

Testimony of Benjamin J. Utting, Ph.D.

Before the Cultural Property Advisory Committee
United States Department of State
4 February 2025

Background: I am a specialist in Southeast Asian archaeology and have been involved in Vietnamese archaeology since 2016. Since then, I have developed collaborative relationships with the Vietnam Institute of Archaeology, local governmental offices, and other stakeholders in Vietnamese cultural heritage.

On behalf of myself and the Society for American Archaeology, I convey my support for the proposed Memorandum of Understanding (MOU) with Vietnam for the protection of its archaeological and ethnographic heritage. My testimony will focus on the four determinations as outlined in the Cultural Property Implementation Act.

1. Vietnamese archaeology and cultural heritage are under threat from the pillaging and illicit trade of archaeological and ethnographic materials.

Vietnamese archaeological and cultural sites currently face destruction from looting and the subsequent illicit trade of archaeological and ethnographic materials. A study conducted between 2006 and 2008 documented 117 cases of illegal archaeological excavation, thirty-nine cases of illegal trafficking of antiquities, and thousands of unlawfully owned goods (1).

Vietnamese cultural heritage is particularly prone to looting for several reasons. The first is that Vietnam has a deep and rich archaeological record, possibly extending several million years into the past. Furthermore, according to the Vietnamese Department of Cultural Heritage, Vietnam has 40,000 historical and cultural and scenic spots, and 30 UNESCO Cultural World Heritage locations. Despite governmental efforts on the national and local scale, it would be impossible to devote enough resources to protect all archaeological and cultural sites in the country. Furthermore, Vietnam has a massive coastline, bordering the South China Sea, the Gulf of Thailand, and the Gulf of Tonkin. There are many archaeological shipwrecks that lie off the coast, which cannot be reliably monitored. Finally, Vietnamese archaeologists estimate that only 30% of looted antiquities come from known archaeological sites (2). This implies that most looted goods from Vietnam come from unknown sites, which are impossible to monitor.

2. Vietnam is taking steps domestically to protect its archaeological record.

Vietnam has taken clear steps domestically to protect its cultural heritage. On the national level, the Constitution of the Socialist Republic of Vietnam declares that “*the State and society preserve and develop the national cultural heritage*”. Furthermore, the National Assembly passed the *Law on Cultural Heritage* in 2001 which establishes that all underground/underwater cultural heritage belongs to the people of Vietnam. These regulations were written in broad accordance with an international standard established by UNESCO in 1970, which Vietnam officially ratified in 2005. Article 45 of the Law on Cultural Heritage states that “competent state

agencies must report to the Ministry of Culture, Sports, and Tourism on relics, antiquities, and national treasures confiscated from illegal searching, trading, transporting, exporting and importing so that the Minister of Culture, Sports, and Tourism can decide to hand over such relics, antiquities, and national treasures to appropriate competent agencies”. In November 2024, the National Assembly of Vietnam approved a revised Cultural Heritage Law, which introduced a legal framework for 1) the repatriation of Vietnamese cultural artifacts and 2) enhanced heritage protection policies. These legal frameworks demonstrate the commitment of the Vietnamese government to protecting Vietnamese archaeological and cultural heritage.

Furthermore, the Vietnam Institute of Archaeology (under the Vietnam Academy of Social Sciences) was established in 1968 to conduct archaeological research in Vietnam and to take part in the conservation of tangible cultural heritage in Vietnam. At the provincial level, local governments (Ministries of Culture, Sport, and Tourism) will often invest in museums to highlight the cultural heritage of individual provinces. These measures demonstrate an excellent caliber of local infrastructure at both national and local levels to support the protection and curation of Vietnamese cultural heritage.

Efforts to protect Vietnamese antiquities are not limited to governmental measures. There are several cultural institutions that aim to inform the general public about Vietnamese archaeology and cultural heritage. One example is the Center for Southeast Asian Prehistory (CESEAP), directed by Dr. Nguyen Viet. CESEAP has several offices around the country, including a headquarters in Hanoi, and research stations in Hung Yen, Quang Ninh, and Hoa Binh. The center also leads several organizations such as the Friends of Vietnamese Ancient Fine Arts, Friends of Vietnamese Prehistory, Friends of Pham Huy Thong Museum, Friends of Ancient Hmong Culture, and Friends of Ancient Textile Traditions in Vietnam.

The Center for Research and Promotion of Cultural Heritage (CCH), under the Southeast Asian Cultural Heritage Alliance, has the core mission of “applying the latest in the studies of safeguarding tangible and intangible cultural heritage, in contribution to the promotion of a sustainable and culturally-rich development of local and indigenous communities in the countryside and cities of Vietnam”. CCH has been successful in obtaining grants for heritage education, capacity building, organizing international workshops, and working with foreign governments (including the US Embassy and Consulate in Vietnam).

3. Import restrictions are the most effective means at the U.S.’ disposal to deter looting and trafficking of these items.

Import restrictions represent a crucial step to curb the illicit antiquities market in Vietnam and the United States. While the destinations for black-market antiquities are poorly documented (3), the United States is a known destination for a proportion of these materials (4, 5). Furthermore, Vietnam has an extensive coastline, land borders with several nations, and numerous international airports. Blocking the import of black-market antiquities on the US side represents one of the only effective ways to help deter looting.

4. Vietnam is open to international research and exchange of cultural items and import restrictions would not impede that exchange.

There are currently several major international projects that are conducting archaeological research in Vietnam. These projects rely on ethical collaboration, including the import and export of archaeological and cultural materials. While in-country analyses of antiquities are the standard, certain archaeological studies require the export of antiquities to the United States. The proposed MOU would not impede this exchange, and an explicit legal framework for the import and export of antiquities would facilitate legitimate scientific research.

There are several examples of successful cultural exchanges conducted under existing laws, including Ancient Vietnamese Art – From the Delta to the Great Sea, which was displayed at the Asia Society Museum in New York City in 2009, and Lost Kingdoms: Hindu-Buddhist Sculpture of Early Southeast Asia, 5th to 8th Century, exhibited at the Metropolitan Museum of Art in New York City in 2014.

In conclusion, I strongly support the proposed MOU with Vietnam and urge the committee to recommend its approval to the State Department. Thank you for your consideration.

References

1. “National Report on the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Transport, Export, and Transfer of Ownership of Cultural Property” (2011).
2. D. Huffer, D. Chappell, “Local and international illicit traffic in Vietnamese cultural property: A preliminary investigation” in *Cultural Property Crime: An Overview and Analysis of Contemporary Perspectives and Trends*, J. Kila, M. Balcells, Eds. (Brill Academic Publishers, 2015) vol. 3, pp. 263–291.
3. D. Huffer, D. Chappell, L. T. M. Dzung, H. L. Nguyễn, From the Ground, Up: The Looting of Vườn Chuối within the Vietnamese and Southeast Asian Antiquities Trade. *Public Archaeology* **14**, 224–239 (2015).
4. The US is in the process of returning 4 antiquities illegally trafficked to Vietnam, *Hai Duong* (2024).
5. Vietnam receives antiquities from US, *VietNamNet Global* (2022).