Suspend the Rules and Pass the Bill, H. R. 1493, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

114TH CONGRESS
1ST SESSION

H. R. 1493

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2015

Mr. Engel (for himself, Mr. Smith of New Jersey, Mr. Royce, and Mr. Keating) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, Armed Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,
SECTION 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—


(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

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.

(9) In Egypt, recent political instability has led to the ransacking of museums, resulting in the de-
struction 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 hun-
dreds 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 depredations 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 “[t]he 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 pillaged, 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;

(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 organ-
nizations, museums, educational institutions, and re-
search 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 Coordi-
nating Committee on International Cultural Property Pro-
tection (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 com-
posed 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.

(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 nongovernmental 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 one year after the date of the enactment of this Act and annually thereafter for the next six 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;

(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 inter-
national 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
1 that subsection (c) of such section 304 shall not apply.
2 Such import restrictions shall take effect not later than
3 120 days after the date of the enactment of this Act.
4 (b) Annual Determination Regarding Certification.—
5 (1) Determination.—
6 (A) In General.—The President shall,
7 not less often than annually, determine whether
8 at least one of the conditions specified in sub-
9 paragraph (B) is met, and shall notify the ap-
10 propriate congressional committees of such de-
11 termination.
12 (B) Conditions.—The conditions referred
13 to in subparagraph (A) are the following:
14 (i) The Government of Syria is in-
15 capable, at the time a determination under
16 such subparagraph is made, of fulfilling
17 the requirements to request an agreement
18 under section 303 of the Convention on
19 Cultural Property Implementation Act (19
21 (ii) It would be against the United
22 States national interest to enter into such
23 an agreement.
(2) TERMINATION OF RESTRICTIONS.—The im-
port restrictions referred to in subsection (a) shall
terminate on the date that is five 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 re-
quests 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 three 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.

(e) WAIVER.—

(1) IN GENERAL.—The President may waive
the import restrictions referred to in subsection (a)
for specified cultural property if the President cer-
tifies 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.

(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
(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).