



U.S. DEPARTMENT OF STATE

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Background: U.S. Implementation of the 1970 UNESCO Convention

I. The 1970 UNESCO Convention

Along with over [115 other countries](#), the U.S. is party to the [1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#)*, which was adopted by UNESCO on November 14, 1970, at its 16th Session. This Convention provides a framework for cooperation among nations to reduce the incentive for pillage of archaeological and ethnological material. The United States played an active role in drafting the 1970 UNESCO Convention.

In the 1960s, the problem of the pillage of cultural property became a matter of great concern to the member states of UNESCO. Countries at greatest risk were, and continue to be, those that are culturally rich but have limited resources to protect their national patrimony. However, all nations are at risk; pillage has caused the irretrievable loss of significant information about cultures around the world.

The long-term objective of the 1970 UNESCO Convention is to protect the knowledge that can be derived from the careful, scientifically-informed retrieval and study of archaeological material, and to preserve ethnological material in its societal context. The benefit of international cooperation within the framework of the 1970 UNESCO Convention is a greater understanding of the heritage and the importance of protecting it.

II. The U.S. Law that Implements the 1970 UNESCO Convention

In 1972, the United States Senate gave its unanimous advice and consent to the 1970 UNESCO Convention. However, because the Convention did not have a basis in U.S. law, special legislation was required to allow the U.S. to implement it. In 1982, Congress passed the [Convention on Cultural Property Implementation Act](#)* (the “Act”), and President Ronald Reagan signed it into law in January 1983. The Act enables the U.S. government to implement Articles 7(b)(1) and 9 of the Convention.

Briefly, pursuant to Article 7(b)(1), States that are party to the Convention undertake to prohibit the importation of documented cultural property stolen from museums or religious or secular public monuments in another State Party to the Convention. Article 9 of the Convention allows any State Party whose cultural patrimony is in jeopardy from pillage to request assistance from other States Parties to carry out measures such as the control of exports, imports, and international commerce in the specific cultural materials concerned.

III. Reasons for the U.S. Implementing Legislation

When the U.S. Senate considered the draft legislation, testimony given at hearings affirmed that the demand for cultural artifacts had resulted in the destruction of archaeological sites, and the loss of the context and associations in which so much information about them resides. Such information is essential in understanding the development of cultures. (The [Senate Report](#)* on the Act discusses the reasons for the U.S. implementation of the Convention.)

Because the United States is a principal market for archaeological and ethnological objects, the discovery here of stolen or illegally exported artifacts in some cases severely strains relations with the countries of origin. As the Department of State noted in commenting on the bill:

The legislation is important to our foreign relations, including our international cultural relations. The expanding worldwide trade in objects of archaeological and ethnological interest has led to wholesale depredations in some countries, resulting in the mutilation of ceremonial centers and archaeological complexes of ancient civilizations and the removal of stone sculptures and reliefs. In addition, art objects have been stolen in increasing quantities from museums, churches, and collections. The governments which have been victimized have been disturbed at the outflow of these objects to foreign lands, and the appearance in the United States of objects has often given rise to outcries and urgent requests for return by other countries. The United States considers that on grounds of principle, good foreign relations, and concern for the preservation of the cultural heritage of mankind, it should render assistance in these situations.

Restrictions on importation are intended to reduce the incentive for pillage by discouraging the trade in undocumented cultural materials, and encouraging a legal trade in documented materials.

IV. Key Provisions of the *Convention on Cultural Property Implementation Act*

The Act is referred to in the literature in two ways. One is as [Title III of Public Law 97-446*](#), 96 Statute 2329, approved January 12, 1983; as amended by Public Law 100-204, 101 Statute 1331, approved December 22, 1987. The sections of this act are numbered from 301 through 315. The other is as [19 United States Code 2601 et seq*](#), whose sections are numbered 2601 through 2613. Both section headings are noted here.

A. Section 303 (19 U.S.C. § 2602): Authority to Enter into Agreements

Once certain determinations have been made on the basis of criteria set forth in this section, the president's designee may respond to the request from another State Party by a decision to enter into an agreement that imposes U.S. import restrictions on certain categories of archaeological and/or ethnological material. Agreements are in effect for five years, and may be extended, following a statutory process that includes a review by the [Cultural Property Advisory Committee](#).

B. Section 304 (19 U.S.C. § 2603): Authority to Take Emergency Action

This enables the president to impose an emergency import restriction as an interim response to an Article 9 request by a State Party. (This authority is exercised following consideration of the recommendation of the Cultural Property Advisory Committee. This provisional emergency protection may be in effect for up to 8 years, or until an agreement is negotiated.

C. Section 305 (19 U.S.C. § 2604): Designation of Archaeological or Ethnological Materials to be Covered by Agreements or Emergency Action

This Section authorizes the Secretary of the Department of the Treasury to publish a descriptive list designating the categories of archaeological or ethnological material that are subject to import restrictions under a specific agreement or emergency action be published, thereby giving notice to interested parties.

D. Section 307 (19 U.S.C. § 2606): Import Restrictions

No restricted materials exported from the State Party may be imported into the U.S. without an export permit issued by the State Party (country of origin), or other documentation showing that it left the country of origin prior to the imposition of restrictions. Such import restrictions are applicable even if the material is imported into the U.S. from a country other than the country of origin.

This legislation is prospective, and is intended to protect archaeological and ethnological material that remains in the country of origin at the time the import restriction goes into effect. Therefore, import restrictions associated with an agreement or an emergency action do not apply to the subject material if it is documented as being outside of the country of origin at the time the restrictions became effective in the U.S.

E. Section 308 (19 U.S.C. § 2607): Stolen Cultural Property

This Section implements Article 7(b)(i) of the Convention, which addresses the importation of stolen cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party. Under Section 308, no such property originating in a State Party to the *1970 UNESCO Convention* may be imported into the United States after the date the convention entered into force with respect to the State Party, or the effective date of the Act (April 12, 1983) whichever date is later. This restriction is ongoing, and not predicated on a State Party request.

V. Role of the U.S. Department of State

In [Executive Order 12555*](#) (1986), the President delegated executive authority for carrying out certain provisions of Sections 303 and 304 of the Act to the Director of the U.S. Information Agency. In 1998, this authority was transferred to the Secretary of State by the *Foreign Affairs Reform and Restructuring Act*. Now, decisions regarding entering into agreements that impose import restrictions are made by the designated decision-maker, a Department official who takes into consideration the findings and recommendations of the Cultural Property Advisory Committee. The Department also carries out other statutory responsibilities under the Act, as well as any diplomatic functions associated with implementing the Convention and the Act, including negotiating and concluding cultural property agreements.

VI. Role of the Cultural Property Advisory Committee

The role of the Cultural Property Advisory Committee is limited to the following functions: reviewing cultural property requests submitted to the U.S. by foreign governments, considering proposals to extend existing agreements, conducting ongoing reviews of current agreements, and providing to the Department its findings and recommendations with respect to entering into or extending agreements or emergency actions. The Cultural Heritage Center of the Department's Bureau of Educational and Cultural Affairs provides technical and administrative support to the Committee.

VII. Enforcement of the Import Restrictions

Pursuant to the *Homeland Security Act of 2002* (Pub. L. 107-296) and *Treasury Department Order No. 100-16*, the Department of Homeland Security has the delegated authority to enforce import restrictions that are authorized by Section 307 of the Act.

*This is a PDF and requires the free [Adobe Reader](#).

Additional Information

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