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Convention on Cultural Property Implementation Act

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Partial text of Public Law 97-446 [H.R. 4566], 96 Stat. 2329, approved January 12, 1983; as amended by Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

TITLE III - IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 301. SHORT TITLE.

This title may be cited as the "Convention on Cultural Property Implementation Act".¹

SEC. 302. DEFINITIONS.

For purposes of this title-

(1) The term "agreement" includes any amendment to, or extension of, any agreement under this title 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 206.²

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(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 title that enters into force with respect to the United States, or
- (ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(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.

SEC.303.³ AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY. -

(1) ⁴IN 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 307 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 307 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)⁵ **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 307 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.

(3) **REQUESTS.**-A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

(4)⁵ **IMPLEMENTATION.**-In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) **EFFECTIVE PERIOD.**-The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) **RESTRICTIONS ON ENTERING INTO AGREEMENTS.**-

(1) **IN GENERAL.**-The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) **EXCEPTION TO RESTRICTIONS.**-Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but-

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other 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.

(d)⁶ **SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.**-If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2) having significant import trade in the archaeological and ethnological material covered by the agreement-

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained, the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e)⁷ EXTENSION OF AGREEMENTS.-The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that-

- (1) the factors referred to in subsection (a)(1) of this section which justified the entering into of the agreement still pertain, and
- (2) no cause for suspension under subsection (d) exists.

(f)⁸ PROCEDURES.-If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e) of this section, the President shall-

- (1) publish notification of the request or proposal in the Federal Register;
- (2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and
- (3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report-
 - (A) required under section 306(f)(1) or (2) of this title, and
 - (B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g)⁹ INFORMATION ON PRESIDENTIAL ACTION.-

- (1) IN GENERAL.-In any case in which the President-
 - (A) enters into or extends an agreement pursuant to subsection (a) or (e), or
 - (B)¹⁰ applies import restrictions under section 304, the President shall, promptly after taking such action, submit a report to the Congress.
- (2) REPORT.-The report under paragraph (1) shall contain-
 - (A) a description of such action (including the text of any agreement entered into),
 - (B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and
 - (C) the reasons for any such difference.

(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.

SEC. 304.¹¹ 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 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b)¹² **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 307 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 303(a) to the United States and has supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) of this section with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) 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 303(f)(2) on the request of the State Party under section 303(a).

(3)¹³ No import restrictions set forth in section 307 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 303(a) 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)¹⁴ 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 203¹⁵ 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.

SEC. 305.¹⁶ DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, after consultation with the Director of the United States Information Agency, 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 307 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.

SEC 306.¹⁷ CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**-There is established the Cultural Property Advisory Committee.

(b) **MEMBERSHIP.**-

(1) The Committee shall be composed of eleven members appointed by the President as follows:

- (A) Two members representing the interests of museums.
- (B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.
- (C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.
- (D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure-

- (A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and
- (B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A)¹⁸ Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.

(B)(i)¹⁹ A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

(ii) The President shall designate a Chairman of the Committee from the members of the Committee.

(c) EXPENSES.-The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.-Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.-

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) REPORTS BY COMMITTEE.-

(1) The Committee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth-

- (A) the results of such investigation and review;
- (B) its findings as to the nations individually having a significant import trade in the relevant material; and
- (C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth-

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6)²⁰ The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g)²¹ COMMITTEE REVIEW.-

(1) IN GENERAL.-The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) ACTION BY COMMITTEE.-If the Committee finds, as a result of such review, that-

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h)²² FEDERAL ADVISORY COMMITTEE ACT.-The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.-

(1) IN GENERAL.-Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the

responsibilities of the Committee shall not be disclosed to any person other than to-

- (A) officers and employees of the United States designated by the Director of the United States Information Agency;
- (B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and
- (C) the Committee established under this title.

(2) GOVERNMENTAL INFORMATION.-Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) NO AUTHORITY TO NEGOTIATE.-Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

SEC. 307.²³ IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.-No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.-If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material-

- (1) the certificate or other documentation of the State Party required under subsection (a); or
- (2) satisfactory evidence that such material was exported from the State Party-

- (A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that date of entry, or
- (B) on or before the date on which such material was designated under section 305.

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

(c) DEFINITION OF SATISFACTORY EVIDENCE.-The term "satisfactory evidence"

means-

- (1) for purposes of subsection (b)(2)(A)-
 - (A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge-
 - (i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and
 - (ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and
 - (B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and
- (2) for purposes of subsection (b)(2)(B)-
 - (A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and
 - (B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.
- (d) RELATED PERSONS.-For purposes of subsections (b) and (c) of this section, a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person-
 - (1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;
 - (2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or
 - (3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

SEC. 308.²⁴ STOLEN CULTURAL PROPERTY.

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 is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 309.²⁵ TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 307 section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that-

- (1) sufficient safeguards will be taken by the institution for the protection of such material or article; and
- (2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 310.²⁶ SEIZURE AND FORFEITURE.

(a) IN GENERAL.-Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.-Any designated archaeological and ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall-

- (1) first be offered for return to the State Party;
- (2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes-
 - (A) valid title to the material,
 - (B) that the claimant is a bona fide purchaser for value of the material; or
- (3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.-

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 308, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless-

- (A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or
- (B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this chapter shall-

- (A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or
- (B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 311.²⁷ EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930(19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which

the material or article, as the case may be, is claimed by any person, the United States shall establish-

- (1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and
- (2) in the case of any article subject to section 308 of this title, that the article-
 - (A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and
 - (B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 312.²⁸ CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.

The provisions of this chapter shall not apply to-

- (1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes," approved October 19, 1965 (22 U.S.C. 2459); or
- (2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article-
 - (A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this chapter, but only if-
 - (i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,
 - (ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or
 - (iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;
 - (B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or
 - (C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and
 - (D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or

article for value without knowledge or reason to believe that it was imported in violation of law.

SEC. 313.²⁹ REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

SEC. 314.³⁰ ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 315. EFFECTIVE DATE.

(a) IN GENERAL.-This title shall take effect on the ninetieth day after the date of the enactment of this Act 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 at any time after the date of the enactment of this Act.

¹ 19 U.S.C. 2601.

² This reference to sec. 206 should probably be a reference to sec. 306.

³ 19 U.S.C. 2602

⁴ The functions conferred upon the President by sec. 303(a)(1) concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

⁵ The functions conferred upon the President by secs. 303(a)(2) and 303(a)(4) were 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 the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

⁶ The functions conferred upon the President by sec. 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 were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475. The Order required, however, that the Secretary of State remain responsible for interpretation of the agreement. To the extent they involve suspension of import restrictions, functions were delegated to the Secretary of the Treasury.

⁷ The functions conferred upon the President by sec. 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475. Functions relating only to negotiation and conclusion of extensions of agreements under this Act were 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 the Treasury.

⁸ The functions conferred upon the President by this sec. 303(f) relating to the actions to be taken upon receipt of a request made by a State Party were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

⁹ Except with respect to subsec. 303(g)(1)(B), the functions conferred upon the President by sec. 303(g) were delegated to the Secretary of State, acting in consultation with and the participation of the Director of the United States Information Agency and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

¹⁰ The functions conferred upon the President by sec. 303(1)(b) relating to the notification of Presidential action and furnishing of reports to Congress were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

¹¹ 19 U.S.C. 2603. The functions conferred upon the President by this section to the extent that they involve the application of import restrictions set forth in sec. 307 and the extension of such import restrictions pursuant to sec. 304(c)(3) were delegated to the Secretary of the Treasury, acting in consultation with the Director of the United States Information Agency and the Secretary of State, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

¹² The functions conferred upon the President by sec. 304(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 secs. 304(c)(1), 304(c)(2), and 304(c)(3), were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

¹³ The functions conferred upon the President by sec. 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 were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

¹⁴ The functions conferred upon the President by sec. 303(c)(4) to the extent that they involve the negotiation and conclusion of agreements subject to the advice and consent to ratification by the Senate were 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 the Treasury by Executive Order 12555 of March 10, 1986, 51 F.R. 8475

¹⁵ This reference to sec. 203 probably should have been a reference to sec. 303.

¹⁶ 19 U.S.C. 2604

¹⁷ 19 U.S.C. 2605

¹⁸ Subsec. (3)(A) was amended and restated by sec. 307(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1380). Sec. 307(c) of the same act makes subsec. (3)(A) apply to those members of the Cultural Property Advisory Committee first appointed after enactment of Public Law 100-204.

¹⁹ Subsec. (3)(B) was amended and restated by sec. 307(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 (Public Law 100-204; 101 Stat. 1380).

²⁰ The functions conferred upon the President by sec. 306(f)(6) were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

²¹ The functions conferred upon the President by this subsec. relating to the receipt of reports were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R.

8475.

²² The functions conferred upon the President by this section relating to the determinations to be made about the disclosure of matters involved in the Committee's proceedings were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 of March 10, 1986, 51 F.R. 8475.

²³ 19 U.S.C. 2606

²⁴ 19 U.S.C. 2607

²⁵ 19 U.S.C. 2608

²⁶ 19 U.S.C. 2609

²⁷ 19 U.S.C. 2610

²⁸ 19 U.S.C. 2611

²⁹ 19 U.S.C. 2612

³⁰ 19 U.S.C. 2613

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