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August 19, 2020

The Honorable Marie Royce
Assistant Secretary, Bureau of Educational Affairs
U.S. Department of State
2200 C Street, N.W.
Washington, D.C. 20037

Mr. Stefan Passantino, Chair
Cultural Property Advisory Committee
Cultural Heritage Center (ECA/P/C)
U.S. Department of State
2200 C Street, N.W.
Washington, D.C. 20037

RE: Process Issues Arising Out of Recent CPAC Hearings

Dear Assistant Secretary Royce and Chairman Passantino:

I am writing as President of the Global Heritage Alliance and as a former Cultural Property Advisory Committee (“CPAC”) member on behalf of the following organizations regarding serious process issues that have arisen from the Cultural Heritage Center’s administration of the Cultural Property Implementation Act (“CPIA”): (1) American Hellenic Institute (<https://www.ahiworld.org/>); (2) American Numismatic Association (<https://www.money.org/>); (3) Ancient Coin Collectors Guild (<http://www.accg.us/home.aspx>); (4) Antique Tribal Arts Dealer Association (<https://atada.org/about>); (5) Association of Dealers & Collectors of Ancient & Ethnographic Art (<https://adcaea.wildapricot.org/>); (6) Committee for Cultural Policy (<https://culturalpropertynews.org/>); (7) Global Heritage Alliance (<https://global-heritage.org/>); (8) International Association of Professional Numismatists (<https://iapn-coins.org/>); (9) Jews Indigenous to the Middle East and Africa (<https://www.jimena.org/>) and (10) Professional Numismatists Guild (<https://pngdealers.org/>).

Each of these groups has testified at CPAC meetings on behalf of Jewish and Orthodox Christian religious minorities, museums, collectors and/or the small businesses of the antiquities and numismatic trades. All these groups had expected that the Trump Administration would address longstanding problems related to the fairness of Committee proceedings. This has not happened, and in fact the same issues that have been concerns under prior Administrations have only continued under this Administration.

1. Ensuring balanced Representation on Cultural Property Advisory Committee

As directed by Congress, “the eleven members of the Advisory Committee must include two members representing the interests of museums, three archaeologists, anthropologists, or experts in related fields; three persons representing the interests of art dealers; and three representatives of the general public.” (See Senate Report 97-564 at 9). Instead, the current Committee membership over represents hostile anti-collecting views that are far more extreme than those of the broader archaeological community. As an example, at a recent CPAC hearing one member representing the archeological interests told ancient coin collectors – of which there are many thousands in the United States -- that they should give up their hobby and take up another. Another asked a representative for the Greek-American community if conditions could be written into a MOU related to the appropriation of minority religious property that, of course, would not be subject to review until the MOU was up for renewal in another 5 years.

While archaeological slots are consistently filled (typically with individuals hostile to collecting), slots representing the interests of art and antiquities dealers have gone unfilled for years. Currently, there are **no** dealer members. There is a collector representing the interests of the art trade who was initially appointed as a public member.¹ He was then reappointed to represent the interests of the trade so that there would be a quorum for a proposed MOU with Turkey. There are a number of highly qualified members of the trade who have applied for CPAC slots, but have heard nothing about their applications.

There are in addition, no members representing the interests of religious minorities. This problem has manifested itself because archaeological advocacy groups have worked behind the scenes with Middle Eastern Governments to complete MOU’s which have supported the claims of these governments to the community religious property of suppressed and in some cases evicted minority Jewish and Christian populations. We urge that ECA request that the White House expedite the appointment of members representing the trade² and those who can speak to the interests of religious minorities.

2. Transparency: Providing the Public with Adequate Information to Comment on Initial Requests and Renewals

CPAC provides recommendations under the CPIA. In order to recommend import restrictions, CPAC must find that the request satisfies all four requirements set forth under the law. The requirements are:

- The cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party.
- The State Party has taken measures to protect its cultural patrimony.

¹ Even though he is a collector, not a dealer, the undersigned parties nonetheless truly appreciate his efforts to ensure the representation of the interests of both small business and collectors.

² In the past, alleged conflict of interest concerns have been used to keep dealer members off of CPAC. At the same time, the State Department has refused to recuse archaeological members from voting on MOU’s with specific countries that have issued them excavation permits. In any event, we were previously told this issue has been resolved so that alleged conflict of interest issues should not be used to keep dealers off of CPAC.

- The application of the requested import restriction would be applied at the same time by other nations with a significant import trade in the restricted objects, and would have a substantial effect in deterring a serious situation of pillage – – and other remedies are not available.
- The application of the import restrictions is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.

CPIA, 19 U.S.C. § 2602 (a) (1). Moreover, CPAC must also consider whether the factors that justified an initial agreement still obtain before an extension can be recommended. CPIA, 19 U.S.C. § 2602 (e).

In the past ten years, the State Department has published “public summaries” of State Party requests which are supposed to address each of these issues. Regrettably, and without evident reason, this practice has not been universally followed. Requests are often not published, or in the case of Morocco, were released late after the deadline for public comments had lapsed. As disturbingly, requests are often totally silent about one or more of the required statutory findings, leaving the public and perhaps CPAC at a loss to know whether the required criteria have been met.

Finally, no information is provided at all about renewals. In addition to information about whether the same factors that justified an initial agreement still exist, CPAC gives no information about whether the State Party has lived up to its own promises made on entering agreements. This oversight negatively impacts the ability of the public to comment intelligently about renewals, and may also affect CPAC’s own deliberations.

Sincerely,

/s/

Arthur Houghton