

# Looting and Smuggling of Artifacts as a Strategy to Finance Terrorism Global Sanctions as a Disruptive and Preventive Tool

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**Abstract:** In recent years, the Islamic State in Iraq and the Levant (ISIL)<sup>1</sup> as well as several Al-Qaida affiliates have used the systematic and large-scale looting of antiquities as one of their income streams. Due to the large-scale and organized looting activities of these groups, in particular, in Iraq and the Syrian Arab Republic, the United Nations Security Council (UNSC), following various reports and recommendations by the ISIL, Al-Qaida and Taliban Monitoring Team has adopted a range of measures, chiefly among them the landmark UNSC Resolution 2347 (2017) to counter this threat. These measures demand that both member states' regulators as well as private sector stakeholders take specific action to ensure that the art and antiquity trading industry is capable of defending itself against the misuse of their services to finance terrorism. This article outlines the various challenges member states and private industry are facing in this regard and explains how the various new UNSC provisions, including the measures outlined in UNSC Resolution 2347 (2017), could be employed effectively to counter this threat.

**Keywords:** Islamic State in Iraq and the Levant (ISIL), Al-Qaida, United Nations Security Council, ISIL Al-Qaida and Taliban Monitoring Team, looting, terrorism financing, sanctions, Resolution 2347 (2017)

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## INTRODUCTION

Although the criminal looting, smuggling, and illegal sale of cultural artifacts in various areas of conflict has been going on for decades, the activities of the Islamic State in Iraq and the Levant (ISIL)<sup>2</sup> and Al-Qaida affiliates have significantly increased the scale of this problem. Credible estimates related to the overall monetary value of antiquities smuggling to the group remain unavailable. However, satellite-based monitoring has revealed a marked increase in looting in ISIL-held areas in Iraq and the Syrian Arab Republic in 2014 and 2015, but not only in these areas. For example, in Yemen, imagery collected on 29 October 2015 also showed extensive damage to the ancient city of Marib and increased looting activities within the citadel.<sup>3</sup> In this area, Al-Qaida in the Arabian Peninsula is active, which indicates that global terrorist organizations have begun to develop such activities as a viable source of income.<sup>4</sup>

From 2015 onwards, information provided by member states also pointed to the development by ISIL of detailed administrative structures designed to manage looting activities as well as the valuation and the existence of receipts related to the “taxing” of looted antiquities. This was an indication that ISIL was organizing the looting and smuggling of cultural artifacts on a large scale and that this was an important income stream for it. Even as ISIL began to lose territory in Iraq, a member state reported to the ISIL, Al-Qaida and Taliban Monitoring Team (Monitoring Team) of the United Nations Security Council (UNSC) that the group was employing heavy-digging equipment to remove significant quantities of material from archaeological mounts before the fighters of the group vacated the area. This is another indication that ISIL saw the looting and smuggling of antiquities as a viable source of income. This large-scale, organized looting activity was the first time that a global terror organization systematically developed looting, smuggling, and illegal sales of cultural artifacts as a funding stream. As a consequence, since 2014, the UNSC and its Monitoring Team has been working on developing global measures to disrupt the ability of terrorist organizations to generate income through such actions.

Member states regularly report seizures of antiquities originating from Iraq or the Syrian Arab Republic. Despite losses of territory by ISIL in both countries, which has reduced the opportunities to loot, the Monitoring Team continues to receive reports from member states and international organizations concerning ongoing exploitation of cultural sites under terrorist control.<sup>5</sup> A recently filed complaint in a domestic court indicates that ISIL has been marketing excavated

<sup>2</sup>Listed as Al-Qaida in Iraq (QDe.115) in the United Nations Security Council Sanctions List.

<sup>3</sup>Information provided by the United Nations Institute for Training and Research’s Operational Satellite Applications Programme (UNOSAT).

<sup>4</sup>Listed as Al-Qaida in the Arabian Peninsula (QDe.129) in the United Nations Security Council Sanctions List.

<sup>5</sup>See UNSC Doc. S/2016/501, 31 May 2016, para. 11.

antiquities for international sale in a professional manner. For example, as part of a lawsuit filed by the US Attorney's Office for the District of Columbia at the end of 2016, documents were released demonstrating that ISIL had created a specific bureaucratic structure for extracting financial benefits by systematically looting cultural heritage sites by issuing looting permits, systematically monitoring looting activities, and creating an "antiquities department" in ISIL's so-called ministry of natural resources. In addition, these documents highlight that some of the looted antiquities were prepared in a professional manner for sale on the international market.<sup>6</sup>

The UNSC's ISIL (Da'esh) and Al-Qaida sanctions regime is designed to counter this ongoing threat of terrorism financing and cultural destruction. If employed diligently and effectively by member states, the sanctions regime can be used as an operational tool to disrupt the ability of ISIL, Al-Qaida, and their affiliated organizations and individuals to bring looted artifacts to the market and, therefore, reduce the ability of these groups to generate resources with these deplorable activities and prevent the proliferation of such activities to other groups. Following a range of recommendations made by the Monitoring Team to the members of the UNSC, the Council passed Resolution 2347 (2017) on 24 March 2017. This resolution is a landmark decision and outlines several concrete steps that member states and the private sector should take in order to increase the ability of the global art market to resist attempts of its misuse to finance terrorism.

In this article, we outline the work done to date by the Monitoring Team to tackle the problem of illegal antiquities sales out of conflict zones. The Monitoring Team is mandated by the UNSC to monitor the activities of ISIL, Al-Qaida, the Taliban, and their affiliated groups and individuals and to develop recommendations on how their actions can be effectively disrupted by using the UNSC's global sanctions mechanism. Therefore, the Monitoring Team's work on this issue is centered on developing measures aimed at disrupting the ability of global terrorist organizations to generate income from the looting, smuggling, and illegal sale of cultural artifacts. Of course, it is well documented that other actors are also involved in the looting of cultural artifacts in the various conflict zones.<sup>7</sup>

This article is divided into three sections. In the first section, we explain the challenges faced by the global antiquities market and the existing control mechanisms of the member states when confronted with terrorist organizations misusing the antiquities market in order to finance their activities. This section will also look

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<sup>6</sup>United States Department of Justice, "United States Files Complaint Seeking Forfeiture of Antiquities Associated with the Islamic State of Iraq and the Levant (ISIL)," press release, 15 December 2016, particularly the attachments to the lawsuit.

<sup>7</sup>See, e.g., the reports of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Observatory of Syrian Cultural Heritage, <https://en.unesco.org/syrian-observatory/reports/looting> (accessed 23 June 2019) or the weekly reports of the American Schools of Oriental Research's Cultural Heritage Initiatives, <http://www.asor-syrianheritage.org/weekly-reports/> (accessed 23 June 2019).

at the logic behind global sanctions designed to counter antiquities looting and smuggling and the role that the Monitoring Team has played in the development of the global sanctions architecture. In the second section, we examine the essential mechanisms in UNSC Resolution 2347 (2017), outlining the main new mechanisms the resolution establishes for member states and private sector stakeholders. The final section identifies capacity gaps and charts the course for continued work in this area.

### DEVELOPMENT OF GLOBAL SANCTIONS MEASURES TO COUNTER ANTIQUITIES LOOTING AND SMUGGLING BY TERRORIST ORGANIZATIONS

In order to respond to the developing situation in Iraq and the Syrian Arab Republic since 2014, the Monitoring Team, in cooperation with member states and international organizations such as the United Nations Educational, Scientific and Cultural Organization and the World Customs Organization (WCO), and the International Police Organization (INTERPOL), has continuously monitored the development of antiquity looting and smuggling by ISIL and Al-Qaida in Syria using member state reporting, satellite imagery, and seizure data. In addition, the Monitoring Team has engaged with a wide range of private sector stakeholders ranging from international auction houses, art dealers, associations, and academic experts. Based on this data, the Monitoring Team has identified a range of current challenges that complicate the effective implementation of sanctions provisions aimed at curbing the ability of ISIL and the Al-Nusrah Front (ANF) to generate assets through the illicit trade in stolen and looted artifacts.<sup>8</sup> These challenges include the following:

- The lack of documentation on antiquities constitutes a problem for the investigations of member states.
- Collectors, art dealers, and auction houses are the last “line of defense” against the sale of illegal artifacts. Therefore, effective development of regulations concerning the implementation of private sector due diligence measures is crucial.<sup>9</sup>
- The risk of terrorism financing is significant in the trading of illicit artifacts.
- Encouraging member states to report seizures of cultural artifacts illegally removed from Iraq and the Syrian Arab Republic could improve the analysis of this issue.

<sup>8</sup>UNSC Doc. S/2016/213, 4 April 2016, paras. 24–36.

<sup>9</sup>After cultural artifacts have been smuggled out of the areas from which they were looted, collectors, art dealers, and auction houses are not only the interface between the potentially looted antiquities and the international market, but they are also an important mechanism that creates provenance data and certifications through their sales. Consequently, the check of prior provenance at this juncture is of the utmost importance and, if done in a diligent manner, presents a last opportunity to stop looted antiquities before they enter the overall market.

- Encouraging member states to propose listings of ISIL- or ANF-related individuals and entities involved in the illicit trade in antiquities by ISIL and the ANF could increase the effectiveness of sanctions implementation.

The work of the Monitoring Team centers on the development of concrete and practicable measures that member states and private sector stakeholders can take to counter these challenges. The global sanctions tool of the UNSC's ISIL (Da'esh) and Al-Qaida sanctions regime and its correlating measures are an appropriate mechanism to achieve this goal. Since its inception, the ISIL (Da'esh) and Al-Qaida sanctions regime implements a global asset freeze against listed individuals and entities.<sup>10</sup> Consequently, any activity that directly or indirectly generates assets for a listed individual or entity falls under this provision. The looting and smuggling of artifacts to generate income for ISIL or Al-Qaida was covered by this general sanctions provision from the outset since it is considered to be an economic resource. Any individual or entity involved in this trade that directly or indirectly benefits ISIL or Al-Qaida is therefore liable to be sanctioned under the ISIL (Da'esh) and Al-Qaida sanctions regime. Member states are encouraged to propose listings of such individuals and entities.<sup>11</sup> The Monitoring Team has worked on recommendations of how the UNSC could enhance this global sanctions tool in order to disrupt the looting, smuggling, and illegal sale of cultural artifacts by terrorist organizations.

In order to specifically counter the threat posed by ISIL's organized and large-scale looting of cultural artifacts,<sup>12</sup> the UNSC, following a recommendation by the Monitoring Team, has implemented a moratorium on cultural items illegally removed from the Syrian Arab Republic and reiterated the similar moratorium already applied to Iraqi artifacts.<sup>13</sup> At the end of 2015, following a recommendation by the Monitoring Team, UNSC Resolution 2253 (2015) highlighted that individuals and entities engaged in antiquities-related activities with ISIL, Al-Qaida, and associated individuals and entities could be included in the global sanctions list.<sup>14</sup> This list targets the activities of ISIL and Al-Qaida. The resolution encourages member states to collect information on relevant individuals and to suggest to the UNSC to include these individuals in the global sanctions list in order to disrupt their activities.<sup>15</sup> Given that a significant number of items illegally removed from Iraq and the Syrian Arab Republic have been seized by member states and in light of

<sup>10</sup>UNSC Resolution 1267 (1999), 15 October 1999, para. 4 (b). This asset freeze relates to all funds, financial assets, or economic resources. See UNSC Resolution 2368 (2017), 20 July 2017, para. 1 (a).

<sup>11</sup>See UNSC Resolution 2347 (2017), 17 November 2017, para. 10; UNSC Doc. S/2017/573, 7 August 2017, para. 69.

<sup>12</sup>First reported by the team in 2014 in its special report on the Islamic State of Iraq and the Levant (ISIL). See UNSC Doc. S/2014/815, 14 November 2014, paras. 72, 73)

<sup>13</sup>See UNSC Resolution 2199 (2015), 12 February 2015, paras. 15–17.

<sup>14</sup>UNSC Resolution 2253 (2015), 17 December 2015.

<sup>15</sup>See UNSC Resolution 2253 (2015), para. 14.

UNSC Resolution 2347 (2017),<sup>16</sup> further listings by member states seem necessary and possible. However, so far, no listing request has been proposed in spite of media reports pointed to ongoing investigations and trials against relevant dealers, traffickers, and intermediaries by member states.

UNSC Resolution 2253 also called upon member states to report interdictions of antiquities to the ISIL (Da'esh) and Al-Qaida Sanctions Committee.<sup>17</sup> The Monitoring Team continues to receive information concerning seizures of such items by member states. These reports demonstrate that within the last several years several thousand artifacts have been seized within the conflict zone, neighboring regions, as well as in transit and market countries. The information received by the Monitoring Team from various member state authorities and investigative bodies demonstrates that antiquities are smuggled by various modes of transportation, via land or air. The current arrival of smuggled artifacts on the market, including the online market, was surprising since looted artifacts can take several years before they enter the open market. This could be an indication that ISIL is pushing objects onto the market with increased speed in order to compensate reductions from other income sources due to the sustained military pressure levied upon the group in Iraq and the Syrian Arab Republic.

However, member states have highlighted to the Monitoring Team several challenges that they currently encounter. Due to the lack of documentation of existing cultural artifacts within the conflict zones, it is difficult for member states to identify that the seized artifacts were looted in the conflict zones. Consequently, establishing criminal culpability remains difficult. In addition, despite the existence of the global moratorium on the trade of artifacts illegally removed from Iraq or the Syrian Arab Republic,<sup>18</sup> member states face the challenge to verify that the seized artifacts fall under this moratorium.<sup>19</sup> Finally, member state authorities explained that linking the seized artifacts to the illegal trade by terrorist organizations such as ISIL or Al-Qaida is requiring longer-term investigations. Finally, the exchange of information in different languages continues to remain a technical challenge and, at times, slows down information exchanges between member states or within international customs and law enforcement databases.

### PARAGRAPH 17 OF UNSC RESOLUTION 2347 (2017)

During the course of 2015 and 2016, the Monitoring Team developed a range of recommendations on how these challenges could be met and how the threat of terrorism financing through looted and smuggled artifacts could be more effectively countered. These recommendations aimed to strengthen the control mechanisms of the

<sup>16</sup>See UNSC Resolution 2347 (2017), para. 10.

<sup>17</sup>See UNSC Resolution 2253 (2015), para. 15.

<sup>18</sup>See UNSC Resolution 2199 (2015), para. 17.

<sup>19</sup>This is particularly the case for items of particular time periods, such as, for example, Roman or Byzantine artifacts. Some of these had a wide geographical distribution and require expert knowledge to locate precisely.

international market for antiquities and were reflected in paragraph 17 of UNSC Resolution 2347 (2017). The various recommendations previewed the measures outlined in paragraph 17 of UNSC Resolution 2347 (2017) and are relevant for both member states and private sector stakeholders in the antiquities market. The Monitoring Team developed these various measures following three basic principles: documentation, control mechanisms, as well as private sector procedures. Paragraph 17 of UNSC Resolution 2347 (2017) presents a package of mutually reinforcing measures that, when fully and concurrently implemented, will reach their maximum effectiveness and have the potential to significantly strengthen the defenses of member states as well as the private sector against the misuse of the global antiquities trade to infuse looted artifacts into the market and to finance terrorism. Therefore, these measures, although developed as part of the global counter terrorism efforts of the UNSC, also have the potential to hinder, disrupt, and reduce the ability of criminal organizations and other actors to generate income from systematic and large-scale looting of cultural artifacts.

### *Raising Awareness and Documentation*

UNSC Resolution 2347 (2017) highlights the threat of looting and smuggling of antiquities in conflict zones as an issue of financing of terrorism at the highest political level. In addition, the resolution also calls upon member states to create educational programs and to raise public awareness on the issue.<sup>20</sup> This measure aims to ensure that the general public is aware of the risks emanating from this illegal business and, therefore, is less likely to inadvertently contribute to the problem through purchasing such items. In order to be able to disrupt and prevent looting and smuggling, and in order to have the ability to reconstitute cultural artifacts, documentation is needed. Inventory lists of cultural objects in member states, including inventory lists of the cultural property of archaeological, historical, cultural, rare scientific, and religious importance that have been illegally removed, displaced, or transferred, will be helpful tools in order for the relevant authorities to be able to identify looted antiquities during customs controls or if they reach the market.<sup>21</sup> Various international organizations already provide instruments that allow for the sharing of such information globally, and the UNSC calls upon member states to make active use of these mechanisms.<sup>22</sup>

<sup>20</sup>See UNSC Resolution 2347 (2017), para. 17(i).

<sup>21</sup>See UNSC Resolution 2347 (2017), para. 17(j). The ISIL, Al-Qaida and Taliban Monitoring Team (Monitoring Team) had highlighted the usefulness of such inventories already in 2016. See UNSC Doc. S/2016/213, 4 April 2016, para. 32.

<sup>22</sup>These include the International Police Organization's (INTERPOL) Database of Stolen Works of Art, the World Customs Organization's (WCO) ARCHEO platform, and the United Nations Office on Drugs and Crime's SHERLOC portal. See UNSC Resolution 2347 (2017), para 17(f). Prior to the passing of UNSC Resolution 2347, the Monitoring Team had already recommended that member states actively exchange information on seized antiquities via the INTERPOL stolen works of art database (UNSC Doc. S/2016/210, 5 April 2016, para 10) and on seizures and investigations via the ARCHEO platform of the WCO (UNSC Doc. S/2016/629, 19 July 2016, para. 86).

## *Control Mechanisms*

The work of the Monitoring Team has demonstrated that effective control of the flow of any type of goods depends on clear and precise export and import regulations and the accompanying documentation. This is also the case for the global flow of antiquities. Currently, member states operate with different national and regional legal frameworks. Consequently, strengthening the ability of member states to counter the challenges connected with the illegal movement of looted antiquities should be based on strong and clear legal provisions. In this regard, the UNSC has highlighted the usefulness of adequate and effective regulations on exporting and importing and of the certification of provenance in order to ensure that looted artifacts cannot easily cross international borders.<sup>23</sup>

Based on the legal and regulatory framework, customs authorities of member states are a pivotal stakeholder in the practical implementation of control mechanisms that can stem the flow of smuggled antiquities. However, only a few member states currently have specialized customs agents or units trained to detect and conduct investigations focused on stolen or looted antiquities.<sup>24</sup> As the detection of looted antiquities requires a high level of specialized knowledge and experience and since investigations in such cases usually entail a significant amount of complexity, specialized units of trained customs professionals are important. Recognizing this challenge, the UNSC calls upon member states to establish, where appropriate, such units and to provide these units with effective tools and training.<sup>25</sup> The importance of the role of customs authorities in this issue has also been highlighted by the WCO. Following a recommendation by the Monitoring Team in 2016, the WCO developed a new resolution by the Customs Cooperation Council on the role of customs preventing illicit trafficking of cultural objects.<sup>26</sup>

As a correlating measure in 2016, the Monitoring Team identified administrative changes to the WCO's Harmonized Commodity Description and Coding Systems (Harmonized System) of nomenclature and the classification of goods as one potential measure.<sup>27</sup> Chapter 97 of the Harmonized System is divided into several general headings under which antiquities can be addressed—for example, Heading 97.03 describes statues of any kind, Heading 97.05 relates to collectors' items of archaeological and numismatic interest; and Heading 97.06 relates to all other antiques of an age older than 100 years. Further specification of even

<sup>23</sup>See UNSC Resolution 2347 (2017), para. 17(b).

<sup>24</sup>The Monitoring Team highlighted this issue in 2016. See UNSC Doc. S/2016/213, 4 April 2016, para. 30.

<sup>25</sup>See UNSC Resolution 2347 (2017), para. 17(e).

<sup>26</sup>UNSC Doc. S/2016/210, para. 8. The text of the WCO resolution is available at [http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/resolutions/resolution\\_cultural-objects.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/resolutions/resolution_cultural-objects.pdf?la=en) (accessed 23 June 2019).

<sup>27</sup>UNSC Doc. S/2016/213, para 28. This recommendation was implemented as UNSC Resolution 2347 (2017), para. 17(c).

a few additional subheadings under headings of chapter 97 would ensure that all members of the WCO amend their national regulations in a harmonized manner, thereby preventing regional market distortions.<sup>28</sup> Further specifications, such as, for example, subheadings according to age and/or origin of the item, would enable national authorities to better identify potentially relevant antiquities, through a more detailed risk analysis, and hold those that are intentionally wrongly declared. Holding antiquities associated with a false declaration would provide more time for investigations into their origin and ownership history.<sup>29</sup>

In order to encourage sharing of experience, best practices, and information between various authorities within member states and between member states, UNSC Resolution 2347 (2017) calls upon member states to establish procedures and also, where appropriate, databases that would allow for the collection of information on criminal activities related to looted and smuggled cultural objects.<sup>30</sup> In contrast to the suggested inventory lists of cultural property within member states, discussed earlier, this measure aims to strengthen the investigative ability of the relevant authorities in potential source, transit and market countries for looted antiquities.

Several member states also highlighted to the Monitoring Team that investigations concerning looted and smuggled artifacts would benefit from a better understanding of the financial transactions involved in the transport and sale of these items. Therefore, the Monitoring Team suggested that a potential first step could be for member states to engage with their antiquities sectors, as appropriate, when conducting their national risk assessments pursuant to Recommendation 1 of the Financial Action Task Force recommendations.<sup>31</sup>

### *Private Sector Procedures*

Collectors, art dealers, auction houses, and websites can act as the last obstacle against the sale of artifacts looted by terrorist organizations in conflict zones. However, they face a significant risk of being inadvertently involved in this illicit trade. The global trade in art and antiquities uses the concept of “provenance,” loosely defined as “proof of the legality of prior ownership” as its central compliance instrument. However, there is currently no internationally accepted definition of what such provenance documentation should include and how the documentation concerning the sale of antiquities should be handled and stored. The challenge is exacerbated by the increased sophistication of forged provenance documents. In its work, the Monitoring Team has outlined that this problem is particularly prevalent for the trade in ancient coins, for which provenance documents are rarely produced or archived.<sup>32</sup>

<sup>28</sup>UNSC Doc. S/2016/629, paras. 83–84.

<sup>29</sup>UNSC Doc. S/2016/213, para. 29.

<sup>30</sup>See UNSC Resolution 2347 (2017), para. 17(e).

<sup>31</sup>UNSC Doc. S/2017/35, para. 69–70.

<sup>32</sup>UNSC Doc. S/2016/213, para. 34; UNSC Doc. S/2016/629, para. 89.

This presents a challenge for sellers and buyers of antiquities as well as for customs and relevant law enforcement agencies wishing to investigate potentially looted antiquities.

While most banks, companies, and industries have developed extensive experience with regard to sophisticated compliance structures and due diligence processes, including know-your-customer procedures, the Monitoring Team has demonstrated that the antiquities and numismatic market is generally fairly new to the implementation of sanctions.<sup>33</sup> Furthermore, some market participants have been reluctant to accept that the looting and illicit sale of antiquities in Iraq and the Syrian Arab Republic might be a significant revenue stream for terrorism.

Therefore, the Monitoring Team has argued that an agreed standard of provenance as well as common rules of compliance, due diligence, and know-your-customer procedures would not only enable market participants to better identify potentially problematic antiquities but also allow customs and law enforcement investigators to gain access to data on past sales more easily and, therefore, introduce additional risk factors and obstacles for smugglers and their intermediaries.<sup>34</sup> Consequently, the UNSC called upon member states to engage with museums, relevant business associations, and antiquities market participants on standards of provenance documentation and differentiated due diligence as well as all measures to prevent the trade of stolen or illegally traded cultural property.<sup>35</sup>

The documentation of existing artifacts at risk of looting within conflict zones remains an important first step. A portion of the antiquities in areas currently under the control of ISIL have already been identified and documented. ISIL is systematically robbing storage depots at museums and at former archaeological digs. Officials from several member states explained to the Monitoring Team that, while not complete, a proportion of these items have been catalogued by the museums concerned and by archaeological expeditions. Currently, there are several projects under way in Western countries whose aim is to enable the collection and digitization of information concerning those items.<sup>36</sup>

<sup>33</sup>UNSC Doc. S/2016/213, paras. 35–36.

<sup>34</sup>UNSC Doc. S/2016/629, para. 89.

<sup>35</sup>See UNSC Resolution 2347 (2017), para. 17(g). One potential additional measure that could be effective is for member states to work with the private sector concerning a minimum period during which records of a sale of antiquities should be maintained. The ability to access existing records of sales during customs controls or law enforcement investigations would enable such agencies to access data on past sales more easily and, therefore, introduce an additional risk factor for smugglers of illicit antiquities. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, 823 UNTS 231, Art. 10(a) may be said to offer a first guiding principle for this work: “The States Parties to this Convention undertake: To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject.” See UNSC Doc. S/2016/213, para. 35.

<sup>36</sup>Doc. S/2016/213, para. 32.

The creation of systematic databases containing this information, including information about archeological sites, museums, and excavation storage houses that are located within ISIL controlled territory,<sup>37</sup> would enable market participants to secure information regarding the identity of objects that are likely to have been traded by ISIL-related individuals, which would then allow them to vet the antiquities with which they have come into contact in the course of their business activities.<sup>38</sup> Of course, this data can only be effective for artifacts already unearthed and catalogued and cannot cover artifacts that have been dug up and looted from archeological sites within the conflict zones. Therefore, the compilation of such data is only one measure to counter the threat of looted antiquities from conflict zones.

## OUTLOOK

UNSC Resolution 2347 (2017), following measures outlined in UNSC Resolution 2253 (2015) and the global moratorium established in UNSC Resolution 2199 (2015), is another important milestone to raise the awareness of member states to the threat that looting and trading of illegally removed cultural artifacts from conflict zones pose, particularly as far as terrorism financing is concerned.<sup>39</sup> Member states and the global art market will need time to adjust laws and regulations as well as business procedures. However, the significant media response to the passing of the resolution has set in motion a range of new activities as well as regulatory actions, which have the potential to achieve concrete impact once they are implemented.<sup>40</sup>

Prior to the passing of the resolution, a number of member states and international organizations had already begun to tighten their national legislation, adjust administrative procedures in free ports/zones, and increase their attention to, and raise public awareness of, the issue of antiquities smuggling. This action is demonstrated by the continued reporting from member states concerning seizures of antiquities, potentially related to the conflict zones as well as the financing of terrorism and media reports outlining the arrest/trial of dealers and smugglers involved in this trade.

<sup>37</sup>See UNSC Resolution 2347 (2017), para. 17(h).

<sup>38</sup>Private sector stakeholders and member states explained to the Monitoring Team that antiquities of Mesopotamian origin could be traced because they were concentrated in Iraq and the Syrian Arab Republic, but Roman or Byzantine antiquities originating in Iraq or the Syrian Arab Republic were difficult to distinguish because similar antiquities could also be found in the wider region. Antiquities experts explained, however, that, if it could be clarified which archaeological sites, museums, and excavation storage houses had been looted by ISIL or the Al-Nusrah Front, they would have a better chance of identifying relevant antiquities as a result of aesthetic differences. UNSC Doc. S/2016/213, para. 32.

<sup>39</sup>UNSC Resolution 2199 (2015).

<sup>40</sup>For example, in July 2017, the European Commission proposed a new regulation on the import of cultural goods. The legislative process is currently ongoing. See Proposal for a Regulation of the European Parliament and of the Council on the Import of Cultural Goods, Doc. COM(2017) 375 final, 13 July 2017, [https://eur-lex.europa.eu/resource.html?uri=cellar:e1fd9ba7-67a8-11e7-b2f2-01aa75ed71a1.0003.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:e1fd9ba7-67a8-11e7-b2f2-01aa75ed71a1.0003.02/DOC_1&format=PDF) (accessed 23 June 2019).

Effective measures to counter the threat posed by the looting of artifacts in conflict zones will require the cooperation of member states with the private sector. Only through the parallel adjustment of legislation and regulation and the introduction of effective compliance, due diligence,<sup>41</sup> and know-your-customer procedures<sup>42</sup> by the private sector can this issue be adequately and effectively addressed. Available data provided by market participants and academics demonstrate that the profit margins for looted antiquities at the first point of sale near the conflict zones are potentially small.<sup>43</sup> Therefore, an increase in documentation and cultural heritage protection within the conflict zones should ideally be complemented by a range of measures that are aimed at increasing the effectiveness of existing compliance structures and administrative measures devised to inhibit this illicit trade. These measures in transit and potential market countries should ideally result in a decrease in the profit margins and a reduction in the commercial viability of looting not only in Iraq and the Syrian Arab Republic but also in other conflict zones.

Countering looting and the flow of cultural artifacts out of conflict zones will be a difficult task for the international community. Therefore, it will be of the utmost importance that awareness of UNSC Resolution 2347 (2017) and its measures continues to be raised by the member states as well as by the relevant private sector stakeholders. This will require the continuing engagement of member states and the relevant international organizations, as well as their follow-up on ongoing investigations. Therefore, it seems necessary that the implementation of this resolution be reviewed at regular intervals, which could be achieved by annual briefings to the UNSC by the counter-terrorism bodies and international organizations mentioned in this resolution.

The potential payoff of this work is the capacity to limit large-scale destruction of cultural heritage and prevent terrorist organizations such as ISIL or Al-Qaida from developing a new way of financing their activities. In addition, through new regulatory action as well as by strengthening the defense mechanisms of private sector stakeholders, including the implementation of measures developed by the Monitoring Team and decided by the UNSC, the ability of other actors to generate commercial benefits through the looting, smuggling, and illegal sale of cultural artifacts could be disrupted.

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<sup>41</sup>Due diligence describes the process prior to a business transaction during which all relevant information pertaining to the attempted transaction is collected in order to enable a detailed risk analysis concerning the operation. In the case of antiquities sales, this pertains primarily to detailed provenance checks.

<sup>42</sup>Know-your-customer procedures, sometimes also referred to in a broader sense as customer due diligence is also part of a business risk assessment and refers to the systematic collection and storing of information concerning the identity of the potential customer. See Financial Action Task Force (FATF), "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. The FATF Recommendations," February 2012, 14, <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/internationalstandardscombatingmoneylaundryingandthefinancingofterrorismproliferation-thefatfrecommendations.html> (accessed 23 June 2019).

<sup>43</sup>UNSC Doc. S/2016/2123, para. 26.