

FOR FURTHER INFORMATION CONTACT:

Richard Balaban, Office of Field Operations, 202-927-0031.

SUPPLEMENTARY INFORMATION:**Background**

Generally, a civil aircraft arriving from a place outside of the United States is required to land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may request permission to land at a specific airport and if landing rights are granted, the civil aircraft may land at that landing rights airport.

Section 236 of Pub. L. 94-573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of business at the airport is insufficient to justify the availability of customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of aircraft that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of customs services is not paid for out of appropriations from the general treasury of the United States. Instead, the customs services are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport or that airport's authority agrees to pay a flat fee annually and the users of the airport are to reimburse that airport/airport authority. The airport/

airport authority agrees to set and periodically to review the charges to ensure that they are in accord with the airport's expenses.

Sections 403(1) and 411 of the Homeland Security Act of 2002 ("the Act," Pub. L. 107-296) transferred the United States Customs Service and its functions from the Department of the Treasury to the Department of Homeland Security; pursuant to section 1502 of the Act, the President renamed the "Customs Service" as the "Bureau of Customs and Border Protection," also referred to as the "CBP."

The Commissioner of CBP, pursuant to § 122.15, Customs Regulations (19 CFR 122.15) designates airports as user fee airports pursuant to 19 U.S.C. 58b. Section 122.15 sets forth the list of designated user fee airports.

Thirty seven airports are currently listed in § 122.15. This document revises the list of user fee airports. It adds Williams Gateway Airport in Mesa, Arizona, and Roswell Industrial Air Center in Roswell, New Mexico, to this listing of designated user fee airports. It also corrects the location of McKinney Municipal Airport from Dallas, Texas, to McKinney, Texas.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely updates and corrects the list of user fee airports designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight,

Amendments to the Regulations

■ Part 122, Customs Regulations (19 CFR Part 122) is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

■ 1. The authority citation for part 122, Customs Regulations, continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

* * * * *

■ 2. The listing of user fee airports in section 122.15(b) is amended:

■ a. By adding, in alphabetical order, in the "Location" column, "Mesa, Arizona" and by adding on the same line, in the "Name" column, "Williams Gateway Airport;"

■ b. By adding, in alphabetical order, in the "Location" column, "Roswell, New Mexico" and by adding on the same line, in the "Name" column, "Roswell Air Industrial Center;" and

■ c. On the same line as the "McKinney Airport" in the "Name" column, by removing in the "Location" column "Dallas, Texas" and by adding in its place "McKinney, Texas."

Dated: August 19, 2003.

Robert C. Bonner,

Commissioner, Bureau of Customs and Border Protection.

[FR Doc. 03-21576 Filed 8-21-03; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY**Customs and Border Protection****19 CFR Part 148**

[CBP Dec. 03-21]

Changes to Customs and Border Protection List of Designated Public International Organizations

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by updating the list of designated public international organizations entitled to certain free entry privileges provided for under provisions of the International Organizations Immunities Act. The last time the list was updated was in 1996 and since then the President has issued several Executive Orders, which have designated certain organizations as entitled to certain free entry privileges. Accordingly, Customs and Border

Protection deems it appropriate to update the list at this time.

EFFECTIVE DATE: August 22, 2003.

FOR FURTHER INFORMATION CONTACT: Dennis Sequeira, Director, International Organizations & Agreements Division, Office of International Affairs, (202) 927-1480.

SUPPLEMENTARY INFORMATION:

Background

The International Organizations Immunities Act (the Act) (22 U.S.C. 288 *et seq.*) generally provides that certain international organizations, agencies, and committees, in which the United States participates or otherwise has an interest and which have been designated by the President through appropriate Executive Order as public international organizations, are entitled to enjoy certain privileges, exemptions, and immunities conferred by the Act. The Department of State lists the public international organizations, designated by the President as entitled to enjoy any measure of the privileges, exemptions, and immunities conferred by the Act, in the notes following the provisions of Section 288.

One of the privileges provided for under the Act at 22 U.S.C. 288a is that the baggage and effects of alien officers, employees, and representatives—and their families, and servants—to the designated organization, are admitted free of duty and without entry. Those designated organizations entitled to this duty-free entry privilege are delineated at § 148.87(b), Customs Regulations (19 CFR 148.87(b)). Thus, the list of public international organizations maintained by Customs and Border Protection (CBP) is for the limited purpose of identifying those organizations entitled to the duty-free entry privilege; it does not necessarily include all of the organizations that are on the list maintained by the Department of State, which delineates all of the international organizations designated by the President regardless of the extent of the privileges conferred.

The last revision of the list of public international organizations at § 148.87(b) was in 1996 (T.D. 96-23), when the total number of designated international organizations became 69. Since 1996, eight Executive Orders have been issued each designating a new public international organization, as follows:

1. Executive Order 12956 of March 13, 1995, 60 FR 14199, 3 CFR 1996 Comp., p. 332, 31 Weekly Comp.Pres.Doc. 408, designated the Israel-United States

Binational Industrial Research and Development Foundation;

2. Executive Order 12986 of January 18, 1996, 61 FR 1693, 3 CFR 1997 Comp., p. 156, 32 Weekly Comp.Pres.Doc. 77, designated the International Union for Conservation of Nature and Natural Resources with limited privileges; certain privileges, regarding immunity from suit and judicial process and search and seizure, were not extended;

3. Executive Order 12997 of April 1, 1996, 61 FR 14949, 3 CFR 1997 Comp., p. 179, 32 Weekly Comp.Pres.Doc. 596, designated the Korean Peninsula Energy Development Organization;

4. Executive Order 13042 of April 9, 1997, 62 FR 18017, 73 CFR 1998 Comp., p. 194, 33 Weekly Comp.Pres.Doc. 492, designated the World Trade Organization;

5. Executive Order 13049 of June 11, 1997, 62 FR 32472, 3 CFR 1998 Comp., p. 206, 33 Weekly Comp.Pres.Doc. 857, designated the Organization for the Prohibition of Chemical Weapons;

6. Executive Order 13052 of June 30, 1997, 62 FR 35659, 3 CFR 1998 Comp., p. 210, 33 Weekly Comp.Pres.Doc. 998, designated the Hong Kong Economic and Trade Offices;

7. Executive Order 13097 of August 7, 1998, 63 FR 43065, 3 CFR 1999 Comp., p. 205, 34 Weekly Comp.Pres.Doc. 1588, designated the Interparliamentary Union; and

8. Executive Order 13240 of December 18, 2001, 66 FR 66257, 3 CFR 2002 Comp., p. 824, 37 Weekly Comp.Pres.Doc. 1813, designated the Council of Europe in Respect of the Group of States Against Corruption (GRECO).

This brings the total number of designated international organizations listed at § 148.87(b) to 77. Accordingly, CBP is amending its list of designated public international organizations at § 148.87(b) to account for these eight additions.

This document also corrects an editorial error, *i.e.*, an international organization designated by T.D. 96-13 is incorrectly referenced; thus, the reference to the Border Environmental Cooperation Commission should read the Border Environment Cooperation Commission.

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

Because this amendment merely corrects the listing of designated

organizations entitled by law to free entry privileges as public international organizations, pursuant to 5 U.S.C. 553(b)(B), good cause exists for dispensing with notice and public procedure thereon as unnecessary. For the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d) (1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, Office of Regulations and Rulings.

List of Subjects in 19 CFR Part 148

Customs duties and inspection, Executive orders, Foreign officials, Government employees, International organizations, Privileges and immunities, Taxes.

Amendment to the Regulations

■ For the reasons stated above, part 148, Customs Regulations (19 CFR part 148), is amended as set forth below:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

■ 1. The general authority citation for part 148 and the specific authority citation for § 148.87 continue to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 23, Harmonized Tariff Schedule of the United States);

* * * * *

Section 148.87 also issued under 22 U.S.C. 288.

■ 2. Section 148.87(b) is amended by removing in the “Organization” column the name “Border Environmental Cooperation Commission” and adding in its place “Border Environment Cooperation Commission” and by adding the following, in appropriate alphabetical order, to the table, to read as follows:

§ 148.87 Officers and employees of, and representatives to, public international organizations.

* * * * *

(b) * * *

Organization	Executive Order	Date
Council of Europe in Respect of the Group of States Against Corruption (GRECO)	13240	Dec. 18, 2001.
Hong Kong Economic and Trade Offices	13052	June 30, 1997.
International Union for Conservation of Nature and Natural Resources—Limited privileges	12986	Jan. 18, 1996.
Interparliamentary Union	13097	Aug. 7, 1998.
Israel-United States Binational Industrial Research and Development Foundation	12956	Mar. 13, 1995.
Korean Peninsula Energy Development Organization	12997	Apr. 1, 1996.
Organization for the Prohibition of Chemical Weapons.	13049	June 11, 1997.
World Trade Organization	13042	Apr. 9, 1997.

Dated: August 18, 2003.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.
[FR Doc. 03-21577 Filed 8-21-03; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 191

[CBP Dec. 03-23]

RIN 1515-AD02

Manufacturing Substitution Drawback: Duty Apportionment

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with changes, the interim rule amending the Customs Regulations that was published in the **Federal Register** on July 24, 2002, as T.D. 02-38. The interim rule amended the regulations to provide the method for calculating manufacturing substitution drawback where imported merchandise, which is dutiable on its value, contains a chemical element and amounts of that chemical element are used in the manufacture or production of articles which are either exported or destroyed under Customs supervision. Recent court decisions have held that a chemical element that is contained in an

imported material that is subject to an *ad valorem* rate of duty may be designated as same kind and quality merchandise for drawback purposes. The amendment provides the method by which the duty attributable to the chemical element can be apportioned and requires a drawback claimant, where applicable, to make this apportionment calculation.

EFFECTIVE DATE: August 22, 2003.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Chief, Duty and Refund Determinations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, Tel. (202) 572-8807.

SUPPLEMENTARY INFORMATION:

Background

Drawback—19 U.S.C. 1313

Section 313 of the Tariff Act of 1930, as amended, (19 U.S.C. 1313), concerns drawback and refunds. Drawback is a refund of certain duties, taxes and fees paid by the importer of record and granted to a drawback claimant upon the exportation, or destruction under Customs supervision, of eligible articles. The purpose of drawback is to place U.S. exporters on equal footing with foreign competitors by refunding most of the duties paid on imports used in domestic manufactures intended for export.

Substitution for Drawback Purposes—19 U.S.C. 1313(b)

There are several types of drawback. Under section 1313(b), a manufacturer can recoup duties paid for imported merchandise if it uses merchandise of the same kind and quality to produce exported articles pursuant to the terms

of the statute. Section 1313(b) reads, in pertinent part:

(b) *Substitution for drawback purposes.*

If imported duty-paid merchandise and any other merchandise (whether imported or domestic) of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation, or destruction under customs supervision, of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported or destroyed articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported * * *.

Manufacturing substitution drawback is intended to alleviate some of the difficulties in accounting for whether imported merchandise has, in fact, been used in a domestic manufacture. Section 1313(b) permits domestic or other imported merchandise to be used to make the export article, instead of the actual imported merchandise, so long as the domestic or other imported merchandise is of the “same kind and quality” as the actual imported merchandise.

Several recent court cases have examined the scope of the term “same kind and quality” as used in 19 U.S.C. 1313(b). See *E.I. DuPont De Nemours and Co. v. United States*, 116 F. Supp. 2d 1343 (Ct. Int’l Trade 2000). See also *International Light Metals v. United States*, 194 F.3d 1355 (Fed. Cir. 1999). In these cases, the courts held that a chemical element that is contained in an imported material that is dutiable on its value may be designated as same kind