

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)—

(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 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), 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 di-

rectly 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.

§ 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.

§ 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.)

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.

§ 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