles, crowns, scepters, halo, halos in the form of rays, and books carried by religious scholars and founders of religious orders.

*Ecclesiastical vestments:* Some ecclesiastical vestments were commissioned by indigenous individuals or communities for the celebrations of their patron saint and thus are part of the religious legacy of a particular town. In such cases, the vestment has the name of the donor and of the town or church as well as the date.

*Votive Offerings:* These are representations of miracles or favors received from a particular saint. They can be made of different materials, usually metal or wood, and come in a variety of forms according to the type of favor received, usually representing parts of the human body in reference to the organ healed or agricultural products in recognition of a good harvest or increase in a herd.

### *C. Colonial Manuscripts and Documents*

Predominant materials: Paper, parchment, vellum

Description: Original handwritten texts or printed texts of limited circulation dating to the Colonial period (AD 1532–1821). These include but are not limited to notary documents (wills, bill of sales, contracts), ecclesiastical materials, and documents of the city councils, Governorate of New Castile, the Governorate of New Toledo, the Vice Royalty of Peru, the Real Audiencia and Chancery of Lima, or the Council of the Indies. These can include books, single folios, or collections of related documents bound with string. Documents may contain a seal or ink stamp denoting a public or ecclesiastical institution. Because many of these documents are of institutional or official nature, they may have multiple signatures, denoting scribes,

witnesses, and other authorities. Documents are generally written in Spanish, but may be composed in an indigenous language such as Quechua or Aymara.

The restrictions on the importation of these archaeological and ethnological materials from Peru are to continue in effect through June 9, 2022. 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)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

### **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**

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;

\* \* \* \* \*

**§ 12.104g [Amended]**

■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Peru by removing the words “T.D. 97–50 extended by CBP Dec. 12–11” and adding in their place “CBP Dec. 17–03” in the column headed “Decision No.”.

Dated: June 2, 2017.

KEVIN K. McALEENAN,  
*Acting Commissioner,*  
*U.S. Customs and Border Protection.*

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

[Published in the Federal Register, June 07, 2017 (82 FR 26340)]

  
**DEPARTMENT OF THE TREASURY****19 CFR PART 12****CBP DEC. NO. 17-04****RIN 1515-AE22****MERCHANDISE PRODUCED BY CONVICT, FORCED, OR  
INDENTURED LABOR; CONFORMING AMENDMENT AND  
TECHNICAL CORRECTIONS**

**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 regulations to reflect section 910 of the Trade Facilitation and Trade Enforcement Act of 2015 by removing the “consumptive demand” clause from the regulations concerning the prohibition on the importation of merchandise produced by convict, forced, or indentured labor. It also updates the regulations to reflect the correct name of the agency and includes a minor procedural change with regard to the filing of proof of admissibility.

**DATES:** This final rule is effective on June 8, 2017.

**FOR FURTHER INFORMATION CONTACT:** Thomas Kendrick, Trade Remedy Law Enforcement Directorate, Office of Trade, *Thomas.Kendrick@dhs.gov*, (202) 863–6057.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307) prohibits the importation of merchandise that has been mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor, including prison labor and forced child labor. Despite this general prohibition, the Tariff Act of 1930 included a “consumptive demand” clause, which allowed for the importation of forced-labor-derived goods if the goods were not produced in such quantities in the United States as to meet the “consumptive demands” of the United States.

On February 24, 2016, the President signed into law the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) (Pub. L. 114–125). Section 910 of TFTEA repeals the “consumptive demand” clause in section 307 of the Tariff Act of 1930, thereby eliminating the consumptive demand exception to the prohibition on importation of goods made with convict labor, forced labor, or indentured servitude. This amendment went into effect on March 10, 2016.

### **II. Amendments to the Regulations To Remove the “Consumptive Demand” Clause**

The regulations corresponding to section 307 of the Tariff Act of 1930, as amended, are contained within title 19 of the Code of Federal Regulations (CFR) at 19 CFR 12.42–12.45, “Merchandise Produced by Convict, Forced, or Indentured Labor.” This document amends these regulations to remove the “consumptive demand” exception from the general prohibition against the importation of goods produced by convict, forced, or indentured labor. While U.S. Customs and Border Protection (CBP) has been enforcing the ban on the importation of merchandise produced through convict, forced, or indentured labor without taking consumptive demand into consideration since section 910 of TFTEA has gone into effect, this conforming amendment is necessary to ensure that 19 CFR reflects the recent statutory amendment. This rulemaking is limited to this conforming amendment and other minor non-substantive amendments.

The non-substantive amendments included in this rulemaking are amendments to correct a spelling error, replace outdated references to “Customs” with “CBP”, and make a minor procedural change. The change in terminology from “Customs” to “CBP” is consistent with the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) in 2003 and the subsequent renaming of the agency as U.S. Customs and Border Protection (CBP) by DHS on March 31, 2007. *See* 72 FR 20131, April

23, 2007. *See also* 75 FR 12445, March 16, 2010.

The procedural change involves the addition of a person (*i.e.*, the Port Director) to whom an importer may submit proof of admissibility when contending that an article was not mined, produced, or manufactured in any part with the use of a prohibited class of labor. The current regulation (19 CFR 12.43(b)) provides that the importer shall submit this information to the Commissioner. To provide more flexibility, and for consistency with 19 CFR 12.42(b), CBP is amending this provision to allow for the proof of admissibility to be submitted to the Commissioner of CBP or to the Port Director.

### III. Inapplicability of Notice and Delayed Effective Date

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** and provide interested persons the opportunity to submit comments. *See* 5 U.S.C. 553(b) and (c). However, certain exceptions are provided.

The APA provides an exception from notice and comment procedures when an agency finds for good cause that those procedures are “impracticable, unnecessary, or contrary to the public interest.” *See* 5 U.S.C. 553(b)(3)(B). In this case, CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary because the conforming amendment and technical corrections set forth in this document are required to ensure that 19 CFR reflects both the recent amendments to the underlying statutory authority effected by section 910 of TFTEA and the most up-to-date terminology. For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

The APA also provides an exception to the prior notice and comment requirement for “rules of agency organization, procedure, or practice.” *See* 5 U.S.C. 553(b)(A). The procedural change discussed above, *i.e.*, including an additional person to whom an importer may submit proof of admissibility when contending that an article was not mined, produced, or manufactured in any part with the use of a prohibited class of labor, is a minor change that has been promulgated for agency efficiency purposes, and is a rule of internal agency procedure.

### IV. Statutory and Regulatory Requirements

#### A. *Executive Orders 12866 and 13563*

Executive Orders 13563 and 12866 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. As these amendments are a conforming amendment and technical corrections to the regulations to reflect statutory changes and to make minor non-substantive edits, these amendments do not meet the criteria for a “significant regulatory action,” under section 3(f) of Executive Order 12866.

### The Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### B. Paperwork Reduction Act

There is no new collection of information required in this document; therefore, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

### C. 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 delegate) to approve regulations related to certain customs revenue functions.

## List of Subjects in 19 CFR Part 12

Customs duties and inspection, Reporting and recordkeeping requirements.

## Amendments to the CBP Regulations

For the reasons stated above in the preamble, CBP amends 19 CFR part 12 as set forth below.

### PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 continues and the specific authority for Sections 12.42 through 12.44 is revised 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 12.42 through 12.44 also issued under 19 U.S.C. 1307, Pub. L. 105–61 (111 Stat. 1272), and Public L. 114–125 (130 Stat. 122);

\* \* \* \* \*

■ 2. Amend § 12.42 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a), remove the words “Commissioner of Customs” and add in their place “Commissioner of CBP”;

■ c. Revise paragraph (b);

■ d. In paragraphs (c), (d), (e), and (f) remove the words “Commissioner of Customs” and add in their place “Commissioner of CBP”; and

■ e. In paragraph (g), remove the word “specified” and add in its place “specified” and remove the word “Customs” and add in its place “CBP”;

The revisions read as follows:

**§ 12.42 Findings of Commissioner of CBP.**

\* \* \* \* \*

(b) Any person outside CBP who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States may communicate his belief to any port director or the Commissioner of CBP. Every such communication shall contain, or be accompanied by:

(1) A full statement of the reasons for the belief;

(2) A detailed description or sample of the merchandise; and

(3) All pertinent facts obtainable as to the production of the merchandise abroad.

\* \* \* \* \*

**§ 12.43 [Amended]**

■ 3. In § 12.43, in paragraphs (a) and (b), remove the words “Commissioner of Customs” and add in their place the words “port director or Commissioner of CBP”.

**§ 12.44 [Amended]****■ 5. Amend § 12.44 as follows:**

- a.** In paragraphs (a) and (b) remove all instances of the words “Commissioner of Customs” and add in their place “Commissioner of CBP”; and
- b.** In paragraph (c) remove the word “Customs” and add in its place “CBP”.

Dated: June 5, 2017.

KEVIN K. McALEENAN,  
*Acting Commissioner,*  
*U.S. Customs and Border Protection.*

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

[Published in the Federal Register, June 08, 2017 (82 FR 26582)]

◆

**REQUEST FOR APPLICANTS FOR APPOINTMENT TO THE  
COMMERCIAL CUSTOMS OPERATIONS ADVISORY  
COMMITTEE (COAC)**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security (DHS).

**ACTION:** Committee management; request for applicants for appointment to the COAC.

**SUMMARY:** U.S. Customs and Border Protection (CBP) is requesting that individuals who are interested in serving on the Commercial Customs Operations Advisory Committee (COAC) apply for appointment. COAC provides advice and makes recommendations to the Secretaries of the Department of the Treasury (Treasury) and Department of Homeland Security (DHS) on all matters involving the commercial operations of CBP and related functions.

**DATES:** Applications for membership should be submitted to CBP at the address below on or before July 24, 2017.

**ADDRESS:** If you wish to apply for membership, your application should be submitted by one of the following means:

- *Email:* [Traderelations@dhs.gov](mailto:Traderelations@dhs.gov)
- *Fax:* 202–325–4290

- *Mail:* Ms. Florence Constant-Gibson, International Trade Liaison, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Ms. Florence Constant-Gibson, International Trade Liaison, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229. Email: *florence.v.constant-gibson.cbp.dhs.gov*; telephone 202-344-1440; facsimile 202-325-4290.

**SUPPLEMENTARY INFORMATION:** The Trade Facilitation and Trade Enforcement Act of 2015 re-established the COAC. The COAC is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act*, 5 U.S.C. Appendix. The COAC shall advise the Secretaries of the Treasury and DHS on the commercial operations of CBP and related Treasury and DHS functions. In accordance with Section 109 of the Trade Facilitation and Trade Enforcement Act, the COAC shall:

- (1) Advise the Secretaries of the Treasury and DHS on all matters involving the commercial operations of CBP, including advising with respect to significant changes that are proposed with respect to regulations, policies, or practices of CBP;
- (2) provide recommendations to the Secretaries of the Treasury and DHS on improvements to the commercial operations of CBP;
- (3) collaborate in developing the agenda for COAC meetings; and
- (4) perform such other functions relating to the commercial operations of CBP as prescribed by law or as the Secretaries of the Treasury and DHS jointly direct.

### **Balanced Membership Plans**

The COAC consists of 20 members who are selected from representatives of the trade or transportation community served by CBP or others who are directly affected by CBP commercial operations and related functions. The members shall represent the interests of individuals and firms affected by the commercial operations of CBP, and without regard to political affiliation. The members will be appointed by the Secretaries of the Treasury and DHS from candidates recom-

mended by the Commissioner of CBP. In addition, members will represent major regions of the country.

### **COAC Meetings**

The COAC meets at least once each quarter, although additional meetings may be scheduled. Generally, every other meeting of the COAC may be held outside of Washington, DC, usually at a CBP port of entry. The members are not reimbursed for travel or per diem.

### **COAC Membership**

Membership on the COAC is personal to the appointee and a member may not send an alternate to represent him or her at a COAC meeting. Appointees will serve a one to three year term of office that will be concurrent with the duration of the charter. Regular attendance is essential; a member who is absent for two consecutive meetings, or does not participate in the committee's work, may be recommended for replacement on the COAC.

Members who are currently serving on the COAC are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met the attendance requirements. A new application letter (see **ADDRESSES** above) is required, but it may incorporate by reference materials previously filed (please attach courtesy copies). Members will not be considered Special Government Employees and will not be paid compensation by the Federal Government for their representative services with respect to the COAC.

*Application for COAC Appointment:* Any interested person wishing to serve on the COAC must provide the following:

- Statement of interest and reasons for application;
- Complete professional resume;
- Home address and telephone number;
- Work address, telephone number, and email address;
- Statement of the industry you represent; and
- Statement agreeing to submit to pre-appointment background and tax checks (mandatory).

However, a national security clearance is not required for the position. DHS does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Dated: June 2, 2017.

KEVIN K. McALEENAN,  
*Acting Commissioner.*

[Published in the Federal Register, June 07, 2017 (82 FR 26504)]



**NOTICE OF ISSUANCE OF FINAL DETERMINATION  
CONCERNING CERTAIN SURGICAL AND ISOLATION  
GOWNS**

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

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain surgical and isolation gowns. Based upon the facts presented, CBP has concluded in the final determination that the Dominican Republic is the country of origin of the surgical and isolation gowns for purposes of U.S. Government procurement.

**DATES:** The final determination was issued on May 31, 2017. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within July 7, 2017.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Reese, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202–325–0046).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on May 31, 2017, pursuant to Subpart B of part 177, Customs and Border Protection (CBP) Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain surgical and isolation gowns which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H284665, was issued at the request of Global Resources International, Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, certain surgical and isolation gowns which are produced in the Dominican Republic from foreign nonwoven fabric by cutting the fabric into components and assembly of those components in

the Dominican Republic are products of the Dominican Republic for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: May 31, 2017.

Alice A. Kipel,  
*Executive Director,*  
*Regulations and Rulings, Office of Trade.*

Attachment

HQ H284665

May 31, 2017

OT:RR:CTF:VS H284665

CMR CATEGORY: Origin

Ms. CHRISTI ROOS, LCB  
M-PACT SOLUTIONS  
P.O. BOX 30209  
MEMPHIS, TN 38118

RE: Government Procurement; Final Determination; Surgical and Isolation Gowns

DEAR Ms. ROOS:

This ruling is in response to your request of March 20, 2017, on behalf of your client, Global Resources International, Inc., for a country of origin determination for certain surgical and isolation gowns for purposes of government procurement under Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. 2511 *et seq.*). Customs and Border Protection (CBP) issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain surgical and isolation gowns. As an importer of this merchandise, Global Resources International, Inc., is a party-at-interest within the meaning of 19 CFR 177.23(a) and is entitled to request this final determination.

**FACTS:**

The surgical and isolation gowns at issue were the subject of New York Ruling Letter (NY) N283263, dated March 7, 2017, which determined that these gowns are classified in subheading 6210.10.50, Harmonized Tariff Schedule of the United States (HTSUS). Samples of each type of gown were submitted to CBP and are described in NY N283263 as follows:

The submitted sample, isolation gown, is constructed from 96% spun-bonded polypropylene nonwoven fabric and 4% cotton knit fabric. The gown has a full back opening, long sleeves and a tie at the waist in the front of the gown that extends around the waist to fasten at the back. The garment will be used in the medical industry.

The submitted sample, surgical gown, is constructed from 100% spun-bonded polypropylene nonwoven fabric. The surgical gown has a hook and loop closure at the neck, long sleeves with knit cuffs and a full back opening. There is also a tie at the waist in the front of the gown that extends around the waist to fasten at the back. The garment will be used in the medical industry.

Based on information from your initial ruling request, dated December 2, 2016, your supplemental submission, dated January 30, 2017, NY N283263, and responses via email to our questions, the manufacturing process is as follows:

- Rolled nonwoven fabric from China, Vietnam, or India is shipped to the Dominican Republic.

- All other components including thread and cotton fabric for the cuffs will be manufactured in the Dominican Republic.

*In the Dominican Republic:*

- The nonwoven fabric is laid on a cutting table and cut to specification using a cutting template.
- Components are cut from the fabric—body, left arm, right arm, ties.
- Arms are ultra-sonically welded to the body fabric or sewn.
- In the case of the isolation gowns, the knit cuffs are sewn to the arms.
- The gowns are folded, packaged and shipped to the United States.

#### **ISSUE:**

What is the country of origin of the surgical and isolation gowns described herein for purposes of U.S. Government procurement?

#### **LAW AND ANALYSIS:**

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III, Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–2518), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

The rule of origin set forth in 19 U.S.C. 2518(4)(B) states:

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

*See also* 19 CFR 177.22(a) defining “country of origin” in identical terms.

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of Subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 CFR 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1).

With regard to the articles at issue, your request involves determining whether the articles are products of the Dominican Republic. The Federal Acquisition Regulations define “designated country” as including a Free Trade Agreement (FTA) country, and includes the Dominican Republic in the list of FTA countries. Further, the regulations define “Free Trade Agreement country end product” to mean, in relevant part, an article that:

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed....

See 48 CFR 25.003.

As the articles at issue are not wholly the growth, product, or manufacture of the Dominican Republic, the substantial transformation standard as set forth in 19 U.S.C. 2518(4)(B) applies. As the articles at issue are textile products, the rules of origin for textile products for purposes of the customs laws and the administration of quantitative restrictions apply.

In NY N283263, it was determined that the surgical and isolation gowns are classified in subheading 6210.10.50, HTSUS, and are not wholly obtained or produced in the Dominican Republic, their origin cannot be determined by application of 19 CFR 102.21(c)(1), *i.e.*, wholly obtained or produced rule, and resort must be made to 19 CFR 102.21(c)(2), which provides that the origin of a good is the country “in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of [102.21].” Section 102.21(e) provides, in pertinent part, for goods classifiable in heading 6210:

(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

\* \* \* \* \*

The nonwoven fabric is cut in the Dominican Republic into component parts, *i.e.*, the body, left arm, right arm and ties. These components are wholly assembled in the Dominican Republic into finished gowns. In the case of the isolation gowns, another component, *i.e.*, the rib knit cuffs, are included in the assembly process. As the gowns are wholly assembled in the Dominican Republic, pursuant to 19 CFR 102.21(c)(2), the country of origin of the gowns is the Dominican Republic for U.S. Government procurement purposes.

#### **HOLDING:**

Based on the facts and analysis set forth above, for U.S. Government procurement purposes, the country of origin of the surgical and isolation gowns at issue is the Dominican Republic.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

*Sincerely,*

ALICE A. KIPPEL,  
Executive Director  
Regulations and Rulings  
Office of Trade

**EFFECTIVE DATE FOR MODIFICATIONS OF THE  
NATIONAL CUSTOMS AUTOMATION PROGRAM TESTS  
REGARDING RECONCILIATION, POST-SUMMARY  
CORRECTIONS, AND PERIODIC MONTHLY STATEMENTS**

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

**ACTION:** General notice.

**SUMMARY:** This notice announces that the effective date for the modifications to the National Customs Automation Program (NCAP) tests regarding Reconciliation, Post-Summary Corrections, and Periodic Monthly Statements will be July 8, 2017. U.S. Customs and Border Protection (CBP) announced these modifications in notices previously published in the **Federal Register**. The effective dates for the modifications had been delayed.

**EFFECTIVE DATES:** *July 8, 2017.* The effective date for the modifications to the Reconciliation, Post-Summary Correction, and Periodic Monthly Statement NCAP tests will be July 8, 2017.

**ADDRESSES:** Comments concerning the reconciliation test program may be submitted any time during the test via email, with a subject line identifier reading, “Comment on Reconciliation test”, to *OFO-RECONFOLDER@cbp.dhs.gov*.

Comments concerning the Post-Summary Correction and Periodic Monthly Statement test programs may be submitted via email to Monica Crockett at *ESARinfoinbox@dhs.gov* with a subject line identifier reading, “Post-Summary Corrections and Periodic Monthly Statements.”

**FOR FURTHER INFORMATION CONTACT:** *Reconciliation:* Acenitha Kennedy, Entry Summary and Revenue Branch, Trade Policy and Programs, Office of Trade, at (202) 863-6064 or *ACENITHA.KENNEDY@CBP.DHS.GOV*. *PSC and PMS:* For policy-related questions, contact Randy Mitchell, Director, Commercial Operations, Trade Policy and Programs, Office of Trade, at *Randy.Mitchell@cbp.dhs.gov*. For technical questions related to ABI transmissions, contact your assigned client representative. Interested parties without an assigned client representative should contact the Client Representative Branch at (703) 650-3500.

**SUPPLEMENTARY INFORMATION:**

**Background**

**I. Reconciliation Test**

On December 12, 2016, U.S. Customs and Border Protection (CBP) published a notice entitled “Modification of the National Customs

Automation Program Test Regarding Reconciliation and Transition of the Test from the Automated Commercial System to the Automated Commercial Environment” in the **Federal Register** (81 FR 89486), with an effective date of January 14, 2017. This notice announced modifications to the National Customs Automation Program (NCAP) test regarding reconciliation, and the transition of the test from the Automated Commercial System (ACS) to the Automated Commercial Environment (ACE). On January 17, 2017, CBP published a notice in the **Federal Register** (82 FR 4901) announcing that the effective date for the test modifications would be delayed indefinitely.

CBP has assessed stakeholder readiness for the mandatory transition of post-release capabilities in ACE, including the modifications to the reconciliation test and the transition of reconciliation filings from ACS to ACE. This notice announces that the new effective date for the modifications to the reconciliation test, as announced in the December 12, 2016 notice published in the **Federal Register**, and for mandatory filing of reconciliation entries in ACE will be July 8, 2017.

## II. Post-Summary Correction and Periodic Monthly Statement Tests

On December 12, 2016, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** (81 FR 89482) announcing plans to modify and clarify, effective January 14, 2017, the NCAP test regarding Post-Summary Correction (PSC) claims, and the NCAP test regarding Periodic Monthly Statements (PMS). Subsequently, on January 9, 2017, CBP published a second notice in the **Federal Register** (82 FR 2385), superseding the original notice. This notice announced CBP’s plans to modify the PMS test and to modify and clarify the NCAP test regarding PSC claims to entry summaries that are filed in ACE. On January 17, 2017, CBP published a notice in the **Federal Register**, (82 FR 4901) announcing that the effective date for the modifications to the PSC and PMS tests would be delayed until further notice.

CBP has assessed stakeholder readiness for the mandatory transition of post-release capabilities in ACE, including the modifications to the PSC and PMS tests. This notice announces July 8, 2017 as the new effective date for the modifications to these tests. Therefore, the modifications to the PSC and PMS tests, as announced in the January 9, 2017 notice published in the **Federal Register**, will become effective on that date.

Dated: June 2, 2017.

BRENDA B. SMITH,  
*Executive Assistant Commissioner,*  
*Office of Trade.*

**EFFECTIVE DATE FOR THE AUTOMATED COMMERCIAL ENVIRONMENT (ACE) BECOMING THE SOLE CBP-AUTHORIZED ELECTRONIC DATA INTERCHANGE (EDI) SYSTEM FOR PROCESSING ELECTRONIC DRAWBACK AND DUTY DEFERRAL ENTRY AND ENTRY SUMMARY FILINGS**

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

**ACTION:** General notice.

**SUMMARY:** On August 30, 2016, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** announcing plans to make the Automated Commercial Environment (ACE) the sole electronic data interchange (EDI) system authorized by the Commissioner of CBP for processing electronic drawback and duty deferral entry and entry summary filings. The effective date for the changes announced in that notice had been delayed indefinitely. This notice announces that the effective date for the transition will be July 8, 2017.

**EFFECTIVE DATES:** *July 8, 2017:* ACE will be the sole CBP-authorized EDI system for processing electronic drawback and duty deferral entry and entry summary filings, and the Automated Commercial System (ACS) will no longer be a CBP-authorized EDI system for processing these filings.

**FOR FURTHER INFORMATION CONTACT:** Questions related to this notice may be emailed to [ASKACE@cbp.dhs.gov](mailto:ASKACE@cbp.dhs.gov) with the subject line identifier reading “ACS to ACE Drawback and Duty Deferral Entry and Entry Summary Filings transition”.

**SUPPLEMENTARY INFORMATION:**

On August 30, 2016, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** (81 FR 59644) announcing plans to make the Automated Commercial Environment (ACE) the sole electronic data interchange (EDI) system authorized by the Commissioner of CBP for processing electronic drawback and duty deferral entry and entry summary filings, with an effective date of October 1, 2016. The document also announced that, on October 1, 2016, the Automated Commercial System (ACS) would no longer be a CBP-authorized EDI system for purposes of processing these electronic filings. Finally, the notice announced a name change for the ACE filing code for duty deferral and the creation of a new ACE filing code for all electronic drawback filings, replacing the six distinct drawback codes previously filed in ACS. On October 3, 2016, CBP

published a notice in the **Federal Register** (81 FR 68023) announcing that the effective date for these changes would be delayed until further notice. Thereafter, on December 12, 2016, CBP published a notice in the **Federal Register** (81 FR 89486) announcing that the new effective date for the transition would be January 14, 2017. On January 17, 2017, CBP published an additional notice in the **Federal Register** (82 FR 4900) delaying the effective date for the transition until further notice.

This notice announces that the new effective date for the transition will be July 8, 2017. At that time, ACE will become the sole CBP-authorized EDI system for electronic drawback and duty deferral entry and entry summary filings, and ACS will no longer be a CBP-authorized EDI system for purposes of processing these electronic filings.

Dated: June 2, 2017.

KEVIN K. McALEENAN,  
*Acting Commissioner,*  
*U.S. Customs and Border Protection.*

[Published in the Federal Register, June 08, 2017 (82 FR 26698)]