

CHAPTER 14—CONVENTION ON CULTURAL PROPERTY

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§ 2601. Definitions

For purposes of this chapter—

(1) The term “agreement” includes any amendment to, or extension of, any agreement under this chapter that enters into force with respect to the United States.

(2) The term “archaeological or ethnological material of the State Party” means—

- (A) any object of archaeological interest;
- (B) any object of ethnological interest; or
- (C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

- (I) is of cultural significance;
- (II) is at least two hundred and fifty years old; and
- (III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

- (I) the product of a tribal or nonindustrial society, and
- (II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term “Committee” means the Cultural Property Advisory Committee established under section 2605 of this title.

(4) The term “consignee” means a consignee as defined in section 1483¹ of this title.

(5) 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.

(6) 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 as such by any State Party for the purposes of such article.

(7) The term “designated archaeological or ethnological material” means any archaeological or ethnological material of the State Party which—

- (A) is—
 - (i) covered by an agreement under this chapter that enters into force with respect to the United States, or
 - (ii) subject to emergency action under section 2603 of this title, and

(B) is listed by regulation under section 2604 of this title.

(8) The term “Secretary” means the Secretary of the Treasury or his delegate.

(9) The term “State Party” means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term “United States” includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term “United States citizen” means—

- (A) any individual who is a citizen or national of the United States;
- (B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or
- (C) any department, agency, or entity of the Federal Government or of any government of any State.

(Pub. L. 97-446, title III, § 302, Jan. 12, 1983, 96 Stat. 2351.)

Editorial Notes

REFERENCES IN TEXT

Section 1483 of this title, referred to in par. (4), was repealed by Pub. L. 97-446, title II, § 201(c), Jan. 12, 1983, 96 Stat. 2349. Prior to repeal, section 1483 read: “For the purposes of this subtitle—

“(1) All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and the holder of a bill of lading or the holder of an air waybill duly indorsed by the consignee therein named, or, in the case of a bill of lading if consigned to order, by the consignor, shall be deemed the consignee thereof; except that this section shall not limit in any way the rights of the consignor, as prescribed by article 12 of the Warsaw Convention (49 Stat. 3017). The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees.

“(2) A person making entry of merchandise under the provisions of subdivision (h) or (i) of section 1484 of this title (relating to entry on carrier’s certificate and on duplicate bill of lading, respectively) shall be deemed the sole consignee thereof.”

CODIFICATION

Section 2605 of this title, referred to in par. (3), was in original “section 206” and was translated as section 2605 of this title, which is section 306 of Pub. L. 97-446, as the probable intent of Congress.

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Pub. L. 97-446, title III, §315, Jan. 12, 1983, 96 Stat. 2363, provided that:

“(a) IN GENERAL.—This title [enacting this chapter] shall take effect on the ninetieth day after the date of the enactment of this Act [Jan. 12, 1983] or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

“(1) before such ninetieth day and after such date of enactment; and

“(2) after the initial membership of the Committee is appointed.

“(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 [2605 of this title] at any time after the date of the enactment of this Act [Jan. 12, 1983].”

SHORT TITLE

Pub. L. 97-446, title III, §301, Jan. 12, 1983, 96 Stat. 2350, provided that: “This title [enacting this chapter] may be cited as the ‘Convention on Cultural Property Implementation Act’.”

PROTECTING AND PRESERVING INTERNATIONAL CULTURAL PROPERTY

Pub. L. 114-151, May 9, 2016, 130 Stat. 369, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Protect and Preserve International Cultural Property Act’.

“SEC. 2. SENSE OF CONGRESS.

“It is the sense of Congress that the President should establish an interagency coordinating committee to coordinate the efforts of the executive branch to protect and preserve international cultural property at risk from political instability, armed conflict, or natural or other disasters. Such committee should—

“(1) be chaired by a Department of State employee of Assistant Secretary rank or higher, concurrent with that employee’s other duties;

“(2) include representatives of the Smithsonian Institution and Federal agencies with responsibility for the preservation and protection of international cultural property;

“(3) consult with governmental and nongovernmental organizations, including the United States Committee of the Blue Shield, museums, educational institutions, and research institutions, and participants in the international art and cultural property market on efforts to protect and preserve international cultural property;

“(4) coordinate core United States interests in—

“(A) protecting and preserving international cultural property;

“(B) preventing and disrupting looting and illegal trade and trafficking in international cultural property, particularly exchanges that provide revenue to terrorist and criminal organizations;

“(C) protecting sites of cultural and archaeological significance; and

“(D) providing for the lawful exchange of international cultural property.

“SEC. 3. EMERGENCY PROTECTION FOR SYRIAN CULTURAL PROPERTY.

“(a) IN GENERAL.—The President shall exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) to impose import restrictions set forth in section 307 of that Act (19 U.S.C. 2606) with respect to any archaeological or ethnological material of Syria—

“(1) not later than 90 days after the date of the enactment of this Act [May 9, 2016];

“(2) without regard to whether Syria is a State Party (as defined in section 302 of that Act (19 U.S.C. 2601)); and

“(3) notwithstanding—

“(A) the requirement of subsection (b) of section 304 of that Act (19 U.S.C. 2603(b)) that an emergency condition (as defined in subsection (a) of that section) applies; and

“(B) the limitations under subsection (c) of that section.

“(b) ANNUAL DETERMINATION REGARDING CERTIFICATION.—

“(1) DETERMINATION.—

“(A) IN GENERAL.—The President shall, not less often than annually, determine whether at least 1 of the conditions specified in subparagraph (B) is met, and shall notify the appropriate congressional committees of such determination.

“(B) CONDITIONS.—The conditions referred to in subparagraph (A) are the following:

“(i) The Government of Syria is incapable, at the time a determination under such subparagraph is made, of fulfilling the requirements to request an agreement under section 303 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602), including the requirements under subsection (a)(3) of that section.

“(ii) It would be against the United States national interest to enter into such an agreement.

“(2) TERMINATION OF RESTRICTIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the import restrictions referred to in subsection (a) shall terminate on the date that is 5 years after the date on which the President determines that neither of the conditions specified in paragraph (1)(B) are met.

“(B) REQUEST FOR TERMINATION.—If Syria requests to enter into an agreement with the United States pursuant to section 303 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602) on or after the date on which the President determines that neither of the conditions specified in paragraph (1)(B) are met, the import restrictions referred to in subsection (a) shall terminate on the earlier of—

“(i) the date that is 3 years after the date on which Syria makes such a request; or

“(ii) the date on which the United States and Syria enter into such an agreement.

“(c) WAIVER.—

“(1) IN GENERAL.—The President may waive the import restrictions referred to in subsection (a) for specified archaeological and ethnological material of Syria if the President certifies to the appropriate congressional committees that the conditions described in paragraph (2) are met.

“(2) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

“(A)(i) The owner or lawful custodian of the specified archaeological or ethnological material of Syria has requested that such material be temporarily located in the United States for protection purposes; or

“(ii) if no owner or lawful custodian can reasonably be identified, the President determines that, for purposes of protecting and preserving such material, the material should be temporarily located in the United States.

“(B) Such material shall be returned to the owner or lawful custodian when requested by such owner or lawful custodian.

“(C) There is no credible evidence that granting a waiver under this subsection will contribute to illegal trafficking in archaeological or ethnological material of Syria or financing of criminal or terrorist activities.

“(3) ACTION.—If the President grants a waiver under this subsection, the specified archaeological or ethnological material of Syria that is the subject of such waiver shall be placed in the temporary custody of the United States Government or in the temporary custody of a cultural or educational institution within the United States for the purpose of protection,

restoration, conservation, study, or exhibition, without profit.

“(4) IMMUNITY FROM SEIZURE.—Any archaeological or ethnological material that enters the United States pursuant to a waiver granted under this section shall have immunity from seizure under Public Law 89-259 (22 U.S.C. 2459). All provisions of Public Law 89-259 shall apply to such material as if immunity from seizure had been granted under that Public Law.

“(d) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Foreign Relations and the Committee on Finance of the Senate; and

“(B) the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives.

“(2) ARCHAEOLOGICAL OR ETHNOLOGICAL MATERIAL OF SYRIA.—The term ‘archaeological or ethnological material of Syria’ means cultural property (as defined in section 302 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601)) that is unlawfully removed from Syria on or after March 15, 2011.

“SEC. 4. REPORT.

“Not later than 1 year after the date of the enactment of this Act [May 9, 2016], and annually thereafter for the next 6 years, the President shall submit to the appropriate congressional committees a report on the efforts of the executive branch, during the 12-month period preceding the submission of the report, to protect and preserve international cultural property, including—

“(1) whether an interagency coordinating committee as described in section 2 has been established and, if such a committee has been established, a description of the activities undertaken by such committee, including a list of the entities participating in such activities;

“(2) a description of measures undertaken pursuant to relevant statutes, including—

“(A) actions to implement and enforce section 3 of this Act and section 3002 of the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (Public Law 108-429; 118 Stat. 2599), including measures to dismantle international networks that traffic illegally in cultural property;

“(B) a description of any requests for a waiver under section 3(c) of this Act and, for each such request, whether a waiver was granted;

“(C) a list of the statutes and regulations employed in criminal, civil, and civil forfeiture actions to prevent illegal trade and trafficking in cultural property;

“(D) actions undertaken to ensure the consistent and effective application of law in cases relating to illegal trade and trafficking in cultural property; and

“(E) actions undertaken to promote the legitimate commercial and non-commercial exchange and movement of cultural property; and

“(3) actions undertaken in fulfillment of international agreements on cultural property protection, including the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague May 14, 1954.”

Executive Documents

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER THE PROTECT AND PRESERVE INTERNATIONAL CULTURAL PROPERTY ACT

Memorandum of President of the United States, Aug. 1, 2016, 81 F.R. 55105, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, the functions and authorities conferred upon the

President by the Protect and Preserve International Cultural Property Act (Public Law 114-151, 130 Stat. 369) are hereby delegated to the Secretary of State. In the performance of such functions, the Secretary of State shall consult the Secretaries of Homeland Security and the Treasury, and the heads of other departments and agencies, as appropriate.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 2602. Agreements to implement Article 9 of the convention

(a) Agreement authority

(1) In general

If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 2606 of this title with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 2606 of this title in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may, subject to the provisions of this chapter, take the actions described in paragraph (2).

(2) Authority of President

For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 2606 of this title to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.