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U.S. Delays Rule on Limits To Chinese Art Imports

By JEREMY KAHN

In a move that has cheered museum directors and art dealers and dismayed archaeologists, the State Department has agreed to delay a decision on a controversial request from China that the United States strictly limit imports of Chinese art and antiquities.

In May 2004 China asked the United States to impose import restrictions on a wide range of art and decorative objects from the prehistoric period to the early 20th century, arguing that the American market for antiquities was spurring the looting of important sites in China.

Shawna Stribling, a spokeswoman for Senator Christopher S. Bond, Republican of Missouri, who had questioned the scope of the Chinese request, said this week that the State Department recently informed the senator's office that it would delay making a decision until at least early next year.

The State Department had been expected to issue a decision on the Chinese request this fall. Over the spring and summer, Senator Bond, along with Senators Charles E. Schumer, Democrat of New York, and Arlen Specter, Republican of Pennsylvania, relayed concerns to the State Department about the transparency of its decision-making process and challenged the legal underpinnings of China's request. Members of the senators' staffs and art market representatives also voiced those concerns in a meeting in mid-September with C. Miller Crouch, principal deputy assistant secretary in the State Department's bureau of educational and cultural affairs.

Senator Schumer said, "We are not out of the woods yet, but news of a delay means they are listening and understand our concerns."

Archaeologists and other advocates for the protection of cultural artifacts accuse the State Department of yielding to political pressure.

"The fact that one small constituency has been able, because of disproportionate financial resources, to pressure the State Department to delay it is an insult to China," said Patty

Gerstenblith, a law professor at DePaul University and president of the Lawyers' Committee for Cultural Heritage Preservation.

Nicole Deaner, a spokeswoman for the State Department's Bureau of Educational and Cultural Affairs, refused to comment on the status of China's request other than to say that no decision had been made. The Chinese Embassy in Washington did not respond to repeated requests for comment on the postponement.

Currently, any object suspected of being stolen or looted can be seized by United States Customs officials, but in practice few artifacts are stopped at the border. The restrictions sought by China, which would have to be negotiated in a bilateral treaty, would probably prevent any artifact from entering the United States unless it was specifically approved for export by the Chinese government.

China's request has pitted American archaeologists, who generally support the restrictions, against auction houses, dealers in Asian art and curators at many of the nation's top museums, including the Metropolitan Museum of Art in New York and the Art Institute of Chicago. They worry that the limits would devastate the Chinese art market in the United States and make it hard for museums to make new acquisitions.

For them the delay is at least a temporary victory: they had feared the State Department was leaning toward granting the Chinese request. "The museum regards it as a healthy development that the whole issue is being re-examined," said Harold Holzer, spokesman for the Metropolitan Museum.

Wayne Sales, executive director of the Ancient Coin Collectors Guild, a Missouri-based organization that opposed the import restrictions, agreed. "Since we anticipated bad news, a delay is a good thing," he said.

The State Department has never refused outright any request like China's, which was submitted under a 1983 law that was drafted to bring the United States into line with a 1970 United Nations convention on cultural property and to help countries struggling to control looting of their culturally important sites. In recent years the State Department has negotiated treaties with 11 nations to restrict imports of some artifacts, including Italy, Mali, Cambodia, Cyprus and seven countries in Central and South America. Aside from the Chinese request, the State Department has never taken longer than two years to reach a decision.

Robert E. Murowchick, a specialist in East Asian archaeology at Boston University, said the State Department's delay was troubling, given the urgent need to combat the looting of ancient burial sites in China. "The time factor is critical because every month or year that goes by with looting getting worse, the more sites are being destroyed," he said.

But art dealers and museum directors counter that China has not met the standards required by United States law for such import restrictions. That would include proving that it has taken significant steps to police the market for antiquities within its own

borders, showing that other nations are also making efforts to limit the Chinese art trade, and offering evidence that restrictions on the American market would have a significant impact on rescuing antiquities from pillage.

They also contend that China's request is overly broad, covering art and coins that are not archaeologically significant and including objects less than 250 years old, which are not covered by the 1983 law on cultural property.

According to some estimates, as many as 400,000 tombs in China have been looted in the last 25 years, although it is unclear how many artifacts have been stolen, and experts disagree on whether the pillaging has accelerated. In one particularly high-profile case in 2000, customs agents seized a 10th-century marble relief panel that had been chiseled out of a tomb in northeast China and was headed for sale at Christie's in New York.

Anne Underhill and Deborah Bekken, both archaeologists with the Field Museum in Chicago who have participated in excavations in China, said they planned to mount their own lobbying effort to persuade the State Department to honor the Chinese request in a timely manner.

"I'm not sure why we can't respect the right of the Chinese government to respect their cultural property," Ms. Underhill said. She added that "it would set a good example for other countries" if the United States honored China's request.

The debate between archaeologists and museums over the best way to preserve and study ancient artifacts has grown more and more contentious in recent years. Museum directors have accused the archaeologists of dogmatically opposing private ownership of art and insisting that only they are equipped to study ancient cultures and antiquities properly. The archaeologists, for their part, have accused the museums of being driven solely by the desire for acquisitions and for implicitly subsidizing the trade in looted objects.

"I think the museums press a little too hard their claims to be educational institutions," said Robert W. Bagley, a professor of art and archaeology at Princeton University. He argued that museums could organize exhibitions with objects on loan for a fraction of what they often spend to purchase a single piece.

Archaeologists also say that in previous cases, when a country has made a request for a broad import ban, the State Department has simply approved narrower categories of objects. They also contend that China has recently taken steps to police its own internal market in ancient artifacts, creating a new task force of special agents to hunt for looted antiquities and sending archaeologists to do "rescue digs" at sites that are in danger of being destroyed through development or looting.

For their part, the curators, auction houses and dealers have raised concerns about the openness of the State Department's deliberations. They note that only one public hearing, in February 2005, was held on the Chinese request and that participants were limited to five minutes each for remarks.

Since then, they complain, the State Department has released no information as to how it may decide.