



**Trade bodies condemn UNESCO proposals to regulate art market**

Led by CINOA, the international trade federation for art and antiques dealers, industry bodies across the world have reacted strongly to what they see as “very alarming” proposals from UNESCO to regulate the art market.

The proposals have been drafted by a panel of academics, civil servants and legal specialists from countries that have no sizeable art market themselves; they give the impression of having no serious idea of, or interest in, how the art market operates.

The outcome is predictably draconian, unrealistic and extreme, and if passed into law by States Parties to the 1970 UNESCO Convention on illicit trade would constitute an existential threat to much of the wider art market.

Published under the heading *Draft Model Provisions on the Prevention and Fight against the Illicit Trafficking of Cultural Property*, the proposals even attempt to redefine the meaning of the term ‘cultural property’ so that it has a far wider meaning than that set out in the Convention. This is an early indicator of how UNESCO appears to be sanctioning an upgrade of the Convention without going through the formal process of properly consulting States Parties on it.

It is not the whole set of provisions that cause a problem. In fact, as a whole, Provisions 1 to 13 set out useful proposals for dealing with the scourge of looting and trafficking linked to cultural property. Of particular note are Provisions 6 and 7, in which UNESCO finally targets States Parties over their obligations under Article 5 of the 1970 Convention to protect vulnerable sites from criminals.

“This is something that the art market has reiterated for many years,” says IADAA chairman Vincent Geerling, who has been very vocal on the point. “Fulfilling those obligations are the most effective actions in the fight against illicit trafficking and are long overdue, especially the establishment of digital inventories of protected cultural property (Provision 7) and should include the temporary warehousing at archaeological excavations. Photographing and recording archaeological finds before they are stored would provide a more effective means of reporting possible thefts quickly to INTERPOL (as obliged) for uploading onto their database, thereby making them unsaleable and thus preventing trafficking.”

As the report below reveals, Jordan has launched a project to create such a database with the help of the United States; other States Parties should follow its example.

It is when we arrive at provisions 14 to 18 that the trouble starts. These attempt to regulate the art market, something that has nothing to do with UNESCO and should be excised from the proposals.

Provision 15 proposes: “Only private individuals or legal entities, holders of a license issued by the competent authority, can exercise a professional activity directly or indirectly related to the art market.”

This astonishing power grab effectively imposes compulsory licensing on the global art market in a way that it would be impossible to comply with and which, if followed to the letter, would risk exposing art market operators to legal action from their clients.

It also constitutes a serious threat to human rights as, by default, it would remove the commercial value of countless items in private ownership around the world, as well as depriving their owners of the ability to dispose of them how they see fit.

As one art market lawyer responded: “This provision is highly unrealistic. It envisions that only licensed businesses will sell art; however, most countries do not have the capacity or will to create the necessary bureaucracy for such an endeavour. There is an expectation for these individuals to hold legal degrees and be experts in foreign law when such laws are often unavailable or are not consistently applied in practice. They are also expected to maintain a register of movements or transactions, but such record keeping is of little use unless it is maintained in a database, which again would require a major undertaking.”

The enforcement of this set of proposals would effectively undermine the existing UNESCO Convention because it would supersede its powers and remit. This would constitute a catastrophic breach of trust of States Parties that had not expressly acceded to the changes as formal alterations to the Convention.

Several countries have already made it clear that they will not accede to these proposals. Australia has said it will not oblige dealers to maintain a register of cultural property and those they trade with; Belgium, France, Sweden and the UK do not accept the wider definition of cultural property; and the United States has reserved the right to determine whether or not impose export or import controls and does not accept that the Convention can be applied retroactively. These reservations alone, which include three of the world’s largest art markets, effectively make the proposals unworkable.

It is telling that not only was no member of the art market co-opted onto the panel of ‘experts’ and not one of them hails from a leading art market nation, but also that leading trade bodies such as CINOA were not directly informed or consulted on the matter – CINOA only learned about the proposals because it was tipped off by someone who found out about them.

Reactions from other leading figures and organisations in the market have been equally damning. The European Federation of Auctioneers points out that the industry is already subject to extensive legal restrictions, including over due diligence.

The draft provisions come at the same time as UNESCO is finalising its code of ethics for the art market, another set of rules that it wishes to impose on traders while ignoring the concerns they expressed during the consultation period.

The questionnaire involved was also deeply flawed because it failed to consider different circumstances for trading artworks, while also assuming that all restitution claims were valid, when so many are not, and that any export not accompanied by a licence is illicit, when that is not the case.

CINOA has pointed out to UNESCO that its consultation over the code of ethics elicited a very poor response from States Parties (only 12%), with only 27 responses from across the entire art market, which it argues “cannot accurately represent the art trade”.

Although UNESCO’s policies are only advisory, many fear that they will be imposed, first by declaring the code of ethics obligatory, then by using that to force through the Model Provisions. While leading art market countries may not support the measures, active source countries like Mexico, who already operate extremist policies regarding cultural property, would be only too delighted with them.

The summary impression conveyed by the UNESCO proposals and the organisation’s approach to these matters is that they are driven by an extreme ideology that is prepared to trample human rights to achieve its ends rather than an honest desire to fight crime and protect the vulnerable. Coupled with numerous examples of breaches of trust – from the fraudulent advertising campaign The Real Price of Art to its continued promotion of bogus data about the art market – UNESCO’s expressed wish to work with the art market ring increasingly hollow.

### **Cultural ministers pledge more action to return priceless artifacts**

Reuters: October 1: News of the recent conference in Mexico dedicated to mission creep on the part of countries trying to grab power and overturn human rights when it comes to the private ownership of cultural property.

“Major museums, auction houses and private collectors have faced growing pressure in recent years to repatriate priceless works of art and other antiquities from Latin American and African nations, among others, which argue the goods were often taken unethically or illegally,” the article explains.

While the conference tackled the problem of looted and illegally exported pieces, delegates, led by Mexico and its stringent new law, the arguments used try to encompass legal items that are now being interpreted by some as “unethical” and so “illicit” on the grounds that either the conditions of their original export might not have met today’s strict standards, or that surviving paperwork does not prove its legality.

It is notable that Ernesto Ottone Ramirez, Assistant Director-General of UNESCO (Culture), who attended the conference, welcomed the growing importance of bilateral agreements, whose terms often go well beyond those of the 1970 UNESCO Convention.

### **Critics ‘angry’ over Greece’s deal with art collector Leonard Stern**

New York Post: October 12: Another outburst from anti-trade campaigner Christos Tsirogiannis, this time condemning the legal agreement between collector Leonard Stern and the Greek government over Stern’s collection of Cycladic artefacts.

As previously reported, a complex deal thrashed out on the advice of experts transfers ownership of the collection to Greece with a series of loan conditions for the short- and medium-term involving museums in Athens and New York, including one for the collection to loaned to the Metropolitan Museum of Art for decades. The arrangements cover the interval up to 2049, at which point Greece can grant the Met the right to exhibit the works for up to 25 more years. Otherwise, whatever remains at the Met will get shipped to Greece and be displayed there.

While the deal met with widespread approval initially, now Tsirogiannis and (apparently) others see it as a betrayal of Greek interests. Specifically, he argues that Greece should simply have demanded the return of the collection because the antiquities in questions were “unprovenanced” – ignoring the collection’s lengthy history. In particular, he claims to have established that one of the pieces once passed through the hands of disgraced antiquities dealer Gianfranco Becchina.

Stern, who says that he agreed to the deal since expert advice and as a long-term solution for the collection so that his children would still be able to see it, insists that he had no dealings with Becchina and had not even heard of him till now.

Tsirogiannis is quoted as follows: “They have at least one piece that matches [an antiquity] in the trafficker’s archive. It is the same piece that had been collected by Stern. Over 5,500 objects have passed through Becchina’s hands that have been shown to not be legal.” He qualifies this by acknowledging that the piece in question is not necessarily illegitimate yet insisting that “Leonard Stern should have proof of legal origin for every piece”.

What we have here, then, is not an argument over alleged criminal activity, but an attempt to force an unreasonable extremist view on public opinion.

Having admitted that he has no evidence that any of the objects in the collection was stolen, Tsirogiannis demands that they are all returned on the basis that one of them, at one time, passed through the hands of an individual later convicted of trafficking.

He also demands that the burden of proof is reversed so that instead of the authorities having to show that the items are illegal, it should be up to Stern to show that they are legal.

In summary, then, while Tsirogiannis attempts to justify his own case on the absence of evidence, he demands unattainably high standards of evidence from those he opposes. Bearing in mind that the deal will mean that international institutions will be able to display the collection to great effect over decades in the public interest and that Greece has become its owner and will have the final say on its eventual destination, Tsirogiannis' position seems almost unhinged. Stern's reaction? "I am shocked, really shocked, that somebody, for their own publicity, has crafted a negative here."

The Greek government also appears to have taken a pragmatic approach instead of throwing large sums of public money at what might prove to be an ill-advised legal campaign. Together, they and Stern's advisers have come up with a solution that satisfies all interests and might act as a blueprint for future disputes.

### **Syria unearths 'rarest' Roman era mosaic**

Yahoo News: October 13: What is thought to be the largest complete mosaic yet found in Syria has been uncovered in the town of Al-Rastan, at the heart of territory formerly occupied by ISIS.

The 120 square metre mosaic, shown here, depicting Amazon warriors from Roman mythology, is being heralded as the most important archaeological discovery of the past decade.

The mosaic was uncovered in a building being excavated by the country's General Directorate of Antiquities and Museums.



### **2.3m US-funded project launched to set up database for Jordan's moveable cultural artifacts**

Jordan News Agency:  
October 13: Jordan's

Ministry of Tourism and Antiquities has launched a project to set up a database for the country's first comprehensive and national inventory of moveable cultural artifacts with a value of about \$2.3 million.

The project seeks to preserve Jordan's cultural antiquities and protect its rich cultural heritage.

This is a fine example of a State Party seeking to fulfil its obligations under Article 5 of the 1970 UNESCO Convention. If Jordan can do this, why not any of the many others who have been in breach of those obligations for so long?

### **Reforming heritage laws ‘not a priority’ amid calls to return Elgin Marbles**

Evening Standard: October 14: The UK government is reported as refusing to alter laws to make it easier to return cultural objects to their countries of origin.

House of Commons Leader Penny Mordaunt announced that a proposal to reform the 1983 Heritage Act for such a purpose was “not a priority”.

### **A hoard of 44 Byzantine gold coins was discovered in Israel Antiquities Authority**

#### **Excavation**

Israel Antiquities Authority: YouTube: The Israel Antiquities Authority is celebrating the discovery of 44 pure gold coins in archaeological excavations at Paneas (later known as Banias), within the Hermon River Nature Reserve.



The hoard is composed entirely of gold solidus coins, some from Emperor Phocas (602–610 CE), with many coins minted by Emperor Heraclius (610–641 CE). The latest coins of Heraclius date the coin hoard to the time of the Muslim Conquest of Byzantine Palestine in 635 CE. The 170g hoard was concealed within the base of an ashlar stone wall at the time of the Muslim conquest.

### **Trafficking In Archaeological Objects, A Scourge Of The Antiquities Market**

Globe Echo: October 16: Another day, another bogus statistic promoted by an official to boost their cause. In this case it came at a two-day conference in Marseille on October 12 and 13, where Hubert Percie du Sert, appointed head of the Central Office for the Fight against Trafficking in Cultural Property (OCBC) in August, told delegates: “15% to 20% of Daesh funding was based on archaeological looting.”

Du Sert does not give a source for his claim but appears to have confused the figure with the reported rate of levy charged by ISIS to license looters of artefacts – a very different figure indeed. If so, it is an irresponsible claim and a shocking error for such a senior official in his specialist sphere to have made at all, let alone at a public forum like this.

If quoted correctly, Nicolas Grimal, the permanent secretary of the Academy of Inscriptions and Belles-Lettres, undermines his standing as an expert by reiterating the long debunked false claim that trafficking in cultural property is considered the third most important in the world after drugs and weapons. It is the most basic of errors that even the briefest due diligence fact check would expose.

### **Intelligence Agency: 12 suspects arrested in antiquities trade**

Iraqi News Agency: October 23: The Iraqi Intelligence Agency says it has arrested 12 people on suspicion of looting and trafficking antiquities and seized dozens of artefacts. More details have yet to emerge.

**Investigations into New York Financier Michael Steinhardt Reveal Delicate Politics Waged in the Cultural Sphere**

ARTnews: October 25: A wide-ranging, in-depth and thoughtful article considering many of the issues surrounding the seizure and return of antiquities and other items, as well as changing attitudes to the ethics of collecting, with especial reference to Michael Steinhardt. Worth reading in full, it has particular points of interest.

Inevitably the article turns to Matthew Bogdanos and his Antiquities Trafficking Unit in the New York District Attorney's office. Summarising how it started and the work it has carried out so far, it continues: "Bogdanos relies heavily on circumstantial evidence to get a judge to grant warrants in order to carry out seizures." As IADAA has noted, including in the last newsletter, standards of proof seem low for the seizure of personal property and its return to source countries.

Of further interest are the views of cultural property lawyer Michael McCullough, who says "that the unit will likely retire with Bogdanos after 'legacy thefts' like Steinhardt's are dealt with. The prosecutor, according to McCullough, has been the sole advocate of antiquities policing in New York."

Cultural property lawyer Kate Fitz Gibbon also notes that seizure of historical materials at this scale could play into nationalist dynamics and fuel disinformation campaigns abroad, says the article. "When people talk about cultural property, they use clichés," Fitz Gibbon told ARTnews. "Objects are never defined as to what their actual value is, which can be somewhat deceptive because they're always referred to as priceless."

It also dwells on the 2020 RAND Corporation report, which debunked many of the claims used to justify anti-trade campaigning and operations over the years.

"Some have been skeptical of the unit's tactics as well. A 2020 report by nonprofit research group RAND found that links between the illicit antiquities trade and terrorist activity had been widely exaggerated, and specifically named Bogdanos as the source of misinformation exaggerating those links. Bogdanos has said he publicly connected the trade with terrorism in order to keep a spotlight on returning antiquities—and despite the report, he staunchly continues his push to do so."

This appears to be Bogdanos admitting exaggerating claims to support his agenda – a serious development for someone whose operations depend on public money in a department whose previous head, DA Cyrus Vance junior, notoriously overspent by millions. If the public and media cannot rely on the authorities to be truthful in their claims, what price democracy and justice?

Importantly, the article also raises the controversial status of bilateral agreements (Memoranda of Understanding or MoUs), which the United States uses to boost its diplomatic and cultural links with other countries, singling out the 2019 renewal of its agreement with China "giving the Chinese government full control of the country's antiquities trade, despite evidence of the state's move to raze Uighur sites".

It gets to the heart of the matter when discussing how some think that the broadening of repatriation and seizures "counteract the intent of the seemingly white-hat UNESCO 1970 convention that public officials often quote when taking credit for these recoveries".

This is the closest any media outlet has come so far to investigating the dubious nature of MoUs and how they undermine human rights, which IADAA has raised the alarm over on numerous occasions. Perhaps ARTnews would like to dig a little deeper on this.