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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 17-07

RIN 1515-AE31

Extension of Import Restrictions Imposed on Archaeological Objects and Ecclesiastical and Ritual Ethnological Materials from Cyprus

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

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on Pre-Classical and Classical archaeological objects, and Byzantine and post-Byzantine ecclesiastical and ritual ethnological materials from Cyprus. The restrictions, which were originally imposed by Treasury Decision 02-37, and last extended by CBP Dec. 12-13, are due to expire on July 16, 2017. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, these import restrictions will remain in effect for an additional five years, and the

CBP regulations are being amended to reflect this extension through July 16, 2022. 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 in accordance with 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. 12-13 contains the Amended Designated List of all archaeological objects and Byzantine and Post-Byzantine ecclesiastical and ritual ethnological materials from Cyprus, to which the restrictions apply.

DATES: Effective July 16, 2017.

FOR FURTHER INFORMATION CONTACT: For regulatory aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0215. For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of 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, codified into U.S. law as the Convention on Cultural Property Implementation Act (hereinafter, “the Cultural Property Implementation Act” or “the Act”) (Pub. L. 97-446, 19 U.S.C. 2601 et seq.), the United States entered into a bilateral agreement with the Republic of Cyprus on July 16, 2002, to impose import restrictions on certain archaeological materials representing the Pre-Classical and Classical periods ranging in date from approximately the 8th Millennium B.C. to approximately 330 A.D. of Cyprus (“the 2002

Agreement”). On July 19, 2002, the former United States Customs Service (U.S. Customs and Border Protection’s predecessor agency) published Treasury Decision (T.D.) 02-37 in the **Federal Register** (67 FR 47447), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions. These restrictions were to be effective through July 16, 2007.

On August 17, 2006, the Republic of Cyprus and the United States amended the 2002 Agreement (covering Pre-Classical and Classical archeological materials) to include a list of Byzantine ecclesiastical and ritual ethnological materials dating from approximately the 4th century A.D. through approximately the 15th century A.D. that had been (and, at that time, were still) protected pursuant to an emergency action which was published in the **Federal Register** (64 FR 17529) on April 12, 1999. The amendment of the 2002 Agreement to cover both the archaeological materials and the ethnological materials was reflected in CBP Dec. 06-22, which was published in the **Federal Register** (71 FR 51724) on August 31, 2006. CBP Dec. 06-22 contains the list of Byzantine ecclesiastical and ritual ethnological materials from Cyprus previously protected pursuant to the emergency action and announced that import restrictions, as of August 31, 2006, were imposed on this cultural property pursuant to the amended Agreement (19 U.S.C. 2603(c)(4)). Thus, as of that date, the import restrictions covering materials described in CBP Dec. 06-22 were set to be effective through July 16, 2007.

On July 13, 2007, CBP published CBP Dec. 07-52 in the **Federal Register** (72 FR 38470) which further extended the import restrictions to July 16, 2012. The Designated List was published with this decision.

On July 13, 2012, CBP published CBP Dec. 12-13 in the **Federal Register** (77 FR 41266), effective on July 16, 2012, amending CBP regulations to reflect the extension of import

restrictions and also to cover Post-Byzantine ecclesiastical and ritual ethnological materials ranging from approximately 1500 A.D. to approximately 1850 A.D. of Cyprus. The amended Designated List was published with the decision in CBP Dec. 12-13, which includes the unrevised list of covered archaeological objects, as well as Byzantine and post-Byzantine ecclesiastical and ritual ethnological materials. The import restrictions are due to expire on July 16, 2017.

On August 1, 2012, CBP published a correcting amendment to CBP Dec. 12-13 in the **Federal Register** (77 FR 45479) as the amended Designated List and the regulatory text in that document contained language which was inadvertently not consistent with the rest of the document as to the historical period that the import restrictions cover for ecclesiastical and ritual ethnological materials from Cyprus.

Import restrictions listed in the Code of Federal Regulations (CFR) at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. (19 CFR 12.104g(a)).

On July 12, 2016, the Department of State received a request by the Republic of Cyprus to extend the Agreement. The Department of State proposed to extend the import restrictions for an additional five years in a notice published in the **Federal Register** (81 FR 52946) on August 10, 2016. On March 22, 2017, the Assistant Secretary for Educational and Cultural Affairs, State Department, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of Cyprus continues to be in jeopardy from

pillage of certain archaeological objects and certain ethnological materials and that the import restrictions should be extended for an additional five-year period to July 16, 2022. 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 the extension of the import restrictions.

The Amended Designated List of archaeological objects and Byzantine and post-Byzantine ecclesiastical and ritual ethnological materials is set forth in CBP Dec. 12-13. The herein mentioned Agreements and the Designated List and amended Designated Lists may be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements> by clicking on “Cyprus.”

The restrictions on the importation of these archaeological, and ecclesiastical and ritual ethnological materials from Cyprus are to continue in effect through July 16, 2022. Importation of such materials from Cyprus continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). 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 reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Executive Orders 12866 and 13771

Because this rule involves a foreign affairs function of the United States, it is not subject to either Executive Order 12866 or Executive Order 13771.

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;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the table is amended in the entry for “Cyprus” by adding the words “extended by CBP Dec. 17-07” after the words “CBP Dec. 12-13” in the column headed “Decision No.”.

Kevin K. McAleenan

Acting Commissioner
U.S. Customs and Border Protection

Approved: July 11, 2017

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

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