



May 28, 2024

Dr. Alexandra Jones, Chair, Cultural Property Advisory Committee and  
Members, Cultural Property Advisory Committee  
U.S. Department of State  
2200 C Street, NW  
Washington, DC 20037

Dear Dr. Jones and Members of the Cultural Property Advisory Committee,

The Archaeological Institute of America (AIA), with its membership of approximately 200,000 professional archaeologists, corresponding members, students, and enthusiasts united by a shared passion for archaeology and its role in furthering human knowledge, expresses its strong support of the request by the Government of Ukraine to enter into a Memorandum of Understanding (MOU) concerning import restrictions on archaeological materials dating from the Paleolithic Period to 1774 CE, including metal (sculpture, jewelry, weapons, coins, vessels, and horse fittings and trappings); ceramic (sculpture, vessels, and seals); stone (sculpture, monuments, vessels, tools, and jewelry); bone, ivory, wood, horn, and other organic material; glass and faience; paintings and mosaics, under Article 9 of the UNESCO Convention of 1970 and the Convention on Cultural Property Implementation Act of 1983. The request also includes ethnological materials dating from the Roman Period (3rd century CE) to 1917 CE, comprising religious, ritual, and ecclesiastical objects; rare books, manuscripts, and other written documents; architectural elements; objects related to funerary rites and burials, both ritual and secular; paintings; military material; and traditional folk clothing and textiles.

1

At the core of its mission, the AIA promotes archaeological inquiry and public understanding of the material record of the human past to foster an appreciation of diverse cultures and our shared humanity. The AIA supports archaeologists, their research and its dissemination, and ethical professional practice; educates people of all ages about the significance of archaeological discovery; and advocates for the preservation of the world's archaeological heritage.

The Society for American Archaeology (SAA) is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With more than 6,000 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

The national geography of Ukraine hosts a wealth of archaeological sites and cultural landscapes with complex histories of settlement, a rich array of ancient and historical monuments, and a unique assemblage of material culture, all of which have been the subject matter of archaeological and scientific research. Its museums house artistic and other cultural objects from antiquity, the Byzantine and medieval periods, and the 17th century to the present day. The collections from the latter period include Ukrainian artworks, folk art, ethnographic materials,



and rare religious icons, as well as artworks from throughout Europe. Ukraine is also home to extensive and valuable archival and library collections. The National Museum of History alone has over 800,000 objects, including archaeological artifacts of Scythian art, Viking Age weaponry of Kyivan Rus, numismatic collections, historical manuscripts, paintings, and relics of the democratic and social revolutions of the twentieth century. Inscribed on the World Heritage List for their outstanding universal value are six cultural sites in Ukraine and one transnational natural site, which spans eighteen European countries; an additional seventeen sites are on the Tentative list. Ukraine is particularly known for its churches, monasteries, and other religious sites; its archaeological heritage includes remains from the Paleolithic period to the Bronze Age, from the Scythians to the Greek colonies of the Black Sea coast, and from the first Roman activities in the region to the Byzantine cities of the 15th century.

Here, we discuss archaeology and the preservation of cultural heritage in Ukraine within the four statutory determinations that must be fulfilled for the United States to enter into a memorandum of understanding imposing import restrictions on certain categories of stolen or illegally exported cultural property. Our comments focus on the first, second, and fourth determinations. I would also call the Committee's attention to the letter submitted by Professor Patty Gerstenblith (of DePaul University) on behalf of the US Committee of the Blue Shield (USCBS) outlining that the current situation in Ukraine qualifies as an emergency situation based on both the second and third statutory definitions and urging the Cultural Property Advisory Committee to act expeditiously and "ensure that the US does not become the destination market for cultural objects looted and stolen from Ukraine during and as a result of the current situation of extreme conflict."

2

The first determination requires that the cultural patrimony of the requesting State be in jeopardy from the pillage of archaeological materials. As it is well known, Ukraine has been subjected to military conflict due to armed aggression of the Russian Federation, particularly after the Russia's annexation of Crimea and areas in eastern Ukraine in 2014 and the full-scale invasion since February 2022. As addressed in the USCBS and AIA Joint Statement on Ukraine (issued on March 3, 2022)<sup>1</sup>, civilian life and the infrastructure that supports civilian life, as well as cultural heritage in Ukraine, are under severe threat. The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, to which both Russia and Ukraine are Parties, prohibits the targeting of cultural sites, including museums, archaeological zones, libraries, archives, and religious and historic structures in the absence of imperative military necessity. Yet, reports from international and civil society heritage monitoring organizations that have been published in the last few years have amply demonstrated that there have been targeted attacks on heritage sites and institutions, including deliberate removal of cultural property from museums, archives, churches, and archaeological sites. For instance, the Smithsonian Cultural Rescue Initiative (SCRI) collaborates with the Cultural Heritage Monitoring Lab (CHML) at the Virginia Museum of Natural History, Penn Cultural Heritage Center (PennCHC), and the Center for International Development & Conflict Management (CIDCM) at the University of Maryland "to monitor and document the destruction of Ukrainian cultural heritage."<sup>2</sup> This collaborative team has been monitoring "28,000

<sup>1</sup> See <https://www.archaeological.org/aia-statement-on-ukraine/> (Accessed 5/23/2024)

<sup>2</sup> "Remotely Monitoring Ukraine's Cultural Heritage with the Conflict Observatory" <https://global.si.edu/projects/remotely-monitoring-ukraine-s-cultural-heritage-conflict-observatory> (Accessed 5/23/2024)



cultural heritage sites in Ukraine, including museums, memorials, monuments, places of worship, libraries, and archaeological sites, and has identified potential damage to 1,595 of them as of January 2023.”<sup>3</sup> Their most recent report (dated 31 July 2023) describes damage to the Ukrainian cultural heritage sites between 24 February 2022 and 30 April 2023, giving the total number of 1,689 sites with documented potential damage out of 28,624 known cultural heritage sites in Ukraine<sup>4</sup>. Furthermore, the Ukrainian Heritage Monitoring Lab (HEMO) is a volunteer-based civil society organization that conducts in-person forensic expeditions to hundreds of Ukrainian sites to record the destruction of cultural heritage. They have created numerous reports and a comprehensive database about the investigated sites<sup>5</sup>. They inspected 784 sites in 12 different regions of Ukraine in 56 field expeditions. The Committee is undoubtedly aware that cultural artifacts from the occupied territories of Ukraine, stolen during the Russian invasion, have been showing up at U.S. borders and being repatriated to Ukrainian authorities<sup>6</sup>.

3

The second determination requires that a requesting State have “taken measures consistent with the 1970 UNESCO Convention to protect its own cultural patrimony.” Such measures include the adoption and enforcement of legal provisions to protect cultural patrimony; the creation of a national inventory of protected cultural property; the establishment of an antiquities service (or similar government agency); the establishment

<sup>3</sup> The report indicates that “[p]otential damage to these sites is identified using remote sensing technology that recognizes unusual infrared signatures that are not in proximity to an agricultural fire, and are therefore indicative of armed conflict. Damage is additionally confirmed through the analysis of high-resolution satellite imagery, review of open-source news and social media, and site visits from a team of Ukrainian heritage experts trained in forensic documentation.” <https://global.si.edu/projects/remotely-monitoring-ukraine%E2%80%99s-cultural-heritage-conflict-observatory> (Accessed 5/23/2024) Full Report: Bassett, H. F., Aronson, J., Cil, D., Hanson, K., Meharry, J. E., Narimanova, N., Averyt, K., Carroll, C., Harrell, K., Fitzgerald, K., Maher, A., Mints, E., Welsh, W., Wegener, C., and Daniels, B. I. (2023) ‘Potential Damage to Ukrainian Cultural Heritage Sites, 24 February 2022 to 31 January 2023’, Virginia Museum of Natural History, Cultural Heritage Monitoring Lab; University of Maryland, Center for International Development and Conflict Management; and Smithsonian Institution, Smithsonian Cultural Rescue Initiative. Available at:

<https://hub.conflictobservatory.org/portal/sharing/rest/content/items/56776560f5a94c1c88d361e3dd1aef59/data> (Accessed 5/25/2024)

<sup>4</sup> Bassett, H. F., Aronson, J., Cil, D., Gunter-Bassett, M., Hanson, K., Meharry, J. E., Narimanova, N., Averyt, K., Carroll, C., Fitzgerald, K., Maher, A., Mints, E., Welsh, W., Wegener, C., and Daniels, B. I. (2023) ‘Potential Damage to Ukrainian Cultural Heritage Sites, 24 February 2022 to 30 April 2023’, Virginia Museum of Natural History, Cultural Heritage Monitoring Lab; University of Maryland, Center for International Development and Conflict Management; and Smithsonian Institution, Smithsonian Cultural Rescue Initiative.

<https://hub.conflictobservatory.org/portal/apps/sites/#/home/documents/2f61abda792f4d29bed8eef26106dfb9/explore> (Accessed 5/25/2024). These reports used to be published in the past through the Conflict Observatory, sponsored by the U.S. Department of State, although this is no longer the case. <https://hub.conflictobservatory.org/portal/apps/sites/#/home> (Accessed 5/23/2024). For the most recent report from 29 February 2024, see “Bombardment of Ukraine’s Power Generation and Transmission Infrastructure, 1 October 2022 to 30 April 2023: A Remote Assessment” <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/power-1> (Accessed 5/23/2024)

<sup>5</sup> <https://www.heritage.in.ua/en> (Accessed 5/23/2024). See also recent reports on the damage to cultural property in Ukraine, “Preserving The Cultural Heritage: Ukraine's Battle To Protect Its Archaeological Treasures Amidst Conflict”

<https://www.thearchaeologist.org/blog/preserving-the-cultural-heritage-ukraines-battle-to-protect-its-archaeological-treasures-amidst-conflict> (Accessed 5/23/2024); “Ukrainian Archaeology: Rich Heritage at Great Risk” (14 July 2023)

<https://www.dainst.blog/ukrainian-archaeological-heritage/2023/07/14/ukrainian-archaeology-rich-heritage-at-great-risk/> (Accessed 5/23/2024).

<sup>6</sup> See “14 historical artifacts, stolen by russians, have been returned to Ukraine” <https://mcip.gov.ua/en/news/14-historical-artifacts-stolen-by-russians-have-been-returned-to-ukraine/> (Accessed 5/23/2024)



of scientific and technical institutions such as museums and universities; taking public educational measures; and organizing the supervision of archaeological excavations. There are eight UNESCO World Heritage sites in Ukraine, ranging from urban monuments of Kyiv, i.e Saint-Sophia Cathedral and Related Monastic Buildings (inscribed 1990) and the Historic Centres of L'viv and Odesa (inscribed 1998 and 2023, respectively)<sup>7</sup>, to the ancient city of Tauric Chersonese and its Chora (inscribed 2013) and Wooden Tserkvas of the Carpathian Region (inscribed 2013). There are also 16 sites on UNESCO's tentative list.

The Ukrainian government has long been committed to the protection of cultural heritage. An important testimony to this is that Ukraine is a Party to several key international legal agreements pertaining to the protection of cultural property, particularly of archeological objects:<sup>8</sup>

- The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (ratification in 1988).
- The 1999 Protocol to the 1954 Hague Convention on the protection of cultural property during the armed conflict (accession in 2020).
- 2017 Council of Europe Convention on Offences relating to Cultural Property (a.k.a. 2017 Nicosia Convention).
- The 1992 Valetta Convention for the Protection of the Archaeological Heritage of Europe (ratified in 2004).
- The 2000 United Nations Convention against Transnational Organized Crime (ratified in 2004)

The provisions from several international treaties are implemented in the national legislation, in particular, the Ukrainian Law on the Protection of Cultural Heritage<sup>9</sup>, and the Ukrainian Law on the Protection of Archaeological Heritage<sup>10</sup>. The central executive government unit responsible for the management and protection of archaeological sites, museums, and cultural heritage is the Ministry of Culture and Information Policy of Ukraine. It is quite understandable that at times of war, government resources are predominantly used to protect civilians and in the defense of territory; therefore, cultural heritage-oriented units can easily become ineffective. However, given the pre-2014 Ukrainian organization of museums, the creation of permit-granting units to allow national and international research projects, the ratification of or accession to international treaties, and the adoption of legal provisions to protect cultural patrimony (even if the enforcement may have lagged during the war), it would be fair to argue that the Ukrainian state fulfills the second determination.

The fourth determination looks to whether import restrictions are “consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.” Among other criteria, this determination considers whether a requesting State is receptive to collaboration with foreign, especially American, researchers and whether it is willing to lend cultural objects

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<sup>7</sup> See <https://whc.unesco.org/en/list/527> “Kyiv: Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv-Pechersk Lavra” (Accessed 5/23/2024)

<sup>8</sup> The AIA is grateful to Dr. Evelina Kravchenko (Institute of Archaeology of the National Academy of Science of Ukraine) and Daryna Pidhorna (lawyer and NGO Regional Center for Human Rights) for this information.

<sup>9</sup> <https://zakon.cc/law/document/read/1805-14> (Accessed 5/23/2024) (In Ukrainian)

<sup>10</sup> <https://zakon.cc/law/document/read/1626-15> (Accessed 5/23/2024) (In Ukrainian)



to foreign, particularly American, institutions. There have been extensive collaborations between Ukrainian research institutions and museums and those in Europe and the United States, and between American and Ukrainian archaeologists and educators. American archaeological projects in Ukraine pre-2014 include excavations, conservation projects, and digital preservation work at the Greek, Roman, and Byzantine site of Chersonesos in Crimea, organized in collaboration with Ukrainian partners by Prof. Joseph Coleman Carter, director emeritus of the Institute of Classical Archaeology (ICA) at the University of Texas at Austin, and carried out for 20 years between 1994 and 2014, with generous funding from the Packard Humanities Institute. From 2004 to 2014, Prof. Carter was assisted in this work by Prof. Adam Rabinowitz, now acting director of ICA; Prof. Rabinowitz continues to collaborate with Ukrainian partners on the publication of these activities.<sup>11</sup> Professors Carter and Rabinowitz and the archaeological team were instrumental in the nomination and inscription of this important site to the UNESCO World Heritage List. Ukrainian archaeologists have also welcomed international collaborations from other partners, including the American-Ukrainian Scythian Kurgan Project involving Florida State University in 2004-2005; Polish projects sponsored by Adam Mickiewicz University and the University of Warsaw at Chersonesos and in its territory between 1996 and 2014, and by the National Museum of Warsaw at the Classical site of Olbia on the Black Sea from 2016 to the present; and a joint project with German scholars at Olbia, sponsored by the Deutsche Forschungsgemeinschaft, since 2015.

5

Prior to the war, Ukraine had already demonstrated its commitment to cultural exchange through museum loans to foreign institutions, including in the United States. The traveling exhibition “Gold of the Nomads: Scythian Treasures from Ancient Ukraine” was shown in the San Antonio Museum of Art, San Antonio, TX (November 1999- January 2000), The Walters Art Gallery in Baltimore, MD (March-May 2000), the Los Angeles County Museum of Art, Los Angeles, CA (July-September 2000) and the Brooklyn Museum of Art, Brooklyn, NY, (October 2000-January 2001).<sup>12</sup> The blockbuster exhibit included over 170 artifacts from the Museum of Historical Treasures of Ukraine, The Institute of Archaeology of the Academy of Sciences of Ukraine, and the State Historical Archaeological Preserve of Ukraine. It showcased spectacular works of art and other items representative of the archaeology of Scythians, excavated from various burial mounds and other contexts in Ukraine<sup>13</sup>. This was the first extensive exhibition of Scythian culture in the United States, and both the exhibition and its catalog have provided a remarkable educational opportunity for students of ancient nomadic art in the United States.

Scholarship depends on the preservation of context, and academic ethics depend on the consensual collaboration of the nations on whose territory cultural heritage materials are located. Extensive looting of Ukrainian heritage

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<sup>11</sup> For the Institute of Classical Archaeology at UT Austin and their research projects, see <https://liberalarts.utexas.edu/ica/projects/> (Accessed 5/23/2024)

<sup>12</sup> See <https://www.brooklynmuseum.org/opencollection/exhibitions/2666> (Accessed 5/23/2024)

<sup>13</sup> A catalogue of the exhibition was also published: Scythian Gold Treasures from Ancient Ukraine Reeder, Ellen D. (editor) New York: Harry Abrams, 1999. Softbound. Black color illustrated wraps. 352 pp. over 240 color plates. VG. Item #128327 ISBN: 0810929384. See <https://www.mullenbooks.com/pages/books/128327/ellen-d-reeder/scythian-gold-treasures-from-ancient-ukraine> (Accessed 5/24/2024). See also “Culturally Significant Objects Imported for Exhibition Determination: “Gold of the Nomads: Scythian Treasures From Ancient Ukraine” <https://www.govinfo.gov/content/pkg/FR-1999-10-06/pdf/99-26080.pdf> (Accessed 5/24/2024)



by Russia's troops and occupiers, along with an increase in illicit excavation in occupied or conflict areas where Ukrainian laws cannot be enforced, is likely to result in the permanent disappearance of objects of scientific, cultural, and educational importance. A memorandum of understanding allowing import restrictions is the only way these items will be available for scientific and educational use as part of Ukraine's heritage. Thus, this Memorandum of Understanding is absolutely critical to the general interest of the international community.

In consideration of the above, we respectfully ask that the Committee recommend support of the request by the Government of Ukraine to enter into a memorandum of understanding that protects its cultural patrimony from pillage. We are grateful for the opportunity to comment.

Sincerely,

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Brian I. Daniels, Ph.D., RPA, First Vice President, Archaeological Institute of America

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