

## § 12.104d

or, if not known, his belief, that the material was exported from the State Party not less than 10 years before the date of entry into the U.S. and the reasons on which the statement is based; and

(2) For purposes of paragraph (c) of this section—

(i) One or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under 19 U.S.C. 2604, and

(ii) A statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under 19 U.S.C. 2604, and the reasons on which the statement is based.

(e) *Related persons.* For purposes of paragraphs (b) and (d) of this section, a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) Is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) Is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) Is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

### § 12.104d Detention of articles; time in which to comply.

In the event an importer cannot produce the certificate, documentation, or evidence required in § 12.104c at the time of making entry, the port director shall take the designated archaeological or ethnological material into Customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the con-

## 19 CFR Ch. I (4-1-01 Edition)

signee until the certificate, documentation, or evidence is presented to such officer. The certificate, documentation, or evidence must be presented within 90 days after the date on which the material is taken into Customs custody, or such longer period as may be allowed by the port director for good cause shown.

### § 12.104e Seizure and forfeiture.

(a) Whenever any designated archaeological or ethnological material is imported into the U.S. in violation of 19 U.S.C. 2606, and the importer states in writing that he will not attempt to secure the certificate, documentation, or evidence required by § 12.104c, or such certificate, documentation, or evidence is not presented to the port director before the expiration of the time provided in § 12.104d, the material shall be seized and summarily forfeited to the U.S. in accordance with part 162 of this chapter.

(1) Any designated archaeological or ethnological material which is forfeited to the U.S. shall, in accordance with the provisions of Title III of Pub. L. 97-446, 19 U.S.C. 2609(b):

(i) First be offered for return to the State Party;

(ii) If not returned to the State Party be returned to a claimant with respect to whom the designated material was forfeited if that claimant establishes—

(A) Valid title to the material;

(B) That the claimant is a bona fide purchaser for value of the material; or

(iii) If not returned to the State Party under paragraph (a)(1)(i) of this section or to a claimant under paragraph (a)(1)(ii) of this section, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws. No return of material may be made under paragraph (a)(1) (i) or (ii) of this section unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(b) Whenever any stolen article of cultural property is imported into the U.S. in violation of 19 U.S.C. 2607, such cultural property shall be seized and

**United States Customs Service, Treasury**

**§ 12.104g**

forfeited to the U.S. in accordance with part 162 of this chapter.

(1) Any stolen article of cultural property which is forfeited to the U.S. shall, in accordance with the provisions of Title III of Pub. L. 97-446, 2609(c):

(i) First be offered for return to the State Party in whose territory is situated the institution referred to in 19 U.S.C. 2607 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(ii) If not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

**§ 12.104f Temporary disposition of materials and articles.**

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the U.S. in violation of 19 U.S.C. 2606 or 19 U.S.C. 2607, the Secretary may permit such material or article to be retained at a museum or other cultural or scientific institution in the U.S. if he finds that sufficient safeguards will

be taken by the museum or institution for the protection of such material or article; and sufficient bond is posted by the museum or institution to ensure its return to the Secretary.

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

(a) The following is a list of agreements imposing import restrictions on the described articles of cultural property of State Parties. The listed Treasury Decision contains the Designated Listing with a complete description of specific items or categories of archaeological or ethnological material designated by the agreement as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. Any such extension is indicated in the listing.

State party	Cultural Property	T.D. No.
Canada .....	Archaeological artifacts and ethnological material culture of Canadian origin.	T.D. 97-31
El Salvador .....	Archaeological material representing Prehispanic cultures of El Salvador.	T.D. 95-20 extended by T.D. 00-16
Guatemala .....	Archaeological material from sites in the Peten Lowlands of Guatemala, and related Pre-Columbian material from the Highlands and the Southern Coast of Guatemala.	T.D. 97-81
Italy .....	Archaeological Material of pre-Classical, Classical, and Imperial Roman periods ranging approximately from the 9th century B.C. to the 4th century A.D..	T.D. 01-06
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
Nicaragua .....	Archaeological material of pre-Columbian cultures ranging approximately from 8000 B.C. to 1500 A.D.	T.D. 00-75
Peru .....	Archaeological artifacts and ethnological material from Peru ..	T.D. 97-50

(b) The following is a list of emergency actions imposing import restrictions on the described articles of cultural property of State Parties. The listed Treasury Decision contains a complete description of specific items or categories of archaeological or ethnological material designated by the

emergency actions as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years from the date on which the State Party requested those restrictions. This period may be extended for three more