

THE EFFICACY OF THE ASSOCIATION OF ART
MUSEUM DIRECTORS ONLINE ANTIQUITIES
REGISTRY

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ABSTRACT OF THE THESIS

The Efficacy of the Association of Art Museum Directors Online Antiquities Registry

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High-profile international legal suits and the gradual establishment of legal precedence for repatriation cases in the U.S. under the National Stolen Property Act and the Cultural Property Implementation Act of 1983 have coincided with the Association of Art Museum Directors (AAMD) adopting codes of ethics and recommended guidelines for member museum acquisitions. When the AAMD Subcommittee on the Acquisition of Archaeological Materials and Ancient Art issued its 2008 report, it established the online Registry of New Acquisitions of Archaeological Material and Works of Ancient Art to help member museums efficiently disseminate information about recent acquisitions with incomplete provenance. This is the first systematic analysis of its contents. Using data from 325 listings (as of January 2012) by eleven participating institutions, this paper argues that museums are not sufficiently vigilant about following the AAMD's 2008 guidelines.

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Chapter 1

Introduction

The acquisition of clandestinely excavated antiquities by museums has become a controversial issue in recent years. While all sides decry the destruction caused by looting, a debate has grown over museums' responsibility as stewards of cultural property. Museum organizations such as the Association of Art Museum Directors (AAMD) have attempted to set industry-wide standards for museum acquisitions. The AAMD has issued guidelines for the acquisition of ancient art, first in 2004 and again in 2008 (see Appendices B and C).¹ The centerpiece of the 2008 policy was the creation of a Registry of New Acquisitions of Archaeological Material and Works of Ancient Art (hereafter cited as the AAMD Object Registry), a public online database where museums can share images, descriptions, and provenance information for their acquisitions. The purpose of this master's thesis is to provide an analysis of the AAMD's stated policy, how this is reflected in policy changes at individual museums, and to what degree recent acquisitions by these museums fall into line with these ethical standards, using data from the AAMD Object Registry.

The modern controversy over the antiquities trade dates to the 1960s. In 1969, art historian Clemency Coggins published a short but influential article, "Illicit Traffic of Pre-Columbian Antiquities" in *Art Journal*, which documented the widespread looting of Maya sites by actually linking sculptures and reliefs in American museums with the sites and individual monuments from which they had been removed.² "The cat was thus out of the bag," as Coggins named specific museums in a follow-up article.³ These included major institutions like the Cleveland Museum of Art, the Minneapolis Institute of Art, the Brooklyn Museum, the St. Louis Art

¹Association of Art Museum Directors, *Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art*, June 4 2004, <http://www.aamd.org/papers/documents/TaskForceReportwithCoverPage.Final.pdf>, (hereafter cited in text as AAMD 2004); ———, *Report of the AAMD Subcommittee on the Acquisition of Archaeological Materials and Ancient Art*, June 4 2008, <http://www.aamd.org/newsroom/documents/2008ReportAndRelease.pdf>, (hereafter cited in text as AAMD 2008).

²Clemency Coggins, "Illicit Traffic of Pre-Columbian Antiquities," *Art Journal* 29, no. 1 (1969).

³Paul M. Bator, "An Essay on the International Trade in Art," *Stanford Law Review* 34, no. 2 (1982): 280 note 288.

Museum, and the Houston Museum of Fine Arts.⁴ Out in the open, the looting crisis could no longer be ignored, and indeed relationships between “source nations” and “collecting nations” began to change as well. The United Nations Educational, Scientific, and Cultural Organization held its conference in Paris the following year, where it drafted the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (hereafter UNESCO Convention).

The UNESCO Convention recognized that the looting of cultural heritage for profit was a global issue that needed to be addressed through the concerted cooperative efforts of all nations. By signing the Convention, states agreed to aid each other:

(i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;

(ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after entry into force of this Convention in both States concerned.⁵

The Convention thus sought to stop the most egregious looting, that of documented, above-ground structures. The Secretariat’s earlier draft had had considerably more teeth, imposing import restrictions on all cultural property, but the United States delegation had successfully lobbied for a more “moderate” position in the final draft.⁶ The Convention was signed on November 17, 1970.

The United States ratified the UNESCO Convention in 1972. However, it was not self-executing in the United States; the government had to enact implementing legislation.⁷ As a consequence, illicit trade continued and the country gained a “corresponding reputation as the largest market for illicitly obtained cultural property.”⁸ The passage of the U.S. Convention on Cultural Property Implementation Act of 1983 (CPIA) made inroads toward dealing with

⁴Ibid., 279-280.

⁵UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Nov. 14, 1970, in Colin Renfrew, *Loot, Legitimacy, and Ownership: the Ethical Crisis in Archaeology* (London: Duckworth, 2000), 97 art. 97(b).

⁶Bator, “An Essay on the International Trade in Art,” 328-330 and 343-344; Marina Papa Sokal, “The U.S. Legal Response to the Protection of the World Cultural Heritage” in *Archaeology, Cultural Heritage, and the Antiquities Trade*, ed. Neil Brodie, et al. (University Press of Florida, 2008), 37.

⁷Bator, “An Essay on the International Trade in Art,” 287; Roger Atwood, *Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World* (New York: St. Martin’s Press, 2004), 153; Jennifer Kreder, “The Revolution in U.S. Museums Concerning the Ethics of Acquiring Antiquities,” *University of Miami Law Review* 64(2009): 1003; Aaron K. Briggs, “Consequences of the Met-Italy Accord for the International Restitution of Cultural Property,” *Chicago Journal of International Law* 7, no. 2 (2007): 631.

⁸Stacey Falkoff, “Mutually-Beneficial Repatriation Agreements: Returning Cultural Patrimony, Perpetuating the Illicit Antiquities Market,” *Journal of Law and Policy* 16(2007): 289.

the illicit market. It created a legal framework by which countries can come to a mutual understanding about which specific objects can be restricted from import into the U.S. and at the same time left an avenue open for a licit market. Section 306 of the CPIA established the Cultural Property Advisory Committee (CPAC) to address requests from individual countries and decide whether to impose import restrictions on cultural material. The U.S. government has so far made agreements with several major source nations, including Italy, Greece, Cyprus, China, Cambodia, Mali, and Peru.⁹

Along with the CPIA, a growing body of case law helped set a legal precedent for handling the illicit antiquities trade. In 1990, Indiana art dealer Peg Goldberg was convicted of knowingly purchasing mosaic fragments looted from a church in Turkish-occupied Northern Cyprus.¹⁰ The Seventh Circuit Court concluded that “the policy that the [UNESCO Convention] embodies is clear: at the very least, we should not sanction illegal traffic in stolen cultural property.”¹¹ In summer 2001, Frederick Schultz, president of the National Association of Dealers in Ancient, Oriental and Primitive Art – a leading organization of dealers in the U.S. – was convicted on one felony count for trafficking in illicit Egyptian antiquities.¹² His conviction effectively sent a warning to New York dealers that they could be tried in criminal court for conspiracy to violate the National Stolen Property Act.¹³

Both the Goldberg and Schultz cases focused on antiquities dealers and private collectors. Museums were largely insulated from the fallout until the Getty Museum’s Antiquities Department head Marion True was indicted by the Italian government on April 1, 2005. Although the charges against True were dropped in late 2010 when the statute of limitations expired, the publicity generated by the case was a public relations disaster for the museum. True’s indictment led other American museum curators and directors to the realization that they, too, could be held personally accountable for the provenance of objects in their collections.¹⁴ The Metropolitan Museum of Art made the first voluntary major public return without litigation under the terms of the Metropolitan Museum of Art’s 2006 bilateral agreement with

⁹U. S. Department of State Bureau of Educational and Cultural Affairs. “Import Restrictions List & Chart.” Feb 1, 2012 <http://exchanges.state.gov/heritage/culprop/listactions.html>.

¹⁰Interestingly, it was Marion True who alerted authorities to the suspect pieces after Goldberg offered them for sale to the Getty Museum. Patty Gerstenblith, “The Kanakaria Mosaics and United States Law,” in *Antiquities: Trade or Betrayed: Legal, Ethical, and Conservation Issues*, ed. K.W. Tubb (London: Archetype, 1995), 120.

¹¹*Ibid.*, 105; Jason Felch and Ralph Frammolino, *Chasing Aphrodite: The Hunt for Looted Antiquities at the World’s Richest Museum* (Boston: Houghton Mifflin Harcourt, 2011), 116-118.

¹²Felch and Frammolino, *Chasing Aphrodite*, 227.

¹³Patty Gerstenblith, “The McClain/Schultz doctrine: another step against trade in stolen antiquities,” *Culture Without Context*, no. 13 (2003).

¹⁴Briggs, “Consequences of the Met-Italy Accord for the International Restitution of Cultural Property,” 639-640.

Italy, known as the Euphronios Accord.¹⁵ The Accord was widely seen as heralding a new era of cooperation between museums and source nations. Instead of taking to the courts to sort out restitution claims, which took time and money to resolve and left both sides embittered and polarized, an agreement opened a path for new loan programs and allowed the museum to avoid an official admission of guilt. The Getty soon followed suit; its 2007 settlement with Italy set out a schedule for the transfer of title and repatriation of more than 40 objects from its collection.¹⁶

Within this shifting legal and ethical climate, the Association of Art Museum Directors has taken on the task of clarifying the role of the art museum in society and setting clear policy standards for its members to follow. These will be discussed in the next section.

¹⁵Suzan Mazur. "The Italy-Met Euphronios Accord?" *Scoop News*, Feb 22 2006, <http://www.scoop.co.nz/stories/HL0602/S00265.htm>.

¹⁶Briggs, "Consequences of the Met-Italy Accord for the International Restitution of Cultural Property," 639-640; Felch and Frammolino, *Chasing Aphrodite*, 294.

Chapter 2

Setting Ethical Guidelines: The Association of Art Museum Directors

The Association of Art Museum Directors was incorporated in 1969 and currently has 199 members in the United States, Canada, and Mexico. Its mission is to “support its members in increasing the contribution of art museums to society [...] by establishing and maintaining the highest standards of professional practice...and being a leader in shaping public discourse about the arts community and the role of art in society.”¹ In regard to ancient art and antiquities, it has endeavored to set specific acquisition standards.² In 2001, under the presidency of James Cuno, the AAMD published a position paper titled “Art Museums and the International Exchange of Cultural Artifacts.”³ The AAMD described its member museums as “committed to the free exchange of ideas and the responsible acquisition of cultural artifacts” because “the artistic achievements of all civilizations should be represented in American museums” for the benefit of the public.⁴

It downplayed the importance of archaeological context, arguing that “much information may be gleaned from works of art even when the circumstances of their discovery are unknown.”⁵ In discussing the acquisition process, the paper used descriptive rather than prescriptive terms. Instead of making recommendations for ethical acquisitions, it asserted that “American museums proceed with the utmost caution and respect in acquiring works of art from other countries.”⁶

The AAMD has since modified its stance in the publication of official recommendations, once in 2004 and again in 2008, for how museums *ought* to handle the acquisition of antiquities.

¹Association of Art Museum Directors. “Mission Statement.” Accessed March 6, 2011 <http://www.aamd.org/about/#Code>.

²See AAMD 2004 and AAMD 2008.

³———, *Art Museums and the International Exchange of Cultural Artifacts*, Oct 2001, http://www.aamd.org/papers/documents/CulturalProperty_000.pdf.

⁴Ibid.

⁵Ibid.

⁶Ibid.

There are three key differences between the 2004 and 2008 reports: how they apply the year 1970 as a cutoff date for acquisitions (the “1970 rule”), their standards for acquiring objects in exception to the 1970 rule, and the approach to transparency for such objects.

The 2004 AAMD report included a statement of principles similar to those in the 2001 position paper, but it went further in giving detailed recommendations for provenance research, due diligence, and the resolution of ownership claims. The report emphasized the importance of following federal and foreign laws when considering acquisition, since “the status of a work of art under foreign law may bear on its legal status under U.S. law.”⁷ It also recommended that museums follow the 1970 rule and refrain from acquiring objects that were removed from their country of origin after the date of the 1970 UNESCO Convention, “notwithstanding the fact that the U.S. did not accede to the Convention until 1983.”⁸ Though the report endorsed the 1970 rule, it was not a hard and fast requirement, and exceptions were allowed under a variety of circumstances, which will be discussed below. In contrast, the 2008 report emphasized the 1970 rule first and foremost as the new gold standard for acquisition decisions in order to “create a unified set of expectations for museums, sellers, and donors.”⁹

Both reports included detailed procedures for acquiring objects with incomplete provenance as exceptions to the 1970 rule. According to AAMD 2004, museums should make judgments on a case-by-case basis, “recognizing that the work of art, the culture it represents, scholarship, and the public may be served best through the acquisition of the work of art by a public institution dedicated to the conservation, exhibition, study, and interpretation of works of art.”¹⁰ The AAMD gave two specific examples of cases where it would sanction acquisition: one, if the object was in danger of neglect or destruction, and two, if acquisition would “make the work of art publicly accessible, providing a singular and material contribution to knowledge.”¹¹ In other words, works without complete provenance “may deserve to be publicly displayed, preserved, studied, and published because of their rarity, importance, and aesthetic merit.”¹² This clause provided a significant exception: it still allowed museums to make a judgment on an object’s inherent value without regard to its archaeological find spot. When considering acquisition of works in this category, the 2004 report recommended weighing the cumulative evidence of

⁷AAMD 2004 at Part II(C).

⁸Ibid. at Part II(D).

⁹AAMD 2008.

¹⁰Ibid. at Part II(E).

¹¹Ibid.

¹²Ibid.

the publication and exhibition history and whether the object had been out of its country of origin for a long enough period of time that its acquisition “would not provide a direct, material incentive to looting or illegal excavation,” so far as that is realistically verifiable.¹³ It suggested a ten-year cutoff date, taking as its example the procedure used by the Metropolitan Museum of Art at the time.¹⁴

This “ten-year rule” attracted considerable protest from archaeologists and academics, who questioned the motivation behind the measure. The report was called a “looters’ charter” by archaeologists Neil Brodie and Colin Renfrew, who concluded that “[i]t would be necessary only for looted antiquities clandestinely to enter a private collection, to be documented, and then to wait there for ten years until the time limit on any possible claim for restitution has expired, in order to be available for acquisition by a museum.”¹⁵ In response to this criticism and in light of the True indictment, the 2008 report outlined more strict rules on the issue of incomplete provenance, in order to “affirm more clearly and tangibly its members’ commitment to helping protect and preserve archaeological resources worldwide.”¹⁶ The report did away with the ten-year rule and removed the exception for pieces with outstanding artistic or historic value. Instead, the AAMD recommended that a museum ought to only acquire an object without full provenance if it could make an educated guess that the object was out of its country of origin before 1970, weighing “the cumulative facts and circumstances resulting from provenance research, including, but not limited to, the independent exhibition and publication of the work, the length of time it has been on public display and its recent ownership history.”¹⁷ The report advised that museums take into account the chances of financial loss or damage to the reputation of the museum if the legality of the purchase was later contested.

¹³Ibid.

¹⁴Felch and Frammolino, *Chasing Aphrodite*, 181; Atwood, *Stealing History*; and AAMD 2004.

¹⁵Neil Brodie and Colin Renfrew, “Looting and the World’s Archaeological Heritage: The Inadequate Response,” *Annual Review of Anthropology* 34, no. 1 (2005): 353. There was some precedent for these concerns. Between 1966 and 1969, the Metropolitan Museum of Art purchased a large number of gold and silver jewelry, wall paintings, and marble sphinxes known as the Lydian Hoard. The museum delayed public announcement of the acquisition and kept the spectacular treasure in storage until 1984 so as not to arouse suspicions about its origins. The museum entered an agreement to return the Hoard in 1993. However, director Philippe de Montebello still backed the ten-year rule in 2004. See Patty Gerstenblith, “Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public,” *Cardozo Journal of International and Comparative Law*(2003): 409-410., “[b]ecause of the Met’s fears of discovery, the acquisition of this collection was not announced and most of the objects remained in storage in the basement, unavailable to scholars and the public.” See also Renfrew, *Loot, Legitimacy, and Ownership*, 42-44; Michael Gross, *Rogues’ Gallery: the secret history of the moguls and the money that made the Metropolitan Museum*, 1st ed. (New York: Broadway Books, 2009), 365-368 and 443-445.

¹⁶AAMD 2008.

¹⁷Ibid.

The reports differed, too, on transparency of acquisition procedures. The 2004 report recommended that museums “publish promptly, in print or electronic form, an image (or representative images in the case of large groups of objects) and relevant provenance information, which will thus be readily available to an international audience.”¹⁸ Again, there were no specific instructions and the method and amount of information to be made public was left up to the individual institution. The 2008 Report took the transparency recommendation much further. It announced the AAMD’s establishment of a new online database, the AAMD Object Registry.

¹⁸AAMD 2004 at Part II(B).

Chapter 3

The AAMD Object Registry

The 2008 AAMD report mandated the creation of the AAMD Object Registry, which was to be a central resource for museums, researchers, and potential claimants. Museums were encouraged to post “an image and the information about the work [...] and all facts relevant to the decision to acquire it, including its known provenance.”¹ The web site launched later in summer 2008 and was hailed as a promising tool for transparency.² Maxwell Anderson, then director of the Indianapolis Museum of Art which helps administer the site, told a reporter that “we are in the business of collecting...This is a much healthier approach than acquiring something quietly and not saying anything. It puts the museum into plain view.”³ After three years of operation, it is time to take a critical look at the Object Registry to see if this increased transparency has had an effect on museum acquisitions of antiquities with incomplete provenance.

As of January 31, 2012, the Object Registry listed 325 recent acquisitions, including 89 statues, 12 coins, and 30 pieces of jewelry. Only eleven institutions have shared any information on the AAMD Registry: the Asian Art Museum in San Francisco, the Dallas Museum of Art, the Iris & B. Gerald Cantor Center for Visual Arts at Stanford University, the Museum of Fine Arts, Boston, the Philadelphia Museum of Art, the Portland Art Museum, the Art Institute of Chicago, the Cleveland Museum of Art, the Metropolitan Museum of Art in New York, the Walters Art Museum in Baltimore, and the Virginia Museum of Fine Arts.

The Object Registry entries are organized into data tables (see Appendix A). They are grouped first by institution, then by region of origin. Regions are divided into Central America, South America, Southeast Asia (including China, Nepal, India, Pakistan, and Afghanistan), the Near East (including Turkey, Egypt, and Israel), and Europe. Finally, each object is listed by the earliest date it was known, using the provenance information given for each entry. Date ranges are divided into pre-1970 (the year of the UNESCO Convention), 1970-1983 (the year CIA

¹Ibid. and Association of Art Museum Directors. “Registry of New Acquisitions of Archaeological Material and Works of Ancient Art.” January 31, 2012 <http://aamdobjectregistry.org/Antiquities>.

²Ibid.

³D. K. Row. “A Study in Provenance: Portland Art Museum and its New Ganesha.” *Oregon Live*, Oct 31 2008, http://blog.oregonlive.com/visualarts/2008/10/a_study_in_provenance_portland.html.

was enacted), 1984-1990, 1991-2000, and 2001-present. Table 1 compiles the total number of objects, organized by institution, region, and date. Tables 2 through 6 are by individual region, then institution and date. Table 7 is a comparison of institutional acquisitions policies.

There are some caveats for this data. First, not all of the museums shared their acquisitions policies: the Cleveland Museum of Art, the Portland Art Museum, and the Philadelphia Museum of Art failed to respond to phone and e-mail inquiries by the time of publication. Secondly, some of the Object Registry listings do not include any provenance information before the date of donation or purchase by the museum. For these listings, the date of accession is used as the earliest known date. Finally, some pieces on the registry were accessioned as fractionated donations prior to the AAMD's 2008 guidelines. For example, the Metropolitan Museum of Art lists a bronze statue which was a "[p]artial gift of Robert and Renée Belfer to the Museum in 2001, remainder given in 2010."⁴ This is a limitation of the Registry itself, as it does not include a systematic way to distinguish such objects.

According to the Object Registry, "[the objects documented in this Registry meet the standards of AAMD's 2008 guidelines, as determined by the acquiring institution."⁵ I will examine the given provenance information for the objects each museum lists to determine if they do meet this standard. Museums that follow the procedure for acquisitions in exception to the 1970 rule in AAMD 2008 will only acquire objects whose histories, although incomplete, can reasonably be traced back to 1970. They must carefully consider "the independent exhibition and publication of the work, the length of time it has been on public display and its recent ownership history."⁶ AAMD member institutions also have their own interpretations of what this exception allows and does not allow, and some define their own exceptions in their collections management policies. I will therefore also discuss the policies of the museums that share this information in order to assess how they have incorporated the AAMD 2008 recommendations for ethical acquisitions.⁷

⁴AAMD Object Registry (2001.443), <http://aamdojectregistry.org/node/295>.

⁵AAMD Object Registry 2011.

⁶Ibid.

⁷See Table 7.

Chapter 4

Analysis of the AAMD Object Registry

The Art Institute of Chicago

The Art Institute of Chicago (AIC) has ten listings on the Registry. Six objects originated in Asia, one in Central America, one in the Near East, and two in Europe (see Table 1).¹ Three of these entries are purchases and seven are donations. To its credit, the Art Institute notes its attempts to gather additional provenance information. Based on the given information, the Chinese Zhou dynasty wine flask qualifies as most likely candidate to have been out of its country of origin before 1970; its prior repairs are “consistent with methods used in the late 19th century and early 20th century.”² An Etruscan vase is described as having an exhibition history going back to Zurich in 1974, but of the two listed prior owners, one is deceased and the other did not return the Art Institute’s letters of inquiry.³

Although the museum includes publication and exhibition histories, these details are limited. Six objects are only known from the Art Institute’s own publication and display, which contradicts the AAMD’s specification that this history be “independent” of the acquiring institution, a check meant to stop the practice of “provenance through publication” in which an exhibition catalog serves to legitimize a collection’s provenance.⁴ Instead, the Art Institute’s listings focus on each object’s contribution to its collections: a Maya vessel “represents another form of Maya ceramic art and illustrates another aspect of mythological and kingship iconography from the two important Maya vases already in the Art Institute’s collection” and the small statue of Vishnu is “one of the centerpieces of the Art Institute of Chicago’s collection of Khmer art.”⁵ The emphasis on the aesthetic aspect of its new acquisitions suggests that the Art Institute is still relying upon the AAMD’s 2004 exception to the 1970 rule. The Art Institute’s web site

¹AAMD Object Registry (2008.563 to 2008.619), <http://aamdojectregistry.org/taxonomy/term/419>.

²AAMD Object Registry (2008.702), <http://aamdojectregistry.org/node/339>.

³AAMD Object Registry (2009.75), <http://aamdojectregistry.org/node/337>.

⁴AAMD 2008 and Renfrew, *Loot, Legitimacy, and Ownership*, 34-35.

⁵AAMD Object Registry (2008.2066), <http://aamdojectregistry.org/node/344> and AAMD Object Registry (2008.697), <http://aamdojectregistry.org/node/340>.

states that the Board of Trustees formally adopted the 2004 AAMD guidelines at the time they were released, but according to inquiries to the Senior Registrar, the Art Institute's policy is currently under review.⁶

The Asian Art Museum

The Asian Art Museum has three objects listed on the AAMD Registry: two small bronze sculptures (2010.342 and 2011.51) and a Chinese pot (2009.6A-B).⁷ The donor of the sculptures reportedly inherited them from his father who purchased them in Thailand in the 1980s. The Chinese pot is another donation, from a couple who purchased it in Tokyo in 1990 (see Table 4). There is no information about the objects prior to these sales and the museum provides no justification for accessioning them in exception to the 1970 rule. The objects have no past publication or exhibition; only one of the listings mentions an attempt to contact the original dealer for additional documentation. Furthermore, none of the three are on public display in the museum. It is unclear how the museum benefits from accessioning these objects.

At a glance, the Asian Art Museum's Ethical Stewardship and Collections Management Policy looks airtight. Section 4.2b, which concerns provenance for archaeological materials and ancient art, lifts its language straight from the 2008 AAMD recommendations.⁸ However, the museum's Code of Ethics emphasizes the importance of soliciting donations: "[T]he Museum has limited funds for acquisitions and, therefore, it is the policy of the Museum to encourage Covered Persons to develop collections in the belief that this may benefit the Museum in the future."⁹ Positive donor relations is a necessary priority for museums with limited acquisition funds, but, at the present time, it is not a consideration in the AAMD's 2008 guidelines.

The Cleveland Museum of Art

The Cleveland Museum of Art has had legal issues in the past; it signed an agreement with the Italian Ministry of Culture in November 2008 to return 14 objects.¹⁰ On the Registry, the museum has a single listing for a Peruvian sleeved tunic and band, textiles of a "relatively

⁶See Table 7 and Art Institute of Chicago. "Ancient and Byzantine." April 1, 2011 <http://www.artic.edu/aic/collections/ancient>.

⁷AAMD Object Registry, "Asian Art Museum," <http://aamdojectregistry.org/taxonomy/term/366> (accessed Jan 31, 2012).

⁸Asian Art Museum, *Ethical Stewardship and Collections Management Policy*, Oct 27 2009.

⁹Ibid.

¹⁰Steven Litt. "Cleveland Museum of Art strikes deal with Italy to return 14 ancient artworks." *Cleveland.com*, Nov 19 2008, http://www.cleveland.com/arts/index.ssf/2008/11/cleveland_museum_of_art_1.html.

rare type” that “fills a significant gap in the Chimú holdings of the Cleveland Museum of Art, where it will join a set of white Pelican Style garments.”¹¹ This listing does fit the 2008 AAMD guidelines for exceptions to the 1970 rule: the museum states that it has sufficient evidence to believe that the garment was out of Peru by that date:

In addition to the ownership history provided by the seller, the late Carmen Z. Hicks stated in a 1991 letter written in connection with a loan of the objects that her husband, the late Nathaniel W. Hicks, acquired and brought the textiles to the U.S. by 1963. This statement is consistent with the provenance of similar textiles. Where collection dates can be determined, all other Chimú white cotton garments in the same style (the so-called Pelican Style) entered public or private institutions (principally in the United States) before 1970.¹²

The listing summarizes the findings of the museum’s provenance research, including the seller’s statements and comparison to other known holdings of the same type. It also points out the objects’ importance to the existing collection. Comparison to the museum’s acquisition policy is not possible at this time as inquiries to the Director of Collections Management are still pending.¹³

The Iris and B. Gerald Cantor Center for the Visual Arts at Stanford University

The Cantor Arts Center at Stanford University has listed a large number of pre-Columbian Mesoamerican objects from a single donor. The sixty-five objects are part of a bequest of over one hundred items.¹⁴ According to the Cantor’s spring 2012 newsletter: “The Carolyn Wiedemann Reller Gallery will be immensely enriched by a generous bequest from Barbara Goldenberg’s significant collection of African art and ancient Native American art from Mexico with a value of over \$100,000.”¹⁵ Barbara and Joseph Goldenberg were prolific donors who “shared their passion for collecting” with the museum for almost forty years, and their latest bequest “provides a broader context for understanding both the continuity and change in cultural histories from the ancient past to the present.”¹⁶

¹¹AAMD Object Registry (2011.111.1-2), <http://aamdobjectregistry.org/node/345>.

¹²Ibid.

¹³Emailed Assistant Registrar on February 16, March 5, and April 2, 2012.

¹⁴The other objects in this bequest were not listed.

¹⁵Iris & B. Gerald Cantor Center for Visual Arts at Stanford University, *Cantor Arts Center News, Jan-Apr 2012*, Jan 2012, http://museum.stanford.edu/explore/documents/JanApr2012_NL.pdf, 17 and 19.

¹⁶Ibid., 9.

Only nineteen of the objects include past exhibition or publication information.¹⁷ Seventeen have no prior collecting history. Those that do were acquired between 1971 and mid-1990s from dealers in Los Angeles, Santa Fe, and New York, a period during which the illicit market in Pre-Columbian antiquities was well documented (see Table 2).¹⁸ Of the objects listed, fifty-nine originate from Mexico, two from Guatemala, and one from Costa Rica. The two objects from Guatemala, which are listed as “Mayan,” have no collecting history at all prior to their accession in 2010. Significantly, Guatemala has had an MOU restricting the importation of certain antiquities with the U.S. government since 1997.¹⁹ Four other objects are also listed as “Mayan.” Five of these pieces are from Mexico and give known archaeological sites as their cultures of origin: Tlatilco, Xochipala, Jaina Island, and Chupícuaro.²⁰ One piece from the Maya burial site of Jaina, a clay figure wearing a removable headdress, has no provenance prior to 2003.

footnoteAAMD Object Registry (TP.1012), <http://aamdojectregistry.org/node/312>.

The Cantor Center’s acquisition policy, available upon request, was last revised in March 2008 (see Table 7). It does not provide specific instructions for acquiring antiquities; however, under the appendix “Principles to Help Insure Legal, Moral, and Ethical Acquisition Decisions,” the policy states that it “shall be guided by” the 2008 AAMD recommendations.²¹ Specifically, “[n]o work should be acquired if its acquisition will encourage the future unscientific separation of works of art from their historical or archaeological context.” Interestingly, the museum takes upon itself the responsibility to notify potential claimants:

where there is reason to believe that a work may be part of a cultural patrimony, or there is good reason to believe that it is available as the result of the unscientific excavation or destruction of a site or monument after November 17, 1970, or there is significant reason to believe that the work was exported in violation of local law, the country of origin should be informed of the potential acquisition and asked to provide relevant information.²²

This does not mean, however, that the museum will return the disputed pieces: “[i]f the Center otherwise acquires a work in a manner inconsistent with these provisions, it shall make

¹⁷Of these, seventeen were published in one work: Gallagher, Jacki, “Companions of the Dead: Ceramic Tomb Sculpture from Ancient West Mexico” (UCLA Museum of Cultural History, Los Angeles, 1983).

¹⁸Atwood, *Stealing*History, 146.

¹⁹U. S. Department of State Bureau of Educational and Cultural Affairs, “Import Restrictions List & Chart.”

²⁰AAMD Object Registry, “Tlatilco,” <http://aamdojectregistry.org/taxonomy/term/406>; AAMD Object Registry (TP.1054), <http://aamdojectregistry.org/node/326>; AAMD Object Registry (TP.1012), <http://aamdojectregistry.org/node/312>; and AAMD Object Registry (TP.1068), <http://aamdojectregistry.org/node/360>, respectively.

²¹Iris & B. Gerald Cantor Center for Visual Arts at Stanford University, *Collections Management Policy*, Mar 2008.

²²Ibid.

whatever disposition of the work, including retaining it, which will best serve the principles articulated in this policy.”²³

The Dallas Museum of Art

The Dallas Museum of Art (DMA) lists sixteen objects, of which fifteen are on display.²⁴ Nine are donations and seven are purchases (five from galleries and two from collectors). Two notable listings were added at the end of January 2012, one for two Etruscan bronze shield bosses and one for a red-figure Apulian volute krater.²⁵ Although the Object Registry was intended only for new acquisitions going forward from its inception in 2008, the DMA felt that their lack of provenance was enough of an issue to warrant the listing of these acquisitions on the site. It may be simply a way for the museum to show good faith toward the Italian government. Both listings state that the museum “has been in contact with the appropriate authorities in Italy regarding the purchase of this work.”²⁶

Despite this exemplary disclosure, other acquisitions raise some questions. A Gandharan Bodhisattva statue from Afghanistan surfaced in 2010 through London; its provenance is described as “Dutch collection, 1980s.”²⁷ The DMA states that the statue was not listed on the Art Loss Register, but this is a database of thefts of known art; if the statue was clandestinely looted from an archaeological site and exported, by definition it would not be registered as stolen.²⁸ Furthermore, Afghan antiquities, particularly Buddhist sculpture, have been on the International Council of Museum’s Red List of cultural heritage in danger since 2005.²⁹ Two objects from India, a humped bull figurine and a terracotta ritual vessel, have no provenance history at all prior to purchase by the DMA.³⁰ Eight listings include exhibition history, but seven of these have not been on public display outside of the DMA itself.³¹ Without proper documentation, these acquisitions do not follow the requirements of AAMD 2008.

²³Ibid.

²⁴One object is not listed on the DMA web site: AAMD Object Registry (2011.6), <http://aamdoobjectregistry.org/node/387>.

²⁵AAMD Object Registry (1998.115.1-2.M), <http://aamdoobjectregistry.org/node/393> and AAMD Object Registry (1998.74), <http://aamdoobjectregistry.org/node/394>.

²⁶Ibid.

²⁷AAMD Object Registry (2010.17), <http://aamdoobjectregistry.org/node/386>.

²⁸Renfrew, *Loot, Legitimacy, and Ownership*, 25.

²⁹International Council of Museums. “Red List - Afghanistan Antiquities at Risk.” January 31, 2012 <http://archives.icom.museum/redlist/afghanistan/en/category-13.html>.

³⁰AAMD Object Registry (2009.14), <http://aamdoobjectregistry.org/node/376> and AAMD Object Registry (2011.6), <http://aamdoobjectregistry.org/node/387>. 2011.6 is not currently listed on the DMA web site.

³¹AAMD Object Registry (2009.25.3), <http://aamdoobjectregistry.org/node/379>.

The DMA's Acquisition and Deaccession policy is currently under review. Its current version, amended in May 2007, is vague on the topic of antiquities. The section on "Due Diligence" states that "[i]t is the curator's responsibility to bring to the attention of the Committee on Collections concerns relevant to [regulations or guidelines like AAMD 2004], as appropriate for each acquisition consideration... The Museum will consider updates of these guidelines and regulations as needed."³² The policy does not discuss antiquities or legal issues further except to add "repatriation possibilities" to a list of criteria considerations for acquisitions.

The Metropolitan Museum of Art

The Metropolitan Museum of Art in New York has been at the forefront of the antiquities debate for years and has made periodic returns since the early 1990s. In 1993, the museum settled out of court to repatriate a collection of 360 precious objects from the 6th century B.C. known as the Lydian Hoard to Turkey.³³ Two sculptures, one removed from Angkor Wat and one from Bihar, India, were returned in 1993 and 1999, respectively.³⁴ In 2006, the Met signed the landmark Italy-Met Euphronios Accord agreeing to avoid litigation and voluntarily return 20 objects including one of its Greek and Roman collection's most celebrated and expensive pieces, the Euphronios Krater, to Italy.³⁵ Its latest return came in 2011 when the museum transferred title, per an agreement with the Egyptian government, to 19 pieces originally taken from the tomb of Tutankhamen.³⁶

In the spirit of its newfound commitment to positive relations with source nations, the Met has been meticulous in justifying the acquisition of the twelve items it has listed on the AAMD Object Registry. The museum provides specific reasons why the objects were acquired in exception to the 1970 rule, outlining their documented and published history and the objects' potential for enhancing the museum's collection. Despite this care, six of the twelve objects have very limited provenance information. A porphyry basin has no collecting history before its sale at Sotheby's in 1992. The museum justifies the acquisition due to its publication history

³²Dallas Museum of Art, *Acquisition and Deaccession Policies and Procedures*, May 24 2007.

³³International Foundation for Art Research. "Case Summary-Republic of Turkey v. Metropolitan Museum of Art." June 27, 2011 http://www.ifar.org/case_summary.php?docid=1184689520. See also Gerstenblith, "Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public," 409-411; Gross, *Rogues' Gallery*, 443-445; Peter Watson and Cecilia Todeschini, *The Medici Conspiracy: The Illicit Journey of Looted Antiquities, from Italy's Tomb Raiders to the World's Greatest Museums* (New York: PublicAffairs, 2006), 100-106; Renfrew, *Loot, Legitimacy, and Ownership*, 42-44.

³⁴Watson and Todeschini, *The Medici Conspiracy*, 319.

³⁵*Ibid.*, 353-354; Atwood, *Stealing History*, 149.

³⁶Metropolitan Museum of Art. "Metropolitan Museum and Egyptian Government Announce Initiative to Recognize Egypt's Title to 19 Objects Originally from Tutankhamun's Tomb." *Press Room: News from the Met*, November 10 2010, <http://www.metmuseum.org/about-the-museum/press-room/>.

(the 1992 auction catalog), its history of public display (at the Met), and its rarity in the corpus of Roman porphyry sculpture.³⁷ A bust of Antinoos is said to have been purchased from an unknown collector in 1984; it was acquisitioned after considering its exhibition (at the Met) and its high quality.³⁸ Such acquisitions may be problematic due to the 2008 requirement that pieces to have an exhibition history outside of the collecting museum. An Egyptian limestone head has no documented provenance before the Met purchased it. The museum was told by its London dealer that it came from a French collection circa 1970.³⁹ A Celtic gold ring fills a “significant gap” in the Met’s early European collection, but its collecting history prior to 1988 could not be verified.⁴⁰ A jade disk was purchased prior to but paid for after the Met adopted the 2008 guidelines; it “fills a major gap in The Metropolitan Museum of Art’s comprehensive collection of Asian art.”⁴¹ By pointing out that an object fills a gap in the museum’s collection, the museum is making the case for the “singular and material contribution to knowledge” exception from the 2004 guidelines. Under the most recent AAMD guidelines, however, the artistic excellence and rarity exception no longer applies.⁴² Indeed, the only object whose provenance indicates it was likely out of its country of origin before 1970 is a small Egyptian chalice fragment which the museum bought at a 2009 Sotheby’s auction “in order to join it with the matching fragment already in its collection.”⁴³ The museum gives plausible evidence in support of the claim that they were sold in different lots at the same auction by Sotheby’s London in 1922.⁴⁴

The Metropolitan Museum of Art’s Collections Management Policy, available on the museum web site, states that it is specifically guided by the 2008 AAMD report.⁴⁵ Released in November 2008, it repeats the AAMD recommendations requiring full documentation of all recent exports and imports and the circumstances under which an item with an incomplete collecting history may be acquired. The museum follows the recommendation to post all identifying information and justification for these acquisitions on the AAMD Object Registry and its own web site. Furthermore, in cases of possible ownership claims, the policy requires the museum to take initiative: “If the Museum...gains information that establishes another party’s right to ownership

³⁷AAMD Object Registry (2009.543), <http://aamdoobjectregistry.org/node/80>.

³⁸AAMD Object Registry (2010.453), <http://aamdoobjectregistry.org/node/296>.

³⁹AAMD Object Registry (2008.296), <http://aamdoobjectregistry.org/node/297>.

⁴⁰AAMD Object Registry (2009.532.1), <http://aamdoobjectregistry.org/node/78>.

⁴¹AAMD Object Registry (2008.287), <http://aamdoobjectregistry.org/node/31>.

⁴²AAMD 2004 at Part II(E).

⁴³AAMD Object Registry (2010.9), <http://aamdoobjectregistry.org/node/79>.

⁴⁴*Ibid.*

⁴⁵See Table 7 and ———, *Acquisitions Policy*, November 12 2008, <http://www.metmuseum.org/about-the-museum/collections-management-policy>.

of a work, the Museum shall bring this information to the attention of the party, and if the case warrants, initiate the return of the work to that party.”⁴⁶

The Museum of Fine Arts, Boston

The Museum of Fine Arts, Boston (MFA) has also had past legal issues with antiquities in its collection. On September 28, 2006, after five months of negotiations, the museum signed a repatriation agreement with Italy. Thirteen objects accessioned between 1971 and 1999 were to be returned, including the MFA’s prized 2nd-century A.D. statue of the Roman Emperor Hadrian’s wife Sabina.⁴⁷ In addition, the agreement stipulated that “Italy will exchange information with respect to the Museum’s future acquisitions of Italian antiquities.”⁴⁸ Seven of the museum’s sixteen listings were indeed vetted with the Italian Ministry of Culture before acquisition.⁴⁹ And the MFA does not only deal with Italy; it also checked with the Numismatic Department of the Israel Antiquities Authority before purchasing a Judaeen coin.⁵⁰ The other listings include publication and short explanations of what provenance research was done. For example, the MFA acquired a Mayan vase “in light of the vase’s extensive exhibition and publication history and because it was outside of Guatemala by the 1970s.”⁵¹ For a set of panpipes: “It is likely, but not documented, that [the first documented owner] acquired this in Brazil around the 1950s or 1960s, when he built up his collection.”⁵²

Despite the care the MFA takes in explaining its acquisitions, it does not always follow the AAMD guidelines. The museum purchased an Egyptian head at auction from Christie’s, New York, in 2010.⁵³ The piece had been sold through an anonymous Swiss gallery in 1981 to an anonymous European collector. The MFA reasons that since it was documented in Switzerland in 1981, it predates Egypt’s 1983 national antiquities protection law that it qualifies as an

⁴⁶Ibid.

⁴⁷David W. J. Gill and Christopher Chippindale, “From Boston to Rome: reflections on returning antiquities,” *International Journal of Cultural Property* 13(2006): 315; Museum of Fine Arts, Boston and Italian Ministry of Culture. “Museum of Fine Arts, Boston and Italian Ministry of Culture Sign Agreement Marking New Era of Cultural Exchange.” Museum of Fine Arts, Boston, Accessed April 8, 2011 <http://www.mfa.org/collections/art-past/italian-ministry-culture-agreement>. The circumstances of this agreement, however, raise the question of whether the MFA should consider the Italian government or the AAMD the final arbiter for these issues.

⁴⁸Ibid.

⁴⁹Ibid.

⁵⁰AAMD Object Registry (2010.38), <http://aamdobjectregistry.org/node/82>. Checking with foreign governments for information on undocumented antiquities is in itself problematic; see Renfrew, *supra* note 45.

⁵¹AAMD Object Registry (2009.318), <http://aamdobjectregistry.org/node/76>

⁵²AAMD Object Registry (2010.616), <http://aamdobjectregistry.org/node/85>.

⁵³AAMD Object Registry (2010.734), <http://aamdobjectregistry.org/node/84>.

exception to the 2008 guidelines.⁵⁴ The MFA adopted a similar line of reasoning with a bronze coin featuring a bust of the Roman Emperor Commodus, which was also sold from Switzerland in 1981 and “has been outside Turkey, its probable country of modern discovery, since before the passage of Law no. 2863 on the Protection of Cultural and National Assets (1983).”⁵⁵ But even if these items were out of their countries of origin before local laws were passed, the AAMD guidelines still recognize 1970 “as providing the most pertinent threshold for the application of more rigorous standards to the acquisition of archaeological materials and ancient art,” and even in 2004 urged museums to adhere to this date for acquisitions “notwithstanding the fact that the U.S. did not accede to the Convention until 1983.”⁵⁶ The museum is effectively ignoring the ethical standard of the 1970 rule in favor of the legal standard of the Cultural Property Implementation Act of 1983.

Indeed, the MFA’s acquisitions and provenance policy—available on its web site—is somewhat ambiguous on the issue of national ownership law versus the 1970 rule.⁵⁷ It states that the museum will “undertake appropriate research to ensure that [works of art not originating in the United States] were exported from their country of origin (or any other country in which they were subsequently owned) in compliance with the laws of such country at the time of export.”⁵⁸ But in a separate section at the end, titled “For Archaeological Materials and Ancient Art,” new acquisitions “require no less than the minimum provenance documentation recommended by” the AAMD in 2008 and, in fact, repeats the quote above about the 1970 rule.⁵⁹ This is ambiguous; apparently, the conditions which would appear to apply to all potential acquisitions do not apply to antiquities, which have separate instructions.

The MFA is certainly upholding the terms of its agreement with the Italian Ministry of Culture, but its commitment to the AAMD 2008 guidelines is not clear. Lack of complete information makes it impossible to know whether any of the objects listed on the Registry were removed from their countries of origin before 1970 or legally exported after 1970. Five of the listings lacked images, making their identification difficult for potential claimants.

⁵⁴Ibid. Switzerland’s free port system has long been exploited for antiquities laundering; see Atwood, *Stealing History*, 97.

⁵⁵AAMD Object Registry (2008.1057), <http://aamdojectregistry.org/node/72>.

⁵⁶AAMD 2004 at Part II(D) and AAMD 2008 at Part I(E).

⁵⁷See Table 7 and Museum of Fine Arts, Boston, *Acquisitions and Provenance Policy*, 2008, <http://www.mfa.org/collections/art-past/acquisitions-and-provenance-policy>.

⁵⁸Ibid.

⁵⁹Ibid.

The Philadelphia Museum of Art

The Philadelphia Museum of Art lists only one object: a 1,000-year-old bronze Tamil sculpture of Narasimha, an avatar of Vishnu originally from India.⁶⁰ Using the argument of artistic value, the museum lists its reason for acquisition as being necessary to round out its existing collection of Indian devotional sculpture:

This classic Chola Dynasty processional image of one of the most lively and fascinating of Vishnu’s avatars is an extraordinary addition to the collection where it appropriately inhabits and activates the Museum’s South Indian Mandapa, dedicated to Krishna, another of Vishnu’s avatars.⁶¹

The museum may provide a specific reason why it made an exception to the 1970 rule for this acquisition, but there is no evidence to substantiate ownership history back to 1970. The Philadelphia Museum of Art purchased the statue through Oliver Forge and Brendan Lynch Ltd., London, from an anonymous private collector. Spink & Son of London had reportedly sold it to the collector “probably” in the late 1970s or early 1980s. The museum does not indicate that it investigated the dealer’s provenance information and does not list any publication or exhibition history. Inquiries about the PMA’s acquisition policy have gone unanswered.⁶²

The Portland Art Museum

The Portland Art Museum was the first museum to post a new acquisition to the Object Registry. Still its only listing, an eleventh century stone statute of Ganesha from “the historical regions of Bihar or Bengal (including modern Bangladesh)” was posted in October 2008.⁶³ The statue is first mentioned in a 2000 Sotheby’s New York auction and was purchased by the museum from a subsequent Christie’s auction in September 2008.⁶⁴ The museum’s curator of Asian art defended the purchase by saying that “there are many such Ganeshas in circulation and that India, the country of likely origin, has somewhat relaxed export laws.”⁶⁵ This explanation does not address why the museum accessioned the statue in violation of the 1970 rule. The museum’s associate director seemed unconcerned about the statue’s origins: “the museum’s transparency and the museum’s educational and historical mission would persuade any claimant

⁶⁰AAMD Object Registry (2010-73-1), <http://aamdojectregistry.org/node/446>.

⁶¹Ibid.

⁶²Contacted the Senior Registrar on March 5, 2012.

⁶³AAMD Object Registry (2008.66), <http://aamdojectregistry.org/node/28>.

⁶⁴Ibid. “Christie’s Rockefeller Center, Sale #2024, 16 September 2008, Lot 377. Sotheby’s New York, 23 March 2000, Lot 139.”

⁶⁵Row, “A Study in Provenance: Portland Art Museum and its New Ganesha.”

to allow the Portland museum to keep the object.”⁶⁶ Transparency was one of the key goals of the 2008 guidelines, but the acquisition raises questions about whether the policy’s goals and standards have been confused in the case of this particular acquisition. Inquiries about the Portland Museum’s acquisition policy have gone unanswered.⁶⁷

The Walters Art Museum

The Walters Art Museum has the largest number of listings on the AAMD Object Registry at 170. All but seven of the objects originate in South and Central America and nearly all have very little documentation. The majority are listed as anonymous donations.⁶⁸ If “Anonymous” is the most prolific donor, the second most prolific is collector John Bourne, who gave the museum fifty Mexican and Peruvian pieces originally purchased in the late 1980s and early 1990s. The timing of his collecting coincides with the beginning of the major cycle of looting in Peru, a country estimated to retain less than 10% of its pre-Columbian artifacts *in situ*.⁶⁹ Bourne had previously made headlines for donating a gold Moche monkey head and pectoral disc to the Museum of New Mexico in the mid-1990s.⁷⁰ Illicitly excavated and exported from Peru, the pieces were eventually returned in 2002. The Bourne collection is being celebrated as the centerpiece of the Walters’ first major exhibition of 2012, *Exploring Art of the Ancient Americas*.⁷¹

None of the objects in the Bourne donation or the anonymous donation meet AAMD 2008’s criteria as exceptions to the 1970 rule. The Walters does not provide sufficient information on the provenance of these objects, and none have prior publication or exhibition history. The phrase “date and mode of acquisition unknown” appears in the descriptions of 152 out of 170 listings. For example, the provenance for an anonymously donated Olmec figure is “Private collection [acquired prior to 1995, identified in June 1997] [date and mode of acquisition unknown].”⁷² Other objects have dates and locations of sale but give no information on their origins. The provenance of a Moche vessel in the shape of a jaguar and serpent, an anonymous donation,

⁶⁶Ibid.

⁶⁷Contacted on February 16 and March 15, 2012.

⁶⁸111 objects in total.

⁶⁹Atwood, *Stealing History*, 13 and 116. It should be noted that the Dallas Museum of Art also showed interest in acquiring Bourne’s collection.

⁷⁰Ibid.

⁷¹Walters Art Museum. “Exploring Art of the Ancient Americas: The John Bourne Collection Gift.” 24 Jan, 2012 <http://thewalters.org/eventcalendar/eventdetails.aspx?e=2208>.

⁷²AAMD Object Registry (48.2821), <http://aamdojectregistry.org/node/143>.

is given as: “Sale, Sotheby’s, New York, May 16, 1989, lot 3; Private collection, May 16, 1989, by purchase.”⁷³ Although it is indisputably from Peru, it has no history before 1989 and the museum does not indicate that it tried to research the piece any further. Seven objects give more than one possible country of origin: they could be from Mexico, Guatemala, or Belize. All three countries are known to have high looting rates; “one study showed that 58.6% of all Mayan sites in Belize had been damaged by looters.”⁷⁴

The Walters Art Museum’s internal acquisitions policy was last revised in December 2011, after the donations on the Object Registry were accessioned.⁷⁵ The previous policy, adopted in October 2006, includes a section on “Ethics and Guidelines” which stipulates that all acquisitions of ancient art adhere to the terms of UNESCO 1970 and AAMD 2004.⁷⁶ The policy lifts its eleven-point instructions for antiquities provenance research from these guidelines. It allows an exception to the 1970 rule for cases when “the work of art has been outside its probable country or countries of origin for a sufficiently long time (at least 10 years) and its acquisition would not provide a direct, material incentive to looting.”⁷⁷ Under the ten-year rule, the objects accessioned from the Bourne and anonymous donations would only have to be traceable back to 1998 or 1999. Even then, ten of the Walters’ Object Registry listings would not qualify as exceptions under its own 2006 policy as they surfaced after this date (see Table 1).

The Virginia Museum of Fine Arts

The Virginia Museum of Fine Arts lists thirty items. Twenty-nine pieces of gold and bronze jewelry came to the museum through an anonymous donor between November 2008 and December 2009. The jewelry has been on display in the museum’s Greek, Roman, and Hellenistic galleries since December 2010. The thirtieth listing is a terracotta lamp carrier from Roman Egypt, credited as “Gift of Dr. Margaret Ellen Mayo” and the only listing which gives a specific country of origin.⁷⁸ A London dealer’s provenance puts it in the Mustaki collection in 1947, which would put it in compliance with AAMD 2008. In terms of modern collecting history for the jewelry, very little information is given. Their countries of origin are best guessed from the cultures listed, most of which spanned the territories of multiple modern nations: Assyrian,

⁷³AAMD Object Registry (48.2843), <http://aamdojectregistry.org/node/191>.

⁷⁴Brodie and Renfrew, “Looting and the World’s Archaeological Heritage: The Inadequate Response,” 346.

⁷⁵Walters Art Museum, *The Walters Art Museum Acquisitions and Accessions Policy*, December 2011.

⁷⁶Walters Art Museum, *Walters Art Museum Accessions/Acquisitions Policy*, October 2006.

⁷⁷Ibid. at Part 4.5.4.

⁷⁸AAMD Object Registry (2009.366), <http://aamdojectregistry.org/node/265>.

Byzantine, Eastern Roman, Greek, Hellenistic, Parthian, Roman, Sassanian, and Sumerian. The anonymous donor bought from several galleries in New York, Paris, and London in the 1980s (see Table 1). None of the objects have any accompanying provenance information prior to these sales. Why did the VMFA decide to accession this collection? For every entry, the museum gives the same reason for acquisition: The donor of these objects acquired a number of works of ancient jewelry on the art market between the late 1970s and ca. 1993. Most are common types for which there is no additional provenance information. VMFA decided to make an exception to the AAMD guidelines in order to bring these objects into a free, publicly accessible, educational institution, where they could be studied, displayed, and publicized.⁷⁹

The VMFA defines itself as an encyclopedic museum in its collections policy, which was last revised May 2007.⁸⁰ Its policy specifies that “[t]he work of art will have a provenance that adheres to the American Association of Museums and Association of Art Museum Directors guidelines,” meaning the 2004 guidelines.⁸¹ The wording in the Object Registry listings is curious: the museum decides “to make an exception to the AAMD guidelines” rather than to use the exception to the 1970 rule that has been written into the guidelines. The collection’s educational value comes close to the AAMD 2004 exception for “make the work of art publicly accessible, providing a singular and material contribution to knowledge.”⁸² But by the museum’s own explanation, these are “common types” that would not therefore make a “singular contribution” to knowledge. The Roman lamp carrier, if it was indeed in a private collection in 1947, is the only legitimate exception to the 1970 rule.

⁷⁹AAMD Object Registry (2008.147), <http://aamdojectregistry.org/node/294>.

⁸⁰Virginia Museum of Fine Arts, *Policies and Guidelines for the Collection of the Virginia Museum of Fine Arts*, May 11 2007, 13. The VMFA is currently revising its policy.

⁸¹Ibid., 3.

⁸²AAMD 2004.

Chapter 5

Conclusions

The inconsistent application of museum acquisition standards for antiquities is a serious issue. Museums have an obligation to the public trust to preserve and protect cultural heritage. As Patty Gerstenblith argued in 2003, “those museums that do not exercise sufficient due diligence in acquiring works of art are ignoring the educational and scientific value of the objects they acquire and are breaching their public and fiduciary obligations.”¹ It is vital that museums work actively to restore public trust. Ethical acquisitions are a key factor in this work.

The institutions surveyed above can be generally sorted into three categories: museums which do not use the 1970 rule at all in their acquisition decisions, museums which exercise the right to make exceptions to the 1970 rule based on AAMD 2004, and finally, museums which abide by the latest ethical standards of AAMD 2008.

Six museums do not seem to have applied the 1970 rule to their acquisition decisions at all. Four do not provide sufficient provenance information or justification for their acquisitions: the Asian Art Museum, the Philadelphia Museum of Art, the Portland Museum of Art, and the Walters Art Museum. The Cantor Center also does not explain its acquisition decisions despite its strict acquisitions policy, predating the AAMD’s 2008 guidelines, which requires informing potential claimants about acquisitions that might be the result of looting (see Table 7).² The policies of the Asian Art Museum and Walters both include specific instructions for antiquities which bind them by AAMD 2008 recommendations. But in its policy, the Asian Art Museum only specifies the need for import and export documentation for “archaeological material or ancient art that is coming from abroad,” but its three Object Registry listings are donations from domestic collections.³

Most museums using the Object Registry are still acquiring objects in a manner guided by the AAMD 2004’s recommendations. In different ways, the Art Institute of Chicago, Metropolitan

¹Gerstenblith, “Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public, 453.”

²Iris & B. Gerald Cantor Center for Visual Arts at Stanford University, “Collections Management Policy.”

³Asian Art Museum, *Ethical Stewardship and Collections Management Policy*.

Museum of Art, and the Virginia Museum of Fine Arts all cite AAMD 2004's exception for acquisitions that would "make the work of art publicly accessible, providing a singular and material contribution to knowledge" because of the object's "rarity, importance, or artistic merit."⁴ All ten of the Art Institute of Chicago's listings specifically note the importance of the items for filling gaps in or augmenting its collections, arguably providing a "contribution to knowledge."⁵ The Metropolitan Museum of Art's listings provide specific reasons why the objects were acquired in exception to the 1970 rule, outlining their documented and published history and the objects' potential for enhancing the museum's collection. However, half of the objects have very limited provenance information. The VMFA also uses the justification that it is making the unprovenanced objects publicly accessible. In the past, museum professionals like James Cuno have used the benefit of public accessibility over inclusion in a private collection as an argument in favor of museums' right to buy unprovenanced antiquities on the open market.⁶

The Boston MFA's acquisition procedure is a unique case: it considers applicable local and national laws, so that acquisitions are technically legal, but not up to the ethical standards of AAMD 2008. The museum provides specific justifications for its new acquisitions, but as discussed above, it relies on proving that a given piece was out of its country of origin before that particular country's national ownership or antiquities protection law went into effect. Under the terms of its agreement with Italy, the MFA is required to consult the Italian government before acquiring any antiquities originating from their country.⁷ An interesting example of an alternative ethical standard, it is nevertheless impractical, since to be fully effective a museum would have to sign an agreement with every source nation represented in its collections. In most of the listings, lack of complete provenance information dating back to 1970 makes it impossible to know whether the objects were removed from their countries of origin before this date or legally exported after it.

Strictly speaking, then, the Cleveland Museum is the only institution which has upheld the ethical standard of AAMD 2008 in its acquisition of the Chimú tunic and sash, which can reasonably be traced back to 1963 through written documentation.⁸ While AAMD member museums are not legally bound, as members they are supposed to adhere to the recommendations the organization issues. Ultimately, though, the AAMD does not have the power to

⁴AAMD 2004 at Part I(D) and Part II(E).

⁵AAMD Object Registry (2008.702), <http://aamdoobjectregistry.org/node/339>.

⁶Renfrew, *Loot, Legitimacy, and Ownership*, 20; Atwood, *Stealing History*, 160-161.

⁷ Museum of Fine Arts and Italian Ministry of Culture, "Museum of Fine Arts, Boston and Italian Ministry of Culture Sign Agreement Marking New Era of Cultural Exchange"

⁸AAMD Object Registry (2011.111.1-2), <http://aamdoobjectregistry.org/node/345>.

enforce its standards.

There is a clear disparity between how these museums profess to vet their acquisitions and the amount of research evident in their listings. While some describe attempts to contact previous owners and dealers, others give no indication that any such research was conducted. The tables in Appendix A can be used to quantify the contents of the Registry. Dividing the listings by region and earliest known date reveals trends in collecting that resemble known paths of illicit trade. In Table 2, the Cantor Center and Walters Art Museum account for 148 of 154 total objects from Central America. The majority of these (sixty-five in total) first surfaced in the 1990s. Again, in Table 3, seventy-seven of eighty-five South American objects surfaced in the late 1980s or 1990s. It is well documented that Pre-Columbian antiquities have been targeted during this time. A major wave of looting began in Peru after particularly rich tombs were discovered in the countryside in 1987, and the two Bourne loans returned to Peru from the Museum of New Mexico were unearthed during this period.⁹ In response to this situation, the U.S. government placed emergency restrictions on the importation of cultural objects from Central and South America. Bolivia (1989), El Salvador (1989), Peru (1990), and Guatemala (1991) asked for and received this aid.¹⁰

The evidence collected in Tables 4, 5, and 6 shows that a significant number of objects surfaced only in the past decade. In Table 4, almost one third of all Southeast Asian objects only have collecting history dating to 2001. This trend is widespread across other regions as well. In Table 5, six of eleven total objects of Near Eastern origin surfaced after 2001, and in Table 6, nine of sixteen total European objects were also unknown before this date. Two countries are represented heavily in the Near Eastern and European regions: Egypt and Italy. Almost all of the Italian objects are listed by the Museum of Fine Arts, Boston, and this institution may be taking care to do so because of its agreement with the Italian government.¹¹ Three of seven Egyptian listings surfaced after 2001, and a fourth has no substantiated provenance before its 2008 sale.

Despite the problems discussed here, the AAMD Object Registry is a promising step forward for institutional accountability. The museums surveyed here should be commended for their disclosures, but also remember that transparency is not an end in itself. It is ultimately

⁹Atwood, *Stealing History*, 13.

¹⁰U. S. Department of State Bureau of Educational and Cultural Affairs, "Import Restrictions List & Chart".

¹¹Not including the VMFA's listings, which do not specify country of origin but instead identify fourteen of twenty-eight listings as "Roman."

up to the institutions to interpret the feedback they receive and make policy changes. Until museums make a consistent effort to apply the most up-to-date ethical guidelines to all acquisition decisions, it is impossible to stop the flow of unprovenanced antiquities into public collections completely.

The AAMD has taken the responsibility upon itself to mandate the industry standard of ethics. To fulfill this role, it must clarify its position on unprovenanced antiquities. It must also review the Object Registry for quality control and member compliance. The database would benefit from a more standardized format for listings. Certain information should be required: a specific reason for acquisition in exception to the 1970 rule and an image of the object. It could also include additional space for the institutions to list specific forms of provenance documentation such as photographs, letters, import or export permits, and bills of sale. Finally, some mechanism must be put in place to insure that member institutions follow the AAMD's guidelines in their use of the Object Registry. With some adjustments, the Registry has the potential to become an invaluable tool for institutional accountability related to antiquities acquisition.

Appendix A

Tables

TABLE 1. DISTRIBUTION OF ARTIFACTS LISTED ON THE AAMD OBJECT REGISTRY BY GEOGRAPHICAL REGION AND EARLIEST KNOWN DATE

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001-	Total
Asian Art Museum	-	-	-	-	-	-
Central America	-	-	-	-	-	-
South America	-	-	3	-	-	3
Southeast Asia	-	-	-	-	-	-
Near East	-	-	-	-	-	-
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Dallas Museum of Art	-	-	1	1	-	2
Central America	-	-	-	-	1	1
South America	-	-	-	2	4	6
Southeast Asia	-	3	-	-	-	3
Near East	-	1	-	-	1	2
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Cantor Center for Visual Arts, Stanford University	-	26	9	13	17	65
Central America	-	-	-	-	-	-
South America	-	-	-	-	-	-
Southeast Asia	-	-	-	-	-	-
Near East	-	-	-	-	-	-
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Museum of Fine Arts, Boston	-	-	1	1	-	2
Central America	-	-	1	-	2	3
South America	-	-	-	-	-	-
Southeast Asia	-	2	-	1	-	3
Near East	-	1	-	2	5	8
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Philadelphia Museum of Art	-	-	-	-	-	-
Central America	-	-	-	-	-	-
South America	-	-	-	-	1	1
Southeast Asia	-	-	-	-	-	-
Near East	-	-	-	-	-	-
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-

Portland Art Museum	-	-	-	-	-	-
Central America	-	-	-	-	-	-
South America	-	-	-	-	-	-
Southeast Asia	-	-	-	1	-	1
Near East	-	-	-	-	-	-
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Art Institute of Chicago	-	1	-	-	-	1
Central America	-	-	-	-	-	-
South America	-	2	2	1	1	6
Southeast Asia	-	-	-	-	1	1
Near East	-	1	1	-	-	2
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Cleveland Museum of Art	-	-	-	-	-	-
Central America	1	-	-	-	-	1
South America	-	-	-	-	-	-
Southeast Asia	-	-	-	-	-	-
Near East	-	-	-	-	-	-
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Metropolitan Museum of Art	-	1	-	-	-	1
Central America	-	-	-	-	-	-
South America	-	-	5	-	-	5
Southeast Asia	1	-	-	-	1	2
Near East	-	-	1	1	2	4
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Walters Art Museum	2	10	18	50	3	83
Central America	-	1	31	45	3	80
South America	-	1	1	1	3	6
Southeast Asia	-	-	-	-	-	-
Near East	-	-	-	-	1	1
Europe	-	-	-	-	-	-
Other	-	-	-	-	-	-
Virginia Museum of Fine Arts	-	-	-	-	-	-
Central America	-	-	-	-	-	-
South America	-	-	-	-	-	-
Southeast Asia	-	-	1	-	-	1
Near East	-	-	-	-	-	-
Europe	-	-	29	-	-	29
Other	-	-	-	-	-	-

TABLE 2. SUMMARY OF THE ARTIFACTS OF CENTRAL AMERICAN ORIGIN LISTED ON THE AAMD OBJECT REGISTRY

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001-Present	Total
Asian Art Museum	-	-	-	-	-	-
Dallas Museum of Art	-	1	-	1	-	2
Cantor Center for Visual Arts, Stanford University	-	26	9	13	17	65
Museum of Fine Arts, Boston	-	-	1	1	-	2
Philadelphia Museum of Art	-	-	-	-	-	-
Portland Art Museum	-	-	-	-	-	-
Art Institute of Chicago	-	1	-	-	-	1
Cleveland Museum of Art	-	-	-	-	-	-
Metropolitan Museum of Art	-	1	-	-	-	1
Walters Art Museum	2	10	18	50	3	83
Virginia Museum of Fine Arts	-	-	-	-	-	0
Total	2	39	28	65	20	154

TABLE 3. SUMMARY OF THE ARTIFACTS OF SOUTH AMERICAN ORIGIN LISTED
ON THE AAMD OBJECT REGISTRY

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001- Present	Total
Asian Art Museum	-	-	-	-	-	-
Dallas Museum of Art	-	-	-	-	1	1
Cantor Center for Visual Arts, Stanford University	-	-	-	-	-	-
Museum of Fine Arts, Boston	-	-	1	-	2	3
Philadelphia Museum of Art	-	-	-	-	-	-
Portland Art Museum	-	-	-	-	-	-
Art Institute of Chicago	-	-	-	-	-	-
Cleveland Museum of Art	1	-	-	-	-	1
Metropolitan Museum of Art	-	-	-	-	-	-
Walters Art Museum	-	1	31	45	3	80
Virginia Museum of Fine Arts	-	-	-	-	-	-
Total	1	1	32	45	6	85

TABLE 4. SUMMARY OF THE ARTIFACTS OF SOUTHEAST ASIAN ORIGIN LISTED
ON THE AAMD OBJECT REGISTRY

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001- present	Total
Asian Art Museum	-	-	3	-	-	3
Dallas Museum of Art	-	-	-	2	4	6
Cantor Center for Visual Arts, Stanford University	-	-	-	-	-	-
Museum of Fine Arts, Boston	-	-	-	-	-	-
Philadelphia Museum of Art	-	-	-	-	1	1
Portland Art Museum	-	-	-	1	-	1
Art Institute of Chicago	-	2	2	1	1	6
Cleveland Museum of Art	-	-	-	-	-	-
Metropolitan Museum of Art	-	1	4	-	-	5
Walters Art Museum	-	1	1	1	3	6
Virginia Museum of Fine Arts	-	-	-	-	-	-
Total	-	4	10	5	9	28

TABLE 5. SUMMARY OF THE ARTIFACTS OF NEAR EASTERN ORIGIN LISTED ON THE AAMD OBJECT REGISTRY

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001-Present	Total
Asian Art Museum	-	-	-	-	-	-
Dallas Museum of Art	-	-	-	-	4	4
Cantor Center for Visual Arts, Stanford University	-	-	-	-	-	-
Museum of Fine Arts, Boston	-	2	1	-	-	3
Philadelphia Museum of Art	-	-	-	-	-	-
Portland Art Museum	-	-	-	-	-	-
Art Institute of Chicago	-	-	-	-	1	1
Cleveland Museum of Art	-	-	-	-	-	-
Metropolitan Museum of Art	-	1	-	-	1	2
Walters Art Museum	-	-	-	-	-	-
Virginia Museum of Fine Arts	-	-	1	-	-	1
Total		3	2		6	11

TABLE 6. SUMMARY OF THE ARTIFACTS OF EUROPEAN ORIGIN LISTED ON THE
AAMD OBJECT REGISTRY

Museum Name	Pre-1970	1970-1983	1984-1990	1991-2000	2001- present	Total
Asian Art Museum	-	-	-	-	-	-
Dallas Museum of Art	-	-	-	-	1	1
Cantor Center for Visual Arts, Stanford University	-	-	-	-	-	-
Museum of Fine Arts, Boston	-	1	-	2	5	8
Philadelphia Museum of Art	-	-	-	-	-	-
Portland Art Museum	-	-	-	-	-	-
Art Institute of Chicago	-	1	1	-	-	2
Cleveland Museum of Art	-	-	-	-	-	-
Metropolitan Museum of Art	-	-	1	1	2	4
Walters Art Museum	-	-	-	-	1	1
Virginia Museum of Fine Arts	-	-	-	-	-	-
Total	-	2	2	3	9	16

TABLE 7. SUMMARY OF ACQUISITION POLICIES OF MUSEUMS USING THE AAMD OBJECT REGISTRY

Museum Name	Full policy available on request	Date of last revision	Specific rules for antiquities	Follows AAMD guidelines	Objects repatriated?
Asian Art Museum	Yes	10/2009	Yes	Yes	No
Dallas Museum of Art	Yes	5/2007	No	No	No
Cantor Center for Visual Arts, Stanford University	Yes	3/2008	No	Yes	No
Museum of Fine Arts, Boston	Yes	6/2008	Yes	Yes	Yes
Philadelphia Museum of Art	N/A	-	-	-	No
Portland Art Museum	N/A	-	-	-	No
Art Institute of Chicago	N/A	-	-	-	No
Cleveland Museum of Art	N/A	-	-	-	Yes
Metropolitan Museum of Art	Yes	11/12/2008	Yes	Yes	Yes
Walters Art Museum	Yes	12/2011	Yes	Yes	No
Virginia Museum of Fine Arts	Yes	5/2007	No	No	No

Appendix B

Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art (June 4, 2004)

AAMD Mission Statement

The purpose of the Association of Art Museum Directors is to support its members in increasing the contribution of art museums to society. The AAMD accomplishes this mission by establishing and maintaining the highest standards of professional practice; serving as a forum for the exchange of information and ideas to aid its members in their professional roles as art museum directors; acting as an advocate for art museums; and being a leader in shaping public discourse about the arts community and the role of art in society.

I. STATEMENT OF PRINCIPLES

- A. AAMD is committed to the responsible acquisition of archaeological materials and ancient art. AAMD believes that the artistic achievements of all civilizations should be represented in art museums, which, uniquely, offer the public the opportunity to encounter works of art directly, in the context of their own and other cultures, and where these works may educate, inspire and be enjoyed by all. The interests of the public are served by art museums around the world working to preserve and interpret our shared cultural heritage.
- B. AAMD deplores the illicit and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums, or other repositories.
- C. AAMD is committed to the principle that all collecting be done according to the highest standards of ethical and professional practice. The guidelines that follow reinforce many of the rigorous standards that have become the practice among AAMD members and outline new standards to insure greater transparency in the acquisition process, including recommendations to exercise a greater degree of due diligence in researching proposed acquisitions and to provide full and prompt disclosure following acquisition.

- D. AAMD recognizes that some works of art for which provenance information is incomplete or unobtainable may deserve to be publicly displayed, preserved, studied, and published because of their rarity, importance, and aesthetic merit. AAMD affirms that art museums have an obligation with respect to such works of art, which in the absence of any breach of law or of these Principles may in some cases be acquired and made accessible not only to the public and to scholars but to potential claimants as well.
- E. AAMD recognizes that acquisition decisions are legally and ethically complex and require weighing many legitimate interests and priorities that may at times conflict. Widely diverging opinions have been expressed by, among others, legal scholars, archaeologists, museums, source country governments, private collectors, the U.S. government, and international organizations such as UNESCO. No consensus has been reached among these diverse groups. AAMD acknowledges that no acquisition policy will be consistent with the views of all parties, but hopes that this report will encourage active dialogue among them.

II. GUIDELINES

Since its founding in 1916, AAMD has regularly published professional guidelines. Given the increasingly complex legal and ethical issues that arise in the acquisition process, AAMD has developed the following guidelines to assist members in revising their acquisition policies. These guidelines apply to acquisitions of archaeological materials and ancient art by purchase, gift, bequest, or exchange; they complement and elaborate on AAMD's Professional Practices in Art Museums (2001).

A. Inquiry and Research

- (a) While member museums have routinely undertaken thorough research as to authenticity, quality, condition, and relevance or benefit to the collection, it is increasingly important that they rigorously research the provenance of a work of art prior to acquisition. Such research should include, but is not necessarily limited to, determining: the ownership history of the work of art; the countries in which the work of art has been located and when; the exhibition history of the work of art, if any; the publication history of the work of art, if any; whether any claims to ownership of the work of art have been made; whether the work of art appears in relevant databases

of stolen works; and the circumstances under which the work of art is being offered to the museum.

- (b) Member museums should make a concerted effort to obtain accurate written documentation with respect to the history of the work of art, including import and export documents. Member museums should always obtain the import documentation when the work of art is being imported into the U.S. in connection with its acquisition by the museum.
- (c) Member museums should require sellers, donors, and their representatives to provide all available information and documentation, as well as appropriate warranties regarding the origins and provenance of a work of art offered for acquisition.

B. Disclosure and Dissemination of Information

Once an acquisition has been made, member museums should publish promptly, in print or electronic form, an image (or representative images in the case of large groups of objects) and relevant provenance information, which will thus be readily available to an international audience.

C. Legal Considerations

- (a) Member museums must comply with all applicable local, state, and federal U.S. laws, most notably those governing ownership and title, import, and other issues critical to acquisition decisions. The law relevant to the acquisition of archaeological materials and ancient art has become increasingly complex and continues to evolve. Since the status of a work of art under foreign law may bear on its legal status under U.S. law, member museums must be familiar with relevant U.S. and foreign laws before making an acquisition.
- (b) AAMD will endeavor to keep its members informed of legal developments relevant to these issues. Member museums may, however, need to seek legal advice with regard to specific acquisitions. AAMD members should share pertinent information about legal developments with their boards and staffs.

D. 1970 UNESCO Convention

In recognition of the November 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural

Property, member museums should not acquire any archaeological material or work of ancient art known to have been stolen from a museum, or a religious, or secular public monument or similar institution (Article 7b of the Convention). In addition, member museums should not acquire any archaeological material or work of ancient art known to have been part of an official archaeological excavation and removed in contravention of the laws of the country of origin.

Member museums should not acquire any such works of art that were removed after November 1970 regardless of any applicable statutes of limitation and notwithstanding the fact that the U.S. did not accede to the Convention until 1983.

E. Incomplete Provenance

Even after rigorous research, it may not be possible to obtain sufficient information on the recent history of a proposed acquisition to determine securely whether the acquisition would comply with applicable law and the aforementioned Guidelines. In such cases, museums must use their professional judgment in determining whether to proceed with the acquisition, in accordance with the Statement of Principles above, recognizing that the work of art, the culture it represents, scholarship, and the public may be served best through the acquisition of the work of art by a public institution dedicated to the conservation, exhibition, study, and interpretation of works of art. This may be the case, for example, if:

- i) the work of art is in danger of destruction or deterioration; or
- ii) the acquisition would make the work of art publicly accessible, providing a singular and material contribution to knowledge, as well as facilitating the reconstruction of its provenance thereby allowing possible claimants to come forward.

In considering such acquisitions, member museums should also take into account any other factors that bear on the appropriateness of the acquisition, notably:

- i) whether the work of art has been outside its probable country or countries of origin for a sufficiently long time that its acquisition would not provide a direct, material incentive to looting or illegal excavation; while each member museum should determine its own policy as to length of time and appropriate documentation, a period of 10 years is recommended; and

ii) the exhibition and publication history, if any, of the work of art.

F. Information Obtained Subsequent to Acquisition

If a member museum gains information that establishes another party's claim to a work of art acquired after the date of this Report, even though this claim may not be enforceable under U.S. law, the museum should seek an equitable resolution with the other party. Possible options that should be considered include: transfer or sale of the work of art to the claimant; payment to the claimant; loan or exchange of the work of art; or retention of the work of art.

G. Acceptance of the Task Force Report

Member museum directors and others responsible for museum governance are urged to accept and be guided by this Task Force Report.

Appendix C

Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art (revised 2008)

AAMD Mission Statement

The purpose of the Association of Art Museum Directors is to support its members in increasing the contribution of art museums to society. The AAMD accomplishes this mission by establishing and maintaining the highest standards of professional practice; serving as a forum for the exchange of information and ideas to aid its members in their professional roles as art museum directors; acting as an advocate for art museums; and being a leader in shaping public discourse about the arts community and the role of art in society.

Preamble

The AAMD recognizes that the acquisition of archaeological materials and ancient art has in recent years become an increasingly complex task that requires the careful consideration of a number of different and, at times, seemingly contradictory goals. This report is intended to help its members understand the issues they will face when evaluating the purchase or acceptance of a gift of archaeological materials and ancient art and provides a framework for responsible decision-making in the development of their collections. Acknowledging that these subjects are interrelated, it also reaffirms the importance and the possibility of protecting archaeological sites as well as collecting archaeological materials and ancient art. This dual objective can only be accomplished through enhanced cooperation between source countries (i.e., countries of modern discovery of archaeological materials and ancient art) and museums that collect such works as well as the development of a mutual understanding and respect for the rights of these countries to protect their cultural property and those of museums whose work is to enhance – through collecting, research, and exhibition – knowledge and appreciation of the artistic achievements of the past.

I. STATEMENT OF PRINCIPLES

- A. AAMD is committed to the responsible acquisition, whether by purchase, gift, bequest or exchange, of archaeological materials and ancient art. AAMD believes that the artistic achievements of all civilizations should be represented in art museums, which, uniquely, offer the public the opportunity to encounter works of art directly, in the context of their own and other cultures, and where these works may educate, inspire and be enjoyed by all. The interests of the public are served by art museums around the world working to preserve, study and interpret our shared cultural heritage.
- B. AAMD deplores the illicit and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums, or other repositories.
- C. AAMD is committed to the principle that acquisitions be made according to the highest standards of ethical and professional practice and in accordance with applicable law and in such a way that they do not provide a direct and material incentive to looting.
- D. AAMD is committed to the exercise of due diligence in the acquisition process, in particular in the research of proposed acquisitions, transparency in the policy applicable to acquisitions generally, and full and prompt disclosure following acquisition.
- E. The November 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural Property (the “UNESCO Convention”) began a new dialogue about the best ways to protect and preserve archaeological materials and ancient art, although regrettably the looting of sites, destruction of monuments and theft of objects continue to this day. The AAMD, along with others in the international community, including source countries, recognizes the date of the Convention, November 17, 1970 (“1970”), as providing the most pertinent threshold for the application of more rigorous standards to the acquisition of archaeological materials and ancient art as well as for the development of a unified set of expectations for museums, sellers and donors.
- F. Recognizing that a complete recent ownership history may not be obtainable for all archaeological material and every work of ancient art, the AAMD believes that its member museums should have the right to exercise their institutional responsibility to make informed and defensible judgments about the appropriateness of acquiring such an object if, in their opinion, doing so would satisfy the requirements set forth in the Guidelines

below and meet the highest standards of due diligence and transparency as articulated in this Statement of Principles.

- G. AAMD reaffirms the value of licit markets for the legal sale and export of works of art as an effective means of deterring the illicit excavation and trafficking of archaeological materials and ancient art.
- H. AAMD encourages the creation of licit markets and strongly urges all nations to provide a legal method for the sale and export of art, thereby furthering the goal of deterring the illicit excavation and trafficking of archaeological materials and ancient art.

II. GUIDELINES

Since its founding in 1916, AAMD has regularly published professional guidelines. Given the increasingly complex set of ethical questions and rapidly evolving legal issues that need to be considered in the acquisition process, AAMD has developed the following guidelines to assist members in revising their acquisition policies. These guidelines apply to acquisitions of archaeological materials and ancient art by purchase, gift, bequest, or exchange.

- A. Member museums should thoroughly research the ownership history of archaeological materials or works of ancient art (individually a “work”) prior to their acquisition, including making a rigorous effort to obtain accurate written documentation with respect to their history, including import and export documents.
- B. When the work is being imported into the U.S. in connection with its acquisition by the member museum, import documentation should be obtained and compliance with the export laws of the country of immediate past export to the U.S. should be confirmed.
- C. Member museums should require sellers, donors, and their representatives to provide all information of which they have knowledge, and documentation that they possess, related to the work being offered to the museum, as well as appropriate warranties.
- D. Member museums must comply with all applicable local, state, and federal U.S. laws, most notably those governing ownership and title, import, and other issues pertinent to acquisition decisions.
- E. Member museums normally should not acquire a work unless provenance research substantiates that the work was outside its country of probable modern discovery before 1970

or was legally exported from its probable country of modern discovery after 1970. The museum should promptly publish acquisitions of archaeological materials and ancient art, in print or electronic form, including in these publications an image of the work (or representative images in the case of groups of objects) and its provenance, thus making this information readily available to all interested parties.

- F. The AAMD recognizes that even after the most extensive research, many works will lack a complete documented ownership history. In some instances, an informed judgment can indicate that the work was outside its probable country of modern discovery before 1970 or legally exported from its probable country of modern discovery after 1970, and therefore can be acquired. In other instances, the cumulative facts and circumstances resulting from provenance research, including, but not limited to, the independent exhibition and publication of the work, the length of time it has been on public display and its recent ownership history, allow a museum to make an informed judgment to acquire the work, consistent with the Statement of Principles above. In both instances, the museum must carefully balance the possible financial and reputational harm of taking such a step against the benefit of collecting, presenting, and preserving the work in trust for the educational benefit of present and future generations. The museum must prominently post on the AAMD website, to be established, an image and the information about the work as described in Section E above, and all facts relevant to the decision to acquire it, including its known provenance.
- G. If a member museum, as a result of its continuing research, gains information that establishes another party's right to ownership of a work, the museum should bring this information to the attention of the party, and if the case warrants, initiate the return of the work to that party, as has been done in the past. In the event that a third party brings to the attention of a member museum information supporting the party's claim to a work, the museum should respond promptly and responsibly and take whatever steps are necessary to address this claim, including, if warranted, returning the work, as has been done in the past.

III. ACCEPTANCE OF THE TASK FORCE REPORT

Member museum directors and others responsible for museum governance are urged to accept and be guided by this Task Force Report and to develop acquisition policies and guidelines for

provenance research consistent with the Report. The AAMD will endeavor to keep its members informed of legal developments relevant to these issues. Member museums may, however, need to seek legal advice with regard to specific acquisitions. AAMD members should share pertinent information about legal developments with their boards and staffs.

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