

106TH CONGRESS
1ST SESSION

S. 1696

To amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 1999

Mr. MOYNIHAN (for himself, Mr. ROTH and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cultural Property Pro-
5 cedural Reform Act”.

6 **SEC. 2. PROCEDURAL REQUIREMENTS.**

7 (a) IN GENERAL.—Section 303(f) of the Convention
8 on Cultural Property Implementation Act (19 U.S.C.
9 2602(f)) is amended to read as follows:

1 “(f) PROCEDURES.—

2 “(1) IN GENERAL.—In the case of any request
3 described in subsection (a) made by a State Party
4 or in the case of a proposal by the President to ex-
5 tend any agreement under subsection (e), the Presi-
6 dent shall—

7 “(A) publish notification of the request or
8 proposal in the Federal Register;

9 “(B) submit to the Committee such infor-
10 mation regarding the request or proposal (in-
11 cluding, if applicable, information from the
12 State Party with respect to the implementation
13 of emergency action under section 304) as is
14 appropriate to enable the Committee to carry
15 out its duties under section 306;

16 “(C) provide interested parties an oppor-
17 tunity to comment on the findings and rec-
18 ommendations of the Committee; and

19 “(D) consider, in taking action on the re-
20 quest or proposal, the views and recommenda-
21 tions contained in any Committee report—

22 “(i) required under section 306(f) (1)
23 or (2); and

24 “(ii) submitted to the President before
25 the close of the 150-day period beginning

1 on the day on which the President sub-
2 mitted information on the request or pro-
3 posal to the Committee under subpara-
4 graph (B).

5 “(2) CONTENT OF NOTICE.—Each notice re-
6 quired by paragraph (1)(A) shall include a state-
7 ment of the relief sought by the State Party, a de-
8 tailed description of the archaeological or ethno-
9 logical material that the State Party seeks to pro-
10 tect, and a comprehensive description of the evidence
11 submitted in support of the request.”.

12 (b) PROCEEDINGS BEFORE COMMITTEE.—Section
13 306(f)(1) of the Convention on Cultural Property Imple-
14 mentation Act (19 U.S.C. 2605(f)(1)) is amended to read
15 as follows:

16 “(1) The Committee shall, with respect to each
17 request by a State Party referred to in section
18 303(a), undertake a fact-finding investigation and a
19 deliberative review with respect to matters referred
20 to in section 303(a)(1) as the matters relate to the
21 State Party or the request. The Committee shall
22 provide notice and opportunity for comment to all
23 interested parties in the fact-finding phase of the
24 Committee’s actions. The Committee shall prepare

1 and publish in the Federal Register a report setting
2 forth—

3 “(A) the results of the investigation and
4 review and its findings with respect to each of
5 the criteria described in section 303(a)(1);

6 “(B) the Committee’s findings as to the
7 nations individually having a significant import
8 trade in the relevant material; and

9 “(C) the Committee’s recommendation, to-
10 gether with the reasons therefore, as to whether
11 an agreement should be entered into under sec-
12 tion 303(a) with respect to the State Party.”.

13 (c) IMPORT RESTRICTIONS.—Section 303(a)(1) of
14 such Act (19 U.S.C. 2602(a)(1)) is amended—

15 (1) by amending subparagraph (A) to read as
16 follows:

17 “(A) that particular objects of the cultural
18 patrimony of the State Party are in jeopardy
19 from pillaging of archaeological or ethnological
20 materials of the State Party;”; and

21 (2) by adding at the end the following: “Histor-
22 ical evidence of pillaging shall not be sufficient to
23 make a determination under subparagraph (A).”.

24 (d) CONTINUING REVIEW.—Section 306(g) of such
25 Act (19 U.S.C. 2605(g)) is amended—

1 (1) in paragraph (1), by striking “a con-
2 tinuing” and inserting “an annual”;

3 (2) by amending paragraph (2) to read as fol-
4 lows:

5 “(2) ACTION BY COMMITTEE.—

6 “(A) IN GENERAL.—If the Committee
7 finds, as a result of such review, that—

8 “(i) cause exists under section 303(d)
9 for suspending the import restrictions im-
10 posed under an agreement,

11 “(ii) any agreement or emergency ac-
12 tion is not achieving the purposes for
13 which the agreement or action was entered
14 into or implemented, or

15 “(iii) changes are required to this title
16 in order to implement fully the obligations
17 of the United States under the Convention,
18 the Committee shall submit to Congress and
19 the President and publish in the Federal Reg-
20 ister a report setting forth the Committee’s rec-
21 ommendations for suspending such import re-
22 strictions or for improving the effectiveness of
23 any such agreement or emergency action or this
24 title.

1 “(B) AGREEMENTS REVIEWED WHERE NO
2 ACTION PROPOSED.—In any case in which the
3 Committee undertakes a review but concludes
4 that the agreement meets the applicable statu-
5 tory criteria of effectiveness, the Committee
6 shall submit to Congress and the President and
7 publish in the Federal Register a report setting
8 forth the Committee’s findings and conclusions
9 as to the effectiveness of the agreement.

10 “(C) AGREEMENTS NOT REVIEWED.—The
11 report required by subparagraph (A) shall con-
12 tain a list of any agreement not reviewed dur-
13 ing the year preceding the submission of the re-
14 port and the reasons why such agreement was
15 not reviewed.”; and

16 (3) by adding at the end the following new
17 paragraph:

18 “(3) REQUIREMENTS FOR REVIEW.—In each
19 annual review conducted under this subsection, the
20 Committee shall—

21 “(A) undertake a fact-finding investigation
22 and a deliberative review with respect to the ef-
23 fectiveness of the agreement under review;

1 “(B) provide notice and opportunity for
 2 comment to all interested parties in the fact-
 3 finding phase of Committee’s action; and

4 “(C) publish notice of the review in the
 5 Federal Register that includes a detailed de-
 6 scription of the information submitted to the
 7 Committee concerning the effectiveness of the
 8 agreement.”.

9 (e) MULTINATIONAL RESPONSE.—Section 303(g)(2)
 10 of such Act (19 U.S.C. 2602(g)(2)) is amended—

11 (1) by striking “and” at the end of subpara-
 12 graph (B);

13 (2) by striking the period at the end of sub-
 14 paragraph (C) and inserting “, and”; and

15 (3) by adding at the end the following new sub-
 16 paragraph:

17 “(D) if the President determines that the
 18 application of import restrictions by other na-
 19 tions, as required by subsection (c)(1), is not
 20 essential to deter a serious situation of pillage,
 21 the reasons for such determination.”.

22 (f) CONSULTATION BY COMMITTEE MEMBERS.—Sec-
 23 tion 306(e) of such Act (19 U.S.C. 2605(e)) is amended
 24 by adding at the end the following new paragraph:

1 “(3) Members of the Committee may consult
2 with any person to obtain expert advice and may, in
3 such consultations, share information obtained from
4 a country in support of the request filed under this
5 title to the extent that the information is otherwise
6 publicly available. Any consultations conducted pur-
7 suant to this paragraph shall be reported in the
8 record of the Committee’s actions.”.

9 **SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE.**

10 (a) IN GENERAL.—Section 306(b)(1) (B) and (C) of
11 the Convention on Cultural Property Implementation Act
12 (19 U.S.C. 2605(b)(1) (B) and (C)) are amended to read
13 as follows:

14 “(B) Three members who shall represent
15 the fields of archaeology, anthropology, eth-
16 nology, or related areas.

17 “(C) Three members who shall represent
18 the international sale of archaeological, ethno-
19 logical, and other cultural property.”.

20 (b) CONFLICT OF INTEREST PROVISIONS.—Section
21 306(b) of the Convention on Cultural Property Implemen-
22 tation Act (19 U.S.C. 2605(b)) is amended by adding at
23 the end the following new paragraph:

24 “(4) Members of the Committee who are not
25 otherwise officers or employees of the Federal Gov-

1 ernment shall serve in a representative capacity and
2 shall not be considered officers, employees, or special
3 Government employees for any purpose.”.

4 (c) APPLICATION OF FEDERAL ADVISORY COM-
5 MITTEE ACT.—Section 306(h) of the Convention on Cul-
6 tural Property Implementation Act (19 U.S.C. 2605(h))
7 is amended to read as follows:

8 “(h) FEDERAL ADVISORY COMMITTEE ACT.—In
9 order to provide for open meetings and public participa-
10 tion, the provisions of the Federal Advisory Committee
11 Act (Public Law 92–463; 5 U.S.C. App.) shall apply to
12 the fact-finding phase of the Committee’s actions includ-
13 ing the requirements of subsections (a) and (b) of section
14 10 and section 11 (relating to open meetings, public no-
15 tice, public participation, and public availability of docu-
16 ments). The requirements of subsections (a) and (b) of
17 section 10 and section 11 shall not apply to the delibera-
18 tive phase of the Committee’s actions if it is determined
19 by the President or the President’s designee that the dis-
20 closure of matters involved in the Committee’s delibera-
21 tions would compromise the Government’s negotiating ob-
22 jectives or bargaining positions on the negotiation of any
23 agreement authorized by this title.”.

1 **SEC. 4. TECHNICAL AMENDMENTS.**

2 (a) Sections 306(e) (1) and (2), 306(i)(1)(A) and
3 306(i)(2) of the Convention on Cultural Property Imple-
4 mentation Act (19 U.S.C. 2605(e) (1) and (2),
5 2605(i)(1)(A), and 2605(i)(2)) are each amended by strik-
6 ing “Director of the United States Information Agency”
7 each place it appears and inserting “Secretary of State”.

8 (b) Section 305 of the Convention on Cultural Prop-
9 erty Implementation Act (19 U.S.C. 2604) is amended—
10 (1) in the first sentence, by inserting “, after
11 consultation with the Secretary of State,” after
12 “Secretary”; and
13 (2) in the second sentence, by striking “archeo-
14 logical” and inserting “archaeological”.

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