

108TH CONGRESS
1ST SESSION

H. R. 3497

To provide for the recovery, restitution, and protection of the cultural heritage
of Iraq.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2003

Mr. ENGLISH (for himself and Mr. LEACH) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To provide for the recovery, restitution, and protection of
the cultural heritage of Iraq.

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 “Iraq Cultural Heritage
5 Protection Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) cultural property is defined by the 1954
9 Hague Convention for the Protection of Cultural
10 Property in the Event of Armed Conflict as “mov-

1 able or immovable property of great importance to
2 the cultural heritage of every people, such as monu-
3 ments of architecture, art or history . . .; archae-
4 ological sites; groups of buildings which, as a whole,
5 are of historical or artistic interest; works of art;
6 manuscripts, books and other objects of artistic, his-
7 torical or archaeological interest; as well as scientific
8 collections and important collections of books or ar-
9 chives . . .”;

10 (2) the region of present day Iraq (ancient
11 Mesopotamia), located between the Tigris and Eu-
12 phrates rivers, is known as the “Cradle of Civiliza-
13 tion”, the birthplace of numerous societies that
14 moved civilization from prehistory to history, and
15 the native land of many Biblical and Koranic events;

16 (3) the cities and rural areas of Iraq are home
17 to some of the oldest human settlements in the
18 world as well as more than 10,000 identified archae-
19 ological sites of cultural and historical importance
20 and tens of thousands of other unexcavated sites;

21 (4) Iraq continues to serve as one of the prime
22 centers of Islamic art and culture;

23 (5) in the 4th millennium B.C., long before the
24 emergence of Greek or Roman culture, the Sumerian
25 culture flourished in the region of present day Iraq,

1 inventing the wheel, the first plow, the first ever so-
2 phisticated irrigation system, the earliest form of
3 writing (cuneiform), and the first used calendar;

4 (6) southern Iraq is home to the site of the an-
5 cient Sumerian city of Uruk, known to many as the
6 first true civilized city and home to the legendary
7 King Gilgamesh who built the city's famous great
8 wall;

9 (7) the city of Ur, which flourished in the 3rd
10 millennium B.C., and is partially excavated but yet
11 to be completely uncovered, is said to be the birth-
12 place of Abraham;

13 (8) Qurna at the junction of the Tigris and Eu-
14 phrates Rivers is said to be the possible location of
15 the Garden of Eden;

16 (9) the city of Ur holds one of the world's old-
17 est and most important ziggurats, a high rising tem-
18 ple of sunbaked and oven baked brick with outside
19 staircases leading to the shrine on top and associ-
20 ated temples, partially excavated but yet to be com-
21 pletely uncovered;

22 (10) the city of Ur is the location of one of the
23 greatest archaeological finds of the 20th century, a
24 cemetery in which ancient Sumerian royalty were

1 buried along with their servants and extravagant
2 treasures;

3 (11) near the city of Ur is the archaeological
4 site of Tel Al-Ubaid, where ancient pottery and
5 sculptures dating back to 4,500 B.C. were un-
6 earthed;

7 (12) the Akkadian Empire ruled the region of
8 present day Iraq in the 3rd millennium B.C. and de-
9 veloped new systems of weights and measures as
10 well as some of the highest quality works of art;

11 (13) the Babylonian people briefly ruled the re-
12 gion of present day Iraq in the 2nd millennium B.C.
13 and developed the capital city of Babylon which be-
14 came the commercial and cultural center of the Mid-
15 dle East for 2000 years;

16 (14) the city of Babylon, flourishing from ap-
17 proximately 1700 to the 6th century B.C., was the
18 center of operations for historical leaders such as
19 Hammurabi and Nebuchadnezzar;

20 (15) Hammurabi of Babylon promulgated a fa-
21 mous law code that provided precedents for both the
22 Biblical Ten Commandments and later legal codes;

23 (16) Babylon was home to the captive Israelites
24 in the 6th century B.C. according to the Biblical
25 book of Second Kings and the location of great ar-

1 chaeological finds including the Ishtar Gate, an
2 enormous brick entryway into the ancient city, and
3 famous as the site of the Hanging Gardens, one of
4 the Seven Wonders of the World, and the Biblically-
5 referenced Tower of Babel;

6 (17) the site of Nippur, approximately 100
7 miles south of Babylon, has yielded a vast collection
8 of clay tablets with cuneiform writing, including the
9 oldest known record of a murder trial, dating back
10 to 1850 B.C.;

11 (18) in 762 A.D., the city of Baghdad, founded
12 under the rule of al-Mansur, the second caliph of the
13 Abbasid dynasty, was the central commercial, cul-
14 tural, philosophical, and intellectual capital of the
15 world during the 9th century and for a time the cen-
16 ter of an empire that stretched from Central Asia to
17 Spain;

18 (19) the city of Baghdad contains the
19 Kadhimain mosque, the shrines of Abu Hanifa and
20 Abd al-Qader al-Gailani, and many other medieval
21 buildings, including other tombs, mosques, minarets,
22 and the 13th century Mustansiriya University (an
23 Islamic law school);

24 (20) located sixty miles north of Baghdad is the
25 Abbasid city of Samarra, the home to the famous

1 Great Mosque, as well as the Abu Dalaf mosque
2 with a spiral minaret, and other important buildings
3 dating from 800–1200 A.D.;

4 (21) in the modern city of Samarra, the tombs
5 of the Tenth and Eleventh Caliphs, as well as the
6 portal for the return of the Twelfth Caliph, are of
7 great significance for a major segment of Shi'a
8 Islam;

9 (22) the tombs of the Fourth Caliph Ali and his
10 son Husayn are located in Najaf and Karbala (re-
11 spectively), which are the two most holy cities of the
12 Shiite branch of Islam;

13 (23) located in Iraq's third largest city, Mosul,
14 are a Great Mosque, dating from the late 9th or
15 early 10th century A.D., and nearby an ancient
16 leaning brick minaret, that is all that is left of an
17 Ommayyad mosque dating from 640 A.D.;

18 (24) in the city of Mosul is located the site of
19 the ancient Assyrian city of Nineveh, which is ref-
20 erenced by the Biblical prophet Zephaniah, was the
21 site of the prophet Jonah's sermons, and includes
22 royal Assyrian palaces and more than 20,000 cune-
23 iform tablets from King Ashurbanipal's library;

24 (25) south of the city of Mosul is located the
25 ancient Assyrian capital of Nimrud, the Biblical

1 Calah, site of the best-preserved Assyrian palace, in
2 which were found rich royal tombs of Assyrian
3 queens in 1989;

4 (26) near Mosul are also located the Assyrian
5 capitals of Ashur and Khorsabad, in which have
6 been excavated priceless treasures, including colossal
7 human-headed winged bulls;

8 (27) the city of Ashur and another capital, Kar
9 Tukulti Ninurta, across the Tigris have remains of
10 three palaces and hold great works of art from the
11 royal Assyrian workshops of the 13th century B.C.,
12 residences of merchants from the 18th century B.C.,
13 and temples built before the 21st century B.C.,
14 many of which have not yet been excavated;

15 (28) the site of the ancient city of Hatra, lo-
16 cated west of Mosul, is known as the “City of the
17 Sun” which holds many archaeological remains, es-
18 pecially Parthian artifacts, and served as a trade
19 and military route along the Wadi Tharthar;

20 (29) located at the site of the Parthian and
21 later Sassanian capital of Ctesiphon, 20 miles south-
22 east of Baghdad, are the remains of a gigantic
23 vaulted hall, the Taq Kisra, which has one of the
24 largest single-span brick arches in the world and is
25 extremely fragile;

1 (30) it should be recognized that the aforemen-
2 tioned Iraqi cities and archaeological sites comprise
3 a representative but not comprehensive list of endan-
4 gered cultural antiquities;

5 (31) despite extensive efforts by U.S. and coal-
6 tion forces to limit damage to archaeological and
7 cultural sites during Operation Iraqi Freedom,
8 looting has been widespread in the aftermath of the
9 military conflict. Thousands of items are reported
10 missing from the National Museum, the Archives,
11 Library and the modern art museum in Baghdad,
12 and large-scale looting has occurred at numerous re-
13 corded and unrecorded archaeological sites, including
14 Adab, Umm al-Aqarib, Isin, Larsa, Nippur,
15 Zabalam, Shuruppak, and Umm al-Hafriyat.

16 **SEC. 3. DEFINITIONS.**

17 In this Act—

18 (1) the term “archaeological material of
19 Iraq”—

20 (A) means any object or fragment or part
21 of an object that was first found within the bor-
22 ders of Iraq and that—

23 (i) was built, manufactured, sculpted,
24 produced, or written by humans;

25 (ii) is at least 100 years old; and

1 (iii) was discovered as a result of sci-
2 entific excavation, illegal or clandestine
3 digging, accidental discovery, or explo-
4 ration on land or under water;

5 (B) includes all human and animal skeletal
6 remains, as well as floral and botanical remains,
7 that are found in association with archae-
8 ological material described in subparagraph (A);
9 and

10 (C) does not include any coin or coin-like
11 object that is less than 250 years old;

12 (2) the term “coin or coin-like object” means
13 any piece of gold, silver, or other metal or material,
14 that is—

15 (A) fashioned into a prescribed shape,
16 weight, or degree of fineness, and

17 (B) stamped or embellished with a device,
18 by the authority of a government or govern-
19 mental or quasi-public authority in order that
20 the piece may circulate as currency;

21 (3) the term “cultural material of Iraq” means
22 any object, regardless of age, including manuscripts,
23 and materials used for traditional or religious cere-
24 monial purposes, or a fragment or part of an object,
25 that was, on or after August 2, 1990, in the care

1 of Iraq's cultural or religious institutions and is of
2 historic, artistic, religious, scientific, or cultural in-
3 terest.

4 **SEC. 4. IMPORT RESTRICTION.**

5 (a) IMPORT PROHIBITION.—No archaeological mate-
6 rial of Iraq or cultural material of Iraq that was removed
7 from Iraq after Executive Order 12722 of August 2, 1990,
8 was issued may be imported into the United States, unless
9 the Bureau of Customs and Border Protection of the De-
10 partment of Homeland Security determines that expor-
11 tation of the material from Iraq was lawful pursuant to
12 a valid certification or other documentation issued by the
13 appropriate governing authority in Iraq certifying that the
14 exportation of the material was not in violation of the laws
15 of Iraq.

16 (b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTA-
17 TION.—If the consignee of any archaeological material of
18 Iraq or cultural material of Iraq is unable to present to
19 the appropriate customs officer at the time of making
20 entry of such material the certification or other docu-
21 mentation by the appropriate governing authority in Iraq
22 required under subsection (a), the customs officer shall de-
23 tain the material, and shall send it to a bonded warehouse
24 or store to be held at the risk and expense of the con-
25 signee, notwithstanding any other provision of law, until

1 such certification or other documentation is filed with such
2 officer. If such certification or other documentation is not
3 presented within 90 days after the date on which such ma-
4 terial is detained, or such longer period as may be allowed
5 by the Secretary of Homeland Security for good cause
6 shown, the material shall be subject to seizure and for-
7 feiture.

8 (c) LIFTING OF IMPORT PROHIBITIONS.—The import
9 prohibitions imposed under this Act on archaeological or
10 cultural material of Iraq shall cease to be effective with
11 respect to archaeological or cultural material that is re-
12 moved from Iraq at the end of the 6-month period begin-
13 ning on the date on which paragraph 7 of United Nations
14 Security Council Resolution 1483, adopted on May 22,
15 2003, ceases to be effective or is suspended pursuant to
16 a decision of the United Nations Security Council.

17 **SEC. 5. FORFEITURE OF UNLAWFUL IMPORTS.**

18 (a) SEIZURE.—Archaeological material of Iraq or cul-
19 tural material of Iraq that is imported into the United
20 States in violation of this Act shall be seized and subject
21 to forfeiture under the customs laws of the United States.
22 All provisions of law relating to seizure, forfeiture, and
23 condemnation for violation of the customs laws shall apply
24 to seizures and forfeitures under this Act, insofar as those

1 provisions of law are applicable to, and not inconsistent
 2 with, the provisions of this Act.

3 (b) DISPOSITION OF ARTICLES.—Any archaeological
 4 material of Iraq or cultural material of Iraq that is for-
 5 feited to the United States under this Act shall be re-
 6 turned to the country of Iraq.

7 **SEC. 6. COUNTRY OF ORIGIN.**

8 In applying the Tariff Act of 1930 or any other provi-
 9 sion of the customs laws of the United States to an article
 10 that is an object, or fragment of an object, discovered as
 11 a result of scientific excavation, illegal or clandestine
 12 digging, accidental discovery, or exploration on land or
 13 under water, the country of origin of the object or frag-
 14 ment is the country within whose borders, as they exist
 15 at the time the object or fragment is imported, or at-
 16 tempted to be imported, into the United States, the object
 17 or fragment was first discovered or excavated.

18 **SEC. 7. AMENDMENTS TO CONVENTION ON CULTURAL**
 19 **PROPERTY IMPLEMENTATION ACT.**

20 (a) DEFINITION OF ARCHAEOLOGICAL OR ETHNO-
 21 LOGICAL MATERIAL.—Section 302 of the Convention on
 22 Cultural Property Implementation Act (19 U.S.C. 2601)
 23 is amended—

24 (1) in paragraph (2)(i)—

1 (A) by amending subclause (II) to read as
2 follows:

3 “(II) subject to subclause (IV), is at
4 least 100 years old”; and

5 (B) by inserting after subclause (III) the
6 following:

7 “(IV) in the case of any coin or coin-
8 like object, is at least 250 years old; and”;

9 (2) by redesignating paragraphs (3) through
10 (11) as paragraphs (4) through (12), respectively;
11 and

12 (3) by inserting after paragraph (2) the fol-
13 lowing:

14 “(3) The term ‘coin or coin-like object’ means
15 any piece of gold, silver, or other metal or material,
16 that is—

17 “(A) fashioned into a prescribed shape,
18 weight, or degree of fineness, and

19 “(B) stamped or embellished with a device,
20 by the authority of a government or governmental or
21 quasi-public authority in order that the piece may
22 circulate as currency.”.

23 (b) EMERGENCY IMPLEMENTATION OF IMPORT RE-
24 STRICTIONS.—Section 304 of the Convention on Cultural

1 Property Implementation Act (19 U.S.C. 2603) is amend-
2 ed—

3 (1) by striking “State Party” each place it ap-
4 pears and inserting “country”; and

5 (2) in subsection (c)—

6 (A) by striking paragraphs (1) and (2);
7 and

8 (B) by striking paragraph (3) and insert-
9 ing the following:

10 “(1) No import restrictions under section 307
11 may be applied under this section to the archae-
12 ological or ethnological materials of any country for
13 more than 10 years after the date on which the no-
14 tice in the Federal Register imposing such restric-
15 tions is published. Such 10-year period may be ex-
16 tended by the President for additional periods if the
17 President determines that the emergency condition
18 continues to apply with respect to the archaeological
19 or ethnological material.”; and

20 (B) in paragraph (4)—

21 (i) by redesignating such paragraph
22 as paragraph (2); and

23 (ii) by striking “paragraph (3)” and
24 inserting “paragraph (1)”.

1 (c) CULTURAL PROPERTY ADVISORY COMMITTEE.—

2 Section 306 of the Convention on Cultural Property Im-
3 plementation Act (19 U.S.C. 2605) is amended—

4 (1) in subsection (b)(1)—

5 (A) by striking “eleven” and inserting
6 “thirteen”;

7 (B) in subparagraph (A), by striking
8 “Two” and inserting “Three”; and

9 (C) by adding at the end the following:

10 “(E) One member who shall be an expert
11 in the field of conservation of archaeological or
12 ethnological artifacts, sites, or related areas.”;

13 (2) in subsection (d), by striking “Six” and in-
14 serting “Seven”;

15 (3) in subsection (f)—

16 (A) by striking paragraph (3) and redesign-
17 ating paragraphs (4) through (6) as para-
18 graphs (3) through (5), respectively; and

19 (B) in paragraph (3), as so redesignated—

20 (i) by striking “or the implementation
21 of emergency action under section 304”;
22 and

23 (ii) in subparagraph (B), by striking
24 “or action”.

1 (d) CONFORMING AMENDMENTS.—The Convention
2 on Cultural Property Implementation Act is amended—

3 (1) in section 302 (19 U.S.C. 2601)—

4 (A) in paragraph (2)—

5 (i) by amending the matter preceding
6 subparagraph (A) to read as follows:

7 “(2) The term ‘archaeological or ethnological
8 material’ of a State Party or other country means—
9 ”; and

10 (ii) in the matter following subpara-
11 graph (C), by inserting “or other country”
12 after “State Party”; and

13 (B) in paragraph (8), as redesignated by
14 subsection (a)(2) of this section, by inserting
15 “or another country” after “State Party”;

16 (2) in section 305 (19 U.S.C. 2604) in the first
17 sentence, by striking “by such action” and inserting
18 “the country covered by such action”;

19 (3) in section 307 (19 U.S.C. 2606)—

20 (A) in subsection (a)—

21 (i) by striking “the State Party” the
22 first place it appears and inserting “the
23 country concerned”; and

1 (ii) by striking “the State Party” each
 2 subsequent place it appears and inserting
 3 “that country”; and

4 (B) in subsections (b) and (c), by striking
 5 “the State Party” each place it appears and in-
 6 serting “the country concerned”;

7 (4) in section 310(b) (19 U.S.C. 2609(b)) by
 8 striking “State Party” each place it appears and in-
 9 serting “country concerned”; and

10 (5) in section 312(2)(C) (19 U.S.C.
 11 2611(2)(C)), by striking “State Party” and insert-
 12 ing “country”.

13 (e) EXTENSION OF AGREEMENTS.—

14 (1) EXTENSION.—Section 303 of the Conven-
 15 tion on Cultural Property Implementation Act (19
 16 U.S.C. 2602) is amended—

17 (A) in subsection (b), by striking “five-
 18 year” and inserting “10-year”; and

19 (B) in subsection (e), by striking “five
 20 years” and inserting “10 years”.

21 (2) EXISTING AGREEMENTS.—Any agreement
 22 that is entered into under section 303(a) of the Con-
 23 vention on Cultural Property Implementation Act
 24 before the date of enactment of this Act and is in
 25 effect on such date of the enactment, shall be effec-

1 tive for a period of ten years beginning on the date
2 on which the agreement entered into force with re-
3 spect to the United States.

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