

Statement of the Association of Art Museum Directors Concerning the Proposed Extension of the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine and Post-Byzantine Period Ecclesiastical and Ritual Ethnological Materials

Meeting of the Cultural Property Advisory Committee

October 25, 2016

I. Introduction

The Association of Art Museum Directors (the “AAMD”) respectfully submits this statement for consideration by the Cultural Property Advisory Committee (the “Committee”) in connection with the proposed renewal of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine and Post-Byzantine Period Ecclesiastical and Ritual Ethnological Materials* dated July 10, 2012 (the “MOU”). Pursuant to the Cultural Property Implementation Act (the “CPIA”),¹ the Government of the United States of America and the Government of the Republic of Cyprus (“Cyprus”) entered into the MOU in order to protect certain pre-Classical and Classical archaeological objects from the 8th millennium B.C.E. to 330 C.E. and ecclesiastical and ritual ethnological material representing the Byzantine and Post-Byzantine periods ranging from approximately the 4th century C.E. to 1850 C.E. for a period of five years, effective July 16, 2012, subject to interim review by the Committee.

II. Preliminary Statement and Background

Protecting Cyprus’s cultural heritage under the CPIA began with its request for protection due to an “emergency condition.”² On April 12, 1999, the United States imposed emergency import restrictions on “ecclesiastical and ritual ethnological material from Cyprus representing the Byzantine period, ranging in date from approximately the 4th century C.E. through the 15th century C.E.”³ Additional restrictions were imposed July 16, 2002, pursuant to a separate Memorandum of Understanding on “archaeological material from Cyprus representing pre-Classical and Classical periods ranging in date from approximately the 8th millennium B.C.E. to approximately 330 C.E.,”⁴ while the ethnological restrictions were renewed for a period of three

¹ Unless otherwise stated herein, all “Section” references are to the CPIA.

² 11 U.S.C. § 2603.

³ U.S. Customs Service, Department of the Treasury, “Import Restrictions Imposed on Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus,” *Federal Register* 64:69 (April 12, 1999), 17529-17531.

⁴ U.S. Customs Service, Department of the Treasury, “Import Restrictions Imposed on Pre-Classical and Classical Archaeological Material Originating in Cyprus,” *Federal Register* 67:139 (July 19, 2002), 47447-47450. Note: restrictions did not include the designated list of cultural property listed under the 1999 emergency actions.

years effective September 4, 2003.⁵ On August 17, 2006, the Memorandum of Understanding was amended to include Byzantine material previously protected under the expiring emergency restrictions.⁶ On July 16, 2007, the Memorandum of Understanding was amended and extended to 2012, and coins were added as a subcategory of archaeological metal objects. Article II of the MOU that took effect July 16, 2012, was amended to require bi-communal cooperation to combat looting and trafficking of cultural heritage, to provide expanded obligations with respect to loans and opportunities with universities and museums,⁷ and to extend the protection of ecclesiastical and ritual ethnological materials to 1850 C.E.⁸

Cyprus continues to experience political and religious divide, a climate inhibiting the protection of its cultural property and, in some cases, even contributing to damage and destruction. Even the structure of the governing bodies responsible for cultural heritage protection, conservation, education, *etc.* is considered ineffective due largely to the lack of a central governing body. Moreover, educational programs and training opportunities for Cypriots are in short supply. These issues are addressed in more detail below, and raise concerns about Cyprus's overall ability to comply with the MOU.

While the AAMD supports renewal of the MOU, the current state of affairs in Cyprus presents a significant problem for the Committee in recommending renewal. Cyprus's ability or willingness to protect its sites, to police potential looting actively, and to engage in bi-communal cooperation in protecting and preserving cultural heritage, including important sites and immovable property, seems to militate against renewal under the CPIA. The fact that the situation has not improved in the last five years should be self-evident, and raises significant questions as to whether the MOU is having any effect on looting and destruction of cultural heritage in Cyprus. AAMD recommends that the Committee revise MOU Article II in order to set specific, readily measurable benchmarks for Cyprus over the next five years, and establish at a minimum, one, preferably two, Committee sessions in order to review compliance with such benchmarks. If the situation today does not materially improve over the next five years, then the AAMD will be hard pressed to recommend renewal of a proven ineffective MOU.

III. Function and Limitation of the CPIA

Current import restrictions under the MOU are broad and cover a period spanning an incredibly long time frame. Legislative history demonstrates that bilateral agreements permitted under the

⁵ U.S. Customs and Border Protection, Department of Homeland Security, "Extension of Emergency Import Restrictions Imposed on Ethnological Material from Cyprus," *Federal Register* 68:168 (August 29, 2003), 51903-51904.

⁶ U.S. Customs and Border Protection, Department of Homeland Security, "Import Restrictions on Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus," *Federal Register* 71:169 (August 31, 2006), 51724-51726.

⁷ U.S. Customs and Border Protection, Department of Homeland Security and the Department of the Treasury, "Extension of Import Restrictions on Archaeological Objects and Ecclesiastical and Ritual Ethnological Materials from Cyprus," *Federal Register* 77:135 (July 13, 2012), 41266-41270.

⁸ U.S. Customs and Border Protection, Department of Homeland Security and the Department of the Treasury, "Extension of Import Restrictions on Archaeological Objects and Ecclesiastical and Ritual Ethnological Materials from Cyprus: Correction," *Federal Register* 77:148 (August 1, 2012), 45479-45480.

CPIA were intended to apply only to a “narrow range of objects possessing certain characteristics.”⁹ The current MOU includes objects created, in some instances, over a period *in excess of ten thousand years without any limitation* as to archaeological sites, geographical location or cultural identity. In addition, there is no exception for common or repetitive ethnological objects, far surpassing the intent of the CPIA’s framers:

The committee *does not intend* the definition of ethnological materials under this title to apply to trinkets and other objects that are *common or repetitive or essentially alike* in material design, color, or other outstanding characteristics with other objects of the same time, or which have relatively little value for understanding the origins or history of a particular people or society.¹⁰

The intent behind the CPIA is also manifest in the statute: “No object may be considered to be an object of ethnological interest” unless the object is “important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.”¹¹ While arguments could be advanced that any product of an ancient civilization contributes to the history of a people, doing so renders the limitation language of the statute a nullity.

The limitations expressed in the legislative history as well as the CPIA itself were meant to preserve the delicate balance between the United States’ interest in supporting the international market for art, against situations where protection is needed due to jeopardy from the pillage of archaeological or ethnological material. A designated list as broad, undefined, and comprehensive as that of Cyprus certainly raises questions as to whether that balance has been achieved. Just by way of example, “chests and musical instruments” from the 4th century to 1850 C.E. can hardly be argued to describe a “narrow range of objects” or to identify a group of objects of “comparative rarity” or “distinctive characteristics.”¹²

⁹ U.S. Senate Report, 97-564, “Implementing Legislation for the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 97th Congress, Second Session: *Miscellaneous Tariff, Trade, and Customs Matters* (September 1982), 4, providing: “Only the term ‘archaeological or ethnological materials of the State Party’ requires fuller explication here. The Convention does not define this terms (*sic*). The definition is intended by the committee to reflect the understanding of U.S. negotiators that the application of import restrictions under agreements entered into under Section 203 or emergency actions taken under Section 204 is limited to a narrow range of objects possessing certain characteristics.”

¹⁰ *Ibid*, 5 (*emphasis added*).

¹¹ 19 U.S.C. §2601(2)(C)(ii)(II).

¹² See U.S. Customs and Border Protection, Department of Homeland Security and Department of Treasury, “List of Archaeological Objects from Cyprus Representing Pre-Classical and Classical Periods Ranging in Date from Approximately the 8th Millennium B.C.E. to Approximately 440 C.E.,” *Federal Register* 77:135 (July 13, 2012), 41267-41269 and U.S. Customs and Border Protection, Department of Homeland Security and Department of Treasury, “List of Ecclesiastical and Ritual Ethnological Material from Cyprus representing the Byzantine and Post-Byzantine Periods Dating From Approximately the 4th Century C.E. to 1850 C.E.,” *Federal Register* 77:135 (July 13, 2012), 41269-41270.

IV. Executive Summary of AAMD Position

Under the CPIA, the Committee is required to make recommendations as to whether the United States should extend the MOU.¹³ In order to recommend extension, all four determinants for implementing the MOU must be satisfied.¹⁴ While there are questions on a number of those determinants, significant concerns exist about two of them, specifically: (i) measures taken by Cyprus to protect its cultural patrimony,¹⁵ which do not appear to be commensurate with the protection required and (ii) the causal connection between the MOU and deterring a serious situation of pillage, even when applied with any similar restrictions by countries having a significant import trade in Cyprus's cultural patrimony.¹⁶ Unfortunately, Cyprus falls short on both of these determinants.

A. Lack of Bi-Communal Cooperation

One of the main issues contributing to Cyprus's inability to comply with the MOU is that of politics, which continuously creates limitations and barriers to protecting cultural heritage and, in some instances, actually contributes to its damage or destruction. Though it should be acknowledged that the Republic of Cyprus and the Turkish Republic of Northern Cyprus ("TRNC") negotiated an agreement for tourism,¹⁷ and also try to operate within a bi-communal framework, in the few instances of successful projects, a third-party mediator was necessary.¹⁸ MOU Article II(L), however, requires the support of bi-communal activities for cultural preservation on the island. This requirement clearly is not being met, mainly due to the extreme distrust that exists between the Republic and TRNC, particularly with regard to the protection, conservation, and even destruction of cultural heritage sites and objects.¹⁹

One of the ways that the bi-communal model is being violated is with the implementation of undue restrictions on the visitation of certain cultural heritage sites. For example, "Turkish Cypriot authorities on the use of religious premises in the north [are] proposing to grant only one permission per year per site, except for three sites."²⁰ This raises obvious concerns about the right to access cultural heritage. If these sites are restricted, it is "a potentially serious step

¹³ 19 U.S.C. § 2605(f)(2).

¹⁴ 19 U.S.C. §§ 2602(e)(1) and 2605(f)(2).

¹⁵ 19 U.S.C. § 2602(a)(1)(B).

¹⁶ 19 U.S.C. § 2602(a)(1)(C)(i).

¹⁷ Renewed in 2001. "Mevzuattaki Yenilikler/Değişiklikler," *Kültür ve Turizm Bakanlığı, Türkiye Cumhuriyeti*, accessed September 8, 2016, <http://teftis.kulturuzm.gov.tr/TR,14104/kulture-ve-turizm-anlasmalari-dizini.html>.

¹⁸ Müge Şevketoğlu, Riza Tuncel, and Vasif Şahoğlu, "Protecting the Cultural Heritage of Cyprus: International Laws and Concerns," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 3:2 (2015) 141-148; see esp. pp. 144 and 147.

¹⁹ *Ibid*, 143.

²⁰ Karima Bennouna, "Preliminary Conclusions and Observations by the Special Rapporteur in the Field of Cultural Rights at the End of her Visit to Cyprus, 24 May – 2 June 2016," *Office of the High Commissioner of Human Rights, United Nations*, June 2, 2016, accessed September 8, 2016, <http://www.ohchr.org/en/newsevents/pages/displaynews.aspx?newsID=20048&LangID=E>.

backwards from previous already restrictive arrangements.”²¹ Access to cultural heritage should not be discriminatory and should be available for those who want access, as long as it does not endanger the site or otherwise violate any other laws, including cultural heritage laws.

There is a similar problem in the south: “a lot of confusion exists concerning the conditions and procedures to follow in order to gain access” to various sites.²² United Nations Special Rapporteur, Karima Bennoune, who recently visited Cyprus, states “this is particular[ly] striking for ancient monuments that are the shared responsibility of the Department of Antiquities (protecting them as monuments) and of their private owners, such as the Evkaf Foundation or the Church of Cyprus (wishing to use them for religious purposes).”²³ Bennoune cites examples such as Turkish Cypriots driving to an important historical cemetery and, upon arrival, finding it closed, as well as a lack of consultation with Imams regarding visitation hours for mosques located within cultural heritage sites.²⁴

B. Lack of Documentation of Cultural Property and Misuse or Total Destruction of Protected Sites

Marcus Papadopoulos, a publisher and editor of *Politics First*, stated on social media that “Turkey has virtually erased all traces of Greek Cypriot heritage in northern Cyprus.”²⁵ “The damage is grave and in many cases, irreversible. The occupied museums have been looted and so have many private collections of antiquities.”²⁶

Looting and destruction are not confined solely to museums and archaeological sites. Churches “have been vandalized; ecclesiastical icons and vessels stolen, church frescoes and mosaics . . . removed and in many cases . . . traced in Europe’s illegal antiquities trade markets and in auctions around the world.”²⁷

Cultural heritage sites are also misused by both the north and south. In the north, “all the cemeteries lie destroyed and deserted, while the churches have been turned into museums, cultural centres, sports clubs, cafés, tourist accommodations, grain stores, stables and barns, warehouses, theatres, hostels, restaurants, offices, workshops, and military installations” as well as one that is “being used as a mortuary.”²⁸ In the south, mosques are being set ablaze²⁹ and

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Marcus Papadopoulos (@DrMarcusP), December 31, 2015, Twitter.

²⁶ “Continuous Destruction of Cyprus’ Cultural Heritage must Stop, says Omirou,” *Famagusta Gazette*. October 28, 2015, accessed August 31, 2016, <http://famagusta-gazette.com/continuous-destruction-of-cyprus-cultural-heritage-must-stop-says-omirou-p30473-69.htm>.

²⁷ Ibid.

²⁸ His Grace Bishop of Neapolis Porfyrios, “Efforts by the Church of Cyprus Aimed at the Prevention of the Illegal Trafficking of Religious Heritage,” *Protecting the Cultural Heritage of Cyprus: Joining Efforts in Preventing the Illicit Trafficking of Cultural Heritage*, ed. Despina Pilides and Andrew McCarthy (Kailas Printers & Lithographers, Department of Antiquities, Cyprus, 2014), 40.

restorations are completed without consulting the appropriate religious leaders or members of the community.³⁰

Cyprus has become a haven for looters to destroy or take movable cultural property to sell on the illicit antiquities market. According to His Beatitude Chrysostomos II, Archbishop of Nova Justiniana and All Cyprus, "...we must, unfortunately, observe that more than 550 of our religious sites and monuments, churches and monasteries, and, in general, everything we hold sacred, have become victims of the brutal and abominable destruction and looting."³¹ According to the report submitted to UNESCO by the Cypriot government, "reports of looting are relatively frequent especially in specific areas that are rich in archaeological sites (especially tombs) but are more difficult to monitor (due to their secluded geographical position)."³² Eyewitnesses continue to attest to this looting.³³

Destruction and lack of documentation compromise Cyprus's ability to protect and preserve its cultural heritage. This violates the UNESCO Convention³⁴ and MOU Article II(E), indicating that Cyprus does not satisfy the second determinant required in order to extend the MOU under the CPIA.³⁵ Cyprus certainly will argue that it is not responsible for the acts of the TRNC and that the situation in the north cries out for protection under the CPIA. If Cyprus cannot protect cultural property in the north, a volatile situation existing since 1974, then the second determinant is lacking and import restrictions are unavailable under the CPIA. In that event, import restrictions by the United States would require special legislation such as has been done with Syria and Iraq.

C. Cultural Heritage Sites Damaged and Destroyed by Construction and Erosion

²⁹ "Kıbrıs Rum kesiminde cami kundaklandı," *Radikal*, April 16, 2012, accessed August 31, 2016, <http://www.radikal.com.tr/dunya/kibris-rum-kesiminde-cami-kundaklandi-1085105/>.

³⁰ An example of which would be the Armenian Church Complex in the Arabahmet District, which was completed without consultation. See Karima Bennoune.

³¹ "Message from His Beatitude Chrysostomos II, Archbishop of Nova Justiniana and All Cyprus," *Protecting the Cultural Heritage of Cyprus: Joining Efforts in Preventing the Illicit Trafficking of Cultural Heritage*, eds. Despina Pilides and Andrew McCarthy (Kailas Printers & Lithographers, Dept. of Antiquities, Cyprus, 2014), 15.

³² UNESCO, "Cyprus," *Examination of the Report by Member States and Other States Parties on Measures Taken in Application of the Convention*, 2015, accessed August 15, 2016, http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/CYRPUS_REPORT.pdf, specifically p. 10.

³³ For examples, see Sophocles Hadjisavvas, "Perishing Heritage: The Case of the Occupied Part of Cyprus," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 3:2 (2015): 128-140 (especially p. 132, discussing the author's first-hand account of large-scale looting in the necropolis of Agia Irene in Northwest Cyprus). See also UNESCO, "Cyprus," (2015).

³⁴ At the very least, see Article 5.

³⁵ 19 U.S.C. § 2602(a)(1)(B) (requiring a state party to "take[] measures consistent with the Convention to protect its cultural patrimony[.]").

In addition to illicit activity, the looting and plunder of cultural heritage sites can be attributed to increasing illegal construction.³⁶ The failure to control illegal construction is inconsistent with the second determinant and violates MOU Article II:

Recognizing that rapid land development can give rise to pillage, the Government of the Republic of Cyprus will continue to use existing techniques to avoid the destruction of, and continue to enforce vigorously laws concerning damage to, cultural heritage during construction and development activities.³⁷

According to several researchers, “urban expansion is likely to pose one of the most significant threats to the archaeological resources and therefore appropriate measures are needed to mitigate against their destruction without appropriate documentation or investigation.”³⁸

In addition, emergency archaeological measures are needed due to erosion and agricultural activities. Sites are in jeopardy due to erosion from farming activities and, especially in small or remote villages, sites are “neglected and left exposed to vandalism.”³⁹ Professor Peter M. Fisher, head of the Swedish Cyprus Expedition, states that “there is a need for quick action to secure our shared cultural heritage before it is destroyed forever.”⁴⁰ Bronze Age City, Hala Sultan Tekke, is one such site where there is a necessary, but unfortunate, rush to excavate the site due to quick erosion.⁴¹ Some sites are completely overlooked, like the Bellapais Abbey, located three miles to the East of Keryenia. This site is not regulated by authorities, is eroding without any attempts at restoration, and a half-built sewage treatment plant was constructed near the foundation of the Abbey.⁴²

D. Adequate Staffing and Lack of Protection/Enforcement of Laws

Adequate staffing and enforcement of laws are standards that are not being met.⁴³ Not having the appropriate staff at archaeological sites has caused the government to lose income from tourism

³⁶“Bakanlık’tan Karpaz’a Müdahale!” *Haber Kıbrıs*, May 16, 2013, accessed August 31, 2016), <http://haberkibris.com/bakanliktan-karpaza-mudahale-2013-05-16.html>.

³⁷ MOU, Article II(H).

³⁸ A. Agapiou, et. al., “Impact of Urban Sprawl to Cultural Heritage Monuments: The Case Study of Paphos area in Cyprus,” *Journal of Cultural Heritage* (2015); 2 https://www.researchgate.net/publication/272239981_Impact_of_urban_sprawl_to_cultural_heritage_monuments_The_case_study_of_Paphos_area_in_Cyprus (accessed September 1, 2016).

³⁹ Karima Bennoune.

⁴⁰ Philippe Bohstrom, “3,500-year-old grave filled with exotic valuables found in Cyprus,” *Haaretz*, August 3, 2016, accessed September 8, 2016, <http://www.haaretz.com/jewish/archaeology/1.734913>.

⁴¹ Ibid.

⁴² Fatma Kaya, “Gothic Abbey in Northern Cyprus Falling Apart,” *Archaeology News Network* (Balabayisá Aritma Tesisi Yapilamaz, January 12, 2015); <https://archaeologynewsnetwork.blogspot.com/2015/01/gothic-abbey-in-northern-cyprus-in.html#wxPX1S3oadVmyVpX.97> (accessed August 31, 2016).

⁴³ See UNESCO Convention, Articles 5 and 10; MOU Article II(B)-(C).

and left sites vulnerable to looting.⁴⁴ As recently as August 2016, the Mayor of Paphos accused antiquities *staffers* of stealing artifacts from Cypriot museums,⁴⁵ causing Auditor General Odysseas Michaelides to review the claim and determine that the accusations “do not appear to be groundless.”⁴⁶ With respect to the Paphos excavation site, Michaelides concluded that “excavations [are being] conducted in the absence of a supervising archaeologist and without proper recording of items.....”⁴⁷ In reporting to UNESCO on its compliance with the Convention, Cyprus itself stated that the Director of the Department of Antiquities is the only authority to issue permits and must implement a system to monitor every excavation.⁴⁸ This is clearly not being done. In fact, items catalogued from excavation sites are missing. Michaelides also stated that “findings logged by the technician in charge of the Skales dig could not be found at the Palepaphos museum.”⁴⁹

Protecting cultural heritage through enforcing laws, which would include adequate penal consequences, also seems lacking. Stolen antiquities are reported to INTERPOL; however, upon review of the current items outstanding, approximately 116 objects have been reported as missing or stolen from 1974 to the present, which seems to be a significant understatement.⁵⁰ Moreover, “[p]rivate collectors bought Greek Cypriot looted antiquities rather than reporting the looters to the Greek Cypriot police and archaeologists catalogued, legalized, and published the collections of illicit antiquities, rather than reporting the collectors to the police.”⁵¹ Simply put, if a state party is unable or unwilling to implement and enforce its own laws, then *any* MOU—however expansive—will be largely ineffective.

E. Lack of Cohesive Governmental Structures

⁴⁴ “Unsupervised Digs and Illicit Ticket Sales Rampant at Historic Sites,” *Cyprus Mail*, September 23, 2016, accessed September 28, 2016, <http://cyprus-mail.com/2016/09/23/unsupervised-digs-illicit-ticket-sales-rampant-historic-sites/>. Specifically, tickets are being sold for a reduced rate were “unnaturally higher” from one site to the next (*i.e.* 12,7% at Psifidota (Mosaics) vs. 3.6% at Tafi ton Vasileon (Tomb of the Kings)).

⁴⁵ “Cyprus Mayor Accuses Museum Staff of Stealing Antiquities,” *Committee for Cultural Policy* (August 10, 2016); <https://committeeforculturalpolicy.org/cyprus-mayor-accuses-museum-staff-of-stealing-antiquities/> (accessed August 25, 2016).

⁴⁶ “Antiquities Complaints ‘Do Not Appear to be Groundless,’” *In-Cyprus* (September 1, 2016); <http://in-cyprus.com/antiquities-complaints-do-not-appear-to-be-groundless/> (accessed September 2, 2016).

⁴⁷ “Unsupervised Digs and Illicit Ticket Sales Rampant at Historic Sites.”

⁴⁸ UNESCO, “Cyprus,” (2015).

⁴⁹ “Unsupervised Digs and Illicit Ticket Sales Rampant at Historic Sites.”

⁵⁰ It should be noted that cases from 1974 as well as cases from 1984 were reported to Interpol in 1997, with the exception of three objects reported missing in 2009. Moreover, if it is true that only 116 objects are missing or stolen, then such would undermine the professed need for protection under the CPIA, if not obviate it altogether.

⁵¹ “Will Cyprus sell Repatriated Artifacts at Auction?” *Committee for Cultural Property* (April 2015); <https://committeeforculturalpolicy.org/cyprus-will-sell-repatriated-artifacts-at-auction/> (accessed August 25, 2016) (quoting Sam Hardy).

Cyprus is required to take measures consistent with the Convention to protect its cultural patrimony.⁵² Regardless of Cyprus’s intent to comply with this requirement, its ability and execution plainly are lacking. This can be largely attributed to the lack of a central authority in its government, tasked with controlling and protecting cultural heritage, as well as a major lack of funding and documentation—all of which are required under Article II of the MOU.

The lack of a comprehensive approach to cultural protection also gives rise to significant gaps in protection. For example, the site of Kouklia near Paphos suffered damage from vandals and is in need of security. The area is under the purview of the forestry and fisheries department and according to Andreas Constantinou, Secretary of the Paphos Greens, “neither the Department of Antiquities nor UNESCO protects this site, although it is part of the Natura 2000 Programme.”⁵³ According to Bennoune, “an important set of institutions exist to defend and promote culture and cultural heritage,” however “the general structure of the governance in these fields raises a series of challenges and could benefit from being rethought.”⁵⁴ For example, the Department of Antiquities is under the Ministry of Transports, Communications, and Works;⁵⁵ Cultural Services of the Ministry of Education and Culture implements the Convention; Game Fund of the Ministry of the Interior patrols and monitors archaeological sites for illegal activity; and the Department of Customs and Excise of the Ministry of Finance prevents the import/export of cultural property.⁵⁶ Under the circumstances, Bennoune suggests “creating a Ministry of Culture integrating the department of Antiquities and Museums, establishing a Ministry of Cultural Heritage or developing a coordination structure and mechanisms to improve the links between access, preservation and protection of cultural heritage.”⁵⁷

⁵² 19 U.S.C. § 2602(a)(1)(B) (requiring a state party to “take[] measures consistent with the Convention to protect its cultural patrimony[.]”).

⁵³ Bejay Browne, “Aphrodite’s Rock falls victim to Vandalism,” *Cyprus Mail* (May 3, 2014); <http://cyprus-mail.com/2014/05/03/aphrodites-rock-falls-victim-to-vandalism/> (accessed August 31, 2016).

⁵⁴ Karima Bennoune.

⁵⁵ *Ibid.*

⁵⁶ “Cyprus,” *Examination of the Report by Member States and Other States Parties on Measures Taken in Application of the Convention*, UNESCO, 2011, accessed August 15, 2016, http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/cyprus_2010-11natrep_1970_en.pdf.

⁵⁷ Karima Bennoune.

F. Protection and Security, Including the Inventory of Cultural Property and Cultural Heritage Sites are Lacking

Cyprus indicates that a paper inventory is kept, and digitization started in 2009 (but only for ancient monuments). Only recently, however, was a pilot project started to include movable antiquities stored in the Paphos District Museum. While a goal of the project, which is co-funded by the Norwegian Financial Mechanism, is to provide a website the public can access, people will only be able to see a summarized version of ancient monuments and movable antiquities previously published. Researchers may be given full access only after receiving written authorization from the Director of the Department of Antiquities.⁵⁸ This failure to create a digital database of objects, coupled with the anticipated limitations on access, frustrates a requirement of Article II of the MOU: cultural exchange. Without access to information about objects in Cyprus, American museums are hampered in their efforts to find objects for loans to exhibitions.

V. Recommendations

If the Committee determines to recommend extending the MOU for an additional five years, it should do so only with several modifications to Article II and to the Designated List, which, if implemented, will help ensure that the spirit and intent of the Convention and the CPIA are honored.

A. The MOU Should Establish Specific Measures to Streamline Cultural Exchange.

Based on the collective experience and input of AAMD members, there are several areas in which the Committee should improve the MOU in order to better streamline and facilitate cultural exchange with Cyprus. Specifically, Article II of the MOU should be amended to implement the following:

- Publish Objects Available for Exhibition or Long-Term Loans. Provide that Cyprus will establish a centralized database or clearinghouse providing information regarding objects that are available for exhibition or long-term loans.
- Publish Procedures to Request Exhibition or Long-Term Loans. Provide that Cyprus will publish on a website the procedures, contact addresses and requirements for American museums to request exhibition or long-term loans.

B. The MOU Should Establish Specific Measures for the Protection of Cyprus's Cultural Property.

- Database of Stolen and Illegally Exported Objects. Provide that Cyprus will create a database, with images, of objects that have been stolen or illegally

⁵⁸ "Cyprus Archaeological Digitization Programme," *Department of Antiquities: European Projects* (n.d.), accessed August 29, 2016, <http://www.mcw.gov.cy/mcw/DA/DA.nsf/0/1A7BF21DA2D1652DC225750C00228456?OpenDocument> .

exported and make that list available publicly. As it stands, a paper inventory and digitized record of immovable cultural property not available to the public is not useful for purposes of assessing whether an object is stolen or was illegally exported.

C. The MOU Should Help Ensure Progress.

- Readily Measurable Benchmarks. Provide readily measurable benchmarks for Cyprus over the next five years, for purposes of demonstrating its compliance with the MOU, particularly in connection with interim review(s) by the Committee.

D. The Designated List.

As outlined above, the Designated List is too generic and expansive. The list or the objects need to be confined to those that are truly significant and can be demonstrated to come exclusively or predominantly from Cyprus.

VI. Conclusion

There is a perception that MOU's, once implemented, are perpetual and immutable. This is not the intent behind the CPIA. The Committee should scrutinize carefully Cyprus's request to extend the MOU. A reasonable, objective analysis of Cyprus's efforts over the past five years demonstrates that it has not complied with the MOU and, as a result, its cultural patrimony is more in jeopardy today than before the MOU was adopted. If the Committee determines to extend the MOU, it should do so only after implementing the revisions set forth above. Doing so will only increase the effectiveness of the MOU and, in turn, help ensure that the spirit and intent of the Convention and CPIA are honored.

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The AAMD is a professional organization consisting of approximately 240 directors of major art museums throughout the United States, Canada, and Mexico. The purpose of the AAMD 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, acting as an advocate for its member art museums, and being a leader in shaping public discourse about the arts community and the role of art in society.