

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority and Minority Staff

Date: April 15, 2016

Subject: April 19, 2016, Task Force to Investigate Terrorism Financing hearing titled "Preventing Cultural Genocide: Countering the Plunder and Sale of Priceless Cultural Antiquities by ISIS"

The Task Force to Investigate Terrorism Financing will hold a hearing entitled "Preventing Cultural Genocide: Countering the Plunder and Sale of Priceless Cultural Antiquities by ISIS" on Tuesday, April 19, 2016, at 10:00 a.m. in room 2128 of the Rayburn House Office Building. This will be a one-panel hearing with the following witnesses:

- Mr. Robert M. Edsel, Chairman of the Board, Monuments Men Foundation
- Mr. Yaya J. Fanusie, Director of Analysis, Center on Sanctions and Illicit Finance, Foundation for Defense of Democracies
- Dr. Patty Gerstenblith, PhD, Distinguished Professor, DePaul University College of Law
- Dr. Amr Al-Azm, PhD, Associate Professor, Shawnee State University
- Mr. Lawrence Shindell, Chairman, ARIS Title Insurance Corporation

¹ *Task Force to Investigate Terrorism Financing: "Preventing Cultural Genocide: Countering the Plunder and Sale of Priceless Cultural Antiquities of ISIS," April 19, 2016*

Introduction¹

The theft, fraud, looting, and trafficking of artifacts and cultural materials, including antiquities, is a longstanding transnational phenomenon that can enrich criminal actors and destroy the cultural heritage of nations. Despite international efforts to address the problem, trafficking in art and cultural property continues unabated.² Current concern has focused in particular on the situation in Iraq and Syria, where multiple armed actors in the region are believed to profit from looting.³ One of these groups is the terrorist organization known as the Islamic State (IS or ISIS or ISIL or Daesh⁴), which controls or contests territory that includes some of the most archaeologically treasured sites of ancient civilization. Reports indicate that the Islamic State has institutionalized antiquities looting as a source of revenue, although estimates on how much the antiquities sector contributes to its total revenue remain imprecise. The Islamic State also publicly destroys symbols of cultural heritage that are inconsistent with its ideology.⁵

Observers describe a large scale and systematic process of cultural heritage destruction in Iraq and Syria, which has, over the course of the Syrian civil war and the ensuing regional instability, expanded. There are some 4,500 archaeological sites located in IS territory that are at risk—vulnerable to looting, destruction, or both. France Desmarais of the International Council of Museums describes the situation as the “largest-scale mass destruction of cultural heritage since the Second World War.”⁶ United Nations Educational, Scientific, and Cultural Organization (UNESCO) Director-General Irina Bokova considers the Islamic State’s destruction of cultural heritage sites to be an international war crime.⁷

Global Context

Concrete data on the global value of the illicit art and cultural property trade are not available, but the U.S. Federal Bureau of Investigation (FBI) estimates that such crimes result in annual financial losses “in the billions of dollars.”⁸ In 2011, the non-governmental

¹ This memorandum was prepared by the Congressional Research Service (CRS) at the Task Force’s request, and has been reviewed and approved by staff of the Financial Services Committee.

² Steven Lee Myers and Nicholas Kulish, “‘Broken System’ Allows ISIS to Profit From Looted Antiquities,” *New York Times*, January 9, 2016; Rachel Shabi, “Looted in Syria and Sold in London: The British Antiquities Shops Dealing in Artefacts Smuggled by ISIS,” *The Guardian (UK)*, July 3, 2015; Graham Bowley, “Antiquities Lost, Casualties of War: In Syria and Iraq, Trying to Protect a Heritage at Risk,” *New York Times*, October 3, 2014.

³ For examples of comparative satellite imagery of archaeological site looting in Syria, see <http://eca.state.gov/cultural-heritage-center/syria-cultural-heritage-initiative/imagery-archaeological-site-looting>.

⁴ The term “Daesh” is an Arabic acronym formed from the group’s previous name in Arabic— “al-Dawla al-Islamiya fil Iraq wa al-Sham”. The term has negative connotations and has therefore gained currency as a way of challenging the legitimacy of the group. See, <http://www.bbc.com/news/world-middle-east-27994277>

⁵ Illustrative of the brutality that the Islamic State exhibits against those with opposing views regarding cultural heritage preservation was the kidnapping and subsequent murder in 2015 of Syrian archaeologist Khaled al-Asaad, known as “Mr. Palmyra.” Others involved in the protection of Syrian cultural heritage have reportedly been targeted by the Islamic State. “Syrian Archaeologist ‘Killed in Palmyra’ by IS Militants,” *BBC*, August 19, 2015; Bowley (*New York Times*), October 3, 2014.

⁶ Myers and Kulish (*New York Times*), January 9, 2016.

⁷ United Nations Educational, Scientific, and Cultural Organization (UNESCO), “UNESCO Mobilizes the International Community to End Cultural Cleansing in Iraq,” press release, March 11, 2015.

⁸ Federal Bureau of Investigation (FBI), *Art Theft*, <https://www.fbi.gov/about->

group Global Financial Integrity (GFI) conservatively averaged and aggregated existing figures to estimate that the value of the illicit trade of cultural property may range between \$3.4 and \$6.3 billion annually.⁹ Drawing on GFI's estimates, the United Nations Office on Drugs and Crime (UNODC) estimated in 2011 that art and cultural property crime represented 0.8% of global proceeds of transnational crime.¹⁰ Some substantially smaller portion of this total likely represents the illicit trade in antiquities, which is a narrow subset of the global art trade.¹¹

According to a survey of archaeologists published in 2013, antiquities looting is neither isolated nor confined to certain regions or countries. Respondents to the survey reported archaeological looting activity in 103 of the 118 countries (87%) where they were conducting fieldwork.¹² In addition to the economic harm such illicit activity can produce, the theft, fraud, looting, and trafficking of cultural heritage can jeopardize the preservation of a nation's identity, culture, and history.¹³ Also contributing to cultural heritage loss, particularly during periods of armed conflict, is the damage to or destruction of artifacts, heritage sites, and cultural materials of national and international importance.

In 2011, the RAND Corporation described the illegal trade in cultural property as typically involving six stages in the supply chain (see **Figure 1** below).¹⁴ The process begins with the supplier who loots or otherwise steals the cultural object or artifact. The typical looter receives less than 1% of the retail value of the stolen object (other estimates range up to 2%), while the dealers and traders receive the largest share of the profits.¹⁵ Along the supply chain, the illicit antiquities trade may intersect with networks of organized criminals, corrupt officials and arts brokers, and, at times, terrorist or insurgent groups. In recent years, the growing use of the Internet, through peer-to-peer sales websites, online auctions, and social media platforms, has complicated law enforcement efforts to thwart the smuggling and sale of cultural artifacts.¹⁶

[us/investigate/vc_majorthefts/arttheft.](https://www.rand.org/pubs/working_papers/20110701.html)

⁹ Jeremy Haken, *Transnational Crime in the Developing World*, Global Financial Integrity, February 2011.

¹⁰ United Nations Office on Drugs and Crime (UNODC), *Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes*, research report, October 2011.

¹¹ According to the International Association of Dealers in Ancient Art, the global licit trade in antiquities roughly amounts to less than \$200 million per year. See Angela M.H. Schuster, "The Power 100 of 2015: The Pillaging of the Middle East," *Blouin ArtInfo*, December 28, 2105.

¹² Blythe Bowman Proulx, "Archaeological Site Looting in 'Glocal' Perspective: Nature, Scope, and Frequency," *American Journal of Archaeology*, Vol. 117 (2013), pp. 111-125.

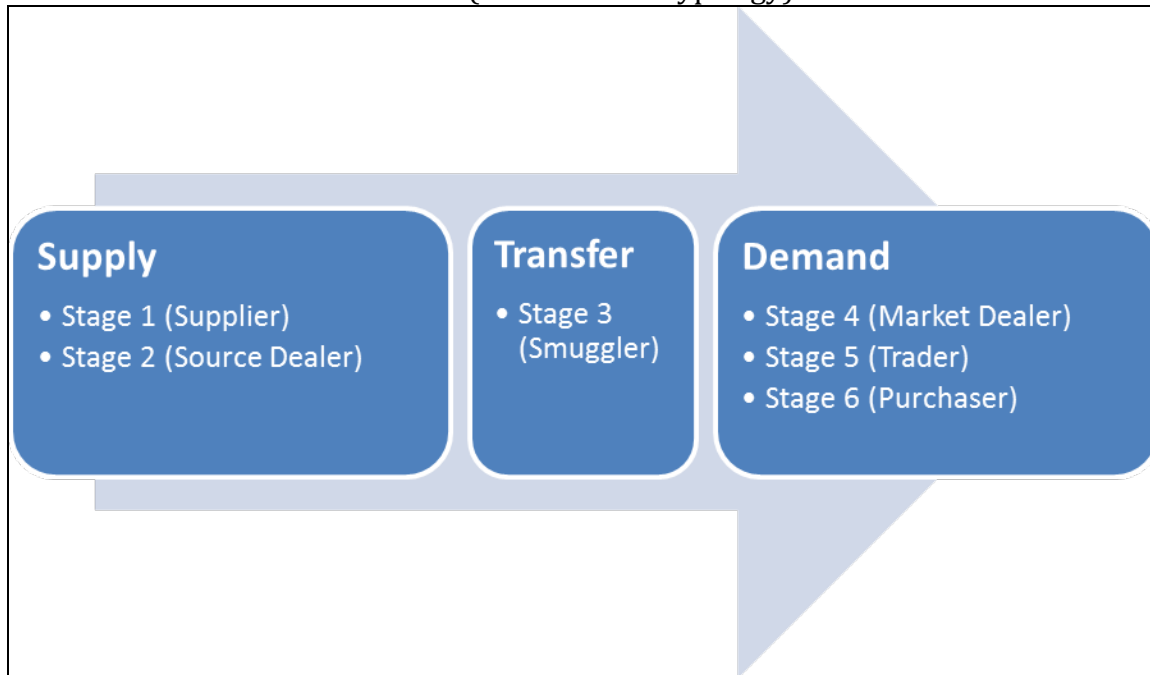
¹³ INTERPOL, Office of Legal Affairs, *Countering Illicit Trade in Goods: A Guide for Policy-Makers*, 2014.

¹⁴ Siobhán Ní Chonaill, Anaïs Reding, and Lorenzo Valeri, *Assessing the Illegal Trade in Cultural Property from a Public Policy Perspective*, RAND Europe, 2011.

¹⁵ See also Neil Brodie, Jenny Doole, and Peter Watson, *Stealing History: The Illicit Trade in Cultural Material*, The McDonald Institute for Archaeological Research, 2000.

¹⁶ INTERPOL, *Countering Illicit Trade in Goods*, 2014.

Figure 1. The Six Stages of the Illegal Trade in Cultural Property
(an illustrative typology)



Source: CRS adaptation of the RAND Corporation’s study (2011).

Notes: The RAND study indicates that the illegal trade in cultural property begins with the supplier who loots or steals a desirable cultural artifact. Next in the supply chain is the source dealer who arranges transport, via a smuggler, to a market dealer, usually a professional art or antiquities dealer. The source dealer often has advanced knowledge of art history or archaeology in order to create false documents certifying authenticity and provenance. Smugglers, in turn, receive a fee for providing the logistics of physically transporting the looted good from the supplying source location to locations where market demand for the item exists. Market dealers often have close connections to the source zones and supply retail outlets with artifacts and cultural objects currently in demand. The final retail purchaser obtains the product from a cultural property salesperson or retail outlet (e.g., antique shops, auction houses, or underground art and antiquities traders). The final retail purchasers may include criminal groups seeking a non-cash form of stored value to launder proceeds of crime; or private collectors, museums, and other cultural institutions, some of whom may be unaware of the illicit origins of the product due to falsified provenance and import/export paperwork.

Terrorism Links to Looting and Destruction

Reports indicate that illicit armed groups, including terrorists, have sought to benefit opportunistically from the trade in cultural property. In general, terrorist, insurgent, or paramilitary groups may raise funds through the trafficking of antiquities or other cultural property by (1) controlling the illicit network, (2) directly facilitating the movement of contraband items for a fee, or (3) levying “taxes” that authorize criminal smugglers to loot or transit through their controlled territory unharmed.

⁴ Task Force to Investigate Terrorism Financing: “Preventing Cultural Genocide: Countering the Plunder and Sale of Priceless Cultural Antiquities of ISIS,” April 19, 2016

According to a 2005 article in the German periodical *Der Spiegel*, Mohammed Atta, one of the Al Qaeda hijackers on September 11, 2001, sought advice from a German university professor in 1999 on how to sell potentially valuable cultural artifacts from Afghanistan.¹⁷ German authorities surmised that Atta was exploring terrorist fundraising options. In 2010, a report published by the Counter Terrorism Center (CTC) at West Point found that illicit antiquities traders based in the United Arab Emirates (UAE) would provide the Haqqani Network and the Taliban with protection payments, though often described as donations, in order to “avoid trouble on the road.”¹⁸ In 1974, the Irish Republican Army (IRA) stole 19 paintings by artists such as Johannes Vermeer, Francisco Goya, and Diego Velázquez from a Dublin estate and attempted to negotiate their return in exchange for a ransom payment and the release of several political prisoners.¹⁹

Antiquities smuggling also occurred throughout the 1980s and 1990s under the Iraqi Ba’athist regime of Saddam Hussein, particularly as a means to generate income amid international sanctions.²⁰ Following Hussein’s fall in 2003, antiquities smuggling across the thousands of unguarded archaeological sites in Iraq became a source of financing for both Sunni and Shia militias and insurgents, including Al Qaeda in Iraq (AQI) and the Islamic State of Iraq (ISI), the predecessors to today’s Islamic State. In June 2005, for example, the U.S. military discovered both antiquities and weapons caches during a series of raids on insurgent underground bunkers.²¹ Al-Nusra Front for the People of the Levant (ANF), an Al Qaeda affiliate in Syria, also reportedly profits, although less pervasively than the Islamic State, from antiquities looting—as have most non-state actors involved in the Syrian conflict and the Bashar al-Assad regime.²²

In addition to smuggling art and antiquities, armed groups including the Islamic State have also destroyed cultural heritage for ideological reasons. In 2012, the Al Qaeda-affiliated Ansar Dine in Mali destroyed monuments and other cultural heritage in Timbuktu. In 2001, the Taliban destroyed the giant Buddha statues in Bamiyan. More recently, the Al Qaeda-affiliated Ansar Al-Sharia in Yemen also destroyed tombs, shrines, and other archaeological sites. Islamist militants in Libya are also implicated or suspected in cultural heritage destruction. In other instances, conflict, political instability, corruption, and post-conflict insecurity contribute to a surge in antiquities looting and trafficking.²³

¹⁷ “Kunst als Terrorfinanzierung?” *Der Spiegel*, July 18, 2005.

¹⁸ Gretchen Peters, *Crime and Insurgency in the Tribal Areas of Afghanistan and Pakistan*, Combating Terrorism Center (CTC) at West Point, October 14, 2010.

¹⁹ See for example Damian Corless, “No Regrets for Renegade IRA Art Robber Rose Dugdale,” *Independent (Ireland)*, April 5, 2014.

²⁰ Phil Williams, *Criminals, Militias, and Insurgents: Organized Crime in Iraq*, Strategic Studies Institute, June 2009; Yaya J. Fanusie and Alexander Joffe, *Monumental Fight: Countering the Islamic State’s Antiquities Trafficking*, Foundation for the Defense of Democracies (FDD), Center on Sanctions and Illicit Finance, November 2015.

²¹ Matthew Bogdanos, “The Terrorist in the Art Gallery,” *New York Times*, opinion, December 10, 2005.

²² United Nations Security Council (UNSC), *Assessment by the Analytical Support and Sanctions Monitoring Team of the Impact of the Measures Imposed in Security Council Resolution 2199 (2015), Pursuant to Paragraph 30 of the Resolution: Chair’s Summary, S/2015/739*, September 25, 2015; Brigadier General (Ret.) Russell Howard, Jonathan Prohov, and Marc Elliott, “Digging in and Trafficking Out: How the Destruction of Cultural Heritage Funds Terrorism,” *CTC Sentinel*, CTC at West Point, February 27, 2015.

²³ Heather Pringle, “New Evidence Ties Illegal Antiquities Trade to Terrorism, Violent Crime: In Cambodia and

Unsanctioned looters may inadvertently destroy some cultural artifacts when using indiscriminate techniques to excavate and bulldozer archaeological sites. It is also possible that public displays of cultural heritage destruction could have the two-fold effect of perpetuating radical ideology while also raising international demand for rare artifacts.

Antiquities and Islamic State Financing

Numerous reports indicate that the Islamic State encourages and profits from antiquities looting in the territory it controls. Experts indicate that antiquities looting in the region predated the Islamic State. As the group seized control of territory, it also began to regulate and tax the pre-existing looting economy. Within the past year, amid greater pressure on its financial resources, the Islamic State ratcheted up its regulatory control and enforcement of antiquities extraction activities.

In November 2014, the United Nation Security Council's (UNSC) Al Qaeda Analytical Support and Sanctions Monitoring Team reported that, although the risk of looting and trafficking of antiquities was known, the Islamic State's involvement in such activity "has become more systematic and organized."²⁴ In February 2015, the Financial Action Task Force (FATF), an intergovernmental body that promotes best practices and global guidance to combat money laundering and terrorist financing (AML/CFT), reported that one of several sources of IS revenue stems from the smuggling of cultural artifacts, whether through direct involvement or through the taxation of goods, including antiquities, that move through IS territory.²⁵

Iraqi officials claimed in 2015 that the Islamic State could be generating as much as \$100 million annually from antiquities.²⁶ Russian officials in March 2016 stated in a letter to the UNSC President that "[t]he profit derived by the Islamists from the illicit trade in antiquities and archaeological treasures is estimated at US\$ 150-200 million per year."²⁷ In September 2015, the U.S. Department of State's Deputy Assistant Secretary for Counter Threat Finance and Sanctions Andrew Keller stated that: "The U.S. government assesses

Beyond, Archaeologists and Criminologists are Fighting the Underground Trade in Cultural Treasures," *National Geographic*, June 13, 2014; Deborah M. Lehr and Katie A. Paul, "Rocking the Cradle of Civilization: Antiquities Theft Funding Terrorists," *Huffington Post*, blog, July 2, 2014; Simon Mackenzie and Tess Davis, "Temple Looting in Cambodia: Anatomy of a Statue Trafficking Network," *British Journal of Criminology*, Vol. 54 (2014), pp. 722-740.

²⁴ UNSC, *The Islamic State in Iraq and the Levant and the Al-Nusrah Front for the People of the Levant: Report and Recommendations Submitted Pursuant to Resolution 2170 (2014)*, S/2014/815, November 14, 2014.

²⁵ Financial Action Task Force (FATF), *Financing of the Terrorist Organisation Islamic State in Iraq and the Levant (ISIL)*, February 2015.

²⁶ In June 2014, *The Guardian (UK)* reported that the Iraqi forces raided the home of an IS military leader near Mosul and collected "more than 160 computer flash sticks" with details on the organization's finances. The article quoted an Iraqi intelligence office as stating that the Islamic State had generated "\$36m from al-Nabuk alone" and that "the antiquities there are up to 8,000 years old." This quote has generated debate among observers, who question whether the \$36 million figure represents only antiquities looting or includes other sources of revenue. See Martin Chulov, "How an Arrest in Iraq Revealed ISIS's \$2bn Jihadist Network," *The Guardian (UK)*, June 15, 2014.

²⁷ UNSC, *Smuggling of Antiquities by the International Terrorist Organization Islamic State in Iraq and the Levant*, letter and annex from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council, S/2016/298, March 31, 2016.

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that ISIL has probably earned several million dollars from antiquities sales since mid-2014, but the precise amount is unknown.”²⁸ Despite the lack of specific estimates, Brigadier General (Ret.) Russell Howard and others in an analysis published by the CTC at West Point nevertheless summarized the Islamic State’s likely role in antiquities trafficking as follows:

From our perspective, ISIL’s involvement in antiquities looting and trafficking is clear, based on satellite imagery, anecdotal evidence, documentation by concerned citizens, and the similar involvement of ISIL predecessors al-Qa’ida in Iraq and the Islamic State of Iraq. Terrorists and looters are opportunists; given that ISIL derives much of its income from various illicit activities, it would be surprising if the group were not involved in what is believed to be the world’s third largest illicit market, particularly in a region that is home to some of the world’s oldest and most valuable antiquities.²⁹

Abu Sayyaf Raid

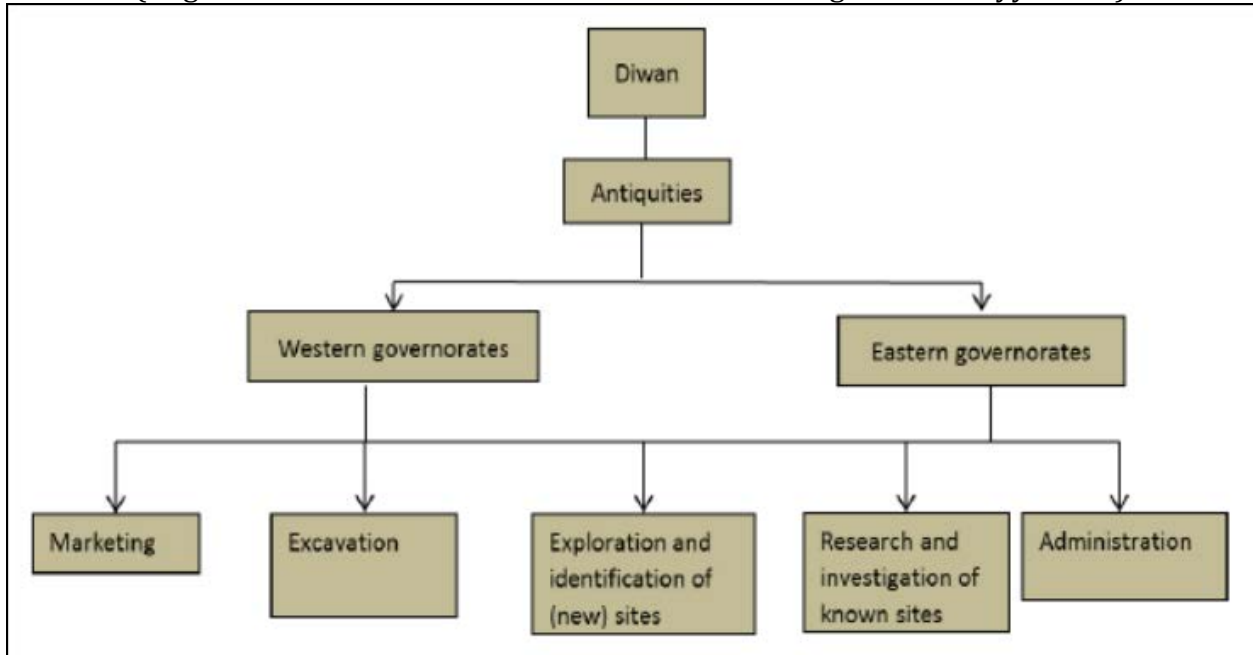
Since 2014, the U.S. Department of the Treasury, in congressional testimony and public remarks, has recognized that the Islamic State profits from a range of criminal activities, including looting and selling antiquities.³⁰ The U.S. government, however, did not publicly document evidence of the Islamic State’s financial role in antiquities looting and trafficking until after the May 2015 U.S. Special Forces raid on the Syrian compound of Abu Sayyaf, the Islamic State’s reputed finance chief and head of its administrative department for natural resources, the *Diwan al-Rikaz*. In addition to paperwork describing the bureaucratic processes used by the Islamic State to regulate their illicit antiquities trade (see **Figure 2** below), the U.S. military recovered a variety of archaeological and historical objects and fragments, including a mix of fakes and looted museum artifacts.

²⁸ U.S. Department of State (DOS), Bureau of Economic and Business Affairs, Deputy Assistant Secretary for Counter Threat Finance and Sanctions, Andrew Keller, “Documenting ISIL’s Antiquities Trafficking: The Looting and Destruction of Iraqi and Syrian Cultural Heritage: What We Know and What Can Be Done,” remarks at the Metropolitan Museum of Art, New York, September 29, 2015.

²⁹ Howard, Prohov, and Elliott, “Digging in and Trafficking Out,” *CTC Sentinel*, February 27, 2015.

³⁰ U.S. Department of the Treasury (Treasury), “Remarks of Under Secretary for Terrorism and Financial Intelligence David S. Cohen at the Carnegie Endowment for International Peace, ‘Attacking ISIL’s Financial Foundation,’” as prepared for delivery, October 23, 2014; Treasury, “Testimony of Under Secretary Cohen before the House Financial Services Committee on ‘The Islamic State and Terrorist Financing,’” as prepared for delivery, November 13, 2014.

Figure 2. Organizational Structure of the Islamic State’s Antiquities Division
(English translation of a document discovered during the Abu Sayyaf raid)



Source: U.S. Department of State (2015), <http://www.state.gov/e/eb/rls/rm/2015/247739.htm>.

Based on declassified information collected during the raid, U.S. officials described the organizational infrastructure that the Islamic State has established to regulate the extraction of and profiteering from antiquities. According to the State Department, the *Diwan al-Rikaz* housed an antiquities division with “units dedicated to research of known sites, exploration of new sites, and marketing of antiquities.”³¹ Included in the cache were official Islamic State memoranda signed by Abu Sayyaf that authorized specific individuals to excavate and supervise excavation of artifacts. Receipts documented the levy of a 20 percent *khums* tax on the proceeds of looting.³² In one book of receipts discovered during the raid, the Islamic State generated more than \$265,000 in *khums* taxes between December 6, 2014 and March 26, 2015. Other documents described prohibitions on looting without an official permit.

Additional documents posted online by the blogger Aymenn Jawad Al-Tamimi appeared to emphasize the Islamic State’s focus on regulating the antiquities trade and the revenue generated, including the enforcement of its administrative rules.³³ In congressional

³¹ DOS (Keller), remarks at the Metropolitan Museum of Art, New York, September 29, 2015.

³² Other sources have suggested that the antiquities looting-related fees collected by the Islamic State may be substantially higher in some cases. For example, if the Islamic States provides authorized looters with equipment to unearth the artifacts, the looters may be required to pay an enhanced percentage of the revenue derived from their sale. See Fanusie and Joffe (FDD), November 2015; “Following the Trail of Syria’s Looted History,” *CBS News*, September 9, 2015.

³³ Aymenn Jawad Al-Tamimi, “The Archivist: Unseen Islamic State Financial Accounts for Deir az-Zor Province,” *Jihadology*, blog, October 5, 2015; Al-Tamimi, “The Archivist: Unseen Documents from the Islamic State’s Diwan al-Rikaz,” *Jihadology*, blog, October 12, 2015. Al-Tamimi’s articles are available at <http://www.aymennjawad.org/articles/>.

testimony from November 2015, the archaeologist Michael Danti acknowledged that the Islamic State has also confiscated and destroyed antiquities from unauthorized smugglers.³⁴ Archaeologist Amr Al-Azm has further claimed that the Islamic State supports the excavation of antiquities by supplying trucks and bulldozers, as well as hiring work crews; in these circumstances, looters would be required to obtain additional permits from IS authorities and pay enhanced taxes or fees upon sale of the looted artifacts.³⁵ Leftover artifacts that are not sold directly by the looters are eventually offered for sale in periodic auctions in Raqqa, Syria.³⁶

Trafficking Pathways

In August 2015, the FBI issued a public alert about trading in antiquities from the Near East. The alert stated that the FBI has “credible reports that U.S. persons have been offered cultural property that appears to have been removed from Syria and Iraq recently.”³⁷ Media reports indicate that some looted antiquities from the region are being offered for retail sale while artifacts of questionable provenance have reportedly been seized by authorities in Turkey, Lebanon, Jordan, Europe, and the United States. Proving that such artifacts were excavated or authorized to be excavated by the Islamic State and that the Islamic State would financially benefit from such sales is difficult.

Observers describe the typical routes for smuggled antiquities flowing mainly through southern Turkey and the Bekaa Valley in Lebanon, potentially comingled among flows of refugees and other contraband items, including drugs.³⁸ Wholesale dealers will work with smugglers to fabricate provenance and other necessary claims of authenticity. Journalists and independent investigators have described the marketing of looted antiquities through online websites and social networks. Retail buyers may include individuals in the region, who purchase small items at local markets, as well as high-value investors and collectors in Europe, the United States, China, and the Persian Gulf. The archaeologist Markus Hilgert has described a geographic divide in demand for antiquities, with pre-Islamic objects marketed in Europe and North America and Islamic art smuggled to countries in the Gulf.³⁹

Some observers have identified gaps between supply and demand of looted antiquities from Syria and Iraq. Although there is a conventional assumption that the black market in antiquities remains lucrative because demand exceeds supply, others note that few Syrian antiquities in recent years have been publicly sold at auction.⁴⁰ Experts point to dealer

³⁴ Prepared statement of Michael D. Danti, Director of Cultural Heritage Initiatives at the American Schools of Oriental Research, “Terrorist Financing: Kidnapping, Antiquities Trafficking, and Private Donations,” hearing before the House Foreign Relations Subcommittee on Terrorism, Nonproliferation, and Trade, Serial No. 114-120, November 17, 2015.

³⁵ Sangwon Yoon, “Islamic State is Selling Looted Art Online for Needed Cash,” *Bloomberg*, June 28, 2015.

³⁶ Ben Taub, “The Real Value of the ISIS Antiquities Trade,” *New Yorker*, December 4, 2015.

³⁷ FBI, “ISIL Antiquities Trafficking,” August 25, 2015.

³⁸ Some have further indicated that smugglers may use trafficking routes through the desert in Jordan as well as potentially through Iran. Shabi (The Guardian), July 3, 2015; Joe Parkinson and Duncan Mavin, “West Seeks Tighter Curbs on Trade in Antiquities Looted by Islamic State: Images of Militants Destroying Artifacts Spurred News Push,” *Wall Street Journal*, March 30, 2015; Fanusie and Joffe (FDD), November 2015.

³⁹ Myers and Kulish (New York Times), January 9, 2016.

⁴⁰ In the last eight years, only 50 Syrian objects were reportedly sold by Christie’s in the United States and a similar

stockpiling as the reason for the seeming disconnect between satellite imagery of apparently looted archaeological sites and the dearth of recent sales of antiquities sourced from Iraq and Syria. Some of the more valuable items may be stored for years or even decades before resurfacing for public sale, providing dealers with time to establish more convincingly false provenance. A U.S. Department of Homeland Security official speculated that some looted antiquities may be located in so-called “freeports,” where goods in transit are exempt from customs duty and which are reportedly used by wealthy art collectors to store valuables.⁴¹

Smaller, potentially more generic artifacts such as statuettes, pottery, carved cylinder seals, and coins, have been reportedly marketed. Photos documenting such items appear to be circulating among prospective buyers. Although such items are typically worth less than rare museum-quality artifacts, their provenance is more easily obscured and thus more marketable in the short term.⁴² Coins, for example, are not always easily traceable to specific archaeological sites, particularly to sites under IS control. According to Yaya Fanusi and Alexander Joffe, researchers at the Foundation for Defense of Democracies (FDD):

Certain categories of artifacts found in Syria during the Classical (roughly the fourth century BCE to the sixth century CE) and early Islamic periods (seventh to 11th centuries CE) are easily mistaken to originate from elsewhere. They share stylistic or artistic features with other regions of the Middle East and the Mediterranean away from the conflict. Misidentifying artifacts or attributing to them a generic origin lessens the scrutiny on the part of middlemen and buyers who want to avoid purchasing looted wartime artifacts.⁴³

Selected Policy Considerations

The U.S. government actively investigates cases of art and antiquities trafficking, repatriates looted artifacts, and supports academic, non-governmental, and international efforts to raise awareness as well as to conserve and protect cultural heritage. Efforts to disrupt IS finances, one of nine strategies outlined by President Barack Obama to counter the Islamic State, includes diminishing IS profits from antiquities smuggling. In August

amount was reportedly sold by Sotheby’s. See Kate Fitz Gibbon, “Heritage Protection Depends on Stable Governments,” *New York Times*, opinion, October 9, 2014. To the extent that black market trends in antiquities trafficking correspond to trends in the import and export licit art, antiques, and artifacts, some analysts have noted upticks in U.S. imports from Iraq, Syria, and other countries in the region of potentially related categories of trade, such as antiques. See Loveday Morris, “Islamic State Isn’t Just Destroying Ancient Artifacts – It’s Selling Them,” *Washington Post*, June 8, 2015; Mark V. Vlasic and Helga Turku, “Countering IS’s Theft and Destruction of Mesopotamia,” *World Policy Journal*, blog, July 7, 2015; and Fanusie and Joffe (FDD), November 2015.

⁴¹ Freeports were traditionally used to store traded goods and commodities in transit duty free, pending further duty-paid import or re-export to another jurisdiction. Yoon (Bloomberg), June 28, 2015. See also “Freeports: Über-warehouses for the Ultra-Rich,” *The Economist*, November 23, 2013.

⁴² Provenance refers to a cultural item’s history of ownership from the time of its recovery until the present. For a possible example of the difficulty of selling on the black market a rare artifact looted in Iraq whose provenance would be difficult to disguise, see Isabel Hunter, “Syria Conflict: The Illicit Art Trade that is a Major Source of Income for Today’s Terror Groups is Nothing New,” *Independent on Sunday (UK)*, April 25, 2015.

⁴³ Fanusie and Joffe (FDD), November 2015.

2015, the FBI notified the public that buyers of IS-looted antiquities could face criminal charges of violating U.S. material support for terrorism laws.⁴⁴ In September 2015, the State Department announced the offering of a reward—up to \$5 million—for “information leading to the significant disruption” of IS-related antiquities or oil smuggling.⁴⁵ As discussed above, antiquities-related information collected during the U.S. military’s raid on Abu Sayyaf’s compound in May 2015 also significantly contributed to the international community’s understanding of how the Islamic State regulates and financially profits from looting.

At the international level, FATF recommended in February 2015 that financial institutions and the private sector improve efforts to prevent suspicious transactions that involve looted antiquities:

Those who buy the artifacts or their proxies at some point intersect with the regulated financial system in order to send or receive payments.... The financing for the buying and selling of tainted antiquities can be disrupted by auction houses, financial institutions, and other legitimate businesses involved in the antiquities trade, by urging these institutions to adopt or implement policies that require clear, certified documentation that identifies the origin of the artefacts. Banks should refrain from processing transactions for antiquities that originate in Iraq or Syria. Steps could be taken to ensure that private sector actors have a better understanding of the sites in Iraq and Syria that are being plundered and of the routes that are being used. In addition, dealers in the antiquities realm could be urged to report suspicious behavior, fraudulent paperwork or knowledge of stolen artifact circulation.⁴⁶

In February 2015, the United Nations Security Council (UNSC) passed resolution 2199, which requires all Member States to

take appropriate steps to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from Iraq since 6 August 1990 and from Syria since 15 March 2011, including by prohibiting cross-border trade in such items, thereby allowing for their eventual safe return to the Iraqi and Syrian people.⁴⁷

In December 2015, the UNSC passed resolution 2253, which has been newly strengthens the existing Al-Qaeda sanctions regime and further UNSC’s Al-Qaeda sanctions committee, which has been newly renamed to include the Islamic State in its title, to

⁴⁴ FBI, “ISIL Antiquities Trafficking,” August 25, 2015.

⁴⁵ DOS, Office of the Spokesperson, “Rewards for Justice: Reward Offers for Information that Leads to Disruption of Financing of Islamic State of Iraq and the Levant (ISIL),” media note, September 29, 2015.

⁴⁶ FATF, February 2015.

⁴⁷ UNSC, S/RES/2199 (2015), February 12, 2015.

immediately consider, in accordance with its resolution 2199 (2015), designations of individuals and entities engaged in financing, supporting, facilitating acts or activities, including in oil and antiquities trade-related activities with ISIL, Al-Qaida, and associated individuals, groups, undertakings and entities.⁴⁸

To date, no IS-affiliated individuals have been designated for such UNSC sanctions. Groups such as the Antiquities Coalition have advocated for further U.S. implementation of UNSCRs 2199 and 2253, including the application of U.S. import restrictions on Syrian antiquities, similar to those already in place for Iraqi antiquities.⁴⁹

In addition, the Treasury Department maintains unilateral sanctions to combat global terrorism, including the Islamic State. To date, one designated individual has been publicly described by the Treasury Department as linked to IS-related antiquities activities: Sami Jasim Muhammad al-Jaburi, designated under Executive Order 13224 in September 2015 and reportedly involved in the supervision of the Islamic State's oil and gas, antiquities, and mineral resources operations.⁵⁰ In March 2015, several Members of Congress called on the Treasury Department to "impose sanctions on importers of cultural property unlawfully removed from Syria" that would mirror regulations already established for Iraq.⁵¹

The 114th Congress has also addressed antiquities trafficking through hearings. In June 2015, the House passed H.R. 1493, the Protect and Preserve International Cultural Property Act. In July 2015, the Senate introduced S. 1887 with the same title as the House version. On April 13, 2016, the Senate passed H.R. 1493 with an amendment. Groups such as the Antiquities Coalition have endorsed the proposed legislation, arguing that it would help the United States fulfill its obligations under UNSCRs 1299 and 2253.⁵² Others, including advocates of the rare coin trade, have expressed concern that new import restrictions on Syrian antiquities trade would be applied by U.S. border and customs authorities too broadly and that such policy actions would do little to change the current behavior of the Islamic State, as it reaps the financial benefits of antiquities looting well before artifacts reach Western buyers.⁵³

⁴⁸ UNSC, S/RES/2253 (2015), December 17, 2015.

⁴⁹ Antiquities Coalition, *#CultureUnderThreat: Recommendations for the U.S. Government*, April 2016.

⁵⁰ Treasury, "Treasury Sanctions Major Islamic State of Iraq and the Levant Leaders, Financial Figures, Facilitators, and Supporters," press release, September 29, 2015.

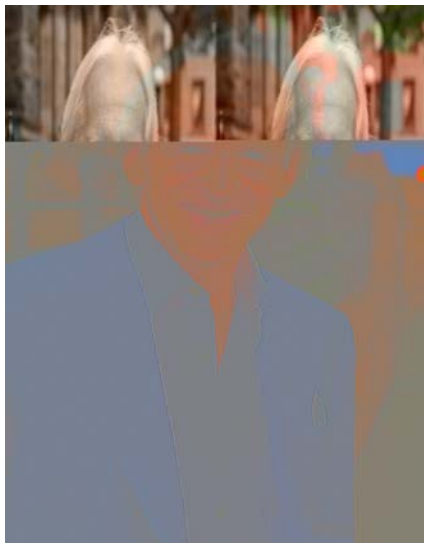
⁵¹ House Foreign Affairs Committee, "Engel, Royce, Keating, And Smith Urge Treasury To Block Import Of Antiquities Looted From Syria," press release, March 30, 2015.

⁵² Antiquities Coalition, April 2016.

⁵³ See for example Peter Tompa, "2015's Questionable Claims on ISIS and Syrian Antiquities: To Hopes for More Accuracy and Less Hype in 2016," *Cultural Property Observer*, blog, January 6, 2016.

Witness Biographies

Mr. Robert M. Edsel, Chairman of the Board, Monuments Men Foundation



Raised in Dallas, Texas, Mr. Edsel graduated from St. Mark's School of Texas and Southern Methodist University, where he played tennis. He went on to become an executive in the oil and gas industry, leading to the multimillion-dollar sale of his company, Gemini Exploration. He moved to Florence, Italy, in 1996, where he developed a passion for art and architecture that energized a curiosity about monuments and esteemed works of art. That, in turn, led to a quest that by 2001 was a full-time pursuit.

Robert M. Edsel is the author of the non-fiction books *Rescuing Da Vinci*; *The Monuments Men: Allied Heroes, Nazi Thieves* and *the Greatest Treasure Hunt in History*, and *Saving Italy: The Race to Rescue a Nation's Treasures from the Nazis*. He is the co-producer of the documentary film, *The Rape of Europa*, and Founder and President of the *Monuments Men Foundation for the Preservation of Art*. Academy Award winner George Clooney directed and starred in a film based on Mr. Edsel's book, *The Monuments Men*, which was released on February 7, 2014.

Mr. Yaya J. Fanusie, Director of Analysis, Center on Sanctions and Illicit Finance, Foundation for Defense of Democracies



Yaya J. Fanusie is the director of analysis for the Foundation for Defense of Democracies' Center on Sanctions and Illicit Finance (CSIF).

Yaya spent seven years as both an economic and counterterrorism analyst in the CIA, where he regularly briefed White House-level policy makers, U.S. military personnel, and federal law enforcement. In 2008, he personally briefed President George W. Bush on terrorism threats, and in 2009, he spent three months in Afghanistan providing analytic support to senior military officials. After government service, Yaya worked with a small consulting firm where he led a team of analysts working on a multi-billion-dollar recovery effort involving a global corruption ring. Most recently, he has operated his own consulting practice training firms specializing in strategic analysis and business due-diligence.

Yaya received an MA in International Affairs from Columbia University's School of International and Public Affairs and a BA in Economics from UC Berkeley.

Dr. Patty Gerstenblith, PhD, Distinguished Professor, DePaul University College of Law

Patty Gerstenblith is a distinguished research professor of law at DePaul University and director of its Center for Art, Museum & Cultural Heritage Law. She is founding president of the Lawyers Committee for Cultural Heritage Preservation (2005-2011), a director of the



U.S. Committee of the Blue Shield and senior advisor to the ABA's Art and Cultural Heritage Law Committee. In 2011, she was appointed by President Obama to serve as the chair of the President's Cultural Property Advisory Committee in the U.S. Department of State, on which she had previously served as a public representative in the Clinton administration. From 1995 to 2002, she was editor-in-chief of the *International Journal of Cultural Property*. Her publications include the casebook, *Art, Cultural Heritage and the Law* (now in its second edition), and her articles "Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past," published in the *Chicago Journal of International Law*, "*Schultz and Barakat: Universal Recognition of National Ownership of Antiquities*," published in *Art*

Antiquity and Law, and "Protecting Cultural Heritage in Armed Conflict: Looking Back, Looking Forward," published in the *Cardozo Public Law, Policy & Ethics Journal*. Gerstenblith received her AB from Bryn Mawr College, PhD in art history and anthropology from Harvard University, and JD from Northwestern University. Before joining the DePaul law faculty, Gerstenblith clerked for the Honorable Richard D. Cudahy of the U.S. Court of Appeals for the 7th Circuit.

Dr. Amr Al-Azm, PhD, Associate Professor, Shawnee State University



Amr Al Azm is an associate professor of Middle East history and anthropology at Shawnee State University in Ohio. He was educated in the U.K., reading archaeology of Western Asiatics at the University College London, and graduated with a doctoral degree in 1991. He was the director of Scientific and Conservation Laboratories at the General Department of Antiquities and Museums in Syria (1999-2004) and taught at the University of Damascus until 2006. From 2006-2009, he was a visiting assistant professor at Brigham Young University. While working in Syria, Al Azm was a first-hand observer and sometime participant of the reform processes instigated by Bashar Al-Assad. This experience gave him unique insight into how these reforms are enacted and why,

more often than not, they fail. Al Azm is an active member of the Syrian opposition and serves on the executive committee of the Day After Project.

Mr. Lawrence Shindell, Chairman, ARIS Title Insurance Corporation



Mr. Shindell is Chairman of U.S.-New York-headquartered ARIS Title Insurance Corporation, a division of NASDAQ-traded Argo Group (AGII), an international insurance company. A lawyer by profession, Mr. Shindell holds licenses in a number of U.S. jurisdictions including admission to the Bar of the Supreme Court of the United States.

Mr. Shindell regularly advises, speaks and writes internationally on the legal title risks inherent in the global art and collectibles market for a range of industry stakeholders and participants including the institutional commercial, not-for-profit, audit-accountancy, legal advisory, financial services, D&O/E&O insurance and private equity and alternative asset investment fund sectors. Mr. Shindell has provided expert testimony of first-impression in matters before the United States Tax Court on the

interrelationship among legal title, valuation and tax questions involving tangible personal property.

ARIS Title Insurance Corporation is the world leader in securing legal ownership to non-real estate property assets for multiple industry sectors. Mr. Shindell formerly represented or litigated against Fortune 500 companies in complex commercial and insurance trial and appellate litigation including litigation in international forums, in many instances in significant profile cases resulting in reported United States state or federal trial or appellate court decisions. Mr. Shindell has been rated “AV Preeminent” continuously for twenty-five years by the legal profession’s leading Peer Review Rating organization, Martindale-Hubbell.

Mr. Shindell holds a BA from the University of Wisconsin-Madison and a JD from Emory University School of Law.