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

I submit this letter on behalf of myself and the Lawyers' Committee for Cultural Heritage Preservation<sup>1</sup> as part of the interim review of the current United States-Italy Memorandum of Understanding. As part of this process, members of the public have been asked to comment on Article II of the current agreement, which sets out several actions that both countries are encouraged to take.

Paragraph D of Article II calls on Italy to strengthen its cooperation with other Mediterranean nations and to increase cooperation with art-importing nations to restrict illegal import of cultural materials from Italy. In October 2008, pursuant to its bilateral agreement with Italy, Switzerland published its list of designated archaeological materials and ancient art, which is similar to the list in the US-Italy agreement (although the Swiss agreement covers a broader range of materials), that are subject to import restriction.<sup>2</sup> Also in October 2008, Switzerland and

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<sup>1</sup> The Lawyers' Committee for Cultural Heritage Preservation is an association of lawyers, law students and interested members of the public who have joined together to promote the preservation and protection of cultural heritage resources in the United States and internationally through education and advocacy. I am Distinguished Research Professor at DePaul University College of Law and Director of its Center for Art, Museum and Cultural Heritage Law. I served as a public representative on the Cultural Property Advisory Committee from 2000-2003. This time period did not include the Committee's consideration of Italy's initial request.

<sup>2</sup> The lists may be obtained at: <http://www.bak.admin.ch/themen/kulturguetertransfer/01985/index.html?lang=en>. The Swiss agreement covers all materials up to a date of AD 800 and some up to a date of AD 1500, whereas the U.S. agreement covers materials only through the Roman Imperial period.

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Greece finalized a bilateral agreement.<sup>3</sup> The Switzerland-Greece agreement covers comparable types of archaeological objects and ancient art works to those found in Italy, thus assisting indirectly the protection of the Italian cultural patrimony, given, as Article II recognizes, that ancient cultural and modern political boundaries do not coincide. Finally, eBay and Switzerland recently concluded an agreement that eBay would no longer offer for sale within Switzerland antiquities that do not have proof of legality issued by competent authorities in Switzerland and other countries. This restriction applies, in particular, to cultural property that has been designated pursuant to a bilateral agreement (thus including Italy's bilateral agreements with both the United States and Switzerland).<sup>4</sup>

In addition to agreements with Switzerland, Italy has reached an agreement of cooperation and mutual assistance in combating the illegal trade in antiquities with Greece, and the two countries have cooperated in recent years in investigations and the recovery of stolen and smuggled antiquities.<sup>5</sup> In 2006, Italy and China signed an agreement for cooperation in preventing the smuggling of cultural relics.<sup>6</sup>

As illustrations of law enforcement cooperation between Italy and other nations, 251 ancient artifacts worth approximately \$2.7 million were returned to Italy from an anonymous gallery in Geneva.<sup>7</sup> At the request of Italian authorities, ten objects, worth an estimated \$350,000, were removed from auction at Bonhams in London on suspicion that they were illegally exported or stolen.<sup>8</sup>

One of the most important elements of Article II concerns loans made by Italy to American institutions. The purpose of this provision is to ensure that archaeological materials and artistic works that are subject to import restriction under the MOU will still be available to the American public through loans for exhibition. In light of this purpose, one should focus not on whether loans are made to any particular individual institution but whether loans are made to a variety of institutions located throughout the country and in a variety of larger and smaller cities—which is the best way to ensure that the American public will still have access to these archaeological and artistic works. Further, the purpose of this provision of Article II relates directly to the fourth determination, concerning the international exchange of cultural materials,

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<sup>3</sup> *Id.* The list of designated materials is found at the conclusion of the text of the agreement.

<sup>4</sup> eBay to limit sale of cultural artifacts (Oct. 20, 2009), available at [http://www.swissinfo.ch/eng/travel/eBay\\_to\\_limit\\_sale\\_of\\_cultural\\_artefacts.html?siteSect=414&sid=11379715&cKey=1256106582000&ty=nd](http://www.swissinfo.ch/eng/travel/eBay_to_limit_sale_of_cultural_artefacts.html?siteSect=414&sid=11379715&cKey=1256106582000&ty=nd).

<sup>5</sup> “Culture Minister Liapis Holds Talks in Rome,” Athens News Agency, July 15, 2008; Jason Felch and Ralph Frammolino, “Getty Will Return 2 Greek Artifacts,” L.A. Times, July 11, 2006, at A1; Nicholas Zirganos and Daniel Howden, “Greece and Italy team up to recover stolen antiquities,” The Independent (London), Feb. 24, 2006, at 23.

<sup>6</sup> “China, Italy sign agreement on anti-smuggling of cultural relics,” Xinhua News Agency (Jan. 20, 2008). The specific agreements between Italy and Switzerland, Greece and China are in addition to the protection given to the Italian cultural patrimony through its membership in the European Union and its adherence to the 1970 UNESCO Convention, which two significant market nations (Belgium and the Netherlands) joined this year, and the 1995 Unidroit Convention, of which there are now thirty States Parties.

<sup>7</sup> Adam L. Freeman, “Swiss Gallery Surrenders EU2 Million in Antiquities to Italy,” Bloomberg News, May 19, 2009.

<sup>8</sup> Elisabetta Povoledo, “Disputed Artifacts Removed from Auction,” N.Y. Times, Oct. 14, 2008

and thus refers to the types of archaeological materials and ancient art works that are designated under the MOU as subject to import restriction.

The following is a sampling of loans made by Italy since 2006 to American institutions:

*Pompeii and the Roman Villa* was on display at the Los Angeles County Museum of Art (May 3-October 4, 2009) and at the National Gallery in Washington, DC (October 19, 2008-March 22, 2009). The exhibit included 120 works of art, including sculpture, paintings, mosaics, and luxury arts. Many were recent discoveries from around the Bay of Naples and had never before been exhibited in the United States.

*Pompeii: Tales from an Eruption* was on display at the Museum of Fine Arts, Houston, and the Birmingham Museum of Art in late 2007 and early 2008; it included 479 pieces of painting, sculpture and craft.

*A Day in Pompeii* between 2007-2009 was on display at the Science Museum of Minnesota; San Diego Natural History Museum; Gulf Coast Exploreum Science Center, Mobile, Alabama; and Discovery Place, Charlotte, NC.

*From the Temple and the Tomb: Etruscan Treasures from Tuscany*, composed of more than 300 objects from the excavations at Poggio Colla, carried out by Professor Gregory Warden of SMU, was on display at the Meadows Museum, Southern Methodist University, Dallas, TX, between January and May 2009; it was the most comprehensive exhibition of Etruscan art ever held in the United States. This exhibit fits not only the Article II description of loans but also Article II, paragraph E.2., which calls for loans of objects excavated by American institutions.

*In Stabiano*, an exhibit of art works from elite Roman villas near the Bay of Naples, traveled to museums in San Diego, Washington DC, Atlanta, Dallas, Madison, WI, Toledo, Ohio, and Jacksonville, FL. More than three million people saw the exhibit.

These exhibits are in addition to the long-term loans that Italy has made to those museums that have concluded agreements concerning loans and cooperation in areas of research, excavation and conservation. These loans are again too long to list, but a few include the Chimaera of Arezzo, a spectacular Etruscan bronze sculpture of 400 BC, and the Roman Ephebe, a bronze sculpture excavated in a villa at Pompeii, both on loan to the J. Paul Getty Museum. The over-life-sized marble sculpture of the goddess Eirene has been on loan to the Boston Museum of Fine Arts since the fall of 2006. A kylix, dating to 560-550 B.C. and excavated from an Etruscan tomb in Cerveteri, has been on display at the Metropolitan Museum of Art in New York since late 2006.

While this is not a comprehensive list of loans from Italy over the past few years, it demonstrates that a wide variety of American institutions in both large and small cities throughout the country have benefited from these loans—to the point that one may conclude that Italy has been very generous to the American public and is fulfilling its obligations under Article II.

I hope that the Committee finds these comments useful, and I thank you for the opportunity to offer them.

Sincerely,

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