



IADAA NEWSLETTER MARCH 2022

**'Damaging and unjust' legislation linking art and antiques trade to money laundering and terrorism financing must stop, industry body says**

The Art Newspaper: March 14: CINOA and IADAA, supported by five trade associations and cultural heritage interest groups, have led the way in calling for more effective engagement between lawmakers and the art market.

Spurred on by the findings of the US Treasury report into anti-money laundering, the groups have called for a wholesale international review of policy making relating to the art market. They argue that numerous reports in recent years all show that claims of links between the art market, terrorism financing and money laundering are unfounded and that policy making is "being driven by assumptions and false claims".

They have also identified areas of weakness that have helped them formulate a five-point plan for more effective policy, and they set these out here.

As CINOA president Clinton Howell explained: "There is a lot of misinformation which is reiterated by the press and used by law makers. Many of the issues could be eliminated if there is more fact checking of the data and a better understanding of the problems. Our goal is a fundamental review of policy making taking into account our five recommendations."

One of the most measured reports addressing this issue was published by *La Gazette-Drouot* on March 25, when veteran art market journalist Vincent Noce noted how the US Treasury Report put AML and terrorism financing risk linked to the art market in proportion with both other crime risks associated with art and with associated risk levels in other sectors.

He writes that the US Treasury notes that, without being forced to do so by law, "many market players spontaneously collect information" on "the origin of the object as well as the identification of the seller and its reliability". However, this monitoring remains limited, since it "can be suspended or modified by the operator as it sees fit", and, insofar as it is based on voluntary action, "the authorities find themselves powerless" in the event of non-compliance rules.

He also highlights the report's conclusions: "In the end, 'while the level of art-related money-laundering is significant, it is far exceeded by other financial crimes such as fraud, drug trafficking and cybercrime.' The report recommends tightening controls on many other high-value goods, such as real estate, private jets or yachts, which, as the news shows, are needed more now than ever."

### **Medieval gold cross found by Norwich detectorist for sale**

BBC News: March 5: The latest find under the UK's Portable Antiquities Scheme to come to auction is this 11th or 12th Century gold cross, **pictured**, discovered by a metal detectorist while searching with friends at Sutton St Edmund, Lincolnshire, in April 2019.

Sold with it for £18,600 on March 8, and **also pictured here**, was a gold shilling or thrymsa dating from 650-70 AD, also discovered under the PAS, in Haslingfield in South Cambridgeshire on Monday, January 3, 2022 by a 55-year-old drainage engineer searching a stubble field. It is one of only eight examples of this 'Crispus' type to have been recorded on the Early Medieval Coins database at the

Fitzwilliam Museum in Cambridge. The gold shilling was in extremely fine condition and centrally struck with all the inscriptions visible. **Images courtesy of Dix Noonan Webb**



### **US Embassy returns 9 trafficked cultural antiquities to Jordan**

The Jordan Times: March 1: Yet another article in which goods seized as a direct result of a Memorandum of Understanding are misrepresented as being trafficked.

At first the report seems to be dealing with a straightforward case of smuggling, seizure and return: "The US Embassy returned nine trafficked cultural antiquities to Jordan from the United States during an official handover ceremony at the Department of Antiquities (DoA) in Amman on Tuesday," the article states.

"The artifacts were illegally 'smuggled' from Jordan and obtained by an antiquities collector in the US, according to a US Embassy statement."

With the official intervention of Homeland Security and New York Assistant District Attorney Matthew Bogdanos, as well as the congratulations of the US Ambassador, the whole exercise appears unquestionably justified.

But then the article gives it away, noting that the return of the trafficked artifacts is "historic", as it is the first incidence of enforcement of the 2019 US-Jordan Cultural Property Protection Agreement, which, like, other Memoranda of Understanding, allows the US authorities to seize items without evidence of any crime being committed, and return them to their country of origin.

The Ambassador explained that an important aspect of the US agreement is that it helps Jordan boost its economy via cultural heritage.

Another report on this event from The New Arab repeats UNESCO's bogus \$10 billion claim as the annual value of illicit in cultural goods. It also includes this curious paragraph: "The smuggling of antiquities is a consistent problem in the Middle East, whose cultural heritage is showcased across the world – often without permission from its original owners."

This appears to be based on the view that all cultural property originating in a country belongs to that country regardless of whether it was legally sold and exported at any time previously, a now widespread argument in direct contravention of international human rights law and conventions.

### **Antiquities dealers appeal restrictive New York ban on ivory**

The Art Newspaper: March 7: This article is significant because the headline is misleading. It is not antiquities dealers who have launched this appeal but antiques and tribal art dealers, namely the Art And Antique Dealers League of America and the National Antique and Art Dealers Association of America.

Of particular interest is the plaintiffs' argument that the 2014 New York State mandate banning the display and sale of objects containing raw and worked ivory is not constitutional, apparently because it goes further than Federal law.

It may also be time for America's trade associations and collectors to look at constitutional issues surrounding the enforcement of Memoranda of Understanding that are now frequently leading to the seizure of private property.

### **U.N. cultural agency moves to protect Ukraine's heritage sites**

Reuters.com: March 8: UNESCO has taken its first steps to help protect Ukraine's cultural heritage within the country.

"The first challenge is to mark cultural heritage sites and monuments and recall their special status as protected areas under international law," UNESCO Director-General Audrey Azoulay said in a statement.

UNESCO will use the Blue Shield system in the hope that combatants will avoid damaging marked buildings and property, although reports so far that Russian bombing is paying little to heed to protective conventions under international law.

"The marking with the emblem of the Convention also comes from the fact that Russia and Ukraine are two countries to have ratified this important convention," Lazare Eloundou Assomo, the director of the UNESCO World Heritage Centre, told Reuters.

### **American tourist stumbles upon intact Early Bronze Age pottery jug in Judean Desert**

The Times of Israel: March 8: An American tourist has found an intact Bronze Age clay jug, ***pictured here***, in a cave in the Qumran region of Israel.

Having previously worked on an archaeological expedition there, the American was hiking with a friend there in February when they decided to climb up to the cave.

On finding the jug, the pair photographed it and immediately contacted Dr Yuval Baruch from the Israel Antiquities Authority (IAA). The jug is the first ever found in the region from its period.

The area has been of archaeological interest since 1947 when a shepherd discovered three of the Dead Sea Scrolls inside in a cave there. ***Image courtesy of Amor Ganor/IAA***



### **A total of 52 arrests in operation across 28 countries targeting trafficking in cultural goods**

Europol: March 9: The latest in a series of transnational law enforcement operations that date back to 2014, Pandora VI has resulted in the seizure of 9,408 'cultural artefacts'. The operation ran from June 1 to September 30 across 28 countries.

This Europol release sets out a raft of data: 52 arrests; over 170 investigations still current; 4,231 archaeological objects sized (including 3,000 coins) etc.

Operational highlights listed provide more detail about the range of items seized and limited details about the circumstances of the seizures. France, Spain, the United States, Romania, Italy, The Netherlands and Greece were all included among the highlights. While Europol described the items as “priceless”, many of them were actually of low or definable monetary value. **Image courtesy of INTERPOL; seized in Greece.**



Along with Operations Odysseus and Athena, the Pandora operations have led to a large number of arrests and seizures over the years: “Operation Pandora, which was first launched in 2016, is an annual law enforcement operation. To date, it has netted 407 arrests and resulted in the recovery of 147,050 cultural goods,” Europol’s release explains. What it has still failed to do, however, is publish the most significant evidence of all: how many of the seizures later proved to be justified, and how many of the arrests led to convictions. Without those two statistics, Europol cannot provide an accurate picture of the effectiveness of these operations.

### **Belgian cuts to art crime policing weaken ‘intelligence gathering’**

The Art Newspaper: March 11: Central to this report is Blue Shield’s accusation that the Belgian Government no longer respects UNESCO’s 1970 Convention on illicit cultural property.

The outcry follows the government’s decision to no longer update its Art Information System monitoring cultural property crime, including trafficking.

While some argue that Belgium is a “key market country” linked to crime, the government has decided to prioritise activity elsewhere.

As Donna Yates, an associate professor of criminal law and criminology at Maastricht University, says: “Without specialised units, the specialised data collection (and analysis and intelligence that comes with it) is gone. Without specialised units, there is no one obvious to receive data and intelligence from abroad and pass on what they know. As such, I think that alone is likely to undermine anything being done at a European level.”

While dealers, academics and others may continue to dispute the level of risk and crime, all have called for more accurate data to provide clarity on the issue of looting and trafficking.

### **Iraq Museum in Baghdad reopens after three-year hiatus**

The Art Newspaper: March 11: The Baghdad Museum had re-opened its doors in 2015 following the recovery after years of conflict. However, further disruption and political volatility led to its closure once more in 2019.

This article looks back at the chequered history surrounding the museum, thefts, restoration, restitution and re-opening.

### **Greece-United States Hold Talks on Cooperation in Culture Field**

Greek Travel Places: March 18: Further evidence that it is Memoranda of Understanding driving seizures and returns to source countries in the USA rather than actual evidence of crime.

This article celebrates various US/Greek joint initiatives in the culture sphere resulting from the 2021 MoU, signed in Athens on September 22, which entered into force on November 19. The MoU restricts the import of “certain archaeological material ranging in date from approximately 20,000 BC to the 15<sup>th</sup> century AS, and ecclesiastical ethnological material ranging in date from approximately the 4<sup>th</sup> century AD to 1830 ... unless the Government of the Hellenistic Republic issues a license which certifies that such exportation was not in violation of its laws.”

As the article confirms, it is the MoU, not the uncovering of any evidence of a crime, that permitted the US to seize and return 55 antiquities worth some 20 million dollars – including those seized from Michael Steinhardt.

### ***Famous Siloam Inscription shows the complexity of repatriation of antiquities***

The Jerusalem Post: March 21: This detailed and considered article highlights the complex nature of patrimonial claims that can arise.

In this case, the item in dispute is arguably the most important archaeological find in what is now Israel, a 2,700-year-old inscription linked to the construction of a tunnel to bring water into the city in the Biblical time of Hezekiah.

Discovered in the 1880s and, fortunately copied out in full by the German teacher of the children who discovered it, parts of the inscription were then looted and sold off before it could be excavated properly.

The occupying Ottoman regime tracked down the thieves and their booty at the behest of British and German researchers, recovering the broken inscription and transferring it to the Archaeological Museum in Istanbul (then Constantinople) for safekeeping. The copy remained in Jerusalem.

So now the case of restitution arises. Should the Turks send it Israel, which did not exist as a country at the time? Should they return it to the Palestinians, whose current territory includes the find spot? Or should they keep it, as they argue, because the Ottomans ruled the territory at the time and so transferred the inscription to Turkey under what were effectively local laws of the time? Adding to their claim is that if the Ottoman authorities had not intervened at the time to save the inscription, it would have been lost.

Israel has asked for the inscription on several occasions.

Haifa University Archaeology Professor Emeritus Ronny Reich would like to see Turkey hand over the inscription to Israel but acknowledges the competing claims: “We didn’t exist [as a nation] in those days,” he said. “It has been there (in Istanbul) since then, so I thank the Turks for the safekeeping of the find which is more important than spectacular.”

### ***Two lots withdrawn from Christie’s antiquities sale after possible ties emerge to dealers known to traffic in illicit artefacts***

Art Newspaper: March 24: Another public ‘outing’ of antiquities by academic archaeologist Christos Tsirogiannis involves two lots (now withdrawn) that were to appear in Christie’s April 12 Antiquities auction in New York.

One of the lots, a Nolan amphora, was traced to the archives of Gianfranco Becchina, while the other, a helmet, was traced through the archives of Robert Hecht. Both were dealers associated with trafficking of looted items, which means that even pieces bought and sold by them legitimately are effectively tainted on the market.



As the *Art Newspaper* points out, the archives yielding the information on the pieces are not available for checking directly by auction houses and dealers. Instead, Tsirogiannis wants auction houses and trade submit pieces for consideration by the Carabinieri for vetting and approval prior to sale.

The article also refers to a 2015 statement from Christie's noting that previous individual queries sent to the Carabinieri remained unanswered.

Like the rest of the market, Christie's would like to see public access granted to the archives for the purpose of due diligence and provenance checks, but there is little chance of that happening.

### ***Egyptian Antiquities Authorities Confiscates New Genizah Found In Cairo Jewish Cemetery***

VIN News: March 24: The Jewish community in Cairo is in outcry following the alleged seizure of a recently discovered rare and ancient Jewish documents from a genizah or archive in the Cairo Jewish cemetery.

They have also complained about how the Egyptian authorities allegedly handled the documents: "A few days ago, employees of the Egyptian Antiquities Authority broke into the cemetery, having received information about the genizah, and began dumping its contents into dozens of plastic bags without examining the contents. They worked for 48 hours, ignoring the protests of the Jewish community who demanded that a Rabbi must oversee the removal."

### ***Dealer suspected of selling looted antiquities to the Metropolitan Museum of Art and Louvre Abu Dhabi detained in Paris***

Art Newspaper: March 25: The latest developments in the case surrounding the gilded sarcophagus returned to Egypt from the Metropolitan Museum in New York, which has enveloped a number of dealers.

In 2020, New York Assistant District Attorney Matthew Bogdanos prompted action after declaring that the provenance surrounding the sarcophagus was forged.

Despite the certainty with which this case is being prosecuted, as IADAA noted before (see [September 2020 newsletter](#)), not all is as it seems. Certainly there appears to be some confusion over when the sarcophagus left Egypt. Was it smuggled out on a fraudulent export permit in 1971, as claimed by the country's minister of antiquities? Or was it plundered after the Arab Spring of 2011? Or was the 1971 export licence legitimate, as the dealer then involved claims?

Has Roben Dib, the Hamburg dealer from whom the sarcophagus was sourced – and who says that the DA's claims are "complete lies" – been arrested and dispatched to France under a European Arrest Warrant? Or has he gone there of his own free will to volunteer his co-operation, as his lawyer told [Le Journal du Dimanche](#)?

The only thing that has been clearly determined is that the case involves no links to terrorism financing.

### ***The scandal of seizure agreements***

Art Newspaper: March issue: The leading letter in this issue comes from IADAA adviser Ivan Macquisten, who provides a detailed critique on the growing number of Memoranda of Understanding between the United States and other countries.

"These bilateral agreements, nominally established to protect cultural property from crime, are really about reclaiming cultural patrimony without due process while boosting geopolitical influence," he writes.

Of chief concern is Article 1 of these cultural property agreements, which effectively reverse the burden of proof on huge swathes of items. Possession without documentary evidence proving original legal export from their source countries – no matter how long ago that took place – renders them automatically illicit, he explains.

“The MoU does not require source countries or law enforcement to show any evidence of crime, such as theft or trafficking, to justify the seizure of the items. In short, you are considered guilty unless you can prove your innocence.”

The implications for property rights are far-reaching, while the MoUs allow the authorities to bypass the US Constitution, international human rights conventions and even Article 5 of the UNESCO Convention, Macquisten argues.

Turning to the recent US/Nigeria MoU, he adds: “It is extraordinary that the official US-Nigerian release announcing the MoU celebrates its power to ignore due process: allowing for seizure, ‘without Nigeria going through the labyrinth of judicial and diplomatic processes which most of the time [are] costly and time consuming’.”

Of equal concern is the misleading picture these seizures create: “Many of the well-publicised restitutions of recent years within the US are of this nature yet are presented as crime-busting initiatives, feeding into a false narrative that masks this assault on citizens’ rights.”

### **Rothko lawsuit lays bare the privacy versus provenance conflict**

Art Newspaper: March 28: Although not about antiquities, this article provides a well-measured assessment of the competing imperatives involving transparency and client confidentiality within the wider art market.

In general terms, those not familiar with the market tend to assume that failure to publicise the identity of a seller or previous owner of an object means that the owner or trader has something illicit to hide. As the article acknowledges, however, the real reason is often a simple desire for privacy. In fact, other factors can also come into play, such as security and insurance.

Legislators and others continue to apply pressure for increasing transparency in the art market, but as they do so, they also need to provide solutions to these valid concerns.