

# Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art (revised 2008)

## AAMD MISSION STATEMENT

The purpose of the Association of Art Museum Directors is to support its members in increasing the contribution of art museums to society. The AAMD accomplishes this mission by establishing and maintaining the highest standards of professional practice; serving as a forum for the exchange of information and ideas to aid its members in their professional roles as art museum directors; acting as an advocate for art museums; and being a leader in shaping public discourse about the arts community and the role of art in society.

## PREAMBLE

The AAMD recognizes that the acquisition of archaeological materials and ancient art has in recent years become an increasingly complex task that requires the careful consideration of a number of different and, at times, seemingly contradictory goals. This report is intended to help its members understand the issues they will face when evaluating the purchase or acceptance of a gift of archaeological materials and ancient art and provides a framework for responsible decision-making in the development of their collections. Acknowledging that these subjects are interrelated, it also reaffirms the importance and the possibility of protecting archaeological sites as well as collecting archaeological materials and ancient art. This dual objective can only be accomplished through enhanced cooperation between source countries (i.e., countries of modern discovery of archaeological materials and ancient art) and museums that collect such works as well as the development of a mutual understanding and respect for the rights of these countries to protect their cultural property and those of museums whose work is to enhance—through collecting, research, and exhibition—knowledge and appreciation of the artistic achievements of the past.

### *I. Statement of Principles*

- A. AAMD is committed to the responsible acquisition, whether by purchase, gift, bequest or exchange, of archaeological materials and ancient art. AAMD

believes that the artistic achievements of all civilizations should be represented in art museums, which, uniquely, offer the public the opportunity to encounter works of art directly, in the context of their own and other cultures, and where these works may educate, inspire and be enjoyed by all. The interests of the public are served by art museums around the world working to preserve, study and interpret our shared cultural heritage.

- B. AAMD deplores the illicit and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums, or other repositories.
- C. AAMD is committed to the principle that acquisitions be made according to the highest standards of ethical and professional practice and in accordance with applicable law and in such a way that they do not provide a direct and material incentive to looting.
- D. AAMD is committed to the exercise of due diligence in the acquisition process, in particular in the research of proposed acquisitions, transparency in the policy applicable to acquisitions generally, and full and prompt disclosure following acquisition.
- E. The November 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural Property (the “UNESCO Convention”) began a new dialogue about the best ways to protect and preserve archaeological materials and ancient art, although regrettably the looting of sites, destruction of monuments and theft of objects continue to this day. The AAMD, along with others in the international community, including source countries, recognizes the date of the Convention, November 17, 1970 (“1970”), as providing the most pertinent threshold for the application of more rigorous standards to the acquisition of archaeological materials and ancient art as well as for the development of a unified set of expectations for museums, sellers and donors.
- F. Recognizing that a complete recent ownership history may not be obtainable for all archaeological material and every work of ancient art, the AAMD believes that its member museums should have the right to exercise their institutional responsibility to make informed and defensible judgments about the appropriateness of acquiring such an object if, in their opinion, doing so would satisfy the requirements set forth in the Guidelines below and meet the highest standards of due diligence and transparency as articulated in this Statement of Principles.
- G. AAMD reaffirms the value of licit markets for the legal sale and export of works of art as an effective means of deterring the illicit excavation and trafficking of archaeological materials and ancient art
- H. AAMD encourages the creation of licit markets and strongly urges all nations to provide a legal method for the sale and export of art, thereby fur-

thering the goal of deterring the illicit excavation and trafficking of archaeological materials and ancient art.

## *II. Guidelines*

Since its founding in 1916, AAMD has regularly published professional guidelines. Given the increasingly complex set of ethical questions and rapidly evolving legal issues that need to be considered in the acquisition process, AAMD has developed the following guidelines to assist members in revising their acquisition policies. These guidelines apply to acquisitions of archaeological materials and ancient art by purchase, gift, bequest, or exchange.

- A. Member museums should thoroughly research the ownership history of archaeological materials or works of ancient art (individually a “work”) prior to their acquisition, including making a rigorous effort to obtain accurate written documentation with respect to their history, including import and export documents.
- B. When the work is being imported into the U.S. in connection with its acquisition by the member museum, import documentation should be obtained and compliance with the export laws of the country of immediate past export to the U.S. should be confirmed.
- C. Member museums should require sellers, donors, and their representatives to provide all information of which they have knowledge, and documentation that they possess, related to the work being offered to the museum, as well as appropriate warranties.
- D. Member museums must comply with all applicable local, state, and federal U.S. laws,\* most notably those governing ownership and title, import, and other issues pertinent to acquisition decisions.
- E. Member museums normally should not acquire a work unless provenance research substantiates that the work was outside its country of probable modern discovery before 1970 or was legally exported from its probable country of modern discovery after 1970. The museum should promptly publish acquisitions of archaeological materials and ancient art, in print or electronic form, including in these publications an image of the work (or representative images in the case of groups of objects) and its provenance, thus making this information readily available to all interested parties.
- F. The AAMD recognizes that even after the most extensive research, many works will lack a complete documented ownership history. In some instances, an informed judgment can indicate that the work was outside its probable country of modern discovery before 1970 or legally exported from its probable country of modern discovery after 1970, and therefore can be acquired. In other instances, the cumulative facts and circumstances resulting from provenance research, including, but not limited to, the indepen-

dent exhibition and publication of the work, the length of time it has been on public display and its recent ownership history, allow a museum to make an informed judgment to acquire the work, consistent with the Statement of Principles above.

In both instances, the museum must carefully balance the possible financial and reputational harm of taking such a step against the benefit of collecting, presenting, and preserving the work in trust for the educational benefit of present and future generations.

The museum must prominently post on the AAMD website, to be established, an image and the information about the work as described in Section E above, and all facts relevant to the decision to acquire it, including its known provenance.

- G. If a member museum, as a result of its continuing research, gains information that establishes another party's right to ownership of a work, the museum should bring this information to the attention of the party, and if the case warrants, initiate the return of the work to that party, as has been done in the past. In the event that a third party brings to the attention of a member museum information supporting the party's claim to a work, the museum should respond promptly and responsibly and take whatever steps are necessary to address this claim, including, if warranted, returning the work, as has been done in the past.

### *III. Acceptance of the Task Force Report*

Member museum directors and others responsible for museum governance are urged to accept and be guided by this Task Force Report and to develop acquisition policies and guidelines for provenance research consistent with the Report.

The AAMD will endeavor to keep its members informed of legal developments relevant to these issues. Member museums may, however, need to seek legal advice with regard to specific acquisitions. AAMD members should share pertinent information about legal developments with their boards and staffs.

#### **ENDNOTE**

\*The reference to U.S. law means, for AAMD members outside of the U.S., the laws of their country.