



August 2016

CULTURAL PROPERTY

Protection of Iraqi and Syrian Antiquities

GAO Highlights

Highlights of [GAO-16-673](#), a report to congressional requesters

Why GAO Did This Study

The Islamic State of Iraq and Syria (ISIS) and other groups have seized upon the conflicts in Iraq and Syria to destroy, loot, and traffic cultural property, including antiquities. According to the United Nations (UN), this destruction and looting has reached unprecedented levels. The UN has also reported that since the civil war in Syria began in 2011, ISIS has used the sale of looted Iraqi and Syrian cultural property to generate income to strengthen its capabilities to carry out attacks. Under the Convention on Cultural Property Implementation Act, signed into law in 1983, and other laws, the United States has restricted the importation of certain, but not all, Iraqi and Syrian cultural property.

GAO was asked to examine the protection of Iraqi and Syrian cultural property, including views of art market experts. This report describes (1) activities undertaken by U.S. agencies and the Smithsonian Institution to protect Iraqi and Syrian cultural property since 2011, and (2) art market experts' suggestions for improving U.S. government activities. GAO reviewed documents and interviewed U.S., international, and foreign officials. GAO interviewed a nongeneralizable sample of U.S.-based art market experts representing different categories of the art market to obtain suggestions for potentially improving U.S. government activities. GAO then asked experts to rate the importance of these suggestions and obtained U.S. officials' views on experts' top-rated suggestions.

GAO is not making recommendations in this report.

View [GAO-16-673](#). For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

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What GAO Found

U.S. agencies and the Smithsonian Institution (Smithsonian) have undertaken five types of activities to protect Iraqi and Syrian cultural property since 2011, which include awareness raising, information sharing, law enforcement, overseas capacity building, and destruction prevention. For example, the Department of Homeland Security reported coordinating with the Federal Bureau of Investigation and other agencies to open 18 Iraqi and Syrian cultural property cases—such as those regarding smuggling by individuals and international criminal organizations—between 2011 and February 2016. To enhance the capacity of partners overseas, the Department of State (State), the government of Iraq, and others established an archaeological and cultural management training facility in Erbil, Iraq. In addition, to prevent destruction, the Smithsonian and others trained Syrian antiquities professionals to use sandbags and other materials to protect ancient mosaics at a Syrian museum, reportedly resulting in the successful protection of the museum collection when it was bombed.

Types of Iraqi and Syrian Items at Risk of Being Trafficked



Iraqi alabaster relief, Northwest Palace (Nimrud), 883-859 BC
© Vorderasiatisches Museum – SMB, Berlin / Olaf M. Telmer



Iraqi paper folio with ink, gold, and opaque watercolors, possibly from Baghdad, 1224 AD
© Metropolitan Museum of Art



Syrian glass long-necked bottle, 2nd-3rd century AD
© Directorate-General of Antiquities and Museums, Damascus



Syrian limestone funerary bust, Palmyra, 3rd century AD
© Directorate-General of Antiquities and Museums, Damascus

Source: International Council of Museums (ICOM). | GAO-16-673

Art market experts identified suggestions related to improving information sharing, clarifying guidance, creating a strategy, and establishing a Department of Defense contact as most important to improving U.S. government activities for cultural property protection. For example, art market experts suggested U.S. agencies could work with nongovernmental entities, such as museums overseas and foreign countries, to improve data management. Specifically, they suggested the creation of a database including information, such as museum catalogues, that could help verify if art market items were stolen. U.S. officials GAO contacted generally agreed with this suggestion and reported some ongoing work in this area. For example, State officials noted that State provides funding to support several projects annually to inventory museum and archaeological sites, including in countries where cultural property may be at risk. Agency officials had various responses to other art market experts' suggestions.

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Abbreviations

1954 Hague Convention	1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict
1970 UNESCO Convention	1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
AAMD	Association of Art Museum Directors
CBP	U.S. Customs and Border Protection
CHC	Cultural Heritage Center
CPIA	Convention on Cultural Property Implementation Act
DOD	Department of Defense
DHS	Department of Homeland Security
DOJ	Department of Justice
EOUSA	Executive Office for United States Attorneys
FBI	Federal Bureau of Investigation
ICE	U.S. Immigration and Customs Enforcement
ICOM	International Council of Museums
Interior	Department of the Interior
INTERPOL	International Criminal Police Organization
Iraqi Cultural Antiquities Act	Emergency Protection for Iraqi Cultural Antiquities Act of 2004
ISIS	the Islamic State of Iraq and Syria
NGO	nongovernmental organization
Smithsonian	Smithsonian Institution
State	Department of State
Treasury	Department of the Treasury
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
USAID	U.S. Agency for International Development

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August 15, 2016

Congressional Requesters

The Islamic State of Iraq and Syria (ISIS)¹ and others seized upon instability that began in Iraq in 2003 and in Syria in 2011 to destroy and steal cultural property, including historical monuments, mosaics, and other ancient art and antiquities. The United Nations (UN) has expressed concern that the destruction and looting of such property, including Iraq's oldest Christian monastery and two ancient temples in Syria, has reached unprecedented levels and constitutes the worst cultural heritage crisis since World War II. International and U.S. government officials, including the Secretary of State, have noted that these attacks represent assaults on our shared heritage, reducing the opportunity for historical study and harming opportunities for sustainable tourism that could be used to boost local economies. Additionally, the UN has reported that ISIS and other individuals have generated income from the looting and smuggling of cultural property from archaeological sites and museums in Iraq and Syria. This income may be used to support terrorist organizations in planning and carrying out attacks. In July 2015, the Department of State (State) announced that a few months earlier, during a raid in eastern Syria to capture ISIS leader Abu Sayyaf, U.S. Special Operations Forces recovered a cache of hundreds of archaeological and historical objects, including objects catalogued as belonging to the Mosul Museum in Iraq. Documents obtained during the same raid demonstrate that ISIS is organized to sponsor looting and trafficking of antiquities for profit.

We were asked to examine the protection of Iraqi and Syrian cultural property, including views of art market experts. This report describes (1) activities undertaken by U.S. agencies and the Smithsonian Institution (Smithsonian) to protect Iraqi and Syrian cultural property since 2011 and (2) art market experts' suggestions for improving U.S. government activities.

¹This organization is also referred to as the Islamic State of Iraq and the Levant (ISIL) or Daesh.

To determine the activities undertaken by U.S. agencies and the Smithsonian to protect Iraqi and Syrian cultural property, we reviewed documents and data, and interviewed officials representing U.S. agencies; the Smithsonian;² international organizations; and foreign governments, including the United Kingdom (UK), Italy, and Jordan. We chose the UK because agency officials and art market experts reported it represents the second-largest legal antiquities market after the United States; we chose Italy and Jordan because the U.S. Mission to the UN reported the two countries' UN missions were leading an effort to protect Iraqi and Syrian cultural property. We also reviewed relevant laws governing cultural property and authorities used by agencies and international organizations to address cultural property issues.

To obtain art market experts' suggestions to improve U.S. government activities to protect Iraqi and Syrian cultural property, we conducted interviews with a nongeneralizable sample of U.S.-based art market experts knowledgeable in cultural property protection issues, including antiquities. We selected these experts based on, among other factors, representation of different categories of the art market. These art market experts, who have knowledge of U.S. government activities to protect cultural property, including some who have worked as government employees, range from those representing art and antiquities dealers, auction houses, appraisers, archaeologists, museums, academic institutions, and nongovernmental organizations (NGO) to lawyers who bring specialized expertise to cultural property cases. These experts may not have access to nonpublic information regarding efforts by U.S. agencies to protect cultural property. Additionally, because our sample includes individuals covering a broad range of expertise in the art market, not all individuals have expertise in all areas of cultural property protection. For instance, individuals in our sample with expertise in one area, such as archaeology or other academic topics, may not necessarily have expertise in other areas, such as legal or law enforcement issues. During our interviews, we asked these art market experts to identify suggestions for U.S. government improvement to cultural property protection activities. After compiling their suggestions in a questionnaire listing their 25 suggestions, we sent the questionnaire to 29 art market

²The Smithsonian is the world's largest museum complex and research organization. Established by Congress as a trust instrumentality of the U.S. government, it is funded in part by federal appropriations. For the purposes of this report, we have included the Smithsonian in our discussion of U.S. agency cultural property protection efforts.

experts to rate the importance of the various suggestions. Of these 29 art market experts, 26 responded to the questionnaire. Based on the average score of these 26 art market experts' ratings of suggestions in the questionnaire, we identified suggestions that experts rated as highest in importance and asked U.S. officials to provide their views about these suggestions. While we report the views of art market experts and U.S. officials related to these suggestions, we are not expressing an opinion on them. To gather information for both objectives, we interviewed government officials and art market experts in Washington, D.C.; New York, New York; and London, UK. See appendix I for more details on our scope and methodology.

We conducted this performance audit from August 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Destruction, Looting, and Trafficking of Iraqi and Syrian Cultural Property

The destruction, looting, and trafficking of cultural property, especially during times of political instability and armed conflict, is a longstanding international concern. Destruction of cultural property entails intentional or unintentional bombing and damage to sites and objects. Looting involves the illegal removal of undocumented objects from a site or structure not already excavated.³ Objects documented as part of a collection may also be stolen from individuals, museums and similar institutions, and other places of origin. Looted and stolen objects may be trafficked, or illicitly

³Some art market experts we interviewed noted that they consider the illegal removal of an object from the ground to be a form of destruction. According to the Archaeological Institute of America, in the course of excavating, archaeologists study changes in the soil, and measure and document locations of artifacts and the context in which they are found. When looters dig for artifacts, they destroy this context, leading to a loss of knowledge, according to some art market experts. According to State officials, the demand for cultural artifacts has resulted in the destruction of archaeological sites and the loss of the context surrounding them; this context contains information essential to understanding the development of cultures.

traded, sometimes outside the location in which the objects were looted or stolen.

The United States has a history of protecting cultural property during times of conflict. For example, when the Nazi regime made a practice of looting art and other cultural property during World War II, the Allied Armies established the Monuments, Fine Arts, and Archives Section, known as the Monuments Men, who restored and returned to their rightful owners more than 5 million works of art, though many thousands of pieces of art were never recovered by their rightful owners (see fig. 1).

Figure 1: Monuments Man Inspects Nazi-Looted Art at the Munich Central Collecting Point in 1945

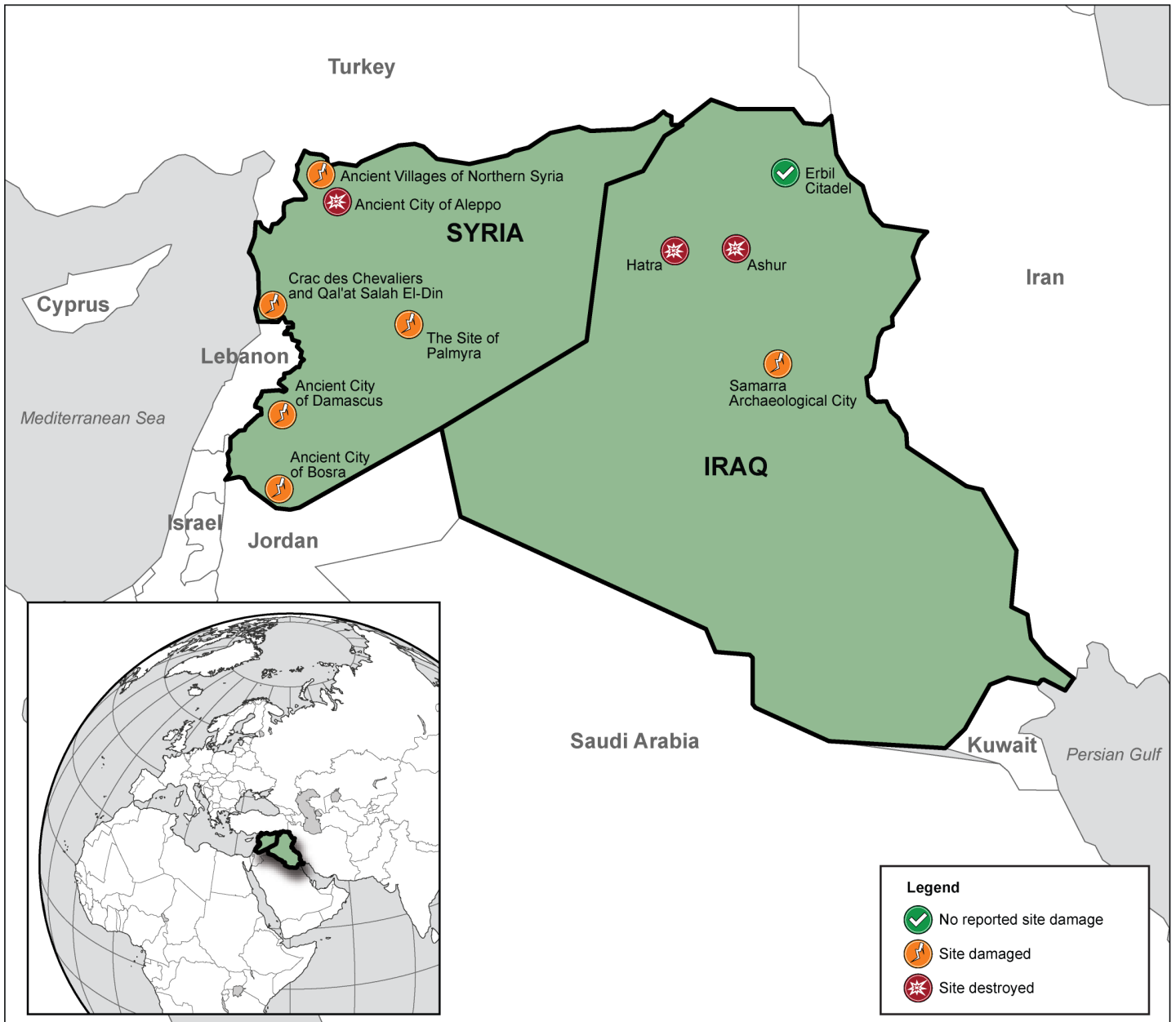


Source: Craig Hugh Smyth Papers, National Gallery of Art, Washington, D.C., Gallery Archives. | GAO-16-673

Although cultural property has been destroyed throughout history, the civil war in Syria, which began in 2011, and the rise of ISIS in portions of Iraq, has resulted in what members of the UN have called the worst cultural heritage crisis since World War II. Several parties to the Syrian conflict have contributed to the destruction of Iraqi and Syrian cultural property.

According to a State-funded research project on cultural property, terrorist organizations; Iraqi, Russian, and Syrian airstrikes; Kurdish groups; Syrian opposition groups; and individual actors have damaged cultural sites and property. Damages include the shelling of medieval cities and looting of museums containing items that date back more than 6 millennia. By around July 2014, ISIS had destroyed hundreds of religious sites throughout the territory it controlled, including Christian statues of the Virgin Mary and the tomb of the Prophet Jonah in Mosul. Furthermore, according to a United Nations Educational, Scientific and Cultural Organization (UNESCO) official, ISIS bombed two temples in Palmyra, Syria, and brutally murdered a Syrian archaeologist in August 2015, after reportedly questioning him about the location of valuable artifacts in the city. Iraq and Syria have 10 World Heritage sites that UNESCO has determined to be of cultural or natural significance. See figure 2 for a map of reported damage and looting at these culturally and naturally significant sites.

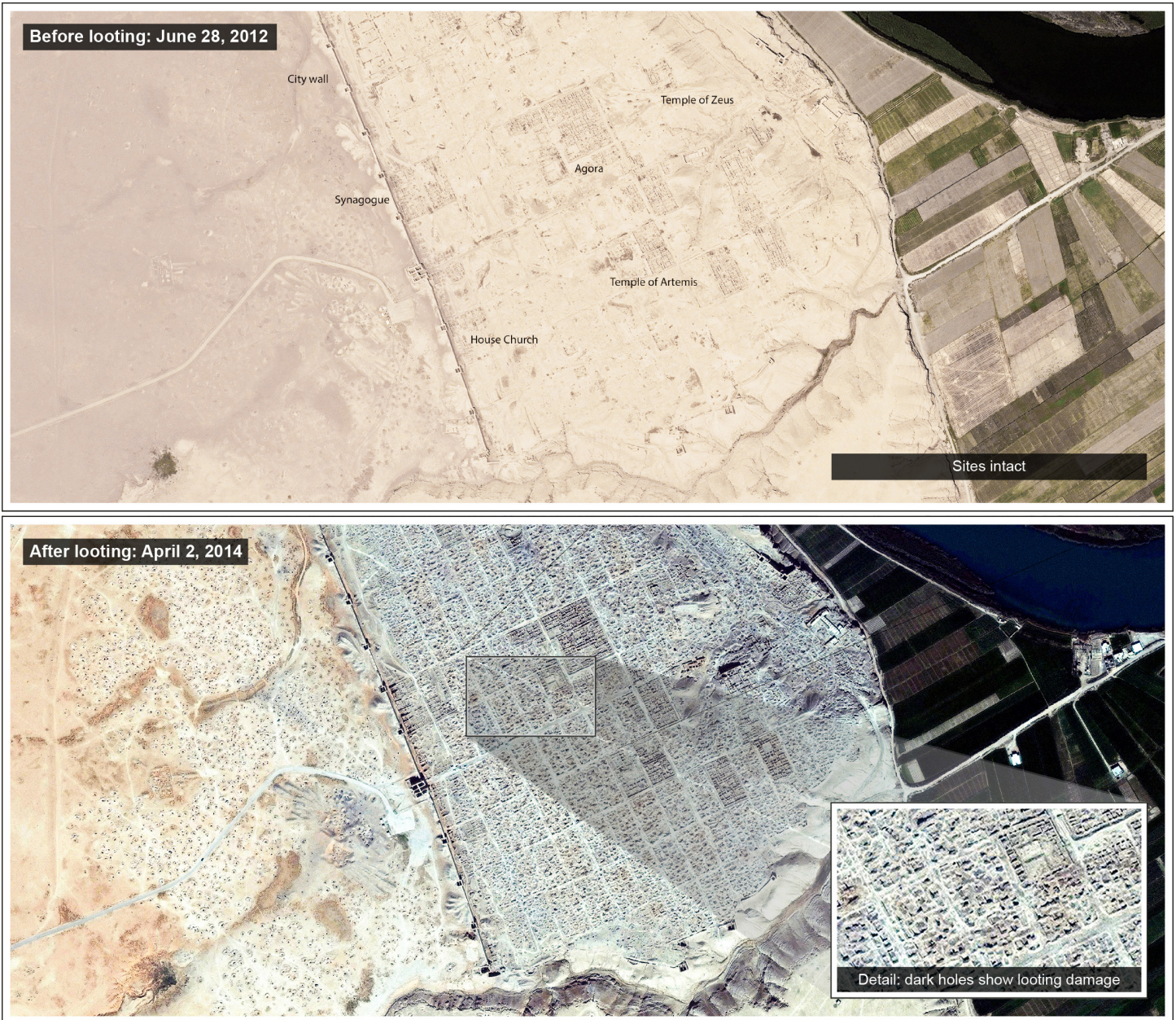
Figure 2: Reported Damage at United Nations Educational, Scientific and Cultural Organization's (UNESCO) World Heritage Sites in Iraq and Syria, According to UNESCO



Sources: GAO analysis of United Nations Educational, Scientific and Cultural Organization (UNESCO) information; Map Resources (maps). | GAO-16-673

In addition to the destruction of cultural property, State officials reported that looters, including people affiliated with ISIS and other terrorist organizations, other parties to the conflict, as well as opportunistic individuals, have illegally excavated areas in Iraq and Syria, presumably in search of antiquities to sell. The proceeds of these sales could be linked to financing terrorism, according to a Deputy Assistant Secretary of State. For example, ISIS manages and profits from industrial-scale looting at sites it controls in Iraq and Syria. Moreover, satellite imagery shows the archaeological site Dura Europos in Syria in 2012, before extensive looting, and after extensive looting in 2014, as depicted in the visible looting pits in figure 3.

Figure 3: Satellite Images of Looting Pits at Dura Europos in Syria, June 2012 and April 2014



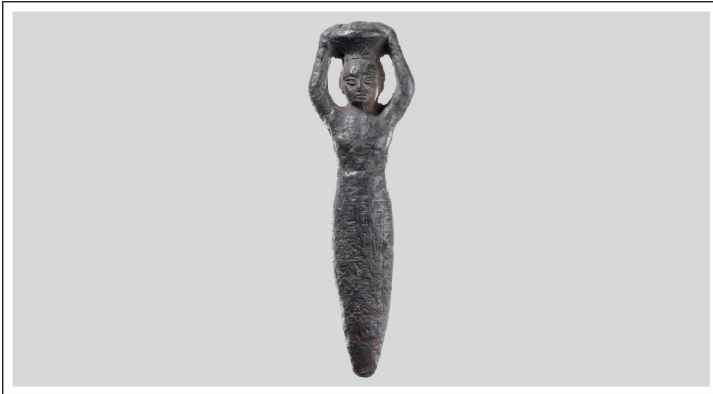
Source: U.S. Department of State, © DigitalGlobe, Inc. | GAO-16-673

Note: Damage from looting pits can be seen in the dark holes that appear in the surface of the site in 2014.

A Deputy Assistant Secretary of State reported that ISIS has encouraged the looting of archeological sites as a means of both erasing the cultural heritage of Iraq and Syria and raising money. The State official noted that the U.S. raid to capture ISIS leader Abu Sayyaf resulted in the finding of documents that demonstrated that ISIS had established an Antiquities Division with units dedicated to researching known archaeological sites, exploring new ones, and marketing antiquities. According to these documents, the Antiquities Division collects a 20 percent tax on the proceeds of antiquities looting and issues permits authorizing certain individuals to excavate and supervise excavations of artifacts. Documents found during the raid also indicate ISIS made statements prohibiting others from excavating or giving permits not authorized by ISIS. Sales receipts indicated the terrorist group had earned more than \$265,000 in taxes on the sale of antiquities over a 4-month period in late 2014 and early 2015. However, the director of the State-funded project on cultural property reported that there are no reliable and publicly available estimates of the revenue ISIS earns from trade in stolen cultural property overall. Nonetheless, State officials also noted that although trafficking is difficult to quantify, ISIS has increasingly turned to the antiquities trade as access to revenue from other sources, such as oil, has been restricted.

According to the International Council of Museums (ICOM), the categories of Iraqi and Syrian cultural property most vulnerable to trafficking range from written objects, figural sculpture, stamps, and seals such as cylinder seals, to coins and clay tablets with cuneiform writing (see figs. 4 and 5).

Figure 4: Types of Iraqi Items at Risk of Being Trafficked



Bronze foundation element figurine, 3rd millennium BC
© Vorderasiatisches Museum – SMB, Berlin / Olaf M. Teßmer



Lapis lazuli cylinder seal and impression, 14th century BC
© Vorderasiatisches Museum – SMB, Berlin / Olaf M. Teßmer



Abbasid gold coin, front and back, 760 AD
© Trustees of the British Museum, London



Alabaster relief of the profile of King Ashurnasirpal II, northwest palace (Nimrud), 911 - 609 BC
© Courtesy of the Oriental Institute of the University of Chicago

Source: International Council of Museums (ICOM). | GAO-16-673

Note: These items are not actual stolen items but examples to illustrate items most vulnerable to illicit trafficking.

Figure 5: Types of Syrian Items at Risk of Being Trafficked



Alabaster eye idols, 3200 BC
© Directorate-General of Antiquities and Museums, Damascus



Hematite cylinder seal and impression, circa 2000 - 1190 BC
© Directorate-General of Antiquities and Museums, Damascus



Silver coin with Mark Antony and Cleopatra VII, 40 - 31 BC
© Ras Ibn Hani mission/F. Bernel



Gypsum low relief from Dura-Europos, 1st - 2nd century AD
© National Museum of Damascus

Source: International Council of Museums (ICOM). | GAO-16-673

Note: These items are not actual stolen items but examples to illustrate items most vulnerable to illicit trafficking.

According to experts, cultural property looted from Iraq and Syria is at risk of being trafficked to the United States and Europe. A State-funded research project reported that traffickers are likely smuggling cultural property out of Iraq and Syria, through Turkey and Lebanon, and on to Europe; art market experts believe that some material may also be destined for the Middle East and Asia. According to art market experts, the United States and the United Kingdom have historically had the two largest markets for legal antiquities, particularly in New York City and London. Some art market experts have speculated that illicitly obtained

Iraqi and Syrian items may end up in these markets, often after having gone through intermediaries. Many art market experts we interviewed told us that they had not seen suspicious Iraqi and Syrian cultural property for sale in the United States, particularly newly circulated objects that could have been looted or stolen recently. The art market experts who reported an absence of antiquities on the market noted that media attention may be deterring buyers from acquiring objects, causing traffickers to find clients in markets other than the United States and Europe, or delaying the sale of items, as happened with items looted from the Iraq National Museum in Baghdad during the Second Gulf War in Iraq. However, other art market experts noted they had seen some cultural property they suspected of having been looted from Iraq or Syria for sale on the internet and in galleries. Further, according to State officials, antiquities dealers and auction houses may never see suspicious items because these items may remain entirely in the illicit market or surface only on internet sales websites.

International Agreements and U.S. Laws and Regulations on Cultural Property Protection

In addressing destruction, looting, and trafficking of cultural property, UNESCO adopted conventions in 1954 and 1970 to protect cultural property.⁴ The 1954 convention addresses cultural property protection during armed conflict, and the 1970 convention addresses the protection of cultural property against illicit import, export, and transfer of ownership.

Ratified by the United States in 2009, the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention), in part, calls on parties to refrain from any act of hostilities against their own or other parties' cultural property, to refrain from using such property for purposes that are likely to expose it to destruction or damage in the event of armed conflict, and prohibit theft and acts of vandalism against such cultural property. If one party occupies the territory of another party in whole or in part, the occupying party, as far as possible, is to support the competent national authorities of the occupied country in safeguarding the occupied party's cultural property. Additionally, should it prove necessary to take measures to

⁴United Nations Educational, Scientific and Cultural Organization (UNESCO), Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted in The Hague on May 14, 1954 (Treaty Doc. 106-1(A)); and the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in Paris on November 14, 1970.

preserve cultural property situated in occupied territory and damaged by military operations, the occupying party shall, as far as possible, and in close cooperation with the authorities of the occupied party, take the most necessary measures to preserve cultural property damaged during the conflict should the competent national authorities be unable to do so. Iraq and Syria are signatories to the 1954 Hague Convention.

The United States enacted the Convention on Cultural Property Implementation Act (CPIA) into law in 1983, thereby implementing provisions of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention).⁵ Through the CPIA, the United States has restricted the importation of certain cultural property.⁶ For example, as it relates to cultural property from Iraq and Syria, this

⁵Pub. L. No. 97-446, tit. III, 96 Stat. 2329, 2350-63 (codified as amended at 19 U.S.C. §§ 2601 *et seq.*).

⁶19 U.S.C. §§ 2606-07. The CPIA applies to cultural property as well as anthropological or ethnological material of parties to the 1970 UNESCO Convention. Cultural property is defined in the CPIA by reference to the 1970 UNESCO Convention which, in Article 1, defines the term “cultural property” for purposes of the convention to mean property which, on religious or secular grounds, is specifically designated by each state as being of importance for archaeology, prehistory, history, literature, art, or science and which belongs to the following categories: (1) rare collections and specimens of fauna, flora, minerals, and anatomy, and objects of paleontological interest; (2) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists, and artists and to events of national importance; (3) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries; (4) elements of artistic or historical monuments or archaeological sites that have been dismembered; (5) antiquities more than 100 years old, such as inscriptions, coins, and engraved seals; (6) objects of ethnological interest; (7) property of artistic interest, such as (i) pictures, paintings, and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand); (ii) original works of statuary art and sculpture in any material; (iii) original engravings, prints, and lithographs; and (iv) original artistic assemblages and montages in any material; (8) rare manuscripts and incunabula, old books, documents, and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections; (9) postage, revenue, and similar stamps, singly or in collections; (10) archives, including sound, photographic, and cinematographic archives; and (11) articles of furniture more than 100 years old and old musical instruments. See 19 U.S.C. § 2601(6) citing Art. 1(a)-(k) of the 1970 UNESCO Convention). For the purpose of our report, we use this definition for cultural property. According to State officials, the CPIA addresses undocumented looted materials of a state party by providing the President the authority to enter into a bilateral or multilateral agreement with the state party to impose import restrictions and by providing the authority to impose import restrictions if an emergency condition applies.

restriction covers cultural property documented as belonging to the inventory of a museum or a religious or secular public monument or similar institution, which was stolen from such museum, monument, or institution after April 12, 1983.⁷

In addition to the 1983 CPIA import restriction on stolen documented property, the United States has implemented other restrictions related to a wider range of cultural property from Iraq and Syria. In response to Iraq's invasion of Kuwait on August 2, 1990, the United States imposed comprehensive sanctions against Iraq. After the fall of Saddam Hussein in 2003, the Iraq National Museum in Baghdad was looted, resulting in the loss of approximately 15,000 items, including ancient amulets, sculptures, ivories, and cylinder seals. Some of these items, such as the one shown in figure 6, were returned to the museum. In 2007, pursuant to the Emergency Protection for Iraqi Cultural Antiquities Act of 2004, State determined the existence of an emergency condition under the CPIA, and import restrictions for cultural property illegally removed from locations in Iraq other than museums and monuments since 1990 were also put in place.⁸ In February 2015, the United Nations Security Council unanimously adopted resolution 2199, which notes, in part, that all member states shall take appropriate steps to prevent the trade in Iraqi and Syrian cultural property illegally removed from Iraq since August 6, 1990, and from Syria since March 15, 2011.⁹ In May 2016, the United States passed the Protect and Preserve International Cultural Property Act, which requires the President to restrict the importation of Syrian

⁷According to 19 C.F.R. § 12.104b, the 1970 UNESCO Convention entered into force on May 12, 1973, for Iraq and on May 21, 1975, for Syria. Both of these predated the effective date of the CPIA on April 12, 1983, and, therefore, pursuant to 19 U.S.C. § 2607, the restriction on imports of documented articles of cultural property from those two countries began on April 12, 1983. Because Iraq and Syria remain state parties to the 1970 UNESCO Convention, this stolen property restriction remains in place with respect to Iraq and Syria.

⁸The Emergency Protection for Iraqi Cultural Antiquities Act of 2004 can be found at Pub. L. No. 108-429, tit. III, 118 Stat. 2434, 2599-2600. The act specifies that, among other things, the items covered are those that have been illegally removed since the adoption of United Nations Security Council Resolution 661 of 1990. Resolution 661 was adopted on August 6, 1990. The related 2008 U.S. Customs and Border Protection (CBP) implementing regulations can be found at Import Restrictions Imposed on Archaeological and Ethnological Material of Iraq, 73 Fed. Reg. 23,334 (Apr. 30, 2008), codified at 19 C.F.R. § 12.104j.

⁹S.C. Res. 2199, U.N. Doc. S/RES/2199 (2015).

archaeological and ethnological material beginning no later than August 2016.¹⁰

While the CPIA restricts the importation of documented cultural property that is stolen from state parties to the 1970 UNESCO Convention—including Iraq and Syria—some imports, regardless of their country of origin, are exempt from the CPIA.¹¹ For example, the CPIA does not apply to some items that are imported into the United States for temporary exhibition or display.¹² Additionally, CPIA restrictions do not apply to some imported items if certain documentation is provided verifying its history of ownership.¹³ See appendix II for more details on these exemptions and on specific restrictions codified in regulations that apply to Iraqi and Syrian cultural property. While the CPIA is specific to cultural property, agency officials reported that other legal authorities have been used to prosecute cultural property cases.

¹⁰Pub. L. No. 114-151, 130 Stat. 369 (2016). The act states that the President shall exercise his authority under section 304 of the CPIA to impose import restrictions under the CPIA not later than 90 days after the date of enactment, which would be August 7, 2016. The CPIA defines archeological or ethnological material of a state party separately from its definition of cultural property. Under the CPIA, archeological or ethnological material of a state party is generally (A) any object of archaeological interest; (B) any object of ethnological interest; or (C) any fragment or part of any object referred to in (A) or (B); which was first discovered within, and is subject to export control by, the state party. The definition goes on to explain what may be considered an object of archeological interest and what may be considered an object of ethnological interest. For the full definition, see section 2601(2) of title 19 of the United States Code.

¹¹19 U.S.C. §§ 2607, 2611.

¹²19 U.S.C. § 2611.

¹³*Id.*

Figure 6: Example of an Antiquity Looted from the Iraq National Museum in Baghdad in 2003



Approximately 5,000-year-old Mask of Warka - sometimes referred to as the Mona Lisa of ancient Mesopotamia - returned to the museum in September 2003 with the help of Iraqi police and the U.S. military.

Source: Stephen Janko. | GAO-16-673

Due Diligence on Cultural Property Transactions

According to art market experts we interviewed, since the passage of the CPIA, and given media attention to legal cases regarding stolen antiquities,¹⁴ art market participants have focused on documenting certain aspects of their transactions to protect against allegations of illicit activity. To do so, art market participants often conduct “due diligence,” or research to verify the identity, authenticity, and value of an object and to have assurance that an object of cultural property was not illicitly traded. Art market experts we interviewed told us that they use their own discretion and professional judgment to conduct due diligence for antiquities they purchase and sell. To avoid the purchase of cultural property that may have been looted or otherwise stolen, experts noted that due diligence should include—but not be limited to—three steps: (1) researching the item’s history, or provenance; (2) checking databases that may have a catalogue of stolen items; and (3) following additional guidelines established by professional and commercial antiquities market associations.

Provenance. According to the Smithsonian, provenance is the history of ownership of an artwork or other artifact and provides important information about the attribution, or determination of authorship, of the object. The Smithsonian officials and art market experts we interviewed noted that provenance can be challenging to establish, and the level of provenance that art market participants obtain may vary.¹⁵ For example, in a public description of provenance research challenges, the Smithsonian noted that provenance researchers may sometimes find that no records of transfer for an object were created or retained; collectors

¹⁴For example, two cases that art market experts mentioned as successfully prosecuted in the United States are *United States v. Schultz*, 333 F.3d 393 (2d Cir. 2003) and *United States v. McClain*, 593 F.2d 658 (5th Cir. 1979; *cert. denied*, 444 U.S. 918 (1979)). Another case often cited by art market experts involved charges an Italian prosecutor brought against Getty Museum curator Marion True in 2005 alleging that she had conspired to traffic in looted art. State officials said another case that highlights the importance of accurately reporting country of origin was *United States v. An Antique Platter of Gold, known as a Gold Phiale Mesomphalos c. 400 B.C.*, 184 F.3d 131 (2d Cir. 1999; *cert. denied*, 528 U.S. 1136 (2000)).

¹⁵The International Foundation of Art Research (IFAR) has reported that provenance research is important to bolster claims of authenticity, add value to an item, and help document proof of ownership if legal title is contested. IFAR further notes that an ideal provenance history would provide a documentary record of owners’ names; dates of ownership, and means of transference, including inheritance, or sale through a dealer or auction; and locations where the work was kept, from the time of its creation by the artist until the present day.

wish to remain anonymous when selling artworks through galleries and auction houses; or records are unclear, inaccurate, or give inadequate or conflicting information. Some museum curators outside of the Smithsonian told us that they do not accept items that came into the United States after a certain year, while other experts noted that any reference to an item that establishes its location during a certain time frame, such as a picture or a letter that made reference to the item, may be accepted as provenance. Some art market experts reported that items with provenance that appears unquestionable are likely to sell for a higher price, and that those without provenance may not be accepted in the market.

Databases. To help vet antiquities for sale, art market experts also informed us that databases exist for tracking stolen art and antiquities. For example, art market dealers often check with the databases maintained by Art Loss Register and Art Recovery International. Both organizations are private companies that, according to their representatives, include some information from the Federal Bureau of Investigation (FBI) and other law enforcement agencies in their databases, in addition to registering stolen items on behalf of individuals. State officials and art market experts noted that these databases only contain items for which ownership information and descriptions have been documented, whereas items looters have excavated from the ground or items otherwise undocumented prior to being looted would not be registered in the databases.¹⁶

Association Guidelines. Professional and commercial associations related to museums, antiquities, and ancient coins have developed guidance for their members to follow, such as codes of ethics, guidelines for conducting due diligence, and affidavits for buyers and sellers. For example, the Association of Art Museum Directors (AAMD) has guidelines regarding the definition of “antiquity” to help inform due diligence required

¹⁶UNESCO maintains a Database of National Cultural Heritage Laws that contains various countries’ cultural property protection laws, including those for Iraq and Syria. According to UNESCO, the database makes it possible for government officials and art market participants to verify international cultural property laws. In addition, according to IFAR’s website, IFAR also manages two searchable Internet-based databases that could help users navigate the body of legislation and case law regarding the acquisition and ownership of cultural property and could be used as a step in conducting due diligence before acquisition.

for transactions of such items.¹⁷ AAMD updated its guidance for acquiring archaeological material and ancient art in 2013, including a statement deploring illicit excavation of archaeological materials and ancient art; the destruction or defacing of ancient monuments; and the theft of art from museums, individuals, and other repositories.¹⁸ In addition, the International Association of Dealers in Ancient Art established a code of ethics and practice that states its members should not purchase or sell objects until they have established, to the best of their ability, that such objects were not stolen from excavations, can guarantee the authenticity of all objects they offer to the best of their professional knowledge and belief, and check items in excess of a certain dollar value with stolen art registers recognized by the association's board. Furthermore, the International Association of Professional Numismatists established a code of ethics that lists five responsibilities for its members, including a statement calling on members to never knowingly deal in any item stolen from a public or private coin collection or reasonably suspected to be the direct product of an illicit excavation, and to conduct transactions in accordance with the laws of the countries in which they do business.

Federal Cultural Property Protection Roles and Responsibilities

U.S. agencies, including the Departments of State, Homeland Security (DHS), Justice (DOJ), the Treasury (Treasury), and Defense (DOD), as well as the Smithsonian, reported having roles and responsibilities related to protecting cultural property worldwide, as shown in table 1.¹⁹

¹⁷AAMD's acquisition guidelines include steps such as researching ownership history, confirming compliance with the export laws of the country the item last left, and collecting import documentation.

¹⁸The AAMD guidance also noted that there is no consensus on the dates delimiting the end of antiquity and the beginning of more modern eras, and the date ranges vary for each ancient culture.

¹⁹The Department of the Interior (Interior) and the U.S. Agency for International Development (USAID) participated in State-led task forces related to cultural property protection; however, officials from both agencies reported they had conducted no specific activities related to Iraqi or Syrian cultural property protection since 2011. Therefore, we did not report on their roles and activities.

Table 1: Federal Cultural Property Protection Roles and Responsibilities

Federal Entities	International Cultural Property Roles and Responsibilities
The Department of State	<ul style="list-style-type: none"> • Houses the Cultural Heritage Center, which specializes in cultural property protection for foreign countries, and whose responsibilities include: <ul style="list-style-type: none"> • Supporting the President’s Cultural Property Advisory Committee, which makes recommendations on whether to proceed with bilateral or multilateral agreements to impose import restrictions under the Convention on Cultural Property Implementation Act. • Administering two interagency task forces: one for law enforcement efforts related to Cultural Antiquities and one for the preservation of cultural heritage in disaster situations. • Supporting the training of U.S. law enforcement entities to promote the recovery and repatriation of cultural property. • Engages within the Department of State (State) in various efforts to counter terrorism financing, including financing from cultural property. • Awards and administers cultural property protection grants and cooperative agreements.
The Department of Homeland Security	<ul style="list-style-type: none"> • Utilizes unique border authorities to investigate the illicit importation, trafficking, and distribution of cultural property or art through its U.S. Customs and Border Protection (CBP) and its Homeland Security Investigations (HSI) arm within U.S. Immigration and Customs Enforcement (ICE). • Investigates the trafficking of cultural property, as the lead or in support of the Federal Bureau of Investigation (FBI). Has HSI attachés overseas who support U.S. investigations and develop joint cultural property investigations with host-country partners. • Seizes and detains merchandise through CBP and HSI and works to repatriate stolen or smuggled cultural property, art, and antiquities to their lawful owners. • Produced two CBP guides in 2006: one for members of the trade regarding cultural property, and one for commercial importers, including a section regarding cultural property. • Conducts domestic and international training and workshops on cultural property theft and investigative and customs inspection techniques.
The Department of Justice	<ul style="list-style-type: none"> • Coordinates with U.S. agencies and international organizations to support the investigation and apprehension of individuals involved in looting or trafficking of antiquities. Has legal attachés overseas to assist with U.S. cultural property investigations. • Investigates cultural property crime and manages the National Stolen Art File, a database of stolen cultural property, through the FBI’s Art Crime Team. • Has a Cultural Property Law Enforcement coordinator at the Executive Office for United States Attorneys to answer questions on cultural property issues and to provide training related to cultural property cases to assistant U.S. attorneys. • Provides support to the FBI Art Crime Team and other law enforcement agencies in the investigation and prosecution of antiquities trafficking through designated prosecutors from the Criminal Division’s Human Rights and Special Prosecutions Section.
The Department of the Treasury	<ul style="list-style-type: none"> • Works with other agencies and foreign governments to combat terrorist financing from trafficked cultural property through its Office of Terrorist Financing and Financial Crimes. • Has the Office of Foreign Assets Control (OFAC), which: <ul style="list-style-type: none"> • Administers and enforces import and export restrictions through sanctions related to cultural property, in consultation with State. • May designate persons for financing terrorism pursuant to delegated legal authorities.
The Department of Defense	<ul style="list-style-type: none"> • Has policies and regulations for protecting cultural property during armed conflict. • Assigned personnel to work on safeguarding cultural property abroad, in response to certain requirements of the 1954 Hague Convention.

Federal Entities	International Cultural Property Roles and Responsibilities
The Smithsonian Institution	<ul style="list-style-type: none"> • Develops public-private collaboration on cultural preservation, including work in emergency situations, such as coordinating a grant to Haiti. • Provides cultural property protection training for countries that have experienced armed conflict and natural or manmade disasters, such as Haiti, Nepal, and Mali. • Provides training for U.S. law enforcement agencies. • Sets professional standards for cultural property preservation, conservation, and collections management.




































Source: GAO analysis of U.S. agency information. | GAO-16-673



Note: The Smithsonian Institution (Smithsonian) was established by Congress as a trust instrumentality of the U.S. government and is funded in part by federal appropriations. For the purposes of this report, we have included the Smithsonian in our discussion of U.S. agency cultural property protection efforts.

U.S. Agencies and the Smithsonian Have Undertaken Five Types of Activities to Protect Iraqi and Syrian Cultural Property Since 2011

U.S. agencies and the Smithsonian have undertaken five categories of activities intended to protect Iraqi and Syrian cultural property, including awareness raising, information sharing, law enforcement efforts, overseas capacity building, and preventing destruction, as shown in figure 7. Agency officials noted that some of these activities are done in conjunction with international organizations and foreign governments and that those partners also conduct efforts to protect Iraqi and Syrian cultural property that fall into the same five categories. Examples of international partners' activities are provided in appendix III.

Figure 7: Iraqi and Syrian Cultural Property Protection by Category of Activity

					
	Awareness raising	Information sharing	Law enforcement efforts	Overseas capacity building	Preventing destruction
Department of State					
Department of Homeland Security					
Department of Justice					
Department of the Treasury					
Department of Defense					
Smithsonian Institution					

-  Conducts activities in this category
-  Does not conduct activities in this category

Source: GAO analysis of U.S. agency information. | GAO-16-673

Note: The activity labeled “law enforcement efforts” refers both to law enforcement actions to counter smuggling and deter looting and activities supporting law enforcement, such as training and guides to help law enforcement officers identify illegal imports.

Awareness raising. According to agency officials, raising awareness of the destruction, looting, and trafficking of Iraqi and Syrian cultural property can be important in promoting its protection. For instance, awareness raising can help alert the art market and law enforcement to the possibility of illicit items appearing in the United States. Further, publicizing U.S. law enforcement efforts may deter looters.

Since 2011, U.S. agencies have undertaken a number of awareness-raising activities related to Iraq and Syria, such as funding the development and circulation of *Emergency Red Lists*, which describe the types of items that would likely be looted, hosting public events, and promoting due diligence. State’s Cultural Heritage Center (CHC) provided support to ICOM to create an *Emergency Red List of Syrian Cultural*

Objects at Risk in 2013 and to update its *Emergency Red List of Iraqi Cultural Objects at Risk* in 2015 (see fig. 8). The lists illustrate and describe the types of items likely to have been found in illegal excavations in the two countries. According to officials, the illustrations in the Red Lists can serve as a resource to help the art market and law enforcement determine whether items they encounter may have been looted.

Figure 8: Department of State-Funded International Council of Museums' Iraqi and Syrian Emergency Red Lists, Illustrating Types of Cultural Property at Risk



Source: International Council of Museums © ICOM, all rights reserved. | GAO-16-673

U.S. agencies have also hosted public events and ceremonies to raise awareness about Iraqi and Syrian cultural property protection. For example, State's CHC officials reported having worked with the Metropolitan Museum of Art, UNESCO, and others to bring together U.S. government officials, international organizations, and other stakeholders to discuss how they can cooperate to curb the looting and trafficking of

Iraqi and Syrian antiquities. Moreover, DHS and the FBI, working with State and the government of Iraq, have conducted public ceremonies of the repatriation of Iraqi cultural property seized for investigations.

In addition, U.S. agencies have promoted due diligence in the art market. For instance, State and the FBI have issued policies and alerts encouraging individuals to conduct due diligence to avoid purchasing items that may have been looted or stolen. For example, State issued a policy on its website noting that all U.S. citizens should exercise care when purchasing cultural property items abroad to ensure that objects were not stolen or looted and that their export does not violate host-country law. Similarly, the FBI publicly announced a list of issues that buyers should address as part of due diligence, including reviewing import and export documents, the history of ownership, and information about the buyer or seller. Furthermore, U.S. agencies alerted the art and antiquities market to the potential connection between terrorism financing and purchasing Iraqi and Syrian cultural property. State's Bureau of Diplomatic Security announced in September 2015 that its Rewards for Justice program would offer awards of up to \$5 million for information leading to the significant disruption of the sale or trade of antiquities by, for, on behalf of, or to benefit, ISIS.²⁰ Moreover, the FBI issued an alert on the agency's website to the art and antiquities market—specifically individuals and institutions in the trade and their clients, and professional and academic communities—in August 2015, noting that purchasing an object looted or sold by ISIS may provide financial support to a terrorist organization, which could be subject to prosecution. The FBI has also held teleconferences with members of the art market, such as dealers and auction houses, related to the looting and trafficking of Iraqi and Syrian cultural property.

Additionally, DOD officials reported that DOD had produced training products to raise awareness among U.S. military personnel and DOD contractors in Iraq regarding the importance and value of preserving and protecting cultural property.

²⁰According to the State, authority for the Rewards for Justice program stems from 22 U.S.C. § 2708(b)(7). State further explained that the Rewards for Justice program is designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, serious violations of international humanitarian law, transnational organized crime, and other related criminal acts.

Information sharing. Agency officials reported that sharing information among agencies and with stakeholders is a key activity for protecting Iraqi and Syrian cultural property. Agencies sought to share information among U.S. agencies and with international organizations and foreign governments. Specifically, State, DHS, DOJ, and others participate in an interagency task force, called the Cultural Antiquities Task Force, which has funded activities for law enforcement efforts to combat theft, looting, and trafficking of historically and culturally significant objects from Iraq.²¹ Additionally, State, Treasury, DOD, and others have interagency efforts to prevent ISIS from financing its activities, which may include trafficking of antiquities in Iraq and Syria. State has supported international information sharing by working through the UN on resolutions related to Iraqi and Syrian cultural property protection and has met with groups representing religious minorities from Iraq and Syria to share information about resources that U.S. agencies can offer to assist in protecting cultural property. State also funded an NGO to document looting and destruction of cultural heritage sites in Iraq and Syria to assess future restoration, preservation, and protection needs.

Law enforcement efforts. Law enforcement efforts to counter smuggling and deter looting of Iraqi and Syrian cultural property include investigating suspicious imports, repatriating items, and providing cultural property training and guidance to law enforcement personnel. For instance, DHS's U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) reported having coordinated with each other, the FBI, and other agencies to open 17 cases related to Iraqi cultural property and 1 related to Syrian cultural property between 2011 and February 2016. The cases were opened at 13 DHS offices in the United States, including Boston, New York, New Orleans, Chicago, Los Angeles, Phoenix, and San Antonio. Among these cases, those that have been closed included an investigation identifying a transnational criminal organization dealing in illicit cultural property and shipping to major museums, galleries, and art houses in New York; individuals smuggling and transporting stolen property; and individuals selling cultural property on Craigslist without import documentation. ICE estimated it had

²¹As directed by the conference report accompanying the Consolidated Appropriations Act for Fiscal Year 2004, State created the Cultural Antiquities Task Force in 2004. See H. Rep. 108-401 (accompanying Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3) (Nov. 25, 2003).

repatriated 1,350 items of Iraqi cultural property since 2008. Figure 9 depicts an example of a repatriated item.

Figure 9: Example of an Iraqi Item That Was Smuggled to the United States, Where It Was Seized and Repatriated by U.S. Homeland Security Investigations in March 2015



Source: U.S. Immigration and Customs Enforcement (ICE), Office of Homeland Security Investigations. | GAO-16-673

The FBI's Art Crime Team has also recovered and repatriated Iraqi cultural property items. For example, in 2005, the FBI recovered eight cylinder seals looted in Iraq; in 2006, the FBI investigated a case involving terracotta plaques and other artifacts taken from Iraq by defense contractors; and in 2013, the FBI repatriated four Iraqi cylinder seals. Additionally, agencies provided guidance and training to law enforcement personnel and attorneys regarding Iraqi and Syrian cultural property. For example, CBP and ICE issued guidance to their officers, and to agents from other departments, alerting them to attempts to smuggle recently looted items into the United States. The guidance included resources,

such as the State-funded ICOM *Emergency Red Lists*; contact information for specialists in ICE's Cultural Property, Art and Antiquities office; and a link to State's description of cultural property items restricted from import. CBP's general guidance and training for personnel includes information on cultural property. According to CBP officials, in May 2016, CBP created a Cultural Property Integrated Project Team comprised of law enforcement, legal, and policy personnel to address issues relating to CBP's enforcement of cultural property laws. Similarly, according to agency officials, DOJ's Executive Office for United States Attorneys (EOUSA) has worked with others to develop voluntary, web-based cultural property training for its assistant U.S. attorneys nationwide, funded by State.

Overseas capacity building. U.S. officials highlighted the importance of building the capacity of governments and individuals overseas to protect cultural property, such as by providing training on conservation and repair. For example, State has funded activities to train Iraqi art conservators and museum curators on topics such as creating museum inventories and techniques for conservation and repair of cultural property. These projects have included work with the Iraqi State Board of Antiquities and Heritage to develop policies and practices to help protect and manage sites in the future. For one of these projects, working with museums and conservation specialists, State established and funded an archaeological site protection and collection management training facility in Erbil, Iraq,²² which State officials said had trained approximately 350 Iraqi professionals between 2009 and June 2016 using public and private U.S. funds. In February 2016, State added the Smithsonian to the project, and the Smithsonian began teaching an 18-week course. Separately, in 2016, the Smithsonian worked with UNESCO, the International Centre for the Study of the Preservation and Restoration of Cultural Property, and others on another project to provide training to cultural property protection professionals, including some from Iraq and Syria, on protecting cultural property during times of crisis.

Preventing destruction. U.S. officials also reported activities related to preventing the physical destruction of cultural property. For example, DOD takes information from lists of cultural property sites in Iraq and

²²The institute in Erbil is called the Iraqi Institute for the Conservation of Antiquities and Heritage.

Syria into consideration when planning military action. Further, the Smithsonian officials reported they had worked with universities and NGOs to train Syrian antiquities professionals to protect museum collections against bombs, looting, and other threats to art in conflict areas. For instance, their training on the use of sandbags and other materials to protect ancient mosaics at a Syrian museum resulted in the reportedly successful protection of immovable mosaics at the Ma'arra Museum in Idlib Province.

Art Market Experts' Top-Rated Suggestions Include Improving Information Sharing, Clarifying Guidance, Creating a Strategy, and Establishing a DOD Contact

Art market experts we interviewed suggested 25 ways in which the U.S. government could improve its cultural property protection activities. The 26 art market experts who responded to our questionnaire identified 7 of these 25 suggestions, as shown in table 2, as being of the highest importance (one case had a tied ranking) for protecting cultural property by U.S. agencies. See appendix IV for a table of all 25 suggestions and their average ratings.

Table 2: Art Market Experts' Top-Rated Suggestions to Improve U.S. Cultural Property Protection Activities

Rank	Suggestion
1	Improve information sharing among U.S. agencies.
2	Increase support of public-private partnerships and collaboration with foreign countries to improve foreign countries' data management, such as museum inventories.
3	Increase collaboration with foreign countries to share law enforcement information internationally.
4	Improve U.S. Customs and Border Protection guidance on importing cultural property.
5	Increase training of law enforcement officers.
6 ^a	Create a government-wide strategy.
6 ^a	Establish a central point of contact at the Department of Defense.

Source: GAO analysis of art market experts' response. | GAO-16-673

Note: We identified the ranking for suggestions based on the average score of 26 art market experts' ratings of the importance of the suggestions.

^aThese two suggestions were tied for sixth place.

Art market experts provided comments on their suggestions to improve U.S. cultural property protection activities, and U.S. officials provided

comments on the suggestions rated as most important by art market experts, as summarized below.

Improve information sharing among U.S. agencies

- Many art market experts expressed the view that it would be helpful if U.S. agencies shared more information with each other more regularly, including information that law enforcement agencies have on cultural property cases. These art market experts also recommended improved interagency coordination in conjunction with increased information sharing. Some stated that increased information sharing among U.S. law enforcement agencies could help leverage expertise and increase the likelihood of resolving cases. For instance, some art market experts discussed their perception that DHS entities and the FBI appear to have overlapping law enforcement responsibilities, and they could improve communication with each other.
- U.S. officials recognized that more information sharing could be helpful, but most, including State and DOJ's FBI and EOUSA, noted that information is already regularly shared among U.S. agencies. FBI officials noted that it regularly and proactively shares information, as appropriate, with law enforcement partners and that the FBI is an active member of the State-led Cultural Antiquities Task Force, which furthers these efforts. These officials further explained to us that art market experts' suggestions on the issue may be the result of their not being fully informed about interagency communication, as it may not be appropriate for law enforcement agencies to alert the public about such communication. EOUSA officials noted that although longstanding DOJ practice prevents them from commenting to the public regarding prosecutorial processes, EOUSA takes all allegations of criminal conduct very seriously and carefully reviews investigative evidence presented to support such allegations in light of the Principles of Federal Prosecution. State officials responded to the comment made by art market experts about overlapping law enforcement responsibilities, stating that different agencies have their own sources and contacts; thus, the alleged duplicate responsibilities to investigate and prosecute cases are not necessarily a problem. Further, according to EOUSA officials, limited resources in this particular field make all cultural property law enforcement more difficult than necessary, and periodic, possibly quarterly, meetings among the agencies might be helpful, mainly to facilitate awareness of contacts in other agencies. DHS officials commented that information sharing allows agencies to make use of limited resources and develop

a broader, more comprehensive view of the transnational criminal organizations that are trafficking cultural property. DHS officials added that agencies are given the opportunity to question and learn from each other's experience in cultural property and that through domestic training and international workshops, law enforcement agencies can learn firsthand about cultural property cases, including the investigations and prosecutions processes, as well as the challenges and best practices stemming from those cases. DHS officials emphasized that existing training, workshops, and meetings of the Cultural Antiquities Task Force provide information sharing opportunities and further noted that some redundancy among law enforcement agencies allows for the agency most readily available to assist in an investigation. According to DHS officials, agencies may also have different areas of expertise, different missions, and different legal authorities, as well as different systems and processes in place. These differences could be advantageous when one agency does not have the authority to pursue a lead but another does, though these differences could also complicate information sharing among agencies.

Increase support of public-private partnerships and collaboration with foreign countries on data management

- Art market experts highlighted a need for the U.S. government to increase support for and work with the private sector and foreign countries to improve the management of foreign countries' cultural property data, such as museum inventories. For example, art market experts reported that looters may steal items from museums and from storage sites or artifacts from archaeological excavations in Iraq and Syria. Museums and archaeologists sometimes maintain catalogues and documentation of their collections and findings; however, according to experts, this information is not widely shared. Art market experts also noted that some archaeologists who worked in Iraq and Syria have begun to collect and share their information for the purposes of tracking down potentially looted items, but some said this information is not yet accessible. Some art market experts said an inventory of items could be helpful to include in a registry or database and to share with the art market and law enforcement to help verify whether items are being sold that have been previously documented as stolen. They also emphasized the importance of collecting and sharing such information carefully, as it could identify items that have not been looted. Moreover, some suggested the need for the U.S. government to encourage foreign countries to share information and work together to maintain a centralized database.

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- U.S. officials generally agreed with this suggestion and emphasized their ongoing work in this area. State officials noted that the U.S. government can, and already does, assist countries with their museum inventories within the proper frameworks, assuming the foreign country desires it. For example, State officials explained that the United States almost always uses its bilateral cultural property agreements concluded pursuant to the CPIA with foreign countries to promote efforts to maintain inventories of heritage sites, collections at museums, and other cultural institutions. Additionally, State's Ambassadors Fund for Cultural Preservation supports several projects around the world annually to develop museum and site inventories, including in countries where collections, archaeological sites, and other forms of cultural heritage are at risk. Finally, such measures are a usual component of State's Cultural Antiquities Task Force international workshops on cultural heritage site protection and promotion of bilateral and regional cooperation to prevent looting, theft, and trafficking. DHS officials also supported the idea of institutions or countries developing their own registries of goods that are reported lost or stolen, noting that such registries could help bring looters and thieves to justice. According to DHS officials, there are several existing international registries that include similar information. DHS officials further stated that they encourage any and all private entities and foreign governments to share information pertaining to potential U.S. Customs violations involving cultural property. They commented, however, that the U.S. government may encourage, but cannot force, countries to share information. Smithsonian officials noted they viewed this suggestion as being helpful. They emphasized that the Smithsonian is working on an agreement with the World Customs Organization, which relates to international cultural property data and training, according to Smithsonian officials. They also stated that the Smithsonian is conducting research regarding threats to collections data and threats to cultural property.

Increase collaboration with foreign countries to share law enforcement information internationally

- Art market experts rated increasing U.S. government collaboration with foreign countries to share law enforcement information internationally as highly important. Some art market experts noted that countries such as Italy have effective cultural property management and law enforcement systems that the United States could benefit from. However, some stated that U.S. agencies do not appear to be able to obtain such information from foreign countries. Others suggested the need for an international organization, such as UNESCO or the International Criminal Police Organization (INTERPOL),²³ to centralize various countries' law enforcement information on looting and trafficking of cultural property items and encourage countries to share more information than they currently do.

Many U.S. agency officials generally did not agree with art market experts' comments that U.S. law enforcement agencies are systematically unable to obtain information from foreign law enforcement partners for investigations and provided many examples of ways in which agencies share information with foreign partners and INTERPOL. For example, State officials said that, contrary to the experts' perception, U.S. law enforcement has effective, existing bilateral mechanisms in place, such as regular meetings and workshops that allow for information sharing. With regard to collaboration with foreign countries, FBI officials noted that their agency's extensive network of overseas staff regularly shares and receives investigative information from foreign partners. DHS officials commented that DHS also has an extensive overseas footprint, with ICE agents in 62 locations around the world, which supports information sharing with foreign partners in law enforcement. According to EOUSA officials, collaboration varies from country to country, and countries that have effective cultural property management and law enforcement programs generally receive cooperation more easily from the United States. EOUSA officials noted that an effective domestic cultural property management and law enforcement system comparable to that of Italy would be a very useful goal for the United States, whose own cultural property,

²³The International Criminal Police Organization (INTERPOL) is the world's largest international police organization, with 190 member countries.

including Native American artifacts, is the subject of overseas trafficking. Regarding U.S. agencies' collaboration with international organizations, State and DOJ's FBI and EOUSA officials all clarified that they are already connected with INTERPOL, and DHS officials noted that INTERPOL already supports the function of collaboration with foreign countries to share law enforcement information. FBI officials reported that they leverage the information capability of INTERPOL, while State officials commented that the Cultural Antiquities Task Force holds workshops to include ICE, FBI, and INTERPOL participants for promoting bilateral and regional cooperation. State officials added that INTERPOL's Database of Stolen Works of Art is steadily being improved and that the reporting and appropriate diffusion of cultural property crime data is an important INTERPOL responsibility. DHS officials also mentioned UNESCO's searchable database of cultural property laws, funded by State, and reiterated their comments that information sharing among U.S. agencies and collaboration with foreign countries on cultural property allows for fuller use of limited resources. Finally, State officials noted that State stands ready to assist law enforcement agencies in obtaining information relevant to individual cases and trafficking as a whole.

Improve CBP guidance on importing cultural property

- Many art market experts suggested that CBP could improve its guidance on importing cultural property, such as clarifying information required in Customs declaration forms for imported goods. Art market experts commented that CBP's May 2006 guide to the trade community on cultural property, *What Every Member of the Trade Community Should Know About: Works of Art, Collector's Pieces, Antiques, and Other Cultural Property*, is the most recent guidance on CBP's website and should be updated. The document discusses requirements for the importation of cultural property, including special rules that apply to certain types of cultural property because of international agreements, treaties, or other requirements. For cultural property in particular, many art market experts emphasized the difficulty they have encountered in determining the "country of origin," which some thought CBP generally defines as the place of manufacture. However, they noted that ancient borders do not align with modern state boundaries, which complicates attempts to determine the origin of antiquities. For example, a Roman artifact may have been manufactured in one part of ancient Rome and found in Italy, Iraq, Syria, or any of the countries once included in the shifting borders of the ancient Roman Empire. According to some art market

experts, tracing the origins of items that were made to be circulated, such as coins, is even more complicated. Moreover, many art market experts we spoke to provided examples of cases in which the importer would declare a European country to be an antiquity's country of origin because it had been held in that country for some time. According to UK art dealers we spoke to, requirements for export documents from the country an item leaves before coming to the United States have changed over the years. They sought new guidance from CBP regarding what to do with items with older export documents that may not match newer requirements.

- Within DHS, CBP officials agreed with the suggestion for updating the May 2006 trade guide, and ICE officials noted that they support CBP in its ongoing efforts to streamline and clarify guidance provided to individuals and companies wishing to import goods to the United States. DOJ's EOUSA officials agreed that guidance and clarification, including definitions, should be updated. State officials commented that there may be confusion about the issue of country of origin of archaeological material being considered for importation, and that it could be worthwhile for State and CBP to consult on a definition of the country of origin for archaeological materials that could be adopted and used by CBP and others.

Increase training of law enforcement officers

- Art market experts noted the importance of improved and increased training on cultural property investigations for law enforcement agencies, including ICE, CBP, and the FBI. Some art market experts said that they thought that training for CBP officers and ICE agents may not be adequate. As a result, according to art market experts, these officials may not recognize looted material or know how to handle delicate cultural property. Some art market experts discussed the need for training as part of agencies' need for increased resources dedicated to cultural property protection. For example, some art market experts commented that the FBI's 16-person Art Crime Team appears to have well-trained agents but may not have enough resources and that CBP and ICE do not seem to have a sufficient number of agents with expertise to investigate cultural property cases. Some art market experts said that ICE agents have received training provided by State and the Smithsonian but CBP officers did not appear to have similar training.
- Agency officials had mixed responses to this suggestion, noting that increased training is tied to additional agency resources. DHS officials

commented that they continue to work with State and the Smithsonian to enhance the training provided to ICE, CBP, U.S. prosecutors, and foreign law enforcement. According to DHS officials, the agency participates in State-funded international workshops with representatives of foreign cultural and law enforcement agencies to share challenges and best practices related to the trafficking of cultural property. DHS's CBP officials pointed out that, unlike ICE, CBP does not have agents working on cases but employs officers to work at ports of entry where they may encounter cultural property. CBP officials commented that CBP is actively involved in attending cultural property training provided by State and the Smithsonian. Officials representing EOUSA received the idea of increased training for assistant U.S. attorneys positively, especially if done in conjunction with training for FBI and DHS agents. FBI officials confirmed that the agency's Art Crime Team includes well-trained agents that manage cultural property cases, but FBI officials disagreed that resources were insufficient.

Other agencies' officials commented that existing cultural property training for law enforcement officers could be expanded, particularly for CBP officials, but that doing so would require more resources. For example, State, ICE, and the Smithsonian created a training course entitled "Preventing Illicit Trafficking; Protecting Cultural Heritage," which 265 law enforcement officials have attended since 2009, including some CBP officers. According to State officials, this training was funded by State under its Congressional mandate for administering the Cultural Antiquities Task Force. Smithsonian officials stated that in the January 2016 course, 4 of 28 training participants were from CBP and that, if the Smithsonian had additional resources, it would be able to provide more training for CBP and ICE. State officials reported that State is in consultation with DHS to explore ways to enhance CBP training. DHS commented that funding for training is limited and reallocating funds for that purpose diverts funds from other mission-critical areas; according to DHS officials, DHS currently does not have a budget for cultural property training. In particular, CBP officials stated that the agency has not received funding for cultural property training. State officials noted that, having expertise in providing specialized cultural property training, they have had discussions about how State's training efforts could best be extended to much larger numbers of CBP personnel, an effort that would require additional human and budgetary resources. EOUSA officials also reported that there is periodic training for assistant U.S. attorneys, annual Art Crime Team training, and annual training provided by ICE and the Smithsonian but that these training courses

need to be expanded. Regarding art market experts' comments related to agency resources, the FBI officials explained that cultural property cases are investigated out of 1 or more of the FBI's 56 field offices across the country. Therefore, the FBI's capacity to investigate federal crimes related to cultural property crimes is not limited to the Art Crime Team in headquarters. EOUSA officials added that increased resources and prioritization are required to address the breadth of cultural property crime. Furthermore, State officials commented that to be effective in reducing pillage, law enforcement efforts should go beyond importation decisions, including prosecutions of traffickers and buyers of illicit cultural property, when appropriate. According to DHS officials, DHS seeks to bring criminals to justice wherever possible and believes that prosecutions both remove criminals from the street and serve as deterrents to other individuals and organizations seeking to profit from trafficking of cultural property.

Create a government-wide strategy

- Art market experts suggested that an overarching strategy on cultural property protection would communicate and emphasize U.S. priorities on the issue of cultural property protection and that it should include diplomatic and law enforcement elements. In addition, a strategy focused on cultural property should clearly define agency roles and priorities. Many art market experts we spoke with commented that U.S. agencies currently do not appear to have clearly delineated roles, and these art market experts were unclear which agency would be responsible for addressing certain cultural property issues. For example, some art market experts that we spoke with noted that they did not understand the different roles that DHS and FBI play and that it sometimes appears as though their responsibilities overlap. Also, art market experts expressed concern that, although State leads a law enforcement task force, agencies participating in the task force may not be sharing information effectively, and not all agencies may know to attend. In addition, many art market experts we spoke to suggested that creating a government-wide strategy would complement the suggestion to establish a single point of contact for cultural property in the U.S. government.
- Agency officials expressed mixed views regarding art market experts' suggestion for a government-wide strategy, but some agency officials said that the Protect and Preserve International Cultural Property Act enacted in May 2016 reinforces interagency coordination. Specifically, State officials noted that a strategy on cultural property protection

could potentially increase coordination between different agencies but could also be difficult to implement, potentially restrict agency flexibility in meeting new challenges, and might not achieve any new goals. State officials also reported that art market experts are not likely to know the full range of cooperation and information sharing that currently takes place. Similarly, the FBI officials disagreed with the suggestion that the agency may not be sharing information effectively, commenting that the FBI has clearly defined roles and priorities and works to deconflict investigations with other federal law enforcement agencies. State officials noted that State has an ongoing interagency leadership and coordination role on cultural heritage protection and preservation. Participation in State's Cultural Antiquities Task Force is by invitation only, and State is always open to suggestions concerning inclusion of additional agencies, although State cannot always accept the suggestions. DHS officials added that the agency supports the role of State's Cultural Heritage Center and the Cultural Antiquities Task Force in efforts to coordinate U.S. government strategy on cultural property. In contrast, officials from EOUSA noted that there is sometimes an overlap of agency roles that occurs with investigations of all crime and that information sharing is an important action. They commented that the FBI and ICE have art market outreach efforts, but these could be improved. State officials commented that the overlapping roles of ICE and FBI are probably unavoidable but not problematic. Finally, Smithsonian officials said that they expect an interagency coordination committee to be established under the Protect and Preserve International Cultural Property Act, which will include the Smithsonian and others, and anticipate that the committee will have a role in developing a government-wide strategy.²⁴

Establish DOD point of contact

- Many art market experts we spoke to noted that they were not aware of a central point of contact at DOD for cultural property protection issues overseas. Some experts thought a central point of contact would be particularly important if DOD is to be the lead U.S. agency implementing the 1954 Hague Convention, which, in part, calls on countries to prohibit the theft and acts of vandalism against cultural property. Some art market experts stated that DOD should take a

²⁴Pub. L. No. 114-151.

leadership role in implementing these requirements; however, according to these art market experts, it does not appear to have done so, nor is it clear to these experts the extent to which DOD has undertaken cultural property protection work overseas. They believe that DOD efforts appeared to be disjointed among different combatant commands and suggested that the primary point of contact to coordinate all of DOD's cultural property protection work could potentially be in the Office of the Secretary of Defense. One art market expert noted that DOD does not appear to have an approach to cultural property protection globally. For example, the expert said that when DOD builds an airstrip or helicopter pad overseas, it is unclear if DOD has a plan to protect cultural property. Such a plan, art market experts suggested, could prevent another incident such as the one in which coalition forces unintentionally damaged an archaeological site in Babylon, Iraq, by using the site for a large-scale military base and as a landing area for helicopters.

- DOD officials responded that the Office of the Under Secretary of Defense for Policy's Office of Stability and Humanitarian Affairs is available as a point of contact within DOD to respond to inquiries on DOD policy on cultural property protection overseas. DOD officials also stated that ensuring the protection of cultural property involves the responsibilities of many DOD components. In certain cases, inquiries regarding cultural property may relate to a DOD component's implementation of DOD policies and may be more appropriately addressed to that DOD component. Thus, DOD officials concluded that they are not certain that a central point of contact through which all inquiries about cultural property must be routed is necessary or would result in greater efficiencies.

DOD officials also stated that DOD is, and has long been, effectively implementing the requirements of the 1954 Hague Convention, despite art market experts' apparent misperception that DOD is not effectively implementing the convention or does not otherwise have an effective and coordinated approach to the protection of cultural property. DOD officials noted that requirements of the 1954 Hague Convention are included in DOD's longstanding policy to comply with the law of war during all armed conflicts and in all other military operations. DOD directives, instructions, and guidance documents further provide information to assist DOD components in the implementation of the 1954 Hague Convention. DOD officials explained that one such document provides directions for the management of contingency locations to ensure compliance with environmental standards and best management practices, including

those that avoid or mitigate adverse effects to cultural, historic, and natural resources to the extent practicable, given mission requirements.²⁵ DOD officials stated that another document provides standards for historic and cultural resource protection in countries where DOD has a long-term presence.²⁶ According to DOD officials, in particular military operations, DOD components have requirements to protect cultural property established by an annex of an operation order or operation plan, which may contain provisions for identifying historic and cultural areas, liaising with host-nation authorities and local experts during the planning for the construction or leasing of base camps or sites to be used by U.S. forces, and developing guidance and practices to minimize disturbance of historically and culturally significant areas. In addition to these policies and practices, DOD components have provided specific guidance to help ensure the protection of cultural property within each component's area of responsibility, including guidance issued by U.S. Central Command, U.S. Southern Command, U.S. Africa Command, U.S. Strategic Command, the Secretary of the Navy, the Marine Corps, the Army, and the Air Force, among others. Smithsonian officials noted that they would welcome greater coordination with DOD.

Agency Comments

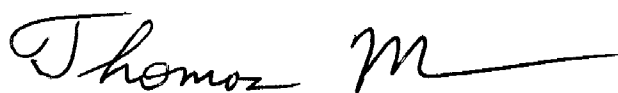
We are not making any recommendations in this report. We provided a draft copy of this report to State, DHS, DOJ, Treasury, DOD, Interior, and the Smithsonian for their review and comments. State, DHS, Treasury, DOD, and the Smithsonian provided technical comments, which we incorporated as appropriate. DOJ and Interior had no comments.

We are sending copies of this report to the appropriate congressional committees; the Secretaries of State, Homeland Security, Treasury, Defense, Interior, and the Smithsonian Institution; the Attorney General of the United States; and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

²⁵DOD cited Department of Defense Instruction 4715.22, Environmental Management Policy for Contingency Locations (Feb. 18, 2016).

²⁶Specifically, DOD cited Department of Defense Instruction 4715.05, Environmental Compliance at Installations Outside the United States (Nov. 1, 2013) and Department of Defense Guide 4715.05-G, Overseas Environmental Baseline Guidance Document (May 1, 2007).

If you or your staff members have any questions about this report, please contact me at (202) 512-9601, or melitot@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.

A handwritten signature in black ink that reads "Thomas M" followed by a long horizontal flourish.

Thomas Melito
Director, International Affairs and Trade

List of Requesters

The Honorable Edward R. Royce
Chairman

The Honorable Eliot L. Engel
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Chris Smith
Chairman
Subcommittee on Africa, Global Health, Global Human Rights, and
International Organizations
Committee on Foreign Affairs
House of Representatives

The Honorable William Keating
Ranking Member
Subcommittee on Terrorism, Nonproliferation, and Trade
Committee on Foreign Affairs
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report describes (1) activities undertaken by U.S. agencies and the Smithsonian Institution (Smithsonian) to protect Iraqi and Syrian cultural property since 2011, and (2) art market experts' suggestions for improving U.S. government activities.

To determine the activities undertaken by U.S. agencies and the Smithsonian to protect Iraqi and Syrian cultural property, we reviewed documents and data related to cultural property provided by the Smithsonian and U.S. agencies, including the Departments of State (State), Homeland Security (DHS), Justice (DOJ), the Treasury, Defense (DOD), the Interior (Interior); and the U.S. Agency for International Development (USAID).¹ We also interviewed officials representing these agencies and the Smithsonian to obtain an understanding about their roles and responsibilities as well as cultural property protection activities they conduct. In addition, we interviewed representatives of international organizations and foreign governments, including the United Kingdom (UK), Italy, and Jordan; and collected and reviewed international organizations' documents. We chose the UK because agency officials and art market experts reported that it represents the second-largest legal antiquities market after the United States; we chose Italy and Jordan because the U.S. Mission to the United Nations (UN) reported the two countries' UN missions were leading an effort to protect Iraqi and Syrian cultural property. Furthermore, we reviewed laws governing cultural property and authorities used by U.S. agencies and international organizations to address cultural property issues. Although we examined U.S. government and international efforts taken to protect cultural property globally, we focused on efforts to address Iraqi and Syrian cultural property protection since 2011, the beginning of the Syrian civil war. Our description of U.S. government and international activities is intended to be illustrative of the types of activities these actors conduct to protect Iraqi and Syrian cultural property and is not exhaustive of all activities undertaken by these entities.

¹The Smithsonian is the world's largest museum complex and research organization. It was established by Congress as a trust instrumentality of the U.S. government and is funded in part by federal appropriations. For the purposes of this report, we have included the Smithsonian in our discussion of U.S. agency cultural property protection efforts. The Department of the Interior (Interior) and the U.S. Agency for International Development (USAID) participated in State-led task forces related to cultural property protection; however, officials from both agencies reported they had conducted no specific activities related to Iraqi or Syrian cultural property protection since 2011. Therefore, we did not report on their roles and activities.

To obtain art market experts' suggestions to improve U.S. government activities to protect Iraqi and Syrian cultural property, we conducted interviews with a nongeneralizable sample of 35 U.S.-based art market experts knowledgeable in cultural property protection issues, including antiquities. We selected these experts based on, among other factors, a varied selection of experts representing different categories of the art market. These art market experts, who have knowledge of U.S. government activities to protect cultural property, including some who have worked as government employees, range from those representing art and antiquities dealers, auction houses, appraisers, archaeologists, museums, academic institutions, and nongovernmental organizations (NGO) to lawyers who specialize in cultural property cases. However, these experts may not have access to nonpublic information regarding efforts by U.S. agencies to protect cultural property. Additionally, because our sample includes individuals covering a broad range of expertise in the art market, not all individuals have expertise in all areas of cultural property protection. For instance, individuals in our sample with expertise in one area, such as archaeology or other academic topics, may not necessarily have expertise in other areas, such as legal or law enforcement issues.

During our interviews, we asked these 35 art market experts to identify suggestions for U.S. government improvement to cultural property protection activities. We consolidated interview responses to create a comprehensive list of 25 suggestions. As a follow-up to our initial interviews, we compiled this list of 25 suggestions into a questionnaire, which we sent to a nongeneralizable sample of 29 art market experts² requesting them to rate the importance of the suggestions based on a four-point scale.³ Of these 29 art market experts, 26 responded to the questionnaire. A complete list of all the suggestions we included in the questionnaire and the average scores of respondents' ratings of each

²We sent the questionnaire to a total of 29 art market experts, 27 of which were from the initial group of 35 art market experts with whom we initially spoke to identify suggestions. We sent the questionnaire to only 27 of these 35 art market experts because some experts represented the same organization. Furthermore, we added two additional art market experts whom we did not originally interview to ensure a varied selection of art market experts.

³In the questionnaire, we asked art market experts to rate 25 suggestions. When rating the importance of a suggestion, art market experts were asked to rate the suggestion as either "very important," "important," "somewhat important," or "not important."

suggestion can be found in appendix IV. Based on the average score of these 26 art market experts' ratings of suggestions in the questionnaire, we identified seven suggestions experts rated as of highest importance and asked U.S. officials representing State, DHS, DOJ, Treasury, DOD, and the Smithsonian to provide their views about these suggestions. While we report the views of art market experts and U.S. officials related to these suggestions, we are not expressing an opinion on them.

Based on documents we reviewed and interviews we held with U.S. agencies and the Smithsonian, international organizations, and foreign government officials, as well as art market experts, we also obtained an understanding of the art market's general practices for addressing cultural property issues. To gather information for both objectives, we interviewed government officials and experts in Washington, D.C.; New York, New York; and London, UK.

We conducted this performance audit from August 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: U.S. Laws and Restrictions on Iraqi and Syrian Cultural Property

The United States has implemented a number of laws that restrict the importation of certain types of Iraqi and Syrian cultural property, with some exemptions. In addition, the United States has made exceptions to export restrictions to allow some cultural property protection activities to take place in Syria. Some of these restrictions and exemptions apply to both countries, while others are specific to each country, as detailed below.

Import Restrictions on Iraqi and Syrian Cultural Property

Since 1983, through the Convention on Cultural Property Implementation Act (CPIA), the United States has restricted the importation of certain cultural property from state parties to the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention).¹ For example, as it relates to stolen cultural property from Iraq and Syria, the import restriction covers cultural property documented as belonging to the inventory of a museum or religious or secular public monument or similar institution that was stolen from such museum, monument, or institution after April 12, 1983.² Moreover, through the CPIA, the United States has imposed import restrictions on archaeological or ethnological materials of state parties designated pursuant to international agreements with such state parties and by emergency action taken by the administration under the CPIA.³ According to Department of State (State) officials, the import restrictions were intended to reduce the incentive for pillage by discouraging the trade in undocumented cultural property and encouraging a legal trade in documented property. Iraq and Syria have no bilateral or multilateral agreements with the United States to apply import

¹19 U.S.C. §§ 2601 *et seq.* The restriction applies to cultural property exported from parties to the 1970 UNESCO Convention.

²19 U.S.C. § 2607. According section 12.104b of title 19 of the Code of Federal Regulations, the 1970 UNESCO Convention entered into force on May 12, 1973, for Iraq and on May 21, 1975, for Syria. Both of these predated the effective date of the CPIA on April 12, 1983, and, therefore, pursuant to section 2607 of title 19 of the United States Code, the restriction on imports from those two countries began on April 12, 1983. Because Iraq and Syria remain states parties to the 1970 UNESCO Convention, this stolen property restriction remains in place with respect to Iraq and Syria.

³19 U.S.C. § 2606. For example, the United States imposed import restrictions on certain archeological material from Belize in 2013 pursuant to an agreement between the United States and Belize entered into under the authority of the CPIA. See 78 Fed. Reg. 14,183 (Mar. 5, 2013).

restrictions under the CPIA. However, additional legislation has authorized the President with respect to Iraq, and mandated the President with respect to Syria, to exercise an emergency implementation of import restrictions under the CPIA. Moreover, other U.S. import restrictions apply to cultural property from the two countries, as described below.

Iraq-Specific Import Restrictions

Certain cultural property from Iraq is covered by two additional authorities that allow the imposition of import restrictions under the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (Iraqi Cultural Antiquities Act)⁴ and Executive Order 13350.⁵ The Iraqi Cultural Antiquities Act authorized the President to exercise his authority under the CPIA to apply import restrictions to any archaeological or ethnological material of Iraq if the President determines that an emergency condition applies to such material.⁶ The authority granted by the Iraqi Cultural Antiquities Act to impose the import restrictions was assigned to State⁷ and, on July 2, 2007, State made the necessary determination that an emergency condition applies with respect to archaeological and ethnological materials of Iraq to impose import restrictions on those

⁴Pub. L. No. 108-429 (Dec. 3, 2004).

⁵Exec. Order No. 13350, § 4, 69 Fed. Reg. 46,055, 46,056 (July 30, 2004), (codified at 31 C.F.R. § 576.208). Section 576.208 of title 31 of the Code of Federal Regulations directs people to State's Cultural Heritage Center for any questions concerning whether particular Iraqi cultural property or other items are subject to this restriction. See also 31 C.F.R. § 576.411. From August 1990 through July 2004, Executive Orders 12722 and 12724 restricted most imports from Iraq. However, these were revoked by Executive Order 13350.

⁶Pub. L. No. 108-429, § 3002. These import restrictions are authorized without regard to whether Iraq is a state party to the 1970 UNESCO Convention and without the need to meet certain other CPIA requirements, including receipt of a formal request from the government of Iraq and involvement of the Cultural Property Advisory Committee.

⁷See Assignment of Functions Relating to Import Restrictions on Iraqi Antiquities, 71 Fed. Reg. 28,753 (May 5, 2006) (President assigned the functions of the President under section 3002 of the act to the Secretary of State); Delegation of Authority No. 294, 71 Fed. Reg. 41,306 (July 20, 2006) (Secretary of State delegated to the Under Secretary for Political Affairs, to the extent authorized by law, all authorities and functions vested in the Deputy Secretary of State, including all authorities and functions vested in the Secretary of State or the head of agency that have been or may be delegated or redelegated to the Deputy Secretary); Delegation of Authority No. 296, 72 Fed. Reg. 8,054 (Feb. 22, 2007) (Under Secretary of State for Political Affairs delegated to the Assistant Secretary of State for Educational and Cultural Affairs the functions of the President under section 3002 of the act).

materials. The Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) then issued a regulation on April 30, 2008, to "reflect the imposition of the import restrictions."⁸ Consistent with the Iraqi Cultural Antiquities Act, the regulation defines "archaeological or ethnological material of Iraq" as cultural property of Iraq and other items of archeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq since August 6, 1990.⁹ In issuing the regulation, to provide general guidance, CBP also issued the Designated List of Archaeological and Ethnological Material of Iraq that describes the types of articles to which the import restrictions apply.¹⁰ Similarly, the regulation implementing Executive Order 13350 covers any cultural property of Iraq and other items of archeological, historical, cultural, rare scientific, or religious importance that were illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq since August 6, 1990.¹¹ However, this regulation also covers items for which a reasonable suspicion exists that they were illegally removed from the same list of institutions.¹² Furthermore, the regulation implementing the executive order states that questions concerning whether particular Iraqi cultural property or other items are subject to this regulation should be directed to the Cultural Heritage Center of the State Department.¹³

⁸Import Restrictions Imposed on Archaeological and Ethnological Material of Iraq, 73 Fed. Reg. 23,334 (Apr. 30, 2008), codified at 19 C.F.R. § 12.104j.

⁹19 C.F.R. § 12.104j. The act and the regulation specify the adoption of United Nations Security Council Resolution 661 of 1990. Resolution 661 was adopted on August 6, 1990.

¹⁰According to CBP, this list is for general guidance only and is not intended to be all-inclusive. See 73 Fed. Reg. 23,334. Types of specific items or categories of materials are described in CBP Decision 08-17, but the decision does not list known, documented individual items restricted from importation.

¹¹31 C.F.R. § 576.208.

¹²*Id.*

¹³*Id.*

Syria-Specific Import
Restrictions and Permitted
Cultural Property
Protection Assistance

On May 9, 2016, the President signed into law an act that provides emergency protection for Syrian cultural property by requiring the President to impose import restrictions on certain Syrian archaeological and ethnological material.¹⁴ The act is entitled the Protect and Preserve International Cultural Property Act and, like the 2004 Iraqi Cultural Antiquities Act, it cites a provision in the CPIA that authorizes the President to apply import restrictions on archeological or ethnological material upon determining that an emergency condition applies to such material.¹⁵ Under the CPIA, an emergency condition means, among other things, that certain types of archeological or ethnological material are in jeopardy from pillage, dismantling, or fragmentation.¹⁶ In addition to import restrictions under the CPIA, the U.S. Treasury authorizes certain services in support of cultural property protection activities for Syria that would otherwise be prohibited by Syria sanctions regulations.¹⁷ Specifically, it authorizes the export or reexport of services to Syria in support of nongovernmental organizations' (NGO) activities for the preservation and protection of cultural heritage sites in Syria, including, but not limited to, museums, historic buildings, and archaeological sites.¹⁸

Exempt and Permitted
Iraqi and Syrian Imports

Some imports, regardless of their country of origin, are exempt from the CPIA.¹⁹ For example, any archaeological or ethnological material or any article of cultural property which is (1) imported into the United States for temporary exhibition or display and is immune from seizure under specific judicial process,²⁰ or (2) purchased in good faith by certain institutions

¹⁴Pub. L. No. 114-151. The act states that the President shall exercise his authority under section 304 of the CPIA to impose import restrictions under the CPIA not later than 90 days of enactment, which would be August 7, 2016.

¹⁵Pub. L. No. 114-151, § 3(a) (citing section 304 of the CPIA (19 U.S.C. § 2603)).

¹⁶19 U.S.C. § 2603.

¹⁷See 31 C.F.R. part 542 for the Syrian Sanctions Regulations and 31 C.F.R. § 542.516 authorizing certain services in support of nongovernmental organizations' (NGO) activities.

¹⁸31 C.F.R. § 542.516. Treasury officials stated that the regulation does not define the term "cultural heritage sites"; however, if they were to receive any questions about whether a site qualified, they would refer the matter to State's Cultural Heritage Center.

¹⁹19 U.S.C. § 2611.

²⁰19 U.S.C. § 2611(1). The material or article must be immune from seizure pursuant to section 2459 of title 22 of the United States Code.

and where other enumerated conditions apply such as if the acquisition of the material or article has been reported in specific types of publications.²¹

In addition to these exemptions, there are a number of designated archeological or ethnological material that may be permissibly imported under the CPIA.²² For example, regarding Iraqi material, an import will be permitted if the importer (1) files documentation from the government of Iraq certifying that exportation of such material was not in violation of the laws of that country,²³ or (2) presents satisfactory evidence (as defined by the CPIA) that the material (A) was exported from Iraq at least 10 years prior to being imported into the United States and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than 1 year before that date of entry, or (B) the item was exported from Iraq prior to the date on which such material was designated as prohibited from importation.²⁴

Regarding Syrian material, under the Protect and Preserve International Cultural Property Act, the President may waive the import restrictions if he

²¹See 19 U.S.C. § 2611(2). For example, subsection 2611(2)(A) states that the CPIA shall not apply to any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article has been held in the United States for a period of not less than 3 consecutive years by a recognized museum or religious or secular monument or similar institution and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of the CPIA, but only if (1) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least 50,000, or a periodical or exhibition catalog that is concerned with the type of article or materials sought to be exempted from the CPIA; (2) such material or article has been exhibited to the public for a period or periods aggregating at least 1 year during such 3-year period; or (3) such article or material has been cataloged and the catalog material made available upon request to the public for at least 2 years during such 3-year period.

²²19 U.S.C. § 2606 and 19 C.F.R. § 12.104c.

²³Such documentation can be, but is not limited to, an affidavit, license, or permit from an appropriate, authorized state party official under seal. 19 C.F.R. § 12.104c(a).

²⁴See 19 U.S.C. § 2606. U.S. Customs and Border Protection (CBP) issues decisions listing items designated as subject to import restrictions. There is no such decision for Syrian cultural property, but CBP Decision 08-17 describes the types of specific items from Iraq and categories of items from Iraq that are subject to import restrictions.

certifies to the appropriate congressional committees²⁵ that certain conditions are met.²⁶ First, if the owner or lawful custodian of the specified archaeological or ethnological material of Syria has requested that such material be temporarily located in the United States for protection purposes or, if no owner or lawful custodian can reasonably be identified, if the President determines that, for purposes of protecting and preserving such material, the material should be temporarily located in the United States.²⁷ Second, the material must be returned to the owner or lawful custodian when requested by such owner or lawful custodian.²⁸ Third, there is no credible evidence that granting such waiver will contribute to illegal trafficking in archaeological or ethnological material of Syria or financing of criminal or terrorist activities.²⁹

²⁵The appropriate congressional committees are the Senate Committees on Foreign Relations and on Finance, and the House Committees on Foreign Affairs and on Ways and Means. Pub. L. No. 114-151, § 3(d).

²⁶Pub. L. No. 114-151, § 3(c).

²⁷*Id.*

²⁸*Id.*

²⁹*Id.*

Appendix III: International Actors Implemented Five Categories of Activities to Protect Iraqi and Syrian Cultural Property

Agency officials and experts mentioned a number of international organizations and foreign governments as having key activities to protect cultural property for Iraq and Syria. These activities include efforts that fall into the same five categories that apply to U.S. efforts. Examples of these five types of activities are described below.

- *Awareness Raising.* The United Nations (UN) established a monitoring team in 2014 to report on threats posed by the Islamic State of Iraq and Syria (ISIS)¹ and other terrorist groups and produced three reports on Iraqi and Syrian cultural property protection efforts, and challenges to these efforts, particularly regarding the implementation of UN Security Council Resolution 2199. Furthermore, officials representing the Italian and Jordanian missions to the UN described to us their efforts in cosponsoring a series of events regarding the destruction and trafficking of antiquities by ISIS.
- *Information Sharing.* The International Committee for the Blue Shield, an organization that promotes cultural property protection related to the 1954 Hague Convention regarding armed conflict,² worked with others and produced lists of cultural sites and repositories in Iraq and Syria. The committee submitted these lists to the Department of Defense (DOD), defense agencies in other nations, and the North Atlantic Treaty Organization for use during military planning, according to the committee.
- *Law Enforcement Efforts.* To counter smuggling and deter looting, the International Criminal Police Organization (INTERPOL) maintains a database of over 45,000 cultural property thefts reported by law enforcement agencies and worked with the World Customs Organization, the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the International Council of Museums (ICOM) to exchange information about the illicit trade in cultural property. In 2012, the World Customs Organization issued a press release calling on customs administrations worldwide to increase their vigilance at borders on cultural artifacts that may be smuggled or

¹This organization is also referred to as the Islamic State of Iraq and the Levant (ISIL) or Daesh.

²United Nations Educational, Scientific and Cultural Organization (UNESCO), Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted in The Hague on May 14, 1954 (Treaty Doc. 106-1(A)).

exported illegally from Syria. Further, an official from the United Kingdom (UK) customs authority reported that the UK made six seizures between 2015 and early 2016 of shipments containing 10 to 20 kilos each of ancient Roman, medieval, and Islamic coins suspected of coming from Syria, with dirt still on them.

- *Overseas Capacity Building.* UK officials reported that the Minister of Culture issued a £3 million grant in October 2015 to the British Museum to train conservators from Iraq as part of a new £30 million foreign assistance Cultural Protection Fund created in part as a reaction to ISIS's destruction and looting in Iraq and Syria.
- *Preventing Destruction.* According to UNESCO, many museums in Syria have taken measures to reduce the risk of theft of moveable heritage since the beginning of the conflict. In particular, UNESCO reported that some Syrian museums have moved their archaeological artifacts to safe and secure areas and enhanced security by installing additional burglar alarms and increasing the number of security guards and patrols of the perimeters.

Appendix IV: Complete List and Ratings of Art Market Experts' Suggestions for Improvements to the U.S. Government's Iraqi and Syrian Cultural Property Protection Efforts

We asked a nongeneralizable sample of 35 art market experts to suggest ways the U.S. government could improve efforts to protect Iraqi and Syrian cultural property. These art market experts, who have knowledge of U.S. government activities to protect cultural property, including some who have worked as government employees, range from those representing art and antiquities dealers, auction houses, appraisers, archaeologists, museums, academic institutions, and nongovernmental organizations (NGO) to lawyers who specialize in cultural property cases. However, these experts may not have access to nonpublic information regarding efforts by U.S. agencies to protect cultural property. Additionally, because our sample includes individuals covering a broad range of expertise in the art market, not all individuals have expertise in all areas of cultural property protection. For instance, individuals in our sample with expertise in one area, such as archaeology or other academic topics, may not necessarily have expertise in other areas, such as legal or law enforcement issues. We compiled art market experts' suggestions into a questionnaire listing 25 suggestions, which we sent to a nongeneralizable sample of 29 art market experts and asked them to rate the importance of each suggestion. We received responses from 26 of the 29 experts. Table 3 below lists all 25 suggestions, beginning with the suggestion rated as the most important on average by respondents and ending with the suggestion rated least important on average.

Table 3: List of Suggestions and Art Market Experts' Average Ratings on the Importance of Suggestions

Suggestion	Importance
Improve information sharing among U.S. agencies, including information that law enforcement agencies have about cultural property cases.	1.32
Increase U.S. government's support of public-private partnerships and collaboration with foreign countries to improve the management of foreign countries' cultural property data, such as museum inventories.	1.42
Increase U.S. government collaboration with foreign countries to share law enforcement information internationally regarding the looting and trafficking of cultural property items.	1.46
Improve guidance to the art market provided by U.S. Customs and Border Protection, such as clarifying information requirements (e.g., definition of "country of origin") for Customs importation forms and updating the May 2006 trade guide to the art market on cultural property.	1.50
Improve and increase training on cultural property investigations for law enforcement agencies, including Department of Homeland Security's U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection; and the Department of Justice's (DOJ) Federal Bureau of Investigation.	1.62
Create an overarching U.S. government strategy on cultural property protection, including diplomatic and law enforcement elements, which clearly defines agency roles and priorities.	1.64
Establish a central point of contact at the Department of Defense for cultural property protection issues overseas.	1.64
Collect relevant archaeological data from excavations in Iraq and Syria in a secure database for use by law enforcement and market participants to track items at risk of being looted.	1.69

Appendix IV: Complete List and Ratings of Art Market Experts' Suggestions for Improvements to the U.S. Government's Iraqi and Syrian Cultural Property Protection Efforts

Suggestion	Importance
Create a resource with information on U.S. cultural property laws, foreign cultural property laws, and U.S. bilateral agreements/memoranda of understanding (MOU) with other foreign countries.	1.69
Include cultural property protection as part of the U.S. Agency for International Development's capacity-building efforts with foreign governments, similar to efforts used during the disaster response in Haiti.	1.69
Increase training of DOJ's assistant U.S. attorneys and district attorneys on cultural property laws and cases.	1.73
Work with art market participants to develop a government database with information on cultural property items, such as provenance and prior ownership (with content such as red flags for specific cultural property, buyers, sellers, appraisers, or other actors), and consider providing some access to art market participants.	1.85
Designate a single point of contact at DOJ for federal prosecutors handling cultural property cases.	1.88
Establish standards and best practices for the art/antiquities industry, including providing guidelines on due diligence and provenance for cultural property items from conflict zones.	1.88
Work with foreign governments and international organizations to obtain inventory information from free ports.	1.88
Create a new federal office and/or appoint a "czar" focused on cultural property efforts of the U.S. government, including a point of contact for art market participants.	1.92
Require travelers and importers to declare to customs more specific information regarding all antiquities imported into the United States (e.g., requiring photos, volume, dollar value, and other information).	2.00
Publish more import data in the Department of Commerce's Harmonized Tariff Schedule on antiquities, including the volume and counts of items, and ports of entry.	2.08
Impose an import restriction on cultural property items from Syria.	2.08
Create a federal requirement for antiquities dealers to "know their customers" by documenting and reporting information on antiquities transactions, such as the chain of custody, similar to information recorded on pawn shop and car sales.	2.16
Create a certification process to provide assurance that certified cultural property items are legitimate and/or cleared by law enforcement agencies.	2.23
Increase public awareness of looting and trafficking of Iraqi and Syrian cultural property by, for example, starting public awareness campaigns, modeling efforts after past campaigns such as those against wearing fur or buying conflict minerals.	2.35
Create an anonymous hotline to report suspicious cultural property sales or purchases to law enforcement agencies.	2.44
Designate cultural property smugglers as terrorist financiers, and impose financial sanctions on them.	2.48
Negotiate multilateral MOUs to cover regions (e.g., the Middle East) in addition to existing or new bilateral MOUs.	2.64

Legend: Scale: 1 = very important; 2 = important; 3 = somewhat important; 4 = not important

Source: GAO analysis of art market experts' response. | GAO-16-673

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Elizabeth Repko (Assistant Director), Katherine Forsyth, and Victoria Lin made key contributions to this report. The team benefited from the expert advice and assistance of Lynn Cothorn, Justin Fisher, Grace Lui, and Oziel Trevino.

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