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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 12

[CBP Decision 03-28]
RIN 1515-AD34

Import Restrictions Imposed on Archaeological Materials From Cambodia

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological materials originating in Cambodia. These restrictions are being imposed pursuant to an agreement between the United States and the Government of the Kingdom of Cambodia that was entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with 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. The document amends the Customs Regulations by adding Cambodia to the list of countries for which an agreement has been entered into for imposing import restrictions. The document contains the list of designated archaeological materials that describes the types of articles to which the restrictions apply. The document also rescinds the emergency restrictions already in place for certain stone archaeological material from Cambodia. These materials are subsumed in the restrictions published today.

EFFECTIVE DATE: September 22, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and

popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import. The United States shares in the international concern for the need to protect endangered cultural property. The appearance in the United States of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the United States to join with other countries to control illegal trafficking of such articles in international commerce.

The United States joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). United States acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ``Convention on Cultural Property Implementation Act'' (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*) (the Act). This was done to promote United States leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to nations from where they originate and greater international understanding of mankind's common heritage. During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations and pursuant to bilateral agreements between the United States and these other countries. Additional information on cultural property import restrictions can be found on the International Cultural Property Protection web site ([http:// exchanges.state.gov/education/culprop](http://exchanges.state.gov/education/culprop)).

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). With respect to the import restrictions in the instant case, these determinations, made initially on August 25, 1999, by the then Associate Director for Education and Cultural Affairs, United States Information Agency, and subsequently affirmed on January 23, 2003, by the Assistant Secretary of Educational and Cultural Affairs, Department of State, provide the following: (1) That the cultural patrimony of Cambodia is in jeopardy from the pillage of the archaeological materials described further below in the list of designated materials; (2) that Cambodia has taken measures consistent with the Convention to protect its cultural patrimony; (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage, if applied in concert with similar restrictions implemented or to be implemented by those nations having a significant import trade in such material, and remedies less drastic are not available; and (4) that the application of import restrictions is consistent with the general interests of the international community in the interchange of the designated archaeological materials among nations for scientific, cultural, and educational purposes.

The Agreement

On September 19, 2003, the United States and Cambodia entered into a bilateral agreement (the Agreement) pursuant to the provisions of 19 U.S.C. 2602(a)(2) covering certain Khmer stone, metal, and ceramic archaeological material ranging in date from the 6th century through the 16th century A.D. Accordingly, Customs and Border Protection (CBP; the bureau of the new Department of Homeland Security that includes much of the former U.S. Customs Service) is amending § 12.104g(a) of the Customs Regulations (19 CFR 12.104g(a)) to indicate that import restrictions have been imposed pursuant to the Agreement. The archaeological materials subject to the restrictions are described further below.

Restrictions

CBP notes that emergency import restrictions (19 U.S.C. 2603) on certain stone archaeological materials from Cambodia were imposed under T.D. 99- 88 (64 FR 67479, December 2, 1999). These materials covered by T.D. 99-88 are subsumed in the recently signed bilateral Agreement and continue to be subject to import restrictions. Thus, this document amends the Customs Regulations to remove the listing of Cambodia from § 12.104g(b) pertaining to emergency actions.

Importation of the materials described in the list below, including those which, up to now, have been subject to the restrictions of T.D. 99-88, are subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of the Customs Regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the regulations (19 CFR 12.104c) are met. For example, these materials may be permitted entry if accompanied by appropriate export certification issued by the Government of Cambodia or by documentation showing that exportation from Cambodia occurred before December 2, 1999, with respect to the Khmer stone archaeological materials that have been covered under T.D. 99-88, and September 22, 2003, with respect to the Khmer archaeological materials not covered previously under T.D. 99-88 (See 19 U.S.C. 2606(b)(1) and (2)(B); 19 CFR 12.104c(a) and (c); see also 19 U.S.C. 2606(a) and 2604.)

List of Categories of Khmer Archaeological Materials from Cambodia (6th c. through the 16th c. A.D.)

Khmer archaeological material of the 6th through the 16th century A.D. from Cambodia includes the categories listed below. The following list is representative only.

I. Stone

This category consists largely of materials made of sandstone, including many color shades (grey to greenish to black, pink to red and violet, and some yellowish tones) and varying granulosity. Due to oxidation and iron content, the stone surface can become hard and take on a different color than the stone core. These surface colors range from yellowish to brownish to different shades of grey. This dense surface can be polished. Some statues and reliefs are coated with a kind of clear shellac or lacquer of different colors (black, red, gold, yellow, brown). The surface of sandstone pieces can also however be quite rough. Chipped surfaces can be white in color. In the absence of

any systematic technical analysis of ancient Khmer stonework, no exact description of other stone types can be provided. It is clear however that other types of stone were also used (some volcanic rock, rhyolite, and schist, etc.), but these are nonetheless exceptional. Some quartz objects are also known. Precious and semi-precious stones were also used as applied decor or in jewelry settings.

Different types of stone degradation can be noted. Eroded surfaces result from sanding (loss of surface grains), contour scaling (detachment of surface plaques along contour lines), flaking, and exfoliation. The stone can also split along sedimentation layers. Chipping or fragmentation of sculpted stone is also common.

Stone objects included here come under three historical periods: pre-Angkorian (6th-9th c.), Angkorian (9th- 14th c.), and post-Angkorian (14th-16th c.). Many stone objects can be firmly assigned to one of these three periods; some, notably architectural elements and statues, can be further assigned a specific style and a more precise date within the given period.

A. *Sculpture*

1. Architectural Elements

Stone was used for religious architecture in the pre-Angkorian and Angkorian periods. The majority of ancient Khmer temples were built almost entirely in stone. Even for those temples built primarily in brick, numerous decorative elements in stone were also employed. Only small portions of early post-Angkorian edifices were built in stone. The architectural elements that follow are therefore characteristic of pre-Angkorian and Angkorian times. The state of the material varies greatly, some objects being well preserved, others severely eroded or fragmented. The sculpture of some pieces remains unfinished.

a. *Pediments*. Pediments are large decorative stone fixtures placed above temple doorways. They are triangular in shape and composed of two or more separate blocks that are fitted together and sculpted with decorative motifs. The ensemble can range from approximately 1-3 meters in width and 1-3 meters in height. Motifs include floral scrolls, medallions, human figures, and animals. A whole scene from a well-known story can also be represented.

b. *Lintels*. Lintels are rectangular monoliths placed directly above temple entrance gates or doorways, below the pediments described above. They are decorated with motifs similar to those of pediments. They can reach up to nearly one meter in height and one and one half meters in width.

c. *False doors*. Three of the four doorways of a temple sanctuary are frequently ``false doors``; that is, though they are sculpted to look like doors, they do not open. They bear graphic and floral motifs, sometimes integrating human and animal figures. These doors can reach up to more than two meters in height and more than one meter in width. They can be monolithic or composed of separate blocks fitted together.

d. *Columnettes*. Columnettes are decorative columns placed on either side of a temple door entrance. They can be sculpted in deep relief out of a temple doorway and therefore remain attached to the doorway on their back side. The earliest columnettes are round and sculpted with bands which themselves are sculpted with decorative motifs. Later in the Angkorian period, the columnettes are octagonal in shape and bear

more complex and abundant sculpted decor on the concentric bands. This decor includes graphic designs (pearls, diamond shapes, flowers, etc.) repeated at regular intervals along the length of the column. The base of the column is square and is also sculpted with diverse motifs and figures. The columnettes can reach around 25 cm. in diameter and more than two meters in height.

e. *Pilasters*. Pilasters are decorative rectangular supports projecting partially from the wall on either side of a temple doorway. They are treated architecturally as columns with base, shaft, and capital. Motifs include floral scrolls and graphic designs of pearls, diamond shapes, etc., as well as human or animal figures. They range in width from approximately 20-30 cm. and can reach a height of more than two meters.

f. *Antefixes*. Antefixes are decorative elements placed around the exterior of each level of temple tower. They are small free-standing sculptures and can take multiple forms, including but not limited to graphic designs, animal figures, human figures in niches, and miniature models of temples.

g. *Balustrade finials*. Long balustrades in the form of mythical serpents are found in many Angkorian temples. Often, these line either side of the entrance causeways to temples. The ends of the balustrade take the form of the serpent's multiple cobra-like heads.

h. *Wall reliefs*. Much of the surface area of most temples is sculpted with decorative reliefs. This decor includes graphic designs and floral motifs as well as human or animal figures. The figures can range in size from just a few centimeters to more than one meter in height. They can be integrated into the decor or set off in niches. Narrative scenes can also be represented.

i. *Other decorative items*. Other decorative items include wall spikes, roof tile finials, sculpted steps, and other architectural decorations.

2. Free-Standing Sculpture

The pre-Angkorian and Angkorian periods are characterized by extensive production of statuary in stone. Some stone statuary was also produced during the post-Angkorian period. This statuary is relatively diverse, including human figures ranging from less than one half meter to nearly three meters in height, as well as animal figures. Some figures, representations of Indian gods, have multiple arms and heads. Figures can be represented alone or in groups of two or three. When male and female figures are presented together as an ensemble, the female figures are disproportionately smaller than their male counterparts. Some are part-human, part-animal. Figures can be standing, sitting, or riding animal mounts. Many figures are represented wearing crowns or special headdresses and holding attributes such as a baton or a conch shell. Clothing and sometimes jewelry are sculpted into the body. Though statues are generally monolithic, later post-Angkorian statues of the Buddha can have separate arms sculpted in wood and attached to the stone body. Many statues were once lacquered in black, dark brown, red, or gold colors and retain lacquer traces. Some yellow lacquer is also found.

a. *Human and hybrid (part-human, part-animal) figures*. Examples include statues of the eight-armed god and the four-armed god, representations of Buddha in various attitudes or stances, and female and male figures

or deities, including parts (heads, hands, crowns, or decorative elements) of statuary and groups of figures.

b. *Animal figures*. Examples include bulls, elephants, lions, and small mammals such as squirrels.

c. *Votive objects*. A number of more abstract sculptures were also the object of religious representation from pre- Angkorian to post- Angkorian times. Examples include ritual phallic symbols and sculpted footprints of Buddha.

d. *Pedestals*. Pedestals for statues can be square, rectangular, or round. They vary greatly in size and can be decorated with graphic and floral decor, as well as animal or human figures. They are usually made of numerous components fitted together, including a base and a top section into which the statue is set. e. *Foundation deposit stones*. Sacred deposits were placed under statues, as well as under temple foundations and in temple roof vaults, from pre-Angkorian to post-Angkorian times. Marks on these stones indicate sacred configurations, which could contain deposits such as gold or precious stones.

3. Stela

a. *Sculpted stelae*. Free-standing stela, sculpted with shallow or deep reliefs, served as objects of worship and sometimes as boundary stones from pre- Angkorian to post-Angkorian times. Examples include stela with relief images of gods and goddesses, Buddhas, figures in niches, and other symbols.

b. *Inscriptions*. Texts recording temple foundations or other information were inscribed on stone stela from pre- Angkorian to post-Angkorian times. Such texts can also be found on temple doorjambs, pillars, and walls. The stela are found in a number of different shapes and sizes and can also bear decorative reliefs, for example a bull seated on a lotus flower.

4. Sculpture in Brick

Brick was used mainly in pre- Angkorian and some relatively early Angkorian religious architecture. Yet, typically, while the bodies of buildings were in brick, some of the decorative elements listed above—pediments, lintels, etc.—were in stone. The brick, of light orange color, was usually sculpted with a preliminary relief, which was then covered over with white stucco, itself sculpted along brick contours. Some brick reliefs seem however to have been fully sculpted and not meant to be covered in stucco. Brick temple reliefs include graphic design, as well as floral or animal decor. Human and animal figures can also be represented.

II. Metal

This category consists mainly of bronze objects. No singular alloy is characteristic of Khmer bronzes, which contain varying degrees of copper, zinc, lead, and iron. Surface colors can range from dark to light brown to goldish; a green patina is found on many objects. Some bronzes are also gilt. Some artwork in silver and gold also survives but is much less common. Most objects were cast with the "lost wax" technique, by which a mold of the object is built around a full or hollow wax model; the wax is then melted out with hot metal, which then hardens in the mold. Decor can be chiseled into the finished metal surface. The "repousse" technique, by which metal is beaten into shape

in a concave mold, was also used. Most of the objects presented here can be assigned to one of the major historical periods defined for stone objects above: pre-Angkorian (6th-9th c.), Angkorian (9th-14th c.), and post-Angkorian (14th-16th c.). Some pieces, in particular statuary and ritual or domestic accessories with motifs akin to architectural decor in stone, can also be assigned to specific styles and corresponding time periods within the larger historical periods. It should be noted however that, though the earliest full-sized statues in bronze found in Cambodia to date are attributed to pre-Angkorian times, metallurgy seems to have flourished in pre- and protohistoric periods and was indeed characteristic of cultures situated in southern Cambodia in the early centuries A.D. Excavations have uncovered bronze and gold jewelry, as well as diverse accessory objects, attesting to a metal industry in this early period.

A. Statues and Statuettes

Khmer metal statuary is comparable to Khmer stone statuary in both thematic and stylistic treatment. (See general description of free-standing sculpture above.) Statues can be represented alone or in groups ranging from human figures on animal mounts to triads, to more complex ensembles including architectural structures and decor. Though some colossal statues are known in both pre-Angkorian and Angkorian times, metal statues are, generally, relatively smaller in scale than their stone counterparts. Colossal statues can reach more than two meters in height; fragments demonstrate that one reclining figure measured some six meters in length. Such colossal pieces are nonetheless rare. Statuettes as small around as 15 cm. are common; larger statues more typically reach around one meter in height. Small-scale statues are generally composed of a single cast; separate pieces however can be placed together, for example on a single pedestal, to form an ensemble. Larger works can be composed of multiple pieces fitted together with joints which can be concealed by chiseled decor. Only some small statuettes are solid. Others are composed of two plaques, one for the front of the piece and the other for the back; the plaques are filled with a resin or tar-based substance and soldered together. Larger pieces are hollow. It should be noted that the Bayon period (late 12th-early 13th c.) has left more bronze statuary than any other period. Post-Angkorian bronze statues and statuettes, like their stone counterparts, take on certain characteristics of Siamese sculpture but can nonetheless usually be identified as Khmer due to certain types of decor and bodily form which maintain or develop on a specific Angkorian tradition.

1. Human and Hybrid (Part-human, Part-animal) Figures Examples include standing male figures, Buddhas, four-armed male figures, female figures, gods, and goddesses, all in various attitudes and dress, including fragments of sculpture such as hands, arms, and heads.

2. Animal Figures

Animal representations in bronze resemble those in stone in both thematic and stylistic treatment.

Statues and statuettes include primarily bulls, lions, and elephants with one or three trunks. Other animals, such as horses, are also represented but are less common. The only colossal animal images known date to the late 12th-early 13th c. Other animal figures, such as the mythical multiheaded serpent and mythical birds and monkeys, are also frequently found as decor of ritual or domestic objects.

3. Pedestals

Pedestals in bronze often appear to be simplified and reduced versions of their stone counterparts. One innovation of sculpting the base in openwork is to be noted.

B. Other Ritual and Domestic Objects

1. Special Objects Used in Ritual

Special ritual objects include bells, conch shells, and musical instruments such as tambourines, *etc.*

2. Containers

Ritual and domestic containers include such items as perfume holders, oil lamps or bowls, and boxes with decorative or sculptural features.

3. Decorative Elements From Ritual or Domestic Objects

In addition to the decorative accessory items noted below, there exist insignia finials for banner poles which often take the form of small human or animal figures.

4. Jewelry

Jewelry, including but not limited to rings, bracelets, arm bands, necklaces, and belts, could have been worn not only by people but also by statues. Different types of rings can be noted: Ring-stamps, rings with ornamental settings, rings with settings in the form of a bull or other animal, and rings with settings for stones.

5. Instruments

Diverse percussion instruments, including varying sizes of gongs and cymbals, are made in bronze from ancient to modern times.

6. Animal Fittings

In addition to bells to be suspended around the necks of animals, common to both the Angkorian and the post- Angkorian periods, various kinds of decorative animal harness accessories are known in post- Angkorian times.

C. Architectural Elements

Metal architectural elements include ceiling or wall plaques sculpted with flowers or other motifs, floral plaques, and panels.

D. Weapons

Metal weapons include bows and arrows, daggers, and spear tips.

III. Ceramics

Khmer ceramics include both glazed and unglazed stonewares. Stonewares, and particularly glazed wares, are characteristic of the Angkorian period (9th-14th c.). Khmer ceramics production primarily concerned functional vessels (vases, pots, *etc.*) but also included sculpture of figurines and architectural or other decorative elements. Angkorian period vessels were generally turned on a wheel and fired in kilns. Vessels range in size from around five to at least 70 cm. in height. Glaze colors are fairly limited and include creamy white, pale green (color of Chinese tea), straw-yellow, reddishbrown, brown, olive, and black. Light colors are generally glossy, while darker colors can be glossy or matte. Some twocolored wares, primarily combining pale green and brown, are also known. Decoration is relatively subtle, limited to

incisions of graphic designs (crisscrosses, striations, waves, *etc.*), some sculpted decor such as lotus petal shapes, and molding (ridges, grooves, *etc.*); some applied work is also seen. Most decoration is found on shoulders and necks, as on lids; footed vessels are typically beveled at the base. Many wasters (imperfect pieces) are found and are also subject to illicit trade.

A. Sculpture

Ceramic sculpture known to have been produced in Cambodia proper largely concerns architectural elements. Though some figurines are known and are of notable refinement, statuary and reliefs in ceramics seem to be more characteristic of provincial production. 1. Architectural Elements Some pre-Angkorian, Angkorian, and post-Angkorian period buildings, primarily but not exclusively royal or upper-class habitation, were roofed with ceramic tiles. The tiles include undecorated flat tiles and convex and concave pieces fitted together; a sculpted tile was placed as a decor at the end of each row of tiles. These pieces were produced in molds and can be unglazed or glazed. The unglazed pieces are orange in color; the glazed pieces are creamy white to pale green. Spikes placed at the crest of roof vaults can also be made in ceramics. These spikes were fit into a cylinder, also made of ceramics, which was itself fitted into the roof vault.

2. Figurines and Ritual Objects

Figurines, statuettes, or plaques can include human, hybrid (part-human, part-animal), and animal figures. These are typically small in size (around 10 cm.). Ritual objects found in Cambodia proper are limited primarily to pieces in the shape of a conch shell, used for pouring sacral water or as blowing horns.

B. Vessels

1. Lidded Containers

Examples include round lidded boxes with incised or sculpted decoration, bulbous vases with lids, and jars with conical multi-tiered lids. Lids themselves include conical shapes and convex lids with knobs.

2. Lenticular Pots

Pots of depressed globular form are commonly referred to as lenticular pots. The mouth of the vessel is closed with a stopper.

3. Animal-shaped Pots

The depressed globular form can take animal shapes, with applied animal head, tail, or other body parts that can serve as handles. The animal-shaped pot is also found in other forms. Animalshaped pots often contain remains of white lime, a substance used in betel nut chewing. Shapes include bulls, elephants, birds, horses, and other fourlegged creatures.

4. Human-shaped Pots

Anthropomorphic vessels often have some applied and incised decoration representing human appendages, features, or clothing. The vessels are usually gourd-shaped bottles.

5. Bottles

This category includes a number of different kinds of vessels with raised mouths.

6. Vases

A number of different types of vases are grouped together under this general heading. Some are flat based and bulbous or conical. Others have pedestal feet. Some are characterized by their elongated necks. The ``baluster vases,`` for which Khmer ceramics are particularly known, have pedestal feet, conical bodies, relatively long necks, and flared mouths.

7. Spouted Pots

These are vessels, usually in the "baluster vase" form, that have short pouring spouts attached to the shoulder. Some spouted pots also have ring handles on the opposite shoulder.

8. Large Jars

Large barrel-shaped jars or vats have flat bases, wide mouths, short necks, and flattened everted rims. They are always iron glazed.

9. Bowls

Bowls with broad, flat bases and flaring walls that are either straight or slightly concave, ending in plain everted or incurving rims, usually have green or yellowish glaze, although some brown-glazed bowls are known. Some are decorated with incised lines just below the rim. Most have deep flanges above the base; some are plain. Small hemispherical cups on button bases bear brown glaze. Another form is the bowl on a pedestal foot, most bearing an iron glaze.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposes import restrictions on the above-listed cultural property of Cambodia by the terms of a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to the Administrative Procedure Act (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary and 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. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspections, Imports.

Amendment to the Regulations

_ Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12-[AMENDED]

_ 1. The general authority citation and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202

(General Note 23, Harmonized Tariff

Schedule of the United States (HTSUS), 1624);

* * * * *

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

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_ 2. In § 12.104g, paragraph (a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties, is amended by adding ``Cambodia'' in the appropriate alphabetical order, and paragraph (b), the list of emergency actions imposing import restrictions, is amended by removing the entry for "Cambodia". The addition reads as follows: § 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	T.D. No.
* * * * *		
Cambodia	Khmer Archaeological Material from the 6th century through the 16th century A.D.	CBP Dec. 03-BC28
* * * * *		

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Dated: September 17, 2003.
Robert C. Bonner,
*Commissioner, Customs and Border
Protection.*

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