

Agreement between the Swiss Federal Council and the government of the Republic of Colombia on the import and repatriation of cultural property

Concluded on February 1st, 2010
Entered into force on August 4th, 2011

*The Swiss Federal Council
and
the government of the Republic of Colombia,*

In application of the November 14, 1970 UNESCO Convention¹ on the Means of Prohibiting and Preventing Illicit Import, Export and Transfer of Ownership of Cultural Property, to which both countries are a party, in pursuit of provisions applicable in this regard at the parties to the agreement,

Considering that theft, looting as well as the illicit import and export of cultural property represents a loss to the cultural heritage of mankind,

Endeavoring to make a contribution to maintain and secure cultural heritage and to prevent the illegal transfer of cultural property,

In the belief that the cooperation between both countries may constitute an important contribution in this regard,

Endeavoring to ease the repatriation of illicitly imported and exported cultural property and intensify cultural exchanges between both countries,

have agreed as follows:

Art. I

(1) This agreement regulates the import, transit and repatriation of cultural property as it relates to both parties to the agreement. It is intended to prevent the illicit trade of cultural property between the parties to the agreement.

(2) This agreement applies exclusively to the categories of cultural property listed in the appendix to this agreement that are of significant importance to the cultural heritage of each of the two parties to the agreement.

Art. II

(1) Cultural property may be imported to the territory of one of the parties to the agreement, to the extent demonstrated to the custom authorities that the export regulations of the other party to the agreement were fulfilled. If the law of one of these parties to the agreement requires a permit to export cultural property, the same must be presented to the custom authorities of the other party to the agreement.

¹ SR 0.444.1

(2) The competent authorities of the parties to the agreement prevent, using all suitable means, the import of cultural property into their territories that do not comply with required import and export regulations.

Art. III

(1) One party to the agreement can petition for the repatriation of cultural property at the other party to the agreement that is illicitly imported into their territory for failure to meet the provisions pursuant to Article II, para. 1 of this agreement.

(2) The petition may be filed:

- a. in Switzerland: Claims for repatriation before the competent courts;
- b. in Colombia: Before the competent authorities.

(3) Domestic law at the party to the agreement where the cultural property is located determines prerequisites for the petition.

(4) Competent authorities, at the party to the agreement pursuant to Article VIII where the cultural property is located, advise and support the party to the agreement filing suit as much as possible and using all means available to them:

- a. locating the cultural property;
- b. in determining the competent court or competent authorities;
- c. finding specialized legal representatives as well as any experts;
- d. temporary custody and conservative care of the cultural property until its repatriation.

(5) The parties to the agreement ensure a suitable location for storage that protects the property against damage throughout the period of the repatriation process up to and including the repatriation of the cultural property.

Art. IV

(1) The party to the agreement filing the petition must demonstrate:

- a. that the cultural property belongs to one of the categories listed in the appendix, and
- b. that the cultural property was illicitly imported to the territory of the other party to the agreement after this agreement entered into force.

(2) In the event of a suit for repatriation in Switzerland, the statute of limitations for the suit expires one year after the authorities at the party to the agreement filing suit is made of aware of where and with whom the cultural property is located, at the latest, however, 30 years after the cultural property was illicitly exported; provided there is no other process pending for the repatriation of the cultural property.

Art. V

(1) The party to the agreement filing the petition carries the costs for measures necessary for securing, maintaining, and repatriating the cultural property.

(2) The party to the agreement filing the petition must compensate the person, who acquired the cultural property in good faith and must return the same as provided for under domestic law for the party to the agreement in question.

(3) The competent court or competent authorities at the party of the agreement, where the petition is filed pursuant to Art. III, determines the amount of compensation.

(4) The person who acquired to cultural property in good faith retains a right of retention of same until compensation is paid.

Art. VI

The party to the agreement filing suit agrees to provide reasonable protection of repatriated cultural property as well as facilitate access and availability to the same for research and exhibition purposes within the territory of the other party to the agreement.

Art. VII

(1) The parties to the agreement are required to announce the conclusion and contents of this agreement to circles impacted by this agreement, in particular, the art trade as well as customs and criminal prosecution authorities.

(2) The parties to the agreement inform the public using suitable means on the export of prohibited cultural property and on applicable domestic laws to protect the same.

(3) The parties to the agreement consider measures on cooperation in exchanges and improvement of findings and information with regard to cultural property.

(4) The parties to the agreement review possible cooperation relating to the management and security of their cultural property.

Art. VIII

(1) The competent authorities for the execution of this agreement are:

- b. for the Swiss Confederation: The Specialized Body for International Cultural Property Transfer (Federal Office of Culture), Federal Department of Home Affairs;
- b. in Colombia: The Cultural Ministry (Ministerio de Cultura).

(2) These authorities are authorized to cooperate directly with one another within the framework of their competencies.

(3) These authorities must immediately report changes of competencies or designations of the authorities pursuant to paragraphs 1 and 2.

Art. IX

(1) The parties to the agreement inform each other via the competent authorities pursuant to Article VIII, on thefts, lootings and losses and other events impacting

cultural property listed in the categories in the appendix. This information is reported to the competent authorities and impacted actors to prevent the illicit import of such property and to facilitate repatriation.

(2) The parties to the agreement provide all available information to localize such cultural property to facilitate repatriation.

(3) The parties to the agreement mutually inform each other immediately of changes to domestic law in the area of the import and repatriation of cultural property.

Art. X

The parties to the agreement cooperate with international institutions responsible for fighting illicit transfer of cultural property as part of executing this agreement such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Criminal Police Organization (Interpol), the International Council of Museums (ICOM) and the World Customs Organization (WCO).

Art. XI

(1) The competent authorities pursuant to Article VIII review the application of the agreement on a periodic basis and propose any changes as necessary.

(2) At the request of one of the parties to the agreement, representatives from the competent authorities or their delegates will meet at the latest at the end of the period of this agreement, and do so in alternating manner in Switzerland and Colombia.

(3) A meeting may be convened as well at another time at the request of one of the parties to the agreement, in particular, for important changes to legal and administrative regulations on the import and repatriation of cultural party.

Art. XII

This agreement in no way impacts obligations of the parties to the agreement from other international, multilateral or bilateral treaties to which they are parties.

Art. XIII

Disputes regarding interpretation, application and execution of this agreement may be the subject of consultations and negotiations among the parties to the agreement through diplomatic channels.

Art. XIV

(1) The parties to the agreement mutually notify one another on the completion of constitutional procedures required for this agreement to enter into force. It enters into force 30 days after the delivery date of the final notification.

(2) This agreement is concluded for a period of five years as of the date the agreement enters into force. The agreement is extended by five additional years by im-

plied consent, unless cancelled in writing by one of the parties to the agreement six months prior to the expiration of this deadline.

(3) This agreement may be amended by mutual consent of the parties to the agreement. The agreed upon amendments enter into force per the process outlined in para. 1.

(4) Pending actions for repatriation are unaffected by termination.

Taking place at Berne, on February 1st, 2010, in two originals in French and Spanish, with the wording of each equally binding.

For the Swiss Federal Council:

For the Government of the Republic
of Colombia:

Didier Burkhalter

Jaime Bermúdez Merizalde

Categories of Colombian cultural property

This appendix includes pre-Columbian categories of archaeological objects from the period from about 1500 BC and 1500 AD and encompasses, but not exclusively, the following object categories:

I. Category sculptures, up to ca. 900 AD

Occurrence: This category refers to monolithic statues mostly originating from excavations from the San Agustín culture (as of the first century AD to 900 AD) in Alto Magdalena, they are also found in the regions of Tierradentro, northern Nariño and Popayán.

Characteristics: Most sculptures are located in the San Agustín archeological park. Works are primarily from volcanic stone such as basalt, tektite, manzonite and andesite. The most common occurring raw materials are dacite, basalt and andesite containing quartz. They are sculpted using chisels, the most common technology used for statues. In general the chiseling appears on the four sides, but not all statues have this characteristic. The tallest statues are 3 meters in height (Alto del Lavapatas, Alto de las Piedras).

In addition to chiseling, a number of statues and stone slabs from grave structures feature paintings with geometric drawings in red, yellow or black. We can observe chiseled figurines on various sarcophagi, individual examples have lids with depictions of humans and animals (Alto de los Ídolos). Individual slabs and sculptures feature carvings of linear drawings of human motives (El Tablón y La Chaquira). At the “fuente ceremonial de Lavapatas” (ceremonial fountain of Lavapatas), you can recognize bas-relief of gullies, animal and human figurines, figures carved in the ground of the floor in the same number and similar style as the ones on the statues.

II. Category sculptures, up to ca. 1500 AD

Occurrence: The geographic distribution of these objects extends throughout the entire country, but looting and illicit trade primarily impacts the areas where the following cultures live: Tairona, Muisca, Guane, Tolima, Magdalena Medio, San Agustín, Tierradentro, Nariño, Tumaco, Calima, Malagana, Quimbaya, Cauca, Urabá and Sinú.

Characteristics: This category encompasses luxury and common objects that have been found in residential sites or as burial offerings in various regions of the country and from various pre-Columbian eras. The sculptures, statuettes, whorls, grates, sieves and numerous classes of vessels feature tremendous stylistic diversity as well as broad range of forms and functions.

1. Statuettes

The subcategory of “statuettes” of Colombian archeological ceramic objects is possibly the most commonly traded or at least the most wanted objects on the illicit

market. They include small sculptures and miniature human and animal pottery figures from areas such as Tumaco (The Pacific coast of southern Colombia), Bajo Sinú and San Jorge (coastal plain on the Atlantic in the northern part of the country), and, especially, the so-called “Figuritas Momil”; and the pottery figures from La Guajira as well as archaeological regions Quimbaya and Calima in southwestern Colombia.

2. Ceramic vessels

The most common and varied category: They appear very early in archeological dating during the Archaic Period (ca. 4000 BC – 1000 AD) along the Atlantic coast and during the formative period (ca. 1000 BC – 1 AD) in graves and other excavation site classes throughout the country. The decorative styles, the forms, and the typical functions of the ceramic vessels vary between regions and periods. Types of pre-Columbian ceramic vessels are the most common found in illicit trade and are considered elaborately decorated vessels (incised, modeled, appliqué, and/or painted). They originate from all regions. It is very common to use them as burial offerings alongside the entombed body. The category encompasses sub-categories such as:

Vessels of the early formative period: From sites such as Monsú, Puerto Hormiga, San Jacinto, Canapote, Barolvento, Zambrano, Malambo, Momil and Crespo.

Vessels of the late formative period on the coast: On the Pacific coast, these include sites Tumaco, Inguapí, El Balsal and Pampa de Nerete and Cupica (Chocó). In the Atlantic Coast, the sites are La Guajira, the Ranchería river valley and part of the Cesar river valley, the Upper Sinú River, the flanks of the Abibe and San Jerónimo Serranía, and the Golf of Urabá.

Vessels from the classic and recent periods: The formation and consolidation of chiefdoms started during these periods, with regional political units and populated towns. The principal chiefdoms in the classic and recent periods are in the regions of today’s Magdalena (Sierra Nevada de Santa Marta), Córdoba, Santander, Cundinamarca, Boyacá, Caldas, Risaralda, Quindío, Antioquia, Tolima, Huila, Valle, Cauca and Nariño. The archaeological cultures represented are Tairona, Sinú, Guane, Muisca, Quimbaya, Calima, San Agustín Tierradentro and Nariño.

3. Ceramic funerary urns

This subcategory of ceramic artifacts consists of a great variety of objects whose function was to contain human remains in secondary burials. They are either alone in the tombs or as funerary accoutrements in tombs for multiple deceased. They contain, in the untouched deposits, complete human bones or fragments of bones from one or more individuals. They are most common in the following regions: The Cauca valley (La Cumbre – Pavas and Guabas style), middle valley of Cauca and Antioquia (Quimbaya style). Middle Magdalena, valley and Tolima (style of middle Magdalena), Guajira, eastern Llanos (style of eastern Llanos), Putumayo, Córdoba and Sucre (Sinú style) Magdalena (Tairona, Tamalameque, Mosquito and Chimila style) and south of the Pacific coast (Tumaco-La Tolita style).

4. Miscellaneous ceramic

This category contains a wide variety of objects that do not fit the figurines, vessels, or urns categories such as spindle whorls, graters, sieves and various kinds of day-to-day items (jugs, plates and cups). It includes materials from cultures from around the country, including Calima, La Guajira, Nariño, Quibaya, San Jorge, Sinú, Tairona and Tumaco.

III. Jewelry, up to ca. 1500 AD.

Styles: Colombia's most representative pre-Columbian jewelry styles are: Calima, Muisca, Nariño, Quimbaya, Sinú, Tairona, Tolima, Tumaco, Cauca, Tierradentro and San Agustín.

Characteristics: The category includes artworks from gold and of alloys that include gold with copper, platinum, or other metals. There are a variety of styles and the main feature is the high degree of artistry and combinations of human and animal forms as well as supernatural beings. Some pieces represent figurines with religious rituals such as the "flight of the shaman", an image that occurs frequently in Central America. The pieces include pendants, breastplates, necklaces, ceremonial staffs, plates, miniature sculptures, masks, earrings, earflaps, Poporos (ceremonial vessels), needles, beads, spirals and buttons. In most cases, the items from this category are from the classic period (1 – 9th century AD) or in the recent periods (900 – 1500 AD).

IV. Wood, up to ca. 1500 AD.

This category includes articles carved in hard woods, mainly small benches and chairs, staffs, needles, weavers' tools, sarcophagi, chonta palm wooden swords (especially in the regions of Nariño, Calima and San Agustín) and human sculptures in hard woods (particularly in the Muisca region). This type of object originates from all archaeological periods up to 1500 AD.

V. Portable stone, up to ca. 1500 AD.

The manufacture of carved and polished stone articles in Colombia is common and varied. The items made of stone originate from graves and sites from all periods ranging from the Paleo-Indian (pre-ceramic) period (16,000 – 7,000 BC) up to the colonial era. The most common archaeological items made of stone on the illicit market are flat decorative pendants, necklace beads, ritual monolithic hand axes, hoes, spindle whorls and other small items of polished stone, primarily from the Calima, Tairona, Guane, Muisca and Alto Magdalena regions.

VI. Bone, up to ca. 1500 AD

Articles carved primarily from the bones of wild animals and plants in the form of needles, netting hooks, musical instruments (flutes), and beads, or pendants (especially in the Muisca, Guane, Calima and San Agustín regions), and from all archaeological periods.

VII. Textiles, up to ca. 1500 AD

Most archaeological textiles found in Colombia relate to human burial offerings with mummified bodies. The textiles are mostly loomed with cotton as the raw material, occasionally dyed. They originate from the Muisca, Guane, Sinú and Nariño regions from the classic period. In Nariño, metals such as gold and tumbaga were added.

VIII. Cave paintings, up to ca. 1500 AD

These archaeological remains are spread out over wide geographic areas and are distinguished by the variety of drawings, the multitude of forms and dimensions as well as the use of a number of various materials. Archaeological research has yet to establish a full chronology for this type of remains in Colombia. Most of them are low relief (petroglyphs) on flat surfaces and paintings using various colors on the smooth surface of large stones. Fragments from these stones were quarried out and illegally removed from a number of regions in the country, including from Gorgona in Cauca, Mesitas del Colegio in Cundinamarca, San Agustín in El Huila as well Sáchica, Sogamoso, Buenavista and Muzo in Boyacá.

Categories of Swiss cultural property

I. Stone

A. Architectural and decorative elements: Made of granit, sandstone, limestone, volcanic stone, marble and other types of stone. Construction elements belonging to grave sites, religious sites, and residences such as chapiters, pilater strips, columns, akroters, friezes, jambstones between two windows, mosaics, mouldings and tarsias made of marble, etc. Approximate dating: 1000 BC – AD 1500.

B. Inscriptions: On various types of stone. Altars, gravestones, stele, honorary inscriptions, etc. Approximate dating: 800 BC – AD 800.

C. Reliefs: Made of limestone and other types of stone. Stone reliefs, gravestone reliefs, sarcophagus decorated or undecorated, cinery urns, stele, decorative elements, etc. Approximate dating: Primarily from 1000 BC – AD 800.

D. Sculptures/Statues: Made of limestone, marble and other types of stone. Grave and votive statues, busts, statuettes, parts of grave furnishings, etc. Approximate dating: Primarily from 1000 BC – AD 800.

E. Tools/Devices: Made of flint and other types of stone. Various tools, for example, knife and dagger blades, axes, devices for craft activities, etc. Approximate dating: 130,000 BC – AD 800.

F. Weapons: Made of slate, flint, limestone, sandstone and other types of stone. Arrowheads, wrist guards, cannonballs, etc. Approximate dating: 10,000 BC – AD 800.

G. Jewelry/Costumes: From various types of stone, precious and semi-precious stones. Pendants, pearls, finger ring settings, etc. Approximate dating: Primarily from 2800 BC – AD 800.

II. Metal

A. Statues/Statuettes/Busts: Made of nonferrous metal, rare precious metal. Depictions of animals, humans and gods, potrait busts, etc. Approximate dating: 1200 BC – AD 800.

B. Vessels: Made of nonferrous metals, rare precious metals and iron. Kettles, buckets, cups, pots, sieves, etc. Approximate dating: 1000 BC – AD 800.

C. Lamps: Made of nonferrous metals and iron. Lamps and lighting fragments, etc. Approximate dating: 50 BC – AD 800.

D. Jewelry/Costumes: Made of nonferrous metals, rare precious metals. Leg, neck, arm and finger rings, pearls, needles, brooches (cloakpins), belt buckles and trimmings, pendants. Approximate dating: 3800 BC – AD 800.

E. Tools/Devices: Made of iron and nonferrous metals, rare precious metals. Hatchets, axes, sickles, knives, tongs, hammers, drills, writing utensils, spoons, keys,

locks, carriage parts, harnesses, horse shoes, chains, bells, etc. Approximate dating: 3200 BC – AD 800.

F. Weapons: Made of iron and nonferrous metals, rare precious metals. Daggers, swords, lance tips, arrowheads, knives, shield boss, cannonballs, helmets, armor. Approximate dating: 2200 BC – AD 800.

III. Ceramics

A. Vessels: Made of fine or rough ceramics of various color sources, to some extent, decorated, paint coating, glazed. Locally manufactured vessels and imported vessels. Pots, plates, dishes, cups, small vessels, bottles, ampules, sieves, etc. Approximate dating: 3800 BC – AD 1500.

B. Devices/Utensils: Made of ceramics. Crafts-related devices and various utensils. Lots of variants. Approximate dating: 3800 BC – AD 1500.

C. Lamps: Made of ceramics. Various types of oil and tallow lamps. Approximate dating: 50 BC – AD 1500.

D. Statuettes: Made of ceramics. Depiction of figures of humans, gods, animals and body parts. Approximate dating: 1200 BC – AD 1500.

E. Stove tiles/Architectural elements: Made of ceramics, stove tiles often glaezed. Architectural terracotta and paneling. Cup shaped stove tiles, decorated flat tiles, niche tiles, ledge tiles, corner tiles, cornice tiles, decorated/stamped floor tiles and roof tiles. Approximate dating: 700 BC – AD 1500.

IV. Glass and glass paste

A. Vessels: Made of colored or clear glass. Bottles, cups, glasses, bowls, glass seals for bottles. Approximate dating: 50 BC – AD 1500.

B. Jewelry/Costumes: Made of colored or clear glass. Arm rings, pearls, beads, jewelry elements. Approximate dating: 1000 BC – AD 800.

V. Bone

A. Weapons: Made of bones and antlers. Arrowheads, harpoons, etc. Approximate dating: 3800 BC – AD 800.

B. Vessels: Made of bones. Parts of vessels. Approximate dating: 150 BC – AD 800.

C. Devices/Utensils: Made of bone, antlers and ivory. Pickers, chisels, hatchets, axes, needles, awls, combs and decorated objects. Approximate dating: 10,000 BC – AD 800.

D. Jewelry/Costumes: Made of bone, antlers, ivory and teeth. Needles, pendants, etc. Approximate dating: 10,000 BC – AD 800.

VI. Wood

A. Weapons: Made of various types of wood. Arrows, bows, etc. Approximate dating: 3800 BC – AD 800.

B. Devices/Utensils: Made of various types of wood. Flint axe, adze, spoons, knife handles, combs, wheels, small writing tablets, etc. Approximate dating: 3800 BC – AD 800.

C. Vessels: Made of various types of wood. Various types of wood vessels. Approximate dating: 3800 BC – AD 800.

VII. Leather/Cloth/Various organic materials

A. Weapons accessories: Made of leather. Shield coverings, etc. Approximate dating: 50 BC – AD 800.

B. Clothing: Made of leather, cloth and plant fibers. Shoes, clothing, etc. Approximate dating: 3800 BC – AD 800.

C. Devices: Made of plant fibers and leather. Nets, quivers, etc. Approximate dating: 3800 BC – AD 800.

D. Vessels: Made of plant fibers. Various vessels, woven, sewn, etc. Approximate dating: 3800 BC – AD 800.

E. Jewelry/Costumes: Made of snail shells, lignite, etc. Arm rings, pearls, etc. Approximate dating: 2000 BC – AD 800.

VIII. Painting

A. Murals: Made on mortar. Murals of various subjects. Approximate dating: 700 BC – AD 1500.

IX. Amber

A. Jewelry/Costumes: Made of amber. Figures or simple jewelry elements. Approximate dating: 1200 BC – AD 800.