CULTURAL EXCHANGES, PROPERTY AND COOPERATION

Agreement Between the
UNITED STATES OF AMERICA
and PERU

Amending and Extending the
Memorandum of Understanding
of June 9, 1997

As Amended and Extended

Effected by Exchange of Notes at
Lima April 27 *and* May 22, 2017

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

PERU

Cultural Exchanges, Property and Cooperation

Agreement amending and extending the memorandum of understanding of June 9, 1997.
As amended and extended.
Effected by exchange of notes at Lima April 27 and May 22, 2017;
Entered into force May 22, 2017;
With effect from June 9, 2017.

No. 0766

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Peru and has the honor to refer to Note (DAC) 6 – 3/105, dated May 2, 2016, from the Ministry, which requests extension of the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru, with Appendix, signed at Washington June 9, 1997, as amended and extended by exchanges of notes dated March 22, 2002; May 23 and May 28, 2007; and May 30 and June 6, 2012 (hereinafter referred to as "the MOU").

Pursuant to the Convention on Cultural Property Implementation Act ("the Act"), the U.S. Department of State has determined that the factors that justified entering into the MOU still pertain and that no cause for suspension exists. Therefore, the Embassy, on behalf of the Government of the United States of America, proposes to extend the MOU for an additional five-year period pursuant to the Act.

In addition, the Embassy proposes that, pursuant to Article IV of the MOU, Article I.A. and Article II of the MOU be amended by replacing them with the revised Article I.A. and the revised Article II attached herewith in equally authentic English and Spanish versions.

Finally, the Embassy proposes that, pursuant to Article IV of the MOU, the Appendix to the MOU, heretofore known as the "Designated List," be deleted.

If the foregoing is acceptable to the Government of the Republic of Peru, the Embassy proposes that this note, including its attached revised Article I.A. and revised Article II, and the Ministry's affirmative note in reply, shall constitute an agreement between the two governments to extend and amend the MOU, which shall enter into force on the date of the Ministry's note in reply, with effect from June 9, 2017.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Relations of the Republic of Peru the assurances of its highest consideration.

Enclosure: as stated.

Embassy of the United States of America,

Lima, April 27, 2017.

Article I.A.

The Government of the United States of America, in accordance with its legislation entitled the Convention on Cultural Property Implementation Act, will restrict the importation into the United States of archaeological materials ranging in date from approximately 12,000 B.C. to A.D. 1532, including categories of textiles, metals, ceramics, lithics, perishable remains, and human remains, and of certain categories of ethnological materials dating to the Colonial period (A.D. 1532-1821), including objects directly related to the pre-Columbian past (including categories of textiles, metals, wood, ceramic, and stone), objects used for religious evangelism among indigenous peoples (including sculpture, paintings, and liturgical objects), and Colonial manuscripts and documents, identified on a list promulgated by the United States Government (hereafter referred to as the Designated List), unless the Government of Peru issues a license or other documentation which certifies that such exportation was not in violation of its laws.

Article II

A. Representatives of the Government of the United States of America and Representatives of the Government of the Republic of Peru shall continue to take action to publicize the objective and significance of this Memorandum of Understanding.

B. The Government of the United States of America shall continue to use its best efforts to facilitate the provision to Peru of technical assistance in cultural resource management and security through available programs in the public and private sectors.

C. Both Governments shall continue to use their best efforts to encourage academic institutions, non-governmental institutions, and other organizations to collaborate in the preservation and protection of Peruvian cultural patrimony through the provision of technical assistance, expertise, and resources.

D. Each Government shall endeavor to keep the other informed of the effectiveness of the measures agreed to in this MOU.

E. The Government of Peru shall endeavor to expand opportunities for international exchange of cultural items for scientific, educational, and cultural purposes by publishing guidance for applications for temporary export, streamlining the administrative process for approval of applications for temporary export for exhibition or study, and considering allowing longer-term loans to museums and academic institutions so that educational programs about Peruvian cultural heritage may be developed for international audiences.

F. The Government of Peru shall carry out periodic collection and analysis of data related to administrative and criminal actions and sanctions for violations of laws related to cultural property protection; both governments shall exchange information, to the extent lawfully permitted, in order to identify sources of jeopardy to cultural heritage and to deploy resources, as appropriate.

G. The Government of Peru shall continue its efforts to register objects that are part of its national cultural heritage, including seeking opportunities for enhancing collaboration with non-governmental institutions, in order to complete the registration of Colonial period ecclesiastical objects.

H. The Government of Peru shall continue its efforts to protect its cultural heritage by means of collaboration with countries having active import trades for material on the Designated List.

I. The Government of Peru shall continue its efforts to maintain comprehensive records of incidents of looting of archaeological sites and ecclesiastical institutions. These records should include information on the eventual outcome of cases, noting those that result in prosecution, conviction, and/or penalties.

J. The Government of Peru shall endeavor to gain broader understanding of U.S. law regarding the trade in cultural property. The Government of the United States of America shall make its best efforts to provide necessary information on this subject and to support the training of Peruvian authorities on this subject through existing programs.

Artículo I.A.

El Gobierno de los Estados Unidos de América, de conformidad con su Ley relativa a la Aplicación de la Convención sobre la Propiedad Cultural, restringirá la importación a los Estados Unidos de materiales arqueológicos desde el año 12.000 a. C. hasta 1.532 d. C. aproximadamente. Dichos materiales abarcan categorías de textiles, metales, cerámicas, líticos, restos orgánicos así como humanos, y ciertas categorías de material etnológico del período colonial (de 1.532 a 1.821 d. C.), incluidos los objetos directamente vinculados al pasado precolombino (como categorías de textiles, metales, maderas, cerámicas y piedras), objetos utilizados para la evangelización de la población indígena (como esculturas, pinturas y objetos litúrgicos), y manuscritos y documentos del período colonial, indicados en una lista promulgada por el Gobierno de los Estados Unidos (en adelante denominada Lista de Designación), excepto cuando el Gobierno del Perú expida una certificación u otra documentación por la que acredite que dicha exportación no constituye infracción de su legislación.

Artículo II

A. Representantes del Gobierno de los Estados Unidos de América y representantes del Gobierno de la República del Perú seguirán tomando medidas para dar publicidad al objetivo y a la importancia del presente Memorando de Entendimiento.

B. El Gobierno de los Estados Unidos de América seguirá haciendo todo lo posible por facilitar el suministro al Perú de asistencia técnica en gestión y seguridad en materia de recursos culturales por medio de programas disponibles en los sectores público y privado.

C. Ambos gobiernos seguirán haciendo todo lo posible por alentar a instituciones académicas y no gubernamentales y a otras organizaciones a que colaboren en la preservación y protección del patrimonio cultural peruano por medio del suministro de asistencia técnica, conocimientos especializados y recursos.

D. Ambos gobiernos procurarán facilitar el intercambio de información sobre la eficacia de las medidas acordadas en el presente Memorándum.

E. El Gobierno del Perú procurará ampliar las oportunidades para el intercambio internacional de objetos culturales que tenga fines científicos, educativos y culturales por medio de la publicación de orientación sobre cómo presentar solicitudes de exportación temporal; simplificando el proceso administrativo a fin de obtener autorización para la exportación temporal con fines de estudio o exposición; y considerando otorgar préstamos a más largo plazo a museos e instituciones académicas para que puedan elaborarse programas sobre el patrimonio cultural peruano para públicos internacionales.

F. El Gobierno del Perú recogerá y analizará de forma periódica datos de medidas administrativas y penales así como de sanciones por violaciones de leyes relacionadas con la protección del patrimonio cultural; ambos gobiernos intercambiarán información, en la medida permitida legalmente, para identificar fuentes de riesgo para el patrimonio cultural y desplegar recursos, según proceda.

G. El Gobierno del Perú seguirá esforzándose para mantener un registro de objetos que son parte de su patrimonio cultural nacional, incluida la búsqueda de oportunidades para mejorar la colaboración con instituciones no gubernamentales a fin de completar el registro de objetos eclesiásticos del periodo colonial.

H. El Gobierno del Perú seguirá esforzándose para proteger su patrimonio cultural por medio de la colaboración con países que activamente importan mercancías de material que aparece en la Lista de Designación.

I. El Gobierno del Perú seguirá esforzándose para mantener un registro detallado de los incidentes de saqueo de los emplazamientos arqueológicos, así como instituciones eclesiásticas. Este registro debería incluir información sobre la resolución final de dichos casos, haciendo mención de los que concluyen en enjuiciamiento, condena o multas.

J. El Gobierno del Perú procurará obtener mayores conocimientos del derecho estadounidense relacionado con el comercio de propiedad cultural. El Gobierno de los Estados Unidos de América hará todo lo posible para facilitar la información necesaria sobre este tema y para apoyar la capacitación de las autoridades peruanas sobre este tema por medio de programas vigentes.

Nota RE (DAC-PAC) No. 6-3/127

El Ministerio de Relaciones Exteriores acusa recibo de la Nota No. 0766, de fecha 27 de abril de 2017, de la Embajada de los Estados Unidos de América, que propone extender y enmendar el *Memorando de Entendimiento entre el Gobierno de la República Estados Unidos de América y el Gobierno de la República del Perú relativo a la imposición de restricciones a la importación de material arqueológico procedente de las culturas prehispánicas y de determinados materiales etnológicos del período colonial del Perú*, firmado en Washington el 9 de junio de 1997, enmendado y prorrogado mediante canje de notas de fecha 22 de marzo de 2002; 23 de mayo y 28 de mayo de 2007; y los días 30 de mayo y 6 de junio de 2012.

Esta Cancillería confirma que las propuestas de cambio contenidas en la Nota de la Embajada de los Estados Unidos de América, respecto a la modificación del artículo I.A y el artículo II, así como a la eliminación del anexo del Memorándum de Entendimiento, son aceptables para el Gobierno de la República del Perú. Por lo tanto, la nota No. 0766 y la presente nota constituirán el acuerdo que extenderá y modificará el Memorándum de Entendimiento por los próximos cinco años, el cual surtirá efecto el 9 de junio de 2017.

El Ministerio de Relaciones Exteriores aprovecha la oportunidad para reiterar a la Embajada de los Estados Unidos de América las seguridades de su más alta consideración.

Lima, 22 de mayo de 2017.

REPÚBLICA DEL PERÚ
Dirección General para Asuntos Culturales
Ministerio de Relaciones Exteriores

A la Honorable Embajada de los
Estados Unidos de América
Ciudad.-

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Republic of Peru
Ministry of Foreign Relations

Nota RE (DAC-PAC) No. 6-3/127 Lima, May 22, 2017

The Ministry of Foreign Relations acknowledges receipt of U.S. Embassy note No. 0766 of April 27, 2017, which proposes extending and amending the *Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru*, signed at Washington on June 9, 1997, and amended and extended by exchange of notes dated March 22, 2002; May 23 and May 28, 2007; and May 30 and June 6, 2012.

This Ministry confirms that the modifications proposed in the U.S. Embassy note, with regard to changes to Article I.A and Article II, as well as the deletion of the Annex to the Memorandum of Understanding, are acceptable to the Government of the Republic of Peru. Accordingly, note No. 0766 and this note shall constitute an agreement, which shall take effect on June 9, 2017, to extend and amend the Memorandum of Understanding for the next five years.

[Complimentary close]

[Signature]

[Ministry stamp]

Embassy of the United States of America,
Lima.