

Statement of ATADA Concerning the Request for a Memorandum of Understanding Between the
Government of the United States of America and the Government of Algeria
Meeting of the Cultural Property Advisory Committee, July 31, 2018

ATADA, an organization representing art dealers, private collectors, and museums of ethnographic and tribal art, respectfully submits this statement for consideration by the Cultural Property Advisory Committee (CPAC) in connection with the proposed Memorandum of Understanding Between the Government of the United States of America and the Government of Algeria.

ATADA condemns all looting of monuments and archaeological sites. ATADA supports safe harbor for art and artifacts at risk, a lawful, secure market. ATADA recognizes that the global circulation of art and antiquities enables preservation, scholarship, and access to the history of humankind for a world audience.

ATADA supports the Congressionally mandated application of the 1983 Cultural Property Implementation Act (CPIA). ATADA objects to the fact that the actual text of the request by the Government of Algeria (Algerian Request) has not been published; a publicly available statement of the Algerian Request is necessary in order to determine whether the request actually meets the criteria set by Congress in the CPIA.

As summarized by the U.S. Department of State, the Algerian Request fails to meet the criteria set by Congress for an agreement under the CPIA.

ATADA therefore objects to the granting of any Memorandum of Understanding between the governments of the United States and of Algeria.

The Criteria Required by Law

When Congress passed the Cultural Property Implementation Act (CPIA) in 1983, it listed specific criteria which the Cultural Property Advisory Committee need to find were true in order to recommend that the U.S. place import restriction on objects from a requesting country:

1. The cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party.
2. The State Party has taken measures to protect its cultural patrimony.
3. The application of the requested import restriction if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by nations with a significant import trade in the designated objects, would be of substantial benefit in deterring a serious situation of pillage, and other remedies are not available.
4. The application of the import restrictions is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.¹

¹ 19 U.S.C. § 2602(a)(1)(A-D)

The Legal Criteria Are Not Met for Jewish Community Art and Artifacts

Algeria has requested to join the company of Middle Eastern nations with cultural property agreements with the U.S. that gives it control and rights of ownership of Christian and Jewish individual and community property. This property was left behind when Algeria's Christian and Jewish citizens were driven from the country in the 1950s and 1960s, in a brutal expulsion of over a million civilians. Approximately 130,000 Algerian Jews fled to France in the mid-twentieth century, along with 900,000 mostly Catholic Christian descendants of French settlers of Algeria.²

Syria, Iraq, Algeria, and Egypt already have comprehensive agreements with the U.S. restricting import of all artistic and cultural goods over thousands of years. The Algerian Summary does not specifically define the scope and duration of the period, but it references "Ottoman" objects and a virtually all-inclusive description of the types of objects that the Algerian government considers cultural patrimony. Ottoman is a very broad political term that could cover objects, including the personal possessions of Algerians, up to 1912.

The Jewish communities of the United States of Middle Eastern and North African heritage are deeply concerned about this pattern of import restrictions already established with Middle Eastern nations – Iraq, Syria, Libya, and Egypt – that include Jewish objects, from Torahs, marriage documents, and religious implements to clothing, jewelry, and household goods. They object to the State Department's promotion of agreements that legitimize the confiscation of Jewish property.

It would be extremely regrettable if the U.S. executed yet another agreement with an Arab nation that recognized its government's ownership rights and control of all cultural and religious artifacts—at the expense of the ownership rights and basic human rights of individuals in minority religious and tribal communities. The abuses of minority rights that the U.S. has effectively sanctioned in other Arab nations should not be repeated in Algeria.

Algeria, an extremist Muslim nation, has failed to protect the heritage of its former Jewish and Christian citizens. The Great Synagogue in Oran, Algeria was turned into a mosque, the Abdallah Ibn Salam Mosque. Likewise, the Great Synagogue in Algiers, partially burned in the 1960s, was also turned into the Abu Farès Mosque. Synagogues and cemeteries in other Algerian towns, have been abandoned to neglect,³ and Jewish pilgrims have been barred from visiting Algerian holy sites.⁴ Catholic religious institutions have been neglected for decades, and a Catholic church was recently destroyed in Sidi Moussa in 2017.⁵

² *Pied Noir*, <https://en.wikipedia.org/wiki/Pied-Noir>

³ Cemetery in Ghardaya, Algeria, <http://archive.diarna.org/site/detail/public/116/>.

⁴ Reem Hayat Chayef, Tlemcen, "*The Jewish Holy Land of North Africa*," *Raseef*, (April 24, 2017) <https://raseef22.com/en/life/2017/04/24/tlemcen-algeria-jewish-holy-land-north-africa/>

⁵ Statement of the Association of Art Museum Directors concerning the Request by the Government of the People's Democratic Republic of Algeria to the Government of the United States of America for the Imposition of Import Restrictions to Protect its Cultural Patrimony under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 4, <https://www.regulations.gov/contentStreamer?documentId=DOS-2018-0022-0018&attachmentNumber=1&contentType=pdf>, citing to Kamel Abderrahmani, "Church Demolition Near Algiers to Make Room for a Mosque Highlight's Islamism's Hypocrisy," *Asia News* (June 13, 2017),

The Legal Criteria Are Not Met for Tuareg/Berber Art and Artifacts

Algeria also seeks restrictions on the import of Tuareg/Berber materials. Such restrictions would be extremely harmful to U.S. small businesses dealing in tribal art and artifacts. These goods, which are created and used by the nomadic Tuareg are household goods and decorative garments, bags, and jewelry that is subject to ordinary wear and tear and much hard usage. Because of this hard usage, there is very little Tuareg material culture remaining anywhere in Africa that is older than the late nineteenth century. These objects are not suitable by any measure for import restrictions under the Cultural Property Implementation Act.

Traditionally, Tuareg/Berber material culture consists of humble objects, made from stone, metal, ceramic and clay, wood, bone and ivory, glass, textile, basketry and rope, leather and parchment, and may include some decorative writing. They are by definition ordinary household goods, costume, and jewelry and are neither rare nor significant. This element of the Algerian Request in no respect comports with Congress' criteria for restrictions on ethnographic materials of particular meaning to a pre-industrial community.

The Tuareg are traditionally a nomadic people of Berber descent, whose communities are found today within the borders of eight African and North African states and who travel frequently between them.

Niger: approximately 2 million⁶

Mali: approximately 0.5 million⁷

Burkina Faso: 370,738⁸

Algeria: 25,000–150,000 (1987)

Libya: 20,000 (1993)⁹

Morocco: 4,500 (1984) (nomadic)

Tunisia: 2,000 (1987) (nomadic)

Mauritania: estimated 100,000¹⁰

The Tuareg are traders by occupation, and the castes of artisans (blacksmiths, jewelers, etc.) have made and traded Tuareg goods to other Tuareg and to their Hausa, Falani (Wadabe) and other Saharan neighbors as a business for as long as there has been documentation of the Tuareg lifestyle, starting in the

<http://www.asianews.it/news-en/Church-demolition-near-Algiers-to-make-room-for-a-mosque-highlights-Islamism%E2%80%99s-hypocrisy-41008.html>.

⁶ *The World Factbook*. Central Intelligence Agency. Retrieved 2016-10-08., Niger: 11% of 18.6 million.

⁷ *Pascal James Imperato; Gavin H. Imperato (2008). Historical Dictionary of Mali. Scarecrow. p. lxxvii. ISBN 978-0-8108-6402-3.*, Tuareg: 3% [of total Mali's 17.1 million population].

⁸ *"The World Factbook"*. Central Intelligence Agency. Retrieved 2016-10-08., Burkina Faso: 1.9% of 19.5 million.

⁹ https://en.wikipedia.org/wiki/Tuareg_people; see also: https://joshuaproject.net/people_groups/15608/LY, both last visited 07/08/2017

¹⁰ <https://www.csmonitor.com/World/2012/0802/In-Mauritanian-refugee-camp-Mali-s-Tuaregs-regroup>, and https://joshuaproject.net/people_groups/15607/MR, both last visited 07/08/2017.

late 19th century. Since the 1960s, Tuareg folk art and crafts have been popular in Europe, the UK, and the US.

Interviews with art dealers active from 1970-2005 establish that the primary sellers of Tuareg art are of Tuareg ethnicity and the primary source countries for Tuareg materials are Niger, Mali, and Mauritania.¹¹

The collections of ethnographic museums beginning in the 1930s and 1940s show that Tuareg materials have been widely collected throughout the 20th century. The proliferation of galleries and shops selling Tuareg handicrafts and its regular appearance at international folk art markets make clear that there has been an active non-African market for old, new, and antique Tuareg goods for the last 100 years.

Tuareg ethnographic materials are common, repetitive, and difficult to date. There is little or no difference between late 19th century Tuareg items and items made today. Comparing the materials collected (as old) by European museums in the 1930s and 1940s, Kristyne Loughran, writing in "The Art of Being Tuareg," Thomas Seligman and Kristyne Loughran, Eds. stated that, "*Many of the forms they described in the past [19th century] still exist today, though some of the objects have become rare or are no longer used.*"¹²

A few changes have taken place in the creation of items for the market, but only in the last 30-40 years, which is irrelevant for purposes of the MOU. Jewelry is the most popular Tuareg good in the market. Seligman states that the "classical jewelry repertoire has remained remarkably stable over time."¹³ The traditional metal for Tuareg jewelry was a nickel/copper/zinc alloy (called "German silver" in the market, and "*kobo*" among the Tuareg) but coin silver was also used. About 45 years ago, sterling silver began to be used for jewelry, but *kobo* continues to be popular. Only in the last 20 years have there been dramatic changes in Tuareg jewelry design; it is often more delicate and less "tribal" in appearance than the fully traditional jewelry of the 1970s and 1980s. Therefore, while very recently made jewelry can often be identified as new, there are no distinguishing features to differentiate between a 40-100-year-old item and a 150-year-old one.

Conclusion

The Algerian request does not distinguish between items of importance and items that are common, repetitive, and that are found in any antique shop in Algiers, such as Ottoman period and earlier Islamic artworks, Tuareg/Berber materials, and the artifacts of the now-exiled Jewish communities of Algeria. However, it calls for a U.S. embargo against them all.

There is not a significant market for Algerian antiquities in the U.S. and the folk crafts made by the Tuareg and Berber that are sold here are in no wise cultural heritage at risk.

¹¹ Interview by Kate Fitz Gibbon with Alan Suits and Anne Lehman, in Santa Fe, NM, 07/09/2017.

¹² "The Art of Being Tuareg," Thomas K. Seligman and Kristyne Loughran, Eds., UCLA Fowler Museum (February 2006)

¹³ Id., p. 178.

The failure to establish any need, justification, or means of enforcing a listing of Tuareg/Berber material, which was made for trade, and for which there is no evidence of looting, is clear; Tuareg/Berber materials have no legitimate place on a list of restricted materials from Algeria.

The claim of the Algerian government to the cultural heritage of the Jewish and Christian communities which it expelled in the mid-twentieth century is equally unsupportable.

Algeria has not taken the self-help measures required under the CPIA. It appears to be allowing archaeological sites, monuments, including the most famous World Heritage sites in Algeria, such as the Kasbah of Algiers, Timgad, Tipasa, and Tassili n'Ajjer to be neglected.

There has not been a traveling exhibition from Algeria to the U.S. of its covered cultural heritage, period. This is the most minimal threshold for meeting the requirement that import restrictions would still be in the interest of the international community in the interchange of cultural property among nations.

On every count, the Algerian request fails the statutory requirements under U.S. law. The failure of the Algerian government to meet these Congressionally mandated criteria for import restrictions on art and artifacts from its religious and tribal minorities is all that is needed to reject Algeria's request for import restrictions.

ATADA urges the Cultural Property Advisory Committee to reject the Algerian request and to seek out alternative means of assisting the Algerian government where it needs help most, in training professional museum and heritage personnel. The U.S. should encourage Algeria to create long term loan exhibitions with the cooperation of U.S. museums in order to familiarize American with the beauties of Algerian culture and to encourage tourism, a top goal of the Algerian government. And the U.S. should demand that before Algeria seeks import restrictions on the cultural goods of religious and tribal minorities, it should act responsibly to protect and maintain those communities' cultural heritage within Algeria and reach out to begin a cultural dialog that will benefit all.

Sincerely,

John Molloy
President, ATADA