

Committee for Cultural Policy and Global Heritage Alliance

Submission to Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, U.S. Department of State, on the Proposal to Extend the Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material and Ethnological Material of the Republic of Mali.

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Proposed Renewal of the Memorandum of Understanding with the Republic of Mali

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Submission Date: January 18, 2022

Mr. Stefan Passantino, Chair

Cultural Property Advisory Committee

Cultural Heritage Center (ECA/P/C)

U.S. Department of State 2200 C Street, NW Washington, DC 20037

Dear Chairman Passantino and Members of the Cultural Property Advisory Committee to the President:

The Committee for Cultural Policy¹ and Global Heritage Alliance² jointly submit this testimony on the extension of the Proposed Memorandum of Understanding (MOU) and the continuing imposition of import restrictions between the United States and the Republic of Mali. We have addressed below whether the requests meet the legal criteria set by Congress for import restrictions under the Cultural Property Implementation Act.

Current affairs in Mali.

The request for an extension of Mali's bilateral agreement comes at a time of particular uncertainty for the country. Mali's military junta announced just weeks ago that elections

¹ The Committee for Cultural Policy, Inc (CCP) is an educational and policy research organization that supports the preservation and public appreciation of the art of ancient and indigenous cultures. CCP supports policies that enable the lawful collection, exhibition, and global circulation of artworks and preserve artifacts and archaeological sites through funding for site protection. CCP deplores the destruction of archaeological sites and monuments and encourage policies enabling safe harbor in international museums for at-risk objects from countries in crisis. CCP defends uncensored academic research and urges funding for museum development around the world. CCP believes that communication through artistic exchange is beneficial for international understanding and that the protection and preservation of art is the responsibility and duty of all humankind. The Committee for Cultural Policy, POB 4881, Santa Fe, NM 87502. www.culturalpropertynews.org, info@culturalpropertynews.org.

² Global Heritage Alliance, Inc (GHA) advocates for policies that will restore balance in U.S. government policy in order to foster appreciation of ancient and indigenous cultures and the preservation of their artifacts for the education and enjoyment of the American public. GHA supports policies that facilitate lawful trade in cultural artifacts and promotes responsible collecting and stewardship of archaeological and ethnological objects. The Global Heritage Alliance, 5335 Wisconsin Ave., NW Ste 440, Washington, DC 20015. <http://global-heritage.org/>

promised for February 2022 would be delayed up to five years. ECOWAS, the Economic Community of West African States immediately responded with sanctions. Observers in Mali and nearby states sounded cautiously optimistic that the “six month to five years” delay was a form of negotiating position. The EU has urged a more moderate response, not wishing to isolate Mali or collapse its already teetering economy. The government has encouraged demonstrators in its capital, Bamako, to take to the streets.

Mali was already facing multiple crises before this month’s political turmoil and threatened economic chaos. A simmering rebellion by Tuareg factions in 2012 exploded when extremist militants linked to al Qaeda and the Islamic State turned on the Tuareg and captured large sections of the north. French Armed Forces soldiers soon arrived en masse and together with the Malian military succeeded in recapturing much of the north, enabling elections late in 2013. This relatively quiescent period ended as conflicts between Dogon and Bambara farming peoples with Fulani pastoralists escalated and ethnically based militias fought over land and resources.

One of the greatest cultural crises came when Ansar ed Dine directed their forces against the ancient, shrine-filled town of Timbuktu destroying some ancient buildings and threatening Timbuktu’s ancient libraries before being driven out by French and Malian forces.

Periodic ceasefires and elections enabled the country to hold together in principle for some time, but in 2019 the fighting and the sporadic but increasingly brutal massacres of civilians increased. A coup d’etat by the military, led by Colonel Assimi Goïta followed popular uprisings against the government in September 2020. The military created a transitional government and promised elections and a transition to civilian rule in 18 months.

At the same time, the thousands of troops from France and its European partners and United Nation peacekeepers have decided that they are unable to cope with the political instability and deteriorating security in the north and unwilling to keep going after nine frustrating years.

Prior agreements with Mali.

Over the last 28 years, the US government has sought to protect the cultural heritage of the Republic of Mali by taking the following actions:

September 23, 1993 Emergency import restrictions placed on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment.³

September 19, 1997 Bilateral agreement continuing the prior restrictions on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment for 5 years.⁴

³ “Import Restrictions Imposed on Significant Archaeological Artifacts from Mali,” *Emergency Actions and Designated List, Federal Register* (Washington, D.C.: Department of the U.S. Treasury, Customs Service, September 23, 1993), <https://eca.state.gov/files/bureau/ml1993eafn.pdf>.

⁴ “Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff) (with Appendix),” *Bilateral Agreement* (Washington, D.C.: U.S. Department of State, Bureau of Education and Cultural Affairs, September 19, 1997),

September 20, 2002 Bilateral agreement continuing the prior restrictions on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment for 5 years.⁵

September 19, 2007 Bilateral agreement extending the prior restrictions and adding new restrictions on archaeological materials from the Paleolithic Era to approximately 1750 CE for 5 years.⁶

September 19, 2012 Bilateral agreement extending 2007 restrictions on archaeological materials from the Paleolithic Era to approximately 1750 CE for an additional 5 years.⁷

September 2017 Bilateral agreement continues prior restrictions on archaeological materials made of, but not limited to ceramic, leather, metal, stone, glass, textiles, and wood from the Paleolithic Era to approximately 1750 CE, with the addition of manuscripts dating between the twelfth and twentieth centuries in paper, and extending import restrictions to September 19, 2022.⁸

https://eca.state.gov/files/bureau/mali_tias_1997-2007.pdf. Department of the U.S. Treasury, Customs Service, "Import Restrictions Imposed on Archaeological Artifacts from Mali," *Designated List, Federal Register* (Washington, D.C., September 23, 1997)

⁵ "Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff)," *Diplomatic Note* (Washington, D.C.: U.S. Department of State, Bureau of Education and Cultural Affairs, September 11, 2002), http://eca.state.gov/files/bureau/mali_tias_1997-2007.pdf.

⁶ "Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff)," *Diplomatic Note* (Washington, D.C.: U.S. Department of State, Bureau of Education and Cultural Affairs, September 11, 2007), http://eca.state.gov/files/bureau/mali_tias_1997-2007.pdf. "Extension of Import Restrictions Imposed on Archaeological Material from Mali," *Extended Agreement and Revised Designated List, Federal Register* (Washington, D.C.: Department of Homeland Security, U.S. Customs and Border Protection, September 19, 2007), <https://eca.state.gov/files/bureau/ml2007dlfrn.pdf>.

⁷ "Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century," *Diplomatic Note* (Washington, D.C.: U.S. Department of State, Bureau of Education and Cultural Affairs, August 15, 2012), https://eca.state.gov/files/bureau/mali_tias_2012.pdf.

⁸ "Agreement Between the Government of the United States of America and the Government of the Republic of Mali Extending and Amending the Agreement of September 19, 1997," *Diplomatic Note* (Washington, D.C.: U.S. Department of State, Bureau of Education and Cultural Affairs, September 14, 2017), *Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials From the Republic of Mali, Federal Register* (Washington, D.C.: Department of Homeland Security, U.S. Customs and Border Protection, September 19, 2017), <https://www.govinfo.gov/content/pkg/FR-2017-09-19/pdf/2017-20056.pdf>.

No information on the expansion of the request from Mali has been published.

CCP and GHA are hampered in our ability to fully respond to the request from the Republic of Mali due to the failure of the Department of State to make public any documentation stating the terms of the request and establishing the State Party's continuing qualification for import restrictions.

CPAC's administrators notified the public of the scope of the proposed MOU by placing the following single sentence on the ECA website, on January 11, 2022, only one week prior to the due date for comments.

“The Government of the Republic of Mali requested that the agreement be amended to include additional categories of archaeological and ethnological materials from the Paleolithic period to A.D .1920.”

No other information was provided on the content of the request, nor was there additional information on the Federal Register Notice regarding the proposal.

Under US law, bilateral agreements are supposed to be made only when they meet all of the statutory criteria under the CPIA: there must be a current situation of looting of the materials for which embargo is requested, the countries must be working internally to protect their cultural patrimony, import restrictions must have a “substantial benefit,” no remedy less drastic than an embargo will help to stop looting, and finally, an embargo must be “in the general interest of the international community in the interchange of cultural property.”

It is up to the requesting country to establish that it has met the criteria under U.S. law for a bilateral agreement. This is even more the case in a renewal request, when the U.S. needs to know if the requesting country has performed – or even attempted to perform actions it has undertaken to do under a prior agreement.

There have been restrictions on imports from the Republic of Mali for 28 years without either the U.S. State Department or the Government of the Republic of Mali making any public report on the steps the Malian Government has taken to preserve and protect its heritage. This lack of publicly available information raises serious questions about whether the continuing and expanded restrictions are justified and whether the request meets the legal criteria under the CPIA.

When the content of the source country requests is not made public, the public cannot provide useful comment on the request itself – or even speculate on the reasons for expansion of the embargo to objects up to the 20th century. There is no way to judge whether, why or how past U.S. import restrictions have had any positive effect at all.

Requests for information from the Department of State that are necessary for a meaningful public response are routinely denied. The response is always, “You may apply under the Freedom of Information Act.” However, it is our experience over the last decade that Department of State responses to requests under FOIA, when and if they are granted, are so heavily redacted that they

provide no substantive information. We have tried repeatedly, and if you will permit the colloquial, we are effectively told to ‘pound sand.’

As an organization whose boards include three past members of CPAC, none of whom ever received informational materials that would have placed national security or diplomatic relations at risk, or even privileged information on the location of archaeological sites not otherwise available, we believe there is no legitimate reason for denial of information on the scope of the request to the public.⁹ This deliberate obfuscation prevents the public from making comments useful to CPAC’s deliberations.

(1) All restricted cultural patrimony must be threatened by pillage. Mali has failed to demonstrate that the hitherto unidentified objects in the proposed Designated List are in jeopardy of pillage.

The State Department has not made public any documentation of contemporary looting in Mali that would justify a potentially blanket import embargo for objects from the Paleolithic to 1920.

If such information was provided, it could encourage public support for more comprehensive MOUs. Nor has the Department of State informed the public of the actions taken by Mali to preserve cultural artifacts in archaeological sites or even in local cultural institutions, nor set forth the steps taken by the Mali to ensure that the US public has at least minimal access to its art through traveling exhibitions or exchanges with US museums. If this information was provided, it could do much to assuage our concerns regarding whether Mali has met the statutory criteria under the CPIA.

CPAC cannot blame concerned citizens for objecting to renewing or expanding an agreement when it deliberately withholds the information that would allow them to support a MOU in good conscience.

(2) The self-help requirement – Mali has not taken sufficient measures to protect its cultural patrimony.

The State Department has made no statements available regarding Mali’s fulfillment of its past obligations to protect its heritage or commitment to do so in the future. This information is not available from the Government of Mali either. We will not attempt to guess what the Government of Mali has done on its own to further the United States’ interest in the preservation of its cultural heritage.

We are aware that the United States Ambassadors’ Fund for Cultural Heritage has provided nine grants since 2020 to Mali. The most recent is a project to document the textile traditions of the Dogon, Fulani and others in central Mali and to assist crafts persons to revitalize traditional textile production. In the two decades since the inception of the Ambassadors Fund, Mali has received nine such grants, “including the preservation of Islamic manuscripts; the preservation of

⁹ However, much information was presented as ‘secret’ that was publicly available from academic sources. I and others on our nonprofit board who formerly served on CPAC also received briefing books with “SECRET” stamped in red on printouts from eBay.

the 14th century mosque of Kankan Moussa in Gao; the documentation of endangered musical traditions; and an inventory of archaeological sites.”

It would be of interest to know the status of these nine grants, to what degree the projects are still operating, and if completed, what are the results. For example, in January 2020, the U.S. Embassy and Mali’s Ministry of Culture’s National Directorate of Cultural Patrimony sponsored a week-long technical training for 35 Malian archeologists and technicians to create the first ever “Inventory of Mali’s Archeological Heritage.” The grant provided \$116,000 for training and to document major archaeological sites in the regions of Kayes, Koulikoro, Sikasso, Ségou, and Bamako in Mali.¹⁰ A relevant question would be, what has been done in the last two years and has the Government of Mali continued the project on its own initiative?

How much is the Government of Mali spending to preserve and restore historic sites? Are there paid guards at major archaeological sites? What is the budget for the National Museum and other museums in Mali?

A policy on cultural heritage that is opaque to the point of invisibility is dismissive of Congressional intent in providing for public comment, harmful to American public interest, and lessens the chance that a bilateral agreement will actually help to preserve Malian heritage.

(3) U.S. import restrictions may be implemented only if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by nations with a significant import trade in the designated objects, would be of substantial benefit in deterring a serious situation of pillage, or establish that other, less drastic remedies are not available.

The U.S. market for Malian antiquities and ethnographic materials has not triggered a current “serious situation of pillage.”

The CPIA requires that in order to impose import restrictions, the US must be shown to be a key market nation for currently looted objects in each listed category. The only record of antiquities smuggling into the US in the news for the last 11 years relates to the following seizure:

Homeland Security agents alerted by US Customs confiscated 921 items in total from a suspicious shipment that arrived in the Port of Houston from Mali in 2009.¹¹ HIS found six large funerary urns (dated 900CE-1700CE), a comb-impressed red slip double cup vessel (800CE-1500CE), a high-necked polychrome pot (1100CE-1400CE) and 913 ground and flax stones and axe heads from the Neolithic Period (around 10,000BCE) in a shipment. The items were coated in blood and fecal matter, thus apparently tipping off HSI that they were smuggled cultural property and not reproductions, as claimed. After eleven years delay due to Mali’s lack of

¹⁰ U.S. Embassy, Mali, U.S. and Mali Launch New Cultural Preservation Project to Inventory Mali’s Rich Cultural Heritage Sites, September 5, 2019, <https://ml.usembassy.gov/u-s-and-mali-launch-new-cultural-preservation-project-toinventory-malis-rich-of-cultural-heritage-sties/>

¹¹ Zachary Small, *U.S. Returns Over 900 Confiscated Artifacts to Mali*, *NY Times*, November 22, 2021, <https://www.nytimes.com/2021/11/22/arts/design/us-mali-looted-antiquities-returned.html>

stability, the seized items were released back to Mali’s United Nations Ambassador Issa Konfourou on November 22, 2021, just two months before the notice of Mali’s renewal request.

The US began returning the items in 2009, with “a handful” of goods repatriated in 2011 and 2012 – “though Homeland Security said that a civil war that began in Mali in 2012 prevented the majority of the artifacts from being returned.”¹²

The US later provided a grant “to fund the repatriation and future exhibition of the objects.” This was in June 2020, when the US Department of State got involved and provided funds to Mali’s National Directorate of Cultural Patrimony. According to the news release, “The exhibition will form part of a nation-wide outreach campaign for protecting and preserving Mali’s archaeological sites.”

A single seizure eleven years before, does not demonstrate that the US is a major market for The attached records of import from Mali (see exhibits) for the most recent available year, 2019, may be extrapolated from in order to measure the current type and volume of imports from Mali.

Mali Exports of works of art, collectors' pieces and antiques to United States

	Value	Year
Original sculptures and statuary, in any material	\$6.50K	2019
Antiques of an age exceeding one hundred years	\$691	2019
Paintings, Drawings and Pastels, Collages	\$5.06K	2018

There were no records of exports to the U.S. sculptures, antiques or paintings for the two prior years.¹³ However, **exports to France** of the same commodities were \$14,378 for 2017, \$10,376 for 2018, and \$6163 for 2019.¹⁴

Export data from Mali shows that whether misrepresented as modern or not, the value of items exported does not come close to demonstrating either a unique or a dominant US market for Malian antiquities, antiques or ethnographic materials.

There are a great number of authenticated, pre-1950s African artifacts, including from Mali that are the only materials that interest collectors circulating in both the U.S. and in Europe. The international auction market captures much of the most valuable tribal and ethnographic artwork sold globally. The ARTKHADE 2021 Report is the tribal art industries’ closest equivalent to the ArtNet and Art Basel and UBS Global Art Market Report that provide global business analyses for the total art trade. (These other art business analyses do not even include antiquities and tribal art in their reporting, except as an “other” category including furniture and silver, whose total value of the art trade is less than one percent globally.) The first paragraph of the 2021 Report states that despite what were considered bumper sales in recent years, €58.5 million in 2019 and

¹² Alex Greenberger, US sends back more than 900 Stolen Artifacts to Mali, ArtNews, November 23, 2021, <https://www.artnews.com/art-news/news/us-repatriates-artifacts-mali-1234611156/>

¹³ Mali Exports of works of art, collectors' pieces and antiques to United States, <https://tradingeconomics.com/mali/exports/united-states/works-art-collectors-pieces-antiques>

¹⁴ Mali Exports of works of art, collectors' pieces and antiques to France, <https://tradingeconomics.com/mali/exports/france/works-art-collectors-pieces-antiques>

€76.3 million in 2018, the total annual sales of tribal art at global auction in 2020 was just €32.1 million.¹⁵ Native American art from North America (Canada and the U.S. combined) was €3.3m of the total. By category, total global ethnographic auction sales in 2020 were measured as:

- African art €18.3million
- Oceanian art €5m
- South American €4.5m
- North American €3.3m
- Asian €856,520

It may be useful for CPAC to see the actual data on sales of African art generally, as collated by the primary analysts of market data on ethnographic art sales at auction worldwide. It is obvious from the top ten African art sales in 2020 that Paris is as strong a market as New York. All of these high value items have lengthy, documented provenances. African art is considered one of the art market sectors in which fakes and recent copies abound.

The Top Ten objects sold globally from Africa in 2020 were:

Top 10 objects from Africa	Type of object	Culture	Date	House	Location	Price	Price (€)
Reliquary Head (Gabon)	Sculpture	Fang Beti	29/06/2020	Sotheby's	New York (USA)	\$3,520,000	€3,129,562
Reliquary Figure (Gabon)	Sculpture	Kota Mahongwe	30/06/2020	Sotheby's	New York (USA)	\$1,400,000	€1,246,602
Mask (Ivory Coast)	Mask	Guro	03/12/2020	Christie's	Paris (France)	€680,000	€680,000
Reliquary Figure (Gabon)	Sculpture	Kota Obamba	30/06/2020	Sotheby's	New York (USA)	\$560,000	€498,641
Reliquary Figure (Gabon)	Sculpture	Fang Beti	30/06/2020	Sotheby's	New York (USA)	\$475,000	€422,954
Mask (DRC)	Mask	Songye	29/06/2020	Christie's	Paris (France)	€420,400	€420,400
Statue (Niger)	Sculpture	–	30/06/2020	Sotheby's	New York (USA)	\$412,500	€367,302
Reliquary Figure (Cameroon)	Sculpture	Fang Mabea	30/06/2020	Sotheby's	New York (USA)	\$325,000	€289,390
Statue (DRC)	Sculpture	Bembe	03/12/2020	Christie's	Paris (France)	€237,500	€237,500
Couple (Ivory Coast)	Sculpture	Senufo	30/06/2020	Sotheby's	New York (USA)	\$262,500	€233,738

Between 84% and 96% of the tribal objects in every geographical category at global auction sold for less than €10,000. Less than 1% of any category sold for €50,000 or more, and only one category, African tribal sculpture had any sales larger than €500,000; less than one tenth of one percent (.09%) of objects were high value.¹⁶

(4) The request does not meet the criteria that the application of the import restrictions is consistent with the general interest of the international community in the interchange of cultural property.

Historically the question of the general interest in the interchange of cultural property is dealt with by CPAC by counting the number of museum exhibitions and loans to the United States. While this kind of an answer actually does not address the question of how the “general interest

¹⁵ ARTKHADE Report 2021- Art Analytics, Arts From Africa, Asia, Oceania and the Americas, 2, <https://www.artkhade.com/api/publications/pdf/00365c5794c8/Artkhade-Art-Tribal-2021-en.pdf>.

¹⁶ *Id.* at 7.

of the international community” can or should be defined, it at least establishes a sort of yardstick for relative access.

CCP was unable to locate a single traveling exhibition from Mali to the U.S. during the last five years of the U.S.-Malian MOU. Absent any substantiation of loans in the request, its government has failed to demonstrate that Mali has undertaken to make its cultural heritage available to the U.S. or the global public.

Mali has acted domestically in only one important matter internationally to preserve its heritage. Mali took an important step in defending its interest in cultural heritage in bringing the case of Ahmad Al-Faqi Al-Mahdi to the International Criminal Court at The Hague (ICC) for destroying Mali’s cultural property. The ICC charged Al-Faqi Al-Mahdi with war crimes for the destruction of shrines of Sufi Saints in Timbuktu and the destruction of the sacred gate of the Sidi Yahia Mosque. ICC held that Ahmad Al-Faqi Al-Mahdi was guilty of war crimes and sentenced him to nine year imprisonment.¹⁷

If hard evidence shows that there is both significant looting and a U.S. market for looted objects, the CPAC should recommend temporary emergency import restrictions only.

Under the conditions specified under the CPIA, the request from the Republic of Mali for a renewal of its bilateral agreement with the US cannot be undertaken. However the Committee for Cultural Policy and Global Heritage Alliance believe that the protection of Malian heritage can most appropriately be addressed by adopting the recommendation made during the 2017 renewal process by the Association of Art Museum Directors that CPAC **recommend temporary emergency import restrictions only**. Temporary emergency import restriction could assist Mali to demonstrate its compliance with the four determinations.

We also urge CPAC to place strict benchmarks for extension to a bilateral agreement in the future. Given the restrictions in trade resulting from any agreement and the lack of past loan agreements, , terms should be included that require Mali to make a defined commitment to make objects of cultural significance available for loan for U.S. museum exhibitions. Thus, U.S. citizens (including citizens of Malian heritage) will not be deprived of the opportunity to learn about and admire the contributions of Mali to the history of world culture.

Mali should be required to demonstrate sincere efforts to provide domestic protection to its heritage and archaeological sites; to document its cultural objects so that if they are lost or stolen they may be readily identified, to curb corruption that allows objects to be exported to other nations as well as the U.S., to build relationships with U.S. museums and educational institutions to enable continuing research and study into Malian heritage both in Mali and in the U.S., and to benefit the American public, the Malian people, international scholars and visitors by enabling U.S. museums to give temporary safe harbor and exhibition space to Malian artifacts that its government wishes to secure and preserve.

¹⁷ See Marlise Simons, “Prison Sentence Over Smashing of Shrines in Timbuktu: 9 Years,” *New York Times*, September 27, 2016, <https://www.nytimes.com/2016/09/28/world/europe/ahmad-al-faqi-al-mahdi-timbuktu-mali.html>.

Therefore, terms should be included under any emergency (or bilateral) agreement that must be met for any future continuation or extension, such as:

The Government of the Republic of Mali will facilitate the exchange of its archaeological and ethnological materials, by:

- 1. Creating an online database or accessible list of objects of archaeological and artistic merit available for exhibition or long-term loans;*
- 2. Increasing the number of exhibition loans;*
- 3. Increasing the length of loans of objects of archaeological and artistic interest for research and educational purposes to a reasonable time period;*
- 4. Encouraging American museums and universities to propose and participate in joint excavation projects authorized by the Government of Mali and enabling a portion of excavated materials to be lent to educational institutions or U.S. museums for further study; and*
- 5. Promoting agreements for academic exchanges and specific study programs agreed upon by museums and universities of Mali and American art museums.¹⁸*

US should encourage relationships between government and cultural institutions in Mali and the U.S. to enable safe harbor agreements.

It was a goal of the United States in the drafting of the CPIA to encourage both the United States and foreign governments to make US museums their temporary partners in preservation in times of crisis and to safeguard the source countries irreplaceable treasures in instances of conflict and violence.

Any agreement or emergency action on Mali's cultural heritage should include an undertaking by the U.S. government, as the AAMD suggested in 2017, "at the request of the Government of Mali, to use its best efforts to become a safe haven for cultural heritage by assisting in finding depositories for objects that are subject to potential destruction, with a commitment to return those objects whenever the Government of Mali deems appropriate. One way to carry out this commitment would be for AAMD member museums to take the rescued objects on loan, pursuant to safe havens protocol already established by the AAMD.^{19, 20}

The Committee for Cultural Property and Global Heritage Alliance agreed with the AAMD in 2017 when it expressed serious reservations that Mali could meet the statutory criteria for an MOU due to the instability of the country and suggested that, with the approval of the

¹⁸ This list is adapted from the Statement of the Association of Art Museum Directors Concerning the Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century, submitted March 21, 2017. Association of Art Museum Directors, <https://aamd.org/sites/default/files/key-issue/FINAL%20CPAC%20statement%20-%20Mali.pdf>

¹⁹ Association of Art Museum Directors, *AAMD Protocols for Safe Havens for Works of Cultural Significance from Countries in Crisis*, <https://aamd.org/document/aamd-protocols-for-safe-havens-for-works-of-cultural-significance-from-countries-in-crisis> (last visited 01/17/22).

²⁰ Association of Art Museum Directors, *Statement of the Association of Art Museum Directors Concerning the Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century*, submitted March 21, 2017, p 5. <https://aamd.org/sites/default/files/key-issue/FINAL%20CPAC%20statement%20-%20Mali.pdf> (last visited 01/17/22).

Government of Mali, US museums could assist by providing temporary safe harbor, access to scholars, and public exhibition that would celebrate Mali's brilliant historic heritage. The AAMD's recommendation regarding safe harbor has equal merit today.²¹

Conclusion

We recognize that the situation of the Malian people has worsened today through repeated political upheavals, chronically ineffectual local and national governance, massive corruption undermining the rule of law, repeated coup d'états in Bamako, the dominance of violent extremists and local militias in large areas of the country, and the destabilization of the Malian rural economy through massive land grabs by well-connected businessmen, all of which have not only endangered Mali's cultural heritage in manifold ways, but also destroyed villages and habitat, impoverished farmers and driven herding communities to the brink of starvation.²²

We believe that if import restrictions on Malian art and artifacts are to be continued, and can be justified under the facts, then the only lawful option is to enact emergency restrictions and to impose clear benchmarks for improvement of Mali's domestic protections for its cultural heritage. CPAC should set clear conditions for any continuing import restrictions and insist that each requesting government be held accountable to its undertakings and that the Department of State should acknowledge the public interest in an effective cultural policy by making public not only source country requests but also factual analyses of domestic threats to heritage in foreign countries and evaluation of foreign government actions. Numerous sections of the State Department make public such reports and analyses with respect to human rights, religious freedom and other matters essential to developing U.S. public policy that are often highly critical of foreign governments. Their publication does not result in weakening of U.S. security or breaches in foreign relations, neither should building greater transparency at the Bureau of Educational and Cultural Affairs.

CPAC should:

Ensure that real standards for performance are required under an MOU or for renewal of an emergency action.

- Ask the Government of Mali and its National Directorate of Cultural Patrimony to guarantee loans will be made under term acceptable to both Mali and US museums
- Encourage the Department of State to facilitate documentation of art and artifacts in Malian collections by means of grants and cooperative programs in order to prevent theft and encourage preservation.

Congress placed procedural and substantive constraints on the executive authority to impose import controls under the CPIA. Under the aegis of the State Department's Bureau of Educational and Cultural Affairs, import restrictions under the CPIA have provided for near

²¹ *Id.*

²² David Lemmi, Marco Simoncelli and Ugo Lucio Borga, *Mali suffers a toxic mix of climate change, militancy and corporate looting*, TRT World, <https://www.trtworld.com/magazine/mali-suffers-a-toxic-mix-of-climate-change-militancy-and-corporate-looting-51182>

permanent bans on the import of virtually all cultural items from the prehistoric to the present time from the countries which have sought agreements. If CPAC fails to heed the concerns of Congress regarding overbroad import restrictions unsubstantiated by clear evidence of meeting the four determinations, CPAC acts in derogation of U.S. law and against the best interests of the people of the United States.

Thank you for your attention.

Kate Fitz Gibbon
Executive Director
Committee for Cultural Policy, Inc.

source <https://tradingeconomics.com/mali/exports/united-states>

Mali Exports to United States	Value	Year
<u>Rubbers</u>	\$3.78M	2019
<u>Machinery, nuclear reactors, boilers</u>	\$3.41M	2019
<u>Vehicles other than railway, tramway</u>	\$1.93M	2019
	\$670.02	
<u>Fertilizers</u>	K	2019
	\$439.67	
<u>Electrical, electronic equipment</u>	K	2019
	\$282.00	
<u>Miscellaneous edible preparations</u>	K	2019
	\$170.32	
<u>Aircraft, spacecraft</u>	K	2019
<u>Furniture, lighting signs, prefabricated buildings</u>	\$62.87K	2019
<u>Cotton</u>	\$61.05K	2019
<u>Articles of iron or steel</u>	\$45.51K	2019
<u>Explosives, pyrotechnics, matches, pyrophorics</u>	\$39.54K	2019
<u>Live animals</u>	\$34.37K	2019
<u>Wool, animal hair, horsehair yarn and fabric</u>	\$25.53K	2019
<u>Wood and articles of wood, wood charcoal</u>	\$23.47K	2019
<u>Lac, gums, resins</u>	\$22.19K	2019
<u>Edible fruits, nuts, peel of citrus fruit, melons</u>	\$18.78K	2019
<u>Articles of leather, animal gut, harness, travel good</u>	\$15.43K	2019
<u>Optical, photo, technical, medical apparatus</u>	\$12.09K	2019
<u>Live trees, plants, bulbs, roots, cut flowers</u>	\$9.23K	2019
<u>Works of art, collectors' pieces and antiques</u>	\$7.19K	2019
<u>Milling products, malt, starches, inlin, wheat gluten</u>	\$6.46K	2019
<u>Musical instruments, parts and accessories</u>	\$6.44K	2019
<u>Miscellaneous chemical products</u>	\$5.98K	2019
<u>Essential oils, perfumes, cosmetics, toileteries</u>	\$5.03K	2019
<u>Glass and glassware</u>	\$4.81K	2019
<u>Articles of apparel, knit or crocheted</u>	\$3.60K	2019
<u>Pearls, precious stones, metals, coins</u>	\$2.90K	2019
<u>Animal, vegetable fats and oils, cleavage products</u>	\$1.64K	2019
<u>Coffee, tea, mate and spices</u>	\$1.62K	2019
<u>Salt, sulphur, earth, stone, plaster, lime and cement</u>	\$1.55K	2019
<u>Mineral fuels, oils, distillation products</u>	\$1.37K	2019
<u>Inorganic chemicals, precious metal compound, isotope</u>	\$1.33K	2019
<u>Plastics</u>	\$944	2019
<u>Impregnated, coated or laminated textile fabric</u>	\$913	2019
<u>Miscellaneous articles of base metal</u>	\$904	2019

<u>Soaps, lubricants, waxes, candles, modelling pastes</u>	\$784	2019
<u>Tanning, dyeing extracts, tannins, derivatives, pigments</u>	\$237	2019
<u>Sugars and sugar confectionery</u>	\$221	2019
<u>Oil seed, oleagic fruits, grain, seed, fruits</u>	\$216	2019
<u>Dairy products, eggs, honey, edible products</u>	\$86	2019
<u>Tools, implements, cutlery of base metal</u>	\$86	2019
<u>Paper and paperboard, articles of pulp, paper and board</u>	\$85	2019
<u>Stone, plaster, cement, asbestos, mica or similar materials</u>	\$28	2019
<u>Pharmaceutical products</u>	\$20	2019
<u>Cocoa and cocoa preparations</u>	\$14	2019
<u>Vegetable, fruit, nut food preparations</u>	\$19.76K	2018
<u>Printed books, newspapers, pictures</u>	\$5.80K	2018
<u>Manmade staple fibers</u>	\$1.80K	2018
<u>Cereal, flour, starch, milk preparations and products</u>	\$1.54K	2018
<u>Aluminum</u>	\$668	2018
<u>Copper</u>	\$628	2018
<u>Articles of apparel, not knit or crocheted</u>	\$563	2018
<u>Bird skin, feathers, artificial flowers, human hair</u>	\$442	2018
<u>Ceramic products</u>	\$434	2018
<u>Photographic or cinematographic goods</u>	\$270	2018
<u>Footwear, gaiters and the like,</u>	\$225	2018
<u>Other made textile articles, sets, worn clothing</u>	\$180	2018
<u>Miscellaneous manufactured articles</u>	\$118	2018
<u>Cereals</u>	\$69	2018
<u>Carpets and other textile floor coverings</u>	\$45	2018
<u>Special woven or tufted fabric, lace, tapestry</u>	\$6.63K	2017
<u>Ores slag and ash</u>	\$289	2017
<u>Railway, tramway locomotives, rolling stock, equipment</u>	\$30.36K	2016
<u>Arms and ammunition, parts and accessories</u>	\$26.04K	2016
<u>Iron and steel</u>	\$28	2016
	\$155.05	
<u>Commodities not specified according to kind</u>	K	2012
<u>Raw hides and skins (other than furskins) and leather</u>	\$3.58K	2012
<u>Edible vegetables and certain roots and tubers</u>	\$1.22K	2012
<u>Vegetable plaiting materials, vegetable products</u>	\$1.2K	2012
<u>Manmade filaments</u>	\$514	2011
<u>Vegetable textile fibers not specified elsewhere, paper yarn, woven fabric</u>	\$40	2010

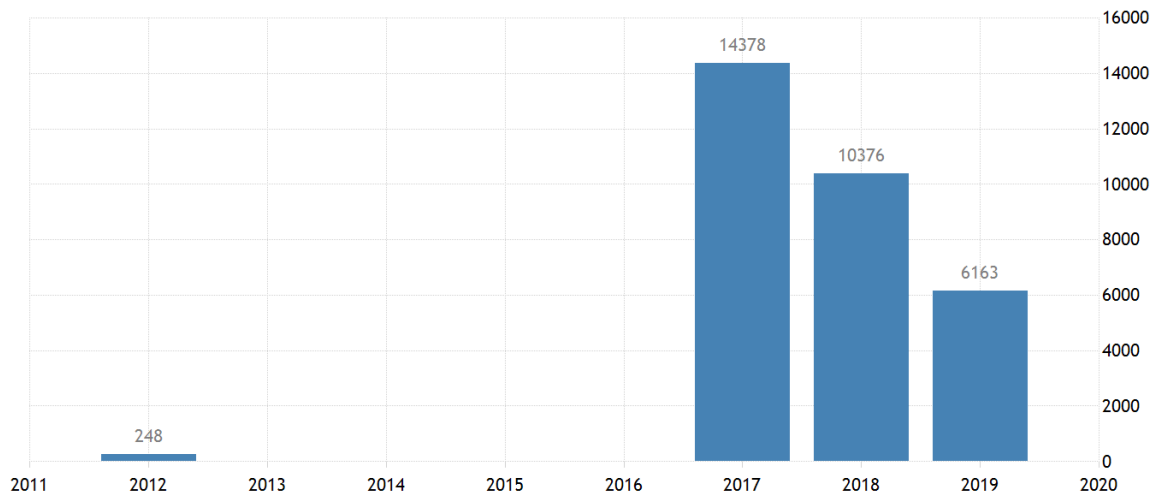
source <https://tradingeconomics.com/mali/exports/united-states/works-art-collectors-pieces-antiques>

Mali Exports of works of art, collectors' pieces and antiques to United States

	Value	Year
Original sculptures and statuary, in any material	\$6.50K	2019
Antiques of an age exceeding one hundred years	\$691	2019
Paintings, Drawings and Pastels, Collages	\$5.06K	2018

Source: <https://tradingeconomics.com/mali/exports/france/works-art-collectors-pieces-antiques>

Mali Exports of works of art, collectors' pieces and antiques to France



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Mali Exports of works of art, collectors' pieces and antiques to France

	Value	Year
Original sculptures and statuary, in any material	\$5.66K	2019
Paintings, Drawings and Pastels, Collages	\$503	2019
Antiques of an age exceeding one hundred years	\$2.12K	2018
Paintings, Drawings and Pastels, Collages	\$248	2018