

## Committee for Cultural Policy and Global Heritage Alliance

### Written Testimony submitted to Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, U.S. Department of State, on the Proposed Memorandum of Understanding Between the United States of America and the Republic of Turkey

Sent via Federal Register: Docket ID: DOS-2019-0043  
Re: Meeting of the Cultural Property Advisory Committee Regarding  
Proposed Memorandum of Understanding with the Republic of Turkey  
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Submitted VIA regulations.gov

Dr. Jeremy Sabloff, Chair  
Cultural Property Advisory Committee  
Cultural Heritage Center (ECA/P/C)  
U.S. Department of State 2200 C Street, NW Washington, DC 20037

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

The Committee for Cultural Policy<sup>1</sup> and Global Heritage Alliance<sup>2</sup> jointly submit this testimony on the Proposed Memorandum of Understanding (MOU)<sup>3</sup> for the imposition of import restrictions between the United States and the Republic of Turkey.

In response to requests from source countries for import restrictions under the Cultural Property Implementation Act, we have addressed whether the requests meet the legal criteria set by Congress. We also consider whether if imposed, they would have any positive effect, and if such restrictions could be implemented fairly by U.S. Customs.

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

<sup>2</sup> Global Heritage Alliance (GHA) advocates for policies that will restore balance in U.S. government policy in order to foster appreciation of ancient and indigenous cultures and the preservation of their artifacts for the education and enjoyment of the American public. GHA supports policies that facilitate lawful trade in cultural artifacts and promotes responsible collecting and stewardship of archaeological and ethnological objects. The Global Heritage Alliance. 1015 18<sup>th</sup> Street, N.W. Suite 204, Washington, D.C. 20036. <http://global-heritage.org/>

<sup>3</sup> Department of State, Notice of receipt of request from Turkey for cultural property protection, available here: <https://www.federalregister.gov/documents/2019/10/02/2019-21359/notice-of-receipt-of-request-from-the-government-of-the-republic-of-turkey-under-article-9-of-the>

The comprehensive nature of the Turkish request, however, raises other obvious questions. Turkey is a great nation. Istanbul is an ancient and revered city and witness to the rise of multiple civilizations. Turkey has also been a major producer and exporter of luxury goods in world trade since at least the third century CE. With a 1700 year history of international mercantilism, a background of outstanding cultural achievement, territories littered with monuments and museum storehouses so overfilled it will take generations to catalog the riches already there, why is the Turkish government asking the U.S. to return the cultural equivalent of cooking pots, clothing, and household goods?

In this request, the Turkish government aims to use an agreement designed to protect weak countries from outside looters as political cover for actions that harm the cultural interests of Turkish minorities. These actions include President Recep Tayyip Erdoğan's AKP/Justice and Development Party's attempts to overturn modern Turkey's secular foundations by redesignating museums as mosques and taking other actions harmful to minority rights.

Erdoğan knows that a cultural property agreement with the U.S. would enhance his status among his followers and be another weapon in his government's promotion of nationalism and use of religion to serve the AKP's political purposes. The request asserts Turkey's dedication to heritage protection yet fails to account for the AKP's backing of infrastructure development that has destroyed archaeological treasures in Turkey's Ilisu Valley or the Turkish government's deliberate bombing of ancient monuments just across the Syrian border. Erdoğan has stated multiple times this year (including just before elections) that he intends to make Hagia Sofia a working mosque. Why is the U.S. rewarding Erdoğan, a demagogue acting daily against U.S. interests in the region, for his bad actions?

In the U.S., this request is being promoted by overzealous U.S. anti-trade advocates, including both in-government and outside-government influencers with their own agendas. Their goal in enacting this MOU is not to stop uncontrolled looting in Turkey or the export of illicit art from Turkey to the U.S. because neither is taking place. The goal of this MOU is to tie up a loose end in the Mediterranean, after having generated a series of unjustified blockades and pending import restrictions covering almost all art from Italy, Greece, Bulgaria, the Middle East and North Africa.

By encouraging an MOU with Turkey, the State Department is not only ignoring common sense and the balanced cultural policy set by Congress decades before – it is directly harming important U.S. constituencies such as the Armenian, Greek, Cypriot, Syriac, and Kurdish communities founded by minorities who suffered under Turkish persecution in the 20<sup>th</sup> century. And by handing Erdoğan a diplomatic plum, it will leave the remaining Jewish and Orthodox Greek minority communities in Turkey even more vulnerable. A MOU approving Turkey's cultural heritage policies will strengthen Erdoğan's nationalist and anti-Semitic program, which already threatens to deprive Jewish and Christian communities of rights to community property and their most precious religious artifacts.

This request is not about current looting. It presents no evidence of significant thefts or rashes of seizures related to particular types of objects that would meet the threshold legal requirements of the Cultural Property Implementation Act. The Turkish request focuses on objects of high value that left Turkey long ago, even during the 19th century. It hints at new claims made for objects that the Turkish government has had full knowledge of for decades – claims of the sort it recently used to attempt to blackmail foreign museums into returning objects by threatening to deny archaeological permits to foreign excavators. Imposing import restrictions today will only give the Erdoğan government and its allies a sham excuse to further criticize and harass Western museums.

Granting an agreement under the CPIA to Turkey will allow the Turkish government to:

- continue to violate human rights, minority rights, and religious rights. Turkish laws do not grant full rights of minorities to property.

- It will undermine U.S. policy and reward an autocratic government that promotes ethnic prejudice and the persecution of minorities with a U.S. agreement it wants for political capital; and
- deny access to their history and artistic achievement to U.S. citizens whose families lived in Turkish territory for thousands of years and who were driven from Turkey through the destruction of entire ethnic communities, deliberate starvation, and forced emigration.

### **Turkey's Treatment of Minorities in the 20<sup>th</sup> Century**

An MOU recognizing national ownership of all of the relics of Turkey's past would severely impact communities that lived in Turkey for millennia before being forced out during the 19<sup>th</sup> and 20<sup>th</sup> centuries. Many descendants of these Greek, Armenian, Cypriot, Jewish, Orthodox Christian, Syriac Christian, and Kurdish communities now make their homes in the United States. (The U.S. has one of the largest Armenian populations in the world.) An import blockade would grant the Turkish government rights over their personal, religious, and community heritage.

As rulers of the eastern Roman empire, Byzantium was the preeminent center of Greek as well as Christian culture. After the arrival of Turkic peoples in the 11<sup>th</sup> century and establishment of the Seljuk and Ottoman empires, multi-ethnic communities existed in relative peace. However, the 19<sup>th</sup> century Greek War of Independence triggered reprisals against local Greeks, and following the Greek War of 1919-1922, violence against Greeks were followed by forced migrations. Armenian peoples living near Mt. Ararat in eastern Turkey had long been integrated into the administrative rule of the Byzantine and Ottoman empires but in the 19<sup>th</sup> century, Turkish Muslims accused both Greeks and Armenians of working with the European powers and attempting to divide and claim part of the Ottoman empire. Decades of appropriations of property and possessions were followed by horrific instances of group killings of men, women and children, including the burning of 3000 Armenians who had taken refuge in the Cathedral at Edessa. Armenians in Turkey who could not flee were wiped out by planned starvation and massacres of the populations of Armenian towns starting in 1915 in the Armenian Genocide. Armenians in Turkey essentially ceased to exist.

#### **Greek Orthodox communities**

The signing of the Treaty of Lausanne in 1923 resulted in a forced population swap in which the vast majority of Greek Orthodox Christians living in Turkey were forced to leave, even though many had lived there for millennia and were so integrated with Turkish Muslim communities that they spoke only Turkish. Although many Christians remained living in Istanbul and were at least officially legally protected from discrimination, many among this substantial population left after organized riots in 1955, said to have involved Turkish military and intelligence services, killed a dozen people and terrorized the non-Muslim community in a full day of attacks. This and other conflicts over the twentieth century accelerated emigration and the Greek population of Turkey dropped still further, from almost 120,000 in 1927 to only about 3000 in 2006.

#### **Assyrian Christian communities**

Assyrian or Syriac Christians belong to a number of smaller religious communities, including the Syriac Orthodox Church, Chaldean Catholic Church, Assyrian Pentecostal Church, and Assyrian Evangelical Church. They once formed a large population in eastern Turkey but like the Armenians and Greeks, were subject to genocidal attacks such as the Seyfo Genocide in Turkey and Persia between 1914 and 1920. Many moved into Syria and northern Iraq, losing Turkish citizenship, but about 300,000 survived the genocide in Turkey.

After increasing conflicts in the late twentieth century between Turkish forces and the Kurdish Workers Party and passage of discriminatory laws discouraging return and enabling land confiscation in Mardin, Syriac Christians see little hope of reviving their communities.

### **Jewish communities in Turkey**

For centuries, Ottoman Turkey was a place of refuge for Jewish communities persecuted in Europe. During the Ottoman Empire, Jews were largely welcomed into Turkey, where, despite periodic recurrences of attacks under the blood-libel, many Jewish families rose to prominence and Jewish advisers served Ottoman rulers. After centuries of largely peaceful coexistence, the 2400-year-old Jewish communities of Turkey now feel threatened by the rise of anti-Semitism.

Although ostensibly protected under the 1923 Treaty of Lausanne, the cultural autonomy granted to Jews as well as Orthodox Christians has been curtailed through the passage of restrictive laws affecting both real property and cultural objects. Policies were mixed. Despite accepting and protecting numerous Jewish refugees during WWII, the Turkish Parliament also passed burdensome taxes imposing far higher rates on religious minorities.

The rise of Islamist political parties since 2003 has led to increasing government tolerance of hate speech and failure to interfere with anti-Jewish demonstrations and even attacks of Jewish homes and businesses. Turkey's Jewish population, which stood at about 200,000 at Ataturk's overthrow of the Ottoman government in 1923, was reduced by 80% in a number of periods of intense emigration following attacks during the early to mid-twentieth century and is said to have dropped from 23,000 in 2009 to just 17,000 today. Current numbers are not available from the Jewish community, which is said to fear additional seizures of religious and community property by the Turkish government if the population continues to drop.

### **Legal Status of Faith Communities in Turkey Today**

Jewish, Christian, and other minority communities are facing severe prejudice in Turkey yet are unable to bring community religious artifacts and records with them if they wished to leave the country. If an agreement with Turkey is established under the CPIA, faith communities, even those which have left Turkey in the past, face the very real possibility that objects originating in Turkish territory could be seized if there is not documentation of prior export satisfactory to U.S. Customs.

In Turkey, objects of religious heritage included in the definition of cultural property in Law No. 2863 are under State control. Religious objects are kept in museums and registered in their collections. Even objects of Muslim religious heritage, such as antique copies of the Qur'an and objects pertaining to the Prophet Muhammad, are named in a category of cultural property called 'Holy Relics' (*Kutsal Emanetler*). These are considered state-owned but are held as a separate category by museums and state institutions. They are lent between museums and exhibited (for example, an antique lamp, an early Qur'an, and hairs from the beard of the Prophet Muhammad from the collection of the Ankara Ethnography Museum were exhibited in the City History Museum of the Beypazarı Municipality in November 2017). 'Holy Relics' collections, which are kept separately in museums, do not include any objects pertaining to non-Muslim religions. Non-Muslim ritual objects are also kept under 'protection' and maintained in museums as cultural property requiring protection under Law No. 2863.

It should be possible for religious communities to claim that many personal religious objects from non-Muslim religions were privately owned before passage of the Fourth Antiquities Code of 23 April 1906 and not covered by Law No. 2863. Presumably, this could result in the exclusion of family bibles, marriage documents, letters or photographs from state control, and it is possible that after museum review, some could be allowed export.

But under Turkish law, the state would continue to ‘protect’ and have ownership and control of religious objects belonging to communities and places of worship such as church ikons or antique Torahs and birth and marriage records from Jewish synagogues. There is no exception under Turkish law that would allow export for religious objects from non-Muslim religious communities.

Minority religious communities in Turkey do not operate under a stable or well-defined legal framework. Only a limited number of legal entities are able to rent or acquire property. Religious communities, even those formally organized as *vakıfs* foundations, do not have the legal independence to securely retain properties. In contrast, Muslim communities are able to obtain legal identities and exercise property rights under the aegis of a government agency, the Directorate of Religious Affairs.

The Lausanne Peace Treaty of 1923 established protection for Turkey’s non-Muslim religious communities, but the treaty specifically identified only three protected religious groups, the Armenian, Greek Orthodox, and Jewish communities. These three have a relatively protected status under the law, although each local community must independently manage its own churches, cemeteries, and community schools under local laws. Other non-Muslim minority groups do not have even this legal recognition. Their situation is so challenging with respect to property that the European Commission for Democracy Through Law recommended in 2010 that Turkey implement legislation to give minority religious communities legal standing.

In the last decade there have been efforts by the Turkish government to enable non-Muslim community foundations to regain some properties taken from them in the past. The Restitution Decree of 2011 provided a legal framework under which religious communities whose property had been confiscated by the government could seek to regain it or to obtain compensation for their losses. In January 2019, the first permit ever granted for a church to be constructed in the modern Turkish era was issued for the construction of a Syriac Christian Church in Istanbul.

There have also been some important returns of property. Fifty properties were returned to the Syriac Orthodox Church in Mardin in 2018. These included the oldest surviving Syriac Orthodox monastery, Mor Gabriel. A decision to transfer eleven buildings on Bozcaada Island to the Greek Orthodox Foundation was officially announced in 2014, but six years later, those properties have not yet been transferred.

Other very long-standing disputes regarding properties have not been favorably resolved for the religious communities. The forced removal of Christians from Turkish towns naturally resulted in the closing of schools and other religious institutions, which were then seized by the state because they were deemed nonfunctional. A government decision that a *vakıfs* is no longer operating has been a common method of expropriation of religious minority communal property.

For example, the Sanasaryan Han in Istanbul was seized<sup>4</sup> by the government in 1936. Due to the forced removal of the Armenian population, the college situated there could no longer operate. In March 2019, the Turkish Court of Cassation announced that it was reversing a lower court decision granting the property to the Armenian Patriarchate. It held that title to the property would remain with the state. A key barrier is that the Patriarchate has still not been able to acquire the status of a *vakıfs* foundation. While past Turkish administrations have achieved relatively positive working relationships with the Jewish communities specifically protected under the Lausanne Treaty, the Erdoğan government no longer pursues cooperative relations with Israel, and the Jewish population of Turkey suffers as a result.

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<sup>4</sup> Christopher Sheklian, The Armenian Patriarchate and the Sanasarian Han, Public Orthodoxy, March 28, 2019, <https://publicorthodoxy.org/2019/03/28/armenian-property-in-turkey/>

Today, the fragile remnants of these communities in Turkey remain under extreme political pressure. The Erdoğan government appears unwilling to halt anti-Semitic demonstrations and the rise of hate speech against non-Muslim faiths. Despite the protections previously assured under the Turkish Constitution, the failure of the Turkish government to grant full legal status to any faith community after almost 100 years has had a very debilitating effect on the non-Muslim minority religious communities that remain. If Jews, Orthodox Christians, and other religious minorities do wish to leave the country, they must be willing to leave behind the most precious relics of their religious communities.

### **Turkish laws<sup>5</sup>**

The history of cultural property laws in Turkey begins in 1869. Turkey's Public Summary does not provide information on the history of Turkish cultural property law that in fact, shows a far more gradual expansion of regulations than many advocates for return of Turkish artifacts claim. (And as will be shown below, the expansive laws on the books have not been enforced in Turkey until very recently.)

*Asar-i Atika Nizamnamesi* of 13 February 1869, Turkey's First Antiquities Code, regulated only antiquities found in excavations. Private ownership and trade within Ottoman territory was allowed; according to the law, export was allowed only for coins and minor items (but officially or not, antiquities continued to be exported by both foreigners and Turkish traders). Prohibited breaking into and damaging monuments.

*Asar-i Atika Nizamnamesi* of 7 April 1874, the Second Antiquities Code defined antiquities as all handmade objects from ancient times. It classed antiquities as movable and immovable and coins. It dealt specifically with the division with foreign excavators of finds from excavation through *partage*.

*Asar-i Atika Nizamnamesi* of 21 February 1884, the Third Antiquities Code, made all antiquities discovered through excavation state property, except for antiquities found accidentally on private property during construction, in which case they were shared between the landowner and the state. There were restrictions on exportation.

*Asar-i Atika Nizamnamesi* of 23 April 1906, the Fourth Antiquities Code slightly amended the Third Antiquities Code.

*Muhafaza-i Abidat Nizamnamesi, 1912*, the Immovable Property Preservation Code, clarified the Fourth Antiquities Code to add fortresses, fortifications, and bastions to protected properties and established a commission of museum officers to approve any changes to protected properties.

Law no. 5805 of 1951 established a High Board of Immovable Antiquities and Monuments to establish policies for the protection, maintenance, reparation, and restoration of domestic architectural and historical monuments; later superseded by Law No. 2863.

Turkish Civil Code, Law No. 1710, 1973, preserved the same principle of state ownership as in the Fourth Antiquities Code, declaring that all antiquities discovered in or on private or public lands in Turkey were the property of the State. It also provided definitions of subcategories such as 'monument' (*Anıt*), 'ottoman social complex' (*Küllüye*), 'historical site' (*Tarihi Sit*), and 'archaeological site' (*Arkeolojik Sit*); it was later superseded by Law No. 2863.

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<sup>5</sup> The description of Turkish cultural heritage laws that follows is derived from the *Global Art and Heritage Law Series, Turkey*, prepared by White & Case contributing authors Hazel Levent, Ece Akıncıbay, Ayris Açıklan, and Zeynep Ülkü Kahveci, a series by the Committee for Cultural Policy sponsored by TrustLaw, in publication February 2020 at [culturalpropertylaw.org](http://culturalpropertylaw.org). Neither White & Case nor the contributing authors are responsible for the opinions expressed in this commentary.

Modern legislation is based on Article 63 of the Constitution of the Republic of Turkey dated 7 November 1982<sup>6</sup>. The Constitution places ‘protection’ in the hands of the state but also states that there are different structures for the ownership of cultural property between properties subject to state ownership and those subject to private ownership.

*Kültür ve Tabiyat Varlıklarını Koruma Kanunu*, Law No. 2863 on the Protection of the Cultural and Natural Assets, 1983 is the primary cultural property legislation in Turkey today, according to the Executive Summary of the *Global Art and Heritage Law Series, Turkey*, prepared by White & Case for the Committee for Cultural Policy’s TrustLaw project:

“Trading of cultural property that is not under protection or that is under protection but not yet preserved in a museum is possible through a permit that can be obtained from the Ministry of Culture and Tourism. Different rules apply to movable and immovable cultural property. Some categories of cultural property, for instance, objects related to religious heritage, are under protection and cannot be traded. In addition, special permits exist for excavations. A representative from the Ministry of Culture and Tourism is responsible for accompanying excavators and monitoring.”

“A nationwide registry for movable cultural property does not exist. Museums’ own registries serve this purpose. An online nationwide registry is being developed as of 2014 and is expected to launch within several years. A database already exists for immovable cultural property such as monuments, buildings, and archaeological sites.”

The 1983 Law No. 2863 defines the movable or immovable cultural and natural assets requiring protection under Article 3 very broadly:

“Cultural property: all movable and immovable property existing on or under the ground or under the water, concerning science, culture, religion and fine arts of before or after recorded history or property that has a unique value for social life before and after recorded history.”

This is the first time that the term “antiquities” is replaced by the broader definition “cultural and natural property that require protection.” The Law No. 2863 regulates transfers of ownership and does not allow construction on or use of cultural assets. Persons who discover movable and immovable natural or cultural assets on the lands they own or use must inform the director of the nearest museum within three days. Museum registries cover their own collections; there is no uniform state-sponsored database to cover museum holdings. However, objects seized by the government can be found on a database of the Ministry of Culture, with the precise date of the recovery and approximate dates for the loss or illicit trading of such cultural property.<sup>7</sup> There is generally not public access regarding other government actions with respect to cultural property.

Article 23 of Law No 2863 goes into greater detail to define “movable cultural and natural property” as:

“All kinds of cultural and natural property from geological periods, prehistory and recorded history, having documentary value in terms of geology, anthropology, prehistory, archaeology and art history, reflecting the social, cultural, technical and scientific characteristics and level of the period they belong to.”

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<sup>6</sup> The Constitution of the Republic of Turkey dated 7 November 1982, available at [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf)

<sup>7</sup> Available at <https://www.kulturportali.gov.tr/portal/sitler-ve-anitlar-1>

“All kinds of animal and plant fossils, human skeletons, firestones (*sleks*), volcanic glass (*obsidian*), all kind of tools made of bones or metal, tiles, ceramics, similar pots and pans, statues, figurines, tablets, weapons for defence and assault, icons, glassware, ornaments (*hülliyat*), ring stones, earrings, needles, pegs, stamps, bracelets etc., masks, crowns (*diadems*), leather, cloth, papyrus, parchment or documents inscribed or described on metal, balances, coins, stamped or inscribed tablets, handwritten manuscripts or books with gilding (*tezhip*), miniatures, embossing of artistic value, oil or water colour paintings, relics (*muhallefat*), arms (*nişan*), medals, portable goods and their parts made of tiles, soil, glass, wood, textiles etc.”

“Cultural property of ethnographic quality relating to science, religion and mechanical (*mihaniki*) arts including artefacts, tools, and equipment reflecting the social development of people. Coins pertaining to the period of the Ottoman Sultans Abdülmecit, Abdülaziz, V. Murat, II. Abdülhamit, V. Mehmet Reşat and Vahdettin can be purchased and sold domestically without being registered. Coins that do not fall under the scope of this article shall be subject to the general provisions of the Law.”

Regulations pertaining to cultural assets under Law No. 2863 were issued in 1984, including regulations on surveying, sounding and excavation; regulations on Treasure Hunting; on leasing immovable property; on trade of movable cultural property, offices and warehouses for such trade; on rewards for reporting discoveries of cultural property, and regulations on the operation and inspection of private museums.

The first regulation specific to ethnographic cultural property, the Regulation on Ethnographic Cultural Property, was not issued until 3 May 1988<sup>8</sup>. Under Article 3, Ethnographic cultural assets that are free to buy, sell and transfer in Turkey are those that are “not complementary to the museum collections and do not have documentary value.”

Owners of objects are directed to apply to museums for evaluation in order to trade in ethnographic cultural property. Ethnographic movable cultural assets that are not taken up for the museum collection shall be returned to their owners with a document indicating that the purchase, sale and transfer of the goods in Turkey are free. A copy of the document is supposed to be kept in the relevant museum. Those deemed appropriate to be included in the museum shall be purchased by the museum if the owner agrees with the determined value.

Thus, even under the most rigorous terms of Turkish law, there is domestic trade allowed in objects that cannot be exported. Article 4 identifies ethnographic cultural assets that cannot be exported abroad: geological, prehistoric and belonging to historical periods; of interest to geology, anthropology, prehistory, archeology and art history in terms of documentary value and the social, cultural, technical and scientific characteristics of the period and that reflect the level of all kinds of movable cultural assets and traditions of the Ottoman Empire until the end of the period of the Ottoman Empire; and, notably, objects that symbolized traditions and religious beliefs.

Different restrictions and penalties apply for violations of laws on cultural property that has been put under protection, submitted to museums, or is subject to private ownership.

Articles 26 to 30 regulate (i) museums, private museums and the making of collections; (ii) trade of cultural property; (iii) inspection of offices and storage areas; (iv) the obligation to inform authorities about the

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<sup>8</sup> Regulation on ethnographic qualified movable cultural property, available at <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.5320&MevzuatIliski=0&sourceXmlSearch=etnografik%20nitelikteki>.

collection; and prohibit (v) declaring a residence as office. Under Article 73, violation of these regulations may result in a prison sentence of three months to one year and a judicial fine or with a heavier penalty if the crime requires. Illegal digging can result in two to five years imprisonment, and sentences are doubled if the violator has a duty to protect cultural property or if there is intent to smuggle objects abroad.

### **Trade Goods**

The Turkish government today views the products of Turkish cultures as broadly Turkish in identity, even those produced in territories no longer part of the map of modern Turkey. It asserts ownership rights over objects from these regions when they are held by Turkish museums. Yet not only were these “Turkish” objects often made outside its present borders, but objects traveled in commercial trade throughout the Near East and North Africa, literally for millennia.

Even in the 4<sup>th</sup> millennium Bronze Age, cities along the Tigris and Euphrates exchanged precious goods from Mesopotamia for worked beads and other ornaments from as far away as the present-day Turkmenistan and Uzbekistan in Central Asia.<sup>9</sup> More recently (if 330 CE can be called recent) Turkey has been the site of the most sophisticated, intellectually and artistically productive societies in the world. As the center of the Eastern Roman world, Constantinople was a hub of international commercial trade routes that extended west to the Iberian Peninsula, north to Scandinavia and east to China.

Under the Seljuks and early Ottoman Sultans, Constantinople was the fulcrum of a Mediterranean trade exporting literally millions of garments and textiles, ceramic vessels and tiles, metalwork objects, and many millions of coins to the medieval world. As the Ottoman Empire shrank and Turkey became the “poor man” of Europe, 18<sup>th</sup> and 19<sup>th</sup> century Turkish cities and towns continued to churn out millions of decorative objects, carpets, candelabra, glass and metalwork to an eager world market.

Thanks to much recent research into the economy of Byzantium and the business ecology of surrounding regions, there is now a clear picture of continuous trading activities from relatively long distance sea and land travels through the Mediterranean and further in every direction of the compass, as well as in local cabotage trade from the 4<sup>th</sup> century CE through the medieval period.

The scope of trade in the Islamic Mediterranean is illustrated through troves of documents, the most extraordinary being the hundreds of thousands of documents from the Cairo Geniza, a repository of personal and business records of the Egyptian Jewish community from 870 CE to the 19<sup>th</sup> century. The Geniza provides records of trade between Ottoman regions to India and the Far East and well as throughout the Mediterranean by Jewish merchants. Although trade was carried on in dyes, copper, silver, stones, jewelry, weapons, and other finished goods, the primary commodities were enormous numbers of decorative textiles, garments and raw cloth (textiles were the chief trade good of the day, equivalent to our oil).

The Geniza records attest to the frequency of trading activities and the accurate understanding of quality and values in communities at opposite ends of the Mediterranean. Byzantine trade goods from consumables such as wine to ceramics and metalwork were dispersed very widely. Specific, high value items such as Byzantine brocade covers and bridal chests appear in 11-12<sup>th</sup> century Jewish trousseau lists in the Cairo Geniza (even though similar local items were available) and will and inheritance documents

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<sup>9</sup> W.F. Leemans, *Foreign Trade in the Old Babylonian Period*, *Studia et Documenta, ad Iuria Orientis Antiqui Pertinentia*, Vol VI, E.J. Brill, 1960, Leiden, p 8, 10, 144.

list copper, brass and silver objects pertaining even to a modest household like that of a sailor and his wife.<sup>10</sup>

Numerous travelers' accounts and tax records describing the major city of Bursa in the 14<sup>th</sup> and 15<sup>th</sup> centuries provide a picture of a city with a majority of Muslim inhabitants but also Orthodox Christians and Jews engaged in significant trading activities in silks. The city's market drew many Italian merchants, first for the trade in eastern silks and later to purchase locally made specialized silk fabrics. The German traveler Arnold von Haff came to Bursa from Cologne in 1499, and recorded, "there are countless persons making silk goods, such as satin, gold and silver cloths, cramoisy and much camelot, so that one can buy there a fine camelot cloth for two ducats."<sup>11</sup> By 1767, the Danish traveler Carsten Niebuhr found that the city had not only continued its local silk fabric weaving, but that by increasing its mulberry orchards it had expanded production and was supplying nearby regions with raw silk as well.<sup>12</sup>

These few cited sources alone (and there are many other studies of Byzantine and Islamic trade) show that Ottoman Turkey was a manufacturer and producer of luxury goods ranging from metal-wares and ceramics to textiles on an industrial scale and that Turkey was exporting them commercially to the European as well as the Islamic world. Such objects cannot conceivably fit into Congress' definition of either "significant" ancient objects, or "ethnographic" objects from a 'non-industrial' society that can be restricted from import under the CPIA or be placed on Designated Lists under a MOU.

### **20<sup>th</sup> century collecting in Istanbul**

Turkey's claim that Ottoman laws dating back to 1906 and even earlier made trade in antiques and antiquities illicit and punishable cannot be substantiated. Turkish laws say one thing, but the realities on the ground were very different.

To demonstrate this, we cite to a book written by Burton Y. Berry, who was vice-consul of the U.S. legation in Istanbul from 1928-34, served again in 1943, and retired in Istanbul in 1954. The book is titled *Out of the Past: The Istanbul Grand Bazaar*.<sup>13</sup>

With respect to export, Berry notes in passing that Turkey only restricted export of certain objects that were enumerated in a new law in 1973.<sup>14</sup> Berry's text is excerpted from at length below, because it illuminates the realities of the Turkish antiquities market as experienced by a resident of Istanbul in the early to mid-twentieth century.

Berry describes the Istanbul bazaar's antiquities as concentrated in the large stalls of two principal dealers but notes that virtually every dealer had some "minor archaeological objects to show the customer. They were usually junk, bought at the price of junk by the dealers with the hope of selling at the price of antiques." (p.106)

Among the items widely available in the Istanbul bazaar were:

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<sup>10</sup> Marlia Mundell Mango, Ed. *Byzantine Trade, 4<sup>th</sup>-12<sup>th</sup> Centuries, The Archaeology of Local, Regional, and International Exchange*. Papers of the 38<sup>th</sup> Spring Symposium of Byzantine Studies, St Johns College, Univ. of Oxford, March 2004.

<sup>11</sup> Heath W. Lowry, *Ottoman Bursa in Travel Accounts*, Indiana University Ottoman and Modern Turkish Study Publications, Bloomington, IN 2003, p 10.

<sup>12</sup> *Id.* at 56.

<sup>13</sup> Burton Yost Berry, *Out of the Past: The Istanbul Grand Bazaar*, Arco Publishing Co., NY, 1977. Of note that Mr. Berry's collection was donated to the Art Institute of Chicago, Indiana University, and to the American Numismatic Society.

<sup>14</sup> *Id.* at 8.

- “Ancient bronze jewelry such as finger rings, earrings, safety pins and straight pins, and necklaces and bracelets (p. 106)
- prehistoric axes, Roman surgical instruments, Byzantine crosses, and small statuettes, either votive offerings or appendages from household utensils were available in quantity. Occasionally larger statues in bronze, sometimes life size, also appeared, although seeing one was a once-in-a-year event and such important bronzes were always hidden away from the general public. (p. 107)
- statuettes, often made as votive offerings, but sometimes formerly the handles of mirrors or cooking vessels, were also, at the time of which I write, spoken of deprecatingly because they were "fragments." Furthermore, it was said that objects from more ancient times seen in the Bazaar in our time could not be valuable because of their number, or even beautiful, because they were commonplace! (p. 108)
- Persian and Ottoman bowls and trays and brass candlesticks, each weighing a hundred pounds or more (p. 106)
- 18<sup>th</sup> century gold plated copper services of Yaldiz ware (p. 106)
- Hundreds of antique embroidered textiles, called ‘towels’” (p.19-21)

Berry described the enormous quantities of gold coins discovered. He notes that after museums took what they wanted, the remainder could be sold:

“For anyone who had a yen to collect Byzantine gold coins there was no more fortuitous set of circumstances than those existing in the Istanbul Bazaar from 1930 until about ten years ago. Besides being present at the place of origin of the money of the Byzantine Empire one had the tremendous advantage of being present at a time when circumstances brought out of the ground an unprecedented number of treasures of Byzantine coins. They came out because of the surge of modernization which was set in motion by the reforms of Ataturk. The widening of old streets, and the cutting of new ones, the enlarging of public squares, the demolition of thousands of old houses ...all those resulted in shifting acres of subsoil in the city, and from this came many coins.”

“One of the largest hoards of Byzantine gold in my experience, came to light through the procedure of dumping unwanted earth in the sea. One trucker dumped his load and as the soil cascaded off the back of the truck a sharp-eyed worker caught the glint of gold. He pulled a gold coin from the soil and, when the driver went on his way, carefully sifted through the earth from the truck and found several more coins. These he brought to George Zacos who bought them and advised him to follow the truck to the place of excavation and perhaps there he might find more coins. This was done and a total of some thirty-five kilos of coins were recovered, about two thousand five hundred of them being confiscated by the Archaeological Museum. The coins were *nomismata*, the name used to describe slightly concave solidi, struck in the name of Andronicus II with Michael IX. In the Bazaar I was shown several bags of these coins, but, as my interest in Byzantine coins was much less than my interest in the Greek series, I did not have the patience to examine one by one the coins that added up to many kilos...this, the Cerrah Pasha hoard, was the largest find of the decade, but if one reduced it very substantially in scale, one can say it was a typical example of a hoard recovered twenty years ago, seen briefly by a few people, then melted down for the metal value”... “the local authorities were not particularly interested in the Byzantine series.” (p. 137-38)

Berry described how he was assisted by Turkish authorities to acquire common artifacts:

“I never bought a major bronze, marble, or silver antiquity in an Eastern Mediterranean country, although many were offered to me, because I felt that such objects belonged in the museums of

the country where they were found. The local authorities at the time that I was an active collector were aware of my attitude, and appreciated it, and, perhaps because of it, were very helpful to me in learning about and buying bronze artifacts, old coins, and elements of jewelry, objects that were mass-produced in antiquity and of which examples existed in local museums in quantity and of a quality that often was superior to what I possessed.”

“While I never regretted my policy in purchasing objects, I learned over the time to be slow in passing judgment on people who acted differently from me. I was influenced in this direction by the fact that I knew of several instances where large bronze statues were melted for their metal value by the finders and large marbles were burnt for lime because they could not be sold as antiquities.”

Berry also said he was criticized by bazaar dealers for educating people who came from the hinterlands, but Berry noted that one had told him they had melted four kilos of antique gold objects in Mardin to get the metal to make modern jewelry and he considered that this was a loss to civilization. (p.122)

Export of objects viewed as common and ordinary antiquities was not an issue, but there were still few buyers in Istanbul for certain objects. Berry notes that he knew only three other persons interested in gemstones, all Turkish collectors.

Berry described how minor objects traveled to Europe through a casual trade:

“In former times the Istanbul merchants would call colleagues in Athens or Rome to come to Istanbul and buy their merchandise when they had bought a hoard of coins or some attractive object. Now many merchants travel to Europe at least once a year to view the market, and others send material to Europe with their compatriots who are working there.”

“In Western Germany alone there are half a million workers from Turkey, and there are tens of thousands more employed in other European countries. These people are generally well-liked as they are good workers. They are good citizens, too, who send home their earnings and bring back with them radios, refrigerators, television sets, and automobiles to increase the material wealth of their homeland. Many workers carry with them for sale in Europe artifacts found by their relatives on the land they cultivate. They sell these directly or hand them to a fellow citizen with more experience in selling to Europeans. Munich is the great center of this trade. I know of several merchants established in Switzerland and France who go to Munich regularly to buy antiques from Turkey, just as residents of Beyoglu in former times would visit the Stambul Bazaars to buy antiques. The trade is brisk, in fact so brisk that a Bazaar friend recently said to me with a wry smile, "The Istanbul Bazaar for antiques has been relocated in Munich." (p.138-39)

### **In the 1990s-early 2000s**

Art dealers in Turkey are registered and sellers of cultural property can obtain a license valid for three years, according to the White & Case *Global Art and Heritage Law Series, Turkey*. It should be noted that during the 1990s and early 2000s, Turkish Customs practice has required that items be reviewed not only by Customs officials but also by volunteer experts sent from the museums, before airfreight and container shipments of antique objects are exported. Law No. 2863 provides that cultural property under private ownership should be examined in this manner by museum officials who can grant the right to transport such property out of the country This export process is internal: after the shipments are cleared through Turkish customs, they are not given special documents to accompany the objects. If Turkey provides no documents to legitimate exporters, it raises questions both about how the thousands of items exported

each year can be proved to have been lawfully exported if Turkey provides no permits, and how the millions of Turkish objects in trade worldwide can be shown to be either licit or illicit.

Clearly, Ottoman antiques flowed freely in foreign trade throughout most of the twentieth century.

The fact that Turkey has historically failed to provide detailed documentation of this lawful export will harm the hundreds of U.S. small businesses who trade in Turkish antique textiles and coins. Goods sourced in Europe will have no proof of provenance. The proposed restrictions will harm thousands of serious U.S. collectors of Turkish carpets, textiles, calligraphy and metalwork and the museums to whom their collections would have become a permanent home.

Most importantly, it will harm the U.S. public. There are hundreds of thousands of U.S. citizens of Greek, Armenian, Kurdish and Sephardic Jewish heritage whose access to their heritage will be denied if the U.S. bows to Turkish demands for import restrictions.

### **Turkey's claims against US and European museums**

Turkey has demanded the return of allegedly stolen objects from U.S. and foreign museums. If there is evidence of theft, even for objects of major importance held for many years, U.S. museums have responded appropriately. In 2011, the Boston Museum of Fine Art deaccessioned a sculpture known as the *Weary Herakles* (taken back to Turkey personally by Erdoğan) after it was shown that the sculpture fitted a base excavated in 1980.<sup>15</sup> In 2011, Turkey insisted that the Pergamon Museum in Germany return a Hittite sphinx that had been in Germany since 1917 or it would terminate a major archaeological project. Germany complied, but Turkey still refused to lend objects for an exhibition until additional items were returned, including a 3,000-year-old sphinx that had been in Germany since 1917.<sup>16</sup>

In an interview with Turkish Culture and Tourism Minister Ömer Çelik in 2013, the Minister acknowledged that claims were being made for objects desired for a new Turkish museum being built in Ankara. Çelik was identified as “a close confidant of [then] Prime Minister Recep Tayyip Erdoğan of the Justice and Development Party (AKP).” He said that a number of archaeological artifacts originating in Turkey were being sought for Ankara's Museum of the Civilizations, planned to open in 2013, including “the sarcophagus from the tomb of Hacı İbrahim Veli, a fisherman statue from Aphrodisias and the prayer niche from the Beyhekim Mosque in Konya. We are also asking for the return of a window frame from the same mosque, and of Iznik tiles from the Piyale Pasha Mosque in Istanbul.”<sup>17</sup>

Although he acknowledged that the prayer niche from Konya had been exported with all the right permits, Çelik stated that regardless, it was improper for a prayer niche, a Muslim artifact, to be in a foreign museum. Asked about pressure being placed on archaeological excavators, he denied that permits were being refused in order to threaten museums, but then said that German excavators were untidy compared to the Japanese. Çelik also held a German archaeologist responsible for a theft by a worker from a site: “In 2010, in Göbekli Tepe, a prehistoric archaeological site in southeastern Anatolia, an 11,500-year-old

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<sup>15</sup> Museum of Fine Arts Boston, *Weary Heracles*, <https://www.mfa.org/collections/provenance/antiquities-and-cultural-property/weary-herakles>

<sup>16</sup> Dan Bilefsky, *Seeking Return of Art, Turkey Jolts Museums*, NY Times, September 30, 2012 <https://www.nytimes.com/2012/10/01/arts/design/turkeys-efforts-to-repatriate-art-alarm-museums.html>

<sup>17</sup> *Museum Wars, Ankara Demands Artifacts from Berlin, Interview with Turkish Culture and Tourism Minister Ömer Çelik*, Spiegel Online, March 14, 2013, <https://www.spiegel.de/international/germany/dispute-heats-up-between-germany-and-turkey-over-contested-artifacts-a-888398.html>

statue was stolen. For the duration of an excavation, the head of the excavation team is responsible for the security of the site and of the artifacts found there. In this case, the person in charge was a German.”<sup>18</sup>

Turkish museums, however, hold thousands of objects from independent nations that were formerly part of the Ottoman Empire, and will not release them. Claims that artworks from Syria, Iraq, and other nations once under Ottoman rule are truly Turkish property resonated in Erdoğan’s government and at Turkey’s Culture Ministry<sup>19</sup> long before most in the West recognized them as part of Erdoğan’s “neo-Ottomanism,”<sup>20</sup> a policy which is now proving a political threat in claims to territory as well as objects.<sup>21</sup>

### **Redefining the colonial past**

Despite Turkey’s claim to objects of ‘Ottoman heritage’, there are popular arguments that returning artifacts long outside of Turkey is a necessary rectification of past wrongs. Along with making discoveries of previously unknown Assyrian, Hittite and Urartian sites in Ottoman lands in the 19<sup>th</sup> century, did British, European, and American archaeologists remove important artifacts, even large sections of monuments? Yes, they did. Were these monuments valued or understood in those regions at the time? No, they were not valued except in how they might be sold to foreign archaeologists and tourists. Would leaving all such artifacts in place have resulted in obtaining the knowledge derived from them in the West? Certainly not during that century; local peasant communities regarded the monumental composite human and animal figures left by ancient civilizations as monsters and demons whose worship was contrary to the tenets of Islam and which should be destroyed.

It is unreasonable to argue that archaeological enterprises of 150-200 years earlier should have anticipated either the internationalist arguments for shared human heritage or the nationalist, anti-colonialist polemics of today. Whether the art and archeological communities like it or not, cultural issues were no more important to governments in the 19<sup>th</sup> century than they are in reality today. Cultural matters are rarely more than a useful distraction or a sideshow in the realpolitik of international relations. They were certainly a sideshow for the Ottoman rulers who had far greater threats to their power to worry about. Even today, cultural heritage is not a major concern, given the Turkish government’s notable lapses in preserving archaeological sites or in adequately funding its own museums. Nonetheless, cultural claims can be a very useful diplomatic argument abroad, just as demanding that remaking Hagia Sofia into a mosque can be a wedge issue in Istanbul city politics in an election cycle.

Preservation of and access to art are too important to be used as bargaining chips in political and diplomatic wrangling, as the U.S. Congress determined in 1983, in its passage of Cultural Property Implementation Act. It is the terms of this law, and this law only, that should determine the recommendation of the Cultural Property Advisory Committee on the Turkish request for import restrictions.

### **The CPIA’s requirements are not met**

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<sup>18</sup> *Id.*

<sup>19</sup> Nick Danforth, *Turkey’s New Maps Are Reclaiming the Ottoman Empire*, Foreign Policy, October 23, 2016, <https://foreignpolicy.com/2016/10/23/turkeys-religious-nationalists-want-ottoman-borders-iraq-Erdoğan/>

<sup>20</sup> Behlul Ozkan, *The Failure of a Neo-Ottoman Foreign Policy*, NY Times, December 7, 2016, <https://www.nytimes.com/2016/12/07/opinion/turkey-ottoman-foreign-policy-iraq-syria-failing.html>

<sup>21</sup> Christina Lin, *Neo-Ottoman Turkey’s ‘String of Pearls’: The Turkish push into northeastern Syria is just the latest evidence of Ankara’s quest to reclaim former Ottoman territories*, Asia Times, October 13, 2019, <https://www.asiatimes.com/2019/10/article/neo-ottoman-turkeys-string-of-pearls/>

Import restrictions may only be applied to archaeological artifacts of “cultural significance” “first discovered within” and “subject to the export control” of a specific UNESCO State Party. 19 U.S.C § 2601. Or to distinctive ethnological materials important to the cultural life of a “non-industrial” society.

These criteria do not match the all-encompassing blanket restrictions sought in the Turkish request. Most of the objects listed in the Turkish request are commercial objects like the trade goods described above, not works of “cultural significance.”

How is cultural significance to be defined when millions of similar objects exist, scattered across continents? If import restrictions are imposed, then objects should only be restricted if they can be explicitly linked to Turkish find spots and shown to be exported after the effective date of the regulations.

Import restrictions must be part of a “concerted international response” “of similar restrictions” of other market nations. Where is there any evidence of an actual market nation for Turkish art and artifacts imposing such extraordinarily broad import restrictions on common articles of trade?

Turkish archaeological sites may be at risk of local pilfering by locals or by the site guards that foreign expeditions are required to hire. Turkish farmers undoubtedly continue to bring long lost artifacts to the surface after rains or when they plow new fields, and the meticulous searches by Turkish customs of persons leaving the country undoubtedly turn up minor objects and coins in the hands of exiting visitors, just as they did in the early 20<sup>th</sup> century.

But it remains true that the two largest seizures of cultural objects in 2017 were of long-playing LPs and 45 rpm records, not artifacts or even common antique coins.<sup>22</sup> The low-level attrition of minor archaeological materials and damage to potential sites should of course be discouraged and protections enforced, but it hardly satisfies the required finding under the CPIA that all of the items for which restriction are sought are the jeopardized cultural patrimony of the UNESCO State Party. 19 U.S.C § 2602.

Import restrictions can only be imposed if less onerous “self-help” measures are tried. 19 U.S.C § 2602. The preservation and self-help activities undertaken by the Turkish government in establishing museums, training a strong cadre of local archaeologists, and enlisting local specialists to review legal exports are commendable. However, Turkish government actions to delay or deny legal rights to religious minorities to their property, to encourage ethnic favoritism, hate speech and prejudice, and to deny the historical reality of the destruction of entire ethnic communities, deliberate starvation, and forced immigration – this is the opposite of the preservation of culture.

The Turkish government has been willing to sacrifice archaeological preservation in the cause of infrastructure development in this year’s filling of the Hasankeyf Valley, covering an estimated 300 historical and archaeological sites with water to create the Ilisu Dam and hydroelectric project. Nor does “self-help” equate the January 2018 Turkish military’s bombing of the most outstanding Syro-Hittite monument ever excavated, the Iron Age temple of ‘Ain Dara, near to the northern Syrian town of Afrin, destroying 60% of the 3000 year old site.<sup>23</sup> Or Turkey’s failure to curb the destruction by its soldiers of ethnic and antique sites as they overran Syrian territory in late 2019... these actions preclude any finding of Turkish compliance with the determinations.

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<sup>22</sup> Leonard Cohen, Anyone? Reporting on illicit Cultural Objects is Deceptive, Cultural Property News, July 31, 2019, <https://culturalpropertynews.org/leonard-cohen-anyone-reporting-on-illicit-cultural-objects-is-deceptive/>

<sup>23</sup> R. Jazaeri/Ghossoun, *Antiquities and Museums Directorate condemns Turkish aggression on archaeological sites in Afrin*, Syrian Arab News Agency, January 28, 2018

Import restrictions must be consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes. Yet Turkey either does not recognize this interest or gives it short shrift when it has threatened to deny archaeological permits if Western museums do not return objects held for many decades, even for over a hundred years. Most importantly, it is not in the interest of the international community when Turkey claims exclusive control over the possessions and religious heritage of dispossessed peoples – Armenians, Greeks, Orthodox and Syriac Christians, Kurds, and Turkey’s once-respected Jewish population. The Public Summary includes hundreds of thousands of objects collected worldwide over the last several hundred years. Yet these objects – even family possessions and objects of religious heritage – could be seized by U.S. Customs on entry, because no limits are placed upon the amount of substantiating documentation of export prior to enactment of an MOU. Even where there is information substantiating export prior to an MOU that should allow for a legal import, U.S. Customs often finds it insufficient.

### **Lack of positive results from MOUs**

Given that import restrictions under the CPIA have been in effect in more than a dozen nations for decades, it is reasonable to ask whether they have had any positive effect whatsoever. There have been reductions in the volume of seizures of illicitly trafficked art and artifacts worldwide, according to the World Customs Organization, despite an acknowledged increasing focus on cultural property crimes and investigations.

However, there is no apparent linkage between a drop in pillaging or illicit traffic and the existence of a U.S.-source nation MOU. Based upon the Public Summary, Turkey’s desire has to do with reclaiming objects that left Turkey long ago – and weakness of the Turkish argument is clearly illustrated in the disjunct between Turkish law in the early 20<sup>th</sup> century, and the open collecting activities illustrated by the memoirs of a U.S. diplomat who shopped openly for virtually every type of commodity listed in the Turkish request in the Istanbul bazaar.

Although the types of items that could be exported with museum permissions was more limited at the end of the 20<sup>th</sup> century than in the 1930s, legal export of ancient ceramics, stone and woodwork from Turkey was still perfectly possible in the 1990s, and 18<sup>th</sup> and 19<sup>th</sup> century rugs and textiles continue to be legally exported today, to this writer’s personal knowledge.

The Committee for Cultural Policy’s research shows that dealer and collector perspectives have changed – but not because of any MOU. These changes result instead from the development of ethical practices. They are based upon the greater importance of provenance, on a refusal to trade in any object that might be associated with the last decade of destruction in the Middle East, and on the increasing due diligence practiced by the majority of dealers and auction houses trading in antique and ethnographic materials.

The legal criteria are not met. The factual basis for the Turkish request is absent. So is any practical argument for an MOU having any positive effect. What we do know is that religious minority communities both in Turkey and in the United States will suffer from the gratuitous granting of import restrictions to a repressive and abusive regime that already claims rights over minority heritage beyond what are allowed under Turkish law.

We ask that the Bureau of Educational and Cultural Affairs and the Cultural Property Advisory Committee follow the criteria under U.S. law, and reject the request from the Republic of Turkey for unnecessary, over-reaching, and legally unjustified import restrictions.

Thank you very much for your attention. I look forward to speaking with you on January 21, 2020.

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