

## Testimony to Cultural Protection Advisory Committee

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I am writing on behalf Association of Art Museum Directors to respectfully urge that the Cultural Property Advisory Committee: (1) carefully and thoroughly consider the impact of the current import ban on the protection of Chinese art and archaeological material; (2) reject any effort to extend the import ban to material created after the Tang Dynasty; and (3) assure that if the current import ban is extended the Chinese government will assure that it is vastly easier for American museums to arrange short and long-term loans from Chinese museums for purposes of exhibition, cultural exchange, and scholarship.

### Encouragement to establish publicly accessible standards to measure the effect of import bans on illicit trade and protection of archaeological materials

US import bans established under the Cultural Property Implementation Act have been adopted to reduce illicit trade and damage or destruction of archaeological sites. The current import ban for Chinese art and archaeological material was granted, in part, on the assumption that the US market for Chinese art significantly and materially contributed to illicit trade and damage or destruction of archaeological sites in China.

CPAC has not established any measures by which judgment regarding the impact or effect of import bans may be determined. Lacking such measures, it is not possible to objectively assure compliance with the Cultural Property Act or to evaluate the effectiveness of the Chinese or other current import bans. Anecdotal evidence regarding the effect of import bans, while of some value, cannot substitute for more objective measures. We urge CPAC to develop publicly announced and verifiable measures of the effect of import bans, including the import ban for Chinese art and archaeological material.

Speaking from an anecdotal perspective, it seems difficult to argue the current US Chinese import ban has achieved the requirements of the law—to wit, significantly reduced illicit trade or the destruction of archaeological sites. The European and other markets for Chinese art and archaeological material covered by the current US import ban remain extremely active. It therefore seems very fair to argue the US import ban has done little or nothing to actually reduce illicit trade or protect Chinese archaeological

sites. It has simply shifted the market to Europe and other parts of the world. China, incidentally, remains the largest market for such material. What evidence exists that the illicit market for Chinese art and archaeological material covered by the existing import ban has been reduced or that China is more effectively protecting its archaeological sites and resources?

AAMD recently adopted measures, apart from any consideration of the Chinese or other import bans adopted by the State Department, to require member museums to publicly post acquisitions and explanations for acquisitions of ancient art and archaeological acquired as exceptions to the 1970 UNESCO Convention. This requirement transcends legal requirements for art museum acquisitions and it demonstrates a tangible and publicly accessible commitment to upholding standards aimed at eliminating illicit trade and protecting archaeological resources worldwide.

We respectfully encourage CPAC to adopt publicly accessible and measurable standards for judging the effect of the Chinese and other import bans on reduction of illicit trade and protection of archaeological sites and resources and we also request CPAC to identify and consider publicly accessible evidence that the current Chinese import ban has had a significant effect in fulfillment of CPA requirements.

#### Opposition to any timeline extension to the current Chinese import ban

The Convention on Cultural Property Implementation Act limits import bans to limited and specified categories of objects that are more than 250 years old. The CPIA requires that import bans be “consistent with the general interest of the international community in the interchange of cultural property among nations for the purpose of scientific, cultural, and educational purposes.” Extending the import ban to Chinese art and archaeological material created after the date established in the current import ban will dramatically and negatively limit the interchange of cultural Chinese cultural property for the purposes of scientific, cultural, and educational purposes. The current ban is too broad in our view. Extending the ban will further compromise the ability of art museums and other educational institutions to increase knowledge and appreciation of Chinese art and culture among the American public. We strongly discourage CPAC from adopting a broader set of materials in the import ban.

Assure that an extension of the current Chinese import ban guarantees the Chinese government will substantially simplify the ability of American art and other museums to arrange short and long-term loans of Chinese art in accordance with widely accepted international standards and provisions for such loans, including loan agreements, insurance, and fees.

The Chinese government needs to take several steps to effectively increase protection of archaeological sites and objects and to reduce illicit trade, including:

- Consistent enforcement of existing archaeological protection laws within China;
- Establishment of laws and regulations designed to provide substantially increased protection to archaeological sites and objects in association with development projects;
- Narrowing of the range of archaeological objects included in a request to the United States and other nations for an import ban;
- Increased control of the illicit art market within China;
- Establishment of reasonable loan and other fees for exhibitions and related cultural exchange projects in the United States; and
- Increased capability for Chinese art historians and archaeologists to establish and maintain relationships with their peers worldwide

CPAC can potentially be most effective in simplifying the cost and difficulty associated with obtaining loans of works of art and archaeological material to American art museums. As a participant in the Asia Society's recent U.S.-China Museum Directors Forum held in Beijing in 2012, the difficulties and costs experienced by American art museums in arranging loans of Chinese art and archaeological materials for exhibitions comprised a major topic of discussion. Specific problems include extremely costly and extended procedures for the arrangement of loans and the application of very expensive loan and related fees, including payment for 1<sup>st</sup> class travel and accommodations for large contingents of Chinese museum representatives to the US.

The Chinese government representatives and the Chinese museum directors pledged to simplify loan requirements and procedures. If the Chinese import ban is extended for another five years, it is critically important the extension depend on material and meaningful simplification of loan arrangements and material reduction in the cost of loans to American art museums. It is our fervent hope that CPAC will include a

provision calling for simplified and less costly loan provisions from Chinese to American museums as part of any import ban.

### Conclusion

The Peabody Essex Museum maintains a broad spectrum of relationships with China and with Chinese museums. Our experience includes the organization or presentation of several major exhibitions involving loans of Chinese art, including *The Emperor's Private Paradise*, an exhibition organized by PEM in collaboration with the Palace Museum and shown at the Metropolitan Museum of Art and Milwaukee Art Museum and the single largest cultural exchange project—the Yin Yu Tang house project—carried out between China and a US museum.

We believe, as does the Association of Art Museum Directors, that the relationship between the United States and China is of paramount importance to the future of both nations and the world. Cultural exchange is a vital and essential means by which the people and governments of China and the United States may establish stronger cultural, social, and economic ties.

The Cultural Property Implementation Act recognizes the necessity to balance cultural, scientific, and educational activities with efforts to protect archaeological resources and to reduce illicit trade. We respectfully encourage CPAC to uphold this requirement and to avoid any expansion of the terms and provisions of the current Chinese import ban; to establish publicly accessible standards for measuring the impact of import bans; and to require simplified loan arrangements and fees to American museums.

Sincerely,

Dan L. Monroe