

such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

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

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

(b) Presidential action

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

(c) Limitations

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

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

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

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

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

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.

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

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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

§ 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 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) 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 Committee¹ 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

Pub. L. 100-204, title III, §307(c), Dec. 22, 1987, 101 Stat. 1380, 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]."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of Title 22, Foreign Relations and Intercourse.

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.

§ 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); 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,