

The Currency of History: The Possible, and Improper, Restriction on Ancient Egyptian Coinage

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I. INTRODUCTION

Collecting ancient coinage is a passionate pursuit that allows private and public entities alike to advance the study of ancient civilizations and further scholars’ understanding of those civilizations.¹ Only over the past nine years has the United States began restricting the importation of ancient coins in an effort to protect various nations’ cultural heritage.² From June 2-4, 2014, the Cultural Property Advisory Committee met with representatives from the Government of the Arab Republic of Egypt to discuss the formation of a Memorandum of Understanding between the United States and Egypt to restrict the importation of Egyptian artifacts into the United States.³ One particular category of artifact has caused a

1. See, e.g., Alexander A. Bauer, *New Ways of Thinking About Cultural Property: A Critical Appraisal of the Antiquities Trade Debates*, 31 *FORDHAM INT’L L.J.* 690, 708–09 (2008) (discussing the passion and “genuine love” of collectors towards the artifacts they collect); Many coin collectors contribute information about their collections on internet databases. See generally FORUM ANCIENT COINS, www.forumancientcoins.com (last visited Apr. 9, 2016), www.romancoin.info; ANCIENT COIN COLLECTORS GUILD, www.accg.us (last visited Apr. 9, 2016); NUMISMATIC GUARANTY CORPORATION, www.ngccoin.com (last visited Apr. 9, 2016); AGORA ANCIENT COINS, <http://www.agora-ancientcoins.com/eng/home> (last visited Apr. 9, 2016), which all publish information about coinage and make that information available to the public for study, identification, or any other purpose.

2. This excludes the United States’ bilateral agreement with Canada, which only bans coins found on ships, not any particular category or origin of coins. Archaeological and Ethnological Material from Canada, 62 Fed. Reg. 19,488–92 (Apr. 22, 1997) (to be codified at 19 C.F.R. pt. 12); the first broad importation restrictions on ancient coinage were levied on coins of Cypriot origin in 2007. See Extension of Import Restrictions Imposed on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Material from Cyprus, 72 Fed. Reg. 38470–71 (July 13, 2007) (to be codified at 19 C.F.R. pt. 12) [hereinafter Cyprus]; see also Jeremy Kahn, *U.S. Imposes Restrictions on Importing Cypriot Coins*, *N.Y. TIMES* (July 18, 2007), http://www.nytimes.com/2007/07/18/arts/design/18coins.html?_r=0.

3. CPAC to Discuss Egypt’s Request for Import Restrictions, *Review of Nicaragua MoU*, ARCHAEOLOGICAL INST. OF AM. (Apr. 16, 2014), <http://www.archaeological.org/CPAC>.

large amount of debate among citizens of the United States: ancient coins.⁴ Scholars, collectors, and members of the archaeological community have raised concerns over the United States' potential restriction of the importation of Ancient Egyptian coins into the United States.⁵

These concerns arise from a potential restriction on the importation of Ancient Egyptian coins into the United States for a variety of reasons. First, ancient coin collecting is one of the main vehicles for advancements in understanding ancient societies. Private collectors regularly clean, identify, document, authenticate, publish, and critique the coins they receive into their collections and then share those documentations with the community as a whole.⁶ Any restriction on the importation of Ancient Egyptian coins could cripple this open source of information. Second, it is very difficult for collectors of ancient coins, unlike other ancient artifacts, to identify the location where the coins were found and the time period in which they were discovered.⁷ "Ancient coins are so common that even archaeologists often fail to properly record the circumstances of their discovery."⁸ This is simply the nature of many of the ancient coins on the market today.⁹ This does not, however, take away from the collectors' study of these ancient coins, who can learn other important information from these coins. The nature of ancient coins is an important consideration in determining whether or not a particular ancient coin would be restricted

4. Jeff Starck, *Looting in Egypt Spurs Government to Ask U.S. for Import Restrictions on Coins, Other Historical Items*, COIN WORLD (June 27, 2014), <http://www.coinworld.com/insights/egypt-cpac-coin-world-coin-collecting-numsomatics-travel-united-states-government.all.html#> [hereinafter Starck].

5. These opinions have been expressed at various conferences and through various articles which will be addressed throughout the body of this work. See, e.g., First Amended Complaint pp. 354–56, *Ancient Coin Collectors Guild v. U.S. Customs and Border Prot.*, No. CCB-10-322, 2011 WL 3444343 (D. Md. July 15, 2010).

6. See William G. Pearlstein, *White Paper: A Proposal to Reform U.S. Law and Policy Relating to the International Exchange of Cultural Property*, 32 CARDOZO ARTS & ENT. L.J. 561, 568 (2014) (explaining that "the lawful international trade in antiquities was seen as an important medium of cultural exchange"). Many collectors and museums maintain that their functions of studying and displaying of artifacts is one of the only reasons that many important objects are not simply destroyed, but are preserved to be sold. Bauer, *supra* note 1, at 693.

7. Andrew L. Adler & Stephen K. Urice, *Resolving the Disjunction Between Cultural Property Policy and Law: A Call for Reform*, 64 RUTGERS L. REV. 117, 156 (2011).

8. The circumstance is often not as important to archaeologists as the date of the coin is. See *Frequently Asked Questions*, ANCIENT COIN COLLECTORS GUILD, <http://www.accg.us/faq.aspx> (last visited Dec. 3, 2014) [hereinafter ACCG FAQ].

9. See Adler & Urice, *supra* note 7, at 156; see also ACCG FAQ, *supra* note 8.

from importation into the United States. Finally, if the United States enacts such a broad ban on Ancient Egyptian coins, the United States will effectively be restricting the ability of collectors, scholars, and laymen to enjoy, participate in, and benefit from the study of Ancient Egyptian coinage, with no beneficial effect to Egypt's cultural heritage.

Any restriction on the importation of Egyptian artifacts into the United States between the United States and the Arab Republic of Egypt should not contain a restriction on the importation of Ancient Egyptian coins.

Emergency restrictions on the importation of Ancient Egyptian coins would be inappropriate for three reasons. First, Ancient Egyptian coinage does not fit within the narrowly tailored requirements that the United States employs in order to impose import restrictions on particular artifacts. Second, the United States is the only country that is a signatory to the 1970 UNESCO Convention that is enacting such restrictions on ancient coinage, contrary to the policies of the 1970 UNESCO Convention. Third, Egypt should not be allowed the ability to control all coinage that was in any way connected to the ancient empires that resulted in the creation of Modern Egypt, since Modern Egypt is not the only country who can trace their lineage to Ancient Egypt. This Article will examine each of these in turn. Part II will discuss the current state of cultural patrimony law both internationally and domestically, as well as the current political situation in Egypt. Part III will set forth the problem with the potential impending restriction on the importation of Ancient Egyptian coinage into the United States. Part IV will argue that the Egyptian coinage sought to be restricted does not fit within the CPIA's guidelines for restriction. Part V will examine the current state of domestic import restrictions to determine if the United States is acting in a concerted international effort. Part VI will discuss some implications of broad importation restrictions on Ancient Egyptian coinage. Finally, Part VII will examine alternatives to broad importation restrictions on Ancient Egyptian Coinage.

II. BACKGROUND

In order to understand the issues relating to importation restrictions of ancient Egyptian coins, one must understand: (1) the restrictions and laws currently in place to protect culturally significant property, (2) the current unrest in Egypt, and (3) the effect of that unrest on Egyptian artifacts. First, on November 14, 1970, in Paris, France, the United Nations Educational, Scientific and Cultural Organization ("UNESCO") adopted the Convention of the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 ("1970 UNESCO

Convention”).¹⁰ The 1970 UNESCO Convention has been accepted or ratified by 131 nations.¹¹ The 1970 UNESCO Convention requires nations to take action in three fields: prevention, restitution, and international cooperation.¹²

Article 5 of the 1970 UNESCO Convention outlines the preventative measures that a nation must enact in order to protect their cultural property, including: drafting laws and regulations to protect cultural property, establishing and updating an inventory of protected property, promoting institutions to present and preserve such property, supervising archaeological excavations, educating peoples to develop respect for cultural property, and publicizing the disappearance of cultural property.¹³

10. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Nov. 14, 1970, 823 U.N.T.S. 231 [hereinafter 1970 UNESCO Convention]; Daniel A. Klein, Annotation, *Construction and Application of Convention on Cultural Property Implementation Act (CPIA)*, 19 U.S.C.A. §§ 2601 et seq., 54 A.L.R. FED. 2D 91 (updated Dec. 3, 2014).

11. Some of those nations began following the 1970 UNESCO Convention by the nature of the nation assuming responsibility for conducting its own international relations. *State Parties to the 1970 UNESCO Convention*, UNESCO, <http://www.unesco.org/eri/la/convention.asp?KO=13039&language=E> (last visited Apr. 13, 2016).

12. *Illicit Trafficking of Cultural Property*, UNESCO, <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/> (last visited Apr. 9, 2016).

13. 1970 UNESCO Convention, *supra* note 10, at art. 5: “To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

- (a) contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;
- (b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (c) promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops . . .) required to ensure the preservation and presentation of cultural property;
- (d) organizing the supervision of archaeological excavations, ensuring the preservation in situ of certain cultural property, and protecting certain areas reserved for future archaeological research;

Article 7 of the 1970 UNESCO Convention requires nations to undertake three distinct actions. First, signatory nations must prevent museums and “similar institutions” from acquiring illegally exported cultural property.¹⁴ Second, nations must “prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution” into their nation, “provided that such property is documented as appertaining to the inventory of that institution.” Third, a nation must, at the request of another signatory to the 1970 UNESCO Convention, take steps to recover and return any illegally exported cultural property.¹⁵

Finally, Article 9 of the 1970 UNESCO Convention requires nations to “participate in a concerted international effort” to determine and enact

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- (e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;
 - (f) taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;
 - (g) seeing that appropriate publicity is given to the disappearance of any items of cultural property.”
14. *Id.* art. 7: “The States Parties to this Convention undertake:
- (a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;
 - (b)
 - (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
 - (ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.”
15. *Id.*

measures to control the export and import of cultural property.¹⁶ While the 1970 UNESCO Convention contains 26 articles, Articles 5, 7, and 9 give the basic character of the intent of the convention.

In conjunction with the 1970 UNESCO Convention, there are specific United States federal laws that are implicated when importing cultural goods from another nation. In 1972, the United States Senate consented to the ratification of the 1970 UNESCO Convention, but Congress specified that the convention would not have any legal effect until the United States passed legislation to implement compliance.¹⁷ The United States waited until 1983 to enact the Convention on Cultural Property Implementation Act (“CPIA”).¹⁸ With the CPIA, however, the United States only adopted Article 7(b) and Article 9 of the 1970 UNESCO Convention.¹⁹ The CPIA was “designed to provide a particular remedy under U.S. import laws in order to bar the entry of important cultural properties which were being looted abroad.”²⁰

Section 2607 of the CPIA makes it unlawful to import any “article of cultural property” that was stolen from the “inventory of a museum or religious or secular public monument or similar institution.”²¹ Section 2602 of the CPIA essentially codifies Article 9 of the 1970 UNESCO

16. *Id.* art. 9: “Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.”

17. *United States Implementation of the 1970 UNESCO Convention: The Convention on Cultural Property Implementation Act*, ARCHAEOLOGICAL INST. OF AM., http://www.archaeological.org/pdfs/sitepreservation/CPAC_OverviewAIA.pdf (last visited Apr. 9, 2016) [hereinafter *U.S. Implementation*].

18. Convention on Cultural Property, 19 U.S.C. §§ 2601–2613 (1983) [hereinafter “Convention on Cultural Property”]; see also Marilyn Phelan, *A Synopsis of the Laws Protecting Our Cultural Heritage*, 28 NEW ENG. L. REV. 63, 66 (1993).

19. *U.S. Implementation*, *supra* note 17.

20. James F. Fitzpatrick, *Stealth UNIDROIT: Is USIA the Villain?*, 31 N.Y.U. J. INT’L L. & POL. 47, 50 (1998).

21. 19 U.S.C. § 2607: Stolen Cultural Property –

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this chapter, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

Convention within the United States.²² Section 2602 gives the President of the United States the power to enter into bilateral and multilateral agreements with nations in order to protect the “cultural patrimony” of a nation that requests such an agreement with the United States.²³ While Section 2602 gives the President power to enter into such agreements, it also imposes specific restrictions on that power, which constrain the President from entering into a treaty unless the importation restriction will be applied in concert with restrictions from other nations.²⁴ Section 2603 of the CPIA, which also derives from Article 9 of the 1970 UNESCO Convention, allows the President to apply importation restrictions to specific cultural materials only if there is an “emergency condition.”²⁵ Finally, Section 2605 of the CPIA forms the Cultural Property Advisory Committee.²⁶

The Cultural Property Advisory Committee (“CPAC”), is a committee composed of eleven members that are appointed by the President.²⁷ CPAC consists of:

- (A) Two members representing the interests of museums,
- (B) Three members who shall be experts in the field of archaeology, anthropology, ethnology, or related areas,
- (C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property, [and]
- (D) Three members who shall represent the interest of the general public.²⁸

CPAC is charged with several important duties, including but not limited to: investigating and reviewing the request of any nation for a ban on the importation of cultural property, determining the nations that have a “significant import trade in the relevant material,” and providing a recommendation in the form of a report “as to whether an agreement should be entered into.”²⁹ If CPAC does recommend that the United States enter into a Memorandum of Understanding³⁰ with another nation, CPAC must set forth “such terms and conditions which it considers necessary and appropriate to include within such an agreement” and “such archaeological or ethnological material of the State Party, specified by type [. . .], which should be covered by such agreement of action.”³¹

22. Convention on Cultural Property, *supra* note 18.

23. 19 U.S.C. § 2602.

24. *Id.*

25. 19 U.S.C. § 2603.

26. 19 U.S.C. § 2605(a).

27. 19 U.S.C. § 2605(b)(1).

28. 19 U.S.C. § 2605(b)(1)(A)-(D).

29. 19 U.S.C. § 2605(f)(1)(A)-(C).

30. Memorandum of Understanding and bilateral agreement are terms frequently used interchangeably.

31. 19 U.S.C. § 2605(f)(4)(A)-(B).

The application of international law and U.S. federal law both require an understanding of the state of the artifacts being regulated. In 2011, there were a series of anti-government protests across the Middle East, including in Egypt.³² In February 2011, Egyptian President Hosni Mubarak was forced to resign after 29 years in power.³³ Mohammed Morsi, of the Muslim Brotherhood, was then elected in June 2012 and quickly deposed by the military in June 2013.³⁴ Abdel Fattah el-Sisi, a military chief in the same military that deposed former President Morsi, was sworn in as the President of Egypt on June 7, 2014.³⁵ Egypt is currently in a state of unbalance between supporters for President el-Sisi and the military and supporters of the Muslim Brotherhood, who believe the government has become too repressive.³⁶ The state of the Egyptian Government has had a devastating effect on more than just the presidential office.

32. Kylie MacLellan, *Sisi says Muslim Brotherhood can play role in Egypt before UK visit*, REUTERS (Nov. 4, 2015), <http://www.reuters.com/article/us-libya-security-sisi-idUSKCN0ST0TB20151104>; Eric Trager, *Egypt's Durable Misery: Why Sisi's Regime Is Stable*, THE WASHINGTON INSTITUTE (July 21, 2015), <http://www.washingtoninstitute.org/policy-analysis/view/egypts-durable-misery-why-sisis-regime-is-stable>; Primoz Manfreda, *Definition of the Arab Spring: Middle East Uprisings in 2011*, ABOUT, <http://middleeast.about.com/od/humanrightsdemocracy/a/Definition-Of-The-Arab-Spring.htm> (last updated Nov. 25, 2014); David Cutler, *TIMELINE – Arab Spring: A Year that Shook the Arab World*, REUTERS (Jan. 14, 2012), <http://in.reuters.com/article/2012/01/13/tunisia-revolution-anniversary-idINDEE80C0IT20120113> [hereinafter “Arab Spring Timeline”].

33. Arab Spring Timeline, *supra* note 32; *Arab Uprising: Country by Country – Egypt*, BBC NEWS, <http://www.bbc.com/news/world-12482291> (last visited Apr. 14, 2016) [hereinafter *Arab Uprising*].

34. Ben Hubbard, *Cracks Emerge as Egyptians Seek Premier*, N.Y. TIMES (July 6, 2013), <http://www.nytimes.com/2013/07/07/world/middleeast/egypt.html?pagewanted=all>; David D. Kirkpatrick, *Named Egypt's Winner, Islamist Makes History*, N.Y. TIMES (June 24, 2012), http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?pagewanted=all&_r=0; *Arab Uprising*, *supra* note 33.

35. David D. Kirkpatrick, *At Swearing-In, Ex-General Vows 'Inclusive' Egypt*, N.Y. TIMES (June 8, 2014), http://www.nytimes.com/2014/06/09/world/middleeast/sisi-sworn-in-as-egypts-president.html?module=Search&mabReward=relbias%3Aw%2C%22%22%3A%22R1%3A9%22}&_r=0; Stephen Kalin and Maggie Fick, *Egypt's Sisi Wins Election, Faces Economic Challenges*, REUTERS (May 29, 2014), <http://www.reuters.com/article/2014/05/29/us-egypt-election-idUSKBN0E70D720140529>; *Egypt Declares el-Sisi Winner of Presidential Election*, CNN (June 4, 2014), <http://www.cnn.com/2014/06/03/world/africa/egypt-presidential-election/>.

36. Mona Eltahawy, Opinion, *The Mirage of the 'New Egypt'*, N.Y. TIMES (Oct. 23, 2014), <http://www.nytimes.com/2014/10/24/opinion/mona-eltahawy-the-mirage-of-the-new-egypt.html>; *Arab Uprising*, *supra* note 33.

The state of Egypt's affairs has had a disturbing effect on many of the museums and historical sites within Egypt. Since the Arab revolt of 2011, looting has nearly doubled in Egypt, with more than 7,000 instances reported between 2011 and 2014.³⁷ During the revolt in 2011, "more than 50 artifacts were stolen from the Egyptian Museum in Cairo."³⁸ In the summer of 2013, over 1,000 artifacts were stolen from the Malawi National Museum in Minya, including pharaonic jewels and painted sarcophagi.³⁹ In addition to museums being robbed, satellite photographs have provided evidence of fresh excavations by thieves raiding historical sites.⁴⁰ Dr. Mohamed Ibrahim Ali, Egypt's antiquities minister, has stated that the organized syndicates, who methodically raid known locations, are responsible for a portion of the looting, while villagers, who dig in unexplored areas hoping to make a few dollars, are responsible for another portion of the looting.⁴¹ The Egyptian Government has stated that "the Ministry of Antiquities and others are actively working to protect that nation's cultural heritage."⁴² According to the Egyptian Government, there is clear evidence that some artifacts that have been stolen from Egyptian sites have surfaced in the United States.⁴³ There are, however, no coins among the examples of looted objects cited by the Egyptian Government.⁴⁴

As a result of the widespread looting in Egypt, in April 2014, the Egyptian Government filed a request with the United States pursuant to the CPIA in order to seek "import restrictions on archaeological and ethnological material from Egypt under the 1970 UNESCO Convention."⁴⁵ The request sought restriction on all materials that represent Egypt's heritage from prehistoric times through the Ottoman Empire, including coinage.⁴⁶ It is not clear whether Egypt is seeking emergency importation restrictions or a bilateral agreement with the United States as the official release simply states that Egypt is seeking importation restrictions under

37. Starck, *supra* note 4.

38. *UNESCO Issues Alert over Artefacts Reported Stolen from Egyptian Museums*, UN NEWS CENTRE (Feb. 15, 2011), <http://www.un.org/apps/news/story.asp?NewsID=37539#VHcR6jHF8nW> [hereinafter *UNESCO Issues Alert*]; Editorial, *Egypt's Heritage Plundered Anew*, N.Y. TIMES (Mar. 20, 2014), http://www.nytimes.com/2014/03/21/opinion/egypts-heritage-plundered-anew.html?_r=0 [hereinafter "*Egypt's Heritage Plundered Anew*"].

39. *Egypt's Heritage Plundered Anew*, *supra* note 38.

40. *Id.*

41. Tom Mashberg, *Egypt Asks U.S. to Impose Sharp Curbs on Importing of Antiquities*, N.Y. TIMES (Mar. 14, 2014), <http://www.nytimes.com/2014/03/15/arts/design/egypt-asks-us-to-impose-sharp-curbs-on-importing-of-antiquities.html>.

42. Starck, *supra* note 4.

43. *Id.*

44. *Id.*

45. *Id.* It is unclear whether or not Egypt has petitioned other nations for aid.

46. *Id.*

Article 9 of the 1970 UNESCO Convention.⁴⁷ Some sources report that Egypt is seeking emergency restrictions while others report that Egypt seeks a bilateral agreement with the United States; this article will proceed as if both are true, and determine the implications of both situations.⁴⁸

The State Department of the United States announced, on April 16, 2014, that Egypt made a request under Article 9 of the 1970 UNESCO Convention for the United States to impose importation restrictions on “archaeological and ethnological material from Egypt representing its prehistoric through Ottoman heritage.”⁴⁹ Also on April 16, 2014, the State Department released a notice that CPAC would meet from June 2-4, 2014 to “begin its review of a new cultural property request from the Government of the Arab Republic of Egypt.”⁵⁰ On June 2, 2014, CPAC held an open, oral public comment session regarding Egypt’s request, but the remainder of the meeting was closed to the public and has been treated as confidential.⁵¹ Finally, on September 10, 2014, the State Department announced that CPAC would meet from October 7-9, 2014, in part, to continue to review Egypt’s request to enter into a bilateral agreement.⁵² This meeting was also closed to the public, and no decision or statement has been released by CPAC yet, so there is no indication of the current state of the proceedings.⁵³

47. See Notice of Receipt of Cultural Property Request from the Government of the Arab Republic of Egypt, 79 Fed. Reg. 21,502-03 (Apr. 16, 2014), available at <https://www.federalregister.gov/articles/2014/04/16/2014-08657/notice-of-receipt-of-cultural-property-request-from-the-government-of-the-arab-republic-of-egypt> [hereinafter “Cultural Property Request from Egypt”].

48. For emergency restrictions, see, e.g., Mashberg, *supra* note 41; for a bilateral agreement, see, e.g., Starck, *supra* note 4.

49. Cultural Property Request from Egypt, *supra* note 47.

50. Notice of Meeting of the Cultural Property Advisory Committee, 79 Fed. Reg. 21,501–02 (Apr. 16, 2014), available at <https://www.federalregister.gov/articles/2014/04/16/2014-08651/notice-of-meeting-of-the-cultural-property-advisory-committee> [hereinafter “April 2014 Notice of Meeting of CPAC”].

51. *Id.*

52. Notice of Meeting of the Cultural Property Advisory Committee, 79 Fed. Reg. 53,823-24 (Sept. 10, 2014), available at <https://www.federalregister.gov/articles/2014/09/10/2014-21574/notice-of-meeting-of-the-cultural-property-advisory-committee> [hereinafter “September 2014 Notice of Meeting of CPAC”].

53. *Id.*

III. THE PROBLEM

The impending restriction on the importation of Ancient Egyptian coinage from prehistoric times through the Ottoman Empire would cause three major problems.

First, restricting the importation of Ancient Egyptian coins would seek to protect the study of ancient societies but would in effect keep the coins out of the hands of the collectors who are motivated to study them and report their findings. Coins, upon excavation, are generally recorded in excavation notebooks, but these are rarely ever published.⁵⁴ Collectors, however, often clean, identify, and publish information about the coins in their collections.⁵⁵ Some scholars argue that the coin trade is inhibiting the knowledge that can be gained from ancient coins because they are often taken from sites without acknowledgement of where they were found.⁵⁶ The problem is that if these recorded findings are never published, then they cannot be studied at all, especially if they are not considered a major find.⁵⁷ In addition, while knowledge of the source of a coin can be helpful, it is in no way required to advance the understanding or study of ancient coinage.⁵⁸ The location of a coin would indicate where it was last used, and how far coinage travelled, which can be importation information,⁵⁹ but if the excavation journals are rarely published, this information is not accessible.⁶⁰ Essentially, this regulation would improperly stifle the study of those coins.

Second, restrictions on Ancient Egyptian coins do not account for the nature of ancient coinage because very few legally traded coins on the market today would escape the stringent restrictions suggested. Generally, when the United States enters into a bilateral agreement with another nation under Article 9 of the 1970 UNESCO Convention, all specified artifacts are restricted unless one of two conditions can be proven: (1) the

54. Peter K. Tompa, *Ancient Coins and the Cultural Property Debate—It Should be About Conservation, Not Control: A Collector's Perspective*, AM. NUMISMATICS SOC'Y MAG. (2011), <http://numismatics.org/wikiuploads/DigitalPublications/WitschonkeTompaFinal.pdf>.

55. See *supra* note 1, discussing website that are examples of this.

56. The knowledge lost has generally nothing to do with the coin itself. Rather, the coin provides a context or date to the excavations. Finding a coin at a dig site can effectively give you a *terminus post quem*, or date after which, to date the site. See, e.g., Nathan T. Elkins, *Archaeological Views: Investigating the Crime Scene: Looting and Ancient Coins*, 40 BIBLICAL ARCHAEOLOGY R. 04 (2014).

57. Tompa, *supra* note 54.

58. *Id.*

59. *Id.*

60. See ACCG FAQ, *supra* note 8.

artifact was excavated and exported from the country prior to 1970,⁶¹ or (2) the artifact was excavated in an area other than the country with which the bilateral agreement exists.⁶² The issue arises out of the nature of the modern market of the antiquities trade, specifically with ancient coinage. “The realities of the antiquities market is that many if not most objects in circulation do not have a fully documented history and that even objects entirely lacking a documented history are not necessarily looted or illegally exported, either freshly or historically.”⁶³

Many coins traded today are traded without any information on provenance.⁶⁴ Provenance is a record of ownership that accompanies an artifact so that a collector or museum may identify not only the chain of ownership but also the origin of the artifact.⁶⁵ Collectors of ancient artifacts typically use provenances to establish that artifacts were legally exported or exported prior to 1970 to ensure that the artifact is licit. Ancient coinage generally lacks provenance for three main reasons.⁶⁶ First, ancient coinage was highly mobile, given the expanse of ancient empires and the fact that the value of coinage was often tied to the metal’s intrinsic value,

61. This is known as the 1970 rule where all artifacts exported prior to the 1970 UNESCO Convention were deemed to be out of reach for repatriation. The 1970 rule derives from art. 7(b) of the 1970 UNESCO Convention and the fact that the 1970 UNESCO Convention did not come into force until 1970. The 1970 rule has been specifically set forth in the Association of Art Museum Directors Guidelines for the acquisition of ancient art. This rule is not directly started in the 1970 UNESCO Convention and is not necessarily followed by all nations, but it is generally followed by the United States. Strengthened Guidelines on the Acquisition of Archaeological Material and Ancient Art Issued by Association of Art Museum Directors, Association of Art Museum Directors (Jan. 30, 2013), <https://aamd.org/for-the-media/press-release/strengthened-guidelines-on-the-acquisition-of-archaeological-material>. See, Pearlstein, *supra* note 6, at 565.

62. If no importation restriction exists with a specific country, or on a specific artifact, then it can be freely imported into the United States as long as it was not illegally obtained; for bilateral agreements in force, see, e.g., *Bilateral Agreements*, BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS: CULTURAL HERITAGE CENTER, <http://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements> (last visited Apr. 9, 2016) [hereinafter “Bilateral Agreements”].

63. Pearlstein, *supra* note 6, at 618.

64. See Tompa, *supra* note 54. Provenance is a record that indicates the complete history of an artifact, including the location where an artifact was found. For an in depth discussion of provenance see *Provenance Guide*, International Foundation for Art Research (last visited Apr. 14, 2016), https://www.ifar.org/provenance_guide.php [hereinafter *Provenance Guide*].

65. *Provenance Guide*, *supra* note 64.

66. Adler & Urice, *supra* note 7, at 156.

allowing coins to be spent across borders.⁶⁷ Second, the trade of ancient coins has been around for centuries, with coins often passed from collector to collector, which has resulted in a loss of provenance.⁶⁸ Third, the nature of coinage is that individual coins were mass produced, just as modern coins are, which means it can be very difficult to attribute any one coin to a particular area or excavation.⁶⁹

A restriction on the importation of unprovenanced coins, as a practical matter, is a ban on the importation of virtually all coinage.⁷⁰ Meredith Palmer, an art dealer who helped establish CPAC in the 1970s, argues that Congress intended import restrictions to protect “only the most significant artifacts from pillage, not grant broad restrictions on the import of entire categories of objects.”⁷¹ Many Ancient Egyptian coins on the market today are not worth much, “typically less than \$50 per coin,” according to Arthur L. Friedberg, the past president of the International Association of Professional Numismatists.⁷² It is simply not worth the cost to establish a clear provenance, if it is possible at all.⁷³ The requirement for an accurate provenance would essentially operate as a total ban on Ancient Egyptian coins. Except for the rare cases where the provenance is known, this requirement would detract from the collectors’ and museums’ ability to acquire these coins.

Third, a ban on the importation of Ancient Egyptian coinage would effectively limit or disallow collectors and museums from importing Ancient Egyptian coins, without any benefit to Egypt’s cultural history. If all Ancient Egyptian coins are barred from importation if they lack provenance, then United States’ citizens will be barred from purchasing a large amount of the coins available on the market for sale to other countries.⁷⁴ This restriction would apply to any Ancient Egyptian coin imported into the United States, regardless of where it was imported from.⁷⁵ There is no other signatory to

67. *Id.*

68. *Id.* at 156–57.

69. *Id.* at 157.

70. *See* Tompa, *supra* note 54.

71. Jeremy Kahn, *Is the U.S. Protecting Foreign Artifacts? Don’t Ask*, N.Y. TIMES (Apr. 8, 2007), http://www.nytimes.com/2007/04/08/arts/design/08kahn.html?pagewanted=all&_r=0 [hereinafter “U.S. Protecting”].

72. Starck, *supra* note 4.

73. *See* Pearlstein, *supra* note 6, at 618. Current coins are available at http://www.cerberuscoins.com/Ancient-Egyptian-coins/?sort=price&sort_direction=1, where they range in value from \$45.00 to approximately \$2,975.00 for a wholesale lot. *Ancient Egyptian Coins*, CERBERUS ANCIENT COINS & ANTIQUITIES, http://www.cerberuscoins.com/Ancient-Egyptian-coins/?sort=price&sort_direction=1 (last visited Apr. 9, 2016); *see also* Adler & Urice, *supra* note 7, at 156–57; *see also* Tompa, *supra* note 54.

74. *See* Starck, *supra* note 4.

75. All of the bilateral agreements imposing restrictions on ancient coinage require the importer to prove that the coin was legally exported from the country prior to 1970,

the 1970 UNESCO Convention that specifically restricts the importation of any ancient coins.⁷⁶ As a result, collectors from every other country in the world will be able to purchase any Ancient Egyptian coin on the market, while collectors and museums within the United States will effectively be barred from doing so. Closing off one market for Ancient Egyptian coins could increase the possibility that the market will become more saturated with Ancient Egyptian coins, thereby increasing the supply and lowering the demand in other countries. This is unlikely, however, because an increased saturation generally does not lower demand since antiquities are still a finite resource.⁷⁷ Even if demand is decreased, the looters are generally stealing coins for one of two reasons: profit or destruction. Oversaturating the market could simply drive down the cost of coins, prompting looters to loot more in order to make more profit. Given the likely effects, there would be no noticeable benefit to Egypt's cultural heritage.

Another possibility is that by closing off the market, important discoveries could be concealed from the scholarly community.⁷⁸ For example, objects that are discovered by accident, such as the Dead Sea Scrolls that were found by Bedouin herders in Qumran, could be kept away from scholars and sold illegally in an attempt to avoid punishment.⁷⁹ Furthermore, closing off the potential United States market to looters in Egypt will only open other avenues to the dispensing of coins, such as melting the coins down for their base metals.⁸⁰ Overall, a ban on Ancient Egyptian coins restricts

with the permission of the nation after 1970, or that the artifact was found outside of a nation with import restrictions (*e.g.* an Egyptian coin found in Britain, with whom there are not import restrictions). If a coin, however, does not have provenance, then the importer has no way to prove that the coin was exported properly or found in another nation.

76. See, *e.g.*, Richard Giedroyc, *Import Restrictions Declared 'Extra Legal,'* WORLD COIN NEWS (Feb. 22, 2012), <http://www.numismaster.com/ta/numis/Article.jsp?ArticleId=24783> (citing the statements of Wayne Sayles, Ancient Coin Collectors Guild spokesman, and Peter Tompa, a collector and lawyer who provides advice to members of the numismatics community regarding the United States' actions as the only country who bans the importation of ancient coinage).

77. Karin E. Borke, *Searching for a Solution: An Analysis of the Legislative Response to the Iraqi Antiquities Crisis of 2003*, DEPAUL-LCA J. ART & ENT. L. 381, 386 (2003).

78. Bauer, *supra* note 1, at 693.

79. *Id.*

80. There is no clear indication what the value of the base metal of a coin would be if it were melted down. Depending on the type of coin, the weight of the coin, and the purity of the metal, the value could fluctuate widely. It is clear that ancient coins are generally worth more than their base metals, given their collectability and comparative rarity to base metals. Furthermore, only gold or silver coins would likely retain any value if melted down and even then it depends on the year and mint what the actual metallurgical

the ability of coin collectors and museums within the United States from acquiring Ancient Egyptian coins without any benefit to Egypt's cultural patrimony.

There is one simple solution: exclude all coinage from any bilateral agreement banning the importation of Ancient Egyptian artifacts into the United States. This solution is preferable for three reasons: (1) Ancient Egyptian coins do not properly fall within the narrowly tailored requirement to be restricted under the CPIA, neither in a bilateral agreement nor under emergency restrictions, (2) the United States is the only signatory of the 1970 UNESCO Convention that is explicitly banning the importation of coinage, and (3) Egypt does not have the power to effectively control all coinage that can be connected to the ancient empires that gave rise to the modern country of Egypt.

IV. EGYPTIAN COINS FROM THE PREHISTORIC PERIOD THROUGH THE OTTOMAN EMPIRE DO NOT FIT WITHIN THE GUIDELINES FOR RESTRICTION PRESCRIBED BY THE CPIA

The CPIA has very specific requirements that must be fulfilled in order to restrict the importation of any cultural material by the President. In order for any item to be subject to importation restriction, the item must first be considered an object, or fragment of an object, of archaeological interest or of ethnological interest.⁸¹ Once an object is established to be one of archaeological or ethnological interest, the President of the United States can then either implement emergency restrictions or enter into a Memorandum of Understanding under Article 9 of the 1970 UNESCO Convention and impose general importation restrictions.⁸² Egyptian coins from prehistoric times through the Ottoman Empire (1) do not qualify as objects of archaeological or ethnological interest, (2) do not qualify for emergency restriction under Section 2603 of the CPIA, and (3) do not qualify for importation restrictions under Section 2602 of the CPIA.

makeup is. See Deborah Pugh, et al., *The Greed that is Tearing History out by its Roots—Illicit International Traffic in Antiquities*, GUARDIAN, June 13, 1992, at 13.

81. 19 U.S.C. § 2601(2).

82. See generally 19 U.S.C. §§ 2602–2603.

*A. Egyptian Prehistoric Through Ottoman Empire Coinage Should Not
Be Considered Objects of Archaeological or Ethnological
Interest as Defined by the CPIA*

Section 2601 of the CPIA defines what is considered an object of archaeological interest or an object of ethnological interest. Egyptian coins from prehistoric times through the Ottoman Empire should not be classified as objects of archaeological interest nor as objects of ethnological interest given their apparent lack of cultural significance. The CPIA requires CPAC to undertake a qualitative analysis of each type of object that is sought to be restricted to ensure that it is an ethnological or archaeological material.⁸³

*1. Ancient Egyptian Coins Are Not Objects of Archaeological Interest
Because They Are Not Culturally Significant*

To be an object of archaeological interest, an object must be: (1) at least 250 years old, (2) “normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water,” and (3) of cultural significance.⁸⁴ The CPIA intends to narrowly apply the definition of “archaeological interest.”⁸⁵

A great portion of the coins sought to be subject to restrictions by the Egyptian Government are well over 250 years old.⁸⁶ The restrictions sought, however, include ancient coinage from the Ottoman Empire, which remained in power in Egypt less than 250 years ago.⁸⁷ The first interruption in Ottoman control of Egypt came with Napoleon’s conquest in 1798, when Napoleon brought Egypt under French control as a French territory; this was only 218 years ago.⁸⁸ This requirement, however, would be relatively easy for Egypt and CPAC to fulfill. CPAC would merely have to recommend

83. Pearlstein, *supra* note 6, at 626.

84. The CPIA has these in a different order, (3, 1, 2) but this is the order they will be discussed within. 19 U.S.C. § 2601(2)(C)(i)(I)-(III); *see also* Klein, *supra* note 10, at sec. (I)(2).

85. “The intent of Congress was to control and contain the demand for objects of significant cultural value which are in jeopardy of pillage.” Pearlstein, *supra* note 6, at 627.

86. Egypt specifically requests importation restrictions on archaeological and ethnological material representing Egypt’s prehistoric through Ottoman heritage. Cultural Property Request from Egypt, *supra* note 47.

87. *History of the Ottoman Empire*, HISTORY WORLD, <http://www.historyworld.net/wrldhis/plaintexthistories.asp?historyid=ab37> (last visited Dec. 3, 2014).

88. *Id.*

to the President that the ban on Egyptian coins only extends to the artifacts from prior to 1766 or to pre-Ottoman artifacts.⁸⁹

Additionally, ancient coinage is “normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water.”⁹⁰ This provision of Section 2601 is very broad and is easily fulfilled. Ancient coinage, along with many ancient artifacts, is generally discovered as a result of digging, as these artifacts have been covered with sedimentation over the past few millennia.⁹¹ Any artifact that was not recovered as a result of digging would likely be discovered as a result of exploration, which could reasonably include any surface discoveries of artifacts. In any case, ancient coinage is clearly, normally discovered as the result of some sort of digging, or surface or underwater exploration.

There is, however, a lot of debate as to whether or not nations and scholars should consider coins as culturally significant.⁹² Coinage, as a classification of artifacts, can be culturally significant. Coinage, in a general sense, provides evidence to historians about the monetary systems of ancient civilizations, various historical events, information about the art styles of ancient civilizations, and more.⁹³ Individual coins, however, are “by their very nature duplicates.”⁹⁴ Nothing new about a culture can be learned from a duplicate coin if a single, viable copy of that coin has been studied.⁹⁵ Essentially, saying any one Ancient Egyptian coin is culturally significant would be like saying that a single United States fifty cent coin is culturally significant. While the class of fifty cent coins are somewhat rare, significant to the history of United States coinage,

89. Pre-Ottoman artifacts would be an earlier cut-off date than 1764 but would be slightly easier to implement given the cultural break, rather than a date in the middle of Ottoman rule. This was done with the bilateral agreement with China, who initially proposed a restriction on artifacts dating up to 1911, but was eventually granted restriction on artifacts dating through the Tang Dynasty in 906. Pearlstein, *supra* note 6, at 622.

90. 19 U.S.C. § 2601(2)(C)(i)(III).

91. See Grahame Johnston, *What We Can Learn From Ancient Coins*, ARCHAEOLOGY EXPERT (Nov. 16, 2015), <http://www.archaeologyexpert.co.uk/ancientcoins.html>.

92. See, e.g., Tompa, *supra* note 54.

93. *Coins as an (sic) Historical Source*, FITZWILLIAM MUSEUM DEP'T OF COINS AND MEDALS, <http://www.fitzmuseum.cam.ac.uk/dept/coins/exhibitions/ancientcoins/> (last visited Dec. 3, 2014).

94. Adler & Urice, *supra* note 7, at 157.

95. Viable, in this case, means a copy of the coin that is pristine enough to differentiate its features; “For example, Etruscan Bucchero pottery (listed under “local vessels” in the Italian import restrictions) was mass-produced and is very well represented in Italian museums and on the market. Therefore, any piece of Bucchero pottery imported into the United States is most likely a multiple of an existing form and therefore not individually of sufficient cultural significance to merit restriction unless there is persuasive evidence that freshly-looted Bucchero pottery is currently appearing on the U.S. market in quantity.” Pearlstein, *supra* note 6, at 629.

and informative regarding the history of the United States, one individual coin does not provide any additional information to the overall class. As long as a coin has been studied at one point, further duplicates of that coin can no longer contribute more information to the class of that coin.⁹⁶ “If an object is not meaningfully distinctive and therefore adds nothing to the art historical or archaeological record then it should not be restricted.”⁹⁷ The only piece of information that could be contributed from discovering a coin would be the location of the find, which would indicate where the coin was last used and how far the currency spread. Yet the nature of the majority of the coins already on the market is that there is no provenance available, thereby removing that possible piece of information.⁹⁸ Various scholars have regularly reasoned that coinage is not culturally significant.⁹⁹ Wayne Sayles, the founder of the Ancient Coin Collectors Guild, has stated that Italians are currently selling coins without export permits, despite an existing Memorandum of Understanding with the United States, because the coins “are not considered culturally important.”¹⁰⁰ Also, some national museums in Egypt are already authorized to sell “multiples” of artifacts and have done so.¹⁰¹ Arthur L. Friedberg, past president of the International Association of Professional Numismatists, has gone on record saying that the majority of Egyptian coins on the market “are so cheap, and often so badly worn from their use in both domestic and international trade, [and] are hardly ‘items of cultural significance.’”¹⁰² Finally, many collectors and dealers believe that coins “are of sufficient archaeological interest to be economically marketable, but that culturally, they are not indispensable to a particular national history.”¹⁰³ Therefore, it can be concluded that a single Ancient Egyptian coin with no provenience is not culturally significant to Egypt’s cultural history.

96. *Id.* at 625.

97. *Id.* at 630.

98. Pearlstein, *supra* note 6, at 625.

99. *Public Hearing on Egypt’s Request for Import Restrictions of Antiquities into the US*, SAVING ANTIQUITIES FOR EVERYONE (June 5, 2014), <http://www.savingantiquities.org/cultural-property-advisory-committee-hears-public-comments-egypts-request-import-restrictions-antiquities-us/> [hereinafter “Public Hearing”].

100. *Id.*

101. *Selling the Past: United States v. Frederick Schultz – Collectors and Protectors*, ARCHAEOLOGICAL INST. OF AM. (Apr. 22, 2002), <http://archive.archaeology.org/online/features/schultz/collectors.html>.

102. Starck, *supra* note 4.

103. Lisa J. Borodkin, *The Economics of Antiquities Looting and a Proposed Legal Alternative*, 95 COLUM. L. REV. 377, 409 (1995).

2. *Ancient Egyptian Coins Are Not Objects of Ethnological Interest Because They Are Neither the Products of Tribal or Nonindustrial Societies, Nor Are They Important to Egypt's Cultural Heritage*

Ancient Egyptian coins should not be considered objects of ethnological interest. To be an object of ethnological interest, the object must be: (1) “the product of a tribal or nonindustrial society,” and (2) “important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.”¹⁰⁴ Congress intended this category to be very narrow. “[T]he committee intends this definition to encompass only what is sometimes termed ‘primitive’ or ‘tribal’ art, such as masks, idols, or totem poles, produced by tribal societies in Africa and South America.”¹⁰⁵ The Senate did not intend for the ethnological material category to extend to objects that are common, repetitive, or essentially alike with other objects of the same type.¹⁰⁶ Ancient Egyptian coins, which were minted in large quantities, do not fit within this narrow definition.¹⁰⁷ Coins are necessarily duplicates, and as such, are common, repetitive, and alike to all other objects of the same type. Furthermore, the Senate did not intend for the ethnological materials definition to “apply to ethnological material produced by more technologically advanced societies.”¹⁰⁸ Ancient Egypt was more technologically advanced than the primitive or tribal societies that the Senate describes in Africa and South America.¹⁰⁹ All but the earliest examples of Ancient Egyptian coinage would be completely eliminated from this definition.

Moreover, Ancient Egyptian coins do not fulfill the cultural heritage requirement to be classified as ethnological materials. The President does not have the authority to impose importation restrictions “without first determining that each individual type of object within the category or class is either distinctive, rare or contributes to the knowledge of the people who created it.”¹¹⁰ Coins in the ancient world were regularly mass produced, so they cannot be said to be distinctive.¹¹¹ Coins were generally minted by

104. 19 U.S.C. § 2601(2)(C)(ii)(I)-(II); *see generally*, Klein, *supra* note 10; S. Rep. No. 97-564, at 5 (1982) (explaining that tribal and nonindustrial are essentially synonymous).

105. S. Rep. No. 97-564, at 5 (1982).

106. *See id.*

107. Adler & Urice, *supra* note 7, at 157.

108. Borke, *supra* note 77, at 415.

109. S. Rep. No. 97-564, *supra* note 105.

110. Pearlstein, *supra* note 6, at 626.

111. *See id.* at 625; *see also* Adler & Urice, *supra* note 7, at 157.

placing a lump of metal, or planchet, in between two imprinted dies.¹¹² The top die would then be struck by a hammer, molding the planchet on both sides to the images carved out of the dies.¹¹³ There is evidence that some mints in Rome, for example, were able to produce up to 17 million coins per year.¹¹⁴

The mass production of ancient coins also speaks to the lack of comparative rarity. “[T]he sheer volume of Egyptian coins on the market [. . .] is so vast as to not be calculable.”¹¹⁵ The nature of Ancient Coins, being a standardized form of currency, required mints to produce near exact copies.¹¹⁶ The amount of Ancient Egyptian coins on the market, combined with the nature of ancient coinage means that Ancient Egyptian coins should not be considered rare, neither as a class nor as individual artifacts.

The final consideration is whether an object is “important to the cultural heritage of a people because of its [. . .] contribution to the knowledge of the origins, development, or history of that people.”¹¹⁷ This consideration is similar to the consideration of cultural significance test to determine if an object is an object of archaeological interest outlined above. A number of well-regarded members of the ancient coin community have made statements regarding the lack of cultural significance of Ancient Egyptian coins, including Peter Tompa, a lawyer and collector who provides advice to the International Association of Professional Numismatists and the Professional Numismatists Guild,¹¹⁸ Arthur L. Friedberg, past president of the International Association of Professional Numismatists,¹¹⁹ and Mr. Sales, the founder of the Ancient Coin Collectors Guild.¹²⁰ Given the mass produced and widely available nature of Ancient Egyptian coins, no individual coin can really be said to contribute to the “knowledge of the origins, development, or history of that people.”¹²¹

112. Jeremy Haag, *The Early Minting Process*, PROFESSIONAL COIN GRADING SERV.: U.S. & WORLD COIN NEWS AND ARTICLES (Aug. 27, 1999), <http://www.pcg.com/News/The-Early-Minting-Process>.

113. *Id.*

114. It has been estimated that the central mint in Rome under Hadrian could produce “16 million denarii and 1.1 million aurei per year.” RICHARD DUNCAN-JONES, *MONEY AND GOVERNMENT IN THE ROMAN EMPIRE* 111 (1998).

115. Starck, *supra* note 4.

116. Adler & Urice, *supra* note 7, at 157.

117. 19 U.S.C. § 2601(2)(C)(ii)(II)

118. Tompa, *supra* note 54.

119. Starck, *supra* note 4.

120. Public Hearing, *supra* note 99.

121. 19 U.S.C. § 2601(2)(C)(ii)(II).

Even if Ancient Egyptian coins from prehistoric times through the Ottoman Empire could be classified as either object of archaeological or ethnological interest, they still do not qualify for importation restrictions under Section 2603 or Section 2602 of the CPIA.

B. Egyptian Coins from Prehistoric Times Through the Ottoman Empire Do Not Qualify for Emergency Restriction Under Section 2603 of the CPIA

Section 2603 of the CPIA provides three instances in which an archaeological or ethnological material may be protected under an emergency condition. First, the material is “a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation.”¹²² Second, the material is “identifiable as coming from any site recognized to be of high cultural significance,” and that site is in jeopardy of harm that is, or threatens to be, of crisis proportions.”¹²³ Third, the material must be a piece of the historical record of a particular civilization whose record is in jeopardy “from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions,”¹²⁴ and, in addition, the import restrictions imposed, must also “in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.”¹²⁵ Congress considered the use of import restrictions to be a drastic measure, which should only be imposed if these specific criteria were met.¹²⁶ Ancient Egyptian coins do not fit within any of these three criteria for emergency restrictions.

First, Ancient Egyptian coins are not a “newly discovered type of material.”¹²⁷ These are often coins that have been excavated a number of years ago and have been a part of one or many collections.¹²⁸ While it is possible that a looter could discover a previously unexamined Ancient Egyptian coin and illegally sell it on the open market, this coin would represent such a minute percentage of the vast amount of coins already on the market as to be negligible.¹²⁹ Even if a previously unexamined coin did make it onto the market, coin collectors, given their nature, would likely, examine that coin and share any information with the scholarly

122. 19 U.S.C. § 2603(a)(1).

123. 19 U.S.C. § 2603(a)(2).

124. 19 U.S.C. § 2603(a)(3).

125. *Id.*

126. Adler & Urice, *supra* note 7, at 140; *see also* 19 U.S.C. § 2602(a)(1)(C)(ii) (referring to import restrictions as a “drastic” remedy).

127. 19 U.S.C. § 2603(a)(1).

128. Adler & Urice, *supra* note 7, at 156; *see* Starck, *supra* note 4.

129. *See* Starck, *supra* note 4.

community as a whole. Furthermore, Ancient Egyptian coins, as a class, are nothing new to archaeologists or collectors, given that ancient coinage has been collected and traded for centuries.¹³⁰ Almost, if not all, of the Ancient Egyptian coins currently on the market could not be classified as newly discovered types of materials.

Second, Ancient Egyptian coins are not “identifiable as coming from any site,” let alone sites “recognized to be of high cultural significance.”¹³¹ The majority of Ancient Egyptian coins on the market do not have provenance, and as such cannot be attributed to any particular site, let alone one of high cultural importance.¹³² Even if a coin could be attributed to a particular site, then that would mean that the coin would have an intact provenance and could likely be allowed for importation given its proper documentation.¹³³ Either Ancient Egyptian coins do not fit within the second instance, or if they do, they would likely be allowed for importation. This is self-defeating.

Third, Ancient Egyptian coins, as a class, have not been shown to be a part of the overall historical record that is currently at risk in Egypt (the “historical record requirement”), and importation restrictions will not reduce the incentive for pillaging, dismantling, dispersing, or fragmenting Ancient Egyptian coins (the “incentive reduction requirement”). The historical record of Ancient Egyptian civilizations is at jeopardy of a crisis situation of pillage, dismantling, dispersal, or fragmentation. Dr. Ali and several other archaeologists have presented clear evidence that looters and thieves are threatening many artifacts that are important to the history of Egypt.¹³⁴ There is, however—as has been presented in the objects of archaeological or ethnological interest tests—evidence and testimony that coins are not a part of this historical record that is at jeopardy.¹³⁵ Section 2603(a)(3), in contrast, uses very specific language, namely, “a part of the remains of a particular culture or civilization.”¹³⁶ Ancient Egyptian coins, as a class,

130. Adler & Urice, *supra* note 7, at 156.

131. 19 U.S.C. § 2603(a)(2).

132. Tompa, *supra* note 54.

133. If a coin has an intact provenance and has been traded on the open market for any amount of time it is likely that the coin was properly exported from Egypt, or another nation, or is out of the reach of seizure via the “1970 rule.”

134. Egypt’s Heritage Plundered Anew, *supra* note 38.

135. For lack of cultural significance under the object of archaeological interest test, see Section IV(A)(i), pp. 345–47; for lack of cultural significance under the object of ethnological interest test see Section IV(A)(ii), pp. 347–49.

136. 19 U.S.C. § 2603(a)(3).

can be classified as a part of the remains of Ancient Egyptian society. In order to fulfill this test, however, there must be clear evidence of the pillage, dismantling, dispersal, or fragmentation of the specific artifact.¹³⁷ Coins cannot be lumped in with other artifacts as a sort of “omnibus embargo.”¹³⁸ Egypt has not provided any conclusive evidence that Ancient Egyptian coins are being affected in the current crisis. There is no evidence that there is any widespread use of metal detectors in Egypt, “so it is highly unlikely that coins are being illicitly excavated there in any significant numbers.”¹³⁹ In order to subject any artifact to import restriction, there must be specific evidence of the modern pillage, dismantling, dispersal, or fragmentation of that artifact. In this case, not only is there no direct evidence of Ancient Egyptian coins in danger, but Ancient Egyptian coins are also not necessarily part of the historical record at danger.¹⁴⁰

Banning the importation of Ancient Egyptian coins will not reduce the incentive for pillaging, dismantling, dispersing, or fragmenting of Ancient Egyptian coins for two reasons.¹⁴¹ First, there are plenty of other markets open to looters and thieves. The United States is currently the only signatory to the 1970 UNESCO Convention that has enacted such broad bans on the importation of ancient coinage.¹⁴² The United States’ bans on various ancient coinage date back to 2007 and no other nation has enacted similar legislation in the past nine years.¹⁴³ As a result, simply closing the United States market would merely make other markets more attractive for looters and thieves to unload their illicit coins on, thereby not reducing any incentive for pillage or dispersal. Even if closing the United States market lessened the demand for Ancient Egyptian coins, this would simply drive the value of Ancient Egyptian coinage down. Looters who are selling the coins want to make a profit, and will still want to make a profit regardless of if the coins are worth more or less per unit. The only way in which a United States only ban would reduce the incentive for dispersal or fragmentation would be if Ancient Egyptian coins became so valueless as to not be worth the excavation costs. Given that there are still a number of open markets, it is likely that Ancient Egyptian coins would retain some value. Additionally, excavation costs for looters can be minimal, or even non-existent, given their illegal nature.

137. Fitzpatrick, *supra* note 20, at 51; Adler & Urice, *supra* note 7, at 149.

138. Fitzpatrick, *supra* note 20, at 70.

139. Metal detectors are a major indication of coins being looted. *See, e.g.*, Starck, *supra* note 4.

140. Fitzpatrick, *supra* note 20, at 69.

141. 19 U.S.C. § 2603(a)(3).

142. *See, e.g.*, Giedroyc, *supra* note 76.

143. Giedroyc, *supra* note 76; Cyprus, *supra* note 2.

Emergency restrictions on the United States' market would also have no effect on the dismantling or fragmentation of Ancient Egyptian coinage. Many of the radicals looting ancient sites in Egypt are considered religious fanatics, who seek to destroy artifacts because the fanatics consider the coins, and other artifacts, to be pagan symbols.¹⁴⁴ These fanatics are not looting the sites to financially benefit from them but rather for religious reasons.¹⁴⁵ Stephen Album, a well-known ancient coin collector and dealer, has stated that “the more a nation limits or bans the ownership, sale and export of historic coins, the more likely that the coins will either pass to criminal traders or be quickly destroyed.”¹⁴⁶ In order to avoid being caught, looters and thieves would be pressured to sell their stolen wares or melt them down.¹⁴⁷ Many coins are struck from precious metals, which are worth a considerable amount of money.¹⁴⁸ Melted precious metals are much safer and easier to deal in than ancient coinage if there is a potential that the looter would be may be caught by authorities and brought up on charges of looting and selling those ancient coins.¹⁴⁹ Given the fact that even with importation restrictions put in place in the United States, there would still be open markets for illicit coinage and there would still be a large risk the Ancient Egyptian coins would be destroyed. Ancient Egyptian coinage does not fulfill the incentive reduction requirement of the third criteria of Section 2603 of the CPIA.

Overall, Ancient Egyptian coins are not a newly discovered type of material, nor are they generally attributed to coming from any historical site of high importance. Additionally, while at first blush it may seem that restricting the importation of Ancient Egyptian coins into the United States could help to protect Egypt's cultural heritage, the opposite is likely true. An importation restriction will do nothing to dissuade religious fanatics from destroying pagan symbols. An importation restriction will not reduce the monetary incentive for looting ancient coins for sale, but rather will just redirect any stolen coins to other markets. An importation

144. Unfortunately, there are no clear figures available for exactly what percentage of the illegal excavations are made up by these religious fanatics. Richard Giedroyc, *Debate Ensues over Ancient Coins*, NUMISMATIC NEWS (Aug. 11, 2014), <http://www.numismaticnews.net/article/news/general/debate-ensues-over-ancient-coins-2> [hereinafter “Debate Ensues”].

145. *Id.*

146. Starck, *supra* note 4.

147. *Id.*

148. Jan van der Crabben, *Coinage – Definition*, ANCIENT HISTORY ENCYCLOPEDIA (Apr. 28, 2011), <http://www.ancient.eu/coinage/>.

149. Pugh, *supra* note 80; Starck, *supra* note 4.

restriction will not protect ancient coins from being destroyed; if anything, it may encourage looters to destroy the coins for the value of their precious metals to avoid the backlash from any authorities if the looter is caught with a looted coin.

Overall, Ancient Egyptian coins, as a class, do not qualify for emergency restriction under Section 2603 because Ancient Egyptian coins do not fit within any of the three narrowly tailored requirements for emergency restrict set forth by the CPIA.

C. Egyptian Coins from Prehistoric Times Through the Ottoman Empire Do Not Qualify for Importation Restrictions Under Section 2602 of the CPIA

Section 2603 of the CPIA sets out the requirements necessary in order to levy emergency restrictions on any cultural artifacts.¹⁵⁰ In contrast, Section 2602 of the CPIA sets out the requirements necessary in order to enter into a bilateral agreement with another nation to restrict the importation of certain cultural artifacts.¹⁵¹ Both bilateral agreements and emergency restrictions last for an initial period of five years, but the bilateral agreement can be extended for additional periods of five years, whereas the emergency restrictions can only be extended for additional periods of three years and only if the emergency situation still exists.¹⁵² While the two tests are similar, there are some key differences.

Section 2602 of the CPIA gives a four step test that must be fulfilled to enter into a bilateral agreement with another nation to impose importation restrictions: (1) “the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party,” (2) “the State Party has taken measures consistent with the Convention to protect its cultural patrimony,” (3) restrictions imposed by other parties who individually have “a significant import trade in such material” in conjunction with the United States “would be of substantial benefit in deterring a serious situation of pillage,” and less drastic remedies are not available, and (4) the import restrictions are “consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.”¹⁵³ In order for a material to be subject to importation restrictions, each of the four factors must be fulfilled. When Ancient Egyptian coins are put through this test, they do not fulfill every requirement.

150. 19 U.S.C. § 2603(a).

151. 19 U.S.C. § 2602(a)(1).

152. 19 U.S.C. §§ 2603(c)(3), 2602(b)&(e).

153. 19 U.S.C. § 2602(a)(1)(A)-(D).

First, there has already been extensive discussion surround the two premises of the first factor: (1) cultural patrimony is in jeopardy from pillage, and (2) of archaeological or ethnological materials.¹⁵⁴ As has been stated, Egypt's cultural patrimony is demonstrably in jeopardy, but there is evidence to support that the coins in question are not culturally significant. Furthermore, Ancient Egyptian coins, as a class, have not been shown to be at jeopardy independent of artifacts as a whole.¹⁵⁵ There is also evidence that Ancient Egyptian coins do not qualify as archaeological or ethnological materials.¹⁵⁶ These arguments will not be recreated here.

Second, Egypt has not necessarily taken measures consistent with the 1970 UNESCO Convention to protect its cultural patrimony. "There can be international trade in stolen and looted art only if the art can be stolen and looted in the first place."¹⁵⁷ In 1983, Egypt enacted the Egyptian Law on the Protection of Antiquities, which prohibits persons to trade in antiquities and declares that all antiquities are considered to be the property of the state.¹⁵⁸ Egypt is still in a time of crisis, but it appears that Egypt has made some effort to protect its cultural patrimony.¹⁵⁹ On June 12, 2013, Egypt's newly formed National Committee of Egyptian Archaeological Sites ("NCEAS") held its first meeting at the Ministry of State for Antiquities.¹⁶⁰ The NCEAS formed a special unit to raise Egyptian citizens' cultural and archaeological awareness of the importance and value of Egyptian monuments and Egypt's heritage.¹⁶¹

154. For the first element of factor one, see Section IV(B), pp. 351–52, the third factor of the emergency restriction test; for the second element of factor one, see Section IV(A) pp. 344–49, the discussion on why Ancient Egyptian coins should not be classified as archaeological or ethnological materials.

155. See Section IV(B), pp. 350–52, for the third factor of the emergency restriction test; Fitzpatrick, *supra* note 20, at 51; Adler & Urice, *supra* note 7, at 149.

156. See Section IV(A), pp. 344–49, for the discussion on why Ancient Egyptian coins should not be classified as archaeological or ethnological materials.

157. Paul M. Bator, *An Essay on the International Trade in Art*, 34 STAN. L. REV. 275, 310 (1982).

158. *Egyptian Law on the Protection of Antiquities*, U.S. CENTRAL COMMAND: EGYPT (EXERCISE BRIGHT STAR), <http://www.cemml.colostate.edu/cultural/09476/laws10egyptenl.html>.

159. Nevine El-Aref, *New Committee Will Oversee Egyptian Sites on World Heritage List*, AHARAM ONLINE (June 12, 2013), <http://english.ahram.org.eg/News/73838.aspx> (hereinafter "New Committee").

160. *Id.*

161. *Id.*

In the public summary of Egypt's request for a bilateral agreement with the United States, Egypt lists three ways in which it protects its cultural patrimony: the Ministry of Antiquities, Egypt's museum system, and public awareness and school programs.¹⁶² Egypt states that the Ministry of Antiquities "includes subject matter expert sectors and several departments dedicated to conservation, site security, the management of the national museums, and the prevention of smuggling."¹⁶³ Egypt has also founded a repatriation team that has been specifically tasked to seek stolen relics.¹⁶⁴ These protections do seem to be directly in line with the requirements under Article 5 of the 1970 UNESCO Convention, but there is concern that Egypt has not actually dedicated an effort to protecting their own cultural patrimony.¹⁶⁵

After the looting of the Malawi National Museum, the head of the United Nations cultural agency specifically called for Egyptian authorities to protect museums, historical buildings, and historical sites, which they were failing to do.¹⁶⁶ In a presentation about the state of Egypt's cultural history, Dr. Monica Hanna detailed how the Mallawi Museum in Upper Egypt in late 2013 was "systematically looted for three days in a row without any intervention from security forces."¹⁶⁷ Furthermore, Malek Mostafa, an activist for the protection of Egyptian monuments, expressed concern that the Ministry of Antiquities is faced with "deep and rampant corruption" and fails to properly protect Egypt's monuments.¹⁶⁸ In May 2013, ordinary citizens took action to protect the site of Dahshur around the clock, without any evidence of government help.¹⁶⁹ Finally, local guards employed at any of Egypt's 8,000 historical sites are paid as little as £30 per month, increasing their incentive for accepting bribes.¹⁷⁰ While these statements do not and should not provide conclusive evidence of the Egyptian government's failure to act in an effective manner, it does highlight

162. *Public Summary of Egypt's Article 9 Request*, U.S. STATE DEPARTMENT, http://eca.state.gov/files/bureau/egypt_public_summary_1_0.pdf.

163. *Id.*

164. This includes extensive searches on eBay, where, when discovered, the repatriation team requests the eBay remove the listing for the website. Gavia Baker-Whitelaw, *Looters are Selling Stolen Egyptian Antiquities on eBay*, THE DAILY DOT (June 3, 2014), <http://www.dailydot.com/business/looters-stolen-egyptian-antiquities-ebay/>.

165. Yomna El-Saeed, *A Call to Protect Egypt's Monuments and Heritage*, DAILY NEWS EGYPT (Sept. 24, 2013), <http://www.dailynewsegypt.com/2013/09/24/a-call-to-protect-egypts-monuments-and-heritage/>.

166. *See* UNESCO Issues Alert, *supra* note 38.

167. A Call to Protect Egypt's Monuments and Heritage, *supra* note 165.

168. *See id.*

169. *What is Egypt Doing to Protect its Cultural Heritage?*, SAVING ANTIQUITIES, <http://savingantiquities.org/a-global-concern/egypt/> (last visited Dec. 3, 2014) [hereinafter "Egypt Global Concern"].

170. As of December 4, 2014, £30 is approximately US \$47. *See* Pugh, *supra* note 80.

that the Egyptian government has not provided any concrete evidence of its compliance with the guidelines set out in Article 5 of the 1970 UNESCO Convention.¹⁷¹

Third, while acting in conjunction with a multitude of nations that represent substantial market for Ancient Egyptian coins could provide a beneficial effect, no other country is enacting such legislation, and less restrictive regulations are available.¹⁷² If every market for Ancient Egyptian coins banned their importation, there could be a substantial benefit to deterring the serious pillage.¹⁷³ Essentially, if no party had the ability to sell Ancient Egyptian coins, the value of the coins would be negligible because there would be no legal market. This could, however, drive up the value on an illegal market, actually making Ancient Egyptian coins more valuable. “As long as any demand, domestic or foreign, exists, the temptation to loot will exist.”¹⁷⁴

The issue is that the United States has passed similar importation restrictions on coinage before, and no other nation followed suit.¹⁷⁵ This factor does not require CPAC to look into the future to expect other nations to enact similar legislation, but other nations have had at least nine years to enact similar legislation as the United States and have not done so.¹⁷⁶

It does not seem that other nations intend to follow the United States’ broad importation agreements. The European Union does not require documentation for the trade of antiquities across European Union borders.¹⁷⁷ The United Kingdom has enacted less restrictive means of importation restrictions that show that the United Kingdom is not following the restrictive United States model.¹⁷⁸ “In the words of the chief architect of

171. It is possible that this information has been provided to CPAC in their closed information meetings, but CPAC does not release any countries’ original request for import restrictions, only summarized versions; *see, e.g.*, Adler & Urice, *supra* note 7, at 146–47; *see* Egypt’s Public Summary, *supra* note 162, for the released public summary; *see* A Call to Protect Egypt’s Monuments and Heritage, *supra* note 167, regarding concern over Egypt’s protection of cultural objects.

172. *See* discussion *supra* Section IV(B).

173. Although this effect may not necessarily be a positive one, since it could result in the systematic destruction of artifacts or a larger black market for goods.

174. Bator, *supra* note 157, at 310.

175. These nations include, but are not limited to, Italy, Cyprus, and China. *See, e.g.*, Bilateral Agreements, *supra* note 62.

176. *See, e.g.*, Fitzpatrick, *supra* note 20, at 74–75; *see also* Cyprus, *supra* note 2.

177. Public Hearing, *supra* note 99.

178. The Export Control (Syria Sanctions) (Amendment) Order, SI 124/2014, art. 12A, ¶ 1 (U.K.) 2014 [hereinafter “U.K. Export Controls”]; Wayne Sayles, *Coins and the*

the final draft of the [CPIA], Senator Patrick Moynihan of New York, the United States should not engage in a ‘self-denying ordinance’ which merely shifts a market from one country to another.”¹⁷⁹

Furthermore, CPAC could quite easily implement less restrictive regulations. One alternative to the suggested importation restriction is that CPAC could eliminate coins completely from any importation restrictions agreed upon with Egypt. Many scholars have suggested that they would not oppose any Memorandum of Understanding that excluded coins from its designated list.¹⁸⁰ Individually traded coins and uncleaned coin lots are not a vital key to the cultural patrimony of Egypt, nor is it clear that looters are targeting coinage.¹⁸¹ Although Ancient Egyptian coins depict historical events or other significant occurrences in the ancient world, they are not one of a kind.¹⁸² Ancient coins were typically minted in large lots using dies, not hand-carved or individually crafted.¹⁸³ Furthermore, collectors are often the people who categorize the vast amount of coins that are available on the market and share the information that they reveal.¹⁸⁴ Taking the coins out of the hands of collectors would not only be inappropriate, but it could also harm the discovery and disclosure of any information that those coins could provide.

Another alternative is that CPAC could limit the restrictions to exceptional examples of Ancient Egyptian coins, such as coins with limited multiples and site-specific coin hoards.¹⁸⁵ Coins with limited multiples can be important because they can disclose information that was not available on other potentially less perfect examples.¹⁸⁶ Site-specific hoards can be used not only to give a *terminus post quem* for a site, but they can also provide information about the amount and production of coins for a specific period that individual examples do not.¹⁸⁷ This test, however, would be very difficult

Law—On Second Thought—A Chance for Rule of Law?, ANCIENT COIN COLLECTING (Sept. 16, 2014), <http://www.coinweek.com/education/coins-and-the-law-2/coins-law-second-thought-chance-rule-law/>.

179. Fitzpatrick, *supra* note 20, at 52 (citing Convention on Cultural Property Implementation Act: Hearings Before the Subcomm. on Int’l Trade of the Senate Comm. on Fin., 95th Cong., 2d Sess. 34 (1978)).

180. Starck, *supra* note 4.

181. *Id.*

182. *Id.*

183. Haag, *supra* note 112.

184. *See, e.g.*, www.coinworld.com.

185. Pearlstein, *supra* note 6, at 625.

186. A coin that discloses more information about a culture can be deemed to be culturally significant just by its nature of providing previously unknown information about a culture or coinage generally.

187. *Terminus post quem* is a term meaning “date after which” that describes the nature of certain artifacts, such as coins, to provide a date after which the coins must have been deposited in the site. Given that there is a set date when the coin was minted, which

to administer and enforce. Customs, who is in charge of the confiscation of non-conforming artifacts, would have to have the ability to determine what coins were new or contained new information.¹⁸⁸ This means that CPAC and the State Department would have to provide United States Customs agents with detailed information about coins that should be confiscated. As long as this regulation was properly imposed, it would allow for the trade of Ancient Egyptian coins while still giving some measure of protection to exceptional examples of Ancient Egyptian coins. This regulation could, however, either result in customs confiscating all coins, not knowing which ones were significant, or no coins, thinking all were insignificant, so it would essentially serve no purpose unless strict oversight or direction was implemented.

The final alternative is that the United States could follow the United Kingdom model. In the United Kingdom's recent legislation surrounding the importation of Syrian artifacts, the United Kingdom has imposed a burden on the government, or confiscating body, to have some reasonable evidence that the artifact being confiscated was exported illegally.¹⁸⁹ The United Kingdom model places a burden on authorities to show that there is some evidence that a particular artifact is being illegally exported from its country of origin.¹⁹⁰ The United Kingdom law requires there to be "reasonable grounds to suspect that the goods have been removed [. . .] without the consent of their legitimate owner or have been removed in breach of domestic law or international law."¹⁹¹ In order to implement this model, CPAC and the State Department would have to provide the Customs Department with a reasonable and appropriate way to determine if there is sufficient evidence that an artifact, or coin, has been illegally exported. Given the nature of ancient coins and their almost universal lack of provenance, there can be little, if any, evidence that a certain coin was exported from its country of origin illegally.¹⁹² This restriction would

can be determined or at least approximated, the coin had to be deposited in that site after that date; *see generally*, KENNETH W. HARL, COINAGE IN THE ROMAN ECONOMY, 300 B.C. TO A.D. 700 11 (1996) (discussing the study of ancient coin production via coin hoards).

188. 19 U.S.C. § 2606.

189. *See* U.K. Export Controls, *supra* note 178, at 7.2; *see also* Sayles, *supra* note 178.

190. *See* U.K. Export Controls, *supra* note 178, at 7.2; *see also* Sayles, *supra* note 178.

191. *See* U.K. Export Controls, *supra* note 178, at 7.2; *see also* Sayles, *supra* note 178; *see also* UK Adopts Resolution Prohibiting the Import of Antiquities from Syria, SAVING ANTIQUITIES FOR EVERYONE (Aug. 27, 2014), <http://www.savingantiquities.org/uk-adopts-resolution-prohibiting-import-antiquities-syria/> [hereinafter *U.K. Resolution*].

192. *See* Tompa, *supra* note 54.

likely be limited to examples of artifacts or coins that were clearly shown to have been stolen from a collection or illegally removed from the source country. Imposing some of the burden on the confiscating body ensures that collectors and museums still have some ability to acquire and study Ancient Egyptian coins. Overall, all of these alternatives available to the United States, while not exhaustive of the options available, are a less restrictive means of accomplishing the same goal and should be considered rather than a complete importation restriction.

Fourth, a complete importation restriction on Ancient Egyptian coins is not “consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.”¹⁹³ The discontinuity between the United States’ restrictions and the general interest of the international community is evidenced by two facts. First, no other country has enacted similar legislation, despite the United States specifically restricting the importation of coinage over the past nine years.¹⁹⁴ This is not consistent with the international community if the United States is the only one acting in this manner.¹⁹⁵ Second, other countries, such as the United Kingdom, have acted in a completely different manner in regard to importation restrictions.¹⁹⁶ In addition, while Japan does not have any specific importation bans, they have a classification system for all cultural property.¹⁹⁷ Japan uses this system to allow the government to control Japan’s “most important cultural property,” but still allow for the exchange of cultural materials.¹⁹⁸ Both of these facts demonstrate that there is a disparagement between the actions that the United States is taking towards coins, and artifacts in general, and the actions taken by the rest of the international community.

Moreover, importation restrictions on Ancient Egyptian coins without provenance would amount to an effective ban on nearly all Ancient Egyptian coins.¹⁹⁹ This cannot be said to allow for any interchange of cultural property. A complete block on the interchange of cultural property, such as Ancient Egyptian coins, is not consistent with “the general interest of the international community in the interchange of cultural property.”²⁰⁰ Lawful international

193. 19 U.S.C. § 2602(a)(1)(A)-(D).

194. See Giedroyc, *supra* note 76; see Cyprus, *supra* note 2.

195. See Robyn Hagan Cain, *Coin Collectors Seek Change in State Department Policy in 4th Cir.*, FINDLAW (Sept. 27, 2011), http://blogs.findlaw.com/fourth_circuit/2011/09/coin-collectors-seek-change-in-state-department-policy-in-4th-cir.html.

196. U.K. Export Controls, *supra* note 178; *U.K. Resolution*, *supra* note 191.

197. Matthew R. Hoffman, Comment, *Cultural Pragmatism: A New Approach to the International Movement of Antiquities*, 95 IOWA L. REV. 665, 690 (2010).

198. *Id.*

199. See discussion *supra* Section III.

200. 19 U.S.C. § 2602(a)(1)(A)-(D).

trade is considered to be an important medium of cultural exchange.²⁰¹ The suggested import restrictions on Ancient Egyptian coins would put United States collectors, dealers, and museums at a severe disadvantage in acquiring, studying, and publishing the cultural information that can be learned from the Ancient Egyptian coins.²⁰² Many nations that have broad exportation restrictions, such as Egypt, have “hundreds of thousands of unexplored, unexcavated sites and large stocks of objects that they do not adequately preserve, do not exhibit, and do not make available for study.”²⁰³

Additionally, museums and collectors are concerned that such broad restrictions levied by CPAC not only punish collectors, but also leave many artifacts in nations that are not adequately protecting those artifacts.²⁰⁴ For example, in the hot debate over the proper ownership of the Elgin Marbles, some scholars argue that the fragments of the Parthenon housed in the British Museum are better preserved than those still at the Acropolis, due to the poor air quality in Athens.²⁰⁵ The CPIA demonstrates a general interest in the interchange of cultural property, which provenance-based restrictions on Ancient Egyptian coins would bar.

Overall, Ancient Egyptian coins do not fulfill the four factor test as prescribed by Section 2602 of the CPIA. As a result, these coins do not qualify for importation restriction via a bilateral agreement.

201. Pearlstein, *supra* note 6, at 568.

202. *Id.*

203. Alexander Stille, *Was This Statue Stolen?; Museums Used to Ask Art Historians if a Piece was Good. Now They Have to Ask Lawyers if it's Legal*, 11 NAT'L L.J. 1, 33 (1988).

204. Derek Fincham, *Justice and the Cultural Heritage Movement: Using Environmental Justice to Appraise Art and Antiquities Disputes*, 20 VA. J. SOC. POL'Y & L. 43, 81 (2012).

205. Borodkin, *supra* note 103, at 409.

V. THE UNITED STATES IS THE ONLY SIGNATORY OF THE
1970 UNESCO CONVENTION THAT IS EXPLICITLY
RESTRICTING THE IMPORTATION OF COINAGE

International cooperation is a requirement of the 1970 UNESCO Convention under Article 9.²⁰⁶ Article 9 states that signatories of the 1970 UNESCO Convention undertake “to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned.”²⁰⁷ There are two main clauses to this article: (1) participate in a concerted international effort, and (2) determine and carry out the necessary concrete measures to protect the specific materials concerned.²⁰⁸ If the United States continues to enact restrictions on the importation of ancient coinage, they will be doing so in contradiction to Article 9 of the 1970 UNESCO Convention, which the United States signed and ratified.

First, the United States is the only nation specifically restricting the importation of ancient coinage.²⁰⁹ This is not a concerted international effort, which is what the 1970 UNESCO Convention requires.²¹⁰ If the United States is acting alone in passing these importation restrictions, they are not acting with other nations to help protect nations’ cultural patrimony. The United States cannot pass importation restrictions without “finding that other countries with a significant import trade in the materials have implemented or will implement import restrictions that are comparable in scope and substance to those under consideration by the United States.”²¹¹ The United Kingdom, for example, is using much less restrictive means in order to protect cultural patrimony, as previously discussed.²¹² A majority of countries simply have not enacted restrictions on the importation of ancient coinage.²¹³

Second, a restriction on the importation of Egyptian coins from prehistoric times through the Ottoman Empire is not necessary to maintain the cultural patrimony of Egypt. There are many other alternatives available to the United States and Egypt other than an outright ban.²¹⁴ One alternative is

206. The United States is bound to follow the 1970 UNESCO Convention, so it is important to examine if the restriction of Ancient Egyptian coins would be required under the 1970 UNESCO Convention and determine why that test may differ from the CPIA analysis. 1970 UNESCO Convention, *supra* note 10, art. 9.

207. *Id.*

208. *Id.*

209. Giedroyc, *supra* note 76.

210. 1970 UNESCO Convention, *supra* note 10, at art. 9.

211. Pearlstein, *supra* note 6, at 636.

212. U.K. Export Controls, *supra* note 178; *U.K. Resolution*, *supra* note 191.

213. *See* Giedroyc, *supra* note 76.

214. *See* discussion *supra* Section IV(C).

that the United States could choose not to regulate the importation of Ancient Egyptian coins. A second alternative that some collectors have suggested is that the United States could only regulate “culturally significant” coins. The final suggestion is that the United States could implement a model similar to that of the United Kingdom.²¹⁵ Finally, it has been demonstrated that Ancient Egyptian coins, individually, do not necessarily contribute to the cultural patrimony of Egypt, and therefore do not need to be controlled to protect Egypt’s cultural patrimony.²¹⁶

In summation, if the United States imposes emergency restrictions or enters into a bilateral agreement concerning Ancient Egyptian coins, then the United States will not be acting in a concerted international effort to take necessary steps to protect countries’ patrimony. There is no indication, as there has not been any international action in the past, that any other signatory of the 1970 UNESCO Convention will seek to ban the importation of Ancient Egyptian coinage. Furthermore, a complete restriction on the importation of Ancient Egyptian coinage is not necessary to protect the cultural patrimony of Egypt.

VI. EGYPT DOES NOT HAVE THE POWER TO EFFECTIVELY CONTROL
ALL COINAGE THAT CAN BE CONNECTED TO THE ANCIENT
EMPIRES THAT GAVE RISE TO THE MODERN
COUNTRY OF EGYPT

Aside from the fact that Egyptian coins from the prehistoric period through the Ottoman Empire do not qualify for protection under the CPIA, and that the United States ban of those coins does not conform to the 1970 UNESCO Convention Article 9 requirements, allowing Egypt to essentially determine the fate of all coins that can be connected to Modern Egypt would be completely improper and would set bad precedent. There are three points in support of this argument. First, not all Ancient Egyptian coins can be said to be solely under the control of or from within the borders of Modern Egypt. Second, since most Ancient Egyptian coins on the market have no provenance, a ban on the importation of Ancient Egyptian coins would effectively ban Ancient Egyptian coins that were not discovered within the boundaries of Modern Egypt or were legally

215. Sayles, *supra* note 178.

216. For lack of cultural significance under the object of archaeological interest test, see Section IV(A)(i); for lack of cultural significance under the object of ethnological interest test, see Section IV(A)(ii).

exported by another nation.²¹⁷ Third, the United States restriction on the importation of Ancient Egyptian coins effectively limits the ability of numismatists and museums within the United States to collect Ancient Egyptian coins with no real benefit to the international community or to Egypt herself.

First, the fact that Modern Egypt is very different from Ancient Egypt is a point that not many scholars or laymen would argue.²¹⁸ One key difference is the borders of Modern Egypt. Ptolemaic Egypt, for example, stretched into Libya, Israel, Lebanon, Syria, Cyprus, and Turkey.²¹⁹ If the United States allows Egypt to advocate for all Ancient Egyptian coins, then Egypt would essentially be advocating for the coinage that founded not only Egypt, but every country that was within the borders of the various Ancient Egyptian Empires.²²⁰ If the United States imposes import restrictions on Ancient Egyptian coins, then a coin discovered in Libya, that a Libyan national wants to import into the United States could not be imported unless that person had a proper provenance, which generally is not the case.²²¹ The Libyan national, however, can be seen to have the same right to the future of that coin as any Egyptian national. For instance, if the country of Turkey wishes to sell lots of Ancient Egyptian coins excavated in Turkey, into the United States to fund government projects, Turkey would have to have adequate provenance to import those coins into the United States. The United States' restrictions on coins typically either require accurate provenance or an explicit allowance of exportation from the State Party in question.²²² Turkey, who arguably has just as much right to the ancient coinage that founded their country, would not have the ability to properly export Ancient Egyptian coins unless they could prove that they were either found in Turkey, or properly exported from Egypt into Turkey. This restriction would allow for Egypt to advocate for the ancient coinage that helped found a multitude of modern nations.²²³

Second, since Ancient Egyptian coinage typically has no provenance, coins that were found outside of Egypt or exported legally could not be

217. See Pearlstein, *supra* note 6, at 625 (discussing the lack of provenance for ancient coinage).

218. Modern Egypt's borders, language, religion, and more have all changed and evolved from that of the various cultures, societies, and empires that make up Ancient Egypt. See, e.g., Crabben, *supra* note 148.

219. Starck, *supra* note 4.

220. Since these coins could be found in Egypt, they would be subject to the bilateral agreement, even though they may have been discovered elsewhere. Pearlstein, *supra* note 6, at 624.

221. Pearlstein, *supra* note 6, at 625.

222. See, e.g., Bilateral Agreements, *supra* note 62.

223. Pearlstein, *supra* note 6, at 624–25.

imported into the United States. Not only were Ancient Egypt's borders different than they are today, but Ancient Egyptian currency has been found as far north as Britain.²²⁴ "Alexander, the Ptolemys, the Byzantines, and the Ottomans all struck coins in Egypt for use throughout their Empires."²²⁵ If an Ancient Egyptian coin is first discovered in Britain, it is not subject to export control by Egypt.²²⁶ If an Ancient Egyptian coin was discovered in Britain and then traded among collectors for generations without provenance, as is the general practice, that coin could not be imported into the United States with the restrictions in question were enacted.²²⁷ Such legislation essentially makes the importation of any Ancient Egyptian coins into the United States impossible, even if that coin was properly discovered outside of Egypt and is not subject to Egypt's control. Furthermore, the 1970 UNESCO Convention does not govern any artifacts that were exported from a nation prior to 1970, whether that exportation was legal or not.²²⁸ If the United States bans the importation of Ancient Egyptian coins that cannot be proven to have been properly exported from Egypt, they will effectively be circumventing a major character of the 1970 UNESCO Convention by essentially governing the importation of artifacts that are not governed by the 1970 UNESCO Convention. The nature of Ancient Egyptian coins, including their common lack of provenance and their high mobility throughout the ancient world, make a ban on the importation of Ancient Egyptian coins overly restrictive and at odds with the policies of the 1970 UNESCO Convention and the CPIA.²²⁹

Third, if the United States restricts the importation of Ancient Egyptian coins that lack proper exportation documentation, the United States will effectively be limiting the ability of numismatists and museums within the United States to import Ancient Egyptian coins, with no benefit to the international community or Egypt's patrimony. Residents of the United States would effectively be barred from importing any Ancient Egyptian coins given the nature of the trade in these coins.²³⁰ Since, however, no other nation has barred the importation of ancient coinage in the past, and

224. Starck, *supra* note 4.

225. Peter Tompa, *Done Deal or No, Don't Restrict Coins*, CULTURAL PROP. OBSERVER (June 2, 2014), <http://culturalpropertyobserver.blogspot.com/2014/06/done-deal-or-no-dont-restrict-coins.html>.

226. *See, e.g.*, Convention on Cultural Property, *supra* note 18.

227. *Id.*; Bilateral Agreements, *supra* note 62; Adler & Urice, *supra* note 7, at 156–57.

228. Pearlstein, *supra* note 6, at 570.

229. *Id.* at 625.

230. Starck, *supra* note 4.

likely will not bar the importation of Ancient Egyptian coins, other persons in the international community will still be able to collect and trade these coins. Egypt will not benefit in any way because there will still be an open market for Ancient Egyptian coinage, and there is inadequate evidence as to show that the closing of the United States market will have any direct effect on looters or thieves in Egypt at all.²³¹ Such a restriction will not benefit Egypt, will leave open international markets to Ancient Egyptian coins, and will unnecessarily restrict the ability of numismatists and museums within the United States to acquire Ancient Egyptian coins.

Overall, a restriction on the importation of Ancient Egyptian coinage without provenance or proper documentation of exportation will give Egypt control over the coinage that helped found a multitude of nations and control over coins that likely could have been properly exported from within Egypt's modern borders. Such a restriction will also restrict the ability of United States collectors and museums to acquire Ancient Egyptian coins without any effect on the international market and without providing any benefit to Egypt.

VII. ALTERNATIVES AVAILABLE TO EGYPT

From a legal standpoint, restricting the importation of Ancient Egyptian coins, via emergency restrictions or via a bilateral treaty, would be improper. When put through the tests that the CPIA and the 1970 UNESCO Convention set forth, Ancient Egyptian coins do not fit within the statutory requirements for restriction. Even though restriction would be inappropriate under CPAC and the 1970 UNESCO Convention, certain members of the antiquities community still believe that restricting the importation of Ancient Egyptian coins is appropriate.²³² Other classes of ancient coinage have been restricted in the past through bilateral agreements.²³³ Not only is restriction in this case inappropriate, it is simply not beneficial. Those supporting restriction generally do so based on two arguments: (1) preserving the source or find-spot information of ancient coinage is essential to the archaeological process, and (2) illegal exportation of artifacts deprives Egypt from the benefit of their cultural patrimony.²³⁴

231. Public Hearing, *supra* note 99.

232. See generally Rick Witchonke, *Ancient Coins and the Cultural Property Debate—Introduction Pt. 1*, AM. NUMISMATICS SOC'Y MAG. (2011), <http://numismatics.org/html/dpubs/nonxml/WitschonkeHeathFinal.pdf> (discussing some parties' actions to support importation restrictions on coinage).

233. See *Bilateral Agreements*, *supra* note 62.

234. See generally Sebastian Heath, *Ancient Coins and the Cultural Property Debate—Beginning the Dialogue: An Archaeologist's Perspective*, AM. NUMISMATICS SOC'Y MAG. (2011), <http://numismatics.org/html/dpubs/nonxml/WitschonkeHeathFinal.pdf> (discussing

While preserving the find spot of ancient coinage can be important to archaeological finds, it is not essential, nor is it materially applicable in this case. Coins found in an archaeological excavation can provide a *terminus post quem*, which can help date the site to after a certain period. In addition to dating, a certain amount of information can be learned from coin hoards, or large coin deposits found from ancient civilizations.²³⁵ The only way to maintain these two situations is to stop people from looting ancient sites, or retain their provenance. Once the coins are removed from the area and dispersed, they can no longer provide this information, unless the find spot is known. Restrictions on the importation of Ancient Egyptian coins will not stop looting.²³⁶ There is and will continue to be a demand for ancient artifacts, and limiting the importation of Ancient Egyptian coinage will not decrease that demand. Restrictions will also not decrease looting given that there are other methods of dispersal available to looters in order for them to turn a profit.²³⁷ Laws that attempt to completely retain artifacts in the source country, such as Egypt in this case, “have not effectively limited trade in cultural property, but have merely determined the form that traffic takes and the routes it follows.”²³⁸ While few would dispute that the find spot or provenance of a coin can provide some measure of beneficial information, these restrictions on importation would simply not achieve the goals set out.

Continually, much of the issue in this matter is that any Ancient Egyptian coin without provenance would be essentially restricted, thereby making any find spot concern not materially applicable. The majority of ancient coins on the market today do not have provenance.²³⁹ Any regulation restricting importation of coins without provenance would have more effect on legally traded coins that may have been in collections for years.²⁴⁰ Restricting these coins would not magically grant provenances for all unprovenanced coinage; it would only prohibit them from being imported into the United States. The argument that importation restrictions on

the importance of find spot information for ancient coinage and preserving ancient coinage at archaeological sites); *see, e.g.*, Egypt Global Concern, *supra* note 169.

235. Heath, *supra* note 234.

236. John Henry Merryman, *Two Ways of Thinking about Cultural Property*, 80 AM. J. INT'L L. 831, 848 (1986).

237. *See* discussion *supra* Section IV(B), discussing the third factor of the emergency restriction test.

238. Merryman, *supra* note 236, at 848.

239. Adler & Urice, *supra* note 7, at 156.

240. *Id.* at 156–57.

Ancient Egyptian coins would help preserve find spot information for these ancient coins is invalid because the restriction would not decrease the incentive for looting and it would have more of an impact on current legally traded coins.

Egypt's cultural patrimony is at risk from looters, but levying importation restrictions on Ancient Egyptian coins will not better allow Egypt to benefit from their cultural patrimony because importation restrictions could lead to ancient coinage to be put in risk from mishandling and monetary depreciation. If importation restrictions are enforced on Ancient Egyptian coins the coinage is more likely to be sold on the black market.²⁴¹ Many collectors and museums will not purchase goods from the black market, but the actions of responsible museums and collectors alone will not stop the illicit trade.²⁴² Instead, these coins have a higher probability of being bought by parties who will not adequately care for or document them.²⁴³ This will not preserve Egypt's cultural patrimony, but rather puts it at risk of destruction and fragmentation with no benefit to Egypt or to legitimate collectors.

The only way for Egypt to benefit from their cultural patrimony via ancient coinage is to protect cultural sites and allow for some legitimate exportation of artifacts. The only way to protect the sites that contain coins, thereby benefitting from the coin's find spot information, and to keep coins off of the black market, is to stop the looters from taking coins before they can be put onto the market. Egypt, however, claims that they do not have the ability to adequately to protect their cultural sites.²⁴⁴ Some collectors have suggested that a source nation, like Egypt, could best benefit from controlled legalization of exportation.²⁴⁵ This would allow Egypt to achieve many of their goals in protecting their cultural heritage and preserving historical sites.

First, Egypt could sell some artifacts onto the open market, thereby controlling what artifacts entered the market and turning a profit for Egypt. Controlling what is allowed out of Egypt would allow Egypt to better preserve the artifacts that are more important to their heritage, while allowing the international trade and free exchange of cultural information prescribed for in the 1970 UNESCO Convention.²⁴⁶ Egypt could also financially benefit from their cultural heritage. Japan has a

241. Merryman, *supra* note 236, at 848.

242. See *generally Provenance Guide*, INT'L FOUND. FOR ART RESEARCH, http://www.ifar.org/provenance_guide.php (last visited Dec. 3, 2014) (discussing the general provenance requirements for museums laid out by the International Foundation for Art Research).

243. U.S. Protecting, *supra* note 71.

244. Mashberg, *supra* note 41.

245. Merryman, *supra* note 236, at 848.

246. 1970 UNESCO Convention, *supra* note 10, art. 4.

classification system for their artifacts, so that they may protect the most significant, while allowing the less significant to be traded on the open market.²⁴⁷ Some parties are benefitting from the sale of illicit Egyptian artifacts, given the amount of irreplaceable artifacts that have been looted.²⁴⁸ If Egypt controlled these sales, they could better fund their own efforts to protect their museums and cultural sites. Further, by better protecting museums and cultural sites, Egypt could better control what artifacts they put on the market and what artifacts they retained, and Egypt could better protect the provenance of the artifacts within their nation.

Second, Egypt could sell any artifacts for market price, rather than the low prices that looters often sell stolen artifacts for. It is estimated that the looter of an artifact, who then sells that artifact on the black market, “receives less than 2% of the price paid by the final purchaser.”²⁴⁹ Looters are willing to sell for such a small amount because of the strict retention restrictions that source nations often have in place, thereby ridding themselves of any evidence of their illegal actions while benefitting monetarily.²⁵⁰ Furthermore, the black market thrives not only because of demand, but because each middleman in the process financially benefits from the trade.²⁵¹ If Egypt set up a legitimate trade, not only would they be able to receive the monetary benefit from the artifacts, rather than the looters, they would also likely be able to sell the artifacts at a much higher price, presumably market price, which would provide a more substantial benefit to the nation. This legal market may even help decrease the market share of the illicit market, although it is likely that market will continue to exist in some capacity. There would likely remain a market for artifacts that Egypt would be unwilling to part with, but with the profits from other artifacts Egypt could better discover and protect those artifacts.

This is not to say that the United States should play no part in helping Egypt to stem the tragic situation that is occurring. The United States, however, cannot be the sole actor in this plan, and should not act in contravention of the CPIA and the 1970 UNESCO Convention. In order

247. Hoffman, *supra* note 197, at 690.

248. Egypt’s Heritage Plundered Anew, *supra* note 38.

249. Borke, *supra* note 77, at 394.

250. Borodkin, *supra* note 103, at 410–11. It is also possible that looters are willing to sell for such a small amount because they do not have the connections necessary to sell the coins on the open market or because they simply do not know the market value of the looted goods.

251. Borke, *supra* note 77, at 395.

to help Egypt, Egypt must first help herself. Not only could the United States aid Egypt in implementing a controlled legalized exportation plan, the United States could help stem the illicit market by applying the CPIA in the appropriate manner, to protect important and culturally significant artifacts from being imported into the United States. It is up to Egypt whether or not the government wishes to acquiesce to the sale of any artifact, but it is not the place of the United States to impose broad importation restrictions that do not follow the letter nor the spirit of the CPIA or the 1970 UNESCO Convention. “Import controls should be imposed only in cases where they can be enforced without creating an impractical, overbroad, and unfair customs regime.”²⁵² Enacting importation restrictions on Ancient Egyptian coins would not benefit Egypt, would not accomplish the goals of the parties who support the restrictions, and would be impractical, overbroad, and unfair.

VIII. CONCLUSION

The United States should not continue their pattern of restricting the importation of ancient coinage and should not restrict Ancient Egyptian coinage in either emergency restrictions or in a Memorandum of Understanding. Such a restriction does not fit within the narrowly tailored tests of the CPIA or the 1970 UNESCO Convention. The United States should not continue to act unilaterally within the international community. There are many different alternatives available to both the United States and to Egypt in order to effectively protect Egypt’s cultural heritage and patrimony. While collecting ancient coinage may appear trivial to some, it is the life-blood of numismatists and helps fuel their desire not only to collect, but also to help educate the world about ancient civilizations. In the words of Marcus Tullius Cicero, *nescire autem quid ante quam natus sis acciderit, id est semper esse puerum*, or to be ignorant of what happened before your birth is to forever be a child.²⁵³

252. Bator, *supra* note 157, at 331.

253. Translation from Latin to English was performed by the author. 5 MARCUS TULLIUS CICERO, ORATORE § 120 (H.M. Hubbell trans., Harvard Univ. Press 1988) (46 B.C.).