The Trading With the Enemy Act, referred to in subsec. (b)(4), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39 and 41 to 44 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Subsec. (b)(3). Pub. L. 100–418 substituted ''notes of the Harmonized Tariff Schedule of the United States'' for ''headnotes of the Tariff Schedules of the United States''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE

Section 1114 of title XI of Pub. L. 96–39 provided that: ''Except as otherwise provided in this title, this title [enacting this subchapter, amending the Tariff Schedules of the United States and sections 1315, 1337, 2112, 2119, 2131, 2155, 2192, 2253, 2432, 2434, 2435, 2462, 2463, 2464, 2481, and 2486 of this title, section 5315 of Title 5, Government Organization and Employees, and section 301 of Title 13, Census, enacting provisions set out as notes under sections 2111, 2112, and 2464 of this title and 301 of Title 13, and amending a provision set out as a note under section 2101 of this title] shall take effect on the date of enactment of this Act [July 26, 1979].''

§ 2582. Repealed. Pub. L. 98–67, title II, § 214(d), Aug. 5, 1983, 97 Stat. 393

Section, Pub. L. 96–39, title XI, § 1112, July 26, 1979, 93 Stat. 316, authorized payment of compensation to losses in taxes resulting from concessions granted by United States in Tokyo Round of Multilateral Trade Negotiations on articles produced by United States possessions on which excise taxes are levied by United States.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 5, 1983, see section 218(a) of Pub. L. 98–67, which is classified to section 2706 of this title.

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 1483[1] 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

[1] See References in Text note below.

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.)

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.

EFFECTIVE DATE

Section 315 of title III of Pub. L. 97–446 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

Section 301 of title III of Pub. L. 97–446 provided that: ''This title [enacting this chapter] may be cited as the 'Convention on Cultural Property Implementation Act'.''

§ 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.

(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) Implementation

In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exhange[1] 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) of this section 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) of this section unless 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 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 2606 of this title 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) 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) of this section) 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 2606 of this title, 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 2606 of this title until such time as the nations take appropriate corrective action.

(e) 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) of this section exists.

(f) Procedures

If any request described in subsection (a) of this section 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 2603 of this title) as is appropriate to enable the Committee to carry out its duties under section 2605(f) of this title; and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 2605(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) 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) of this section, or

(B) applies import restrictions under section 2603 of this title,

[1] So in original. Probably should be ''exchange''.

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.

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

CODIFICATION

Section 2603 of this title, referred to in subsec. (g)(1)(B), was in the original ''section 204'', and was translated as section 2602 of this title, which is section 304 of Pub. L. 97–446, as the probable intent of Congress.

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

Ex. Ord. No. 12555, Mar. 10, 1986, 51 F.R. 8475, 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 the Treasury:

(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 the Treasury:

(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 following functions conferred upon the President by the Act are hereby delegated to the Secretary of the Treasury, 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].

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2603, 2604, 2605 of this title.

§ 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) of this section, 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) 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 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.)

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2601, 2602, 2604, 2605 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, 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 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2601, 2606, 2610 of this title.

§ 2605. 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 sec-

tors 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) 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) 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 Commitee[1] shall, with respect to each request of a State Party referred to in section 2602(a) of this title, undertake an investigation and review with respect to matters referred to in section 2602(a)(1) of this title 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 2602(a) of this title with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 2602(e) of this title, 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 2603 of this title exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 2603 of this title should be implemented. If any State Party indicates in its request under section 2602(a) of this title 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 2602 of this title or the implementation of emergency action under section 2603 of this title 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) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) Committee review

(1) In general

The Committee shall undertake a continuing review of the effectiveness of agreements under section 2602 of this title that have entered into force with respect to the United States, and of emergency action implemented under section 2603 of this title.

(2) Action by Committee

If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 2602(d) of this title, 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 chapter in order to implement fully the obligations of the United States under the Convention;

[1] So in original. Probably should be ''Committee''.

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 chapter.

(h) Federal Advisory Committee Act

The provisions of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. Appendix) 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 chapter.

(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 chapter; and

(C) the Committee established under this chapter.

(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 chapter.

(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 chapter.

(Pub. L. 97–446, title III, § 306, Jan. 12, 1983, 96 Stat. 2356; Pub. L. 100–204, title III, § 307(a), (b), Dec. 22, 1987, 101 Stat. 1380.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1987—Subsec. (b)(3)(A). Pub. L. 100–204, § 307(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Members of the Committee shall be appointed for terms of two years and may be reappointed for 1 or more terms.''

Subsec. (b)(3)(B). Pub. L. 100–204, § 307(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 307(c) of Pub. L. 100–204 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act [Dec. 22, 1987].''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2601, 2602, 2603 of this title.

§ 2606. 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 2604 of this title 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) of this section; 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 2604 of this title,

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 2609 of this title.

(c) "Satisfactory evidence" defined

The term ''satisfactory evidence'' means—

(1) for purposes of subsection (b)(2)(A) of this section—

(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) of this section—

(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 2604 of this title, 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 2604 of this title, 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.

(Pub. L. 97–446, title III, § 307, Jan. 12, 1983, 96 Stat. 2358.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2602, 2603, 2604, 2608, 2609, 2610 of this title.

§ 2607. 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 chapter, 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.

(Pub. L. 97–446, title III, § 308, Jan. 12, 1983, 96 Stat. 2360.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in text, see section 315 of Pub. L. 97–446, set out as an Effective Date note under section 2601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2608, 2609, 2610 of this title.

§ 2608. Temporary disposition of materials and articles subject to this chapter

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 2606 of this title or section 2607 of this title, 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.

(Pub. L. 97–446, title III, § 309, Jan. 12, 1983, 96 Stat. 2360.)

§ 2609. 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 2606 of this title or section 2607 of this title 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 chapter, insofar as

such provisions of law are applicable to, and not inconsistent with, the provisions of this chapter.

(b) Archaeological and ethnological material

Any designated archaeological or ethnological material which is imported into the United States in violation of section 2606 of this title and which is forfeited to the United States under this chapter 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 2607 of this title, 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 2607 of this title 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 2607 of this title 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.

(Pub. L. 97–446, title III, § 310, Jan. 12, 1983, 96 Stat. 2360.)

REFERENCES IN TEXT

The customs laws, referred to in subsecs. (a), (b)(3), and (c)(2)(B), are classified generally to this title.

CODIFICATION

Section 2607 of this title, referred to in subsec. (c)(1), was in the original ''section 208'', and was translated as section 2607 of this title, which is section 308 of Pub. L. 97–446, as the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2606 of this title.

§ 2610. Evidentiary requirements

Notwithstanding the provisions of section 1615 of this title, in any forfeiture proceeding brought under this chapter 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 2606 of this title, that the material has been listed by the Secretary in accordance with section 2604 of this title; and

(2) in the case of any article subject to section 2607 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 chapter, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

(Pub. L. 97–446, title III, § 311, Jan. 12, 1983, 96 Stat. 2361.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in par. (2)(B), see section 315 of Pub. L. 97–446, set out as an Effective Date note under section 2601 of this title.

§ 2611. Certain material and articles exempt from this chapter

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 section 2459 of title 22; 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 chapter,

(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 Unites[1] 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.

(Pub. L. 97–446, title III, § 312, Jan. 12, 1983, 96 Stat. 2362.)

§ 2612. Regulations

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

(Pub. L. 97–446, title III, § 313, Jan. 12, 1983, 96 Stat. 2363.)

§ 2613. Enforcement

In the customs territory of the United States, and in the Virgin Islands, the provisions of this chapter 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.

(Pub. L. 97–446, title III, § 314, Jan. 12, 1983, 96 Stat. 2363.)

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.

[1] So in original. Probably should be ''United''.

CHAPTER 15—CARIBBEAN BASIN ECONOMIC RECOVERY

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1202, 1677, 2492, 3203 of this title; title 20 section 226; title 22 section 6062; title 26 section 936.

§ 2701. Authority to grant duty-free treatment

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this chapter.

(Pub. L. 98–67, title II, § 211, Aug. 5, 1983, 97 Stat. 384.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'' meaning title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–382, title II, § 201, Aug. 20, 1990, 104 Stat. 655, provided that: ''This title [enacting section 226 of Title 20, Education, amending sections 1677, 2463, 2702, 2703, and 2706 of this title and section 936 of Title 26, In-