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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 97-80]  
RIN 1515-AC22

Import Restrictions Imposed on Archaeological Artifacts From Mali

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 culturally significant archaeological artifacts from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali. These restrictions are being imposed pursuant to an agreement between the United States and Mali 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 Mali continue the import restrictions that were imposed on an emergency basis in 1993. Accordingly, this document amends the Customs Regulations by removing Mali from the listing of countries for which emergency actions imposed the import restrictions and adding Mali to the list of countries for which an agreement has been entered into for imposing import restrictions.

EFFECTIVE DATE: September 23, 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.

Mali has been one of the countries whose archaeological material has been afforded emergency protection. In T.D. 93-74, Sec. 12.104g(b), Customs Regulations, (19 CFR Sec. 12.104g(b)) was amended to reflect that archaeological material from the region of the Niger River Valley in Mali and the Bandiagara Escarpment (Cliff) in Mali forming part of the remains of the ancient sub-Sahara culture received import protection under the emergency protection provisions of the Act. Import restrictions are now being imposed on these same archaeological artifacts from Mali as the result of a [[Page 49595]] bilateral agreement entered into between the United States and Mali.

This agreement was entered into on September 19, 1997, pursuant to the provisions of 19 U.S.C. 2602. Protection of the archaeological material from the region of the Niger River Valley in Mali and the Bandiagara Escarpment (Cliff) in Mali 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 Mali and the emergency import

restrictions on certain archaeological material from Mali is being removed from 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 Mali should be undertaken to continue the imposition of import restrictions on certain archaeological material from Mali, the Deputy Director of the United States Information Agency made a determination that the cultural patrimony of Mali continues to be in jeopardy from pillage of irreplaceable materials representing Mali heritage and that the pillage is endemic and substantially documented with respect to sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff) of Mali. The Deputy Director listed the following archaeological material from the following sites as those that are in need of protection.

#### Material

Archaeological material from sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff), Mali, dating from approximately the Neolithic period to approximately the 18th century, identifiable by unique stylistic features, by medium, and where possible, by historic and cultural context. This archaeological material includes, but is not limited to: terra cotta statues depicting anthropomorphic and zoomorphic figures and terra cotta common vessels; copper and copper alloy materials, such as bronze, from which have been produced figurines and other objects such as pendants, finger bells, bells and bracelets; iron figures; and glass beads. Other archaeological material is identifiable as coming from the Tellem burial caves of the Bandiagara Escarpment (Cliff) and includes, but is not limited to: iron headrests; rings; bracelets; hairpins; fingerbells; bronze pendants; carved wood anthropomorphic and zoomorphic figures; carved wood headrests; wood bowls, spoons, hoes, axes, bows, arrows quivers, flutes, harps and drums; leather sandals, boots, knife-sheaths and plaited bracelets; ritual and utilitarian pottery, three/four-footed ceramic bowls; textiles of cotton and wool that are the remnants of tunics and coifs, blankets, skirts; organic fiber from which belts were made; glass beads; stone (carnelian) beads; and stone (quartz) lip plugs.

#### Sites

Sites include, but are not limited to: Djenne and Guimbala of the Inland Niger Delta; Bougouni of the Upper Valley of the Niger River; and the Bandiagara Escarpment (Cliff); and are recognized to be of high cultural significance. These sites represent a continuum of civilizations from the Neolithic period to the colonial occupation of the 18th century, and lend an archaeological significance to the region.

#### Designated List

The bilateral agreement between Mali and the United States covers the material set forth in a Designated List of Archaeological Material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali, 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 Mali legally and not in violation of the export laws of Mali.

Archaeological Material From the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali

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 Mali--archaeological material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali, 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.

I. Ceramics/Terra Cotta/Fired Clay

Types of ceramic forms (stylistically known as Djenne-jeno or Jenne, Bankoni, Guimbala, Bambara, Bougouni and other stylistic labels) that are known to come from the region include, but are not limited to:

A. Figures/Statues.

1. Anthropomorphic figures, often incised, impressed and with added motifs, such as scarification marks and serpentine patterns on their bodies, often depicting horsemen or individuals sitting, squatting, kneeling, embracing, or in a position of repose, arms elongated the length of the body or crossed over the chest, with the head tipped backwards. (H: 6-30 in.)

2. Zoomorphic figures, often depicting a snake motif on statuettes or on the belly of globular vases. Sometimes the serpent is coiled in an independent form. A horse motif is common, but is usually mounted. Includes quadrupeds. (H: 6-30 in.)

B. Common Vessels.

1. Funerary jars, ocher in color, often stamped with chevrons. (H: 50 to 80 cm.)

2. Globular vases often stamped with chevrons and serpentine forms. (H: under 10 in.)

3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head.

4. Ritual pottery of the Tellem culture, decorated with a characteristic plaited roulette.

a. Pot made on a convex mold built up by coiling.

b. Hemispherical pot made on three or four legs or feet resting on a stand. (H: 18 cm.)

5. Kitchen pottery of the Tellem culture with the paddle-and-anvil technique decorated with impressions from woven mats. (H: 20 cm.)

II. Leather

Objects of leather found in Tellem funerary caves of the Bandiagara Escarpment include, but are not limited to:

A. Clothing.

1. Sandals often decorated and furnished with a leather ankle protection.

2. Boots profusely painted with geometric designs.

3. Plaited bracelets.
4. Knife-sheaths.
5. Loinskin.
6. Bag.

### III. Metal

Objects of metal from the region of the Niger River Valley and the Bandiagara Escarpment include the following components:

#### A. Copper and Copper Alloy (Such as Bronze).

1. Figures/Statues.
  - a. Anthropomorphic figures, including equestrian figures and kneeling figures. (Some are miniatures no taller than 2 inches; others range from 6 to 30 inches).
  - b. Zoomorphic figures, such as the bull and the snake.
2. Bells (4-5 in.) and finger bells (2-3 in.).
3. Pendants, known to depict a bull's head or a snake. (H: 2-4 in.)
4. Bracelets, known to depict a snake (5-6 in.).
5. Bracelets, known to be shaped as a head and antelope (3-4 in.).

#### B. Iron.

1. Figures/Statues.
  - a. Anthropomorphic figures. (H: 5-30 in.)
  - b. Zoomorphic figures, sometimes representing a serpent. (H: 5-30 in.)
2. Headrests of the Tellem culture.
3. Ring-bells or fingerbells of the Tellem culture.
4. Bracelets and armllets of the Tellem culture.
5. Hairpins, twisted and voluted, of the Tellem culture.

### IV. Stone

Objects of stone usually found in Tellem funerary caves of the Bandiagara Escarpment include, but are not limited to:

#### A. Carnelian beads (faceted).

#### B. Quartz lip plugs.

### V. Glass Beads

Glass beads have been recovered in the Tellem funerary caves and in archaeological sites in the region of the Niger River Valley.

### VI. Textiles

Textile objects, or fragments thereof, have been recovered in the Tellem funerary caves of the Bandiagara Escarpment and include, but are not limited to:

#### A. Cotton.

1. Tunics.

2. Coifs.

3. Blankets.

B. Vegetable Fiber. Skirts, aprons and belts--made of twisted and intricately plaited vegetable fiber.

C. Wool. Blankets.

#### VII. Wood

Objects of wood may be found archaeologically (in funerary caves of the Tellem or Dogon peoples in the Bandiagara Escarpment, for example).

#### Archaeological Material of Wood

Following are representative examples of wood objects usually found archaeologically:

##### A. Figures/Statues.

1. Anthropomorphic figures--usually with abstract body and arms raised standing on a platform, sometimes kneeling. (H: 10-24 in.)

2. Zoomorphic figures--depicting horses and other animals. (H: 10-24 in.)

##### B. Headrests.

##### C. Household Utensils.

1. Bowls.

2. Spoons--carved and decorated.

##### D. Agricultural/Hunting Implements.

1. Hoes and axes--with either a socketed or tanged shafting without iron blades.

2. Bows--with a notch and a hole at one end and a hole at the other with twisted, untanned leather straps for the "string".

3. Arrows, quivers.

4. Knife sheaths.

##### E. Musical Instruments.

1. Flutes with end blown, bi-toned.

2. Harps.

3. Drums.

#### 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 Malian 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.

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 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;

\* \* \* \* \*

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 Mali in appropriate alphabetical order as follows:

Sec. 12.104g [Amended]

State	Cultural property	T.D. No.
Mali	Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Saharan culture..	T.D. 97-80

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 "Mali" in its entirety.

Samuel H. Banks,  
Acting Commissioner of Customs.  
Dated: September 12, 1997.

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