Related Controls: (1) Military commodities are subject to the export licensing jurisdiction of the Department of State if they incorporate items that are subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130). (2) Military commodities described in this paragraph are subject to the export licensing jurisdiction of the Department of State if such commodities are described on the United States Munitions List (22 CFR Part 121) and are in the United States. (3) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles that are subject to the ITAR, or the furnishing to foreign persons of any technical data controlled under 22 CFR 121.3 whether in the United States or abroad are under the licensing jurisdiction of the Department of State. (4) Brokering activities (as defined in 22 CFR 129.9) of military commodities that are subject to the ITAR are under the licensing jurisdiction of the Department of State.

Related Definitions: N/A.

Items: “Military commodities” with all of the following characteristics:

a. Description on either the United States Munitions List (22 CFR Part 121) or the Munitions List that is published by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (as set out on its Web site at http://www.wassenaar.org), but not any item listed in any Export Control Classification Number for which the last three characters are 018;

b. Produced outside the United States;

c. Not subject to the International Traffic in Arms Regulations (22 CFR Parts 120–130) for a reason other than presence in the United States;

d. Incorporate one or more cameras controlled under ECCN 6A003.b.4.b.

License Requirements

Reason for Control: NS, NP, RS, AT, UN.

License Exceptions

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>RS applies to entire entry</td>
<td>RS Column 1.</td>
</tr>
<tr>
<td>NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4</td>
<td>NS Column 2.</td>
</tr>
<tr>
<td>RS applies to items controlled in 6A003.b.3, to items controlled in 6A003.b.4.a, and to items controlled in 6A003.b.4.b that have a frame rate greater than 60 Hz or that incorporate a focal plane array with more than 111,000 elements, or to items in 6A003.b.4.b when being exported or reexported to be embedded in a civil product. (But see §742.6(h)(2)(iii) and (v) for certain exemptions)</td>
<td>RS Column 1.</td>
</tr>
<tr>
<td>RS applies to items controlled in 6A003.b.4.b that have a frame rate of 60 Hz or less and that incorporate a focal plane array with not more than 111,000 elements if not being exported or reexported to be embedded in a civil product.</td>
<td>RS Column 2.</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1.</td>
</tr>
<tr>
<td>UN applies to items controlled in 6A003.b.3 and b.4</td>
<td>Iraq and Rwanda.</td>
</tr>
</tbody>
</table>

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection Bureau

DEPARTMENT OF THE TREASURY

19 CFR Part 10


RIN 1505–AC13

Imported Directly Requirement Under the United States-Bahrain Free Trade Agreement

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

ACTION: Interim final rule; solicitation of comments.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations in title 19 of the Code of Federal Regulations (19 CFR) on an interim basis to change certain provisions relating to the requirement under the United States-Bahrain Free Trade Agreement (BFTA) that a good must be “imported directly” from one
BFTA Party to the other Party to qualify for preferential tariff treatment. The change involves removing the condition that a good passing through the territory of an intermediate country while en route from a Party to the other Party must remain under the control of the customs authority of the intermediate country. This change more closely conforms these regulatory provisions to the BFTA and the BFTA implementing statute.

DATES: This interim final rule is effective May 22, 2009. Comments must be received on or before July 21, 2009.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:


Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to http://www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to http://www.regulations.gov. Submitted comments may be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW, 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325–0041.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim final rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See ADDRESSES above for information on how to submit comments.

Background

On September 14, 2004, the United States and the Kingdom of Bahrain (the Parties) signed the U.S.-Bahrain Free Trade Agreement (BFTA). The provisions of the BFTA were adopted by the United States with the enactment on January 11, 2006, of the United States-Bahrain Free Trade Area Implementation Act (the Act), Public Law 109–169, 119 Stat. 3581 (19 U.S.C. 3805 note).

On October 16, 2007, CBP published CBP Dec. 07–81 in the Federal Register (72 FR 58511), setting forth interim amendments to implement the preferential tariff treatment and customs-related provisions of the BFTA. The majority of the BFTA implementing regulations were included within new subpart N in part 10 of the CBP regulations (19 CFR subpart N, part 10).


Section 10.817(a) of the CBP regulations implementing the BFTA sets forth the basic requirement, found in Article 4.1 of the BFTA, that a good must be “imported directly” from the territory of a Party into the territory of the other Party to qualify as an originating good under the BFTA. In circumstances in which a shipment passes through the territory of a non-Party, § 10.817(a)(2) provides that a good will be considered to be “imported directly” only if the good: (i) Remained under the control of the customs authority of the non-Party; and (ii) did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than certain specified minor operations. Nearly identical language to that found in § 10.817(a)(2) appears in § 10.822(a), relating to the application of the “imported directly” requirement to certain non-originating textile and apparel goods that qualify for preferential tariff treatment under an applicable tariff preference level (TPL).

Article 4.9 of the BFTA provides that a good shall not be considered to be “imported directly” from the territory of the other Party if the good undergoes subsequent production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of the other Party. Section 202(g) of the Act mirrors the language in Article 4.9 of the Agreement. Neither the BFTA nor the Act includes a requirement that a good must remain under the control of the customs authority of a non-Party to qualify as having met the “imported directly” requirement when the good passes through the territory of a non-Party.

Explanation of Amendments

It has been brought to the attention of CBP that there is no explicit requirement in the BFTA or the Act that a good must remain under the control of the customs authority of a non-Party to qualify as having been “imported directly” from a Party. Therefore, to more closely conform paragraph (a)(2) of §§ 10.817 and 10.822 to the Agreement and the Act, these regulatory provisions have been revised in this interim rule document to remove the “customs control” requirement. Specifically, paragraph (a)(2)(i) of §§ 10.817 and 10.822 has been removed and text of current paragraph (a)(2)(ii) of §§ 10.817 and 10.822 has been incorporated into the paragraph (a)(2) introductory text of these sections.

CBP notes that these changes provide consistency between the BFTA implementing regulations and the CBP regulations implementing the United States-Morocco Free Trade Agreement (MFTA) relating to the “imported directly” requirement under these two FTAs. The language in the BFTA and MFTA and the two implementing statutes are nearly identical in regard to this requirement.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the Federal Register that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment
Amendments to the CBP Regulations

Trade agreements.
Exports, Imports, Preference programs, Secretary of the Treasury (or his/her pertaining to the authority of the Regulations (19 CFR 0.1(a)(1)) accordance with § 0.1(a)(1) of the CBP Signing Authority U.S.C. 603 and 604. requirements or other requirements of 5 provisions of the Regulatory Flexibility for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 et seq.), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604. Signing Authority This document is being issued in accordance with § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions. List of Subjects in 19 CFR Part 10 Customs duties and inspection, Exports, Imports, Preference programs, Trade agreements. Amendments to the CBP Regulations Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below. PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC. 1. The general authority citation for part 10 and the specific authority for subpart N continue to read as follows: Authority: 19 U.S.C. 66, 1202 (General Note 3(h)), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314: * * * * * Section 10.801 through 10.829 also issued under 19 U.S.C. 1202 (General Note 30, HTSUS) and Pub. L. 109–169, 119 Stat. 3581 (19 U.S.C. 3805 note). 2. Section 10.817 is amended by revising paragraph (a)(2) to read as follows: § 10.817 Imported directly. (a) * * * (2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party. * * * * * 3. Section 10.822 is amended by revising paragraph (a)(2) to read as follows: § 10.822 Transshipment of non-originating fabric or apparel goods. (a) * * * (2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party. * * * * *

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210—AB13

Investment Advice—Participants and Beneficiaries

AGENCY: Employee Benefits Security Administration, Labor. ACTION: Final rule; delay of effective date and applicability date.

SUMMARY: This document delays the effective and applicability dates of final rules under the Employee Retirement Income Security Act, and parallel provisions of the Internal Revenue Code of 1986, relating to the provision of investment advice to participants and beneficiaries in individual account plans, such as 401(k) plans, and beneficiaries of individual retirement accounts (and certain similar plans). These rules were published in the Federal Register on January 21, 2009, and were to have become effective and applicable on March 23, 2009, but were delayed until May 22, 2009, by a final rule published on March 20, 2009 (74 FR 11847). This document further delays the effective and applicability dates of these final rules from May 22, 2009, until November 18, 2009, to allow additional time for the Department to evaluate questions of law and policy concerning the rules.


FOR FURTHER INFORMATION CONTACT: Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On January 21, 2009, the Department of Labor published final rules on the