

U.S. Customs and Border Protection



DEPARTMENT OF THE TREASURY

19 CFR Part 12
[CBP Dec. 13-05]

RIN 1515-AD94

IMPORT RESTRICTIONS IMPOSED ON CERTAIN ARCHAEOLOGICAL MATERIAL FROM BELIZE

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

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological material from Belize. These restrictions are being imposed pursuant to an agreement between the United States and Belize that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with 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. The final rule amends CBP regulations by adding Belize to the list of countries for which a bilateral agreement has been entered into for imposing cultural property import restrictions. The final rule also contains the designated list that describes the types of archaeological material to which the restrictions apply.

DATES: *Effective Date:* March 5, 2013.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: For legal aspects, George Frederick McCray, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082. For operational aspects:

Virginia McPherson, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6563.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property 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 United States of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the United States 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)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*) (the Act). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and contribute to greater international understanding of our common heritage.

Since the Act entered into force, import restrictions have been imposed on the archaeological materials of a number of State Parties to the 1970 UNESCO Convention. These restrictions have been imposed as a result of requests for protection received from those nations. More information on import restrictions can be found on the Cultural Property Protection Web site (<http://exchanges.state.gov/heritage/culprop.html>).

This document announces that import restrictions are now being imposed on certain archaeological material from Belize.

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On September 19, 2012, the Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State, made the determinations required under the statute with respect to certain archaeological material originating in Belize that are described in the designated list set forth below in this document. These determinations include the following: (1) That the cultural patrimony of Belize is in jeopardy from the pillage of archaeological material originating in Belize from approximately 9000 B.C. up to 250 years old representing the Pre-Columbian era through the Early and Late Colonial Periods (19 U.S.C. 2602(a)(1)(A)); (2) that the Government of Belize has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage, and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meet the statutory definitions of “archaeological material of the state party” (19 U.S.C. 2601(2)).

The Agreement

On February 27, 2013, the United States and Belize entered into a bilateral agreement pursuant to the provisions of 19 U.S.C. 2602(a)(2). The agreement enables the promulgation of import restrictions on categories of archaeological material representing Belize’s cultural heritage that is at least 250 years old, dating from the Pre-Ceramic (from approximately 9000 B.C.), Pre-Classic, Classic, and Post-Classic Periods of the Pre-Columbian era through the Early and Late Colonial Periods. A list of the categories of archaeological material subject to the import restrictions is set forth later in this document.

Restrictions and Amendment to the Regulations

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of the U.S. Customs and Border Protection (CBP) regula-

tions (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the CBP regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

Designated List of Archaeological Material of Belize

The bilateral agreement between the United States and Belize includes, but is not limited to, the categories of objects described in the designated list set forth below. Any dimensions listed are approximations and the import restrictions include complete examples of objects and fragments thereof. These categories of objects are subject to the import restrictions set forth above, in accordance with the above explained applicable law and the regulation amended in this document (19 CFR 12.104(g)(a)).

The archeological material covered under this agreement originated in Belize, from the following periods: Archaic, Pre-Classic, Classic, Post-Classic, and Early and Late Colonial Periods. The import restrictions apply to archeological material, described below, ranging in date from approximately 9000 B.C. to at least 250 years old, including, but not limited to, objects comprised of ceramic, stone, metal, shell, bone, glass, and wood.

I. Ceramic/Terracotta/Fired Clay— Unpainted, monochrome, bichrome, and polychrome. Decorative motifs include human, animal, and hybrid figures; curvilinear and rectilinear abstract designs; mythological and historic scenes; and other motifs. Decorative techniques include: painting, fluting, gouging, incisions, and modeling, among others. Forms vary considerably, and may include lids, tripod feet, or other supplementary decoration.

A. Common Vessels

1. *Vases and bottles* —(10–50 cm ht).
2. *Bowls* —(5–25 cm ht).
3. *Dishes and plates* —(10–50 cm diam).
4. *Jars* —(10–100 cm ht).
5. *Bottles* —(5–50 cm ht).

B. Special Forms

1. *Figurines* —(5–20 cm ht).
2. *Whistles, rattles and flutes* —(5–20 cm ht).
3. *Miniature vessels* —(5–10 cm ht).
4. *Stamps and seals*.
5. *Effigy vessels* —(15–50 cm ht).
6. *Incense burners* —(25–50 cm ht).
7. *Drums* —(10–50 cm ht).

II. Stone—Objects in any type of stone, including jade, greenstone, obsidian, flint, alabaster/calcite, limestone, slate, or other.

A. *Tools* —forms such as points, blades, scrapers, hoes, grinding stones, eccentrics and, others.

B. *Jewelry* —forms such as necklaces, earplugs, pendants, beads, and others.

C. *Monumental Stone Art* —forms such as stelae, round altars, architectural elements, and others.

D. *Vessels* —forms such as bowls and vases.

E. *Figurines* —forms such as human, animal, and mythological creatures.

F. *Masks* —burial masks of variable stone composition.

G. *Mirrors* —round or rectangular forms composed of pyrite pieces.

III. Metal—Objects in copper, gold, silver, brass, or other. Beaten or cast into shape, often decorated with engraving, inlay, puncturing, or attachments.

IV. Shell—Objects made out of modified shell, often decorated with incisions or inlays.

V. Bone—Objects made out of modified human or animal bone, including tools, such as hooks and punches; jewelry, such as necklaces and pendants; and objects for ritual use.

VI. Glass—Objects made of glass, including utilitarian forms such as bottles, beads, figurines, and others.

VII. Wood—Objects made of wood, including utilitarian forms such as canoes, vessels, tools, and others; and ritual forms, such as crosses, figurines, and 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 (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

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

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

Amendment to CBP Regulations

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

PART 12—SPECIAL CLASSES OF MERCHANDISE

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

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

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

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■ 2. In § 12.104g, paragraph (a), the table is amended by adding Belize to the list in appropriate alphabetical order as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
Belize	Archaeological material representing Belize's cultural heritage that is at least 250 years old, dating from the Pre-Ceramic (from approximately 9000 B.C.), Pre-Classic, Classic, and Post-Classic Periods of the Pre-Columbian era through the Early and Late Colonial Periods.	CBP Dec. 13-05.
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Dated: March 1, 2013.

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

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