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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 12

[T.D. 97-81]  
RIN 1515-AC24

Import Restrictions Imposed on Archaeological Artifacts From Guatemala

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

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SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on pre-Columbian culturally significant [[Page 51772]] archaeological artifacts of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. These restrictions are being imposed pursuant to an agreement between the United States and Guatemala that has been entered into under the authority 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. The document also contains the Designated List of Archaeological Material that describes the articles to which the restrictions apply. These import restrictions imposed pursuant to the bilateral agreement between the United States and Guatemala continue the import restrictions that were imposed on an emergency basis in 1991. Accordingly, this document amends the Customs Regulations by removing Guatemala from the listing of countries for which emergency actions imposed the import restrictions and adding Guatemala to the list of countries for which an agreement has been entered into for imposing import restrictions.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Donnette Rimmer,  
Intellectual Property Rights Branch (202) 482-6960; (Operational Aspects)  
Joan E. Sebanaler, Trade Operations (202) 927-0402.

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 U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. 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 U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. 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)). U.S. 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 U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance not only to the nations whence they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention. During the past several years, import restrictions have been imposed on an emergency basis on archaeological and ethnological artifacts of a number of signatory nations as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries.

Guatemala has been one of the countries whose archaeological material has been afforded emergency protection. In T.D. 91-34, Sec. 12.104g(b), Customs Regulations, (19 CFR 12.104g(b)) was amended to reflect that archaeological material from the Peten Archaeological Region of Guatemala received import protection under the emergency protection provisions of the Act.

Import restrictions are now being imposed on archaeological artifacts of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala as the result of a bilateral agreement entered into between the United States and Guatemala. This agreement was entered into on September 29, 1997, pursuant to the provisions of 19 U.S.C. 2602. Protection of the archaeological material of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala previously reflected in Sec. 12.104g(b) will be continued through the bilateral agreement without interruption. Accordingly, Sec. 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Guatemala and the emergency import restrictions on certain archaeological material from Guatemala is being removed from Sec. 12.104g(b) as those restrictions are now encompassed in Sec. 12.104g(a).

## Material and Sites Encompassed in Import Restrictions

In reaching the decision to recommend that negotiations for an agreement with Guatemala should be undertaken to continue the imposition of import restrictions on certain archaeological material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, the Deputy Director of the United States Information Agency made a determination that the cultural patrimony of Guatemala continues to be in jeopardy from pillage of irreplaceable materials representing Guatemala heritage and that the pillage is endemic and substantially documented with respect to Maya material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. The Deputy Director listed the following archaeological material as those that are in need of protection: Material: Archaeological material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. This archaeological material includes, but is not limited to: ceramic vessels and forms; jade or green stone, possibly with traces of red pigment; shell; and bone. These import restrictions are in addition to similar restrictions imposed by the 1972 Pre-Columbian Monumental or Architectural Sculpture or Murals Statute (19 U.S.C 2091-2095), which has denied entry into the United States of segments of pre-Columbian monuments and stelae since May 2, 1973.

### Designated List

The bilateral agreement between Guatemala and the United States covers the material set forth in a Designated List of Archaeological Material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by documentation certifying that the material left Guatemala legally and not in violation of the export laws of Guatemala.

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### Archaeological Material From Sites in the Peten Lowlands of Guatemala, and Related Pre-Columbian Material From the Highlands and the Southern Coast of Guatemala

The following categories of material are restricted from importation into the U.S. unless accompanied by a verifiable export certificate issued by the Government of Guatemala -- archaeological material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, that includes, but is not limited to, the categories listed below. As this region is further excavated, other types of material may be found and added to an amended list. The following list is representative only. Any dimensions are approximate.

## Chronological Table

Stage	Substage	Dates
Preclassic Stage	Early Preclassic	2000/1500 B.C.-600 B.C.
	Preclassic	600 B.C.-400 B.C.
	Late Preclassic	400 B.C.-250 A.D.
Classic Stage	Early Classic	250 A.D.-550 A.D.
	Late Classic	550 A.D.-900 A.D.
Postclassic Stage	Early Postclassic	900 A.D.-1250 A.D.
	Late Postclassic	1250 A.D.-1524 A.D.

## Designated List Of Materials

I. Ceramic/Terracotta/Fired Clay -- A wide variety of decorative techniques are used on all shapes: fluting, gouged or incised lines and designs, modeled carving, and painted polychrome or bichrome designs of human or animal figures, mythological scenes or geometric motifs. Small pieces of clay modeled into knobs, curls, faces, etc., are often applied to the vessels. Bowls and dishes may have lids or tripod feet.

### A. Common Vessels.

1. Vases - (10-25 cm ht).
2. Bowls - (8-15 cm ht).
3. Dishes and plates - (27-62 cm diam).
4. Jars - (12.5-50 cm ht).

### B. Special Forms.

1. Drums - polychrome painted and plain (35-75 cm ht).
2. Figurines - human and animal form (6-15 cm ht).
3. Whistles - human and animal form (5-10 cm ht).
4. Rattles - human and animal form (5-7 cm ht).
5. Miniature vessels - (5-10 cm ht).
6. Stamps and seals - engraved geometric design, various sizes/shapes.
7. Effigy vessels - in human or animal form (16-30 cm ht).
8. Incense burners - elaborate painted, applied and modeled decoration in form of human figures (25-50 cm ht).

II. Stone (jade, obsidian, flint, alabaster/calcite, limestone, slate, and other).

A. Figurines - human and animal (7-25 cm ht).

B. Masks - incised decoration and inlaid with shell, human and animal faces (20-25 cm length).

C. Jewelry - various shapes and sizes.

1. Pendants.
2. Earplugs.
3. Necklaces.

D. Stelae, Ritual Objects, Architectural Elements - Carved in low relief with scenes of war, ritual or political events, portraits of rulers or nobles, often inscribed with glyphic texts. Sometimes covered with stucco and painted. The size of stelae and architectural elements such as lintels, posts, steps, decorative building blocks range from .5 meters to 2.5 meters in height. Hachas (thin, carved human or animal

heads in the shape of an axe), yokes, and other carved ritual objects are under 1 meter in length or height, but vary in size.

E. Tools and Weapons.

1. Arrowheads (3-7 cm length).
2. Axes, adzes, celts (3-16 cm length).
3. Blades (4-15 cm length).
4. Chisels (20-30 cm length).
5. Spearpoints (3-10 cm length).
6. Eccentric shapes (10-15 cm length).
7. Grindingstones (30-50 cm length).

F. Vessels and Containers.

1. Bowls (10-25 cm ht).
2. Plates/Dishes (15-40 cm diam).
3. Vases (6-23 cm ht).

III. Metal (gold, silver, or other)- Cast or beaten into the desired form, decorated with engraving, inlay, punctured design or attachments. Often in human or stylized animal forms.

A. Jewelry -- various shapes and sizes.

1. Necklaces.
2. Bracelets.
3. Disks.
4. Earrings or earplugs.
5. Pendants.

B. Figurines -- (5-10 cm ht).

C. Masks -- (15 -- 25 cm length).

IV. Shell -- Decorated with cinnabar and incised lines, sometimes with jade applied.

A. Figurines -- human and animal (2-5 cm ht).

B. Jewelry -- various shapes and sizes.

1. Necklaces.
2. Bracelets.
3. Disks.
4. Earrings or earplugs.
5. Pendants.

C. Natural Forms - often with incised designs, various shapes and sizes.

V. Animal Bone - Carved or incised with geometric and animal designs and glyphs.

A. Tools -- various sizes.

1. Needles.
2. Scrapers.

B. Jewelry -- various shapes and sizes.

1. Pendants.
2. Beads.
3. Earplugs.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed Guatemalan cultural property is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 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. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

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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 Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

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 and specific authority citation for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*

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

\* \* \* \* \*

Sec. 12.104 [Amended]

2. In Sec. 12.104g, paragraph (a) the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended by adding Guatemala in appropriate alphabetical order as follows:

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State	Cultural property	T.D. No.
	Guatemala Archaeological Material From Sites In The Peten Lowlands Of Guatemala, And Related Pre-Columbian Material From The Highlands And The Southern Coast of Guatemala.	T.D. 97 -- 81

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3. In Sec. 12.104(g), paragraph (b), the list of emergency actions imposing import restrictions on described articles of cultural property of State parties is amended by removing the entry for "Guatemala" in its entirety.

Approved: September 29, 1997.

Samuel H. Banks,  
Acting Commissioner of Customs.  
John P. Simpson,  
Deputy Assistant Secretary of the Treasury.  
[FR Doc. 97-26219 Filed 10-2-97; 8:45 am]  
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