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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 14-03

RIN 1515-AE00

Extension of Import Restrictions on Archaeological and Ecclesiastical Ethnological Materials from Honduras

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

ACTION: Final rule.

SUMMARY: This final rule amends U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological materials from Honduras. These restrictions, which were last extended by CBP Decision (Dec.) 09-05, are due to expire on March 12, 2014, unless extended. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State (Department of State), has determined that conditions continue to warrant the imposition of import restrictions on the archaeological materials from Honduras and to add restrictions on certain ethnological materials. The Designated List of cultural property described in CBP Dec. 04-08 is revised in this document to reflect the addition of the ethnological materials. The import restrictions imposed on the archaeological and ecclesiastical ethnological materials from Honduras will be in effect for a five year

period, and the CBP regulations are being amended accordingly. These restrictions are being imposed pursuant to determinations of the Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

DATES: Effective: March 12, 2014.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0215. For operational aspects, William R. Scopa, Chief, Partner Government Agencies Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6554.

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 U.S. Customs and Border Protection (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)).

On March 12, 2004, the United States entered into a bilateral agreement with the Republic of Honduras (Honduras), concerning the imposition of import restrictions on certain archaeological materials representing the Pre-Columbian cultures of Honduras and range in date from approximately 1200 B.C. to 1500 A.D. On March 16, 2004, CBP published CBP Decision (Dec.) 04-08 in the **Federal Register** (69 FR 12267), 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. The restrictions were subsequently extended in 2009 by CBP Dec. 09-05 (74 FR 10482), to March 12, 2014.

On September 24, 2013, by publication in the **Federal Register** (78 FR 58596), the Department of State proposed to extend the Agreement between the U.S. and Honduras concerning the imposition of import restrictions on archaeological material from the pre-Columbian cultures of Honduras. Pursuant to the statutory and decision-making process, the Designated List of materials covered by the restrictions is being amended to include certain ecclesiastical ethnological materials of the Colonial Period of Honduras, c. A.D. 1502 to 1821. Thus, the Agreement now covers both the previously

covered archaeological materials, as set forth in the Designated List published in CBP Dec. 04-08, and the additional ethnological materials (see 19 U.S.C. 2604, authorizing the Secretary of the Treasury, by regulation, to promulgate and, when appropriate, revise the list of designated archaeological and/or ethnological materials covered by an agreement between State Parties).

The Department of State reviewed the findings and recommendations of the Cultural Property Advisory Committee, and on February 11, 2014, the Assistant Secretary for Educational and Cultural Affairs, Department of State, determined that the cultural heritage of Honduras continues to be in jeopardy from pillage of certain archaeological materials and is also in jeopardy from the pillage of certain ecclesiastical ethnological materials dating to the Colonial Period of Honduras, c. A.D. 1502 to 1821. The Assistant Secretary made the necessary determination to extend the import restrictions for an additional five-year period to March 12, 2019, and to include in their coverage these ecclesiastical ethnological materials. An exchange of diplomatic notes reflects the extension of the restrictions, as described in this document and as applicable to the revised Designated List set forth in this document.

Thus, CBP is amending 19 CFR 12.104g(a) accordingly. Importation of covered materials from Honduras will be restricted through March 12, 2019, in accordance with the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c.

In this document, the Designated List of articles that was published in CBP Dec. 04-08 is amended to remove the reference citations following each archaeological category along with the corresponding bibliography; many of these materials are no

longer available and such references are not commonly included in a Designated List.

The Designated List is also amended to include ecclesiastical ethnological material dating to the Colonial Period of Honduras, c. A.D. 1502 to 1821. The articles described in the Designated List set forth below are protected pursuant to the Agreement.

Designated List

This Designated List, amended as set forth in this document, includes Pre-Columbian archaeological materials that originate in Honduras, ranging in date from approximately 1200 B.C. to approximately 1500 A.D. These materials include, but are not limited to, objects of ceramic, metal, stone, shell, and animal bone representing, among others, the Maya, Chorti Maya, Lenca, Jicaque, and Pipil cultures. The Designated List also includes certain categories of ethnological materials used in ecclesiastical contexts in Honduras dating to the Colonial Period (approximately A.D. 1502 to 1821), including sculptures in wood and other materials, objects of metal, and paintings on canvas, wood, or metal supports relating to ecclesiastical themes. The Designated List, and accompanying image database, may also be found online at: <http://eca.state.gov/cultural-heritage-center/international-cultural-property-protection/bilateral-agreements/honduras>.

The list set forth below is representative only. Any dimensions are approximate.

Pre-Columbian Archaeological Material (Dating From Approximately 1200 B.C. to 1500 A.D.)

I. Ceramic—Materials made from ceramic (e.g., terracotta/fired clay) include a full range of surface treatments and appendages on various shapes of vessels, lids, figurines, and

other ceramic objects (e.g., tools). Decorative techniques used on these materials include, but are not limited to, fluting, dentate-stamping, incised designs, modeled sculpting, polishing/burning, differentially fired areas, and polychrome, bichrome and/or monochrome designs of human and animal figures, mythological scenes and/or geometric motifs. Vessels and figurines may include sculpted and/or applique appendages, such as handles, knobs, faces, fillets, and tripod, quadruped, or ring supports. Examples include, but are not limited to, polychromes (e.g., Copador, Ixcanrio, Gualpopa, Ejar, Cancique and other Copan styles, Ulu-Yojoa (e.g., Red, Maroon, Black, and Tenampua groups), Chichicaste, Fiopo, Las Flores, Sulaco, Chameleon, Naco, and Bay Island), incised and punctuated designs (e.g., Selin, Gualijoquito, and Escondido groups), Usulután styles, Mammiform vessels, monochromes (e.g., Cuymal, Limon, Higuierito, Talgua), incense burners (Coner ceramics), Yaba-ding-ding, Playa de los Muertos, Olmec style, and Formative period pottery. Ceramics may also have post-fire pigment and/or stucco.

A. Ceremonial Vessels

1. Cylinders
2. Bowls
3. Dishes and plates
4. Jars

B. Common Vessels

1. Cylindrical vessels
2. Bowls
3. Dishes and plates
4. Jars

C. Special Forms

1. Drums—polychrome painted and plain
2. Figurines—human and animal forms
3. Whistles—human and animal forms
4. Rattles—human and animal forms
5. Miniature vessels
6. Stamps and seals—engraved geometric designs, various sizes and shapes
7. Effigy vessels—in human or animal form
8. Incense burners—elaborate painted, applied and modeled decoration in form of human figures
9. Architectural elements

II. Stone/Stucco (marble, jade, obsidian, flint, alabaster/calcite, limestone, slate, and other, including stucco materials) —The range of stone materials includes, but is not limited to, sculpture, vessels, figurines, masks, jewelry, stelae, tools, and weapons.

- A. Figurines—human and animal
- B. Masks—incised decoration and inlaid with shell, human and animal faces
- C. Jewelry—various shapes and sizes
 1. Pendants
 2. Ear spools
 3. Necklaces
 4. Pectoral

D. Stelae, Ritual Objects, Architectural Elements, Petroglyphs—Carved in low relief with scenes of war, ritual, or political events, portraits of rulers or nobles, often inscribed with glyphic texts. Sometimes covered with stucco and painted. The size of stelae and architectural elements, such as lintels, posts, steps, and decorative building blocks, range from .5 meters to 2.5 meters in height; hachas, yokes, and other carved ritual objects are under 1 meter in length or height but vary in size.

E. Tools and Weapons

1. Arrowheads
2. Axes, adzes, celts
3. Blades
4. Chisels
5. Spearpoints
6. Eccentric shapes
7. Grinding stones (manos and metates)
8. Maceheads

F. Vessels and Containers

1. Bowls
2. Plates/Dishes
3. Vases

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

A. Jewelry—various shapes and sizes

1. Necklaces
2. Bracelets
3. Disks
4. Ear spools
5. Pendants
6. Pectorals

B. Figurines

C. Masks

D. Disks

E. Axes

F. Bells

IV. Shell—These objects are worked and unworked and include, but are not limited to, conch, snail, spiny oyster, sting-ray, and sea urchin spines. Shell may be decorated with cinnabar and incised lines, sometimes with inlaid jade.

A. Figurines—human and animal

B. Jewelry—various shapes and sizes

1. Necklaces
2. Bracelets
3. Disks
4. Ear spools
5. Pendants

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

V. Bone—These objects are carved or incised with geometric and animal designs and glyphs.

A. Tools—various sizes

1. Needles
2. Scrapers

B. Jewelry—various shapes and sizes

1. Pendants
2. Beads
3. Ear spools

Ecclesiastical Ethnological Material (Dating From Approximately A.D. 1502 to 1821)

VI. Sculpture—Sculptural images of scenes or figures, carved in wood and usually painted, relating to ecclesiastical themes, such as the Virgin Mary, saints, angels, Christ, and others.

A. Relief Sculptures—circular-shaped, low-relief plaques, often polychrome wood, relating to ecclesiastical themes.

B. Sculpted Figures—wood carvings of figures relating to ecclesiastical themes, often with moveable limbs, usually with polychrome painting of skin and features; clothing might be sculpted and painted, or actual fabric clothing might be added.

C. Life-Sized Sculptures—full figure wood carvings of figures relating to ecclesiastical themes, often with polychrome painting using the estofado technique, and occasionally embellished with metal objects such as halos, aureoles, and staves.

VII. Painting—paintings illustrating figures, narratives, and events relating to ecclesiastical themes, usually done in oil on wood, metal, walls, or canvas (linen, jute, or cotton).

A. Easel Paintings—pictorial works relating to ecclesiastical themes on wood, metal, or cloth (framed or applied directly to structural walls).

B. Mural Paintings—pictorial works, executed directly on structural walls, relating to ecclesiastical themes.

VIII. Metal—ritual objects for ceremonial ecclesiastical use made of gold, silver, or other metal, including monstrances, lecterns, chalices, censers, candlesticks, crucifixes, crosses, and tabernacles; and objects used to dress sculptures, such as crowns, halos, and aureoles, among others.

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 or a delayed effective date (5 U.S.C. 553(a)(1)).

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 and specific 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, in paragraph (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 Honduras:

a. In the column headed “Cultural Property,” by adding to the end of the entry “, and ecclesiastical ethnological materials dating from the Colonial Period, c. A.D. 1502 to 1821.”, and

b. In the column headed “Decision No.,” by removing “09-05” and adding “14-03”.in its place

Dated: March 6, 2014

Kevin K. McAleenan

Acting Commissioner
U.S. Customs and Border Protection

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

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