

DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Parts 132 and 163**

[T.D. 00-7]

RIN 1515-AC55

Export Certificates for Sugar-Containing Products Subject to Tariff-Rate Quota**AGENCY:** U.S. Customs Service, Department of the Treasury.**ACTION:** Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to set forth the form and manner by which an importer establishes that a valid export certificate is in effect for certain sugar-containing products subject to a tariff-rate quota, that are products of a participating country, as defined in an interim rule of the United States Trade Representative (USTR). The export certificate is necessary to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

DATES: Interim rule effective on February 4, 2000. The interim rule is applicable to products of a participating country as described in the USTR interim rule that are entered or withdrawn from warehouse for consumption on or after February 4, 2000. Comments must be received on or before April 4, 2000.

ADDRESS: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Leon Hayward, Office of Field Operations, (202-927-9704).

SUPPLEMENTARY INFORMATION:**Background**

As a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103-465), the President, by Presidential Proclamation No. 6763, established a tariff-rate quota for imported sugar-containing products.

Under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota tariff rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in

excess of the given amount. The preferential, in-quota tariff rate would be applicable only to the extent that the aggregate in-quota quantity of a product allocated to a country had not been exceeded.

Under Presidential Proclamation No. 7235, dated October 7, 1999, the United States Trade Representative (USTR) was given authority under section 404(a) of the URAA to implement the tariff-rate quota for sugar-containing products to ensure that they do not disrupt the orderly marketing of such products in the United States. The USTR has already assigned Canada an in-quota allocation of the sugar-containing products (64 FR 54719; October 7, 1999).

As part of the implementation of this tariff-rate quota, the USTR has established an export-certificate program under which exporting countries that have an allocation of the in-quota quantity and that wish to participate in the program may use export certificates for their sugar-containing products that are exported to the United States. The USTR has issued an interim rule establishing regulations for this export-certificate program (15 CFR part 2015) (64 FR 67152; December 1, 1999). The USTR interim rule has an effective date of January 31, 2000.

An exporting country wishing to participate in the export-certificate program must notify the USTR and provide the necessary supporting information. As defined in the USTR interim regulations (15 CFR 2015.2(e)), a participating country is a country that has received an allocation of the in-quota quantity of the tariff-rate quota, and that the USTR has determined, and has so informed Customs, is eligible to use export certificates for their sugar-containing products exported to the United States. The USTR has stated that it intends to publish a notice in the **Federal Register** whenever a country becomes, or ceases to be, a participating country.

The particular sugar-containing products subject to a tariff-rate quota for which the USTR has established the export-certificate program are described in additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically, unless excepted as provided in additional U.S. Note 3 to chapter 17, HTSUS, the imported sugar-containing products covered by the export-certificate program contain over 10 percent by dry weight of sugars derived from cane or sugar beets, whether or not mixed with other ingredients, and they are classified under one of the following HTSUS subheadings: 1701.91.54,

1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56, 2101.12.54, 2101.20.54, 2106.90.78, or 2106.90.95.

While a country does not need to participate in the export-certificate program in order to receive the in-quota tariff rate for its share of the in-quota quantity, using export certificates assures the exporting country that only those exported sugar-containing products that it intends for the United States market are counted against its in-quota allocation. As already noted, this helps ensure that such products do not disrupt the orderly marketing of sugar-containing products in the United States.

On December 4, 1998, the Governments of the United States and Canada entered into a Record of Understanding regarding Areas of Agricultural Trade. In Annex 17 of this Record of Understanding, the United States agreed to require an export permit issued by the Government of Canada in order to enable an importer to claim the in-quota tariff rate for those sugar-containing products of Canadian origin described in additional U.S. Note 8 to chapter 17, HTSUS. Canada will thus be a participating country in this export-certificate program as of January 31, 2000, the effective date of the USTR interim rule, as indicated above.

In accordance with the interim rulemaking of the USTR, Customs is issuing this interim rule in order to set forth a new § 132.17, Customs Regulations (19 CFR 132.17), that prescribes the form and manner by which an importer establishes that a valid export certificate exists, including a unique number for the certificate that must be referenced on the entry or withdrawal from warehouse for consumption, whether filed in paper form or electronically. This will ensure that no imports of the specified sugar-containing products of a participating country are counted against the country's in-quota allocation unless the products are covered by a proper export certificate. The export certificate is necessary in this regard in order to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

In addition, the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix), that lists the records required for the entry of merchandise, is revised to add a reference to the requirement in new § 132.17 that an importer possess a valid export certificate for sugar-containing products that are subject to a tariff-rate quota and that are products of a participating country, in order for the importer to be

able to claim the applicable in-quota rate of duty.

Also, § 132.15, Customs Regulations (19 CFR 132.15), is revised to make provision for electronic entry filing in the case of beef subject to a tariff-rate quota, for which the importer must similarly possess a valid export certificate in order to claim the in-quota rate of duty.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington D.C.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this interim rule because it is within the foreign affairs function of the United States. Also, for the above reason, there is no need for a delayed effective date under 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply; and because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Paperwork Reduction Act

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515-0065 (Entry summary and continuation sheet) and 1515-0214 (General recordkeeping and record production requirements). This rule does not propose any substantive changes to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

List of Subjects

19 CFR Part 132

Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 163

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

Amendment to the Regulations

Accordingly, parts 132 and 163, Customs Regulations (19 CFR parts 132 and 163), are amended as set forth below.

PART 132—QUOTAS

1. The general authority citation for part 132 continues to read as follows, and the specific sectional authority under this part is revised to read as follows :

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

§ 132.15 through 132.17 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; subchapter III of Chapter 99, HTSUS; and additional U.S. Note 8 to Chapter 17, HTSUS, respectively), 1484, 1508.

2. Section 132.15 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 132.15 Export certificate for beef subject to tariff-rate quota.

(a) *Requirement.* * * * The importer must record the unique identifying number of the export certificate for the beef on the entry summary or warehouse withdrawal for consumption (Customs Form 7501, Column 34), or its electronic equivalent.

* * * * *

3. Part 132 is amended by adding a new § 132.17 to subpart B to read as follows:

§ 132.17 Export certificate for sugar-containing products subject to tariff-rate quota.

(a) *Requirement.* For sugar-containing products described in additional U.S. Note 8 to chapter 17, HTSUS, that are classified in HTSUS subheading 1701.91.54, 1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56,

2101.12.54, 2101.20.54, 2106.90.78, or 2106.90.95, and that are products of a participating country, as defined in 15 CFR 2015.2(e), the importer must possess a valid export certificate in order to claim the in-quota tariff rate of duty on the products at the time they are entered or withdrawn from warehouse for consumption. The importer must record the unique identifier of the export certificate for these products on the entry summary or warehouse withdrawal for consumption (Customs Form 7501, column 34), or its electronic equivalent.

(b) *Validity of export certificate.* To be valid, the export certificate must meet the requirements of 15 CFR 2015.3(b), and with respect to the requirement of 15 CFR 2015.3(b)(3) that the certificate have a distinct and uniquely identifiable number, this unique identifier must consist of 8 characters in any alpha/numeric combination.

(c) *Retention and production of certificate to Customs.* The export certificate is subject to the recordkeeping requirements of part 163 of this chapter (19 CFR part 163). Specifically, the certificate must be retained for a period of 5 years in accordance with § 163.4(a) of this chapter, and must be made available to Customs upon request in accordance with § 163.6(a) of this chapter.

PART 163—RECORDKEEPING

1. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

Appendix to Part 163 [Amended]

2. In the Appendix to part 163, under heading “IV.”, the list of documents/records or information required for entry of special categories of merchandise is amended by removing the listing, “§ 132.15, 132.16 Export certificates, respectively, for beef or lamb meat subject to tariff-rate quota”, and by adding the following listing in its place:

“§§ 132.15 through 132.17 Export certificates, respectively, for beef, lamb meat, or sugar-containing products subject to tariff-rate quota”.

Raymond W. Kelly,
Commissioner of Customs.

Approved: January 19, 2000.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
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