

RESEARCH ARTICLES

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The Syrian Conflict and the Proposed “Protect and Preserve International Cultural Property Act”

Abstract: The United States Congress is considering adding new legislation to its current scheme regulating Cultural Property. The proposed law, the Protect and Preserve Cultural Property Act, would create a new Coordinator and Committee and charge them with harmonizing the cultural heritage policing efforts of the United States. These changes do not alter American law in a fundamental way, but rather mark instead the subtle move towards a dedicated group tasked with enforcing, educating, and evaluating this body of cultural property law and policy in the United States.

Keywords: Syria, USA, archaeological heritage, illicit traffic, looting, art trade

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Introduction

With the looting and destruction currently being inflicted on cultural objects and ancient sites in Northern Iraq and Syria,¹ those interested in stemming the looting of cultural heritage sites now find themselves at a regulatory moment. The crisis presents an opportunity to strengthen any weaknesses in the web of laws and policies that the United States government uses to combat the illicit trade in cultural objects. An important potential strengthening can be seen in a piece of legislation which offers some improvements to the Federal regulatory framework targeting illicit cultural property. Titled “The Protect and Preserve International Cultural Property Act”, the law has surprisingly received scant attention in the cultural heritage policy community.²

The changes are motivated in part by the damage and destruction perpetrated mainly, but not exclusively, by the so-called ISIS militants operating in Northern Iraq and Syria.³ The bi-partisan legislation offers some reforms that could add cohesiveness to the regulatory apparatus which implements the domestic and international law governing art and antiquities, the most important of these reforms include a new committee bringing together the myriad federal agencies which regulate art and antiquities, and call for the appointment of a new International Cultural Property Coordinator who would work to coordinate the cultural property protection roles of the seven different Federal agencies in their diplomatic, military and law enforcement activities.

At the time of writing this legislation has passed the House of Representatives, and still needs approval by the Senate and President before it becomes law. As such the proposed legislation may perhaps not even achieve enactment. But similar proposals have been debated in the Congress and this seems to be a reform favoured by those members of Congress addressing cultural property issues.⁴ Even if the Protect and Preserve International Cultural Property Act does not achieve enactment, there seems a good chance that legislation of some kind and in a similar form will be proposed in the near future.

This article will first provide a brief overview of the current Federal law which applies to cultural property. The aim of this paper is not to summarize all of the strengths and weaknesses of federal cultural property regulation in the United States, but rather to show how the proposed legislation fills a gap in the current

¹ See A.A. Bauer, *Editorial: The Destruction of Heritage in Syria and Iraq and Its Implications*, “International Journal of Cultural Property” 2015, Vol. 22, pp. 1-6.

² HR 1493 114th Congress (2015).

³ For a current estimate of the damage in Syria caused by looting and conflict, see J. Casana, *Satellite Imagery-Based Analysis of Archaeological Looting in Syria*, “Near Eastern Archaeology” 2015, Vol. 78, pp. 142-152; M.D. Danti, *Ground-Based Observations of Cultural Heritage Incidents in Syria and Iraq*, “Near Eastern Archaeology” 2015, Vol. 78, p. 132.

⁴ HR 5703 113th Congress (2014).

cultural property enforcement regime. The article then offers a brief commentary on the main aspects of the legislation, and reproduces the text itself in an appendix.

An Overview of Regulation of Cultural Property in the United States

Federal regulation of cultural property focuses primarily on returning illicit objects, while also establishing prosecution for egregious violations of the law. The primary regulatory tools at the federal level are import restrictions, the civil forfeiture of illicit material, and prosecutions under the National Stolen Property Act.⁵ The proposed legislation offered would not amend this law, rather it would allow federal agencies to implement and enforce this law more effectively. It aims to better coordinate the efforts across several federal agencies. In a seminal 1983 article Professor Paul Bator aptly laid out the challenge for regulators by describing the different segments of the illegal trade in antiquities: “[looting] is carried out in the first instance by local diggers, who then sell their finds through a black market to middlemen, who in turn resell to local or foreign dealers”.⁶ Allowing for information sharing, promoting cooperation, avoiding inter-agency squabbling, and coordinating in general could allow for more effective regulation of cultural property.

An important regulatory hurdle for handlers of cultural property are the import restrictions for certain objects which enter the United States from abroad. The framework for these import restrictions is established in the Convention on Cultural Property Implementation Act (“CCPIA”).⁷ This law represents the implementing legislation of the 1970 UNESCO Convention. In a useful critique of executive branch actions with respect to cultural property, Stephen Urice and Andrew Adler argue that because it took the United States more than ten years after signing the 1970 UNESCO Convention to implement its provisions into law, the text of the law reflects a compromise: while the United States will impose import restrictions for at-risk objects, requesting nations must also police domestically.⁸ For a nation in the midst of sectarian conflict such as Syria, these domestic measures may not be possible.

Import restrictions have proven to be effective at returning illicit material. We can assume that returning objects to the nations of origin does help to disincentivize the illicit trade.⁹ But by only returning a looted object, other parts of the illicit art

⁵ 18 USC §§ 2314-2315 (2012).

⁶ P.M. Bator, *An Essay on the International Trade in Art*, “Stanford Law Review” 1982, Vol. 34, pp. 275, 292.

⁷ 19 USC §§ 2601-2613 (2012).

⁸ A.L. Adler, S.K. Urice, *Resolving the Disjunction Between Cultural Property Policy and Law: A Call for Reform*, “Rutgers Law Review” 2011, Vol. 64, pp. 117, 139-140.

⁹ See P. Gerstenblith, *The Public Interest in the Restitution of Cultural Objects*, “Connecticut Journal of International Law” 2000, Vol. 16, p. 197.

trade are free to move on to the next site or type of object that the market values. Criminal penalties should be used to tackle these looting and smuggling networks – and criminal penalties can be brought against those who knowingly violate the national ownership declarations of nations of origin. Yet these investigations are lengthy and expensive. Large-scale investigations and prosecutions of individuals involved in the illicit antiquities trade have occurred, though they are relatively rare.¹⁰ One of the biggest signal prosecutions in the art trade was the prosecution of two of the key market-end participants in an illicit antiquities smuggling network which moved illicit material from Egypt through England to North America.¹¹ Fred Schultz was a prominent antiquities dealer with a gallery in Manhattan. He was also a vocal critic of the growing enforcement in the United States of foreign ownership declarations. His co-conspirator was Jonathan Tokeley-Parry, an English citizen who had contacts with looters in Egypt. Tokeley-Parry was convicted of handling stolen goods. In 1992 Schultz purchased a statue of Amenhotep III which had been illegally handled by Tokeley-Parry in Egypt, and smuggled on to New York. Tokeley-Parry disguised the head by dipping it in wax and painting it to resemble a cheap souvenir.

Tokeley-Parry then devised elaborate histories for these objects. He would use old typewriters, affix labels which had been stained after soaking in tea, and created a backstory for these objects inventing a fictitious ancestor, Thomas Alcock, as the collector of this material. As a result of effective policing and cooperation between the authorities in Egypt, the United Kingdom, and the United States, Tokeley-Parry was tried and convicted in the United Kingdom under the Theft Act for handling stolen goods in a trial in 1997.¹² By smuggling looted objects out of Egypt, Tokeley-Parry was handling stolen goods because Egypt had declared ownership rights to that country's undiscovered archaeological resources.

This prosecution in the United Kingdom led to the prosecution of the market end of this network in New York. Fred Schultz was convicted of conspiracy to violate the National Stolen Property Act.¹³ The prosecution was no doubt aided considerably by Tokeley-Parry serving as a witness for the prosecution, which revealed a number of details about their working relationship. Indeed, Tokeley-Parry's documentation and letters were instrumental in his prosecution and the prosecution of Schultz. The trial of Schultz is perhaps the best known use of theft acts and their at-

¹⁰ Those cases include *United States v. Hollinshead*, 495 F2d 1154 (9th Cir. 1974) and *United States v. McClain*, 593 F2d 658 (5th Cir. 1979). For a discussion of the evolution of the federal criminal laws as applied to national ownership declarations see D. Fincham, *Why U.S. Federal Criminal Penalties for Dealing in Illicit Cultural Property are Ineffective, and a Pragmatic Alternative*, "Cardozo Arts and Entertainment Law Journal" 2007, Vol. 25, pp. 597, 611-617.

¹¹ For a discussion of the illicit antiquities trade as a transnational criminal network, see P.B. Campbell, *The Illicit Antiquities Trade as a Transnational Criminal Network: Characterizing and Anticipating Trafficking of Cultural Heritage*, "International Journal of Cultural Property" 2013, Vol. 20, p. 113.

¹² *R. v. Tokeley-Parry*, [1999] Crim. LR 578.

¹³ *United States v. Schultz*, 333 F3d 393 (2^d Cir. 2003).

tendant offenses to prosecute the dealers of illicit antiquities. But its success relied on a series of investigations and cooperative arrangements that have been difficult to duplicate. Facing as large an obstacle as cooperating across three different nations – Egypt, the United Kingdom, and the United States – the Federal government's enforcement and policing regime with respect to illicit antiquities is similarly blocked and impeded by the seven different federal agencies which all have the responsibility of policing segments of the cultural property trade.

Without a coordinated effort, illicit networks will continue to evade regulation. The criminologist Simon Mackenzie in an important ethnological analysis of the trade came to the conclusion that legal restraints in the antiquities trade are much less effective than in other criminal markets.¹⁴ Mackenzie argued white-collar criminals especially are heavily influenced by the risk of detection and the likelihood and severity of punishment. This coupled with the reality that many antiquities are sold without sufficient ownership history means criminal penalties are irregular and unpredictable. Professor Patty Gerstenblith, the current Chair of the State Department's Cultural Property Advisory Committee has argued that “market participants deny the causal connection between the funds they put into the market and site looting” and that the relative scarcity of criminal punishment and the difficulty in establishing the required elements for a criminal conviction often mean that the government's most likely remedy are civil forfeitures¹⁵ of the antiquities at issue, or even private suits brought by the nation of origin.¹⁶ As a result the cycle of looting continues, causing harm to our museums, destroys unique and irreplaceable archaeological contexts, undermines international relations, and harms our collective cultural heritage. Given the current regulatory framework, the proposed legislation aims to harmonize the Federal approach.

Threats to Cultural Property

The first three sections of the proposed legislation set out the definitions and connect the legislation to the three most widely adopted Cultural Property Conventions.¹⁷ Section three of the proposed legislation offers a number of findings and

¹⁴ S.R.M. Mackenzie, *Going, Going, Gone: Regulating the Market in Illicit Antiquities*, Institute of Art and Law, Leicester 2007, pp. 32-50.

¹⁵ See J.A. Kreder, *The Choice between Civil and Criminal Remedies in Stolen Art Litigation*, “Vanderbilt Journal of Transnational Law” 2005, Vol. 38, p. 1199.

¹⁶ P. Gerstenblith, *Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past*, “Chicago Journal of International Law” 2007, Vol. 8, p. 169, 178-180.

¹⁷ These are the: Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954, 249 UNTS 240; Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 14 November 1970, 823 UNTS 231; Convention Concerning the Protection of the World's Cultural and Natural Heritage, 16 November 1972, 1037 UNTS 151.

statements of Congressional policy. There are many estimates of the size of the illicit art market which attempt to compare heritage crime to other major criminal markets like drugs and arms, even though these estimates have little data to support them. The scale of looted antiquities presents its own problems, as estimating the kind of object taken by looters will be difficult, and there is of course the difficulty in calculating the value of the loss of archaeological context. Though archaeological context has little value to the art market, its value to future researchers and future generations is in many ways even more precious than the marketable antiquities looters seek. Without records and the skilled expertise of an archaeologist to record scientific and contextual information, a tremendous amount of raw information and knowledge is lost, not to mention the amount of material which is damaged and cast aside because it may not be saleable.¹⁸

Though it is short on concrete data, the proposed legislation underscores the destruction taking place. These statements amount to official Congressional recognition of the threats to cultural property and describes how it has been “looted, trafficked, lost, damaged, or destroyed” as a result of “political instability, armed conflict, natural disasters, and other threats”. It continues by taking note of individual nations and areas which have suffered, including: Cambodia under the Khmer Rouge, the Bamiyan Buddhas, the Iraq Museum in Baghdad, the Haitian city of Jacmel, Mali, Egypt, Syria, the destruction done by ISIL in both Iraq and Syria, and noted the United Nations Security Council Resolution No. 2199 (2015).

These recognitions are plain statements of policy which may prompt concrete action. The illicit art trade combines two main classes of objects: stolen artworks and recently excavated (i.e. “looted”) antiquities. So how large is the volume of this material? The answer to that question will only be, at best, a rough estimate. Sandro Calvani, a former director of the United Nations Interregional Crime and Justice Research Institute has argued that while the trade in illicit art has reached “epidemic proportions”; many obstacles prevent the precise quantification of these crimes, as “every year, the Interpol General Secretariat asks all member countries for statistics on theft of works of art” yet on average only 60 out of 187 member countries provide statistics.¹⁹ So the Congressional recognition of threats to cultural heritage, coupled with other coordinating efforts discussed below, amount to an opportunity to convert the heightened awareness into tangible resources for cultural property protection.

¹⁸ See K. Hanson, *Why Does Archaeological Context Matter*, in: G. Emberling, K. Hanson (eds.), *Catastrophe! The Looting & Destruction Of Iraq's Past*, The Oriental Institute, Chicago 2008, p. 45.

¹⁹ S. Calvani, *Frequency and Figures of Organised Crime in Art and Antiquities*, in: S. Manacorda (ed.), *Organised Crime in Art and Antiquities*, ISPAC Courmayeur Mont Blanc, Italy 2008, p. 28.

A New Cultural Property Coordinator and Committee

The proposed legislation in sections four and five creates two new mechanisms to protect cultural property from these threats: a coordinator and a supporting committee. First, a new position at the State Department would be created to “serve concurrently as the United States Coordinator for International Cultural Property Protection”. That Coordinator would have the responsibility of spearheading the efforts to protect cultural property internationally, primarily among Federal agencies. This position would have the potential to harmonize and direct the efforts of the disparate Federal agencies which are presently tasked with protecting cultural property. Should the legislation achieve enactment, it would indicate that the Congress considers cultural property protection important, and that protecting it needs a strong and decisive leader. To understand why this position would be needed, it may be useful to reflect on the curious absence in the United States of a Culture Ministry. The absence of a department of culture most likely hinders the efforts of cultural policy advocates in the United States. This situation would be remedied at the Federal level with a new coordinator, at least with respect to the regulation of Cultural Property at the Federal level.

Though predicting the efficacy of the coordinator is difficult at this stage, the position does seem well-placed to ensure that the array of Federal agencies which police the art and antiquities trade do not fall prey to interagency strife. It is possible that the Cultural Property Coordinator would be able to oversee and assist investigations across federal agencies, promote successful investigative strategies, and would generally inform and strengthen federal cultural property protection overall. One of the struggles in successfully carrying out large-scale investigations of antiquities trafficking networks are the limitations of budgets and time imposed on the investigators and attorneys who do the policing and prosecuting. By appointing a coordinator it is possible that more resources could be lobbied for, and the impact could be substantial. In addition, a strong coordinator could centralize and rationalize policy formulation in the area of cultural property protection. It would seem that the coordinator would have to simultaneously lobby citizens, Congress, and other agencies to invest in cultural property protection initiatives. As a policy planner though, the Coordinator would also need to evaluate these efforts.

That evaluation function would be served with the creation of the new Coordinating Committee which would meet at least annually to “coordinate and inform Federal efforts to protect international cultural property”. Membership of the Committee would include representatives from the department of State, Department of Defense, the Department of Homeland Security, including US Immigration and Customs Enforcement and US Customs and Border Protection, the Department of the Interior, the Department of Justice, the Federal Bureau of Investigation, and the United States Agency for International Development, the Smithsonian Institution, and others. In practice, the Committee would most likely function to assist

the coordination of Federal efforts to regulate the protection of cultural property internationally. Both the Coordinator and Committee would be responsible for reporting on their activities to appropriate Congressional Committees.

The current policy of the Federal government seeks to return as many looted and stolen objects as possible to their country of origin. As an example of this, in a recent repatriation ceremony Thomas Winkowski, acting director of the Department of Homeland Security's Immigration and Customs Enforcement (ICE) agency spoke about the importance of art and the beauty of the 25 objects being returned, but there were no arrests by US officials, only the return of objects.²⁰ Too often the measures to prevent antiquities smuggling have been about the objects; not enough good policing and prosecution has been directed at dismantling looting networks and targeting key individuals in these networks. The government press release marking that ceremony noted that since 2007, an estimated 7,150 objects have been returned to 27 countries.²¹ At this stage, predicting accurately how effective the coordinator and committee would be is difficult, especially given that the legislation has yet to be taken up by the Senate. These steps may be of limited use. But given the piecemeal features of at least some of the Federal government's response to cultural property, a coordinator coupled with a working committee may perhaps be able to encourage better regulation and policy initiatives.

Outreach to Protect At-Risk Heritage

The Smithsonian Institution is the only national cultural institution poised to assist with outreach. Most of the other major museums in the United States are nonprofit institutions which receive government support, but are not subject to government oversight. Section 7 of the proposed legislation would authorize federal agencies to make use of staff at the Smithsonian Institution to protect cultural property. This has been taking place already in the absence of the law; for example Corinne Wenger, a Cultural Heritage Preservation Officer with the Smithsonian Institute has already been involved in efforts to protect the cultural heritage of at-risk areas, including Iraq and Syria.²² In this regard facilitating the efforts to help protect and preserve sites that are at risk should be applauded. So when Congress authorizes these staff members to assist, it should be seen mainly as Congressional encouragement of outreach to at-risk sites.

²⁰ 25 Peruvian cultural treasures returned to the government of Peru, 22 October 2014, <https://www.ice.gov/news/releases/25-peruvian-cultural-treasures-returned-government-peru> [accessed: 12.09.2015].

²¹ Ibidem.

²² D. Amos, *In Syria, Archaeologists Risk Their Lives To Protect Ancient Heritage*, National Public Radio, 9 March 2015, <http://www.npr.org/sections/parallels/2015/03/09/390691518/in-syria-archaeologists-risk-their-lives-to-protect-ancient-heritage> [accessed: 12.09.2015].

Emergency Import Restrictions for Syrian Cultural Property

The legislation concludes with a section which would enable the President to impose emergency import restrictions on Syrian cultural property. Because of the unique way in which the United States signed on to the 1970 UNESCO Convention, Congressional action can streamline the imposition of emergency import restrictions when a requesting nation has difficulty making that request.

The United States requires, under the CCPIA, that a nation of origin make a request for import restrictions through the Cultural Property Advisory Committee (CPAC).²³ The Convention on Cultural Property Implementation Act (CCPIA) implements articles 7(b) and 9 of the 1970 UNESCO Convention. The CCPIA under 7(b) sets up a committee and a public comment process by which nations can request that the United States impose import restrictions on antiquities. However, because the legislation requires Syria to do that, and because in 2012 the White House recognized the Syrian rebels as the legitimate governing authority of the Syrian Arab Republic,²⁴ the mechanics of seeking these restrictions is convoluted. Article 9 allows for States Parties to the 1970 UNESCO Convention to enter into agreements when cultural property is at risk in an emergency situation. Under the CCPIA, even the emergency import restrictions would still require a request by Syrian officials.²⁵ Section 8 of the proposed legislation would authorize the President to impose emergency import restrictions without the need for a formal request from the government of Syria. The provision bears many similarities to the Emergency Protection of Iraqi Cultural Antiquities Act of 2004,²⁶ which allowed the imposition of emergency import restrictions on Iraqi cultural property when there was a similar difficulty in Iraq putting together a formal request.

Conclusions

The international trade in cultural property presents a series of unique challenges. Congress has offered some important new tools with the proposed “The Protect and Preserve International Cultural Property Act”. One of the core components of regulatory intervention in the art and antiquities market is to increase the deterrent impact of the resources available, and to muster more regulatory resources. The threat of criminal penalty can alter the behaviour of potential criminals, this

²³ 19 USC 2603 (2012).

²⁴ M. Landler, M.R. Gordon, A. Barnard, *U.S. Will Grant Recognition to Syrian Rebels, Obama Says*, “New York Times”, 11 December 2012, <http://www.nytimes.com/2012/12/12/world/middleeast/united-states-involvement-in-syria.html> [accessed: 12.09.2015].

²⁵ 19 USC 2602(a)(3) (2012).

²⁶ Emergency Protection for Iraqi Cultural Antiquities Act of 2004, Pub. L. No. 108-429, § 3002, 118 Stat. 2434 (2004); Import Restriction Imposed on Archaeological and Ethnological Material of Iraq 19 CFR pt 12 (30 April 2008).

is after all a cornerstone of criminal law.²⁷ Deterring individuals from committing crimes through the threat of negative repercussions is one of the most useful policy tools regulators have. But when it comes to works of art at risk during armed conflict, or that cross national borders, those deterrents can become much more difficult to attach to individual actors. Increasing effective prosecution will require a robust policy framework, and considerable resources. Considerable, but compared to the resources devoted to other criminal activities, relatively modest.

Mustering the appropriate resources and policy framework may be difficult, but the rhetoric of prosecutors, Assistant US Attorneys, and State Department officials reveals the importance of combating the illicit trade.²⁸ The proposed law would coordinate those efforts. Without the credible threat of penal sanctions, buyers and dealers can continue doing business with only intermittent interruption. At present customs agents are not well-suited to conduct long-form investigations which result in prosecutions. They mainly seize objects and return them to nations of origin. An agency like the FBI does have this kind of expertise, but it has no jurisdiction over many of these kinds of offences. Few of the far more important prosecutions and arrests have been successful. The wave of seizures and returns conducted by Customs and Border Patrol Agents only focuses on the objects. Perhaps with a more unified Coordinator, who has the resources to oversee this effort, the efficacy of these provisions may be increased. It seems difficult to imagine a robust investigative and prosecutorial effort that does not have the benefit of effective coordination. Whether this proposed legislation will achieve enactment, or will achieve what its drafters intend remains to be seen, but it appears to be a solid step in the right direction.

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²⁷ See S. Manacorda, D. Chappell, *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property*, Springer-Verlag, New York 2011.

²⁸ J. Kerry, *Remarks at Threats to Cultural Heritage in Iraq and Syria Event*, 22 September 2014, <http://www.state.gov/secretary/remarks/2014/09/231992.htm> [accessed: 12.09.2015].

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Appendix

114th CONGRESS, 1st Session
United States Library of Congress
HR 1493
Engrossed in House

June 01, 2015

**HR 1493
AN ACT**

To protect and preserve international cultural property at risk due to political instability, armed conflict, or natural or other disasters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the ‘Protect and Preserve International Cultural Property Act’.

SEC. 2. DEFINITION.

In this Act:

(1) Appropriate congressional committees. The term ‘appropriate congressional committees’ means the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Armed Services, and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, the Committee on Armed Services, and the Committee on the Judiciary of the Senate.

(2) Cultural property. The term ‘cultural property’ includes property covered under-

(A) the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, concluded at The Hague on May 14, 1954 (Treaty Doc. 106-1(A));

(B) Article 1 of the Convention Concerning the Protection of the World’s Cultural and Natural Heritage, adopted by UNESCO on November 23, 1972 (commonly referred to as the ‘1972 Convention’); or

(C) Article 1 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, adopted by UNESCO on November 14, 1970 (commonly referred to as the ‘1970 UNESCO Convention’).

SEC. 3. FINDINGS AND STATEMENT OF POLICY.

(a) Findings. Congress finds the following:

(1) Over the years, international cultural property has been looted, trafficked, lost, damaged, or destroyed due to political instability, armed conflict, natural disasters, and other threats.

(2) During China’s Cultural Revolution, many antiques were destroyed, including a large portion of old Beijing, and Chinese authorities are now attempting to rebuild portions of China’s lost architectural heritage.

(3) In 1975, the Khmer Rouge, after seizing power in Cambodia, systematically destroyed mosques and nearly every Catholic church in the country, along with many Buddhist temples, statues, and Buddhist literature.

(4) In 2001, the Taliban destroyed the Bamiyan Buddhas, ancient statues carved into a cliffside in central Afghanistan, leading to worldwide condemnation.

(5) After the fall of Saddam Hussein, thieves looted the Iraq Museum in Baghdad, resulting in the loss of approximately 15,000 items, including ancient amulets, sculptures, ivories, and cylinder seals. Many of these items remain unrecovered.

(6) The 2004 Indian Ocean earthquake and tsunami not only affected 11 countries, causing massive loss of life, but also damaged or destroyed libraries, archives, and World Heritage Sites such as the Mahabalipuram in India, the Sun Temple of Koranak on the Bay of Bengal, and the Old Town of Galle and its fortifications in Sri Lanka.

(7) In Haiti, the 2010 earthquake destroyed art, artifacts, and archives, and partially destroyed the 17th century Haitian city of Jacmel.

(8) In Mali, the Al-Qaeda affiliated terrorist group Ansar Dine destroyed tombs and shrines in the ancient city of Timbuktu a major center for trade, scholarship, and Islam in the 15th and 16th centuries and threatened collections of ancient manuscripts.

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(9) In Egypt, recent political instability has led to the ransacking of museums, resulting in the destruction of countless ancient artifacts that will forever leave gaps in humanity's record of the ancient Egyptian civilization.

(10) In Syria, the ongoing civil war has resulted in the shelling of medieval cities, damage to five World Heritage Sites, and the looting of museums containing artifacts that date back more than six millennia and include some of the earliest examples of writing.

(11) In Iraq and Syria, the militant group ISIL has destroyed numerous cultural sites and artifacts, such as the Tomb of Jonah in July 2014, in an effort to eradicate ethnic and religious minorities from contested territories. Concurrently, cultural antiquities that escape demolition are looted and trafficked to help fund ISIL's militant operations.

(12) On February 12, 2015, the United Nations Security Council unanimously adopted resolution 2199 (2015), which 'reaffirms its decision in paragraph 7 of resolution 1483 (2003) and decides that all Member States shall take appropriate steps to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from Iraq since 6 August 1990 and from Syria since 15 March 2011, including by prohibiting cross-border trade in such items, thereby allowing for their eventual safe return to the Iraqi and Syrian people.'

(13) United Nations Security Council resolution 2199 (2015) also warns that ISIL and other extremist groups are trafficking cultural heritage items from Iraq and Syria to fund their recruitment efforts and carry out terrorist attacks.

(14) The destruction of cultural property represents an irreparable loss of humanity's common cultural heritage and is therefore a loss for all Americans.

(15) Protecting international cultural property is a vital part of United States cultural diplomacy, showing the respect of the United States for other cultures and the common heritage of humanity.

(16) The United States Armed Forces have played important roles in preserving and protecting cultural property. In 1943, President Franklin D. Roosevelt established a commission to advise the United States military on the protection of cultural property. The commission formed teams of individuals known as the 'Monuments Men' who are credited with securing, cataloguing, and returning hundreds of thousands of works of art stolen by the Nazis during World War II.

(17) The Department of State, in response to the Convention on Cultural Property Implementation Act, noted that '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 depre-

dations in some countries, resulting in the mutilation of ceremonial centers and archaeological complexes of ancient civilizations and the removal of stone sculptures and reliefs.’. The Department further noted that ‘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.’.

(18) The U.S. Committee of the Blue Shield was founded in 2006 to support the implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and to coordinate with the United States military, other branches of the United States Government, and other cultural heritage nongovernmental organizations in preserving international cultural property threatened by political instability, armed conflict, or natural or other disasters.

(b) Statement of Policy. It shall be the policy of the United States to-

(1) protect and preserve international cultural property at risk of looting, trafficking, and destruction due to political instability, armed conflict, or natural or other disasters;

(2) protect international cultural property pursuant to its obligations under international treaties to which the United States is a party;

(3) prevent, in accordance with existing laws, importation of cultural property pilaged, looted, stolen, or trafficked at all times, including during political instability, armed conflict, or natural or other disasters; and

(4) ensure that existing laws and regulations, including import restrictions imposed through the Office of Foreign Asset Control (OFAC) of the Department of the Treasury, are fully implemented to prevent trafficking in stolen or looted cultural property.

SEC. 4. UNITED STATES COORDINATOR FOR INTERNATIONAL CULTURAL PROPERTY PROTECTION.

The Secretary of State shall designate a Department of State employee at the Assistant Secretary level or above to serve concurrently as the United States Coordinator for International Cultural Property Protection. The Coordinator shall-

(1) coordinate and promote efforts to protect international cultural property, especially activities that involve multiple Federal agencies;

(2) act as Chair of the Coordinating Committee on International Cultural Property Protection established under section 5;

(3) resolve interagency differences;

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(4) develop strategies to reduce illegal trade and trafficking in international cultural property in the United States and abroad, including by reducing consumer demand for such trade;

(5) support activities to assist countries that are the principle sources of trafficked cultural property to protect cultural heritage sites and to prevent cultural property looting and theft;

(6) work with and consult domestic and international actors such as foreign governments, intergovernmental organizations, nongovernmental organizations, museums, educational institutions, and research institutions to protect international cultural property; and

(7) submit to the appropriate congressional committees the annual report required under section 6.

SEC. 5. COORDINATING COMMITTEE ON INTERNATIONAL CULTURAL PROPERTY PROTECTION.

(a) Establishment. There is established a Coordinating Committee on International Cultural Property Protection (in this section referred to as the 'Committee').

(b) Functions. The full Committee shall meet not less often than annually to coordinate and inform Federal efforts to protect international cultural property and to facilitate the work of the United States Coordinator for International Cultural Property Protection designated under section 4.

(c) Membership. The Committee shall be composed of the United States Coordinator for International Cultural Property Protection, who shall act as Chair, and representatives of the following:

- (1) The Department of State.
- (2) The Department of Defense.
- (3) The Department of Homeland Security, including U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection.
- (4) The Department of the Interior.
- (5) The Department of Justice, including the Federal Bureau of Investigation.
- (6) The United States Agency for International Development.
- (7) The Smithsonian Institution.
- (8) Such other entities as the Chair determines appropriate.

(d) Subcommittees. The Committee may include such subcommittees and taskforces as the Chair determines appropriate. Such subcommittees or taskforces may be comprised of a subset of the Committee members or of such other members as the Chair determines appropriate. At the discretion of the Chair, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to activities of such subcommittees or taskforces.

(e) Consultation. The Committee shall consult with governmental and non-governmental organizations, including the U.S. Committee of the Blue Shield, museums, educational institutions, and research institutions on efforts to promote and protect international cultural property.

SEC. 6. REPORTS ON ACTIVITIES TO PROTECT INTERNATIONAL CULTURAL PROPERTY.

Not later than 1 year after the date of the enactment of this Act and annually thereafter for the next 6 years, the Secretary of State, acting through the United States Coordinator for International Cultural Property Protection, and in consultation with the Administrator of the United States Agency for International Development, the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security, as appropriate, shall submit to the appropriate congressional committees a report that includes information on activities of-

(1) the United States Coordinator and the Coordinating Committee on International Cultural Property Protection to protect international cultural property;

(2) the Department of State to protect international cultural property, including activities undertaken pursuant to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and other statutes, international agreements, and policies, including-

(A) procedures the Department has instituted to protect international cultural property at risk of destruction due to political instability, armed conflict, or natural or other disasters; and

(B) actions the Department has taken to protect international cultural property in conflicts to which the United States is a party;

(3) the United States Agency for International Development (USAID) to protect international cultural property, including activities and coordination with other Federal agencies, international organizations, and nongovernmental organizations regarding the protection of international cultural property at risk due to political unrest, armed conflict, natural or other disasters, and USAID development programs;

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(4) the Department of Defense to protect international cultural property, including activities undertaken pursuant to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and other cultural property protection statutes and international agreements, including-

(A) directives, policies, and regulations the Department has instituted to protect international cultural property at risk of destruction due to political instability, armed conflict, or natural or other disasters; and

(B) actions the Department has taken to avoid damage to cultural property through construction activities abroad; and

(5) the Department of Homeland Security and the Department of Justice, including the Federal Bureau of Investigation, to protect both international cultural property abroad and international cultural property located in, or attempted to be imported into, the United States, including activities undertaken pursuant to statutes and international agreements, including-

(A) statutes and regulations the Department has employed in criminal, civil, and civil forfeiture actions to prevent and interdict trafficking in stolen and smuggled cultural property, including investigations into transnational organized crime and smuggling networks; and

(B) actions the Department has taken in order to ensure the consistent and effective application of law in cases relating to both international cultural property abroad and international cultural property located in, or attempted to be imported into, the United States.

SEC. 7. AUTHORIZATION FOR FEDERAL AGENCIES TO ENGAGE IN INTERNATIONAL CULTURAL PROPERTY PROTECTION ACTIVITIES WITH THE SMITHSONIAN INSTITUTION.

Notwithstanding any other provision of law, any agency that is involved in international cultural property protection activities is authorized to enter into agreements or memoranda of understanding with the Smithsonian Institution to temporarily engage personnel from the Smithsonian Institution for the purposes of furthering such international cultural property protection activities.

SEC. 8. EMERGENCY PROTECTION FOR SYRIAN CULTURAL PROPERTY.

(a) Presidential Determination. Notwithstanding subsection (b) of section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) (relating to a Presidential determination that an emergency condition applies with respect to any archaeological or ethnological material of any State Party to the Convention), the President shall apply the import restrictions referred

to in such section 304 with respect to any archaeological or ethnological material of Syria, except that subsection (c) of such section 304 shall not apply. Such import restrictions shall take effect not later than 120 days after the date of the enactment of this Act.

(b) Annual Determination Regarding Certification.-

(1) Determination.-

(A) In general. The President shall, not less often than annually, determine whether at least one of the conditions specified in subparagraph (B) is met, and shall notify the appropriate congressional committees of such determination.

(B) Conditions. The conditions referred to in subparagraph (A) are the following:

(i) The Government of Syria is incapable, at the time a determination under such subparagraph is made, of fulfilling the requirements to request an agreement under section 303 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602).

(ii) It would be against the United States national interest to enter into such an agreement.

(2) Termination of restrictions. The import restrictions referred to in subsection (a) shall terminate on the date that is 5 years after the date on which the President determines that neither of the conditions specified in paragraph (1)(B) are met, unless before such termination date Syria requests to enter into an agreement with the United States pursuant to section 303 of the Convention on Cultural Property Implementation Act, in which case such import restrictions may remain in effect until the earliest of either-

(A) the date that is 3 years after the date on which Syria makes such a request; or

(B) the date on which the United States and Syria enter into such an agreement.

(C) Waiver.-

(1) In general. The President may waive the import restrictions referred to in subsection (a) for specified cultural property if the President certifies to the appropriate congressional committees that the conditions described in paragraph (2) are met.

(2) Conditions. The conditions referred to in paragraph (1) are the following:

(A) The foreign owner or custodian of the specified cultural property has requested such property be temporarily located in the United States for protection purposes.

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(B) Such property shall be returned to the foreign owner or custodian when requested by such foreign owner or custodian.

(C) Granting a waiver under this subsection will not contribute to illegal trafficking in cultural property or financing of criminal or terrorist activities.

(3) Action. If the President grants a waiver under this subsection, the specified cultural property that is the subject of such waiver shall be placed in the temporary custody of the United States Government or in the temporary custody of a cultural or educational institution within the United States for the purpose of protection, restoration, conservation, study, or exhibition, without profit.

(4) Rule of construction. Nothing in this Act shall prevent application of the Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes (22 U.S.C. 2459; Public Law 89-259) with respect to archaeological or ethnological material of Syria.

(d) Definitions. In this section-

(1) the term 'archaeological or ethnological material of Syria' means cultural property of Syria and other items of archaeological, historical, cultural, rare scientific, or religious importance unlawfully removed from Syria on or after March 15, 2011; and

(2) the term 'State Party' has the meaning given such term in section 302 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601).

Passed the House of Representatives June 1, 2015.