

## **Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art**

### **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

1. 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.

2. 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.

3. 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

1. 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.

2. 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.

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\* Throughout this document, all references to U.S. law mean, for AAMD members outside of the U.S., the laws of their country.

#### 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:

- the work of art is in danger of destruction or deterioration; or
- 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:

- 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
- 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.