



IADAA NEWSLETTER FEBRUARY 2022

US to delay AML legislation for the art market pending other priorities

The biggest story of the month broke early with the publication of the US Treasury report: **Study of the Facilitation of Money Laundering and Terror Finance through the trade in Works of Art.**

The report set out to assess the risks of money laundering (ML) through the art market, particularly in relation to Terrorism Financing (TF). It also sought evidence on which art market sectors posed the greatest risk.

While the report noted “some evidence” of ML risk in the institutional high-value art market,” it also noted “little evidence of TF risk”.

Ultimately it found the risk low enough for regulation to be delayed pending other priorities, such as shell companies and the real estate sector.

It found that under self-regulation, the art market conducts a good level of due diligence, including Know Your Customer checks. It also found that existing laws effectively regulate the market for money laundering in relation to large transactions.

The report concluded that small to medium-sized art galleries, art fairs and fair organisers are low risk for ML.

Case studies showed that perpetrators exploiting art for money laundering were almost never art market professionals. In other words, ML tends to involve crime *through* art (non-market specific) rather than art crime (market specific).

The report highlighted the importance of appearance, saying that the “mere perception that the art market is both vulnerable to ML and unregulated creates incentives for criminals to further abuse the art market”. This confirms the aggravation of risk by those exaggerating the problem and promoting bogus figures.

Despite the report claiming that at least some auction house staff might have been aware of ML activity linked to the Rotenbergs sanctions-busting case, the evidence it provided through its footnote does not show this at all.

Art market campaigners will welcome its finding that a higher threshold of around \$50,000 should be applied if AML regulations are introduced.

The report also concluded that conflict zones were not attractive places for ML for various reasons.

Despite the US proposals specifically targeting antiquities, the report’s analysis implied that they were of even less risk. This is because antiquities tend to be low value compared to Contemporary and Modern Art, illiquid, subject to far greater checks during the transactions process and subject to extensive and growing sanctions on import via Memoranda of Understanding and other mechanisms.

Egypt, Senegal sign MoU to enhance bilateral cooperation in tourism, antiquities

Daily News Egypt: January 30: Another Memorandum of Understanding. The positive elements include pledges to “exchange experience in the fields of restoration and maintenance of discovered artefacts, museum management, exhibition, registration, documentation, and archiving”. As with the other MoUs, however, it would appear that the fight against illicit antiquities includes an agreement to reverse the burden of proof on

ownership, effectively infringing human rights to property ownership (see newsletters passim).

France seeks crackdown on EU art traffickers

EU Observer: January 31: Another muddled article based on a misleading memo from the President of the Council of the European Union, this article focuses on trafficking during the pandemic.

Turning to its source, we learn that it bases its claims on the recent Interpol report on seizures in 2020. As analysed in the October 2021 newsletter, these claims do not stand up to scrutiny, firstly because although the claims relate to antiquities, the data does not. As usual, the use of the term cultural property leads to obfuscation, concealing the fact that more than half of the 854,742 items seized were library materials from Europe. All of this leads to the announcement of yet another action plan, soon to be unveiled by the European Commission, against trafficking in cultural goods. Taking into account the inaccurate statements by Commission Vice President Margaritis Schinas at the Louvre conference in January regarding trafficking (see January newsletter), this is hardly surprising, but it is nonetheless discouraging if not surprising and, again, would appear to ignore EC President Ursula von der Leyen's guiding principles of proportionality and evidence.

Almost \$90 million raised by Aliph to protect heritage sites in conflict areas

The National News: February 1: International governments have promised almost \$90 million for Aliph, the International Alliance for the Protection of Heritage in Conflict Areas, over the next five years. How this money will be spent has yet to be set out, but MENA countries including Saudi Arabia have been vociferous in recent months about their enhanced commitment to protecting heritage within their own borders, as well as in neighbouring countries.

If this is the beginning of a serious move to protect vulnerable sites as part of member states' commitment under the UNESCO Convention, then it is to be welcomed.

Art sleuth returns statue to France almost 50 years after heist

France 24: February 2: This story is interesting for a number of reasons, including the details of how the sculpture was recovered, issues over statutes of limitations and good faith purchase, compensation and how the market can play a role in restitution through sponsorship. In this case, Timeline Auctions' CEO and COO Brett and Aaron Hammond sponsored half the compensation money that became due under French law for the museum to reacquire the piece.

Why Macron's radical promise to return African treasures has stalled

The Art Newspaper: February 3: Despite President Macron's high-profile 2017 declaration that museums should return artefacts to Africa, France has only restituted 28 pieces so far, this article reveals.

Now the French Senate has approved a bill—proposed by senators Catherine Morin-Desailly, Max Brisson and Pierre Ouzoulias—to set up a national expert commission that would be consulted on any future non-European restitution cases. However, the French government has announced that it opposes the proposals because it wants to decide the merits of each case rather than have its powers circumscribed by a commission. This means that the proposals are unlikely to succeed unless the government changes.

Instead, President Macron has asked the former director of the Louvre to establish a legislative framework for future restitutions to foreign countries. The intention is to get

round current laws that make public collections inalienable in France, preventing their return to source countries.

As this article points out, however, President Macron has not been consistent in his approach, at one point calling for mass restitution, while at another describing the emptying of France's museums in this way as "madness".

Iraq to receive hundreds of trafficked artifacts from Lebanon

Rudaw.net: February 5: News that hundreds of allegedly trafficked items are to be returned to Lebanon has been undermined by the accompanying photograph shown here of some of the artefacts, which antiquities specialists have identified as fake. Notably, the article also quotes the Interpol survey regarding the "surge" in cultural property theft, again, as with the President of the Council of Europe (see above), implying that this concerns antiquities, which aren't even mentioned as a separate category by Interpol, when the seizures relate chiefly to library materials and no further indication is given regarding criminal convictions or how valid any of the seizures were.



Above: Some of the artefacts being returned, identified as fakes by antiquities specialists. Photo INA

This is yet another example of how the term "cultural property" can be misused to promote propaganda rather than facts.

Hat tip to [ARTNews](#), which diligently included the word "allegedly" to qualify the looted claim in its headline.

Mexico Is Ramping Up Its Efforts to Repatriate Its Lost Pre-Columbian Heritage— Spelling Trouble for the Market and Museums

Artnet News: February 7: Another example of Mexico attempting to spread its domestic ban on artefact sales globally, ignoring property rights and past legal transactions and exports. One of the notable aspects of this campaign is the move to describe all items not returned as "illicit" when they are nothing of the kind. This echoes recent anti-market attempts to redefine the meaning of the word illicit as immoral or unethical, rather than simply illegal. As this article notes, Mexico culture minister Alejandra Frausto Guerrero goes further: "The minister last year told [AFP](#) ahead of two auctions in France of pre-Hispanic pieces that Mexican law decrees that "any piece of national heritage that is permanently outside the country, not temporarily for an exhibition or cultural cooperation, comes from an illegal act".

Latin American nations slam auction of pre-Hispanic artifacts in France

Presstv Iran: February 9: Other Latin American countries have now joined Mexico's campaign to claw back all antiquities held abroad, demanding that no one should be allowed to trade in them. The new protestors include Ecuador, Guatemala, Panama, Peru, and the Dominican Republic.

Ryedale Hoard: Yorkshire Museum acquire incredible Roman treasures from man who bought them at auction

Yorkshire Post: February 17: Businessman, philanthropist and antiquities scholar Richard Beleson has made another major donation so that a significant find – in this case the Ryedale Hoard – can go to a new institutional home.

IADAA reported the news that the Yorkshire Museums Trust had acquired the hoard in the October 2021 newsletter, but it is only now that details of how that acquisition was funded have come to light.

Having been discovered buried in a field near Ampleforth in Yorkshire in 2020 by amateur metal detectorists working under the Portable Antiquities Scheme (PAS), the hoard was officially reported to the York Museums Trust after which it was declared treasure and passed to the PAS for recording.

Under the law, the finders and landowners split the proceeds of the hoard's sale; it went to auction and sold to collector David Aaron for £90,000.

This led to negotiations between Mr Aaron and the York Museums Trust, with the latter acquiring the hoard from him with funding from an Arts Fund grant and Mr Beleson. The hoard will now go on display in York from April 8.

It is the latest in a string of donations by Mr Beleson, a member of the San Francisco Ancient Numismatic Society and of the American Numismatic Society, who has also helped pay for a curatorial position at the British Museum recording the discovery of all coin hoards, as well as part-funding the purchase of the Sandridge Hoard for St Albans Museums. In addition, he supports the Gandharan Connections project at Oxford University's Classical Art Research Centre.

Libya's archaeological sites under threat – in pictures

The National News: February 18: A photo montage of vulnerable sites within Libya, this article reports that hopes of turning the ruins of the Greek city of Cyrene – a UNESCO World Heritage site – into a tourist destination have been dashed because of the graffiti, litter and other damage to be found there. "The lack of support from the government is said to be the root of the problem," the article states, with significant budget for guards and no repercussions for looting.

This illustrates exactly why the 1970 UNESCO Convention commits states parties such as Libya (which ratified the Convention in 1978) to protecting cultural heritage sites under Article 5.

US bans import of art and antiquities from Afghanistan

The Art Newspaper: February 21: News that the US has introduced emergency measures in a bid to prevent looting and trafficking from Afghanistan is tempered by concerns over the terms of a draft Memorandum of Understanding proposed by the previous Afghan government last year.

Cultural Property lawyer Kate Fitz Gibbon, an expert on Afghanistan having lived and worked there as an art historian, believes that the breadth of the import ban, covering almost every type of cultural good dating from 50,000 BC to 1747 AD, may prove damaging to legitimate interests, while its wording risks creating the very outcome it seeks to prevent. That is because the draft MoU does not include a 'safe harbor' clause allowing seized items to be withheld by the US in the event of their return putting them at peril, and because under the terms of the Cultural Property Implementation Act, which gave rise to the ban, seized items must be returned to the State Party. While that would have been the previous US government at the time the MoU was drafted, the Taliban are now de facto rulers of the

country and foreign powers such as the US are considering recognising their regime, leading to the items being returned to them.

Bearing in mind that this would include pieces belonging to religious minorities such as Buddhists, and the notorious fate of the Bamiyan Buddhas under the Taliban in March 2001, this is of great concern.

The story was picked up by [Yahoo News](#), AFP and France 24, among others, while the ATHAR Project tried to dismiss these concerns via [Artnet News](#), saying that “There is no precedent to suggest the US would return artifacts to the Taliban, and accusing art market lobbyists of “scare tactics”. However, the project did not attempt to address those specific concerns, as set out above, which still stand.

It is an interesting accusation in light of the innumerable unfounded articles and claims made by the anti-trade lobby, many based on demonstrably bogus statistics, attempting to scare governments and law enforcement into increasingly restrictive measures against the legitimate market.


Financial arrangements spanning Egypt, Saudi Arabia, UAE behind illicit antiquities smuggling trial

Madamasr: February 21: Court documents in the trial of Egyptian businessman and media mogul Hassan Ratib claim that senior officials and businesspeople from Egypt, Saudi Arabia and the Emirates covertly funded illicit excavation and looting of more than 200 archaeological artefacts within Egypt.

The article sets out how the operation had come to light after its two central protagonists, Ratib and Alaa Hassanein, a businessman and former politician, allegedly fell out.

Live Expert Panel: Following Brexit, will the UK become a center of cultural racketeering?

Antiquities Coalition podcast: March 1: This is the preview for this podcast as posted via the AC’s website:



The screenshot shows the Antiquities Coalition website header with the logo and navigation menu. Below the header is a banner image of ancient Egyptian hieroglyphs with the text "THE LATEST". The main content area features a live expert panel announcement titled "Live Expert Panel: Following Brexit, will the UK become a center of cultural racketeering?" dated February 15, 2022. The announcement includes a link to join a free webinar on March 1, 2022, and a summary of the panel's focus on the illicit trafficking of cultural property during conflict and the UK's regulatory approach.

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THE LATEST

Live Expert Panel: Following Brexit, will the UK become a center of cultural racketeering?

February 15, 2022

[Join us March 1, 2022 at 12:00 PM New York / 5:00 PM London for this Free Webinar](#)

Despite international efforts to shine a spotlight on the deliberate destruction and looting of cultural property during conflict and the international community’s commitment to stopping the industrial trafficking believed to be contributing to the financing of terrorist groups such as Daesh, Al Qaeda and others, illicit trafficking continues in plain sight, seamlessly integrating with the legitimate antiquities market.

While the EU has sought to address this problem by streamlining import rules and preventing import without proof of legal export from the country of origin, the UK has taken a seemingly opposite approach, quietly revoking the EU Regulation on the Introduction and the Import of Cultural Goods (EU 2019/880) in Great Britain, while adopting it in Northern Ireland.

What was the UK’s reasoning behind the decision to repeal the regulation (and failure to replace it)? Will this repeal create a gateway to Europe for illicit cultural property through Northern Ireland, where the regulation still applies? And, how can the UK take advantage of this unique opportunity to adopt bespoke practices that fight cultural racketeering?

Join us for a lively discussion of these questions and more with leading experts in the field of cultural property law, trade, and protection. Dialogue to be moderated by Alexander Herman, Director of the Institute of Art and Law.

As can be seen, it starts with the premise that industrial trafficking is “believed” to be contributing to the financing of terrorist groups such as Daesh, Al Qaeda and others – a premise that remains utterly unproven despite many years’ study costing many millions of dollars to show this.

The possibility of any reliable outcome from this podcast is further diminished by the spurious claim that follows, highlighted in bold text: “illicit trafficking continues in plain sight, seamlessly integrating with the legitimate antiquities market”.

The podcast is also clearly driven by the position paper by Blue Shield chair and cultural property lawyer Fionnuala Rogers, which the AC published in November 2021. It made a series of claims and proposals relating to the UK’s decision to withdraw from the Regulation (EU) 2019/880 governing import licensing of cultural goods. Close study of the paper raised many questions regarding evidence, risk assessment and the practicality of measures Rogers proposed.