

SAFEGUARD TRIBAL OBJECTS OF PATRIMONY (STOP) ACT

Problem. Tribes have long faced illegal trafficking in their tribal cultural heritage items, which are essential to their religious and cultural practices and identities. Many dealers know that, once they export such items abroad, the federal government and tribes have little power to secure their repatriation. Congress through the PROTECT Patrimony Resolution, H.Con.Res.122, and the Government Accountability Office in report GAO-18-537 acknowledged this problem.

Existing International Mechanism. There is an existing international treaty to which the United States is a signatory that can be used to request other countries restrict import and facilitate repatriation of cultural property. However, each country must enact certain domestic laws to utilize this treaty: an export prohibition and accompanying export certification system. Certain countries, such as France, have enacted their own domestic laws that implement the treaty and restrict import of cultural property illegally exported from a country that provides export certificates. Although the United States has enacted a domestic law to aid other countries in protecting their cultural property, it has not enacted a domestic law implementing the treaty to protect tribal cultural heritage items.

Goal. The STOP Act would fill this void. It sets out with the two main goals of: (1) stopping the export and facilitating the international repatriation of tribal cultural heritage items already protected under federal law; and (2) facilitating coordination among federal agencies and tribes in protecting and repatriating such items and in aiding the voluntary return of Native American tangible cultural heritage more broadly.

Broad Bipartisan Support. The legislation has had broad bipartisan support and cosponsorship, led by Senator Heinrich of New Mexico. It also has broad support within Indian Country, led by the Pueblo of Acoma.

Procedural Status. The STOP Act was first introduced in 2017. Since its introduction, it has benefited from expert feedback provided by tribal representatives, agency officials, and others to ensure the STOP Act accomplishes its goals. In December of 2020, the Senate passed the legislation after a successful hotline. All three House Committees to which it was referred cleared it, but time ran out for passage by the House.

Explanation of Provisions.

NAGPRA Penalties. Increases Native American Graves Protection and Repatriation Act (NAGPRA) penalties to aid in deterrence and encourage prosecution.

Export Prohibition and Export Certification System. Explicitly prohibits export of cultural items and Native American archaeological resources prohibited from being trafficked by NAGPRA or the Archaeological Resources Protection Act (ARPA). Creates an export certification system where an exporter seeking to export an item that qualifies under NAGPRA or ARPA as a cultural item or Native American archaeological resource must apply for a certification. Only those not prohibited from being trafficked—usually demonstrated through the exporter’s self-attestation—are eligible for a certification. Confirms the authority of the President to enter into agreements with other countries to protect tribal cultural heritage items.

Voluntary Return Framework. Creates a federal framework to support voluntary return of Native American tangible cultural heritage.

Interagency Working Group and Native Working Group. Creates a federal working group to ensure coordination between federal agencies and a Native working group to make recommendations.

Freedom of Information Act Exemption. Exempts sensitive information submitted under the STOP Act.