

# U.S. Customs and Border Protection

## *General Notices*

**DEPARTMENT OF THE TREASURY**

**19 CFR PART 12**

**CBP Dec. 08-17**

**RIN 1505-AB91**

### **IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL OF IRAQ**

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on Archaeological and Ethnological Material of Iraq pursuant to section 3002 of the Emergency Protection for Iraqi Cultural Antiquities Act of 2004. This document also contains the Designated List of Archaeological and Ethnological Material that describes the types of articles to which the import restrictions apply.

**EFFECTIVE DATE:** April 30, 2008.

**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, Federal Agency Enforcement Branch, (202) 863-6558.

#### **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 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 of the U.S. 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 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 (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.*) This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from which they originate and to achieve 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 received from those nations under Article 9 of the 1970 Convention and pursuant to provisions of the Convention on Cultural Property Implementation Act that allow for emergency action and bilateral agreements between the United States and other countries.

#### U.N. Security Council Resolution 1483

United Nations Security Council Resolution 1483, adopted on May 23, 2003, obligates all member nations, regardless of whether they are parties to the 1970 UNESCO Convention, to assist in the protection of Iraq's cultural heritage.

Paragraph 7 of the Resolution states that "all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661(1990) of 6

August 1990, including by establishing a prohibition on trade in or transfer of such items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;”.

#### Emergency Protection for Iraqi Cultural Antiquities Act of 2004

The Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (title III of Public Law 108–429) (“the Act”) authorizes the President to exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq without regard to whether Iraq is a State Party under the Convention on Cultural Property Implementation Act, and without the need for a formal request from the government of Iraq.

Under 19 U.S.C. 2603, if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in 19 U.S.C. 2606 with respect to such material.

In Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security, entitled Assignment of Functions Relating to Import Restrictions on Iraqi Antiquities, dated May 5, 2006 (71 FR 28753), the President assigned the functions of the President under section 3002 of the Act to the Secretary of State.

In Delegation of Authority No. 294, published in the **Federal Register** on July 20, 2006 (71 FR 41306), the Secretary of State delegated to the Under Secretary for Political Affairs, to the extent authorized by law, all authorities and functions vested in the Deputy Secretary of State, including all authorities and functions vested in the Secretary of State or the head of agency that have been or may be delegated or re-delegated to the Deputy Secretary.

In Delegation of Authority No. 296, published in the **Federal Register** on February 22, 2007 (72 FR 8054), the Under Secretary of State for Political Affairs delegated to the Assistant Secretary of State for Educational and Cultural Affairs the functions of the President under section 3002 of the Act.

Pursuant to section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) and section 3002 of the Act, the Acting Assistant Secretary of State for Educational and Cultural Affairs, United States Department of State, concluding that an emergency condition applies with respect to archaeological and ethnological materials of Iraq, made the necessary determination on July 2, 2007, to impose import restrictions on such materials of Iraq. Accordingly, CBP is amending 19 CFR part 12 to reflect the imposition of the import restrictions. The Designated List of Archaeological and

Ethnological Material of Iraq that describes the types of articles to which the import restrictions apply is set forth below. This list is for general guidance only and is not intended to be all-inclusive.

More information on import restrictions may be obtained from the International Cultural Property Protection web site (<http://exchanges.state.gov/culprop>). Importation of archaeological and ethnological materials of Iraq are restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met. These restrictions are in effect until further notice.

#### DESIGNATED LIST OF ARCHEOLOGICAL AND ETHNOLOGICAL MATERIAL OF IRAQ

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- I. Ceramic
- II. Stone
- III. Metal
- IV. Glass
- V. Ivory, Bone, Shell
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- X. Wood

##### CHRONOLOGY

- Neolithic (c. 6800–5500 BC)
- Chalcolithic (c. 5500–3000 BC)
- Early Bronze Age (c. 3000–2000 BC)
- Middle Bronze Age (c. 2000–1600 BC)
- Late Bronze Age (c. 1600–1200 BC)
- Iron Age (c. 1200–330 BC)
- Late Assyrian (c. 900–612 BC)
- Achaemenid Persian (539–331 BC)
- Hellenistic-Seleucid (331–138 BC)
- Parthian (138 BC – AD 224)
- Sasanian (AD 224–636)

Islamic (AD 636 – present)

Umayyad (AD 661–750)

Abbasid (AD 750–1258)

## I. CERAMIC

A. Introduction: This category includes objects of both fired and unfired clay. Types commonly encountered include cuneiform tablets, cones, and bricks (I.B.2, 3, and 4), figurines and plaques (I.C.1 and 2), incantation bowls (I.D.7.a), and beads (I.F.1).

### B. Inscriptions, Writing

1. Cuneiform characters are written either with patterns of small impressed triangles or with incised pictographs. Any object bearing such writing has a strong likelihood of having come from Iraq.
2. Tablets: Covered with cuneiform characters, they are usually unbaked and must be handled with extreme care. Shapes range from very small rounded disk forms, to small square and rectangular pillow-shaped forms, to larger rectangular tablets. Approximate sizes are from 3 x 3 cm to 20 x 30 cm, though some can be larger. They sometimes occur with an enclosing clay envelope, which is also inscribed. Both tablets and envelopes may be impressed with cylinder or stamp seals (see II.B and C).
3. Cones: The large end is sometimes flat, sometimes mushroom shaped. Inscribed cuneiform characters can cover the head and/or body of the cone. Approximately 15 cm long.
4. Bricks may be inscribed or stamped with cuneiform inscriptions that are often placed in small frames on one of the sides. Approximately 30 x 30 x 10 cm.
5. Cylinders: Large cuneiform-inscribed objects can take the form of a multisided prism or barrel. The inscription typically covers all sides of the object. Approximately 20–30 cm high.

### C. Sculpture

1. Plaques: Particularly common in the 2<sup>nd</sup> millennium BC are clay plaques made from molds and depicting a wide range of scenes in relief, including standing deities, musicians, animals, and mythological, ritual, and erotic images. Decorated on only one side, most are small enough to be easily held in the hand. Approximately 8–15 cm high.
2. Figurines: Terracotta figurines occur in all periods from the Neolithic through the Sasanian.
  - a. Chalcolithic figurines include Halaf style, characterized by seated naked females (usually headless), with bulging, rounded legs, arms, and breasts, and occasionally with

painted decorations on their bodies; and Ubaid style of elongated, standing, nude male and female figures with tall, conical heads, 'coffee-bean'-shaped eyes, and applied body ornaments.

- b. Later figurine types are either hand-made or mold-made, typically nude, frontal females. Figurines of gods and goddesses that show seated or standing deities with horned helmets are most common at the end of the 3<sup>rd</sup> and beginning of the 2<sup>nd</sup> millennium. Small, naturalistically-rendered, painted animal and human terracottas are distinctive of the Kassite period at the end of the 2<sup>nd</sup> millennium. Approximately 5–20 cm high.
  - c. Animal figurines, usually four-legged animals such as cows and horses, occur in all periods. Also occurring are relatively large-scale hollow figures of animals (up to about 70 cm high), either unglazed or glazed, seated or standing, most often of lions.
  - d. Small, mold-made freestanding supernatural human figures and figures of dogs, often with cuneiform inscriptions, are characteristic of the 1<sup>st</sup> millennium. Approximately 5–15 cm high.
  - e. Figurines of the Seleucid through Sasanian periods, including reclining female nudes and ladies wearing drapery, display varying degrees of influence from the Greco-Roman tradition. Terracotta molded figures, especially heads, are common in the Seleucid period. Approximately 2–10 cm high.
3. Models and Miscellaneous:
- a. Models include furniture, such as chairs and beds, chariots, boats, and buildings. Approximately 5–20 cm or larger.
  - b. Molds used for casting metal objects and clay plaques and figures also occur.
  - c. Oil lamps and bathtub- and slipper-shaped coffins appear in the Hellenistic through Sasanian periods.
  - d. Some stamp and cylinder seals are made from fired clay, faience, or a composite material related to faience.
  - e. Terracotta theatrical masks made from molds are a common feature of the Parthian period.

#### D. Vessels

1. General: The ceramic tradition in Iraq is among the oldest in the world, extending back some 9000 years and encompassing a tremendous variety of shapes, fabrics, and decorative treatments. Only the most distinctive types are listed here. If in doubt, an expert should be consulted.

## 2. Neolithic vessels

- a. General characteristics: Unglazed bichrome pottery having a buff body decorated with dark paint. Decoration consists of geometric patterns, sometimes based on human, animal, and plant forms.
- b. Ceramic Neolithic: Hand-made, burnished or painted with simple designs of geometric patterns such as obliquely arranged lines, chevrons, herring-bones, or “tadpole” pattern. Forms include bowls, cups, and open-mouthed jars with flat bases and curved or angled sides. Also common are undecorated, heavily tempered wares and cream or white slips. Approximately 8–30 cm in diameter.
- c. Hassuna: Hand-made, burnished, incised, painted, and coarse wares in cream, buff or greenish fabrics. Decorations take geometric shapes, such as triangles and zig-zags, that can be arranged in multiple zones of running patterns. Forms include low, open bowls, globular jars, and shallow corrugated-bottomed “husking” trays. Approximately 12–30 cm in diameter.
- d. Samarra: Most commonly hand-made deep or shallow bowls, pedestaled bowls and jars decorated in matt brown or grey on smoothed buff slip with narrow zones of geometric designs reminiscent of basketry. The interior is often painted with humans or animals in simplified geometric forms arranged in circular or whirligig compositions. Approximately 12–30 cm in diameter.

## 3. Chalcolithic vessels

- a. General characteristics: Unglazed bichrome pottery having a buff body decorated with dark paint, and polychrome pottery having a buff body decorated with red, black, and white paint. Decoration consists of geometric patterns, sometimes including motifs from nature.
- b. Halaf: Hand-made polychrome pottery, often polished to a high sheen. Complex compositions of geometric and natural motifs in red, orange, brown/black, and white reminiscent of textiles, sometimes incorporating dense patterns of tiny black dots. Forms include plates, shallow bowls, footed goblets, and jars with flaring necks and oval mouth. Approximately 20–30 cm in diameter.
- c. Earlier Ubaid: Hand-made wares, including fine buff or cream-slipped fabric decorated with thick dark paint with zones of geometric designs such as parallel lines in different directions, zigzags, and chevrons. Forms include bowls with and without ring bases, large dishes, sauceboats, beakers, and globular jars. Approximately 10–30 cm in diameter.

- d. Later Ubaid: Wheel-made pottery often of a greenish hue, decorated with fine monochrome dark paint, used sparingly in broad black horizontal lines and simple curving shapes. Forms include large globular jars, shallow flaring bowls, round-bottomed bowls, and cups with flat bases. Approximately 4–20 cm in diameter.
  - e. Uruk: Burnished or polished monochrome (red-slipped or grey) wares, typically undecorated and mass-produced (wheel-made). Jars of this period often have bulging bellies, large mouths, short necks, and occasionally tubular spouts on the shoulder. A standardized, small, hand-made coarse ware bowl with a beveled rim also appears commonly. Approximately 5–20 cm in diameter and 5–40 cm high.
4. Early Bronze Age vessels
    - a. Jemdet Nasr: polychrome painted vessels with tightly packed geometric patterns, usually confined to the shoulder and predominately plum-red in color.
    - b. Scarlet Ware: polychrome painted globular jars, often with handles and bulging bellies, with red and black geometric designs, human figures, and animals.
    - c. Ninevite 5: decorations include incised and excised geometric shapes, or dark brown painted designs.
    - d. Many vessels are undecorated or simply incised in a single zone. Large vessels may have decorations around their necks, such as incisions or small, applied animals. Zoomorphic forms also occur, including cow, bird, and fish shapes. Approximately 10–40 cm in diameter and 8–50 cm high.
  5. Middle and Late Bronze Age vessels
    - a. Mostly undecorated wares.
    - b. Mitannian ware (also called Nuzi, Alalakh, or Hurrian ware): tall goblets with small, button bases, painted light floral and geometric designs on a dark (red or brown) background. Approximately 10–20 cm high.
    - c. Jars, vases, beakers, and flasks, painted in black or brown or decorated with incised designs of birds, animals, boats, and geometric designs.
    - d. Large jars with molded animals and decorations serving as spouts or ornamenting the body.
    - e. Glazed vessels, often in blue or green, appear.
  6. Iron Age vessels
    - a. 'Palace' or 'eggshell' wares: thin-walled, fine vessels of buff-grey-green fabric that imitate metallic shapes. Common

forms include open bowls, beakers, goblets, dishes, and tall cups with animal-headed base. Approximately 3–40 cm high.

- b. Glazed vessels occur, many of which have polychrome decorations of geometric patterns or animals and floral designs. Forms include buckets, jars, and closed bowls. Approximately 8–40 cm high.

#### 7. Hellenistic-Seleucid, Parthian, Sasanian vessels

- a. Most common are unglazed Aramaic incantation bowls of the Sasanian period, painted on the inside surface with long magical texts that surround an image of a bound demon. Sometimes the text is only simulated with squiggles. Other painted and incised unglazed wares, particularly dating to the Parthian period, have Aramaic, Syriac, Mandaic, or Middle Persian inscriptions.
- b. Glazed vessels such as jars and vases are also common, occasionally in zoomorphic forms such as tall cups with animal-headed base. Glaze colors include shades of blue, green, and red.
- c. Sasanian buff ware is often stamped around the perimeter of the body with stamps that depict animal subjects.
- d. Forms of Parthian and Sasanian pottery include: pitchers, jugs, tall two-handled jars, lamps, bowls, pots, flasks, footed bowls, plates, dishes, cups, vases, and bottles. Approximately 10–35 cm high.

#### 8. Umayyad, Abbasid vessels

- a. Molded and stamped earthenware: Oil lamps, bowls, ewers, and jugs, stamped with geometric and simple floral designs. Sometimes they are covered with a green glaze.
- b. Blue on White: Small bowls, ewers, jugs, and platters, covered with a bright white glaze embellished with designs in cobalt blue. Typical patterns were floral, abstract, and geometric, and sometimes framed with a festooned edge. Short blessings in Arabic or the potter's signature were also used as decorative devices.
- c. Lusterware: Ceramics with a shiny, lustrous surface design that emulated the effect of precious metal objects. Extant vessels consist of bowls, small flat-bottomed platters, and trays, as well as some ewers and tiles. The designs include floral themes, pairs of wings, and at times highly stylized animals or even awkward-looking humans. Surface patterns were dense and highly abstract.
- d. Unglazed wares: Large unglazed water jars with rounded bottoms, covered with relief decoration and combinations of molding, engraving, carving, and piercing. Motifs included

ancient gods and their sacred animals as well as court officials and revelers.

#### E. Architectural Elements

1. Bricks and tiles: Molded, carved, or flat, glazed or unglazed, sets of bricks or tiles were used to veneer the walls of buildings. They can show geometric or floral designs, figured scenes, or inscriptions. Often, many separate bricks fit together to form a larger composition.
2. Plaques: Glazed wall plaques, including square and round examples with protruding knobs, are especially common during the 1<sup>st</sup> millennium. Approximately 30–45 cm in width/diameter.
3. Cones: Small to medium-sized cones are found either loose or stuck into wall plaster to form mosaic designs. Their wider end can be painted red or black, or dipped in bitumen. Some are topped with rosettes, either painted or glazed. Approximately 8–20 cm long.

#### F. Miscellaneous

1. Beads, pendants, amulets, and seals were often made out of ceramic or ceramic-related materials such as faience and glazed ceramic.
2. Sealings are lumps of sun-dried clay that were applied over knotted cords and then impressed with images from cylinder or stamp seals (see II.B and C). They were used to secure jars and other types of containers, bundles, doors, and documents. They often have irregular forms, with the seal impressions on the outer surface, while the inner surface is molded to the shape and texture of the item secured. Inscriptions might be present. Approximately 2–15 cm in width/diameter.
3. Spindle whorls, usually in the shape of a bi-conic disk and pierced through the axis, can be either sun dried or baked and occur from the Neolithic through Sasanian periods. Approximately 3–6 cm in diameter.

## II. STONE

A. Introduction: Types most commonly encountered include cylinder and stamp seals (II.B and C), Late Assyrian relief fragments (II.D.5), and chlorite vessels (II.F.4).

#### B. Cylinder Seals

1. A cylinder seal is a large cylindrical bead with a hole pierced through its vertical axis and engraved images around the outer circumference. These seals can range from extremely small (ca. 2 cm high) to more substantial (ca. 8 cm high), with diameters from 1–3 cm. This is the predominant seal type from the end of the 4<sup>th</sup> millennium through the 1<sup>st</sup> millennium BC.

2. Stones for seals vary over time, ranging from soft stones such as marbles and serpentines, to harder ones such as hematite and chalcedony. Semi-precious stones like lapis lazuli, agate, and jasper are also popular. In the later periods (Seleucid through Sasanian), gemstones are popular, including pearl, turquoise, garnet, carnelian, agate, quartz, onyx, sardonyx, heliotrope, jasper, rock crystal, amethyst, hematite, goethite, lapis lazuli, and also glass and metal.

### C. Stamp Seals

1. Early periods (Chalcolithic): square, circular (“button”), lentoid, hemispheric, and “gable-backed” forms carved on one flat surface with engraved geometric designs and/or simple human and animal figures. The square and circular types often have knobs on their top sides. A distinctive type is the stamp seal carved in the shape of an animal such as a reclining cow or sheep, with the sealing surface on the bottom.
2. Late stamp seals (from the 1<sup>st</sup> millennium BC through the Sasanian period) take several standardized shapes, including eight-sided pyramidal stamps, cones, cameos (carved in raised relief), ellipsoidal or domical seals (sides can be undecorated or decorated), and rings. The flat sealing surface, usually oval or round in shape, is engraved with a wide range of subjects.

### D. Relief and Inlay Sculpture

1. Inlay sculpture takes monumental and small-scale forms in the 3<sup>rd</sup> millennium BC. Monumental examples include friezes of sculpted stone figures set into an inlaid stone or bitumen background. Small-scale examples with flat, cut-out figures in light-colored stones set against dark stone or bitumen backgrounds decorate boxes and furniture. Subjects include narrative scenes such as warfare and banqueting.
2. Square, carved relief plaques (approximately 30–40 cm square), often depicting banqueting scenes in a series of registers arranged around a central hole, are found during the 3<sup>rd</sup> millennium BC.
3. Large free-standing stone steles, almost always fragmentary, occur from the 3<sup>rd</sup> through the 1<sup>st</sup> millennium BC. They are carved with scenes commemorating battles and building projects, and often have inscriptions on them. They can stand over 200 cm high, though most of the fragments are smaller.
4. A type of small stele, the bolder-shaped “boundary stone” of the late 2<sup>nd</sup> and early 1<sup>st</sup> millennia BC, is characterized by long inscriptions and multiple carved relief images, some of which have been associated with zodiac signs and divine symbols. Approximately 50 cm high.

5. Late Assyrian relief wall panels lined the walls of palaces and temples. Intact examples can be over 200 cm high, and fragments are common. They depict detailed images of battles, ceremonies, and supernatural beings and plants, and are often inscribed in cuneiform, either directly on the relief imagery or in designated areas.
6. In the Hellenistic-Seleucid and Parthian periods, small altars or architectural models displaying columned settings for figures are carved in a provincial Greco-Roman style. Funerary sculpture, steles, and reliefs (from sarcophagi or architectural units) can depict the deceased alone, banqueting with family members, or in association with the gods.

#### E. Sculpture in the Round

1. Small carvings consisting of a cylindrical shaft that terminates in the head of a bird, snake, or human date to the early Neolithic period. Approximately 8–22 cm high.
2. Alabaster figurines of nude, standing females carved in an angular, geometric fashion with tall heads and sometimes having inlaid eyes date to the late Neolithic period. Approximately 5–15 cm high.
3. Small sculptures including animals, especially bulls, and human forms, such as the “Priest-King” figure depicted wearing a tight-fitting cap with a rolled brim, occur in the 4<sup>th</sup> millennium BC.
4. Votive statues of worshippers – men, women, and couples – some of which bear cuneiform inscriptions on their backs, show the figures either seated or standing with hands clasped and in a frontal position, staring straight ahead. The form is most common in the 3<sup>rd</sup> millennium BC and assumes more monumental scale later. The earlier statues, typically less than 70 cm high, tend to be from soft white stones like limestone. Larger and later statues, some life-size, use harder stones like diorite.
5. In the Late Assyrian period, gateway sculptures in the form of lions and bulls, often winged, range from diminutive to, more commonly, colossal (up to approximately 450 cm high).
6. In the Hellenistic-Seleucid and Parthian periods, statuary of historical, mythical, or divine figures are executed in two different styles: a provincial Greco-Roman style, and a local style. Stones used include soft limestones and marbles. Approximate sizes range from under-life-size to over-life-size.
  - a. Statues in the Greco-Roman style stand in a pronounced asymmetrical pose with the weight shifted onto one leg, and often show the human figure as a nude or in Roman military garb.

- b. The local style features life-size statues of nobles who stand on inscribed bases and are shown wearing elaborate costumes and jewelry. Local male dress can include a long open jacket over a knee-length tunic and baggy trousers. Often only the heads survive. Also represented are divine and mythological figures, including both Greco-Roman and Iranian types, such as Hercules, Hermes, Aphrodite, Fortuna-Isis, and the moon-god. Figurines, typically of soft stones like alabaster, are also produced. Approximately 20 cm high.

#### F. Vessels

1. Ground stone vessels occur from the early Neolithic to the Sasanian period.
2. Alabaster miniature vessels date to the late Neolithic period. Forms include small bowls, plates, cups, anthropomorphized jars, and complex forms of unknown purpose.
3. A wide variety of stone vessels, some carved with figural scenes in relief, others inlaid with colored stones to form geometric patterns, marks the later 4<sup>th</sup> millennium production. Forms include jars with spouts on their shoulders, and tall cylindrical vases.
4. During the 3<sup>rd</sup> millennium, both imported and locally produced vessels carved from soft stones, such as chlorite and alabaster, appear in a variety of different and unusual shapes and carved relief designs. The chlorite vessels are decorated with a large range of subjects including mythological figures and geometric patterns, and sometimes include colored inlays. Later forms tend to be closed containers of a fairly small size, perhaps meant for cosmetics, and are rarely decorated.
5. Small bottles and larger storage jars of stone appear in the 3<sup>rd</sup> millennium assemblage. The most common stones used include calcites (limestone, alabaster, and marble), steatites (chlorite and serpentine), and sandstones.
6. Alabaster jars with handles and high, hollow feet are popular in the Late Bronze Age. Semi-precious and extremely hard stones, such as lapis lazuli, agate, onyx, porphyry, and obsidian, are also used. Inscribed examples sometimes occur.
7. Flat-bottomed querns and mortars, often of basalt, form a constant part of the domestic repertoire.

#### G. Architectural Elements

1. Architecture is constructed from finely dressed stone in the Seleucid through Sasanian periods, including walls, ceilings, gates, doorways, arches, blind windows and niches, engaged columns, pilasters, capitals, architraves, cornices, crenellations, and arcades. Broad expanses of surface were decorated with fluted buttresses and recesses. Larger walls were broken up

with bordered paneling, either molded or painted. Column capitals occur in a variety of orders, including Corinthian, Doric, and Ionic.

2. Architectural decoration of both patterned designs and figures adorned buildings in the Seleucid through Sasanian periods, for example at Hatra.
  - a. Architectural relief sculpture may depict frontal male and female Parthian busts, and masks of Greek mythological figures, such as the satyr; larger relief compositions (lintels, beams, wall slabs) feature military or mercantile subjects, the enthroned king, and investiture scenes.
  - b. Decorative motifs on friezes include bead and reel, egg and dart, interlocking geometric designs, Greek key, meanders, vines, acanthus plants, laurels, grapes, palmettes, arcades, human busts and masks, and mythological subjects.
3. Mosaics are created from cut and polished stones in the Seleucid through Sasanian periods. They follow Roman practice with typically Hellenistic themes.
4. Stone mihrabs and other architectural elements in the Islamic period can be carved in relief with elaborate floral, geometric, and calligraphic designs.

#### H. Inscriptions, Writing

1. Cuneiform inscriptions appear on stone tablets in shapes replicating those of clay tablets.
2. Cuneiform also appears on stone wall slabs, either with or without figural imagery, particularly during the Late Assyrian period. These examples are often fragmentary, with only a few characters on a fragment that has been trimmed to a regular shape.
3. Inscriptions in cuneiform, Aramaic, Greek, and Arabic characters can appear on vessels, sculptural forms, and architectural elements in the later periods.

#### I. Amulets, Pendants, and Beads

1. Amulets in the earlier periods tend to take the form of animals.
2. Pendants and beads, appearing from the Neolithic period onward, often use semi-precious imported stones, such as lapis lazuli, carnelian, and agate, and take a variety of forms, including barrel-shaped, biconical, and discoid. Approximately 1–4 cm long.

#### J. Tools and Weapons

1. Stone tools and weapons begin in the Paleolithic period and continue, with changes, through time. Flint and obsidian are popular stones for chipped and flaked tools and weapons, in-

cluding hand axes, spear points, sickle blade components, and cutting utensils. Sizes can range from just a few centimeters for small blades to 20 cm for large axes.

2. Stone mace-heads, pierced through their long axis, appear during the historical periods and can sometimes be carved with figures in relief or inscribed with cuneiform.
3. Stone weights are found in a variety of shapes, most commonly that of a duck with its head tucked onto its back. Common stone types for weights include hematite and diorite.

### III. METAL

A. Introduction: This category includes objects of copper/bronze, iron, gold, silver, and their alloys. Types most commonly encountered include coins (III.B), “Luristan”-style weapons and horse bridle fittings (III.C.1 and 2), foundation figurines (III.D.1), and jewelry (III.E).

#### B. Coins

1. Coins in Iraq have a long history and great variety, spanning the Achaemenid Persian, Hellenistic Seleucid, Parthian, Sasanian, and Islamic periods. Coins from neighboring regions circulated in Iraq as well. Early coins are hand-stamped, so that the design is usually off-center.
2. Achaemenid coins are the gold daric and silver siglos, and fractional and multiple denominations. Both are stamped on the front with an image of the king holding a bow, and on the back with a non-figural oblong mark.
3. Coin types and materials for coins minted or circulated in Iraq during the Seleucid, Parthian, and Sasanian periods include gold staters and dinars, bronze or silver drachms, tetradrachms, and hemidrachms, and smaller bronze and lead coins. These coins usually have male and female busts (of kings and queens) on the front. Seated archers, seated gods such as Zeus, winged Victory, and other Greco-Roman mythological subjects, are usually on the reverse of the Seleucid and Parthian coins, which are inscribed in Greek or Parthian. Sasanian period coins typically feature a fire altar on the back, either with or without figures, and are inscribed in Middle Persian.
4. Early Islamic coins are of gold, silver, and copper. Most are stamped on both sides with inscriptions in Arabic, though a few types have an image on one side and an inscription on the other.

#### C. Tools and Weapons

1. Copper, bronze, and iron were used to manufacture a wide range of weapons (including so-called “Luristan” types), such as

blades, daggers, and axes; and tools, including adzes, points, pins, needles, and fishing hooks. Steel blades for items like swords appear in the 1<sup>st</sup> millennium AD.

2. Horse-related equipment in bronze includes bits, some of which can be cast in intricate designs (including so-called “Luristan” types), and harness trappings such as blinders and frontlets.
3. Bronze and iron armor occurs, including scales, shields, and helmets. Armor and weapons of the Islamic period can be decorated with arabesque designs and inscriptions.
4. Copper/bronze weights are found in a variety of shapes, including that of a recumbent lion.

#### D. Sculpture

1. Solid-cast copper/bronze figurines include so-called foundation figurines of standing male figures (sometimes with a peg-shaped lower body and/or carrying a basket on the head), stands in the shape of animals and human figures, and a wide range of small figures. Approximately 10–35 cm high.
2. Hollow-cast copper/bronze large-scale figures occur, of which often only parts such as toes or feet are found, though occasionally more complete examples survive.
3. Sheet copper/bronze was hammered over a core (usually of wood and now lost) and secured with rivets to create large-scale architectural sculpture.
4. Strips of bronze decorated in relief with narrative images were nailed to wooden doors of the Late Assyrian period.

#### E. Jewelry and Personal Ornaments

##### 1. Gold, Electrum, and Silver

- a. Metalworking techniques include hammering, gilding, casting, filigree, granulation, and cloisonné. Simple forms of bangles appear in almost all periods.
- b. Early jewelry includes simple beads, pendants in forms such as animals and insects, spirals, wire, bands, rosettes, and hairpins.
- c. Exceptionally rich burials of the Early Bronze Age from Ur have produced elaborate necklaces, headdresses, and ornaments, including gold and silver ribbons, gold leaf-shaped pendants, beads, and pins, sometimes set with semiprecious stones.
- d. Exceptionally rich burials of the Late Assyrian period from Nimrud have produced outstanding examples of jewelry, including heavy gold bracelets inlaid with semi-precious stones, inlaid earrings, cast gold armlets with zoomorphic terminals, gold fibulae, cut out appliqués, gold mounted

stamp seals, and an elaborate gold headdress with floral elements created in gold leaf and beadwork.

- e. Elaborate jewelry continues during the Seleucid through Sasanian periods, including finger rings, earrings, diadems, and pendants. Seleucid and Parthian jewelry is mostly of gold or gold plate, less frequently of silver or bronze. It is often inlaid with precious gems or glass imitations set in raised flanges.

## 2. Copper/Bronze

- a. Simple bracelets, anklets, and rings occur in copper and bronze in all periods.
- b. Small beads and simple trinkets in copper appear as early as the 9<sup>th</sup> millennium BC.
- c. Mirrors, tweezers, and razors appear by the 3<sup>rd</sup> millennium BC.
- d. Fibulae (triangular safety pins for garments) appear in the 1<sup>st</sup> millennium BC and become standard ornaments thereafter.

3. Iron: Small pieces of native iron were used as ornaments before the 1<sup>st</sup> millennium BC and include items such as beads, bracelets, and pendants.

## F. Vessels

### 1. Copper/Bronze

- a. Bronze is commonly used for utilitarian items such as vessels from the end of the 3<sup>rd</sup> millennium through the 1<sup>st</sup> millennium BC.
- b. Shallow bronze bowls of “Phoenician” and “Syrian” styles from the Late Assyrian period bear concentric rings of complex imagery on their outside (they also occur in silver and gilt silver).
- c. Large bronze cauldrons and cauldron stands begin to be produced in the 1<sup>st</sup> millennium BC, some of which include cast decorations in the shape of bulls, griffins, or human heads.
- d. ‘Bath-tub’-shaped bronze coffins appear beginning in the 1<sup>st</sup> millennium BC.
- e. Ewers with bulbous bodies, long necks and handles were produced in the Sasanian and Abbasid periods.
- f. Copper-alloy metalwork in the Islamic period can be engraved with inscriptions and elaborate floral and geometric designs, sometimes with enamel inlays. Forms include bowls, ewers, candlesticks, and astrolabes.
- g. Copper-alloy metalwork inlaid with silver began to appear in the 13<sup>th</sup> century AD. The shapes include ewers, basins, boxes, incense burners, and pen boxes, which are notable for

their frequent representation of princes and a wide variety of scenes, inspired by manuscript illustration. Metalwork from Mosul also stands out for its inclusion of “genre scenes,” such as shepherds with their flocks, boys shooting at birds, etc. These scenes, which vary in size, are separated by decorative patterns.

## 2. Gold, Electrum, and Silver

- a. Vessels in these metals are known primarily from the Early Bronze Age, the Late Assyrian period, and the Seleucid through Sasanian periods. Forms for vessels include fluted tumblers and bowls, spouted vessels, shallow bowls and plates, and handled jugs and jars. Decorative techniques include repoussé, chasing, engraving, and appliqué. Some carry inscriptions.
- b. During the Seleucid through Sasanian periods, vessels are typically in silver, less frequently in bronze or gold. Designs on silver vessels are sometimes overlaid in gold plate. Forms include platters (with royal themes, usually a hunt on horseback or on foot), bowls, ewers (with domestic or religious themes and decorative elements), pitchers, handled “tea” cups, and tall cups with animal-head bases.
- c. Sasanian decoration is organized by central medallions (usually having a beaded or floral border) and flanking scrollwork. Themes inside medallions include griffins, antelopes, stags, rams, eagles, flowers, dancing girls in arcades, and human busts. Common techniques for fashioning vessels include hammering, repoussé, casting small elements, and chasing.

## G. Miscellaneous

1. Furniture parts, such as chair legs, struts, and openwork panels, were cast and hammered in copper/bronze.
2. Architectural elements in copper/bronze include door-pivots, knobs, and nails.
3. Silver coils, rings, ingots, and scrap served as a form of pre-coinage currency.
4. Some utilitarian forms were copied in precious metal for ceremonial purposes, such as gold weapons and tools.
5. Gold and silver leaf were used to cover a number of different types of objects, including parts of lyres, such as bull head ornaments.
6. Ritual and ecclesiastical objects pertaining to Iraq’s religious communities include, but are not limited to, crosses, chalices, kiddush cups, candelabra, and Torah pointers.

#### IV. GLASS

A. Introduction: The type most commonly encountered is Sasanian vessels (IV.B.3), which are often misrepresented as Roman glass.

##### B. Vessels

1. Early glass is opaque or translucent, in imitation of semi-precious stones. One type of vessel is made of bands of colored glass (predominantly blue, with white, yellow, orange, and pale blue), often shaped into festoons and other patterns. Another type is mosaic glass, created by fusing multicolored glass disks. Forms include beakers, flasks, small bottles, small handled jars, hemispherical bowls, goblets, plates, and small jugs. Approximately 6–20 cm high.
2. Transparent glass appears in the 1<sup>st</sup> millennium BC. Types include blown transparent vessels, and colored glass that is pulled, cut and mold-made. Techniques of decorating glass include molded, cut, and engraved designs.
3. Small blown-glass bottles in a variety of shapes, colors, and patterns are very common in the Sasanian period. They may be iridescent, and are often mistaken for Roman glass.
4. Small, relatively thick-bodied bottles used to store perfume and other types of cosmetics are typical of the Early Islamic period.
5. Bottles blown in a mold with a counter-sunk pattern are another Early Islamic type.
6. Thin-bodied blue glassware decorated with luster painted designs, often inspired by Late Antique motifs such as scrolling vines, is the most important luxury type of glass from the Abbasid period. Shapes include cups, bowls, and plates.

##### C. Miscellaneous

1. Glass beads are common in both single color and multicolored types.
2. Small figurines, pieces of jewelry, and inserts for inlay into larger items such as ivories can be of mold-formed glass.
3. Tiles for inlay into architecture and furniture can be made of glass, sometimes multicolored.
4. Occasional lumps and ingots of raw unworked glass as well as glass slag occur.
5. Seals (see II.B and C) were sometimes made from glass.
6. Mosaic fragments from Seleucia can be made from multicolored glass tesserae. They show the same designs and techniques as those of stone mosaics.
7. Glass weights date to the Umayyad period and consist of either ring or disk weights inscribed with short texts.

## V. IVORY, BONE, AND SHELL

A. Introduction: The type most commonly encountered is carved ivory sculptures and inlays (V.B.1).

### B. Sculpture

1. Ivory, bone, and shell were all popular materials for carved furniture inlays (solid plaques and cut-out elements), harness trappings such as blinders and frontlets, and freestanding small sculptures (typically of human or animal figures). Ivory was often covered with precious metal overlays or carved to take colored stone, glass, or faience inlays.
2. Inlays of shell were used with other materials to create figural panels in the 3<sup>rd</sup> millennium BC. Shell was also used as inlays for the eyes of freestanding sculptures. Simple geometric shapes, such as diamonds, were inlaid into architectural features like columns in several periods.
3. Giant clam shells were polished and engraved with intricate linear designs in the Late Assyrian period.

### C. Tools

1. Bone implements such as pins, needles, awls, and small spoons or spatulas appear in all periods.
2. Handles of bone and ivory were used on implements like mirrors, knives, daggers, and swords.
3. Folding “writing boards” of ivory consist of hinged pairs of rectangular panels whose inner surfaces were recessed in order to hold wax.

### D. Seals and Personal Ornaments

1. Cylinder seals (see II.B) can be made from the inner spiral of conch shells.
2. Ivory combs are a common luxury item.
3. Beads, pendants, and amulets were also commonly made from all three materials. Different kinds of shells were often used in their original forms as personal ornaments, evident from perforations made in them for attachment or suspension. Rings and bangles were cut from shells.

### E. Vessels

1. Containers carved from elephant ivory typically take a cylindrical shape when cut directly from the tusk.
2. Large shells (up to 30 cm long) were sometimes trimmed and incised or decorated with inlays and overlays to create spouted vessels.
3. Other shells, such as bivalves, were used as cosmetic contain-

ers. The interior may be stained or still contain powdery material.

## VI. STUCCO

- A. Molded and carved stucco reliefs occur in the Sasanian period, featuring geometric, human, animal, and floral motifs, often set in pearl-bordered roundels or medallions. They could be painted, including shades of red, blue, yellow, turquoise, green, and brown.
- B. Samarra stucco relief styles (Early Islamic period)
  - 1. Samarra A consists of deeply carved vine designs with deep “eyes,” usually organized in long bands as well as simple rectangles and polygons.
  - 2. Samarra B, also deeply carved, comprises a greater number of designs and motifs, which are covered with small notches and dots.
  - 3. Samarra C has molded designs made up of endless repetition of lines and spirals, which are beveled, i.e., they meet the surface at an oblique angle.

## VII. PAINTING

- A. Introduction: The category most commonly encountered is modern Iraqi paintings (VII.B).
- B. Iraqi paintings of the 20<sup>th</sup> century exemplify a very wide range of modern styles, techniques, and subjects. They are highly regarded by collectors and are greatly in demand throughout the Arab world and beyond. Numerous examples have been stolen from Iraqi public and private collections since 2003. Stolen paintings may be marked on the back with the former Saddam Center for the Arts seal, inventory numbers, or suspicious and sloppy dark paint intended to cover the seal or inventory numbers. Any painting that could possibly have an Iraqi connection should be examined by experts in modern Iraqi art.
- C. Painting on plastered walls appears starting in the 4<sup>th</sup> millennium BC. Colors most commonly follow a palette of black, red, yellow, and white. Geometric and floral patterns occur as well as figural designs including animals and humans. Painted plaster fragments can be quite small in size.
- D. Painted plaster walls of the Seleucid through Sasanian periods use a provincial Roman style to depict royal and religious themes, including the king seated before audience, the hunt, military themes such as archers on horseback and cavalrymen, and Jewish, Christian, Roman Mithraic, Hellenic and Babylonian religious subjects. Marble paneling and architectural

forms are also imitated in paint. Graffiti in red-brown and black paint also occurs.

- E. Ceramic tiles and bricks may be decorated with painted subjects or patterns (see I.E.1).

#### VIII. TEXTILES

- A. Clothing fragments from the Seleucid and Parthian periods include linen, wool, cotton, silk, and felt. Some examples have gold embellishments (plaques) or gold thread. Linen and cotton are usually undyed and made in simple weaves. Wool can be decorated with richly dyed embroidery or woven into twills for cloaks, tunics, trousers, and wall hangings.
- B. Sasanian textile remains include cheap hemp, wool, linen, cotton, flax, silk. Designs are elaborately woven or embroidered and usually include figural elements set in pearl-bordered roundels or medallions.
- C. Wool pile and knotted carpet fragments dating from the Hellenistic through Sasanian periods display both Hellenistic Greek and Iranian motifs and designs.
- D. Medieval Iraq was an important center for textile production but most examples are fragmentary. These include tapestry woven woolen fabrics, cotton, and silk. Many of the extant silk and cotton fabrics include embroidered Kufic benedictory inscriptions and at times include the name of the patron or ruler.
- E. In the 13<sup>th</sup> century, Baghdad and Mosul produced textiles decorated with roundels surrounding real or imaginary creatures in symmetrical arrangements.

#### IX. PAPER, PARCHMENT, LEATHER

- A. Introduction: The types most commonly encountered are books and documents (IX.B).
- B. Manuscripts, Books, and Documents: Numerous manuscripts, books, and documents have been stolen from Iraqi public and private collections since 2003. Any manuscript, book, or document that could possibly have an Iraqi connection should be examined by experts.
- C. Leather and Parchment (sometimes with inscriptions) occasionally survive from the Pre-Islamic period.
- D. Qur'ans on Parchment
  1. Iraq was one of the main centers for the production of early Qur'ans. Until the 11<sup>th</sup> century, Qur'ans were written on parch-

ment (animal skin) rather than paper, and most have been taken apart.

2. Each Qur'an consisted of multiple "quires," sets of five sheets of parchment folded in the middle and sewn together along the crease, to make a total of ten pages. They were usually horizontal in format. Bindings consisted of wooden boards covered with brown leather and stamped with simple geometric designs.
3. Early Qur'ans were written in the so-called Kufic, or angular, script, made up of relatively short vertical and long horizontal strokes. They were devoid of any decoration, except for red vowel marks.
4. By the 9<sup>th</sup> century, chapter heading were distinguished by colored bands, often terminating in palmettes, and these designs became increasingly more elaborate.
5. Soon gold ink became the preferred color for decorative devices, and many Qur'ans would begin and end with one or several folio(s) of gold geometric design, referred to as frontispieces and finispieces, respectively.
6. At times, groups of colored dots and 1–3 small dots or dashes were included within the body of the text as aids to pronunciation.

#### E. Qur'ans on Paper

1. Qur'ans after the 11<sup>th</sup> century became taller in format and were written on paper.
2. They were copied in a variety of more legible cursive scripts and incorporated elaborate illumination, such as rosettes marking verses within the text, and lavishly decorated frontispieces.
3. "Monumental" manuscripts of the Qur'an in multiple volumes were made in Baghdad during the latter half of the 13<sup>th</sup> and first half of the 14<sup>th</sup> centuries.

F. Torahs on Parchment: There have been active Jewish communities in Iraq since at least 586 BC. Torahs used by these communities are parchment scrolls bearing Hebrew writing in black ink. The scroll is wound around two wooden rods, and metal finials may cover the tops of the rods. The Torah is housed in a cylindrical case of wood that may be decorated with inscriptions and/or semi-precious stones. Approximately 100 cm high.

#### G. Illustrated Manuscripts

1. Baghdad was one of the most significant centers for the production of illustrated scientific and poetic manuscripts during the Islamic medieval period. The images, painted with opaque watercolor on paper, included figurative representations, such as idealized portraits of the author or the royal patron, which would appear as the frontispiece to the manuscript.

2. In other examples, paintings were dispersed within the text as illustrations. In most instances, the landscape elements were kept to a minimum and the emphasis was on human interaction.

#### X. WOOD

- A. Furniture, doors, pulpits, coffins, and other wooden articles in the Islamic period can be decorated with elaborate carved or inlaid designs, including floral and geometric patterns, grape clusters, and inscriptions.
- B. Wood beams from decorated buildings may be carved with patterns and inscriptions.
- C. Wood panels in the Islamic period can be covered with stucco and gilding.
- D. Ritual and ecclesiastical objects pertaining to Iraq's religious communities include, but are not limited to, Qur'an stands (often carved or inlaid) and Torah scroll cases (see IX.F).

#### **INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE**

Under section 553 of the Administrative Procedure Act ("APA") (5 U.S.C. 553), agencies amending their regulations generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed amendments, consider public comments in deciding on the final content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures do not apply to agency rulemaking that involves the foreign affairs function of the United States. CBP has determined that this final rule involves the foreign affairs function of the United States as it implements authority granted to the President under the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 and § 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) to impose import restrictions on archaeological or ethnological material of Iraq. The former Act is in response to United Nations Security Council Resolution 1483, and both the legislation and this rule do no more than to carry out the obligations of the United States under the 1970 UNESCO Convention and Chapter VII of the United Nations Charter. Accordingly, the rulemaking requirements under the APA do not apply and this final rule will be effective upon publication.

In addition, § 553(b)(B) of the APA provides that notice and public procedure are not required when an agency for good cause finds them impracticable, unnecessary, or contrary to public interest. CBP

has determined that providing prior notice and public procedure for these regulations would be impracticable, unnecessary, and contrary to the public interest because immediate action is necessary to respond to the pillage of Iraqi cultural antiquities and to avoid damage to those antiquities in Iraq until hostilities have ceased. Any delay in this action will likely result in further damage to the Iraqi cultural antiquities that Congress was seeking to protect with the Emergency Protection for Iraqi Cultural Antiquities Act of 2004.

Finally, § 553(d)(3) of the APA permits agencies to make a rule effective less than 30 days after publication when the agency finds that good cause exists for dispensing with a delayed effective date. For the reasons described above, CBP finds that good cause exists to make these regulations effective without a delayed effective date.

#### **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**

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

#### **SIGNING AUTHORITY**

This document is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

#### **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 continues to read, and specific authority for new § 12.104j is added 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;

\* \* \* \* \*

Section 12.104j also issued under Pub. L. 108–429, 118 Stat. 2600; 19 U.S.C. 2612;

\* \* \* \* \*

2. Add a new § 12.104j to read as follows:

**§ 12.104j Emergency Protection for Iraqi Cultural Antiquities.**

(a) Restriction. Importation of archaeological or ethnological material of Iraq is restricted pursuant to the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (title III of Pub. Law 108–429) and section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603).

(b) Description of restricted material. The term “archaeological or ethnological material of Iraq” means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990. CBP Decision 08–17 sets forth the Designated List of Archaeological and Ethnological Material of Iraq that describes the types of specific items or categories of archaeological or ethnological material that are subject to import restrictions.

JAYSON P. AHERN,  
*Acting Commissioner,*  
*U.S. Customs and Border Protection.*

Approved: April 24, 2008

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

[Published in the Federal Register, April 30, 2008 (73 FR 23334)]

*General Notice***19 CFR PART 177, SUBPART B****NOTICE OF ISSUANCE OF FINAL DETERMINATION  
CONCERNING STEREOSCOPIC DISPLAY MODELS**

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

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain stereoscopic display models to be offered to the United States Government under an undesignated government procurement contract. CBP has concluded that, based upon the facts presented, the operations performed in the United States result in a substantial transformation of the goods. Therefore, the country of origin of the stereoscopic display models is the United States for purposes of U.S. Government procurement.

**DATE:** The final determination was issued on April 23, 2008. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of April 30, 2008.

**FOR FURTHER INFORMATION CONTACT:** Karen Greene, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-572-8838).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on (insert date of ruling letter), pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain stereoscopic display models to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ H015324. This final determination was issued at the request of Planar Systems, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18).

In the final determination, CBP concluded that, based upon the facts presented, the operations performed in the United States resulted in a substantial transformation of the goods. Therefore, the stereoscopic display models are products of the United States.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the Federal

Register within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the Federal Register.

Dated: April 23, 2008

SANDRA L. BELL,  
*Executive Director,*  
*Office of Regulations and Rulings,*  
*Office of International Trade.*

Attachment:

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H015324  
April 23, 2008  
MAR-2-05 OT:RR:CTF:VS H015324 HEF  
CATEGORY: Marking

MR. HAROLD PAUL LUKS  
POLINER & LUKS LLP  
1300 19th Street, N.W.  
Suite 401  
Washington, DC 20036

RE: U.S. Government Procurement; Final Determination; country of origin of stereoscopic displays; substantial transformation; 19 C.F.R. part 177

DEAR MR. LUKS:

This is in response to your letter dated August 2, 2007, requesting a final determination on behalf of Planar Systems, Inc. ("Planar"), pursuant to subpart B of part 177, Customs and Border Protection ("CBP") Regulations (19 C.F.R. § 177.21 et seq.). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain stereoscopic displays. We note that Planar is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination. Confidential treatment for certain business information identified in your request for a final determination will be extended in accordance with your request. Photographs of the manufacturing process were also submitted with your request. In preparing this final determination, consideration was given to your supplemental submissions dated August 23, 2007; Sep-

tember 25, 2007; November 9, 2007; November 13, 2007; and January 2, 2008.

FACTS:

The products subject to this final determination are stereoscopic display models, which, you explain, create three-dimensional digital images of video output by a computer or other stereoscopic video source. The stereoscopic display models and their key components were designed and developed in the United States through the use of Planar's proprietary StereoMirror™ technology. You advise that the stereoscopic display models are used in a variety of applications where two-dimensional images are insufficient because of the lack of depth and position, including: photogrammetry, intelligence, and environmental applications; remote vehicle operations; medical imaging; complex modeling/visualization applications; and three-dimensional simulations for gaming and situational training.

The two models that are the subject of your request are the SD2020 and the SD2320W. The SD2020 model incorporates two 20-inch LCD monitors, and the SD2320W model incorporates two 23-inch wide-format LCD monitors. The SD2020 model has a total of 240 parts, and the SD2320W model has a total of 238 parts. You describe the configuration of the stereoscopic display models as follows.

The two LCD monitors are mounted in a custom-made stand in an up/down configuration at a 110° angle. A special beamsplitter mirror is mounted at the bisecting angle between the two monitors. The stand is manufactured so that the two images are aligned as if looking at one monitor. A graphics card in the computer transmits/outputs right eye and left eye video separately. The left eye image is sent to the lower monitor. Because the right eye image is reflected by the beamsplitter, the right eye image is sent through a custom-designed and manufactured mirror-flip PCI card (included with the system) that reverses the image before it is sent to the top monitor. The user of the SD system wears passive polarizing glasses provided with the system that enable each eye to see only the image from one of the monitors (*i.e.*, the glasses block the right eye from seeing the image on the lower monitor and block the left eye from seeing the image on the top monitor). Thus, the two images appear to the user as a fused stereoscopic three-dimensional image.

Planar procures the LCD monitors and beamsplitter mirrors from foreign vendors and imports the articles to the United States. The LCD monitors originate in either China or Taiwan, and the mirrors are of either Japanese or German origin. You note that the beamsplitter mirror is custom manufactured to Planar's specifications and has no other function apart from its use in the display.

Planar sends one of the LCD monitors to a third-party in the United States for an optical transformation process. Pursuant to your request, we are according confidential treatment to the specific details of this process. However, you provide the following non-confidential summary of the process:

Planar Systems requires that the polarization orientation of light emitted from the monitor be effectively rotated 90°. This complex process requires the careful removal and replacement of optical films on both the liquid crystal display panel and the backlight film stack. Specialized

machines operated by experienced and trained technicians in clean-room, ESD [electrostatic discharge]-protected environments are required to complete these changes in a non-destructive manner.

Your submission also relates that this process requires five days to complete and is of such a complex nature that Planar is not capable of performing it in-house, despite twenty-four years of display manufacturing experience. Upon completion of the process, the LCD monitor is reassembled, tested for functionality, packaged, and returned to Planar.

You explain that the stereoscopic display's mirror flip card acts to "flip" the image for the user's right eye, so that the image is accurate when reflected in the beamsplitter mirror. In order to achieve this capability, Planar designed a special electronic circuit board to mirror the digital visual interface ("DVI") video input content, one row at a time, and output the reversed video to the top monitor of the stereoscopic display. The mirror flip card is manufactured in the United States by two companies, in accordance with the specifications and directions provided by Planar. The first company manufactures a four-layer printed circuit board ("PCB"). You explain that each layer of the PCB is built of a copper clad, which consists of an insulating substrate and a layer of copper of a specified thickness. Each layer of the copper clad is etched to remove unwanted copper to reveal the trace and contacts for the circuitry. The four layers are then aligned and laminated together to form a single substrate. Next, holes are milled for components and hardware. Then, the holes are "seeded" and plated. The PCB is silk-screened with a solder mask and reference designators and routed to the specific board dimensions. Finally, the PCB is tested and packaged before being shipped to the second company. At the second company's U.S. facility, the PCB will be assembled with the remaining components of the mirror flip card. First, the PCB is silk-screened with a solder paste to leave a thin layer of solder on specific pads for the remaining components. Automated equipment places some of the parts on the PCB. You describe the process as iterative, as it may require several attempts to achieve the proper placement. Parts that the machine cannot place are placed by hand. Then, the populated PCB is soldered in an infrared reflow machine that passes the circuit under an infrared light source with a programmed time and temperature file. The PCB is manually "stuffed" with the remaining components like the DVI and power connectors. Then, the PCB is passed through a wave solder machine to solder these parts. Finally, the completed mirror flip card is tested for functionality before being packaged and shipped to Planar.

As the components arrive at Planar's U.S. facility, they are inspected to determine compliance with their respective specifications. After three shipments are received, fully inspected, and found to be in compliance, the part number and vendor are approved for random lot inspections. If a problem arises, the full inspection process will be reinstated until another three shipments are found to be without faults. After inspection, technicians assemble the stereoscopic displays in accordance with the company's detailed work instructions. First, a technician creates a "Build Setup" profile in a Lotus database designed to track inventory and production and assigns a serial number to the unit. The lower and upper monitor assemblies are assembled by removing the accompanying stands from the LCD monitors, attaching and routing the DVI cables, and securing the monitors with screws to a custom-made U.S.-origin stand. Then, a support for the mirror is attached to the lower monitor assembly. In total, the upper monitor assembly consists of 12

parts and the lower monitor assembly consists of 16 parts. Next, the mirror assembly is manufactured by assembling the mirror frame with protective gaskets and screws, inspecting the mirror panel with a “glass defect guide template,” inserting the beamsplitter mirror into the frame, and affixing the mirror assembly to the mirror support on the display stand. The assembly of the mirror involves 29 parts. Assembly of the stereoscopic display is completed by the attachment of the upper monitor assembly to the lower monitor assembly with alignment pins and screws.

A software test file is used to align the system and the mirror is adjusted until it achieves a one-pixel tolerance for a normal viewing angle and a three-pixel tolerance for a view from the left or right edges of the mirror. The technicians ensure that the beamsplitter is precisely positioned at a bisecting angle between the two monitors to prevent loss or confusion of the stereoscopic image. You advise that even a small misalignment may cause users to experience headaches, eye fatigue, nausea or other discomfort. The alignment process may require up to 90 minutes to ensure accurate and precise alignment and co-planarity of the stereoscopic images.

After assembly and alignment, the display undergoes testing and quality assurance processes to ensure its proper performance. The displays are also examined for pixel defects, and the mirror and stand are inspected for cosmetic defects. Finally, the display is packaged with the mirror flip card, a user manual, and U.S.-origin polarized glasses and cables. The final product is then shipped to the U.S. customer. You advise that the production of each unit requires approximately 135 minutes of work by a skilled Planar technician. You also attest that the processing and assembly operations performed in the United States add significant value to the product, as Planar’s customers will pay a premium of up to ten times the cost of a standard LCD monitor to obtain the three-dimensional display capability of Planar’s stereoscopic display models.

**ISSUE:**

What is the country of origin of the stereoscopic display models for purposes of U.S. Government procurement?

**LAW AND ANALYSIS:**

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth at 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Procurement Regulations define "U.S.-made end product" as:

... an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003

Therefore, the question presented in this final determination is whether, as a result of the operations performed in the United States, the stereoscopic display models are substantially transformed into products of the United States.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one which leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal Inc. v. United States*, 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, and C.S.D. 90-97.

In C.S.D. 85-25, 19 Cust. Bull. 844 (1985), Headquarters Ruling Letter ("HRL") 071827, dated September 25, 1984, CBP determined that assembly of a large number of fabricated components onto a circuit board resulted in a substantial transformation of the constituent components for purposes of the Generalized System of Preferences program. In that decision, CBP stated that an assembly process would not constitute a substantial transformation unless the operation is "complex and meaningful." Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

CBP has considered the issue of whether the processing and assembly of electronic components into a finished article results in a substantial transformation on a number of occasions. In another final determination, HRL 735315, dated April 10, 1995, CBP held that the country of origin of optical spectroscopy instrument ("OSI") systems was the United States for purposes of U.S. Government procurement. Each system had three essential elements: a controlling computer, an optics module, and an output device such as a printer. The optics module shell and its related components were imported from Australia. At the U.S. customer site, U.S.-origin printed wiring board assemblies ("PWBs") were integrated into the shells to create a fin-

ished optics module. The PWBs were necessary for the control and operation of the optics module. Then, the module was further assembled with a U.S.-origin controlling computer and printer to create the OSI system. CBP found that the assembly of the PWBs and other components into the optics module shell constituted a complex and meaningful assembly and was sufficient to substantially transform the optics module into a product of the United States. As the other components of the OSI system were products of the United States, CBP held that their incorporation with the optics module rendered the OSI system a product of the United States.

In HRL 734213, dated February 20, 1992, CBP held that the conversion of an imported computer monitor into a touchscreen monitor in the United States constituted a substantial transformation of the imported monitor for country of origin marking purposes. To create the touchscreen monitor, the imported monitor was tested, a power plug was installed, and the cathode ray tube was removed. The bucket, swivel base, and front plastic bezel of the monitor were also removed and painted. Then, a transorb board and the touchscreen were installed. The touchscreen underwent testing and alignment by skilled technicians. Then, the monitor was reassembled, tested, and packed for shipment. CBP found that the touchscreen capability of the finished product was not just a simple enhancement of the monitor, but rather a significant change in its very nature, which resulted in the monitor having a new use as an interface device for a blood analyzer unit.

By contrast, assembly operations that are minimal or simple will generally not result in a substantial transformation. For example, in HRL 734050, dated June 17, 1991, CBP determined that Japanese-origin components were not substantially transformed in China when assembled in that country to form finished printers. The printers consisted of five main components identified as the "head," "mechanism," "circuit," "power source," and "outer case." The circuit, power source and outer case units were entirely assembled or molded in Japan. The head and mechanical units were made in Japan but exported to China in an unassembled state. All five units were exported to China, where the head and mechanical units were assembled with screws and screwdrivers. Thereafter, the head, mechanism, circuit, and power source units were mounted onto the outer case with screws and screwdrivers. In holding that the country of origin of the assembled printers was Japan, CBP recognized that the vast majority of the printers' parts were of Japanese origin and that the operations performed in China were relatively simple assembly operations.

In order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed articles, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, the extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

Based on the facts provided in the instant case, we find that the processing and assembly operations performed in the United States result in a sub-

stantial transformation of the imported LCD monitors and the beamsplitter mirror into a product with a new name, character, and use. In support of this determination, we note that one LCD is subjected to significant further processing in the United States. Specifically, we find that the polarization process performed in the United States changes the essential character of the LCD, as the polarization feature of the LCD imparts the stereoscopic functionality to the entire system. In addition, the assembly, testing, and alignment of the two LCD monitors and the beamsplitter mirror to form the stereoscopic display require a significant amount of time and precision by skilled technicians. Consequently, we find these operations to be complex and meaningful.

You explain that neither the LCD monitors nor the beamsplitter mirror can generate a three-dimensional image until they are integrated with the remaining components of the finished stereoscopic display model. Although the mirror flip card and goggles are necessary for the proper operation of the stereoscopic display model, they are not integrated into the display at Planar's facility. Similar to the PWBs in HRL 735315, *supra*, the mirror flip card is integrated into the display at the U.S. customer site, and the goggles will be worn by the customer during the operation of the model. As these components are of U.S. origin, we find that their incorporation and use with the stereoscopic display render the entire model a product of the United States.

**HOLDING:**

Based upon the facts provided, we find that the processing and assembly operations performed in the United States constitute a substantial transformation of the foreign-origin components. Therefore, the country of origin of the stereoscopic display models is the United States for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

SANDRA L. BELL,  
*Executive Director,*  
*Office of Regulations and Rulings,*  
*Office of International Trade.*

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