

(3) Information relating to committee recommendations

If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

(Pub. L. 97-446, title III, § 303, Jan. 12, 1983, 96 Stat. 2352.)

Editorial Notes

CODIFICATION

Section 2603 of this title, referred to in subsec. (g)(1)(B), was in the original “section 204”, and was translated as section 2603 of this title, which is section 304 of Pub. L. 97-446, as the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

Executive Documents

EX. ORD. NO. 12555. PROTECTION OF CULTURAL PROPERTY

Ex. Ord. No. 12555, Mar. 10, 1986, 51 F.R. 8475, as amended by Ex. Ord. No. 13286, § 44, Feb. 28, 2003, 68 F.R. 10627, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Convention on Cultural Property Implementation Act (Title III of Public Law 97-446; hereinafter referred to as the “Act”) [this chapter], and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *United States Information Agency.* The following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of Homeland Security:

(a) The functions conferred by section 303(a)(1) [19 U.S.C. 2602(a)(1)] concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements.

(b) The functions conferred by section 303(d) with respect to the determinations concerning the failure of other parties to an agreement to take any or satisfactory implementation action on their agreement; provided, however, that the Secretary of State will remain responsible for interpretation of the agreement.

(c) The functions conferred by section 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement.

(d) The functions conferred by section 303(f) relating to the actions to be taken upon receipt of a request made by a State Party to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property adopted by the Sixteenth General Conference of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as the “Convention”).

(e) The functions conferred by section 303(g)(1)(B) relating to the notification of Presidential action and the furnishing of reports to the Congress.

(f) The functions conferred by section 304(b) [19 U.S.C. 2603(b)] to the extent that they involve determinations

by the President that an emergency condition applies with respect to any archaeological or ethnological material of any State Party to the Convention, subject to the limitations of sections 304(c)(1), 304(c)(2), and 304(c)(3).

(g) The functions conferred by section 304(c)(3) to the extent that they involve determinations to be made and the receipt and consideration of an advisory report from the Cultural Property Advisory Committee by the President prior to extensions of emergency import restrictions.

(h) The functions conferred by sections 306(f)(6) and 306(g) [19 U.S.C. 2605(f)(6), (g)] relating to the receipt of reports prepared by the Cultural Property Advisory Committee.

(i) The functions conferred by section 306(h) relating to the determinations to be made about the disclosure of matters involved in the Cultural Property Advisory Committee's proceedings.

SEC. 2. *Department of State.* The following functions conferred upon the President by the Act are hereby delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of Homeland Security:

(a) The functions conferred by section 303(a)(2) [19 U.S.C. 2602(a)(2)] relating to the negotiation and conclusion of bilateral or multilateral agreements under the Act, subject to the restrictions of section 303(c).

(b) The functions conferred by section 303(a)(4) relating to obtaining a commitment on the exchange of archaeological and ethnological materials from a party to an agreement.

(c) The functions conferred by section 303(e) relating only to negotiation and conclusion of extensions of agreements under the Act.

(d) Except with respect to subsection 303(g)(1)(B), the functions conferred by section 303(g), relating to the notification of Presidential action and the furnishing of reports to the Congress.

(e) The functions conferred by section 304(c)(4) [19 U.S.C. 2603(c)(4)] to the extent that they involve the negotiation and conclusion of agreements subject to advice and consent to ratification by the Senate.

SEC. 3. *Department of the Treasury [The Department of Homeland Security].* The following functions conferred upon the President by the Act are hereby delegated to the Secretary of Homeland Security, acting in consultation with the Director of the United States Information Agency and the Secretary of State:

(a) Subject to subsection (b) of Section 1 above, the functions conferred by section 303(d) [19 U.S.C. 2602(d)] to the extent that they involve the suspension of import restrictions.

(b) Subject to subsection[s] (f) and (g) of Section 1 above, the functions conferred by section 304 [19 U.S.C. 2603] to the extent that they involve the application of import restrictions set forth in section 307 [19 U.S.C. 2606] and the extension of such import restrictions pursuant to section 304(c)(3).

SEC. 4. *Enforcement in Territories and Other Areas.* The Secretary of the Interior is designated to carry out the enforcement functions in section 314 [19 U.S.C. 2613].

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Inter-course.]

§ 2603. Emergency implementation of import restrictions

(a) “Emergency condition” defined

For purposes of this section, the term “emergency condition” means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding

of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 2606 of this title on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b) Presidential action

Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 2606 of this title with respect to such material.

(c) Limitations

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 2602(a) of this title to the United States and has supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 2605(f)(3) of this title if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 2602(f)(2) of this title on the request of the State Party under section 2602(a) of this title.

(3) No import restrictions set forth in section 2606 of this title may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 2602(a) of this title is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4) The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 2602 of this title or an agreement with a State Party to which the Senate

has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

(Pub. L. 97-446, title III, §304, Jan. 12, 1983, 96 Stat. 2354.)

Editorial Notes

CODIFICATION

Section 2602 of this title, referred to in subsec. (c)(4), was in the original "section 203", and was translated as section 2602 of this title, which is section 303 of Pub. L. 97-446, as the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Ex. Ord. No. 12555, Mar. 10, 1986, 51 F.R. 8475, set out as a note under section 2602 of this title.

§ 2604. Designation of materials covered by agreements or emergency actions

After any agreement enters into force under section 2602 of this title, or emergency action is taken under section 2603 of this title, the Secretary, in consultation with the Secretary of State, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 2606 of this title are applied only to the archeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

(Pub. L. 97-446, title III, §305, Jan. 12, 1983, 96 Stat. 2355; Pub. L. 105-277, div. G, subdiv. A, title XIII, §1335(d), Oct. 21, 1998, 112 Stat. 2681-788; Pub. L. 106-113, div. B, §1007(a)(7) [div. A, title VIII, §802(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A-468.)

Editorial Notes

AMENDMENTS

1999—Pub. L. 106-113 substituted "Secretary, in consultation with the Secretary of State, shall" for "Secretary shall" in first sentence.

1998—Pub. L. 105-277 struck out "after consultation with the Director of the United States Information Agency," after "title, the Secretary" in first sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as a note under section 6531 of Title 22.