

Penn Museum

UNIVERSITY of PENNSYLVANIA MUSEUM
of ARCHAEOLOGY and ANTHROPOLOGY

February 6, 2013

Cultural Property Advisory Committee
Cultural Heritage Center (ECA/P/C), SA-5 Fifth Floor
U.S. Department of State
Washington, D.C. 20522-0505

To Whom It May Concern:

We write this letter in strong support for the renewal of the MOU between the United States and the Kingdom of Cambodia. This is a cover letter accompanied by a more detailed report.

Although we are not archaeologists focusing on Cambodia or Southeast Asia, the evidence of increased looting of heritage in Cambodia is very strong. There is clear evidence on the ground, from eye-witness accounts, and from material seized at borders that looting is ongoing in Cambodia. We both received the email mentioned in our report, which attempted to sell the Penn Museum recently looted artifacts from Cambodia – clear evidence of an ongoing process of destruction and the existence of an active international market.

Another critical point in this discussion is the effort and work that the Kingdom of Cambodia puts into the preservation and protection of heritage within its borders. While the failure of Thailand to become party to the 1970 UNESCO Convention remains an issue because Thailand can be listed as a country-of-origin for Cambodian material, Cambodia is to be commended for the steps it has taken toward working with Thailand on regional enforcement.

Finally, we strongly urge support for this MOU with the idea that the United States would both benefit from such an MOU through museum loans (short-term and relatively long-term) and the ability for U.S. scholars to conduct research within Cambodia. In addition, we urge that the United States offer assistance in the protection of cultural heritage through training programs that focus on customs enforcement, museum management, cultural resource inventories, and site recording.

This MOU is important and should be supported by CPAC and by the U.S. Department of State.

Sincerely,

A handwritten signature in black ink that reads "Richard M. Leventhal". The signature is written in a cursive style with a large, prominent 'R' and 'L'.

Richard M. Leventhal
Professor, Penn Anthropology
Executive Director, Penn Cultural Heritage Center
Curator, Penn Museum

A handwritten signature in black ink that reads "Brian Daniels". The signature is written in a cursive style with a large, prominent 'B' and 'D'.

Brian I. Daniels
Director of Research and Programs, Penn Cultural Heritage Center

POSITION PAPER IN SUPPORT OF THE RENEWAL OF A
MEMORANDUM OF UNDERSTANDING WITH THE KINGDOM OF CAMBODIA
UNDER THE CONVENTION ON CULTURAL PROPERTY IMPLEMENTATION ACT

Brian I. Daniels,¹ Sasha F. Renninger, Joseph Isaac, Deanna Bell, and Richard M. Leventhal
Prepared by the Penn Cultural Heritage Center, University of Pennsylvania²
Submitted to the U.S. Department of State, February 6, 2012

I. Executive Summary.

This position paper argues that a situation of serious pillage jeopardizing the cultural patrimony of Cambodia currently exists under the criteria in Section 303(a)(1) of 19 U.S.C. 2602. In response to a request from the Kingdom of Cambodia under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (as implemented in the United States by the Convention on Cultural Property Implementation Act), we urge the Cultural Property Advisory Committee to recommend the renewal of import restrictions on archaeological material from Cambodia. We further urge the U.S. Department of State, when negotiating the final bilateral agreement with the Kingdom of Cambodia, to use this opportunity to encourage the continued support for the current cultural exchange between Cambodia and the United States, including international loans of museum collections as well as regional and international partnerships within the areas of law enforcement, museum security, scholarship, and cultural policy. We will first review the available evidence leading to our conclusion that the situation in Cambodia meets the determinations under Section 303(a)(1). We will then present a point-by-point analysis of Cambodia's efforts to comply with Article II of the current Memorandum of Understanding between the U.S. and Cambodia (2008). Finally, we will offer some specific recommendations for action.

II. The cultural patrimony of Cambodia is now in jeopardy.

As documented by recent arrests and border seizures, as well as eyewitness accounts at archaeological sites, looters continue to threaten the cultural patrimony of Cambodia. The most heavily affected sites are not the main Angkor temples of Angkor Wat, Bayon, Baphuon, Preah Khan, and Ta-Prohm, which were placed on UNESCO's World Heritage list in 1992, but the less well known archaeological sites and temples that are scattered throughout the jungles of the region and have not benefited from the international attention which World Heritage Sites receive. For example, in 2009, two sandstone statues of Buddha were reported stolen to Interpol from Khmer temple sites,³ and in December 2012, a bronze statue of the Buddha was moved from its original home in the Sambor Pagoda, in Phnom Penh's Dangkor district, to the National Museum of Cambodia because it was stolen so frequently it was determined only the museum

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³ Florence Evin, "Cambodia's Khmer Heritage Threatened by Looting of Archaeological Sites," *The Guardian*, August 3, 2010. <http://www.guardian.co.uk/world/2010/aug/03/cambodia-khmer-heritage-unesco-angkor> . Accessed December 14, 2012.

could guarantee its safety.⁴ Two men in Banteay Meanchey province were arrested in November 2012 for attempting to smuggle Hindu and Buddhist artifacts across the border into Thailand.⁵ In March 2012, a French couple was arrested by Thai customs officials for attempting to smuggle a fourteen inch statue of Ganesha and a sixteen inch statue of four-faced Brahma out of Cambodia.⁶ Sophady Heng, from the Ministry of Culture and Fine Arts in Cambodia, has recorded devastating looting during the last five years at provincial sites including Phum Sophy, the temple at Banteay Chhmar, Prohear, Bit Meas, and smaller sites in the Banteay Meanchey and Udor Meanchey provinces.⁷ Nonprofit organizations like Heritage Watch, which is based in Phnom Penh, have documented rampant looting taking place throughout the countryside. Founder and director Dougal O'Reilly has witnessed much of this devastation and commented that this is largely driven by the market for Cambodian antiquities, which remains active.⁸

The Penn Museum has also had a recent experience related to the sale of looted archaeological material. In December 2012, its curators received an unsolicited email by an antiquities dealer based in Cambodia, offering recently unearthed material. The Brooklyn Museum was copied on the same email. After viewing both museums' websites, the proprietor offered "the best stone antique in cambodia [sic]" to augment the museums' permanent collections. His solicitation was a reminder that looters and sellers view American museums as the logical market for their wares.

III. The Kingdom of Cambodia has taken domestic measures to protect its cultural patrimony.

The Kingdom of Cambodia's domestic measures to protect its cultural patrimony have been two-fold, encompassing efforts at both the national and local levels. On the national level, a number of laws have been passed to protect the country's cultural heritage. These measures are Provisions Dated September 10, 1992: Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period, Article 44: Misdemeanors Concerning Cultural Property and Article 47: Receiving and Concealing Cultural Goods, Royal Decree 001/NS Establishing Protected Cultural Zones (1994), Royal Decree 0295/12 Establishing APSARA (1995), Royal Decree 0196/26 On the Protection of Cultural Heritage (1996), Royal Decree 0199/18 Second Decree Regarding APSARA (1999), Sub-decree No. 98 Concerning the Execution of the Protection of Cultural Patrimony (2002), Law on Customs, Article 8 (2003), Royal Decree 0504/070 Establishing the Site of Koh Ker (2004), and Royal Decree 0705/323 Transferring Koh Ker to APSARA Authority.

Ministerial departments are also in place to oversee the protection of Cambodia's heritage. The Ministry of Culture and Fine Arts manages the General Department of Cultural Techniques, which is tasked with protecting the country's intangible cultural heritage, and the General Department of Cultural Heritage, which implements protections of Cambodia's tangible

⁴ "Cambodia: Buddha statue finds sanctuary in National Museum," [2012], <http://buddhistartnews.wordpress.com/2012/12/06/cambodia-buddha-stature-finds-sanctuary-in-national-museum/#more-9411> (accessed on December 13, 2012).

⁵ "Duo in Cambodia Charged for Artefact Smuggling," [2010], <http://www.southeastasianarchaeology.com/2010/11/19/duo-cambodia-charged-artefact-smuggling/> (accessed on December 14, 2012).

⁶ "French Couple Arrested for Allegedly Smuggling in Two Antique Statues from Cambodia," *The Nation*, March 19, 2012.

⁷ Sophady Heng, Ministry of Culture and Fine Arts, e-mail message to author, August 18, 2012.

⁸ Bruce Bower, "Networks of Plunder," *Science News* 175, no. 7 (Mar. 28, 2009): 23.

cultural heritage. The Ministry of the Interior oversees the Patrimony Police, which specializes in the protection of heritage. All archaeological sites in the country are overseen by the Ministry of Culture and Fine Arts, except for prehistoric and historic sites in the Angkor area, which are overseen by the Authority for the Protection and Management of Angkor and the Region of Siem Reap (APSARA) and sites located in the region overseen by the National Authority of Preah Vihear. For the cultural remains in the latter locations, the Ministry works closely with the cultural authorities in these areas to protect and promote Cambodian heritage. The Ministry of Culture and Fine Arts is currently preparing to nominate the site of Sambor Prei Kuk to the list of World Heritage Sites. Plans are also underway to seek World Heritage Status for the site of Banteay Chhmar.⁹

IV. U.S. import restrictions would be part of an international response to pillage in Cambodia.

The United States would not stand alone in responding to the situation of pillage in Cambodia. Cambodia has engaged in a number of international forums and agreements to draw attention to its pillaged heritage. It became party to the 1970 UNESCO Convention in 1972. It also became party to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects in 1995, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its First Protocol in 1999, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage in 2006, and the 2001 Convention on the Protection of the Underwater Cultural Heritage as well as the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions in 2007.

Cambodia also entered into a bilateral agreement with the Kingdom of Thailand in 2000.

In 2009, the Cambodian government collaborated with the International Council of Museums, the Board of Educational and Cultural Affairs of the U.S. Department of State, and the French School of Asian Studies of Paris to publish the Red List of Cambodian Antiquities at Risk as part of an international effort to fight the illicit traffic of cultural goods.¹⁰ The list has been distributed to police and customs officials, museum professionals, auction houses, art dealers, and collectors worldwide and is available in English, Khmer, Thai, French, and German. In addition to creating the list, Cambodian heritage experts were invited to participate in an international round table discussion entitled “Illicit Traffic of Cultural Goods: Protecting Angkor” on June 15, 2010 to further the goals of the Red List.¹¹

V. A bilateral agreement between the Kingdom of Cambodia and the United States would promote the interchange of cultural property among nations for scientific, cultural, and educational purposes.

Cambodia has participated in a number of international cultural exchange programs during the present MOU period, consistent with the goals of the MOU. Among these cultural exchange programs was a short-term museum loan between Cambodia and the United States in 2010-2011 titled “Gods of Angkor: Bronzes from the National Museum of Cambodia,” organized by the Freer Gallery of Art and the Arthur M. Sackler Gallery, Smithsonian

⁹ Sophady Heng, Ministry of Culture and Fine Arts, e-mail message to author, August 18, 2012.

¹⁰ “Red List of Cambodian Antiquities at Risk” [2009], <http://icom.museum/resources/red-lists-database/red-list/cambodia/> (accessed on December 13, 2012).

¹¹ “Red List of Cambodian Antiquities at Risk: Press File” [2010], http://icom.museum/uploads/tx_hpoindexbdd/RedList_Cambodia_PressFile.pdf (accessed on December 13, 2012).

Institution. This exhibit also travelled to the J. Paul Getty Museum in Los Angeles, California. The exhibit included thirty-six bronze artifacts on loan from the National Museum of Cambodia. As part of the collaborative program that led to this exhibit, a partnership was created which allows for the international exchange of scholars to train in museum studies and conservation both in the United States and in the National Museum of Cambodia's Metal Conservation Laboratory.

This program marks an important collaboration between Cambodia and American cultural institutions. Any MOU renewal should encourage similar activities, with a policy aim of encouraging increased museum loans, training, and artifact conservation.

VI. The Kingdom of Cambodia is in compliance with Article II of the current MOU.

The following section will discuss each element of the Article II agreement between the Kingdom of Cambodia and the United States.

A. The Government of the Kingdom of Cambodia shall seek to expand the exchange of its archaeological material with U.S. institutions under circumstances that do not jeopardize its cultural patrimony, such as for temporary loans for exhibitions, including long-term loans whenever appropriate, and for other cultural, educational, and scientific purposes.

Cambodia has participated in a major short-term museum loan to museums in the United States during the present MOU period. Please refer to the discussion of the recent 2010-2011 exhibition "Gods of Angkor: Bronzes from the National Museum of Cambodia," in Section V of this report.

B. Representatives of the Governments of the United States of America and the Kingdom of Cambodia shall participate in efforts to publicize this Memorandum of Understanding and the reasons for it, particularly as they relate to the Bronze and Iron Ages.

As part of all public education programs conducted by the Ministry of Culture and Fine Arts, the Memorandum of Understanding between the United States and Cambodia is explained and made available to students. These education programs are discussed in more detail in Part F of this section.

C. The Government of the United States of America shall continue to use its best efforts to facilitate technical assistance in cultural resource management and security to the Government of the Kingdom of Cambodia, as appropriate under available programs in the public and/or private sectors.

In accordance with the above recommendation, on July 16-20, 2012, Cambodia participated in a program sponsored by the International Law Enforcement Academy and funded by the U.S. Department of State Cultural Heritage Center entitled "Documenting and Quantifying Crimes at Cultural Heritage Sites in Southeast Asia," which took place in Bangkok Thailand. The program provided extended training for archaeologists and prosecutors from Cambodia, Vietnam, Laos, and Thailand on issues regarding looting cases. Coursework included an overview of archaeological looting, a review of archaeological laws, valuing archaeological resources, and a mock assessment of a looted archaeological site.

Representatives from Cambodia also participated in a 2012 program at the Penn Museum that discussed contemporary developments in cultural heritage preservation as part of the United States Department of State Citizen Exchange Program.

D. Both Governments shall seek to encourage national and international institutions to promote archaeological research in Cambodia, and to further the interchange of knowledge about the archaeological heritage representing the Bronze Age through the Post-Angkorian Period.

During the last MOU period, the following archaeological projects have been conducted by institutions within Cambodia: Conservation of Phnom Bakheng Temple, Angkor Archeological Zone -- Stabilization and Restoration of the East Elevation by the World Monuments Fund in 2011; The Conservation and Preservation of Metal Art Object at Wat Rajabo's Collection by the National Museum of Cambodia in 2009; and Database Implementation and Archive Preservation Project by the National Museum of Cambodia in 2008. These projects received funding from the United States Ambassador's Fund for Cultural Preservation. There have been a number of ongoing American excavations and archaeological surveys in Cambodia during the present MOU period, including the Lower Mekong Archaeological Project conducted by the University of Hawaii.

Cambodia has also joined with the German Archaeological Institute to conduct rescue excavations at a Pre-Angkor Iron Age burial site in Prey Veng province. This site was discovered in 2007; however, it appeared to have been completely destroyed by looters. Excavators were able to preserve what remained at the burial site and excavations at this location remain active. Artifacts that were discovered during these excavations are on display in the National Museum of Cambodia in Phnom Penh. A second exhibition opened in March 2011 at the provincial museum in Prey Veng. This project also included American researchers from the University of Wisconsin at Madison.

E. The Government of the Kingdom of Cambodia shall continue to develop and promote professional training programs for archaeologists, museum staff, and institutional administrators responsible for cultural patrimony, to enhance the capabilities of the museums of Cambodia to care for and present their rich cultural heritage.

During the last five years, employees of the Ministry of Culture and Fine Arts have participated in an exchange program with the University of Hawaii at Manoa and adjacent the East-West Center. In addition to the Cambodian partnership with the East-West Center which allows students to study in a diverse range of fields, the Ministry of Culture and Fine Arts has sent doctoral students to this program to receive formal training in a variety of cultural heritage fields including archaeology and museum studies. Employees from the Ministry have also enrolled in archaeology and heritage related doctoral programs at the University of California, Berkeley.

In addition, a new program has been launched by UNESCO in Cambodia, Laos, and Viet Nam to develop professional skills for museum staff, curators, conservators, archaeologists, and managers of World Heritage sites, as well as strengthening the network of regional museums in

the area. The project launch meeting was held in Siem Reap, Cambodia in July 2011, and the project is expected to run through 2013.¹²

F. The Government of the Kingdom of Cambodia shall continue to use its best efforts to: create and implement management plans for archaeological sites that balance protection with sustainable use; secure museum collections and document/inventory standing archaeological remains; implement educational programs throughout the country to inform and engage its citizens in the protection of cultural resources, particularly those of the Bronze and Iron Ages; expand the Department of Patrimony Protection Police; and reduce corruption that undermines efforts to protect Cambodian cultural patrimony from pillage and illicit trafficking.

Cambodia has enacted several measures during the last five years with the ultimate goal of achieving the objectives listed above. These include dramatically increasing the protection for major temple sites such as Angkor Wat, where approximately four hundred police now patrol the area to protect it from looting and vandalism.¹³ In addition, the effort to document all the archaeological sites in the country has brought the total to 6000 archaeological sites which have been documented and mapped with the assistance of the Ecole Francais l'Extreme Orient.¹⁴ A map of these sites is available upon request from the Ministry of Culture. An extensive effort to inventory artifacts which are not currently held in museums (these include artifacts in pagodas, police offices, and private institutions) has recently received funding from the United States Ambassador Fund and is projected to be completed within the next three years.

In addition to increasing site security and documentation, Cambodian officials are also engaging citizens in the protection and interpretation of national heritage. For example, a project is underway in Banteay Chhmar to train locals to become tour guides at the site.¹⁵ This project is a partnership between the local Community Based Tourism board and Heritage Watch, with funding from the Archaeological Institute of America through a Site Preservation Grant. The training includes English language education, followed by a tour guide program, which teaches interpretive techniques, site-related issues, and communication skills. In addition to the courses offered, a manual in Khmer and English was created with the goal of continuing to offer this course for future students, including officials from the Ministry of Culture and Fine Arts. There are also workshops that teach local community members of all ages about the site and heritage preservation. In 2011, education about the site and heritage preservation began to be incorporated into the educational curriculum of the local school children.¹⁶

In 2008, the Getty Conservation Institute partnered with the Pacific Rim Council on Urban Development, the Center for Khmer Studies, and APSARA at a conference entitled "Siem Reap: Urban Development in the Shadow of Angkor" which focused on the impact of

¹² "Revitalising World Heritage Site Museums in Cambodia, Laos, and Viet Nam," [2011], http://www.unesco.org/new/en/culture/themes/dynamic-content-single-view/news/revitalising_world_heritage_site_museums_for_a_better_interpretation_of_living_heritage_sites_in_cambodia_laos_and_viet_nam_training_for_world_heritage_site_museums_2011_2013/ (accessed December 14, 2012).

¹³ Bruce Bower, "Networks of Plunder," *Science News* 175, no. 7 (Mar. 28, 2009): 23.

¹⁴ Sophady Heng, Ministry of Culture and Fine Arts, e-mail message to author, August 18, 2012.

¹⁵ "Preparing for Visitors at Banteay Chhmar, Cambodia," [2010], <http://www.archaeological.org/news/currentprojects/3134> (accessed on December 14, 2012).

¹⁶ "Project Expands Heritage Protection Education to Children at Banteay Chhmar, Cambodia," [2012], <http://www.archaeological.org/news/currentprojects/8917> (accessed on December 14, 2012).

urbanization near the World Heritage Site of Angkor and how increased tourism and site visitation could be managed sustainably.¹⁷

As part of an effort to reduce corruption, the Department of Inspection within the Ministry of Culture and Fine Arts has been tasked with the responsibility of monitoring all the institutions which fall under the Ministry's purview and reporting back to the Minister of Culture directly. This office also makes recommendations for improving the functionality of the Ministerial departments. One example of this department at work took place in January 2009 when it was reported by local villagers in the Romeas Haek district that local and military police officers arrived in the village at night and demanded permission to dig on a sacred site near the town. When the local village chief refused and reported them to the Provincial Heritage Office, additional security was sent to the site to stop all digging immediately and an official investigation was launched to punish those involved in the looting.¹⁸

G. The Government of the Kingdom of Cambodia shall endeavor to enhance its collaborative efforts with the Government of the Kingdom of Thailand to control the illicit movement of Cambodian archaeological materials across their shared border.

As part of an ongoing effort to enhance collaborative efforts between the Governments of Thailand and Cambodia, both countries have met several times to discuss conservation and preservation plans for the temple of Preah Vihear, which is located on the shared border between Thailand and Cambodia. These discussions have included the creation of a prohibition against the use of heavy firearms or rocket launchers in the vicinity of the ancient site. Thailand has also enhanced their efforts to stop the smuggling of Cambodian artifacts into Thailand, as mentioned in Section II of this report. In June 2009, Thailand returned to Cambodia seven artifacts from the Angkor period that had been seized from smugglers as part of this effort.¹⁹ Despite these initiatives, because Thailand is not party to the 1970 UNESCO Convention, the risk remains that archaeological material may flow through the Cambodian border and be offered for sale with Thailand listed as the country of origin. For this reason, collaborative efforts with Thailand to restrict the illicit antiquities trade remain an important area of ongoing concern.

VII. Recommendations.

Based upon the forgoing, we conclude that a situation of serious pillage jeopardizing the cultural patrimony of Cambodia exists under Section 303(a)(1) of 19 U.S.C. 2602. As such, we ask that the Cultural Property Advisory Committee recommend the renewal of import restrictions on archaeological material from Cambodia. We also urge the U.S. Department of State to consider the following when negotiating Article II of a subsequent MOU:

- That the Cambodian Ministry of Fine Arts encourage all permitted archaeological projects under their authority to include a community engagement and outreach component;

¹⁷ "Getty Conservation Institute Helps Convene International Group to Address Urban Development near Angkor Archaeological Park," [2008], http://www.getty.edu/news/press/center/gci_siem_reap.html (accessed on December 14, 2012).

¹⁸ "Ancient Site Threatened with Looting," [2009], <http://www.heritagewatchinternational.org/ancient-site-threatened-with-looting.html> (accessed on December 14, 2012).

¹⁹ "Looted Artefacts Return to Cambodia," [2009], <http://www.southeastasianarchaeology.com/2009/07/03/looted-artefacts-return-cambodia/> (accessed on December 14, 2012).

- That country-wide inventories of archaeological sites, museum collections, and temple sites be encouraged as a matter of best-practice and policy by the Cambodian Ministry of Fine Arts;
- That collaboration between U.S. universities and cultural institutions with the Cambodian Ministry of Fine Arts and relevant site managers and museum curators be encouraged, with a goal of enhancing local capacity in museum and archaeological database management, GIS site mapping, museum cataloguing, and field and lab programs; and
- That joint cross-border initiatives between Cambodia and Thailand be continued with the aim of expanding regional training programs in cultural resource management and archaeological site security and protection.