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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 07-77; USCBP-2007-0075]
RIN 1505-AB86

Extension of Import Restrictions Imposed on Archaeological
Material from Mali

AGENCIES: U.S. Customs and Border Protection, Department of Homeland
Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect both continuing and new import restrictions on certain archaeological material from Mali. Import restrictions that were previously imposed by Treasury Decision (T.D.) 97-80 and extended by T.D. 02-55, that are due to expire on September 19, 2007, are extended. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for the extension of import restrictions that previously existed and for amending the agreement so that it applies also to material from archaeological sites [[Page 53415]] throughout Mali, including those of the Paleolithic Era (Stone Age), necessitating additional subcategories of stone objects in the Designated List. Accordingly, these import restrictions will remain in effect until September 19, 2012, and title 19 of the CBP regulations is being amended to reflect this amended bilateral agreement. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the 1970 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. This document also contains the amended Designated List of Archaeological Material that describes the articles to which the restrictions apply, including the additional subcategories of stone objects.

EFFECTIVE DATE: September 19, 2007.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572-8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 863-6558.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, 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 United States entered into a bilateral agreement with Mali on September 19, 1997, concerning the imposition of import restrictions on certain archaeological material in Mali from the region of the Niger River Valley and the Bandiagara Escarpment (Cliff). On September 23, 1997, the former United States Customs Service published T.D. 97-80 in the Federal Register (62 FR 49594), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are "effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists" (19 CFR 12.104g(a)).

On September 20, 2002, the former United States Customs Service published T.D. 02-55 in the Federal Register (67 FR 59159), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until September 19, 2007.

Amended Bilateral Agreement

Consistent with a request from the Government of the Republic of Mali and with the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the requisite Determinations on July 3, 2007, that the cultural heritage of Mali continues to be in jeopardy from pillage that is occurring at archaeological sites throughout the country, and that, therefore, the import restrictions on archaeological material from sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff), Mali, which were previously imposed by Treasury Decision (T.D.) 97-80 and extended by T.D. 02-55, are extended for an additional five year period until September 19, 2012, and include subcategories of stone objects from archaeological sites throughout Mali including those dating to the Paleolithic Era (Stone Age). Newly threatened archaeological sites include, but are not limited to those located in and near: The Tilemsi Valley; the Boucle du Baoule; the Bura Band; Tondidarou; Teghaza; Gao; Menaka; Karkarichinkat; Iforas Massif (Adrar des Iforas); Es-Souk; and Kidal. These sites represent a continuum of civilizations from the Paleolithic Era (Stone Age) to the colonial occupation of the 18th century, and lend an archaeological significance to the region. Accordingly, the title of the bilateral agreement was amended to read: "Agreement between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century."

By exchange of diplomatic notes the Agreement will be extended and amended. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions on the currently protected cultural property as well as the new subcategories, and sites in the amended bilateral agreement.

Amended Designated List

The Designated List of articles that are protected pursuant to the bilateral agreement, as amended, on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century has been revised and is published below. We note that subcategories of objects from archaeological sites of the Paleolithic Era (Stone Age) have been added, pursuant to 19 U.S.C. 2606.

It is noted that the material identified in T.D. 97-80 as "Archaeological Material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali" is now referred to in the Determination to Extend as "Archaeological Material From Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century."

List of Archaeological Material From Mali From the Paleolithic Era (Stone Age) To Approximately the Mid-Eighteenth Century

I. Ceramics/Terra Cotta/Fired Clay

Types of ceramic forms (stylistically known as Djenne-jeno or Jenne, Bankoni, Guimbala, Banamba, Bougouni, Bura 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: 6-50 cm.)

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: 6-40 cm.)

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 cm.)

3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head. [[Page 53416]]

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 Mali include, but are not limited to:

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.).

6. Finger rings.

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 armlets of the Tellem culture.

5. Hairpins, twisted and voluted, of the Tellem culture.

IV. Stone

Objects of stone from Mali include, but are not limited to:

A. Carnelian beads (faceted).

B. Quartz lip plugs.

C. Funerary stelae (headstones) inscribed in Arabic.

D. Chipped lithics from the Paleolithic and later eras including axes, knives, scrapers, arrowheads, and cores.

E. Ground Stone from the Neolithic and later eras including axes, adzes, pestles, grinders, bracelets.

V. Glass Beads

A variety of glass beads have been recovered at archaeological sites in Mali.

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). 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.

More information on import restrictions can be obtained from the International Cultural Property Protection Web site (<http://exchanges.state.gov/culprop>). The restrictions on the importation of these archaeological materials from Mali are to continue in effect for an additional 5 years. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required under 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.

Executive Order 12866

Because this rule involves a foreign affairs function of the United

States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12--SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for Sec. 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;
* * * * *

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

Sec. 12.104g [Amended]

2A. In Sec. 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Mali by removing the reference to "T.D. 97-80 extended by T.D. 02-55" and adding in its place "CBP Dec. 07-77" in the column headed "Decision No.".

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B. In Sec. 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Mali by removing the reference to "Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Sahara culture." and adding in its place "Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century" in the column headed "Cultural property".

W. Ralph Basham,
Commissioner, U.S. Customs and Border Protection.

Approved: September 14, 2007.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
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