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§ 2601. Definitions

For purposes of this chapter—

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

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

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

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

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

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

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

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

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

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

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer

of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1(a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

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

(A) is—

(i) covered by an agreement under this chapter that enters into force with respect to the United States, or

(ii) subject to emergency action under section 2603 of this title, and

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

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

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

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

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

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

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

¹ See References in Text note below.

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 exchange¹ 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) individ-

¹ So in original. Probably should be “exchange”.