

Comments on MOU Renewal Request from the Hellenic Republic

September 28, 2020

The Global Heritage Alliance (“GHA”) is pleased to support a proposed renewal of a Memorandum of Understanding (“MOU”) with the Republic of Greece with the following provisos. We would request that: (1) should the MOU be renewed, that such renewal not be used to expand current import restrictions further—in particular there should be no effort to expand import restrictions to include ancient trade coin types not previously restricted; (2) any renewal should require U.S. Customs and Border Protection (“CBP”) to accept export permits or evidence of legal export from sister European Union (EU) countries as evidence of a legal import of artifacts on the designated list for Greece; and (3) CPAC recommend long and short term measures to assist Greece to protect its own cultural patrimony.

The Cultural Property Implementation Act (“CPIA”), 19 U.S.C. §§ 2601 *et seq.* contains significant procedural and substantive constraints on the executive authority to impose import restrictions on archaeological and ethnological objects. CPAC is to provide the executive with useful advice about this process. The Committee’s report shall include, “terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention.” 19 U.S.C. § 2605 (f) (4) (A).

If the MOU is renewed, the designated list should not be extended further, particularly with regard to widely circulating ancient trade coins. We understand that the International Association of Professional Numismatists and Professional Numismatists Guild have produced substantial academic evidence supporting the State Department’s prior decision not to impose import restrictions on such coins. Under the circumstances, it makes no sense for U.S. authorities now to assume such coins are Greek cultural patrimony when CPAC previously took pains to ensure that import restrictions were not placed on widely circulating coin types like the Athenian Tetradrachm and Corinthian Stater.

CPAC should also make every effort to facilitate lawful trade. CPIA import restrictions only apply to cultural goods subject to the export control of a particular country. 19 U.S.C. § 2601 (2). However, U.S. Customs and Border Protection (“CBP”) has failed to acknowledge that EU member countries are part of a common market that allows for the export of archaeological and ethnological objects with or without a license according to the local law of the exporting EU member.¹ Allowing entry of objects legally exported from the EU that are

¹ See Council Regulation (EC) No 116/2009, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009R0116> (last visited May 21, 2020). It is IAPN’s understanding that a number of E.U. countries have construed Article 2.2 of the Regulation to allow for the export of ancient coins without an E.U. export certificate as objects of limited archaeological or scientific interest.

found on “designated lists” for EU member countries like Bulgaria, Cyprus, Greece and Italy would greatly facilitate lawful trade in a situation that could not have been specifically contemplated by the CPIA, which predates the EU’s export control regime. This can be simply accommodated by modifying Art. I of any renewal to make any import restrictions inapplicable to cultural objects legally exported from another E.U. country, with or without a formal export permit under local law.

Article II Sec. 2 and 3 of the initial MOU which was unchanged in the 2015 renewal contemplates that Greece will undertake a number of self-help measures to protect its own cultural patrimony. GHA makes the following additional suggestions to be written into the MOU to protect Greece’s cultural patrimony and facilitate lawful trade. We believe these are reasonable requests given the budget shortfalls facing the Greek cultural establishment due to ongoing economic problems:

In the short term:

- Deaccession and sell off duplicates from museum stores to foreigners and wealthy Greeks.
- Give tax breaks to individuals that donate money to Greek museums.
- Require foreign archaeologists to pay a user fee for the privilege of excavating in the country, but as a quid pro quo reestablish the historic practice of partage.
- Require foreign archaeologists to police their own sites when they are not being actively excavated. At the recent CPAC meeting on Italy and Colombia, CPAC member St. Hilaire asked members of the archaeological community about site security plans. The individuals who were queried were unable to provide details of any such plans, but indicated that site security was a concern. CPAC should take a proactive stance on this issue and recommend that any revised MOU require that U.S. archaeological missions get such plans approved as a condition of continuing to work in the country. With the advent of remote sensing technology, including high tech cameras, site security costs are likely far cheaper than 10-15 years ago. CPAC should encourage the archaeological community to take advantage of this new technology by suggesting that Greece require site security plans as part of this renewal.

In the longer term:

- Establish a legal market for ancient artifacts that can be taxed.
- Establish a recording system akin to the Treasure Act and PAS.
- Require developers to pay for the services of archaeologists to undertake salvage excavations on land likely to contain ruins, but then allow the developer to sell what is found after it is recorded, or give them a tax break if the artifact is worthy of going into a museum.

Thank you in advance for CPAC's consideration of GHA's views.