

114TH CONGRESS  
1ST SESSION

# S. 1887

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

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## IN THE SENATE OF THE UNITED STATES

JULY 29, 2015

Mr. CASEY (for himself, Mr. GRASSLEY, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect and Preserve  
5 International Cultural Property Act”.

6 **SEC. 2. DEFINITION.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
9 TEES.—The term “appropriate congressional com-

mittees” 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”).

1 **SEC. 3. FINDINGS AND STATEMENT OF POLICY.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Over the years, international cultural prop-  
4 erty has been looted, trafficked, lost, damaged, or  
5 destroyed due to political instability, armed conflict,  
6 natural disasters, and other threats.

7 (2) During China’s Cultural Revolution, many  
8 antiques were destroyed, including a large portion of  
9 old Beijing, and Chinese authorities are now at-  
10 tempting to rebuild portions of China’s lost architec-  
11 tural heritage.

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

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

21 (5) After the fall of Saddam Hussein, thieves  
22 looted the Iraq Museum in Baghdad, resulting in the  
23 loss of approximately 15,000 items, including an-  
24 cient amulets, sculptures, ivories, and cylinder seals.  
25 Many of these items remain unrecovered.

1           (6) The 2004 Indian Ocean earthquake and  
 2 tsunami not only affected 11 countries, causing mas-  
 3 sive loss of life, but also damaged or destroyed li-  
 4 braries, archives, and World Heritage Sites such as  
 5 the Mahabalipuram in India, the Sun Temple of  
 6 Koranak on the Bay of Bengal, and the Old Town  
 7 of Galle and its fortifications in Sri Lanka.

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

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

17          (9) In Egypt, recent political instability has led  
 18 to the ransacking of museums, resulting in the de-  
 19 struction of countless ancient artifacts that will for-  
 20 ever leave gaps in humanity's record of the ancient  
 21 Egyptian civilization.

22          (10) In Syria, the ongoing civil war has resulted  
 23 in the shelling of medieval cities, damage to five  
 24 World Heritage Sites, and the looting of museums  
 25 containing artifacts that date back more than six

1 millennia and include some of the earliest examples  
2 of writing.

3 (11) In Iraq and Syria, the militant group ISIL  
4 has destroyed numerous cultural sites and artifacts,  
5 such as the Tomb of Jonah in July 2014, in an ef-  
6 fort to eradicate ethnic and religious minorities from  
7 contested territories. Concurrently, cultural antiq-  
8 uities that escape demolition are looted and traf-  
9 ficked to help fund ISIL's militant operations.

10 (12) On February 12, 2015, the United Na-  
11 tions Security Council unanimously adopted resolu-  
12 tion 2199 (2015), which "[r]eaffirms its decision in  
13 paragraph 7 of resolution 1483 (2003) and decides  
14 that all Member States shall take appropriate steps  
15 to prevent the trade in Iraqi and Syrian cultural  
16 property and other items of archaeological, histor-  
17 ical, cultural, rare scientific, and religious impor-  
18 tance illegally removed from Iraq since 6 August  
19 1990 and from Syria since 15 March 2011, includ-  
20 ing by prohibiting cross-border trade in such items,  
21 thereby allowing for their eventual safe return to the  
22 Iraqi and Syrian people."

23 (13) United Nations Security Council resolution  
24 2199 (2015) also warns that ISIL and other extrem-  
25 ist groups are trafficking cultural heritage items

1 from Iraq and Syria to fund their recruitment ef-  
2 forts and carry out terrorist attacks.

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

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

11 (16) The United States Armed Forces have  
12 played important roles in preserving and protecting  
13 cultural property. In 1943, President Franklin D.  
14 Roosevelt established a commission to advise the  
15 United States military on the protection of cultural  
16 property. The commission formed teams of individ-  
17 uals known as the "Monuments Men" who are cred-  
18 ited with securing, cataloguing, and returning hun-  
19 dreds of thousands of works of art stolen by the  
20 Nazis during World War II.

21 (17) The Department of State, in response to  
22 the Convention on Cultural Property Implementation  
23 Act, noted that "the legislation is important to our  
24 foreign relations, including our international cultural  
25 relations. The expanding worldwide trade in objects

1 of archaeological and ethnological interest has led to  
2 wholesale depredations in some countries, resulting  
3 in the mutilation of ceremonial centers and archae-  
4 ological complexes of ancient civilizations and the re-  
5 moval of stone sculptures and reliefs.”. The Depart-  
6 ment further noted that “[t]he United States con-  
7 siders that on grounds of principle, good foreign re-  
8 lations, and concern for the preservation of the cul-  
9 tural heritage of mankind, it should render assist-  
10 ance in these situations.”.

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

21 (b) STATEMENT OF POLICY.—It shall be the policy  
22 of the United States to—

23 (1) protect and preserve international cultural  
24 property at risk of looting, trafficking, and destruc-

1       tion due to political instability, armed conflict, or  
 2       natural or other disasters;

3               (2) protect international cultural property pur-  
 4       suant to its obligations under international treaties  
 5       to which the United States is a party;

6               (3) prevent, in accordance with existing laws,  
 7       importation of cultural property pillaged, looted, sto-  
 8       len, or trafficked at all times, including during polit-  
 9       ical instability, armed conflict, or natural or other  
 10      disasters; and

11              (4) ensure that existing laws and regulations,  
 12      including import restrictions imposed through the  
 13      Office of Foreign Asset Control (OFAC) of the De-  
 14      partment of the Treasury, are fully implemented to  
 15      prevent trafficking in stolen or looted cultural prop-  
 16      erty.

17 **SEC. 4. UNITED STATES COORDINATOR FOR INTER-**  
 18 **NATIONAL CULTURAL PROPERTY PROTEC-**  
 19 **TION.**

20       The Secretary of State shall designate a Department  
 21      of State employee at the Assistant Secretary level or above  
 22      to serve concurrently as the United States Coordinator for  
 23      International Cultural Property Protection. The Coordi-  
 24      nator shall—



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

4           (2) act as Chair of the Coordinating Committee  
5           on International Cultural Property Protection estab-  
6           lished under section 5;

7           (3) resolve interagency differences;

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

12          (5) support activities to assist countries that  
13          are the principle sources of trafficked cultural prop-  
14          erty to protect cultural heritage sites and to prevent  
15          cultural property looting and theft;

16          (6) work with and consult domestic and inter-  
17          national actors such as foreign governments, inter-  
18          governmental organizations, nongovernmental orga-  
19          nizations, museums, educational institutions, and re-  
20          search institutions to protect international cultural  
21          property; and

22          (7) submit to the appropriate congressional  
23          committees the annual report required under section  
24          6.

1 **SEC. 5. COORDINATING COMMITTEE ON INTERNATIONAL**  
2 **CULTURAL PROPERTY PROTECTION.**

3 (a) ESTABLISHMENT.—There is established a Coordi-  
4 nating Committee on International Cultural Property Pro-  
5 tection (in this section referred to as the “Committee”).

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

12 (c) MEMBERSHIP.—The Committee shall be com-  
13 posed of the United States Coordinator for International  
14 Cultural Property Protection, who shall act as Chair, and  
15 representatives of the following:

16 (1) The Department of State.

17 (2) The Department of Defense.

18 (3) The Department of Homeland Security, in-  
19 cluding U.S. Immigration and Customs Enforcement  
20 and U.S. Customs and Border Protection.

21 (4) The Department of the Interior.

22 (5) The Department of Justice, including the  
23 Federal Bureau of Investigation.

24 (6) The United States Agency for International  
25 Development.

26 (7) The Smithsonian Institution.

1           (8) Such other entities as the Chair determines  
2       appropriate.

3       (d) SUBCOMMITTEES.—The Committee may include  
4       such subcommittees and taskforces as the Chair deter-  
5       mines appropriate. Such subcommittees or taskforces may  
6       be comprised of a subset of the Committee members or  
7       of such other members as the Chair determines appro-  
8       priate. At the discretion of the Chair, the provisions of  
9       the Federal Advisory Committee Act (5 U.S.C. App.) and  
10      section 552b of title 5 of the United States Code (relating  
11      to open meetings) shall not apply to activities of such sub-  
12      committees or taskforces.

13      (e) CONSULTATION.—The Committee shall consult  
14      with governmental and nongovernmental organizations,  
15      including the U.S. Committee of the Blue Shield, muse-  
16      ums, educational institutions, and research institutions on  
17      efforts to promote and protect international cultural prop-  
18      erty.

19      **SEC. 6. REPORTS ON ACTIVITIES TO PROTECT INTER-**  
20                                   **NATIONAL CULTURAL PROPERTY.**

21      Not later than 1 year after the date of the enactment  
22      of this Act and annually thereafter for the next 6 years,  
23      the Secretary of State, acting through the United States  
24      Coordinator for International Cultural Property Protec-  
25      tion, and in consultation with the Administrator of the

1 United States Agency for International Development, the  
2 Secretary of Defense, the Attorney General, and the Sec-  
3 retary of Homeland Security, as appropriate, shall submit  
4 to the appropriate congressional committees a report that  
5 includes information on activities of—

6 (1) the United States Coordinator and the Co-  
7 ordinating Committee on International Cultural  
8 Property Protection to protect international cultural  
9 property;

10 (2) the Department of State to protect inter-  
11 national cultural property, including activities under-  
12 taken pursuant to the Hague Convention for the  
13 Protection of Cultural Property in the Event of  
14 Armed Conflict, and other statutes, international  
15 agreements, and policies, including—

16 (A) procedures the Department has insti-  
17 tuted to protect international cultural property  
18 at risk of destruction due to political instability,  
19 armed conflict, or natural or other disasters;  
20 and

21 (B) actions the Department has taken to  
22 protect international cultural property in con-  
23 flicts to which the United States is a party;

24 (3) the United States Agency for International  
25 Development (USAID) to protect international cul-

1 tural property, including activities and coordination  
2 with other Federal agencies, international organiza-  
3 tions, and nongovernmental organizations regarding  
4 the protection of international cultural property at  
5 risk due to political unrest, armed conflict, natural  
6 or other disasters, and USAID development pro-  
7 grams;

8 (4) the Department of Defense to protect inter-  
9 national cultural property, including activities under-  
10 taken pursuant to the Hague Convention for the  
11 Protection of Cultural Property in the Event of  
12 Armed Conflict and other cultural property protec-  
13 tion statutes and international agreements, includ-  
14 ing—

15 (A) directives, policies, and regulations the  
16 Department has instituted to protect inter-  
17 national cultural property at risk of destruction  
18 due to political instability, armed conflict, or  
19 natural or other disasters; and

20 (B) actions the Department has taken to  
21 avoid damage to cultural property through con-  
22 struction activities abroad; and

23 (5) the Department of Homeland Security and  
24 the Department of Justice, including the Federal  
25 Bureau of Investigation, to protect both inter-

1 national cultural property abroad and international  
2 cultural property located in, or attempted to be im-  
3 ported into, the United States, including activities  
4 undertaken pursuant to statutes and international  
5 agreements, including—

6 (A) statutes and regulations the Depart-  
7 ment has employed in criminal, civil, and civil  
8 forfeiture actions to prevent and interdict traf-  
9 ficking in stolen and smuggled cultural prop-  
10 erty, including investigations into transnational  
11 organized crime and smuggling networks; and

12 (B) actions the Department has taken in  
13 order to ensure the consistent and effective ap-  
14 plication of law in cases relating to both inter-  
15 national cultural property abroad and inter-  
16 national cultural property located in, or at-  
17 tempted to be imported into, the United States.

18 **SEC. 7. AUTHORIZATION FOR FEDERAL AGENCIES TO EN-**  
19 **GAGE IN INTERNATIONAL CULTURAL PROP-**  
20 **ERTY PROTECTION ACTIVITIES WITH THE**  
21 **SMITHSONIAN INSTITUTION.**

22 Notwithstanding any other provision of law, any  
23 agency that is involved in international cultural property  
24 protection activities is authorized to enter into agreements  
25 or memoranda of understanding with the Smithsonian In-

stitution 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 ap-

1           appropriate congressional committees of such de-  
2           termination.

3                   (B) CONDITIONS.—The conditions referred  
4           to in subparagraph (A) are the following:

5                       (i) The Government of Syria is in-  
6                       capable, at the time a determination under  
7                       such subparagraph is made, of fulfilling  
8                       the requirements to request an agreement  
9                       under section 303 of the Convention on  
10                      Cultural Property Implementation Act (19  
11                      U.S.C. 2602).

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

15                   (2) TERMINATION OF RESTRICTIONS.—The im-  
16           port restrictions referred to in subsection (a) shall  
17           terminate on the date that is 5 years after the date  
18           on which the President determines that neither of  
19           the conditions specified in paragraph (1)(B) are  
20           met, unless before such termination date Syria re-  
21           quests to enter into an agreement with the United  
22           States pursuant to section 303 of the Convention on  
23           Cultural Property Implementation Act, in which case  
24           such import restrictions may remain in effect until  
25           the earliest of either—



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

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

5 (c) WAIVER.—

6 (1) IN GENERAL.—The President may waive  
7 the import restrictions referred to in subsection (a)  
8 for specified cultural property if the President cer-  
9 tifies to the appropriate congressional committees  
10 that the conditions described in paragraph (2) are  
11 met.

12 (2) CONDITIONS.—The conditions referred to in  
13 paragraph (1) are the following:

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

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

21 (C) Granting a waiver under this sub-  
22 section will not contribute to illegal trafficking  
23 in cultural property or financing of criminal or  
24 terrorist activities.

1           (3) ACTION.—If the President grants a waiver  
 2           under this subsection, the specified cultural property  
 3           that is the subject of such waiver shall be placed in  
 4           the temporary custody of the United States Govern-  
 5           ment or in the temporary custody of a cultural or  
 6           educational institution within the United States for  
 7           the purpose of protection, restoration, conservation,  
 8           study, or exhibition, without profit.

9           (4) RULE OF CONSTRUCTION.—Nothing in this  
 10          Act shall prevent application of the Act to render  
 11          immune from seizure under judicial process certain  
 12          objects of cultural significance imported into the  
 13          United States for temporary display or exhibition,  
 14          and for other purposes (22 U.S.C. 2459; Public Law  
 15          89–259) with respect to archaeological or ethno-  
 16          logical material of Syria.

17          (d) DEFINITIONS.—In this section—

18               (1) the term “archaeological or ethnological ma-  
 19               terial of Syria” means cultural property of Syria and  
 20               other items of archaeological, historical, cultural,  
 21               rare scientific, or religious importance unlawfully re-  
 22               moved from Syria on or after March 15, 2011; and

23               (2) the term “State Party” has the meaning  
 24               given such term in section 302 of the Convention on

- 1 Cultural Property Implementation Act (19 U.S.C.
- 2 2601).

