

**Statement submitted to the Cultural Property Committee Regarding
Guatemala's MOU request**

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I am director of the Nasher Museum of Art at Duke University, and the first vice president of the Association of Art Museum Directors (AAMD). I am pleased to submit this statement regarding the MOU request from Guatemala on behalf of the Nasher Museum at Duke and AAMD in support of the extension of the MOU. While we support the MOU we do ask the committee to consider some of the issues raised below.

I have been a university art museum director since 1994 and director of the Nasher Museum at Duke since 2004. The Nasher Museum holds significant collections of Pre-Columbian art including objects from Guatemala. Like all art museums, university art museums serve and educate the public. In the case of a university art museum, there is a special duty to serve university students and faculty and to contribute to their broader education in meaningful ways, using the works of art in our collections to help them understand diverse cultures, both historic and modern. We often work closely with faculty members who are also practicing archaeologists working in source countries around the world. We are thus especially mindful of the issues archaeologists face and we share with them a desire to build strong cooperative relationships with source countries.

While we support restrictions on archaeological materials, AAMD and the Nasher Museum at Duke are concerned about Guatemala's request for import restrictions of ethnological materials. This request would prohibit trade in materials that were made to be bought, sold and exchanged. The request to include ethnological materials reaches too far; it does not take into account our legitimate interest in collecting such materials, when they are not endangered, for educational purposes. We urge the committee to secure and make public a clear and comprehensive definition of what ethnological materials would be covered, and to limit as much as possible the scope of such materials that would be protected under the MOU.

Under CPIA, ethnological materials are defined as follows:

No object may be considered to be an object of ethnological interest unless such object is (I) the product of a tribal or nonindustrial society, and (II) important to

the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

It is not clear that Guatemala's request for protection of "ethnological ecclesiastical material representing the Colonial Period of its cultural heritage" meets this definition, and we ask that this request be closely scrutinized and protection of these materials be denied or strictly limited.

Regarding loans from Guatemala: American museums have continued to experience difficulties in arranging long-term and exhibition loans from Guatemala, and we ask that CPAC take this information into account in its assessment of the previous MOU and its negotiations regarding the current MOU request. Our concerns are directly relevant to the interests of American art museums and the American people, interests that must be considered and fairly balanced in the consideration of any MOU request.

First, we request that Guatemala consider long-term loans for a period of up to 10 years. Currently, long-term loans are limited to a period of 3 years and no loans can be out of the country during a presidential election, which occurs every six years. This very short term frame, and the attendant uncertainty, makes long-term loans of significant materials too costly for most American museums. However, on a positive note, the St. Louis Art Museum successfully negotiated a long-term loan in late 2011 for a piece that had been in its museum for decades.

Second, we request that the administrative process for approving loans (both short- and long-term) be streamlined. Currently, the process requires multiple department approvals including approvals from the President of Guatemala, which creates unnecessary and unwieldy delays and increased costs. Insurance values are sometimes set unrealistically high, making insurance coverage impossible to obtain and thus preventing the loan.

In a recent AAMD survey of members likely to have an interest in Guatemalan loans, the responses, while few in number, nonetheless showed that there was a strong interest in securing exhibition loans, but it was noted that among those who responded to the survey few exhibition loans actually took place because of the burden of the process. For example, loans requested from the National Museum in Guatemala for an exhibition in my museum in 1993-95 were not made because the valuation was put at one million dollars per object, far too high to be covered by any domestic insurance policy, so those never came to Duke. Another part of that exhibition was to come from a private university museum – that part of the loan did come, but we were required to pay an income tax on each work, which also caused significant delays and problems. The income tax issue no longer appears to be a problem.

Finally, we respectfully ask the CPAC to consider carefully how to most fairly balance the legitimate interests involved before granting Guatemala's request to renew the MOU. American art museums serve the American public through their numerous educational programs. AAMD museums serve approximately 48 million visitors and 40,000 schools annually, and we offer hundreds of community programs in connection with approximately 20,000 different community partners from hospitals to Boy Scout troops. Art museums have a strong and legitimate interest in being able to collect, borrow, and exhibit both archaeological and ethnological material from Guatemala, in order for our citizens to learn about Guatemala and its history in unique and valuable ways.

We acknowledge that the threat to Guatemala's archaeological heritage is great, and that our interest in preserving Guatemala's past is best served by protecting the archaeological heritage and record as thoroughly as possible through MOU restrictions on import of archaeological material. We are very concerned, however, that Guatemala's request regarding ethnological materials may be overly broad and here we urge the committee to give appropriate weight to the strong and clear interests of American museums and the American public for these materials to circulate as freely as possible.

Many thanks for your consideration of this testimony.

Respectfully submitted,

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