

**§ 12.103 Report to the U.S. Attorney.**

Should circumstances and facts of the import transaction show evidence of deliberate violation of 15 U.S.C. 1241 through 1245, so as to present a question of criminal liability, the evidence, accompanied by reports of investigative disclosures, findings, and recommendation, shall be transmitted to the U.S. Attorney for consideration of criminal prosecution. The port director shall hold the seized switchblade knives intact pending disposition of the case.

[T.D. 71-243, 36 FR 18860, Sept. 23, 1971, as amended by T.D. 72-81, 37 FR 5364, Mar. 15, 1972; T.D. 90-50, 55 FR 28192, July 10, 1990]

## CULTURAL PROPERTY

SOURCE: Sections 12.104 through 12.104i were issued under T.D. 86-52, 51 FR 6907, Feb. 27, 1986, unless otherwise noted.

**§ 12.104 Definitions.**

For purposes of §§ 12.104 through 12.104i:

(a) The term, *archaeological or ethnological material of the State Party* to the 1970 UNESCO Convention means—

(1) Any object of archaeological interest. No object may be considered to be an object of archaeological interest unless such subject—

(i) Is of cultural significance;

(ii) Is at least 250 years old; and

(iii) Was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; or in addition to paragraphs (a)(1) (i) and (ii) of this section;

(iv) Meets such standards as are generally acceptable as archaeological such as, but not limited to, artifacts, buildings, parts of buildings, or decorative elements, without regard to whether the particular objects are discovered by exploration or excavation;

(2) Any object of ethnological interest. No object may be considered to be an object of ethnological interest unless such object—

(i) Is the product of a tribal or non-industrial society, and

(ii) Is important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowl-

edge of the origins, development or history of that people;

(3) Any fragment or part of any object referred to in paragraph (a) (1) or (2) of this section which was first discovered within, and is subject to export control by the State Party.

(b) The term *Convention* means the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session (823 U.N.T.S. 231 (1972)).

(c) The term *cultural property* includes articles described in Article 1 (a) through (k) of the Convention, whether or not any such article is specifically designated by any State Party for the purposes of Article 1. Article 1 lists the following categories:

(1) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;

(2) Property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;

(3) Products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;

(4) Elements of artistic or historical monuments or archaeological sites which have been dismembered;

(5) Antiquities more than 100 years old, such as inscriptions, coins and engraved seals;

(6) Objects of ethnological interest;

(7) Property of artistic interest, such as:

(i) Pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);

(ii) Original works of statuary art and sculpture in any material;

(iii) Original engravings, prints and lithographs;

(iv) Original artistic assemblages and montages in any material;

(8) Rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic,

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scientific, literary, etc.) singly or in collections;

(9) Postage, revenue and similar stamps, singly or in collections;

(10) Archives, including sound, photographic and cinematographic archives;

(11) Articles of furniture more than 100 years old and old musical instruments.

(d) The term *designated archaeological or ethnological material* means any archaeological or ethnological material of the State Party which—

(1) Is—

(i) Covered by an agreement under 19 U.S.C. 2602 that enters into force with respect to the U.S., or

(ii) Subject to emergency action under 19 U.S.C. 2603 and

(2) Is listed by regulation under 19 U.S.C. 2604.

(e) The term *museum* means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis (Museum Services Act; Pub. L. 94-462; 20 U.S.C. 968). For the purposes of these regulations, the term *recognized museum* under the Cultural Property Implementation Act shall be synonymous with *museum*.

(f) The term *Secretary* means the Secretary of the Treasury or his delegate, the Commissioner of Customs.

(g) The term *State Party* means any nation which has ratified, accepted, or acceded to the 1970 UNESCO Convention.

(h) The term *United States* or *U.S.*, includes the customs territory of the United States, the U.S. Virgin Islands and any territory or area the foreign relations for which the U.S. is responsible.

[T.D. 86-52, 51 FR 6907, Feb. 27, 1986; 51 FR 15316, Apr. 23, 1986; 51 FR 17332, May 12, 1986]

§ 12.104a Importations prohibited.

(a) No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which was stolen from such museum, monument, or institution after April 12, 1983, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the U.S.

(b) No archaeological or ethnological material designated pursuant to 19 U.S.C. 2604 and listed in §12.104g, that is exported (whether or not such exportation is to the U.S.) from the State Party after the designation of such material under 19 U.S.C. 2604 may be imported into the U.S. unless the State Party issues a certificate or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

§ 12.104b State Parties to the Convention.

(a) The following is a list of State Parties which have deposited an instrument of ratification, acceptance, accession or succession, the date of such deposit and the date of entry into force for each State Party:

State party	Date of deposit	Date of entry into force
Algeria .....	June 24, 1974 (R) .....	Sept. 24, 1974.
Angola .....	Nov. 7, 1991 (R) .....	Feb. 7, 1992.
Argentina .....	Jan. 11, 1973 (R) .....	Apr. 11, 1973.
Armenia, Republic of .....	Sept. 5, 1993 (S) .....	See Note 1.
Australia .....	Oct. 30, 1989 (Ac) .....	Jan. 30, 1990.
Bangladesh .....	Dec. 9, 1987 (R) .....	Mar. 9, 1988.
Belarus .....	Apr. 28, 1988 (R) .....	July 28, 1988.
Belize .....	Jan. 26, 1990 (R) .....	Apr. 26, 1990.
Bolivia .....	Oct. 4, 1976 (R) .....	Jan. 4, 1977.
Bosnia-Herzegovina .....	July 12, 1993 (S) .....	See Note 2.
Brazil .....	Feb. 16, 1973 (R) .....	May 16, 1973.
Bulgaria .....	Sept. 15, 1971 (R) .....	Apr. 24, 1972.
Burkina Faso .....	Apr. 7, 1987 (R) .....	July 7, 1987.
Cambodia .....	Sept. 26, 1972 (R) .....	Dec. 26, 1972.
Cameroon .....	May 24, 1972 (R) .....	Aug. 24, 1972.
Canada .....	Mar. 28, 1978 (Ac) .....	June 28, 1978.
Central African Republic .....	Feb. 1, 1972 (R) .....	May 1, 1972.
China, People's Republic of .....	Nov. 28, 1989 (Ac) .....	Feb. 28, 1990.