



26 May 2023

Cultural Heritage Center (ECA/P/C)
SA-5, Floor C2
U.S. Department of State
2200 C Street NW
Washington, D.C. 20522-05C2

Dear Members of the Cultural Property Advisory Committee:

Together, **the Archaeological Institute of America (AIA)**, with its membership of approximately 200,000 professional archaeologists, corresponding members, students, and enthusiasts united by a shared passion for archaeology and its role in furthering human knowledge, and the **Society for American Archaeology (SAA)**, with approximately 7,000 members representing professional archaeologists in colleges and universities, museums, government agencies, and the private sector in all 50 states as well as many other nations around the world, express their strong support of the request by the Government of the People's Republic of China to renew the memorandum of understanding concerning import restrictions on metal, ceramic, stone, textiles, other organic material, glass, and painting from the Paleolithic Period (ca. 75,000 B.C.) through the end of the Tang Dynasty (A.D. 907) and on monumental sculpture and wall art at least 250 years old as of January 14, 2009, the date the prior agreement entered into force, under Article 9 of the UNESCO Convention of 1970 and the Convention on Cultural Property Implementation Act of 1983. On behalf of the AIA, we urge the Committee to extend the current *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China*, dated January 14, 2019.

At the core of its mission, the AIA promotes archaeological inquiry and public understanding of the material record of the human past to foster an appreciation of diverse cultures and our shared humanity. The AIA supports archaeologists, their research and its dissemination, and ethical professional practice; educates people of all ages about the significance of archaeological discovery; and advocates for the preservation of the world's archaeological heritage. Since its founding in 1934, the SAA has been dedicated to the research, interpretation, and protection of archaeological heritage.

The expansive geography of the People's Republic of China hosts a wealth of archaeological sites and cultural landscapes with deep histories of settlement in the past 40,000-plus years, a rich array of ancient and historical monuments, and a unique assemblage of material culture, all of which has been the subject matter of archaeological and scientific research. The only criterion for determining whether an agreement should be extended is that the four statutory criteria that justified the original memorandum of understanding imposing import restrictions on certain classes of looted cultural property still pertain. We therefore restrict our comments to the archaeology and preservation of cultural heritage in China within these four statutory determinations and further focus our comments on the first, second, and fourth determinations.

The first determination requires that the cultural patrimony of the requesting State be in jeopardy from the pillage of archaeological materials. Although the looting of archaeological sites has reduced in China in recent decades due to increased international attention and law enforcement action, illicit trafficking of antiquities and the threat to cultural heritage sites remain a persistent problem. It has been reported that the looting of tombs continues to be a major point of concern for cultural heritage specialists working on archaeological sites and landscapes in China. During the crackdown launched in 2020 by the National Cultural Heritage Administration in China and the Ministry of Public Security, government officials



reported recovering a total of 66,000 stolen archaeological artifacts in the year 2021 alone.¹ This number gives a good sense of the scale of destruction taking place at Chinese sites.

The second determination requires that a requesting State have “taken measures consistent with the 1970 UNESCO Convention to protect its own cultural patrimony.” Such measures include the adoption and enforcement of legal provisions to protect cultural patrimony; the creation of a national inventory of protected cultural property; the establishment of an antiquities service (or similar government agency); the establishment of scientific and technical institutions such as museums; taking educational measures; and organizing the supervision of archaeological excavations.² The institutionalization of archaeological research and cultural heritage management in China helps safeguard the protection of cultural patrimony in a sustainable way. Formed in 2003, the National Cultural Heritage Administration of China within the Ministry of Culture and Tourism is a key organization in the stewardship of archaeological heritage and the administration of the country’s archaeological museums. It forms the backbone of a massive infrastructure of 200-plus museums and research institutions that safeguard and curate national heritage. The State Administration of Cultural Heritage under the State Council of the People’s Republic of China oversees the development of museums “to coordinate and lead the protection of cultural relics; administrative enforcement of laws; to tackle illegal transaction of cultural relics ... To protect, regulate and supervise world cultural heritage; organize applications and examination related to world cultural heritage status.”³

China adopted its Regulations on Museums in 2015 and the Administrative Measures for the Auction of Cultural Relics in 2016. The former prohibits museums from acquiring objects of unknown or illegal origin in fulfillment of responsibilities under Article 7 of the 1970 UNESCO Convention. The latter prohibits auction houses from selling stolen, looted, or smuggled cultural objects, further fulfilling obligations under the 1970 Convention.⁴

New archaeological museums that also serve as centers of archaeological research and heritage conservation have opened recently. One good example is the Shaanxi Archaeology Museum in Xi’an, in northwest China’s Shaanxi province, which opened in 2022 in coordination with the Shaanxi Academy of Archaeology. The opening of such museums is an exceptionally important development in the safeguarding and stewardship of archaeological heritage. The Shaanxi Archaeology Museum features an indoor exhibition area of 5,800 m² and an outdoor exhibition area of 10,000 m² and curates a variety of archaeological assemblages excavated from the archaeological sites in the province. The museum holds a collection of more than 140,000 objects, including bronzes, statues, pottery, porcelain, and books. Altogether, opening of new institutions contribute toward “measures consistent with the 1970 UNESCO Convention,” as required by the second determination.

In recent years, the Government of the People’s Republic of China has also tightened its laws by banning mainland auction houses from selling artifacts looted in the country. In addition, the State Administration

¹ Kevin McSpadden, “Over 66,000 stolen Chinese artefacts recovered last year amid trafficking crackdown says government,” South China Morning Post, 22 April 2022, available at <https://www.scmp.com/news/people-culture/article/3175035/over-66000-stolen-chinese-artefacts-recovered-last-year-amid>.

² This list is based on Article 5 of the 1970 UNESCO Convention. It illustrates the measures that the Convention expects States to take and is the basis for the second determination under the Convention on Cultural Property Implementation Act of 1983.

³ See The State Council of the People’s Republic of China, “State Administration of Culture Heritage,” available at http://english.www.gov.cn/state_council/2014/10/06/content_281474992893400.htm (Accessed May 2023).

⁴ Patty Gerstenblith and Wang Yunxia, “1970 UNESCO Convention Article 9.” In Ana Filipa Vrdoljak, Alessandro Chechi, and Andrzej Jakubowski, eds., *1970 UNESCO and 1995 Unidroit Conventions: A Commentary* (Oxford: Oxford University Press, forthcoming).



on Cultural Heritage issued new regulations on 20 October 2016 that demonstrated China's commitment to fighting the illicit trafficking of antiquities.⁵

China has entered into agreements with numerous other countries to achieve their cooperation in stemming the flow of illegally exported cultural materials. The most important of these was an agreement with Switzerland, which entered into force in 2014.⁶ China has also signed bilateral cooperation agreements with Australia, Peru, Italy, India, the Philippines, Greece, Chile, and Venezuela within the framework of Article 9 of the 1970 UNESCO Convention and is seeking further cooperation with Germany and France, among other market countries.

The fourth determination looks to whether import restrictions are "consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes." Among other criteria, this determination considers whether a requesting State is receptive to collaboration with foreign, especially American, researchers and whether it is willing to lend cultural objects to foreign, particularly American, institutions. There have been extensive collaborations between Chinese research institutions and museums and those in Europe and the United States as well as between American and Chinese archaeologists and educators. A notable example of such an international collaboration was between Chinese, German, French and Spanish archaeologists around a Paleolithic site that revealed new insights into hunter-gatherer lifestyles 40,000 years ago. This site, Xiamabei in the Nihewan Basin of northern China, was discovered by the Hebei Provincial Institute of Cultural Relics and Archaeology, Shijiazhuang, China, in 2013–2014.⁷

China has demonstrated its commitment to cultural exchange through museum loans to foreign institutions, including in the United States. For example, the famous archaeological show "Terracotta Army: Legacy of the First Emperor of China," which featured artifacts from 14 Chinese museums and archaeological institutes from the Shaanxi province, was exhibited at the Virginia Museum of Fine Arts (VMFA) from November 18, 2017 to March 11, 2018. According to the VMFA website, "the works provide insights into Qin history, the creation of a unified China, the First Emperor's rise to power, and his quest for immortality. More than 40 objects in the exhibition have never before been on view in the United States."⁸ This collaboration was between the VMFA and the Cincinnati Art Museum in partnership with the Shaanxi Provincial Cultural Relics Bureau, Shaanxi History Museum (Shaanxi Cultural Heritage Promotion Center), and Emperor Qin Shihuang's Mausoleum Site Museum of the People's Republic of China. The exhibition was curated by Li Jian, the VMFA's E. Rhodes and Leona B. Carpenter Curator of East Asian Art, and Hou-mei Sung, the Cincinnati Art Museum's Curator of Asian Art. It later showed at the Cincinnati Art Museum from April 20, 2018 to August 12, 2018.⁹

The safeguarding of archaeological sites from looting, the development of site museums, and the presentation of archaeological collections in Chinese museums contribute to informal educational opportunities for lifelong learners, who are a core constituency of the AIA and its societies. Educational infrastructure at archaeological sites facilitates AIA efforts to encourage international visitation to China

⁵ Anny Shaw, "China cracks down on illegal trade of cultural artefacts," *The Art Newspaper*, 3 November 2016, available at <https://www.theartnewspaper.com/2016/11/04/china-cracks-down-on-illegal-trade-of-cultural-artefacts>.

⁶ Switzerland Federal Office of Culture, "Bilateral agreements," available at <https://www.bak.admin.ch/bak/en/home/cultural-heritage/transfer-of-cultural-property/bilateral-agreements.html> (Accessed May 2023).

⁷ See Max Planck Gesellschaft, "An innovative 40,000-year-old culture in China," 2 March 2022, available at <https://www.mpg.de/18370987/innovative-40-000-year-old-culture-in-china>.

⁸ See VMFA website, "Terracotta Army: Legacy of the First Emperor of China," available at <https://vmfa.museum/exhibitions/exhibitions/terracotta-army-legacy-first-emperor-china/> (Accessed May 2023).

⁹ See Zhixin Jason Sun, "The First Emperor: China's Terracotta Army," *American Journal of Archaeology Online Museum Review* 113(3) (2009), available at <https://www.ajaonline.org/online-review-museum/369>.



from the United States. Import restrictions, which are intended to decrease looting by denying traffickers access to legitimate antiquities markets, support this effort by reducing the incentive to pillage archaeological sites that otherwise contribute to public education. The AIA looks forward to opportunities in the future to bring Americans to the important archaeological sites in China.

In consideration of the above, we respectfully ask that the Committee recommend extension of the memorandum of understanding between the United States and the Government of the People's Republic of China that protects its cultural patrimony from pillage. We are grateful for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads 'Elizabeth S. Greene'.

Elizabeth S. Greene, Ph.D., RPA, President, Archaeological Institute of America

A handwritten signature in black ink that reads 'Brian I. Daniels'.

Brian I. Daniels, Ph.D., RPA, First Vice President, Archaeological Institute of America

A handwritten signature in blue ink that reads 'Ömür Harmanşah'.

Ömür Harmanşah, Ph.D., Vice President for Cultural Heritage, Archaeological Institute of America

A handwritten signature in blue ink that reads 'Daniel H. Sandweiss'.

Daniel H. Sandweiss, Ph.D., RPA, President, Society for American Archaeology