

Testimony to Cultural Protection Advisory Committee

Respectfully Submitted by: Dan L. Monroe
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I am writing on behalf Association of Art Museum Directors to respectfully urge that the Cultural Property Advisory Committee not adopt the Chinese Government's recent request to establish import bans to the United States for a wide spectrum of Chinese art and artifacts encompassing the period from the Paleolithic to the fall of the Qing Dynasty in 1911. America's art museum community deplores damage or destruction of China's archaeological sites and objects. No American art museum supports illegal acquisition of archaeological or other objects or works of art. Without question, China's rich archaeological and cultural heritage continues to suffer damage as a result of many factors.

Sadly, for all who care about China's remarkable heritage, the Chinese government's request to ban import to the United States of 'pillaged' Chinese archaeological objects fails to meaningfully address the root causes of damage, destruction, or loss of archaeological sites and objects in China. Moreover, the request fails to satisfy several of the conditions of the Convention on Cultural Property Implementation Act. If the United States approves the request for an import ban on a wide range of Chinese art and artifacts representing a span of history exceeding 4,000 years, material harm will be done to scholarship and to the capability of museums and other educational organizations in the United States to advance knowledge and appreciation of China's artistic and cultural heritage. Concomitantly, loss, damage, or destruction of China's archaeological heritage will not be materially stemmed.

China's request for an import ban is apparently grounded on the claim that loss of Chinese archaeological sites and material is principally or substantially attributable to the market for Chinese art in the United States. The request cites several instances in which illegally acquired archaeological material has been interdicted in transit to the United States. No one denies that there is a worldwide market for illegally acquired Chinese archaeological material. However, the claim that the market for Chinese art and artifacts in the United States is a principal cause for damage, destruction, or loss of a substantive portion of China's archaeological sites and resources is not supported by fact.

Widespread documentation exists within and outside China regarding the highly inconsistent enforcement of Chinese laws for protection of archaeological sites and objects. Likewise, it is easy to verify that uncontrolled development projects throughout China continue to cause daily loss of archaeological site and objects.

A substantial portion of the market for Chinese art now exists within China itself. Banning the import of an exceedingly wide spectrum of Chinese art and artifacts to the United States will not result in adequate enforcement of Chinese laws for the protection of archaeological sites or resources. Nor will such a ban diminish the daily loss of archaeological sites and resources to uncontrolled development projects throughout China.

China possesses one of the largest and fastest growing economies in the world. The Chinese government has amply demonstrated that it has the capability to tightly control a wide variety of activities within China. Unlike other nations that have sought import bans for specific kinds of archaeological material to the United States, China has the resources and the capability to dramatically strengthen protection of its archaeological sites and resources if it makes these activities a priority.

The Chinese request includes an exceptionally wide spectrum of art and artifacts, several of which are rarely derived from archaeological sites. This unusually broad array of art and artifacts spanning several thousand years of cultural history assures that an import ban, if adopted, will make it exceedingly difficult to distinguish 'pillaged' archaeological materials from art and artifacts that have entered the market in a legal manner. The Convention on Cultural Property Implementation Act limits import bans on limited and specified categories of objects that are more than 250 years old. The Chinese request does not recognize these provisions. The CPIA anticipates that import restrictions be taken in concert with other nations. The Chinese government request has been made only to the United States. The Act requires that a nation requesting import bans for specified objects demonstrate that every reasonable effort is made to regulate trade and protect archaeological sites and objects through establishment and enforcement of protection laws. China cannot legitimately claim that it consistently enforces its laws or that it has taken steps to regulate the art market in Hong Kong and other areas under its control. Likewise, it cannot demonstrate that archaeological sites and objects are properly protected in association with development projects.

Finally, the Act requires that import bans be "consistent with the general interest of the international community in the interchange of cultural property among nations for the purpose of scientific, cultural, and educational purposes."

The Peabody Essex Museum has carried out the largest single cultural exchange project between China and the United States. PEM acquired a complete Qing Dynasty house from Anhui Province in China, dismantled it, and re-erected it as a part of the new Peabody Essex. This large, multi-year project received support at all levels from the Chinese government, in recognition that it is vitally important for American citizens to better understand China's rich and diverse artistic and cultural heritage.

PEM's relationships with China extend back to 1799—the year PEM was founded. PEM has collected Chinese and Chinese export art for more than two centuries. Like other American art museums, we have a deep and abiding interest in Chinese art, architecture, and culture, and a strong commitment to increasing understanding and appreciation of Chinese art and culture in the United States. During the last decade, PEM has organized exhibitions presented in China (Hong Kong) and made loans of art to Chinese museums and universities. We have also supported and funded historic preservation projects in China and supported several extended research projects by visiting Chinese scholars.

Given our personal and institutional relationships with China, past and present, it is painful to recommend the rejection of the Chinese request for an import ban on pillaged archaeological objects. Our capability to present and interpret Chinese art and its relationship to Chinese history and culture depends, like that of other museums in the United States, on the strength of our collections and the exchange of scholarship, information, and exhibitions.

Collections are built through purchase and donation. The requested import ban would, if adopted, make it extraordinarily difficult to acquire a broad range of Chinese art, not simply archaeological material. Scholarship would unquestionably be diminished as a result. Determining what is and is not a legitimate work of Chinese art for acquisition would be immensely difficult if the requested ban were adopted because there is no reasonable way to separate 'pillaged' art—given the excessively broad range of art included in the request—from art that has long been in the market. Previous import bans have been far more specific and limited. Moreover, a series of legal and other complexities would emerge (as other testimony will no doubt elucidate) that would very negatively impact cultural exchange between the United States and China and thus fail to uphold international standards of cultural exchange.

While PEM has been fortunate in receiving full support for the Yin Yu Tang project, we have, like other museums in the United States, found that, with the exception of a single institution, it is exceedingly difficult to arrange loans of Chinese art for exhibition. This is due in large measure to the Chinese government's establishment of excessively high loan and other fees associated with borrowing works of art for exhibition.

The serious flaws in the Chinese government's request relative to the Convention for Cultural Property Act; the excessively broad range of objects included in the request

(including objects seldom associated with archaeological sites); and the profound dampening effect the request would have, if adopted, on cultural exchange for purposes of scholarship exhibition, and education warrant rejection of the request. Most important, though, is the fact that this request—targeted only to the United States—will do nothing to remedy problems associated with inconsistent enforcement of archaeological protection laws in China or the daily harm done to archaeological resources due to uncontrolled development. Likewise, the request, if adopted, will accomplish nothing in terms of increasing control of illegally acquired materials in Hong Kong and other Chinese cities. Removing the United States from the market for Chinese art will also accomplish little in terms of limiting the market within China or in other nations around the world for illegally acquired Chinese art.

Several steps could be taken by the Chinese government to dramatically and effectively increase protection of archaeological sites and objects, including:

- Consistent enforcement of existing archaeological protection laws within China;
- Establishment of laws and regulations designed to provide substantially increased protection to archaeological sites and objects in association with development projects;
- Substantial narrowing of the range of archaeological objects included in a request to the United States and other nations for an import ban;
- Increased control of the art market within China, especially in Hong Kong;
- Establishment of reasonable loan and other fees for exhibitions in the United States; and
- Increased capability for Chinese art historians and archaeologists to establish and maintain relationships with their peers worldwide

The United States and China rank among the world's most powerful and influential nations. The level of economic interdependency between the United States and China dictates that all possible steps be taken to increase mutual understanding and appreciation of our respective artistic and cultural heritage. Members of AAMD and many other elements of the American museum community fervently desire that China take steps to effectively protect its vast cultural heritage and history, and AAMD stands ready to fully support such steps. The loss and damage to this heritage in the 20th century through the Cultural Revolution and other actions has been a loss to the common heritage of all people and nations.

Rather than presenting a poorly conceived and excessively broad import ban for Chinese art in the United States, China has many opportunities that are well within its national resources to dramatically and effectively increase protection of its archaeological heritage. Finally, China also has opportunities to enter into open dialogue with art historians, museums, and archaeologists in the United States and other nations to develop multi-lateral solutions to the issue of protection of archaeological resources and the enrichment of cultural exchange.

On behalf of AAMD and its members, I urge the Cultural Property Advisory Committee to recommend rejection of the Chinese request, as formulated, while concurrently encouraging China to undertake internal measures that will effectively protect China's archaeological heritage while opening a new era of cultural exchange and dialogue that will benefit China, the United States, and many other nations.

Sincerely,

Dan L. Monroe

