

U.S. Customs and Border Protection



DEPARTMENT OF THE TREASURY 19 CFR Part 12

[CBP Dec. 12–14]

RIN 1515–AD91

EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM MALI

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

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological material from Mali. The restrictions, which were previously imposed by Treasury Decision (T.D.) 97–80, extended by T.D. 02–55, and last extended and amended by CBP Dec. 07–77, are due to expire on September 19, 2012, unless extended.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to indicate this further extension. These restrictions are being extended pursuant to determinations of the United States Department of State under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 07–77 contains the Designated List of archaeological materials that describes the articles to which the restrictions apply.

EFFECTIVE DATE: September 19, 2012.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Cargo Security, Carriers and Immigration Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082. For operational aspects, Virginia McPherson, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6563.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (hereafter, the “Cultural Property Implementation Act” or the “Act”) (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), signatory nations (State Parties) may enter into bilateral or multilateral agreements to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act. Under the Act and applicable CBP regulations (19 CFR 12.104g), the restrictions 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 (19 U.S.C. 2602(b)). This period may be extended for additional periods, each such period not to exceed five years, where it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

In certain limited circumstances, the Cultural Property Implementation Act authorizes the imposition of restrictions on an emergency basis (19 U.S.C. 2603(c)(1)). Under the Act and applicable CBP regulations (19 CFR 12.104g(b)), emergency restrictions are effective for no more than five years from the date of the State Party’s request and may be extended for three years where it is determined that the emergency condition continues to apply with respect to the covered materials (19 U.S.C. 2603(c)(3)).

On September 23, 1993, under the authority of the Cultural Property Implementation Act, the former U.S. Customs Service published Treasury Decision (T.D.) 93-74 in the **Federal Register** (58 FR 49428) imposing emergency import restrictions on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali and accordingly amending 19 CFR 12.104g(b).

On September 19, 1997, the United States entered into a bilateral agreement with Mali that continued without interruption the import restrictions previously placed on the same archaeological material. 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.

On September 19, 2007, CBP published CBP Dec. 07–77 in the **Federal Register** (72 FR 53414), which amended 19 CFR 12.104g(a) to reflect the extension of the import restrictions on this cultural property and the addition of new subcategories of objects representing a broader time frame in the amended Designated List for an additional period of five years until September 19, 2012. Accordingly, the title of the bilateral agreement was amended at this time 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.”

On March 12, 2012, the Department of State proposed in the **Federal Register** (77 FR 14583) to extend the Agreement. Upon review of the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, Department of State, made the necessary determinations on July 20, 2012 for extending the Agreement with Mali to continue the imposition of import restrictions on the aforementioned categories of archaeological material for an additional five-year period. An exchange of diplomatic notes reflects the extension of those restrictions. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions.

The Designated List of Archaeological Material from Mali covered by these import restrictions is set forth in CBP Dec. 07–77, *see* 72 FR 53414 dated September 19, 2007. More information on import restrictions can be obtained from the Mali country section of the International Cultural Property Protection Web site (<http://exchanges.state.gov/heritage/culprop/mlfact.html>).

The restrictions on the importation of these archaeological materials from Mali are to continue in effect through September 19, 2017. 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 reasons, pursuant to 5 U.S.C. 553(d)(3), 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.

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 § 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;

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

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§ 12.104g [Amended]

■ 2. In § 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 “CBP Dec. 07–77” and adding in its place “CBP Dec. 12–14” in the column headed “Decision No.”.

DAVID V. AGUILAR,
Deputy Commissioner,
U.S. Customs and Border Protection.

Dated: September 13, 2012.

TIMOTHY E. SKUD,
Deputy Assistant
Secretary of the Treasury.

[Published in the Federal Register, September 19, 2012 (77 FR 58020)]

