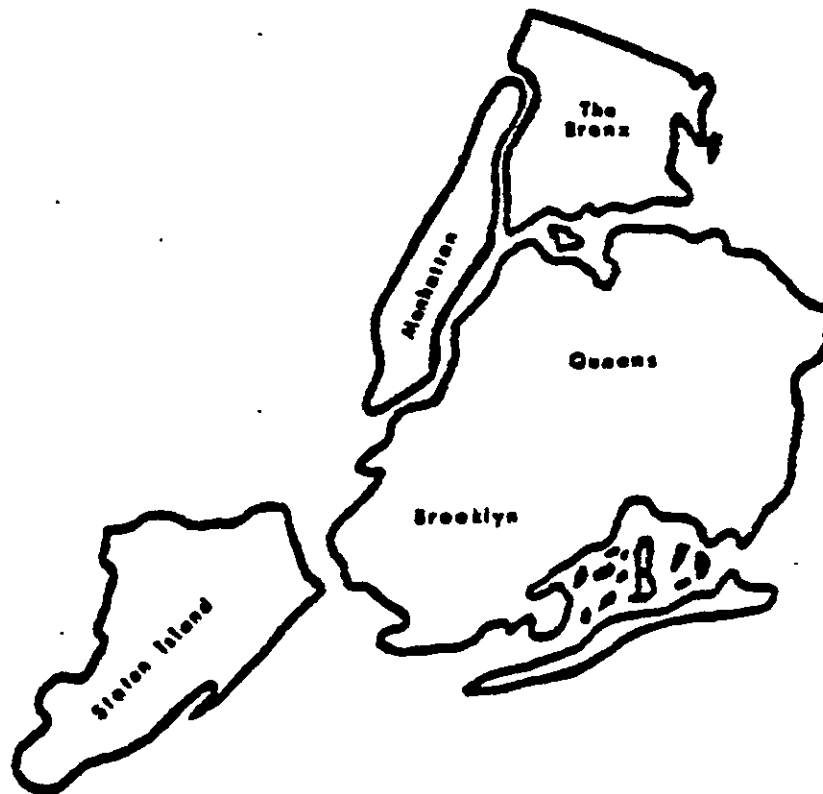


PROFESSIONAL
ARCHAEOLOGISTS OF
NEW
YORK
CITY



**NEWSLETTER
 SUPPLEMENT NO. 1
 APRIL 1982**

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THE CULTURAL PROPERTY IMPLEMENTATION ACT

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The Annual PANYC Symposium

The Archaeology of New York City:
 Searching Beneath Our City's Streets

Will be Held:

Saturday, 1 May 1982, 1:00 - 4:00 P.M.

Museum of the City of New York

Fifth Avenue at 103rd Street

Material for inclusion in the PANYC Newsletter should be sent to Joel I. Klein,
 EnviroSphere Company, 2 World Trade Center, New York, N.Y. 10048

PROFESSIONAL ARCHAEOLOGISTS OF NEW YORK CITY

March 11, 1982

The Honorable Patrick Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan:

The membership of the Professional Archaeologists of New York City urges the prompt consideration and passing of the Cultural Property Implementation Act, S. 1723, by the Subcommittee on International Trade of the Finance Committee. This Act is needed not only to help protect the cultural heritage of many nations and thereby promote good will, but will advance scientific research by helping to preserve archaeological artifacts and site data now lost to those seeking illicit profits. Please support this critical legislation and keep us informed of its progress.

Sincerely,

Dr. Lynn Ceci
President

Associate Professor
Department of Anthropology
CUNY-Queens College

cc: Senator John C. Danforth
Chairman, Subcommittee on
International Trade

March 30, 1982

Response: Charna Sherman, Senator Moynihan's office, by phone

Senator Moynihan thinks the bill is the best so far, has the best chance of passing, and he could support it. However, there seems little interest in the bill among other subcommittee members and especially the chairman. Therefore pressure, i.e., letters, etc., should be directed to these individuals to "get the bill moving." The bill began on the House side which appears to have lost interest due to the delays in considering it on the Senate side. Senator Moynihan's office will keep PANYC informed, will send a copy of the bill, and thanks us for our interest.

L.C.

97TH CONGRESS
1ST SESSION

S. 1723

To implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1981

Mr. MATSUNAGA (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Convention on Cultural
- 4 Property Implementation Act".

1 SEC. 2. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CON-
2 VENTION.

3 (a) AGREEMENT AUTHORITY.—If the President deter-
4 mines, after request is made to the United States under arti-
5 cle 9 of the Convention by any State Party, that—

6 (1) the cultural patrimony of the State Party is in
7 jeopardy from the pillage of archaeological or ethnolog-
8 ical materials of the State Party;

9 (2) the State Party has taken measures consistent
10 with the Convention to protect its cultural patrimony;

11 (3) the application of the import restrictions set
12 forth in section 6 with respect to archaeological or eth-
13 nological material of the State Party, if applied in con-
14 cert with comparable restrictions implemented, or to be
15 implemented, by those nations (whether or not State
16 Parties) having a significant import trade in such mate-
17 rial, would be of substantial benefit in deterring a seri-
18 ous situation of pillage, and remedies less drastic than
19 the application of the restrictions set forth in such sec-
20 tion are not available; and

21 (4) the application of the import restrictions set
22 forth in section 6 in the particular circumstances is
23 consistent with the general interest of the international
24 community in the interchange of cultural property
25 among nations for scientific, cultural, and educational
26 purposes;

1 the President may, subject to the provisions of this Act, enter
2 into—

3 (A) a bilateral agreement with the State Party to
4 apply the import restrictions set forth in section 6 to
5 that archaeological or ethnological material of the
6 State Party the pillage of which is creating the jeop-
7 ardy to the cultural patrimony of the State Party found
8 to exist under paragraph (1); or

9 (B) a multilateral agreement with the State Party
10 and with one or more other nations (whether or not a
11 State Party) under which the United States will apply
12 such restrictions, and the other nations will apply com-
13 parable restrictions, with respect to such material.

14 A request made to the United States under article 9 of the
15 Convention by a State Party must be accompanied by a
16 statement of the facts known to the State Party that relate to
17 those matters with respect to which determinations must be
18 made under paragraphs (1) through (4). In implementing this
19 subsection, the President should endeavor to obtain the com-
20 mitment of the State Party concerned to permit the exchange
21 of its archaeological and ethnological materials under circum-
22 stances in which such exchange does not jeopardize its cul-
23 tural patrimony.

24 (b) **EFFECTIVE PERIOD.**—The President may not enter
25 into any agreement under subsection (a) which has an effec-

1 tive period beyond the close of the five-year period beginning
2 on the date on which such agreement enters into force with
3 respect to the United States.

4 (c) ENTERING INTO FORCE OF AGREEMENTS.—No
5 agreement entered into by the President under subsection (a)
6 may enter into force with respect to the United States unless
7 and until the President determines that the other nations
8 (whether or not State Parties) having significant import trade
9 in the archaeological and ethnological material covered by
10 the agreement have implemented, or have taken the legal
11 and administrative steps necessary to implement, as a part of
12 a concerted international effort with respect to such material,
13 import restrictions that are comparable to those set forth in
14 section 6.

15 (d) SUSPENSION OF IMPORT RESTRICTIONS UNDER
16 AGREEMENTS.—If, after an agreement enters into force with
17 respect to the United States, the President determines that a
18 number of nations having significant import trade in the ar-
19 chaeological and ethnological material covered by the agree-
20 ment—

21 (1) have not implemented import restrictions that
22 are comparable to those set forth in section 6, or

23 (2) have implemented such import restrictions but
24 are failing to administer them satisfactorily with the
25 result that no substantial benefit in deterring a serious

1 situation of pillage in the State Party concerned is
2 being obtained,

3 the President shall suspend the implementation of the import
4 restrictions under section 6 until such time as the nations
5 take appropriate corrective action.

6 (e) EXTENSION OF AGREEMENTS.—The President may
7 extend any agreement that enters into force with respect to
8 the United States for such additional periods of time as the
9 President deems reasonable if the President determines that
10 (1) those factors referred to in subsection (a) (1) through (4)
11 which justified the entering into of the agreement still per-
12 tain, and (2) no cause for suspension under subsection (d)
13 exists.

14 (f) PROCEDURES.—If any request described in subsec-
15 tion (a) is made by a State Party, or if the President proposes
16 to extend any agreement under subsection (e), the President
17 shall—

18 (1) publish notification of the request or proposal
19 in the Federal Register;

20 (2) submit to the Committee such information re-
21 garding the request or proposal (including, if applica-
22 ble, information from the State Party with respect to
23 the implementation of emergency action under section

24 3) as is appropriate to enable the Committee to carry
25 out its duties under section 5(f); and

1 (3) consider, in taking action on the request or
2 proposal, the views and recommendations contained in
3 the Committee report required under section 5(f) (1) or
4 (2), if the report is submitted to the President before
5 the close of the one-hundred-twenty-day period begin-
6 ning on the day on which the President submitted in-
7 formation on the request or proposal to the Committee
8 under paragraph (2).

9 (g) INFORMATION ON PRESIDENTIAL ACTION.—In any
10 case in which the President enters into or extends an agree-
11 ment pursuant to subsection (a) or (e), or applies import re-
12 strictions under section 3, the President shall, promptly after
13 taking such action, submit to the Congress a document con-
14 taining a description of such action (including the text of any
15 agreement entered into), the differences (if any) between such
16 action and the views and recommendations contained in any
17 Committee report which the President was required to con-
18 sider, and the reasons for any such difference. If any Com-
19 mittee report required to be considered by the President rec-
20 ommends that an agreement be entered into, but no such
21 agreement is entered into, the President shall submit to the
22 Congress a document which contains the reasons why such
23 agreement was not entered into.

1 SEC. 3. EMERGENCY IMPLEMENTATION OF IMPORT RESTRIC-
2 TIONS.

3 (a) EMERGENCY CONDITION DEFINED.—For purposes
4 of this section, the term “emergency condition” means, with
5 respect to any archaeological or ethnological material of any
6 State Party, that such material is—

7 (1) a newly discovered type of material which is
8 of importance for the understanding of the history of
9 mankind and is in jeopardy from pillage, dismantling,
10 dispersal, or fragmentation;

11 (2) identifiable as coming from any site recognized
12 to be of high cultural significance if such site is in jeop-
13 ardy from pillage, dismantling, dispersal, or fragmenta-
14 tion which is, or threatens to be, of crisis proportions;
15 or

16 (3) a part of the remains of a particular civiliza-
17 tion, native population, or nonindustrial society the
18 record of which is in jeopardy from pillage, disman-
19 tling, dispersal, or fragmentation which is, or threatens
20 to be, of crisis proportions;

21 and application of the import restrictions set forth in section
22 6 on a temporary basis would, in whole or in part, reduce the
23 incentive for such pillage, dismantling, dispersal, or fragmen-
24 tation.

25 (b) PRESIDENTIAL ACTION.—Subject to subsection (c),
26 if the President determines that an emergency condition ap-

1 plies with respect to any archaeological or ethnological mate-
2 rial of any State Party, the President may apply the import
3 restrictions set forth in section 6 with respect to such
4 material.

5 (c) LIMITATIONS.—

6 (1) The President may not implement this section
7 with respect to the archaeological or ethnological ma-
8 terials of any State Party unless the State Party has
9 made a request described in section 2(a) to the United
10 States; but this section may be so implemented wheth-
11 er or not the State Party indicated, in such request,
12 that an emergency condition exists.

13 (2) In taking action under subsection (b) with re-
14 spect to any State Party, the President shall consider
15 the views and recommendations contained in the Com-
16 mittee report required under section 5(f)(3) if the report
17 is submitted to the President before the close of the
18 sixty-day period beginning on the day on which the
19 President submitted information to the Committee
20 under section 2(f)(2) on the request of the State Party
21 under section 2(a).

22 (3) No import restrictions set forth in section 6
23 may be applied under this section to the archaeological
24 or ethnological materials of any State Party for more
25 than five years after the date on which the request of a

1 State Party under section 2(a) is made to the United
2 States. This period may be extended by the President
3 for three more years if the President determines that
4 the emergency condition continues to apply with re-
5 spect to the archaeological or ethnological material.
6 However, before taking such action, the President
7 shall request and consider, if received within sixty
8 days, a report of the Committee setting forth its rec-
9 ommendations, together with the reasons therefor, as
10 to whether such import restrictions shall be extended.

11 (4) The import restrictions under this section shall
12 continue to apply, if before their expiration under para-
13 graph (3), there has entered into force with respect to
14 the archaeological or ethnological materials an agree-
15 ment under section 2 or an agreement with a State
16 Party to which the Senate has given its advice and
17 consent to ratification. Such import restrictions shall
18 continue to apply for the duration of the agreement.

19 **SEC. 4. DESIGNATION OF MATERIALS COVERED BY AGREE-**
20 **MENTS OR EMERGENCY ACTIONS.**

21 After any agreement enters into force under section 2,
22 or emergency action is taken under section 3, the Secretary,
23 after consultation with the Director of the International
24 Communications Agency, by regulation shall promulgate,
25 and when appropriate shall revise, a list of the archaeological

1 or ethnological material of the State Party covered by the
2 agreement or by such action. The Secretary may list such
3 material by type or other appropriate classification, but each
4 listing made under this section shall be sufficiently specific
5 and precise to insure that (1) the import restrictions under
6 section 6 are applied only to the archaeological and ethno-
7 logical material covered by the agreement or emergency
8 action; and (2) fair notice is given to importers and other
9 persons as to what material is subject to such restrictions.

10 **SEC. 5. CULTURAL PROPERTY ADVISORY COMMITTEE.**

11 (a) **ESTABLISHMENT.**—There is established the Cul-
12 tural Property Advisory Committee.

13 (b) **MEMBERSHIP.**—(1) The Committee shall be com-
14 posed of nine members appointed by the President as follows:

15 (A) Two members from among four nominees, two
16 of which shall be selected by the American Association
17 of Museums and two of which shall be selected by the
18 Association of Art Museum Directors.

19 (B) Three members from among six nominees,
20 two of which shall be selected by the Archaeological
21 Institute of America, two of which shall be selected by
22 the Coordinating Council of National Archaeological
23 Societies, and two of which shall be selected by the
24 American Anthropological Association.

1 (C) Two members from among four nominees, two
2 of which shall be selected by the American Association
3 of Dealers in Ancient, Oriental, and Primitive Art and
4 two of which shall be selected by the National Antique
5 and Art Dealers Association of America.

6 (D) Two members who shall represent the inter-
7 ests of the public.

8 (2)(A) No individual is eligible for nomination or ap-
9 pointment under paragraph (1)(D) if the individual is an offi-
10 cer or employee of, or is otherwise related in an official ca-
11 pacity to, any organization listed in paragraph (1) (A)
12 through (C).

13 (B) No individual is eligible for nomination or appoint-
14 ment under paragraph (1) unless the individual is specially
15 qualified to serve on the Committee by virtue of the individ-
16 ual's education, training, or experience.

17 (C) Appointments and nominations made under para-
18 graph (1) shall be made in such a manner so as to insure fair
19 representation of the various interests of the public sectors
20 and the private sectors in the international exchange of ar-
21 chaeological and ethnological materials, and that within such
22 sectors, fair representation is accorded to the interests of
23 regional and local institutions and museums.

24 (3)(A) Except as provided in subparagraph (B), members
25 of the Committee shall be appointed for terms of three years.

1 (B) Of the members first appointed—

2 (i) three shall be appointed for terms of one year,

3 (ii) three shall be appointed for terms of two
4 years, and

5 (iii) three shall be appointed for terms of three
6 years,

7 as designated by the President at the time of appointment.

8 (C) Any individual appointed as a member of the Com-
9 mittee is eligible for reappointment for one additional term
10 (whether or not consecutive); except that any member initial-
11 ly appointed to the Committee for less than a full term is
12 eligible for reappointment for two additional terms.

13 (D) A vacancy in the Commission shall be filled in the
14 same manner in which the original appointment was made.

15 (c) EXPENSES.—The members of the Committee shall
16 be reimbursed for actual expenses incurred in the perform-
17 ance of duties for the Committee.

18 (d) TRANSACTION OF BUSINESS.—

19 (1) Five of the members of the Committee shall
20 constitute a quorum. All decisions of the Committee
21 shall be by majority vote of the members present and
22 voting.

23 (2) A Chairman and Vice Chairman of the Com-
24 mittee shall be elected by the members.

25 (e) STAFF AND ADMINISTRATION.—

1 (1) The Director of the International Communica-
2 tions Agency shall provide the Committee with such
3 administrative and technical support services as are
4 necessary for the effective functioning of the Commit-
5 tee.

6 (2) The Administrator of General Services shall
7 furnish the Committee with such offices, equipment,
8 supplies, and maintenance services as are necessary.

9 (3) Upon the request of the Committee, the head
10 of any Federal agency may detail to the Committee,
11 on a reimbursable basis, any of the personnel of such
12 agency to assist the Committee in carrying out its
13 functions.

14 (f) REPORTS BY COMMITTEE.—

15 (1) The Committee shall, with respect to each re-
16 quest of a State Party referred to in section 2(a), un-
17 dertake an investigation and review with respect to
18 matters referred to in section 2(a) (1) through (4) as
19 they relate to the State Party or the request and shall
20 prepare a report setting forth—

21 (A) the results of such investigation and
22 review; and

23 (B) its recommendation, together with the
24 reasons therefor, as to whether an agreement

1 should be entered into under section 2(a) with re-
2 spect to the State Party.

3 (2) The Committee shall, with respect to each
4 agreement proposed to be extended by the President
5 under section 2(c), prepare a report setting forth its
6 recommendations together with the reasons therefor, as
7 to whether or not the agreement should be extended.

8 (3) The Committee shall in each case in which the
9 Committee finds that an emergency condition under
10 section 3 exists (whether or not the State Party indi-
11 cated in its request under section 2(a) that an emergen-
12 cy condition exists) prepare a report setting forth its
13 recommendations, together with the reasons therefor,
14 as to whether emergency action under section 3 should
15 be implemented. If any State Party indicates in its re-
16 quest under section 2(a) that an emergency condition
17 exists and the Committee finds that such a condition
18 does not exist, the Committee shall prepare a report
19 setting forth the reasons for such finding.

20 (4) Any report prepared by the Committee which
21 recommends the entering into or the extension of any
22 agreement under section 2 or the implementation of
23 emergency action under section 3 shall set forth—

24 (A) such terms and conditions which it con-
25 siders necessary and appropriate to include within

1 such agreement, or apply with respect to such im-
2 plementation, for purposes of carrying out the
3 intent of the Convention; and

4 (B) such archaeological or ethnological mate-
5 rial of the State Party, specified by type or such
6 other classification as the Committee deems ap-
7 propriate, which should be covered by such agree-
8 ment or action.

9 (5) If any member of the Committee disagrees
10 with respect to any matter in any report prepared
11 under this subsection, such member may prepare a
12 statement setting forth the reasons for such disagree-
13 ment and such statement shall be appended to, and
14 considered a part of, the report.

15 (6) The Committee shall submit to the Congress
16 and the President a copy of each report prepared by it
17 under this subsection.

18 (g) COMMITTEE REVIEW.—The Committee shall un-
19 dertake a continuing review of the effectiveness of agree-
20 ments entered into under section 2 that have entered into
21 force with respect to the United States, and of emergency
22 action implemented under section 3, and if the Committee
23 finds, as a result of such review, that—

24 (1) cause exists for suspending, under section 2(d),
25 the import restrictions imposed under an agreement;

1 (2) any agreement or emergency action is not
2 achieving the purposes for which entered into or imple-
3 mented; or

4 (3) changes are required to this Act in order to
5 implement fully the obligations of the United States
6 under the Convention;

7 the Committee may submit a report to the Congress and the
8 President setting forth its recommendations for suspending
9 such import restrictions or for improving the effectiveness of
10 any such agreement or emergency action or this Act.

11 **SEC. 6. IMPORT RESTRICTIONS.**

12 (a) **DOCUMENTATION OF LAWFUL EXPORTATION.**—
13 No designated archaeological or ethnological material that is
14 exported (whether or not such exportation is to the United
15 States) from the State Party after the designation of such
16 material under section 4 may be imported into the United
17 States unless the State Party issues a certification or other
18 documentation which certifies that such exportation was not
19 in violation of the laws of the State Party.

20 (b) **CUSTOMS ACTION IN ABSENCE OF DOCUMENTA-**
21 **TION.**—If the consignee of any designated archaeological or
22 ethnological material is unable to present to the customs offi-
23 cer concerned at the time of making entry of such material—

24 (1) the certificate or other documentation of the
25 State Party required under subsection (a); or

1 (2) satisfactory evidence that such material was
2 exported from the State Party—

3 (A) not less than ten years before the date of
4 such entry and that neither the person for whose
5 account the material is imported, nor any related
6 person, contracted for or acquired an interest, di-
7 rectly or indirectly, in such material more than
8 one year before that date of entry, or

9 (B) on or before the date on which such ma-
10 terial was designated under section 4,

11 the customs officer concerned shall refuse to release the ma-
12 terial from customs custody and send it to a bonded ware-
13 house or store to be held at the risk and expense of the con-
14 signee, notwithstanding any other provision of law, until such
15 documentation or evidence is filed with such officer. If such
16 documentation or evidence is not presented within ninety
17 days after the date on which such material is refused release
18 from customs custody, or such longer period as may be al-
19 lowed by the Secretary for good cause shown, the material
20 shall be subject to seizure and judicial forfeiture.

21 (c) DEFINITION OF SATISFACTORY EVIDENCE.—The
22 term “satisfactory evidence” means—

23 (1) for purposes of subsection (b)(2)(A)—

24 (A) one or more declarations under oath by
25 the importer, or the person for whose account the

1 material is imported, stating that, to the best of
2 his knowledge—

3 (i) the material was exported from the
4 State Party not less than ten years before
5 the date of entry into the United States, and

6 (ii) neither such importer nor person,
7 nor any related person, contracted for or ac-
8 quired an interest, directly or indirectly, in
9 such material more than one year before the
10 date of entry of the material; and

11 (B) documentation provided by the consignor,
12 or person who sold the material to the importer,
13 which indicates the date, if known, on which the
14 material was exported from the State Party, or, if
15 not known, the date on which it is believed that
16 the material was exported, and the basis for that
17 belief; and

18 (2) for purposes of subsection (b)(2)(B), one or
19 more declarations under oath by the consignor or
20 person who sold the material to the importer and the
21 importer or the person for whose account the material
22 is to be imported which state that the material was ex-
23 ported from the State Party on or before the date such
24 material was designated under section 4, together with

1 such other evidence of exportation as the Secretary
2 may require.

3 (d) RELATED PERSONS.—For purposes of subsections
4 (b) and (c), a person shall be treated as a related person to an
5 importer, or to a person for whose account material is im-
6 ported, if such person—

7 (1) is a member of the same family as the import-
8 er or person of account, including, but not limited to,
9 membership as a brother or sister (whether by whole
10 or half blood), spouse, ancestor, or lineal descendant;

11 (2) is a partner or associate with the importer or
12 person of account in any partnership, association, or
13 other venture; or

14 (3) is a corporation or other legal entity in which
15 the importer or person of account directly or indirectly
16 owns, controls, or holds power to vote per
17 centum or more of the outstanding voting stock or
18 shares in the entity.

19 **SEC. 7. STOLEN CULTURAL PROPERTY.**

20 No article of cultural property appertaining to the in-
21 ventory of a museum or religious or secular public monument
22 or similar institution in any State Party which is stolen from
23 such institution after the effective date of this Act, or after
24 the date of entry into force of the Convention for the State

1 Party, whichever date is later, may be imported into the
2 United States.

3 **SEC. 8. TEMPORARY DISPOSITION OF MATERIALS AND**
4 **ARTICLES SUBJECT TO ACT.**

5 Pending a final determination as to whether any archae-
6 ological or ethnological material, or any article of cultural
7 property, has been imported into the United States in viola-
8 tion of section 6 or section 7, the Secretary shall, upon appli-
9 cation by any museum or other cultural or scientific institu-
10 tion in the United States which is open to the public, permit
11 such material or article to be retained at such institution if he
12 finds that—

13 (1) sufficient safeguards will be taken by the insti-
14 tution for the protection of such material or article; and

15 (2) sufficient bond is posted by the institution to
16 ensure its return to the Secretary.

17 **SEC. 9. SEIZURE AND FORFEITURE.**

18 (a) **IN GENERAL.**—Any designated archaeological or
19 ethnological material or article of cultural property, as the
20 case may be, which is imported into the United States in
21 violation of section 6 or section 7 shall be subject to seizure
22 and judicial forfeiture. All provisions of law relating to sei-
23 zure, judicial forfeiture, and condemnation for violation of the
24 customs laws shall apply to seizures and forfeitures incurred,
25 or alleged to have been incurred, under this Act, insofar as

1 such provisions of law are applicable to, and not inconsistent
2 with, the provisions of this Act.

3 (b) **ARCHAEOLOGICAL AND ETHNOLOGICAL MATERI-**
4 **AL.**—Any designated archaeological or ethnological material
5 which is imported into the United States in violation of sec-
6 tion 6 and which is forfeited to the United States under this
7 Act shall—

8 (1) first be offered for return to the State Party;
9 (2) if not returned to the State Party, be returned
10 to a claimant with respect to whom the material was
11 forfeited if that claimant establishes—

12 (A) valid title to the material, or

13 (B) that the claimant is a bona fide purchaser
14 for value of the material; or

15 (3) if not returned to the State Party under para-
16 graph (1) or to a claimant under paragraph (2), be dis-
17 posed of in the manner prescribed by law for articles
18 forfeited for violation of the customs laws.

19 No return of material may be made under paragraph (1) or
20 (2) unless the State Party or claimant, as the case may be,
21 bears the expenses incurred incident to the return and deliv-
22 ery, and complies with such other requirements relating to
23 the return as the Secretary shall prescribe.

24 (c) **ARTICLES OF CULTURAL PROPERTY.**—

1 (1) In any action for forfeiture under this section
2 regarding an article of cultural property imported into
3 the United States in violation of section 7, if the claim-
4 ant establishes valid title to the article, under applica-
5 ble law, as against the institution from which the arti-
6 cle was stolen, forfeiture shall not be decreed unless
7 the State Party to which the article is to be returned
8 pays the claimant just compensation for the article. In
9 any action for forfeiture under this section where the
10 claimant does not establish such title but establishes
11 that it purchased the article for value without knowl-
12 edge or reason to believe it was stolen, forfeiture shall
13 not be decreed unless—

14 (A) the State Party to which the article is to
15 be returned pays the claimant an amount equal to
16 the amount which the claimant paid for the arti-
17 cle, or

18 (B) the United States establishes that such
19 State Party, as a matter of law or reciprocity,
20 would in similar circumstances recover and return
21 an article stolen from an institution in the United
22 States without requiring the payment of compen-
23 sation.

24 (2) Any article of cultural property which is im-
25 ported into the United States in violation of section 7

1 and which is forfeited to the United States under this
2 Act shall—

3 (A) first be offered for return to the State
4 Party in whose territory is situated the institution
5 referred to in section 7 and shall be returned if
6 that State Party bears the expenses incident to
7 such return and delivery and complies with such
8 other requirements relating to the return as the
9 Secretary prescribes; or

10 (B) if not returned to such State Party, be
11 disposed of in the manner prescribed by law for
12 articles forfeited for violation of the customs laws.

13 **SEC. 10. EVIDENTIARY REQUIREMENTS.**

14 Notwithstanding the provisions of section 615 of the
15 Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture pro-
16 ceeding brought under this Act in which the material or arti-
17 cle, as the case may be, is claimed by any person, the United
18 States shall establish—

19 (1) in the case of any material subject to the pro-
20 visions of section 6, that the material has been listed
21 by the Secretary in accordance with section 4; and

22 (2) in the case of any article subject to section 7,
23 that the article—

1 (A) appertains to the inventory of a museum
2 or religious or secular public monument or similar
3 institution in a State Party, and

4 (B) was stolen from such institution after the
5 effective date of this Act, or after the date of
6 entry into force of the Convention for the State
7 Party concerned, whichever date is later.

8 SEC. 11. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM
9 ACT.

10 The provisions of this Act shall not apply to—

11 (1) any archaeological or ethnological material or
12 any article of cultural property which is imported into
13 the United States for temporary exhibition or display if
14 such material or article is immune from seizure under
15 judicial process pursuant to the Act entitled "An Act
16 to render immune from seizure under judicial process
17 certain objects of cultural significance imported into the
18 United States for temporary display or exhibition, and
19 for other purposes", approved October 19, 1965 (22
20 U.S.C. 2459); or

21 (2) any designated archaeological or ethnological
22 material or any article of cultural property imported
23 into the United States if such material or article—

24 (A) has been held in the United States for a
25 period of not less than three consecutive years by

1 a recognized museum or religious or secular
2 monument or similar institution, and was pur-
3 chased by that institution for value, in good faith,
4 and without notice that such material or article
5 was imported in violation of this Act, but only
6 if—

7 (i) the acquisition of such material or ar-
8 ticle has been reported in a publication of
9 such institution, any regularly published
10 newspaper or periodical with a circulation of
11 at least fifty thousand, or a periodical or ex-
12 hibition catalog which is concerned with the
13 type of article or materials sought to be
14 exempted from this Act,

15 (ii) such material or article has been ex-
16 hibited to the public for a period or periods
17 aggregating at least one year during such
18 three-year period, or

19 (iii) such article or material has been
20 cataloged and the catalog material made
21 available upon request to the public for at
22 least two years during such three-year
23 period;

24 (B) if subparagraph (A) does not apply, has
25 been within the United States for a period of not

1 less than ten consecutive years and has been ex-
2 hibited for not less than five years during such
3 period in a recognized museum or religious or sec-
4 ular monument or similar institution in the United
5 States open to the public; or

6 (C) if subparagraphs (A) and (B) do not
7 apply, has been within the United States for a
8 period of not less than ten consecutive years and
9 the State Party concerned has received or should
10 have received during such period fair notice
11 (through such adequate and accessible publication,
12 or other means, as the Secretary shall by regula-
13 tion prescribe) of its location within the United
14 States; and

15 (D) if none of the preceding subparagraphs
16 apply, has been within the United States for a
17 period of not less than twenty consecutive years
18 and the claimant establishes that it purchased the
19 material or article for value without knowledge or
20 reason to believe that it was imported in violation
21 of law.

22 **SEC. 12. REGULATIONS.**

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

1 SEC. 13. ENFORCEMENT.

2 In the customs territory of the United States, and in the
3 Virgin Islands, the provisions of this Act shall be enforced by
4 appropriate customs officers. In any other territory or area
5 within the United States, but not within such customs terri-
6 tory or the Virgin Islands, such provisions shall be enforced
7 by such persons as may be designated by the President.

8 SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

9 There are authorized to be appropriated after Septem-
10 ber 30, 1981, such sums as may be necessary to carry out
11 this Act.

12 SEC. 15. DEFINITIONS.

13 For purposes of this Act—

14 (1) The term "agreement" includes any amend-
15 ment to, or extension of, any agreement under this Act
16 that enters into force with respect to the United
17 States.

18 (2) The term "archaeological or ethnological ma-
19 terial of the State Party" means—

20 (A) any object of archaeological interest;

21 (B) any object of ethnological interest; or

22 (C) any fragment or part of any object re-
23 ferred to in subparagraph (A) or (B);

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

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

4 (I) is of cultural significance;

5 (II) is at least two hundred and fifty
6 years old, and

7 (III) was normally discovered as a
8 result of scientific excavation, clandestine or
9 accidental digging, or exploration on land or
10 under water; and

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

14 (I) the product of a tribal or nonindus-
15 trial society, and

16 (II) important to the cultural heritage of
17 a people because of its distinctive character-
18 istics, comparative rarity, or its contribution
19 to the knowledge of the origins, develop-
20 ment, or history of that people.

21 (3) The term "Committee" means the Cultural
22 Property Advisory Committee established under sec-
23 tion 5.

1 (4) The term "consignee" means a consignee as
2 defined in section 483 of the Tariff Act of 1930 (19
3 U.S.C. 1483).

4 (5) The term "Convention" means the Convention
5 on the means of prohibiting and preventing the illicit
6 import, export, and transfer of ownership of cultural
7 property adopted by the General Conference of the
8 United Nations Educational Scientific and Cultural Or-
9 ganization at its sixteenth session.

10 (6) The term "cultural property" includes articles
11 described in article 1 (a) through (k) of the Convention
12 whether or not any such article is specifically designat-
13 ed as such by any State Party for the purposes of such
14 article.

15 (7) The term "designated archaeological or ethno-
16 logical material" means any archaeological or
17 ethnological material of the State Party which is cov-
18 ered by an agreement under this Act that enters into
19 force with respect to the United States, or subject to
20 emergency action under section 3, and listed by regula-
21 tion under section 4.

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

1 (9) The term "State Party" means any nation
2 which has ratified, accepted, or acceded to the Conven-
3 tion.

4 (10) The term "United States" includes the sever-
5 al States, the District of Columbia, and any territory
6 or area the foreign relations for which the United
7 States is responsible.

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

9 (A) any individual who is a citizen or nation-
10 al of the United States;

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

14 (C) any department, agency, or entity of the
15 Federal Government or of any government of any
16 of the United States.

17 SEC. 16. EFFECTIVE DATE.

18 (a) IN GENERAL.—This Act shall take effect on the
19 ninetieth day after the date of the enactment of this Act or on
20 any date which the President shall prescribe and publish in
21 the Federal Register, if such date is—

22 (1) before such ninetieth day and after such date
23 of enactment; and

24 (2) after the initial membership of the Committee
25 is appointed.

1 (b) EXCEPTION.—Notwithstanding subsection (a), the
2 members of the Committee may be appointed in the manner
3 provided for in section 5 at any time after the date of the
4 enactment of the Act.

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