

Committee for Cultural Policy and Global Heritage Alliance
Submitted to the Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, U.S. Department of State, on the Request for a Memorandum of Understanding (MOU) and Import Restrictions from the Socialist Republic of Vietnam

The Committee for Cultural Policy¹ and Global Heritage Alliance² jointly submit this testimony on the proposed Memorandum of Understanding (MOU) and the imposition of import restrictions between the United States and the Socialist Republic of Vietnam.

Introduction

“Giá trị di sản: ‘Át chủ bài’ trong chiến lược phát triển du lịch”,
translates “Heritage value: ‘The trump card’ in tourism development strategy”³



Central Imperial Citadel of Thang Long - Hanoi, courtesy UNESCO.

Vietnam is seeking U.S. import restrictions on archaeological and ethnological materials from Vietnam for a period of approximately seventy-seven thousand years, from the Paleolithic to 1945. The request for restrictions covers virtually every object made by human hands, including objects made from gold, silver, ceramic, stone, metal, copper, bronze, iron, bone, horn, ivory,

¹ 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 scholarship, excavation and site protection. CCP deplores 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. Committee for Cultural Policy, POB 4881, Santa Fe, NM 87502. www.culturalpropertynews.org, info@culturalpropertynews.org.

² 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 18th Street, N.W. Suite 204, Washington, D.C. 20036. <http://global-heritage.org/>

³ “Giá trị di sản: ‘Át chủ bài’ trong chiến lược phát triển du lịch” [Heritage value: ‘The trump card’ in tourism development strategy] (in Vietnamese). Vietnamese Studies Department of Hanoi National University of Education.

gems, silk and textiles; lacquerware and wood; bamboo and paper; glass; coins; and painting and calligraphy.

Vietnam's government espouses Marxism/Leninism and Hồ Chí Minh Thought. At the same time, Vietnam has allowed wealthy citizens to build private museums – filled with goods the U.S. would not be able to import – and turned temples and sacred spots into tourist havens.

Vietnam's government's motives in seeking import restriction can be seen as both politically and economically grounded. It seeks the domestic support of its people, who are proud of a lengthy imperial history and the perception of U.S. blessings on its government, rather than preservation of heritage, which is clearly not at risk. And it seeks to exploit its cultural riches for the development of tourism.

This comes at a cost to U.S. citizens. Should Vietnam's socialist government have exclusive access to traditional culture when it is denied to Vietnamese-American citizens who escaped Vietnam and want to see its history honored in American museums?



Hoi An, courtesy UNESCO.

Legal Antiques and Antiquities Sales Within Vietnam

While Vietnam is seeking a U.S. blockade on imports in order to “protect” Vietnamese sites, it promotes rather than attempting to stifle local collecting within Vietnam. Enthusiasm for collecting and showcasing Vietnam's history – not current threats to sites or monuments – is a major factor leading to policies restricting the export of antiquities and appeals for the return of items held abroad, including those in foreign collections and auction houses.

Vietnam's government is aggressively pursuing the repatriation of cultural artifacts dating up to 1945, demanding restrictions on U.S. imports of these items as part of its broader efforts to preserve national heritage. At the very same time, within Vietnam, a thriving domestic trade in antiques, exemplified by the bustling market in Hải Minh Commune, highlights a contrasting dynamic. This dual approach raises serious questions about whether ‘preservation’ is really the issue. If Vietnamese in Vietnam can purchase antiques and antiquities, why not American

museums, given their importance in guaranteeing access to Vietnamese artifacts for all people, and particularly Vietnamese Americans in the diaspora.

Vietnam's contrasting approaches to artifact access highlight a tension between cultural preservation and inclusivity. Its thriving domestic market also underscores a paradox: the nation's cultural treasures are readily accessible to those within Vietnam, while the diaspora faces barriers to engaging with their heritage in meaningful ways.

Import restrictions would effectively prioritize the consolidation of artifacts within Vietnam over access for the global Vietnamese diaspora, not heritage protection. Meanwhile, Vietnamese citizens face no such restrictions on acquisition under laws that permit and recognize private ownership, enjoying an open and dynamic market where they can buy, sell, and trade historical items freely.



Busy antique market days in Hai Minh Commune Vietnam.

A Thriving Antiques Industry at Home

Ironically, within Vietnam, the antique trade flourishes unrestricted. Hải Minh Commune in Hải Hậu District is a prime example, where a vibrant antique market allows collectors to freely trade items from various dynasties, including the Nguyễn Dynasty (1802–1945). Dealers travel domestically and internationally to acquire rare artifacts, contributing to a robust local industry. Families in Hải Minh have been known as traders in antiques and antiquities for generations. The market is supported by repairers, appraisers, and traders who ensure the continued circulation of antiques within Vietnam. Auctions and exhibitions organized by local associations also bolster the trade.

It has been a lucrative endeavor for the traders. An antique store owner, Sao Huy, told interviewer Ngô Đức Mạnh, “From the junk trade, Hải Minh antiques enthusiasts could buy antiques from the public at the same price as old scraps, the profit can be 10-20 times the capital

spent, or even more. That’s why, many antique dealers became billionaires after just a few years in the trade.”⁴

The Fine Arts Museum in Ho Chi Minh City rents its exhibition space to private collectors. This practice lends an air of credibility and legitimacy to the artworks displayed, as they are showcased in Vietnam’s most prominent museum in its largest city. These displays have featured numerous artworks held by Vietnamese private collectors that are – or in the case one of notorious 2017 exhibition, purport to be by 20th century artists whose paintings would be prohibited from import into the United States under the restrictions sought by the Vietnamese government.⁵

Even the country’s most important cultural institution, the Museum of Fine Arts in Hanoi, has struggled to determine which of its prized paintings are authentic and which are replicas. During the Vietnam War in the late 1960s, museum officials removed hundreds of artworks from their collection to protect them in case Hanoi was bombed by the United States. They also commissioned replicas to replace the originals on display. Over time, the originals disappeared, the copies were passed off as authentic, and the distinction between the two was lost. When asked whether the museum has since tried to resolve this issue, its director, Nguyen Anh Minh, responded only with a smile. Further complicating the situation, some relatives of prominent artists have been known to certify copies as originals to sell them at higher prices, exacerbating the confusion in Vietnam’s art market.

Adding 19th and 20th century artworks to a Designated List in Vietnams Request for an MOU does not seem reasonable when even the country’s chief museum declines to say whether artworks in its own collection are authentic.



⁴ Ngô Đức Mạnh, Antiques hunters are flocking to Nam Định City’s Hải Minh Commune hoping to find good deals on the nation’s finest ancient artefacts, March 10, 2024, Viet Nam News, <https://vietnamnews.vn/sunday/1651586/the-antique-hunters-of-hai-minh-commune.html>

⁵ Richard C. Paddock, Vietnamese Art Has Never Been More Popular. But the Market Is Full of Fakes, New York Times, August 12, 2017, <https://www.nytimes.com/2017/08/11/arts/design/vietnamese-art-has-never-been-more-popular-but-the-market-is-full-of-fakes.html>

Private Collections of the Same Objects Forbidden Export

At the same time, private collectors and museum initiatives, including two newly inaugurated museums in Ho Chi Minh City, are evidence that Vietnam’s government will allow its citizens to collect formerly forbidden riches – while denying Americans access to the same objects.

The most prominent example of Vietnamese private collectors going public is the opening of famous Vietnamese collector Do Hung’s private museums in Ho Chi Minh City:

Nguyen Dynasty Artifacts Museum: This museum displays royal antiques, such as clothing, jewelry, and items used by the Nguyen royal family, many of which were sourced through international auctions.

Vietnam’s 54 Ethnic Groups Jewelry Museum: This museum showcases jewelry and artifacts from Vietnam’s diverse ethnic groups, some dating back over 2,500 years.

These well-designed, sophisticated museums also offer educational and interactive experiences, such as the chance for visitors to wear Nguyen Dynasty costumes or explore cultural exhibits from Vietnam’s ethnic minorities. While the government negotiates repatriation abroad, the museums showcase private wealth as well as Vietnamese history.

Heritage Sites – Vietnam’s ‘trump card’ in tourism development strategy



My Son Sanctuary, courtesy UNESCO.

Vietnam’s World Heritage sites are a driving force behind the growth of tourism in the country. Vietnam, a signatory to the UNESCO World Heritage Convention since 1987, has developed a thriving tourist industry around its UNESCO World Heritage Sites. According to Vietnam’s Ministry of Culture, Sports and Tourism, Tràng An was the most popular World Heritage Site in Vietnam, with more than six million visitors.⁶ The UNESCO World Heritage Sites are:

⁶ Minh Huyền (9 January 2020). “Số lượng khách du lịch tham quan 8 di sản thế giới tại Việt Nam tăng mạnh” [The number of tourists visiting 8 world heritage sites in Vietnam has increased sharply]. *Tổ Quốc* (in Vietnamese). Ministry of Culture, Sports and Tourism, and *Giá trị di sản: ‘Át chủ bài’ trong chiến lược phát triển du*

1. Complex of Huế Monuments (1993) Palaces, temples, and tombs of the Nguyễn Dynasty.
2. Hội An (1999) A well-preserved trading port dating back to the 15th century.
3. Mỹ Sơn Sanctuary (1999) A cluster of Hindu temples from the 4th to 14th centuries Champa Kingdom.
4. Central Sector of the Imperial Citadel of Thăng Long – Hà Nội (2010) The ancient political center of Vietnam, built during the Lý Dynasty.
5. Citadel of the Hồ Dynasty (2011) Constructed in the late 14th century, a citadel blending traditional Vietnamese, Southeast Asian and Chinese influences.
6. Hạ Long Bay (1994, extended in 2000) Renowned for its stunning limestone karsts and islands, Hạ Long Bay and Hội An attract millions of international visitors annually.
7. Phong Nha – Kẻ Bàng National Park (2003, extended in 2015) A karst landscape with some of the world's largest caves.
8. Tràng An Scenic Landscape Complex (2014) Vietnam's first mixed cultural and natural site, celebrated for its dramatic karst landscapes, ancient temples, and archaeological evidence of human activity dating back thousands of years.

In addition to its eight recognized sites, Vietnam has seven properties on UNESCO's tentative list, signaling the country's drive to compete with other tourist venues for the most global recognition. Vietnam's goal in seeking an MOU with the U.S. is not to protect threatened archaeological sites from a busy U.S. market, because there is not significant market. Instead, an MOU is seen as a means of bettering its relationship with the U.S. State Department, giving 'cultural heritage prestige' sheen to a government aware of its deservedly poor human, religious, and civil rights reputation, and ensuring the expansion of the country's tourist business through expanded repatriation claims.

Vietnam's repatriation campaign – seeking relics of a past it often dismisses.

The Vietnamese government's new campaign to repatriate artifacts also stems from the recognition that many significant cultural relics were removed from the country (primarily by French colonists and wealthy Vietnamese) during colonial and wartime periods. France has long declined to return Southeast Asian artifacts collected in French Indochina during the period of empire and currently held in major national museums, the most outstanding being in the Musée Guimet in Paris.

Artifacts from the Nguyen Dynasty (1802–1945), are much sought after today in Vietnam as they represent nostalgia for Vietnam's last imperial era, before the country's wartime sufferings. Ancient and antique artifacts from Buddhist culture are demanded back from the West, but

lịch" [Heritage value: 'The trump card' in tourism development strategy] (in Vietnamese). Vietnamese Studies Department of Hanoi National University of Education.

practitioners are still suppressed unless they toe a narrow government line. Together with civil society organizations, they are subject to frequent crackdowns, interference in churches' internal affairs, regular questioning by police and threats. Despite Buddhist and other religious artifacts being called 'irreplaceable treasures,' the religions they represent are subject to serious repression. This does not comport with Vietnamese claims that religious and other artifacts valorizing Vietnam's past should be returned to its government.

Religious repression parallels repatriation demands.

While seeking to bring home objects once venerated as religious icons, Vietnam's government continues to apply pressure on religious activities within Vietnam. As stated in the latest 2022 Report in International Religious Freedom: Vietnam:

The U.S. Ambassador, the Consul General in Ho Chi Minh City, other senior U.S. embassy and consulate general officials, and the U.S. Ambassador at Large for International Religious Freedom regularly urged authorities to allow all religious groups to operate freely. They sought reduced levels of government intervention in the affairs of recognized and registered religious groups and urged an end to restrictions on, and harassment of, groups lacking recognition or registration. They stressed to government officials that progress on religious freedom and human rights was critical to an improved bilateral relationship. They advocated religious freedom in visits across the country, including to the Northwest Highlands, Mekong River Delta, and Central Vietnam. With the Government Committee on Religious Affairs (GCRA), the Ministry of Foreign Affairs, the Ministry of Public Security, and provincial and local authorities, U.S. government officials raised specific cases of abuses, as well as of government harassment, against Catholics, Protestant groups including independent Pentecostal groups, the UBCV, independent Hoa Hao groups, independent Cao Dai groups, and ethnic minority house churches such as the Duong Van Minh group.⁷

In July 2022 authorities sentenced six members of a Zen Hermitage to 3-5 year prison sentences for "abusing democratic freedoms." Members of the Zen Hermitage reported that community members had DNA samples taken forcibly and a nun was given a forced gynecological exam by a male doctor.⁸

Despite its position as the largest religious group in Vietnam, Buddhist organization membership is declining:

The [Vietnamese government] census, which recorded only Buddhists formally registered with the Vietnam Buddhist Sangha (VBS), showed them as the second largest religious group, accounting for five million followers, or 35 percent of the total number of religious

⁷ U.S. Department of State, 2022 Report in International Religious Freedom: Vietnam, <https://www.state.gov/reports/2022-report-on-international-religious-freedom/vietnam/>

⁸ *Id.*

adherents nationwide, and 5 percent of the overall population. . . . According to observers, many religious adherents chose not to make their religious affiliation public for fear of adverse consequences, resulting in substantial discrepancies among various estimates.⁹

Issues in Vietnamese cultural heritage law.

Although Vietnam has just adopted a new law on cultural heritage to take effect in July 2025, a look at their history shows much uncertainty and conflicting perspectives on the value of the past – and on government’s role in regulating heritage. Vietnam’s government historically lacked comprehensive regulation of the trade in antiquities, which contributed in the past to illicit trading, and the loss of cultural artifacts. As noted above, many Vietnamese antiquities were taken abroad during the French colonial period, when researchers brought artifacts back to their country with the full blessing of the colonial government.

Several problems have been identified in this context by researcher Nguyen Le Uyen Phuong in a recent case study, a number of them related to the fact that trade in artifacts frequently takes place inside Vietnam, private ownership and private museums is accepted both socially and legally, and legal and illegal trade often cannot be distinguished. Altogether this is not a positive basis for negotiation, nor do the facts support the signing of a cultural property agreement under the Four Determinations:

1. **Lack of Legislative Framework:** Vietnam’s Cultural Heritage Protection Law is inadequate in managing the collection, trade, and ownership of artifacts. The absence of clear regulations has left the trade in antiquities vulnerable to exploitation.
2. **Low Public Awareness:** Many individuals, particularly in rural areas, fail to recognize the cultural significance of artifacts. Some view found artifacts as opportunities for personal profit, selling them to private entities instead of offering them to the government.
3. **Weak Management and Vision:** Government agencies and departments responsible for cultural heritage protection lack the expertise and foresight needed to prevent commercialization and exploitation of cultural assets. This has led to mismanagement and environmental damage in heritage-tourism projects.
4. **Illicit Trade and Provenance Issues:** Theft and illicit trading are widespread, with private collectors and traders often acquiring artifacts through informal or illegal channels. Determining the provenance of artifacts on the market is challenging, complicating efforts to distinguish legal from illegal trade.
5. **International Collaboration Challenges:** Vietnam faces difficulties in collaborating with other countries to retrieve stolen artifacts. A lack of international cooperation and information about artifacts in foreign collections has hindered repatriation efforts.

⁹ *Id.*

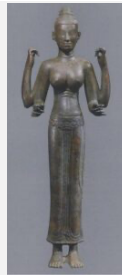
6. Impact on Museum Collections: Private collectors sometimes hold better collections of artifacts than national museums, reflecting inadequacies in state acquisition and preservation of heritage items.¹⁰

Overall, Vietnam's insufficient regulation and public awareness, coupled with poor management and limited international collaboration, have hindered effective protection of its cultural heritage.

The 2025 law does not even come into effect until July. It introduces categories of cultural heritage by ownership type, including all-people ownership, common ownership, and private ownership and outlines state policies for protecting and promoting the values of cultural heritage.¹¹

According to its terms, the new law will establish a comprehensive legal framework for the use and exploitation of cultural heritage, creating a national database, supporting digital transformation, and encouraging social resources for heritage protection and promotion. It specifies cases and principles for adjusting the protection boundaries of relics, world heritage sites, and buffer zones, as well as the authority to make such adjustments. It sets forth the rights, obligations, and responsibilities of organizations, individuals, and agencies in managing and promoting cultural heritage.¹²

A looted artifact returned to Vietnam in 2022



Bronze statue of Goddess Durga, Photo US DOJ.

One major looted artifact has been returned to Vietnam - but not from the U.S. A bronze statue of the four-armed Goddess Durga, dating back to the 7th century, was officially returned to Vietnam

¹⁰ Nguyen Le Uyen Phuong, Vietnam's Cultural Heritage Protection Laws (1900-2023) and Their Pros & Cons From the Position of Vietnam's New Generation: Case Studies, Cultural Heritage Law in Asia, *GDAŃSKIE STUDIA AZJI WSCHODNIEJ* 2024/25, ORCID: 0009-0002-2857-1326
DOI: 10.4467/23538724GS.24.014.19875. The author is a law student, previously at University West, Sweden, in 2023/2024 ERASMUS student at the Faculty of Law and Administration, University of Gdańsk,

¹¹ 'Passing the revised Law on Cultural Heritage: Adding a legal corridor to protect heritage,' Vietnam Plus, 11/24/2024, <https://www.vietnam.vn/thong-qua-luat-di-san-van-hoa-sua-doi-them-hanh-lang-phap-ly-de-bao-ve-di-san> and 'Revised Law of Cultural Heritage Passed, focusing on repatriation of national antiques,' Vietnam Law & Legal Forum, 01/10/2025, <https://vietnamlawmagazine.vn/revised-law-on-cultural-heritage-passed-focusing-on-repatriation-of-national-antiques-73344.html>.

¹² *Id.*

in a ceremony held in London this week. The artifact, recognized by UNESCO as part of the cultural heritage of the Mỹ Sơn Sanctuary in Quảng Nam Province, had been looted in 2008. The statue has belonged to the late Thai-UK citizen Douglas Latchford who was not alleged to have smuggled it, but to have purchased it in Europe with illicitly gotten funds.

The return of the nearly 250-kilogram, two-meter-long statue was the result of the lengthy investigation into Latchford's activities by U.S. Homeland Security Investigations (HSI), in collaboration with London's Metropolitan Police. Following Latchford's passing in 2020, a settlement agreement resulted in the return of over 125 artifacts and \$12 million, including the Goddess Durga statue. Latchford's daughter agreed to repatriate the statue as part of this resolution.

It should be noted that regardless of his ill-doings, Latchford was not an American but a Thai-British expatriate and owner of a major pharmaceutical company in Bangkok. Although Latchford is known as the most noted trafficker of Southeast Asian artifacts (as well as a recipient of a knighthood from the Cambodian government for bringing artifacts back to the country), it is incorrect to state that this was looting taking place today for an 'American' market.



Among the least noteworthy items that the U.S. has returned to Vietnam, were ten items, including a stone axe and relics from the Dong Son culture, dating from 1000 BCE to the first century CE. The Vietnamese Embassy in the U.S. worked with the FBI to facilitate the return of these objects, deemed cultural treasures in the press.¹³

These Vietnamese objects were seized ten years ago from Donald Miller, a 91 year old missionary, was a passionate collector and amateur archaeologist. Alongside his wife, he supported charitable activities and missionary work, building churches in countries like Colombia and Haiti.

¹³ Museum to receive artifacts returned by U.S., Vietnam Plus, November 16, 2022, <https://en.vietnamplus.vn/museum-to-receive-artifacts-returned-by-us-post243956.vnp>

Over eight decades, the Millers amassed a vast collection of artifacts from over 200 countries, which they proudly displayed in a homemade museum in their Indiana home. The collection included items from World War II, Native American cultures, and various international artifacts, many of which were acquired during their missionary travels and personal excavations.

Even after the raid, FBI spokesmen did not allege that any law had been violated but stated that they were carefully assessing the objects to determine if they were unlawfully possessed. In 2014, retired FBI agent Virginia Curry called the raid, “an embarrassing and unnecessary show of force by the FBI.”¹⁴ This seizure is hardly an example of a significant U.S. market for looted Vietnamese antiquities.

The Four Determinations

Under the aegis of the State Department’s Bureau of Educational and Cultural Affairs, import restrictions under the CPIA have provided for near permanent bans on the import of virtually all cultural items, from the prehistoric to the present time, from the countries which have sought agreements. If CPAC fails to heed the concerns of Congress regarding overbroad import restrictions unsubstantiated by clear evidence of meeting the four determinations, CPAC not only acts in derogation of U.S. law, but also lends support to what Congress feared, an exclusively statist rather than internationalist policy on cultural heritage.

Congress placed procedural and substantive constraints on the executive authority to impose import controls under the CPIA. Non-emergency restrictions may only be applied to archaeological artifacts of “cultural significance” “first discovered within” and “subject to the export control” of the requesting nation.¹⁵ There must be some finding that the cultural patrimony of the requesting nation is in jeopardy.¹⁶ The imposition of import restrictions must be part of a “concerted international response” “of similar restrictions” of other market nations, and can only be applied after less onerous “self-help” measures are tried.¹⁷ Import restrictions must also be consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.¹⁸ Those are the requirements under the law - and they are not met by Vietnam’s Request.

¹⁴ Catherine Szegin, FBI reportedly seizes private collection of cultural artifacts of 91-year-old Donald C. Miller with any arrest or charge; retired FBI agent Virginia Curry and anthropologist Kathleen Whitaker add their perspective, ARCA, Association for Research into Crimes Against Art, <https://art-crime.blogspot.com/2014/04/fbi-reportedly-seizes-private.html>

¹⁵ 19 U.S.C § 2601

¹⁶ *Id.* § 2602.

¹⁷ *Id.*

¹⁸ *Id.*

Conclusion

It is the Committee for Cultural Property's and Global Heritage Alliance's position that no object that may be traded, transferred or sold legally in Vietnam under its domestic laws should be illegal to import into the United States. Although early agreements under the 1983 Cultural Property Implementation Act were within the scope envisioned by Congress, covering only objects that were subject to looting that was endangering the country's heritage, that is no longer the case.

Over the last two decades, MOUs blocking imports have been signed for both diplomatic reasons, giving foreign governments a 'soft power' public relations win and promoting policies hostile to the legal circulation of art at the Cultural Heritage Bureau. Agreements that do not meet the criteria under U.S. law should not be signed. That's the real American way.

Thank you for your attention.

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