

Comments on MOU Renewal Request from the Republic of Cyprus

September 23, 2021

The Global Heritage Alliance (“GHA”) and the Committee for Cultural Property (“CCP”) are pleased to support a proposed renewal of a Memorandum of Understanding (“MOU”) with the Republic of Cyprus with the following provisos. We would request: (1) that should the MOU be renewed, that such renewal not be used to further expand import restrictions—in particular there should be no effort to expand import restrictions to include 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 Cyprus; and (3) CPAC should recommend long and short term measures to assist Cyprus 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 regarding widely circulating ancient and medieval trade coins. We understand that the International Association of Professional Numismatists and Professional Numismatists Guild have produced substantial evidence questioning procedural and substantive aspects supporting the State Department’s prior decision to impose import restrictions on a wide variety of Greek and Roman Provincial coins dating back to 235 AD. The current designated list must be reformed to ensure that it only applies to coins “first discovered within” and “subject to export control by” Cyprus. Under no circumstances should additional coin types be added to the designated list which do not meet these criteria.

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, 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

¹ See Council Regulation (EC) No 116/2009, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009R0116> (last visited September 23, 2021). It is our understanding that several 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.

objects legally exported from the EU that are found on “designated lists” for EU member countries like, Bulgaria, 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 Article I of any renewal to make any import restrictions inapplicable to cultural objects legally exported from another EU country, with or without a formal export permit under local law.

Article II, as revised in 2017, only contemplates that Cyprus will undertake several general self-help measures to protect its own cultural patrimony. GHA suggests the following measures be written into the MOU to protect Cyprus’s cultural patrimony and facilitate lawful trade. We believe these are reasonable suggestions to both help protect Cypriot cultural patrimony and encourage the broader appreciation of Cypriot culture:

In the short term:

- Deaccession and sell off duplicates from museum stores to Cypriot and foreign collectors.
- Give tax breaks to individuals who donate money to Cypriot 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.

In the longer term:

- Establish a legal market for ancient artifacts that can be taxed.
- Establish a recording system akin to the United Kingdom’s Treasure Act and Portable Antiquities Scheme.
- 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 your consideration of our views.