

February 17, 2005

TO: The President's Cultural Property Advisory Committee

FR: Emily J. Sano, Director, Asian Art Museum of San Francisco

RE: Response to Request of the People's Republic of China to the Government of the United States of America under Article 9 of the 1970 UNESCO Convention on behalf of Asian Art Museum of San Francisco and the Association of Art Museum Directors

My background is entirely in the study of Asian art history and in museum work. Since 1979, I have been a curator and educator at the Kimbell Art Museum in Fort Worth, Texas, and at the Dallas Museum of Art, and more recently an art administrator at the Asian Art Museum of San Francisco – where I have been the director since 1995. In those capacities, I have managed or organized numerous exhibitions of Chinese art, including *The Great Bronze Age of China* (1981), *Painters of the Great Ming – The Imperial Court and the Zhe School*. (1993), *Tomb Treasures from China: The Buried Art of Ancient Xi'an* (1994), *The Golden Age of Chinese Archaeology* (2000), as well as exhibitions of Chinese paintings and decorative arts, such as ceramics and glass. The Asian Art Museum is currently planning a major exhibition of the art of the Ming dynasty (1368-1644) for 2008.

The Asian Art Museum board of trustees and staff, as well as my colleagues in the United States, share a deep concern for the preservation of arts in their countries of origin. We decry looting and the loss of essential information that comes from uncontrolled and undocumented excavation. We all want to see China preserve the material of its glorious past. But numerous circumstances in China make this an unusual situation.

The current proposal to restrict the import of Chinese art to the United States is too all encompassing. Logistically, such a blanket ban on the import of Chinese archaeological material to the U.S. is highly problematic; it would most likely fail to achieve its stated conservation goals, and at the same time it will have a profound negative impact on our mission to lead people to understand and appreciate Chinese art and culture.

### **Conditions of Discovery, Management, and Looting**

The Asian Art Museum's Senior Curator of Chinese Art, Dr. Michael Knight, brings special insight to the issues of preservation of China's cultural and archeological history.<sup>1</sup> As his research revealed, archaeology in China depends largely on happenstance and unskilled workers. Even after discovery, China lacks sufficient resources for the conservation and protection of artifacts in storage. While Dr. Knight shares the concern of his colleagues

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<sup>1</sup> This summary of Dr. Knight's observations draws on both his many years of experience in the field, as well as data drawn from his research in 1983-1989 for his doctoral dissertation: *Bronze to Lacquer: Changes in Preferred Media in the Arts of the Kingdom of Chu*, Columbia University, 1992.

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over looting, his research found that the West is not the principal market for looted objects. Finally, a legitimate, controlled market for artifacts actually supports the preservation and conservation of important objects by China's own museums and cultural institutions.

The vast majority of archaeology in China today takes the form of "rescue" excavations. Construction workers often discover important and previously unknown sites during ordinary excavations, such as preparation of a railway bed or digging foundations for new housing developments. To keep projects on schedule, workers often unearth objects hurriedly and under very difficult, uncontrolled circumstances. This happens almost on a daily basis in China.

Although their numbers are increasing, China still has relatively few trained archaeologists. Those few archaeologists have the responsibility for exhuming and caring for the tremendous amount of new material excavated throughout China annually, much of it coming from underdeveloped areas. These archaeologists, of necessity, draw on whomever they can find for labor—prison labor gangs, off-season agricultural workers, and so on—almost none of whom have training or interest in archaeology. Needless to say, this kind of excavation damages many pieces and it is almost impossible for the archeologists to enforce standard excavation and documentation practices and techniques.

An example serves to illustrate the amount of activity that might occur in a single area: from the late 1970's to the early 1980's, Chinese excavated well over 2000 late Bronze Age tombs along the central Yangzi River basin. More than 700 tombs of these excavations occurred in a single season at the burial site at Yutaishan, outside Jiangling in Hubei province.<sup>2</sup> While many of these tombs were small, some were enormous. The tomb of a minor noble of this area and period excavated in the 1980s contained 10 metric tons of bronze as well as thousands of works in wood and other materials.<sup>3</sup>

Dr. Knight's research regarding storage and conservation in regional museums shows that following excavation, the objects remain very much at risk. The great wealth and economic development of China in recent years has focused almost exclusively along its east coast. Many of the regional museums responsible for the care and storage of recently excavated materials are in China's interior, where they remain under-financed and totally overwhelmed by the burgeoning volume of objects in their care. Much of the archaeological material in the care of these regional museums winds up in improper storage, from which it is eventually lost through theft or exposure to the elements.

The looting of Chinese archaeological sites is a serious problem. But only a very small percentage of the objects looted from Chinese sites ever appear in Western markets, and only a small fraction of that comes to the United States. The strongest markets and largest

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<sup>2</sup> See *Jiangling Yutaishan Chumu*, Beijing: Wenwu Chubanshe, 1984.

<sup>3</sup> See *Zenghou Yi Mu*, Beijing: Wenwu Chubanshe, 1989.

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collections of looted material exist in Hong Kong and China itself. Indeed, a private museum in Beijing has recently set world record prices in its purchases of ancient bronzes and sculpture.

With such a strong local market, banning import into the United States would have little or no impact on looting. Forbidding the sales of legitimately excavated objects often adds to this problem, rather than controlling it. When the government makes the entire market in artifacts illegal, it also forces looters to resort to the most expedient and destructive techniques, and also encourages them to seek out and take only the most valued materials.

Limiting access to Chinese culture exclusively to exhibitions poses problems for museums and the public. Organizing an exhibition from China is extremely expensive and difficult. The Chinese government sets stiff monthly fees for the “rental” of the objects that travel outside its borders. When a show organizer considers conservation, packing, shipping, travel, maintenance, delegations and couriers, insurance, and other expenses, its minimum out-of-pocket expenditure for any exhibition is typically \$1 million (US) or more. The recent show of Chinese antiquities at the Metropolitan Museum of Art (New York), called *China: Dawn of a Golden Age, 200-750 AD*, is said to have cost \$4.5 million.

And even for those able to travel to China, access to artifacts there remains problematic. Many of the great archaeological discoveries are in China’s remote regions and not easily reached by foreign travelers. Because of their limited resources, many regional museums in these remote areas lack adequate staff and have sub-standard facilities. Conditions are so poor in many that they regularly display copies, rather than genuine items. Indeed, the select sale of duplicate or surplus materials could provide regional institutions with much-needed revenue to better preserve and display important objects. Of course, the Chinese would need to establish strict guidelines and carefully monitor all such sales. Establishing a legitimate market could actually *lessen* the market for looted materials.

### **Models Exist to Allow for Controlled Art Export**

I concur with my colleagues who encourage all nations to actively seek a system that gives them control over their own artistic heritage. Specifically, I feel that it is of the utmost importance that our colleagues in China take proper responsibility for the preservation of their own art.

I urge China to establish a system of evaluation that permits the legitimate export of artifacts for sale abroad. The model with which I am most familiar governing the licensed sale of traditional arts is the one established by the Agency for Cultural Affairs (the Bunkacho, or the “Agency”) in Japan, and I believe it suggests a better solution for how to address Chinese materials. The Japanese established their program to control export of cultural objects in the early 20<sup>th</sup> century, and it has functioned successfully for the last 100 years. The Bunkacho, part of the Japanese government’s Ministry of Education, administers the program, which has jurisdiction over items that the Bunkacho regards as part of the nation’s cultural patrimony. Their system has clear rules and penalties, which Japanese art professionals and antique dealers know extremely well.

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While protecting cultural patrimony, the Bunkacho's regulation nonetheless fosters a market for Japanese art that remains very lively, both internally and internationally. The Agency's purview includes the evaluation and care of the country's important artistic heritage, and it regulates the movement of all art in and out of the country. Dealers and collectors have learned to recognize the types of objects potentially questionable for export from Japan. It is standard practice that dealers will have appropriate experts at universities, museum, and art professionals on the staff of the Agency for Cultural Affairs review any special items that come into their hands from private sources.

The Agency is familiar with the availability of certain objects and can determine for a particular object whether its export is in the country's interest. Such decisions involve consideration of the object's importance, value, quality, and uniqueness. I experienced the Japanese program first hand when, as a curator at the Kimbell Art Museum, I was fortunate enough to have funding to purchase Asian art for the collection. I have requested—and on separate occasions both been refused and granted—an export permit for an item that I sought to purchase. Under the Japanese system, if the government refuses to grant an export permit, the Agency must purchase the piece. The occasion when I received permission to acquire a special object and take it out of Japan, the Agency allowed the Kimbell to buy a signed piece of 13<sup>th</sup> century Buddhist sculpture. The Agency gave its permission primarily because both the object was not so scarce in number or type as to have been critical to Japanese collections, and also because the object was going to a public museum in the U.S. The Japanese government felt that the sculpture's presence in a public collection assured its long-term care and promoted the spread of Japanese art and culture abroad. This kind of sale can represent net benefits to both the exporting and purchasing countries.

### **The Market in Art Has Vital Importance to Museums**

As a museum director, I work with numerous donors and board members whose interest in the Asian Art Museum originated in a casual purchase abroad of an Asian object or painting. While traveling, for example, one might stumble upon a shop in Jakarta or Bangkok or Tokyo, buy something that appeals—usually not too expensive (maybe a couple thousand dollars)—and bring it home. A desire to know more about that acquisition then led them to the Asian Art Museum, where specialist curators helped them to identify the object and understand its nature, context, significance and relative importance. For some, that initial, casual interest also led to museum membership, a growing interest in the art of Asia, and support for the museum exhibitions and programs to expose others to similar art at the museum.

Mr. Jack Bogart, Chair of the Asian Art Commission and Foundation from 1996-2004, began in just such a fashion. He came to the museum to learn more about objects he acquired in Indonesia, and went from joining what we call the Connoisseurs' Council, to joining the board, and eventually became our very successful board chair for the campaign and construction for our new home in San Francisco's Civic Center.

It would be very unfortunate if the United States were to impose restrictions on import that discouraged the sincere interest of individuals in studying, understanding and pursuing

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aspects of Asian art and culture. Personal involvement in collecting deepens respect and understanding. A blanket restriction would make it harder for people to get personally involved in learning about Asian art, and that would be detrimental to museums across America. Our museums, even our public museums, depend on individual donors for both the money and art to promote in our missions to educate and enchant. And at the Asian Art Museum, with our dedication solely to Asian art, we feel especially vulnerable.

Import restrictions that discourage all collecting will put a chill on American interest in Chinese art. Hence, the individual supporters of museums and their programs will be less inspired to make contributions to support expensive exhibitions from abroad and their attendant educational and promotional programs.

### **China Is Better Suited Than the U.S. to Regulate Chinese Artifacts**

The legitimate sale of objects controlled by the Chinese government would allow them to decide exactly which things they really need to restrict, while also allowing them to realize the economic benefit of international sales. We museum professionals know from our colleagues in the Chinese State Administrative Bureau of Cultural Heritage that they have considered how they can control export, and we encourage them to continue. But it should not be the United States' place to tell the Chinese how to regulate their cultural heritage. The Chinese are tremendously intelligent and well-organized. They have the most accurate knowledge of the rapidly evolving inventory of cultural resources, and the ability to control their own heritage. No end is in sight to the accidental discoveries of historic sites, nor is there any way to calculate how many tons and cubic meters of materials China will uncover in the next 50 years.

While it is a complex task and a large country, I am confident that China has the ability to work out a system appropriate to itself, and I encourage them in their efforts. Neither the American government nor its customs agents can ever become as well-versed in Chinese art as the Chinese themselves. Indeed, for years my museum's Chinese department has received an average of three calls annually from the United States Customs agents seeking our expert help. While we can assist with questions over a single object and whether it is a genuine antique, we have neither the staff nor resources to examine large numbers or groups of objects. I question whether or not the American public should support the additional cost to annually train and maintain cadres of customs specialists for all the periods of Chinese art covering the last five to seven thousand years.

Responsibility for patrolling the export of Chinese art should remain with the Chinese, who are the most qualified for the task and the best able to define the purposes and extent of regulation required.