

Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph, "*unusual circumstances*" means, but only to the extent reasonably necessary to the proper processing of the request:

(1) The need to search for and collect the requested records from facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having a substantial subject matter interest therein.

(e) A requester may obtain, upon request, expedited processing of a request for records when the requester demonstrates a "compelling need" for the information. The Freedom of Information Officer will notify the requester within 10 calendar days after receipt of such a request whether the Corporation granted expedited processing. If expedited processing was granted, the request will be processed as soon as practicable.

(1) For the purposes of this paragraph, "*compelling need*" means:

(i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(2) A requester shall demonstrate a compelling need by a statement certified by the requester to be true and correct to the best of such person's knowledge and belief.

(3) The procedures of this paragraph (e) for expedited processing apply to both requests for information and to administrative appeals.

Dated: September 17, 1997.

**Floyd Fithian,**

Secretary, Farm Credit System Insurance Corporation Board.

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 12

[T.D. 97-80]

RIN 1515-AC22

#### Import Restrictions Imposed on Archaeological Artifacts From Mali

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to reflect the imposition of import restrictions on culturally significant archaeological artifacts from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali. These restrictions are being imposed pursuant to an agreement between the United States and Mali that has been entered into under the authority 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. The document also contains the Designated List of Archaeological Material that describes the articles to which the restrictions apply. These import restrictions imposed pursuant to the bilateral agreement between the United States and Mali continue the import restrictions that were imposed on an emergency basis in 1993. Accordingly, this document amends the Customs Regulations by removing Mali from the listing of countries for which emergency actions imposed the import restrictions and adding Mali to the list of countries for which an agreement has been entered into for imposing import restrictions.

**EFFECTIVE DATE:** September 23, 1997.

**FOR FURTHER INFORMATION CONTACT:** (Legal Aspects) Donnette Rimmer, Intellectual Property Rights Branch (202) 482-6960; (Operational Aspects) Joan E. Sebanaler, Trade Operations (202) 927-0402.

#### 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 U.S. 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 for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 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 not only to the nations whence they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention.

During the past several years, import restrictions have been imposed on an emergency basis on archaeological and ethnological artifacts of a number of signatory nations as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries.

Mali has been one of the countries whose archaeological material has been afforded emergency protection. In T.D. 93-74, § 12.104g(b), Customs Regulations, (19 CFR § 12.104g(b)) was amended to reflect that archaeological material from the region of the Niger River Valley in Mali and the Bandiagara Escarpment (Cliff) in Mali forming part of the remains of the ancient sub-Saharan culture received import protection under the emergency protection provisions of the Act.

Import restrictions are now being imposed on these same archaeological artifacts from Mali as the result of a

bilateral agreement entered into between the United States and Mali. This agreement was entered into on September 19, 1997, pursuant to the provisions of 19 U.S.C. 2602. Protection of the archaeological material from the region of the Niger River Valley in Mali and the Bandiagara Escarpment (Cliff) in Mali previously reflected in § 12.104g(b) will be continued through the bilateral agreement without interruption. Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Mali and the emergency import restrictions on certain archaeological material from Mali is being removed from 12.104g(b) as those restrictions are now encompassed in § 12.104g(a).

#### **Material and Sites Encompassed in Import Restrictions**

In reaching the decision to recommend that negotiations for an agreement with Mali should be undertaken to continue the imposition of import restrictions on certain archaeological material from Mali, the Deputy Director of the United States Information Agency made a determination that the cultural patrimony of Mali continues to be in jeopardy from pillage of irreplaceable materials representing Mali heritage and that the pillage is endemic and substantially documented with respect to sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff) of Mali. The Deputy Director listed the following archaeological material from the following sites as those that are in need of protection.

#### *Material*

Archaeological material from sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff), Mali, dating from approximately the Neolithic period to approximately the 18th century, identifiable by unique stylistic features, by medium, and where possible, by historic and cultural context. This archaeological material includes, but is not limited to: terra cotta statues depicting anthropomorphic and zoomorphic figures and terra cotta common vessels; copper and copper alloy materials, such as bronze, from which have been produced figurines and other objects such as pendants, finger bells, bells and bracelets; iron figures; and glass beads. Other archaeological material is identifiable as coming from the Tellem burial caves of the Bandiagara Escarpment (Cliff) and includes, but is not limited to: iron headrests; rings; bracelets; hairpins;

fingerbells; bronze pendants; carved wood anthropomorphic and zoomorphic figures; carved wood headrests; wood bowls, spoons, hoes, axes, bows, arrows quivers, flutes, harps and drums; leather sandals, boots, knife-sheaths and plaited bracelets; ritual and utilitarian pottery, three/four-footed ceramic bowls; textiles of cotton and wool that are the remnants of tunics and coifs, blankets, skirts; organic fiber from which belts were made; glass beads; stone (carnelian) beads; and stone (quartz) lip plugs.

#### *Sites*

Sites include, but are not limited to: Djenne and Guimbala of the Inland Niger Delta; Bougouni of the Upper Valley of the Niger River; and the Bandiagara Escarpment (Cliff); and are recognized to be of high cultural significance. These sites represent a continuum of civilizations from the Neolithic period to the colonial occupation of the 18th century, and lend an archaeological significance to the region.

#### **Designated List**

The bilateral agreement between Mali and the United States covers the material set forth in a Designated List of Archaeological Material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by documentation certifying that the material left Mali legally and not in violation of the export laws of Mali.

#### **Archaeological Material From the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali**

The following categories of material are restricted from importation into the U.S. unless accompanied by a verifiable export certificate issued by the Government of Mali—archaeological material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali, that includes, but is not limited to, the categories listed below. As this region is further excavated, other types of material may be found and added to an amended list. The following list is representative only. Any dimensions are approximate.

##### *I. Ceramics/Terra Cotta/Fired Clay*

Types of ceramic forms (stylistically known as Djenne-jeno or Jenne, Bankoni, Guimbala, Bambara, Bougouni and other stylistic labels) that are known to come from the region include, but are not limited to:

##### *A. Figures/Statues.*

1. Anthropomorphic figures, often incised, impressed and with added motifs, such as scarification marks and serpentine patterns on their bodies, often depicting horsemen or individuals sitting, squatting, kneeling, embracing, or in a position of repose, arms elongated the length of the body or crossed over the chest, with the head tipped backwards. (H: 6–30 in.)
  2. Zoomorphic figures, often depicting a snake motif on statuettes or on the belly of globular vases. Sometimes the serpent is coiled in an independent form. A horse motif is common, but is usually mounted. Includes quadrupeds. (H: 6–30 in.)
- B. Common Vessels.**
1. Funerary jars, ocher in color, often stamped with chevrons. (H: 50 to 80 cm.)
  2. Globular vases often stamped with chevrons and serpentine forms. (H: under 10 in.)
  3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head.
  4. Ritual pottery of the Tellem culture, decorated with a characteristic plaited roulette.
    - a. Pot made on a convex mold built up by coiling.
    - b. Hemispherical pot made on three or four legs or feet resting on a stand. (H: 18 cm.)
  5. Kitchen pottery of the Tellem culture with the paddle-and-anvil technique decorated with impressions from woven mats. (H: 20 cm.)

##### *II. Leather*

Objects of leather found in Tellem funerary caves of the Bandiagara Escarpment include, but are not limited to:

##### *A. Clothing.*

1. Sandals often decorated and furnished with a leather ankle protection.
2. Boots profusely painted with geometric designs.
3. Plaited bracelets.
4. Knife-sheaths.
5. Loinskin.
6. Bag.

##### *III. Metal*

Objects of metal from the region of the Niger River Valley and the Bandiagara Escarpment include the following components:

##### *A. Copper and Copper Alloy (Such as Bronze).*

1. Figures/Statues.
  - a. Anthropomorphic figures,

- including equestrian figures and kneeling figures. (Some are miniatures no taller than 2 inches; others range from 6 to 30 inches).
- b. Zoomorphic figures, such as the bull and the snake.
- 2. Bells (4–5 in.) and finger bells (2–3 in.).
- 3. Pendants, known to depict a bull's head or a snake. (H: 2–4 in.)
- 4. Bracelets, known to depict a snake (5–6 in.).
- 5. Bracelets, known to be shaped as a head and antelope (3–4 in.).
- B. Iron.
  - 1. Figures/Statues.
    - a. Anthropomorphic figures. (H: 5–30 in.)
    - b. Zoomorphic figures, sometimes representing a serpent. (H: 5–30 in.)
  - 2. Headrests of the Tellem culture.
  - 3. Ring-bells or fingerbells of the Tellem culture.
  - 4. Bracelets and armlets of the Tellem culture.
  - 5. Hairpins, twisted and voluted, of the Tellem culture.

IV. Stone

Objects of stone usually found in Tellem funerary caves of the Bandiagara Escarpment include, but are not limited to:

- A. Carnelian beads (faceted).
- B. Quartz lip plugs.

V. Glass Beads

Glass beads have been recovered in the Tellem funerary caves and in archaeological sites in the region of the Niger River Valley.

VI. Textiles

Textile objects, or fragments thereof, have been recovered in the Tellem funerary caves of the Bandiagara Escarpment and include, but are not limited to:

- A. Cotton.
  - 1. Tunics.
  - 2. Coifs.
  - 3. Blankets.
- B. Vegetable Fiber.
  - Skirts, aprons and belts—made of twisted and intricately plaited

- vegetable fiber.
- C. Wool.
  - Blankets.

VII. Wood

Objects of wood may be found archaeologically (in funerary caves of the Tellem or Dogon peoples in the Bandiagara Escarpment, for example).

Archaeological Material of Wood

Following are representative examples of wood objects usually found archaeologically:

- A. Figures/Statues.
  - 1. Anthropomorphic figures—usually with abstract body and arms raised standing on a platform, sometimes kneeling. (H: 10–24 in.)
  - 2. Zoomorphic figures—depicting horses and other animals. (H: 10–24 in.)
- B. Headrests.
- C. Household Utensils.
  - 1. Bowls.
  - 2. Spoons—carved and decorated.
- D. Agricultural/Hunting Implements.
  - 1. Hoes and axes—with either a socketed or tanged shafting without iron blades.
  - 2. Bows—with a notch and a hole at one end and a hole at the other with twisted, untanned leather straps for the “string”.
  - 3. Arrows, quivers.
  - 4. Knife sheaths.
- E. Musical Instruments.
  - 1. Flutes with end blown, bi-toned.
  - 2. Harps.
  - 3. Drums.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed Malian cultural property is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a “significant regulatory action” as described in E.O. 12866.

Drafting Information

The principal author of this document was Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citation for part 12, in part, continue to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*

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

\* \* \* \* \*

2. In § 12.104g, paragraph (a) the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended by adding Mali in appropriate alphabetical order as follows:

§ 12.104g [Amended]

State	Cultural property	T.D. No.
* * * * *	* * * * *	* * * * *
Mali .....	Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Sahara culture..	T.D. 97–80
* * * * *	* * * * *	* * * * *

3. In § 12.104(g), paragraph (b), the list of emergency actions imposing import restrictions on described articles of cultural property of State parties is amended by removing the entry for "Mali" in its entirety.

**Samuel H. Banks,**

*Acting Commissioner of Customs.*

Dated: September 12, 1997.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE TREASURY

### Customs Service Treasury Decisions

#### 19 CFR Part 134

[T.D. 97-79]

#### Country of Origin Marking Guidance for Containers of Imported Fruit Juice Concentrate

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Policy statement.

**SUMMARY:** The purpose of this document is to remind the public of the existing Customs Service's interpretation of the application of the country of origin marking law to imported fruit juice concentrate. Customs has previously published guidance on application of the marking law to imported juice concentrate in Treasury Decision (T.D.) 89-66. In recognition of the fact that accounting for all minor foreign sources on the label may make compliance with the marking law prohibitively expensive, fruit juice processors have been permitted to comply with marking requirements by "major supplier marking." Customs permits "major supplier marking" as an acceptable method of compliance. Processors may list up to ten countries if they account for at least 75 percent of foreign concentrate used. Additionally, the sources listed on a juice container must indicate the sources actually used in that lot, not the sources used in a representative past importing period. The full name of the country of origin must be used unless Customs has authorized abbreviations which unmistakably reflect the country of origin to the ultimate purchaser.

**FOR FURTHER INFORMATION CONTACT:** David Cohen, Special Classification and Marking Branch (202-482-6980).

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with 19 U.S.C. 1304, and 19 CFR Part 134, Customs ensures that imported fruit juice concentrate entering the U.S. in large containers, e.g., tanker cars and multi-gallon drums, is properly marked to show country of origin. However, the country of origin marking requirements set forth in this document are those pertaining to labeling that must appear on packages of concentrated or reconstituted fruit juice containing imported concentrate that reach ultimate purchasers. The purpose of this document is to remind the public of these requirements.

Customs Service Decision (C.S.D.) 85-47 (Headquarters Ruling Letter (HRL) 728557, dated September 4, 1985) held that containers of orange juice in frozen concentrated or reconstituted forms which contain imported concentrate, must be marked on the labels with the foreign country of origin of the products. This decision was based on the determination that the imported foreign orange juice concentrate used in the production of frozen concentrated or reconstituted orange juice is not substantially transformed after undergoing further processing in the U.S., including blending with other batches of orange concentrate, addition of water, oils and essences, pasteurization or freezing, and repacking. Customs determined that the frozen concentrated or reconstituted orange juice did not emerge from the processing as a new article with a new name, character, and use. *United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267, (C.A.D. 98) (1940).

By a notice published in the **Federal Register** on July 30, 1986 (51 FR 27195), Customs announced that the country of origin marking requirements of orange juice set forth in C.S.D. 85-47, later upheld substantively in *National Juice Products Association v. United States*, 10 Ct. Int'l Trade 48, 628 F. Supp. 978 (1986), were extended to include all other imported fruit juice concentrate which undergoes processing in the U.S. similar to that performed on orange juice concentrate. Therefore, all frozen concentrated or reconstituted fruit juices made with foreign concentrate processed in a manner similar to that described in C.S.D. 85-47 must be marked to indicate the country of origin of the foreign concentrate. This position has been in effect since February 1, 1987. T.D. 86-120 (51 FR 23045 (June 25, 1986)).

Customs does not require "all sources marking" on containers of juice made with imported concentrate. Customs

allows "major supplier marking" as an acceptable method of compliance for marking of imported juice concentrate. Major supplier marking permits processors to list up to ten foreign sources to account for 75 percent or more of imported concentrate. Customs concluded from previous consultations with those in the juice industry that in the majority of circumstances, five or fewer sources will account for at least 75 percent of foreign concentrate present in a lot, and that in virtually all cases, ten or fewer sources will account for 75 percent of the foreign concentrate. If ten sources do not amount to 75 percent of foreign concentrate, then all foreign sources must be listed. For purposes of complying with this requirement, "lot" is defined as it is in Food and Drug Administration regulations, 21 CFR 146.3(h)(1)(i), as "[a] collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade." "Manufactured or packed under similar conditions" is defined, for purposes of compliance with 19 U.S.C. 1304, as all the containers or units containing the same blend of foreign concentrates.

The listing of foreign sources must consist of the countries contributing the greatest percentages adding up to at least 75 percent. For example, processors may not skip over an "undesirable" source contributing 10 percent in order to list the next two "unobjectionable" sources contributing five percent each. However, the order within the list need not change based on ranking. For example, if a processor is blending foreign concentrates from two countries contributing 60 and 15 percent, respectively, and the two countries reversed proportions, the same label could be used on both lots.

In addition, Customs reminds the public that section 134.45, Customs Regulations (19 CFR 134.45), provides that:

Except as otherwise provided in \* \* \* this section, the markings required by this part shall include the full English name of the country of origin, unless another marking to indicate the English name of the country of origin is specifically authorized by the Commissioner of Customs \* \* \*.

Only authorized abbreviations which unmistakably indicate the name of a country, such as "Gt. Britain" for "Great Britain" or "Luxemb" and "Luxembg" for "Luxembourg" are acceptable and variant spellings which clearly indicate the English name of the country of origin, such as "Brasil" for "Brazil" and "Italie" for "Italy," are acceptable. Rulings may be obtained from the