Cultural Property Forum:  
The Export Policies of China, Korea and Japan

Japan Society, New York  
April 9, 2003

This session, organized by Japan Society, The Korea Society and The Asia Society, was attended by an invited group of cultural property specialists, museum directors, art collectors, dealers, international art lawyers, and press. The purpose was to introduce the principles and practices of cultural property export laws in China, Japan, and Korea – laws that have served to protect the cultural patrimony of East Asia while permitting the reasonable export of works of art when licensed appropriately. In the case of Japan, it also includes the government practice of conducting scholarly research on collections of Japanese art abroad that is guided by the notion that cultural patrimony resides in the object regardless of whether or not the object resides within the nation’s borders. The policies of these East Asian countries offer a contrast to increasingly restrictive art export laws elsewhere, and our hope was to stimulate a frank and productive discussion among experts in the field.

For this event, leading government experts in cultural property law from China, Japan and Korea to responded to prepared questions that examined and illustrated the cultural property law practices – both strengths and challenges – in their respective countries. Our focus was on objects, not archaeological sites or monuments. Our speakers were Dr. Washizuka Hiromitsu, Director of the Nara National Museum, Japan; Mr. Park Youngbok, Director of the Gyeongju National Museum, Republic of Korea; and Ms. Wang Li Mei, General Secretary, State Administration of Cultural Heritage, Beijing. Our moderator was Professor Jerome Cohen, a distinguished international lawyer and Professor, New York University Law School and Senior Fellow for Asia, Council on Foreign Relations. Professor Cohen’s wide expertise and experience in East Asian law and languages ensured a vital and substantive discussion among our distinguished speakers and invited participants.

The event coincided with a major international show on view at Japan Society Gallery, Transmitting the Forms of Divinity: Early Buddhist Art from Korea and Japan, which was co-organized by Japan Society and The Korea Society with the governments of Korea and Japan.

The transcript of the Cultural Property Forum is posted on the Japan Society website and on Asia Society’s webpage dedicated to Cultural Heritage Preservation in Asia. This was created on the AsiaSource.Org site after the Asia Society's Beyond Bamiyan program in April 2002, and features interviews, publications and reports, links to international organizations, and resources. AsiaSource.Org receives about 300,000 page views/month and about 60,000 unique users/month.

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About Our Discussants

Park Youngbok is Director of the Gyeongju National Museum. He graduated from Koryo University in 1968, and was Director of Gongju and Chungju National Museums from 1982 to 1989. In the 1990s, he held positions with the National Folk Museum, the National Museum of Korea, and the Cultural Properties Administration. Of the many articles Mr. Park has written, the most important is his study of the tombs of old Silla.

Wang Limei recently assumed the position of Director for the Gehua Center for Chinese Antiquities. She also serves as the Secretary General for the Chinese Association for Cultural Property Exchanges. Prior to heading up the Gehua Center, Ms. Wang was Director, Office of International Relations, State Administration for Cultural Heritage, Beijing. In the thirty years she worked in the International Relations office, Ms. Wang oversaw all major exchanges of cultural antiquities between the People’s Republic of China and museums around the world. She was also instrumental in arranging for the return of several pieces to China from various countries.

Washizuka Hiromitsu is currently Director of the Nara National Museum. From 1993 to 1994, he was Director of the Fine Arts Division at the Agency for Cultural Affairs. He also formerly served as Deputy Director of Tokyo National Museum. His major publications include Enlightenment Embodied: The Art of the Japanese Buddhist Sculptor (7th – 14th Centuries) (Japan Society Gallery, 1997), Murō-ji Temple (Hoikusha, 1991) and Stone Buddha (Shibundo, 1978). Dr. Washizuka is an internationally recognized expert in the field of Japanese Buddhist sculpture.

About Our Presider

Jerome Cohen is a Professor of Law at New York University and the senior American expert on East Asian law. As Director of East Asian Legal Studies at Harvard Law School from 1964-1979, he helped pioneer the introduction of East Asian legal systems and perspectives into American legal curricula. Professor Cohen teaches courses on Chinese law and society, international business transactions with China and East Asia, and public international law, analyzing how countries with a Confucian tradition relate to the international laws and traditions of the "Christian West." Professor Cohen was a partner with the firm Paul, Weiss, Rifkind, Wharton & Garrison in New York. He is Adjunct Senior Fellow for Asia at the Council on Foreign Relations. He received both his B.A. and J.D. from Yale University.
Discussants:

Park Youngbok (PY)
Director
Gyeongju National Museum, Republic of Korea

Wang Limei (WLM)
Secretary General
Chinese Association for Cultural Property Exchanges
Director
Gehua Center for Chinese Antiquities

Washizuka Hiromitsu (WH)
Director
Nara National Museum, Japan

Presider:

Jerome Cohen (JC)
Paul, Weiss, Rifkind, Wharton & Garrison
New York University School of Law
Council on Foreign Relations

JC: We should ask ourselves what the situation would be if many centuries ago China and Korea had policies, laws, and effective enforcement practices to prevent the export of cultural objects. History would have been written differently. This exhibition is one of the best arguments I know for having nations without borders. Of course, we live in a different world. We have been living in recent centuries in a world of sovereignty, a world that emphasizes nationalism and commerce. These traditional concepts are being taken over by globalization, internationalism, and the idea of a common heritage of mankind. We’re here, you might say, at the juxtaposition of three periods: the very ancient period; the recent tradition of sovereignty, nationalism, etc.; and the future in which the daily impact of globalization and of ideas contributes to a common heritage of mankind.

It reminds me of a story. In the late ‘70s, foreign multinational companies began to do business with China. Technology transfer was very much the key, as it remains today. The story goes that in one of the early negotiations between a Japanese multinational company and the Chinese government, the Japanese naturally asked for a significant price for their technology. And the Chinese negotiator, being shrewd and suave, said, “Of course we recognize that your technology has a certain value, and if you insist, we’ll pay
for it; but it seems a little odd to us when, after all, in the past China contributed to Japan – your religion, your art, your culture, your language, your law – everything that makes civilization worthwhile, and we didn’t get a penny for it!” So, we live, as I say, in a different world.

Today’s topic focuses on export controls, not all of the many questions of protecting cultural patrimony. We could spend three full days on this topic, but we only have about two hours, and we’ll try to make the most of it. There are so many questions we want to address. We could, for example, spend a lot of time on values and perspectives: national vs. universal, source countries’ interests vs. market countries’ interests, developed countries vs. developing countries, the protection of cultural objects vs. dissemination and enjoyment of those objects, the public/government interests vs. the private/individual or collective interests, the interests of today’s generation vs. tomorrow’s generations, and of course the interests that vary among museums, dealers, scholars, and collectors. Many of you here represent those varied interests.

However each country strikes a balance, it is faced with the question of implementation. Today, what we’re interested in is how these three countries strike a balance. How do they implement their goals? What policies do they use? What instruments do they employ? How much does a country emphasize government, punishment, deterrence vs. education, prevention, persuasion? What type of organization should the government have to put in place its policies and practices? Should it be one monolithic central authority? Is there a role for local and provincial governments? How do different agencies within the central government relate to one another? What impact would that have on the regulation of export of cultural objects? How should we define the cultural objects to be protected – what are the values involved there? And having made those definitions, what are the criteria that should be employed in applying those definitions?

Is a broad, strict embargo of export of all cultural objects more effective or less effective than a more selective embargo? What are the realities of law enforcement in each country? How important is corruption? How effective is the enforcement? Can incentives be developed and restructured in order to improve compliance with whatever the regulations prove to be? In an increasingly globalized world, we have the role of multilateral conventions – treaties – like the 1970 UNESCO convention, which has played an important role in all three countries. Further, bilateral agreements exist between individual countries. What role will China’s new membership in WTO have on practices and laws of China with respect to the export of art?

I could go on, but we’re fortunate to have these three distinguished experts whom Alexandra has introduced. You have further details in the materials that perhaps you’ve already read. We’re delighted that despite all difficulties, we got all three of them to come here. We’re going to use an informal format and attempt to maximize discussion and interchange, starting with the most obvious question for each speaker: what are the policies and practices and organizational features of each speaker’s country? It’s going to be what the Japanese would call a zadankai, what the Chinese call a zatanhuei, a sit-and-talk meeting, very informal. We look forward to your participation.
We’re going to start with Dr. Washizuka, and ask him for a brief explanation of how Japan’s central government administers the registration of cultural objects. What are the criteria and procedures it employs? Dr. Washizuka, we welcome you.

WH: Thank you. Let me talk about protection of cultural property in Japan. In Japan, registration is undertaken under the Law for the Protection of Cultural Properties. There are two categories under the law: one is “National Treasure” and the other is “Important Cultural Property.” Once the items are registered under one of these categories, exporting them is strictly prohibited. This is how we protect traditional Japanese cultural properties. However, this does not mean to preclude exceptions. For a significant international cultural exhibition such as this one, many National Treasures and Important Cultural Properties were brought here for the exhibition. In this case we are certain that these items will be returned to Japan. For these cases, where we are certain that the objects will be returned to Japan, the director of the Agency of Cultural Affairs will issue permits to export these items.

Dealers will handle other non-registered items. In that case, the certificate of audit for export is necessary. The certificate requires a photo to accompany each item so that customs officers can identify it. The application for the certificate with a photo must be submitted to the Agency of Cultural Affairs. The Agency then verifies whether or not the item in question is registered as an Important Cultural Property or National Treasure, or neither. If it is not registered under either of the two categories, the item is available for export. In the case that an application comes under consideration and the Agency for Cultural Affairs has not been aware of the existence of the object, and that object happens to be extremely important, the Agency is allowed three months to decide if it should be registered as an Important Cultural Property. It also can decide to purchase the item so that the item cannot be exported. This is the current situation.

Toward the end of the 1920s, a considerable number of Japanese Important Cultural Properties began to flow out of the country. In order to deal with this increased outflow, the Law to Preserve Important Art Objects was ratified in 1933. This law allowed temporary registration of certain items. Currently, no new registration is given under this law, but the law is still effective in the sense that no Important Cultural Properties can be exported.

JC: Good, that’s a very succinct beginning, and you’ve set a very admirable precedent. Mr. Park, how different is the situation in Korea?

PY: We also established a cultural property protection law in the 1960s. At that time, the law was based on the law in Japan, but categorization was a bit different. We categorized our cultural properties as National Treasures, Treasures, Important Cultural Assets, historic sites, scenic spots, important folk material, etc. Cultural properties are designated as National Treasures when they are considered to be treasures that can contribute not only to the culture of Korea, but to the culture of humankind as a whole distinct from Korea. In terms of the designation process, at least three members of the Cultural
Property Committee or the Expert Committee must carry out a study and write a report which is handed over to whomever made the request for inquiry. Although at least three members are involved in the review, in order to minimize the possibility of any errors, the government makes a public announcement of the review. For example, the government made a public announcement of its intention to designate an old history book entitled *Chosunsillok* as a National Treasure. There is a grace period of 30 days to give a chance for people to provide information on the item’s inauthenticity or to file claims. If such claims are filed, they are reviewed against the report submitted by the experts and a final decision on the designation is made. In the past, the public announcement was not made, and a National Treasure was designated soon after the review by the expert panel. However, there was an incident in which an object’s National Treasure status was revoked because there were some problems discovered. This is why a public announcement is made before the final designation.

JC: Thank you very much, Mr. Park. China has a new law created just last October. And we’re very fortunate that Ms. Wang Limei is here to give us some explanation about how much change that law is making. As we all know, China’s policy has been very controversial, even within the Chinese government, and they’re trying to make great strides in improving enforcement of their law. But first, we must know “What does the new law provide?”

WLM: As you said, the relics law was passed just last October. And it is a revision of the 1982 law, which had 33 articles. The new law, which finds its basis in the 1982 law, has 80 articles. Regulations for implementation were promulgated in 1991 and many of these rules of implementation have now been turned into laws. Regarding the issue of which antiquities may be allowed to leave the country, it is the case in China that antiquities that are state-owned or very rare, or even not state-owned but rare, are not allowed to leave the country. When we say “rare” or “precious” antiquities, both state-owned and non-state-owned, to what are we referring? In China, we classify antiquities into Rare and Precious Antiquities or Ordinary Antiquities. The Rare and Precious ones in turn are divided into grades 1, 2, and 3 Antiquities. We also have a cut-off date for the export of antiquities. That is to say, we use the sixtieth year of the Qianlong reign. Basically, objects that were produced before the sixtieth year of Qianlong, which is 1795, may not be exported. However, they may be displayed or put on exhibition outside of China, provided there is permission given from the administrative authorities of the state council with jurisdiction over antiquities. So, for instance, there have been major exhibitions in the U.S., Europe, and Japan, which included substantial numbers of these Rare and Precious Antiquities. But these were allowed to be shown because they had received permission from the National Administration of Cultural Heritage or from the state council and therefore were allowed to be loaned out of the country for exhibition purposes.

JC: I don’t think there has been much complaint or troublesome questions raised about export of items for temporary exhibition purposes, although there have been some problems, but what about distinguishing among items that are capable of being sold to museums abroad, individual collectors, and dealers. What are the current policies of the
three countries now? Japan is often praised, together with the UK, as having very favorable and highly selective policies. Some people have criticized China as being much too comprehensive, much too concerned not to let anything go on to commercial and private markets in other countries, and thereby encouraging smuggling. Dr. Washizuka, could you say something about the current policies in Japan? How selective are you in determining whether or not ancient objects should be deemed cultural treasures and therefore not susceptible to commercial acquisition?

WH: As I mentioned before, there are two categories of registration in Japan: National Treasure and Important Cultural Property. Within these two categories, there are seven sub-divisions: painting, sculpture, calligraphy, classical books, documents, archaeological materials, and historical materials. There are specified criteria for each division. For example, the first qualification is that they be of cultural value because of their high-quality craftsmanship as well as their historical importance. The second is that they possess historical importance. The third is that they have distinguishing characteristics with regard to subject matter, quality, shape, technique, and so forth. The fourth is that the piece be by a specific artist, school, or in a typical local style. The fifth qualification is that if it is an imported object, it must be significant for Japanese culture. Even if these items are created outside of Japan such as in Korea or China, if the item has great influence over Japanese culture, it can still be registered. The sixth requires the objects to be historically important as a group. The seventh qualification applies to works of academic value. If these items should be subject to commercial transactions, art dealers are well versed in the Law for the Protection of Cultural Properties and they will not trade such registered items commercially. However, there are cases from time to time in which dealers wish to trade items registered as important art objects. If a request is made, the Cultural Properties Preservation Council will consider the case. They will examine the future possibility of the item to be registered as an Important Cultural Property. If it is necessary for the item to be registered as an Important Cultural Property, any trade of the item will be prohibited. If it is not necessary to do so, the registration will be lifted and the item will be allowed to be traded. I can safely say that museum curators and art dealers will never trade registered items.

JC: Mr. Park, what about Korea? How do you distinguish between commercial and non-tradable objects?

PY: Before I answer that question, I would like to talk about the export policies of cultural properties, which pertain to the previous question and relate to this question of buying and selling. The current law prohibits the export of cultural properties. However, there are exceptions such as for cultural properties that are being exported for the purpose of exhibitions overseas, which is the case for the objects that are exhibited here at Japan Society Gallery right now. These are items that have been approved for export by the government. Such exceptions are permitted on the condition that the cultural properties are returned within two years from their export. An extension of another two years may be granted for longer exhibitions. So, the longest any important cultural object can stay overseas would be four years, upon which it would have to be returned to Korea. As I have mentioned, there are many different types of cultural properties such as National
Treasures, Treasures, Important Cultural Assets, etc., and to be permitted for automatic export there are some other conditions that must be met, such as being less than 50 years old, being of post-1945 origin, and not being considered worthy of National Treasure status. There are many complicated details describing the conditions. In Korea, there are appraisers in airports and ports who examine the objects to be exported out of the country. If they approve, the items can be taken out of the country right away. People can also request an appraisal one month prior to the export. Within Korea, cultural properties that have been designated can be traded freely. If a cultural object is owned by an individual, it is considered private property and he or she can sell the item within Korea freely. The individual must report the transfer of ownership to the government but does not have to disclose the price. The individuals involved in the transaction have to notify the government of who sold what to whom on what date. In the past, the government had the privilege of purchasing nationally designated cultural properties from individual owners, but there were many difficulties because it was not easy to determine the price. The seller would always ask for more than what the government thought was the value, so now the private owners can sell to other individuals without going through the government first.

There is one exception to the length of overseas exhibitions. There was a private collector who lent many cultural properties to a museum in Auckland, New Zealand. When the collector died, his family wanted to sell, but the museum could not afford to buy the objects. So the Korean government purchased the items and they remain there in New Zealand. In other words, the ownership of the properties belongs to the Korean government, but they are exhibited in Auckland permanently.

JC: Ms. Wang, what about the situation in China?

WLM: The new antiquities law also gives further clarification to the institutions overseeing the import or export of antiquities in and out of China. That is to say, it spells out more specifically the system by which antiquities should be inspected and the procedures that must be observed when they go out of the country.

Any antiquities that are exported must be approved by the National Administration of Cultural Heritage, and after the inspection they receive documentation that permits their export. With this export permit, they may then only leave the country through the designated ports of exit. Any agency or institution or individual that wants to send antiquities abroad or bring them on their person when they leave through a port must also declare this to customs. Customs will only allow the antiquities out of the country provided the exporters or bearers can show the export permission documents.

In any group of antiquities that are leaving the country, if more than 20% are considered Rare or Precious, then it must be reported in advance to the state council. That is, of the antiquities that will be returning to China, if more than 20% are considered Rare or Precious, they must be pre-approved by the state council. That is the new system that is in place.
Also, in exhibiting our antiquities abroad, if the item in question is one of a kind, grade-A, or if it’s something that is grade-A and easily damaged, these items are forbidden to leave China.

The National Administration for Cultural Heritage has a new rule. It has a list of 64 items that may not be permitted to travel outside of China.

In the past, if a cultural object came into China, then it could not go out again. Now, we have a procedure whereby a piece can come in and go out of the country again. For example, if you were bringing in such an object, then you would have to report it and get a certificate when you come in. Then, when you leave the country, you may bring this object out again by producing this certificate.

As far as I see it, in terms of the new laws, those are the major articles that pertain to items that travel outside of China. Thank you.

JC: What if people outside of the government disagree with the relevant government agency’s designation that a certain property should be given the highest government protection, and therefore should not be made available outside of government protection? Is there any procedure by which private parties can challenge the government? Or is this simply a decision made with no review procedure and without any of the administrative law protections that usually accompany the desire to review a government decision?

Dr. Washizuka, once a decision is made, is there any way to challenge it, or is it made once and forever?

WH: In order for the item to be registered as an Important Cultural Property, the owner’s agreement is necessary as a principle. Occasionally there are situations in which the owner does not wish to agree. Without the owner’s consent, the item cannot be registered. There is a possibility that the item may circulate among the general public or change ownership. However, once the item is to be exported outside of Japan, as I mentioned earlier, the owner must request the certificate of audit for export. Then it will come to our knowledge. We can then register the item with the government, which has the option of purchasing the item to prohibit it from being exported.

JC: In Japan, it must be the highest compliment an owner could receive to have her object designated as a very valuable item. As a sociological matter, I think owners are frequently pleased and they have no trouble agreeing. But Japan, of course, is a bourgeois country where you have extensive private ownership of art objects. What about China, Ms. Wang? In China, private ownership of art objects is only beginning to return. But what if people disagree with the government’s decision that certain objects have to be designated as national treasures? Is there anything they can do about it, if they want to turn it into something commercially valuable either in China, for sale to others, or to export for commercial purposes?
WLM: Within China, because the economy has become more prosperous, the collecting of cultural objects among the people in the country is becoming more and more popular. There is a section in the new law that deals with the collecting of cultural objects by people in the country. Apart from institutions whose job it is to collect cultural objects – that is, museums – individuals or legal representatives of other organizations now have certain channels through which they may collect cultural objects.

One channel would be to collect through inheritance or through gifts. Another would be to purchase the item from a store that deals in cultural objects. Yet another way is to purchase one at an auction from an institution that is licensed to conduct such auctions. Items that are legitimately obtained by individuals may be bought and sold between them or may be freely transferred from one party to another. There are certain types of cultural objects that may not be bought or sold. One such type would be those objects owned by the state, like items in the collections of museums. Another type that would not be bought or sold is Rare and Precious objects that may be in private collections. Even though they are not in the holdings of museums, they may not be bought or sold. Also, items that are state-owned and not moveable, such as murals or sculptures or architectural elements, may not be bought or sold. However, if any of the aforementioned items, such as an architectural element, is legitimately and legally removed when a building is being torn down, it can be bought and sold. If it is not a Rare and Precious object, it may also be privately collected. Objects that do not fit into any of the categories I just mentioned, such as those that are inherited or those that are given as gifts or are otherwise legitimately acquired – for instance, these would be objects that come out of archaeological excavations – these may not be collected or bought and sold. If, however, there is a Rare and Precious object in auction by an auction house, then state-owned institutions that collect these objects have first priority to purchase them from the auctioneers. That is to say, such a piece could be designated as “for purchase only by a museum.” Also, pieces that are forbidden for export from China may not be bought and sold; neither may they be offered as collateral to foreigners. Those provisions are basically ethical ones that are used to regulate the private collecting of cultural objects. It is true that there are more and more private collections now, and we do know that some of the items in these private collections are of exceedingly good quality. So far in China, we do not have any system of registering the grade of items in private collections. However, any item that is in a private collection cannot be freely exported from China, because in order for it to be exported, it must first acquire the export permit from the relevant authorities. This is in accordance with our laws. An export permit will not be given until the item has been inspected by the relevant agency in charge of cultural relics. But generally speaking, the decision on export is based on the date of the piece. Basically, if it was made before 1795, then generally speaking, it may not be exported. So far, we’ve not come across a situation where somebody may feel that his piece has been identified as a grade-A object, or that there’s some dispute with the relevant agency about what gradation has been assigned to a piece in his collection. But that’s because we don’t have any registration system for items in private collections. We only have the grading system for items held by state-owned museums.

JC: Mr. Park, what’s the Korean scene?
PY: If something is designated as a national cultural property the value goes up, so we try to designate more of them. As I mentioned earlier, after a group of experts designate something as merely an important cultural object, the owner may argue that it should be designated as a National Treasure. If the owner submits this claim, the experts, the Cultural Property Committee, will review this, and depending on the result, may enhance the status. I think there are almost no cases in Korea where the owner does not get an object designated because he or she wants to sell it. There are approximately 1400 important cultural objects and 300 National Treasures. And in order to minimize the chances of a wrongful designation, the government makes a public announcement beforehand, as I mentioned earlier. This also allows us to make a more accurate judgment of the value. I believe our designation system is quite strict, objective, and academic.

JC: What about enforcement of the laws? One of my Japanese students has told me that she couldn’t find any record in Japan of any criminal convictions that were obtained for people who were violating the cultural export laws. In China, surely, there are some criminal convictions. But to what extent do the respective governments rely on tough enforcement? To what extent are they successful? Is smuggling ever much of a problem in violation of the laws of Japan and Korea? We know that smuggling is a big problem in China, and many people have benefited from that smuggling. Other people are concerned that it defeats the national purpose, and many are concerned that some objects are not real. Let’s talk about the enforcement realities in each of the countries and the particular enforcement challenges, if any.

Dr. Washizuka, in Japan, how is the law enforced? Solely by administrative officials? By informal customs and other administrative actions? What can you tell us about enforcement? Is enforcement not much of a problem as far as your own experience goes?

WH: In Japan, the official gazette is published so that the general public will have knowledge about the law. Once it is published, everyone is expected to be aware of the law. Even if one did not see the official gazette, once it is published the general public is expected to know the law and abide by it. I am not informed of any item yet exported illegally so far. However, when the ownership changes or if a private owner wishes to sell an item, the owner is expected to approach the government first as a matter of principle. But this is not practiced in a strict sense. There are many cases in which private parties have engaged in a trade and ownership did change. There is a penalty clause in the Law for the Protection of Cultural Properties, but so far there have been no such cases where the penalty was applied. And there has been no case of these items being exported illegally so far.

JC: So what does that mean? In Japan, is criminal prosecution not brought because the cases are handled by administrators? No need to press legal charges?

WH: If such a case takes place by any chance, it will be handled accordingly and the government will take appropriate action, which would include purchase of the item by the government.
JC: But it hasn’t happened yet?

WH: That’s right. It hasn’t.

JC: How about Korea? Does the government ever have to get tough? We read about all these criminal prosecutions of people charged with corruption in other fields in Korea – what about in the art field?

PY: I mentioned that when a cultural property goes overseas it must be returned within two years. Well, there weren’t any punitive charges for a violation in the past. But now in the event of a violation, the violator is subject to up to two years imprisonment and penalty of up to 50 million won (roughly $41,800 U.S.). You asked about whether anyone has been punished for this crime. Since it has only been recently that we have adopted the punitive clause, we do not have any violators as of yet. And as I said, appraisers are stationed in airports and ports so we can check the export of properties at the point of departure. This means that the export would be identified before a violation was committed so the violation would not occur, and there would be no need for any punishment for export. But I think that the question was implying that illegal exports happen nevertheless. Of course, although we do our best at the points of export, there may be people who smuggle, and this is not only limited to cultural properties. To answer the question, we haven’t actually punished anyone for violation of our export laws, and I think our system of having appraisers at the points of export helps to prevent such violations from occurring. The cultural properties that are currently overseas were mostly taken out of Korea during the Russo-Japanese War, during the Chosun Dynasty, or during the Japanese colonization of Korea, and they are being auctioned at Christie’s or Sotheby’s. Our law only pertains to the cultural properties in Korea, so those already overseas would not be subject to our law. As was mentioned, Japan has a relatively looser export policy when it comes to cultural properties that are not National Treasures, so this has led many Korean objects in Japan to come overseas. Whether we are going to consider cultural property an asset of a nation or that of the world is an issue I believe we must address.

JC: I want to return to that point, and I want to return to the question of what each of your countries is doing to get back valued cultural objects that have been illegally sent abroad. But I first wanted to give Ms. Wang an opportunity to tell us about enforcement of the existing laws and regulations in China where the criminal code has many relevant provisions, some of them overlapping, which raise important questions of prosecutors’ discretion – how they interpret various terms of the law. One question that is interesting is: Does Japan not have criminal cases because the law is so effective that people essentially, due to good administration, etc., obey it; or does it have good administration – and therefore no cases – because people are choosing simply not to use the existing instruments and face the possibility of criminal prosecution, because in their society it’s better to use other methods? Getting back to the question I raised at the outset: “What are the best instruments available to governments for achieving their goals, however they describe their goals?”
What is the situation in China? If somebody decides to illegally purchase an object which might be very valuable and export it to Hong Kong or some other place, does this give rise to criminal prosecution? How do you handle smuggling, which seems to be a frequent and serious problem?

WLM: The smuggling of Chinese cultural artifacts is indeed very serious. In the last few years, I think it would be fair to say that it has even grown to frenzied proportions. This is a problem that must be dealt with through the efforts of the agencies in charge of cultural artifacts, but it also has implications for many other governmental organizations – for instance, agencies like the public security forces or the commerce and industrial agencies. It needs to be conducted in a coordinated way between all these different agencies.

China’s very long coastline and the very high prices offered for Chinese cultural objects abroad have had the effect of stimulating the market for these items in China. Therefore, some illegal dealers in antiquities have started acting in collusion with individuals in China to organize large-scale smuggling of artifacts out of China. Based on statistics provided by our customs service, in 1997 alone, there were more than 600 incidents of tourists trying to take cultural artifacts out of China with them. These 600-odd cases involved over 11,900 individual items. Customs has also cracked cases of antiquities being smuggled out by the container mode. In one exceptionally large case, there were over 5,000 artifacts in a single container, and of these, over 4,000 were items that would be forbidden for export from China. In 1999, there were 11 cases in which customs intercepted shipments of cultural artifacts numbering over 1,000 items. Generally speaking, these items are smuggled through Hong Kong or Macao and eventually end up in Britain, the U.S., France, Japan, or South Korea. As the smuggling of artifacts becomes more and more serious, customs has stepped up its efforts to interdict these attempts. In the last few years, we’ve tried to work more collaboratively with other countries, so I think there’s been some progress on this front.

In addition to signing the 1970 UNESCO agreement forbidding trade in stolen antiquities, and also the agreement on promising repatriation of stolen antiquities to the countries of origin, we have also been actively working to sign bilateral agreements with various countries governing the return of stolen antiquities. We’ve already signed one formal agreement with Peru and we’re also in the process of negotiating a similar one with the U.S. We hope that by working with international organizations and also by using these bilateral agreements, we can help plug up some of the holes that right now permit the existence of smuggling, and also encourage the return of some stolen antiquities back to China. In 1997, working with U.S. Customs at Seattle, we were able to regain possession of four container-loads of stolen cultural objects. In 1998, we were able to recover over 3,000 items that had been smuggled to Britain by way of Hong Kong. In the year 2000, we recovered from New Zealand two cultural objects that had been smuggled out relatively early. Also, in 2001, we were able with the help of U.S. Customs to recover a painted stone carved relief from the tomb of Wang Chuzhi in Quyang in Hebei Province. This piece dated back to the Five Dynasties period. In 2002, with the active cooperation of U.S. Customs, we were able to recover ten Guizhou dragons and also 93 cases of fossils. While we have received very excellent cooperation from all quarters, we feel that
there are still a great many loopholes that allow smuggling out of China. The resolution of this problem will require beefing up our administration and oversight. But in addition to oversight by government or agencies, what we also need to do is educate our general populace. I can share with you one very good piece of news. Two months ago, in Mei County, in Shaanxi Province, five farmers happened to find a crypt while they were excavating. They were digging on a very steep slope and found that they had entered a space. This crypt contained 27 bronze pieces. They date back over 2,000 years and this particular batch of bronzes is extremely rare and precious. This is because each and every bronze in this batch has inscriptions, and what’s more, the inscriptions are fairly lengthy. The longest inscription is more than 300 characters long. Of the thirteen kings of the Western Zhou Dynasty, this inscription notes twelve of them by name. It is an extremely important historical source for Chinese historians. The farmers who found these bronzes behaved very admirably. They were afraid that if word got out, people might try to come and steal the bronzes or try to take them away. So, the first thing they did was to fill up the hole again. They then quickly reported the find to the authorities, and we, with great haste, sent people down and managed to recover the entire batch intact and in very good condition. This whole incident was very widely publicized through the mass media so that viewers would understand that protecting relics like this is a very admirable thing to do. In fact, we felt that the behavior of the five farmers was just as admirable as the bronzes themselves, and therefore, for what they did, they were rewarded by every level of government – from the central government all the way down to the local government. And this whole episode has become a very influential one in China. We feel that it’s a very fundamental task to widely publicize to people the importance and significance of protecting relics.

JC: That’s a very exciting story, but were they given any material compensation, or only emotional reward?

WLM: The rewards that they received from the government were both psychological and material. And moreover, when we brought this batch of very rare bronzes to the exhibition in Beijing, we did something quite unusual. Instead of inviting the usual dignitaries to cut the ribbon, we asked the five farmers to do the ribbon-cutting for the show. This was totally unprecedented, and they were very delighted.

JC: Some criminologists as well as people who know the art business market suggest that China could cut down the margin of smuggling if they only narrow the definition of what constitutes a protected cultural property. Do you think that’s just a theory that couldn’t be vindicated in practice? Or do the Japanese and Korean experiences suggest that a more selective definition of what needs to be protected and prohibited from commerce would be better in terms of respecting the nation’s laws as well as making available to other people outside the country more of the nation’s culture? Ms. Wang, do you have any views on how comprehensive the definition of cultural objects is now? People who worry about the smuggling of automobiles into China or the smuggling of products other than art out of China (cigarettes even) – they think that one way to defeat smuggling and to destroy the black market is to have narrower definitions or do away with taxation.
involved. Do you have any views on this? Has China exchanged views about this with other countries?

WLM: That’s a very good question, and it’s also a question we discuss frequently among ourselves. As you know, China has a civilization that goes back 5,000 years, and therefore around the country we have some 400,000 sites where cultural artifacts are found. And all of the objects we find, I think, are deserving of protection. I don’t think there’s any one that does not deserve to be protected, because they are, after all, the vehicles by which this civilization has been handed down.

Many of these sites are in open fields or in very remote areas, and we only have a small number of people overall who work in the field of protecting cultural relics. So it is very difficult with so few people to try to protect such a large number of objects, and that’s why it’s essential to try to mobilize the entire population and get them involved.

Lately some provinces, some municipalities, even some counties have done some very good pilot projects. They may assign the task of protecting a certain site to the local populace, and of course those people do get some pay for what they do; but the main thing is that they feel that they have some sense of obligation in this respect, and it is something they want to get involved in. But as I said just now, there are so many items that need protection that the task is an absolutely enormous one, and we who work in the field often feel the enormity of our responsibility. Fortunately, in private museums or state-owned museums, at least, there are only extremely rare situations where anything is stolen or smuggled out of the collection. The main problem is with objects or ancient tombs that are out in open fields or in very remote areas. I’m sure all of you are familiar with the Silk Road, and on the Silk Road, there is the ancient city of Loulan, which is now located entirely in the middle of a desert area. It’s in an utterly uninhabited area in Xinjiang, and yet recently people went there. Now, because this place is normally uninhabited, there are no guards in this area, so the people who went there were not looking for any specific tomb, they didn’t have anything particular in mind, they just went and dug randomly. As a result, they damaged some very important sites. The question is “How do you prevent something like this from happening?” This is a question we need to study and find an answer to, because these sites are very important. They are vehicles that convey the history of this area. You take, for example, a place like Loulan. In the past, there was really no way to get to a place like that, but nowadays, means of transportation have improved. And so the people who were looting these tombs were able to drive out there in jeeps and other types of vehicles. And because there was nobody at the site, they were able just to dig around randomly, and it happened that one of our survey teams was on its way out there, and en route, they happened to come across the graverobbers. So, of course, our people wanted to arrest the graverobbers, and they tried to flee, and in the end our team managed to stop their vehicle, but the graverobbers fled on foot. I have no idea how they managed to get out of the desert by themselves. These people were doing this because they were motivated by money and so they disregarded everything else. But it certainly is an issue that deserves our study, and it’s also an issue that I hope we will be able to get some international support for. Perhaps I might give another example. In Qinghai Province, there is a place called Doulan, which is also a very
desolate place. Now, apart from some shepherds who come to graze their flocks in the summer, there are no permanent residents in this area, and yet recently some people also went there to engage in a frenzy of graverobbing. This place was located on the Silk Road at a location where you had to pass through it. So, the graverobbers took away with them some invaluable pieces of Tang Dynasty silk textiles. And these textiles later showed up on the market in New York. An incident like this makes us feel very terrible. In terms of the equipment and facilities at their disposal, our relics workers in many ways are not at the level of the graverobbers. For instance, they have very good vehicles or very good means of communication at their disposal. And so, often by the time we get word that something has happened and we get to the location, we can’t find anything. Because China has such a large land area and because the sites are spread out everywhere, the question of how to protect them is a very serious problem. And I certainly hope that you ladies and gentlemen of the symposium here today would share with us any suggestions you may have for how we could improve the prevention that we’re trying to do.

JC: You said earlier that the markets have a great demand for Chinese cultural objects. You mentioned that the U.S. is an important market, but Japan and South Korea are also very important markets for Chinese art objects.

Dr. Washizuka, you run a very successful establishment in Japan, everyone agrees, with respect to handling these problems. You see Chinese objects appearing in Japan, not all of them from legitimate sources. Do you have any suggestions for how to deter smuggling of Chinese art objects into Japan? Any ideas that might be helpful to Ms. Wang and her colleagues? She asked for international cooperation, and here’s a chance to implement it.

WH: There are some significant cases of illegal export from China and those items are sometimes seen in Japan. It is difficult to place appropriate control over those items. I could give you some examples. Japan is surrounded by water and if the item should be taken outside of Japan, it must go through some sort of checkpoint which works to our advantage in a case like this. This is the major difference between Japan and the other two countries, and we are largely protected by it. Also, before the Meiji Era, there were the kyoizuka (scripture mounds) created in the Heian Period. There were thieves who excavated the buried Buddhist scriptures from the kyoizuka and sold them in later years. In those days, there was no law protecting cultural properties and it was difficult to stop thieves. One of the major reasons that Japan does not have issues as such is that it is prohibited for anyone but the government or a research organization to conduct archaeological excavations. In addition there are many people in a limited space. If someone is engaging in robbing some burial mound, he will get caught easily. This is a contributing factor, I believe. It is difficult to offer a brilliant idea, but in actuality, these are the situations.

JC: Once again, geography is destiny. How about Korea, any advice? You have such close trading and investment ties with China. What about the art trade? Any suggestions to deter smuggling?
PY: I’d like to first talk about our cultural property protection law and then talk about our relationship with China. In Korea, if a person discovers a cultural property they must report it to the authorities, as is the case in China. The compensation for the object will be different depending on whether the land is owned by the government or by an individual. Let’s say someone finds a cultural object and it is worth 10,000 won. If the land is owned by the government, 50% is owned by the government and the remaining 50% compensation goes to the individual who found it. If the land is private property, 50% goes to the landowner, and the other 50%, to the finder. The price of the object is determined by the Cultural Property Committee and it is usually similar to the market price so that there is not much difference in the price of selling it legally and illegally. They can get a good price even if they abide by the law. Excavations must be carried out by those registered and authorized by the government and the government oversees the process. Whether it comes from private land or public land, anything that is excavated belongs to the government. Only when the owner of the object can be identified does it belong to the owner. If someone cannot prove that an ancient object belongs to his great-great-grandfather, then it belongs to the government. That is why 99% of excavated objects belong to the government. There are cases recently, however, where Buddhist temples kept the cultural properties that were excavated because they were able to prove the history that it belonged to the temple from a long time ago. There was a time in Korea when clandestine excavations were rampant, like an epidemic. But in fact, in Korea, excavating someone’s grave is considered taboo. It is considered the lowest of crimes and to tell someone that they are liable to do such a deed would be considered the most offensive curse. So we didn’t have a lot of problems with this, but since people value cultural properties more today, and a lot of them were taken to Japan, we have seen such crimes increase. I don’t know if this is good or bad, but actually we don’t have anything left to excavate illegally anymore. We are also only the south part of Korea so it is a small area of land. In relation to China, the Manchuria area, which borders China and North Korea, is believed to be part of the Koguryo Dynasty. So we have heard that some objects in North Korea coming out of China are from our ancient kingdoms. But the government never buys such objects. As was mentioned, Korea signed the UNESCO Convention agreeing not to buy illicit export properties. And since we have already lost so many of our properties, we try very hard to abide by this Convention. Since North Korea is in economic difficulty, we heard that the sellers tried to sell some pieces, but that many of them may not really be from North Korea. According to the Convention, even if we were to buy these objects and put them in our museums, if China, Japan, or North Korea proves that they are theirs, then we would have to return them according to the Convention. So the government does not buy such objects.

China is such a huge country. One of the reasons we do not attempt to buy Chinese objects is that since we have had almost no exchanges with China for the past 40 years, we do not have a lot of knowledge about their properties. Even if we want to buy something, it is very difficult for us to determine whether it is authentic or not. When I was working in the department in charge of purchasing objects at the National Museum of Korea, we did buy a Chinese object, but there wasn’t anyone who could appraise it accurately. We will have a China room in our new National Museum in Yongsan. Since
normalizing our relations with China ten years ago, we can begin to borrow objects from China and Japan for exhibitions. I hear that private collectors are starting to buy Chinese cultural objects, but there is no guarantee of whether or not they are authentic. The people in Korea do not know a lot about Chinese antiques either. So there isn’t much demand for Chinese objects in Korea. I think the best way China can prevent smuggling or illegal selling, based on the Korean experience, is for the government to compensate the finders at a high price. If something can bring $10,000 on the market and the government were to pay $7000, the seller would be willing to sell at a slightly lower price because it would be a legitimate transaction.

JC: You mentioned North Korea. North and South Korea would certainly seem to share an appreciation of their own collective culture and must want to protect their own cultural objects. Have you had much contact with North Korean experts, people like yourself who are expert in your own national traditions and cultural objects? Have you read their scholarship? Had exchanges with them? Have you ever been to the North? Have they entertained people from the South? What can you tell us that is relevant, because sooner or later, North Korea is going to come into this commercial world of ours.

PY: Before any political exchanges, we have been trying to engage in cultural exchanges with North Korea since the mid-1970s, recognizing that we are one people. We have proposed that we hold joint exhibitions in South Korea many times, and we have also officially sent related books to North Korea so that they could gain access to information about our archaeological excavations or our cultural assets. In fact, at the COEX, the convention and exhibition center in Seoul, there is currently an exhibition of North Korean cultural objects. There was actually an issue over whether a North Korean piece would be shown at the current exhibition here at Japan Society Gallery. It is currently being exhibited in Seoul. North Korea does not have as many cultural objects as we would expect. According to our studies, the murals of the Koguryo Dynasty are probably the most famous treasures in North Korea, but they are not moveable. When we look at the catalogues of the Pyongyang Historical Museum or the Kaesung National Museum, we can see that there are not a lot of treasures. Kaesung was famous for celadon ceramics from the Koryo Dynasty, and they were part of a collection at the Kaesung National Museum, but all of them were brought to the South after the independence from Japan two years before the Korean War. So, we do not believe that there are currently many valuable cultural treasures in North Korea. There was once a controversy in Korea because someone had said that some buried treasures existed in North Korea left by a person who was heading for the South right before the Korean War, but they are not of great value and we believe that North Korean authorities have excavated them. From what we know, North Korea does not have a lot of cultural treasures because after the Koguryo Dynasty collapsed, the Silla Kingdom ruled until the year 900, and then during the next Koryo period there weren’t many cultural objects made, mostly Buddhist books or small bowls or dishes. There were some cultural objects made out of paper, but there aren’t as many as we had expected. We have heard that some objects that are owned privately do surface in China sometimes.
JC: In talking about a regime like North Korea, it raises the question of the definition of cultural property that deserves protection. Objects from their political history of the last 100 years would be especially relevant. I want to get to this question of definition again and ask about foreign art in your respective countries. To what extent does China care about Western art or non-Chinese Asian art? Are there any museums in China that show foreign art, and so they might think, therefore, that foreign art is deserving of the state’s highest protection? What about Japan, which has devoted more museum space to foreign Western art? Does this whole regime that we’ve been dealing with for the protection of cultural property embrace foreign cultural objects? Does Korea care and give protection to foreign cultural objects, starting with China and Japan but also dealing with the West?

Dr. Washizuka, has anyone ever given thought to protecting Western art in Japan?

WH: Let me address the first question first. Western art came to Japan fairly recently. These items were purchased and brought to Japan by individual collectors dependent on their own tastes. Therefore, one can assume that these items are properly protected. As I have mentioned earlier, if imported art is to be registered, it must have a significant influence on Japanese culture. That is why these new imported items would not be protected by registration. I think the individuals who purchased these imported art objects are protecting and taking care of the items very well.

Let me add something about the stolen art objects that you were referring to earlier. Information about them is given by Interpol on a monthly basis to us, and antiques dealers receive relevant information as well. Once the items are clearly identified as stolen art objects, those illegally exported items could also be advertised through one of the Interpol advertisements with photographs or descriptions of their shapes and other information. When the information becomes available in such a manner, the stolen item can be easily recognized. Antiques dealers purchase these art objects without knowledge that they are exported illegally. So if they are notified that these items were exported illegally, they would not purchase these items or they may wish to return them to the original country. However, if these items were newly excavated and exported illegally, it might be difficult to attach photographs. If that is the case, information about those illegally exported items might be of great help.

JC: Ms. Wang, what about protection of foreign art in China? Is that a question that comes up, or because you don’t have too many museums that deal with this or private collections, it’s not yet a problem?

WLM: That’s right. There are no museums in China that specialize in collecting art from other countries. And in the museums where we have a few articles from other countries, these tend to be from other Asian countries. For instance, the Lushun Museum, due to historical reasons, has some Japanese paintings, but overall there are very few works of foreign art in Chinese museums. We do have some exquisite pieces of foreign art, which were excavated from ancient tombs in China and which are illustrations of cultural exchanges in ancient times. So, these did not originate in China. They may have come
from ancient Persia, Greece, or Rome and found their way into China. These receive protection because they are very important cultural objects.

JC: Mr. Park, what about Western arts protection in Korea?

PY: From what I know, there aren’t any foreign objects that are designated as National Treasures or important cultural objects in Korea. They are all Korean. There are some exhibitions of cultural objects from Latin America or Africa which have mostly been brought to Korea by diplomats who have collected them during their foreign service. In the new building of the National Museum being built in Yongsan, there will be a room for Southeast Asian, Japanese, and Chinese art so that the viewers can compare. As I mentioned earlier, we hardly have any objects from Japan or China so we will borrow from these countries. As for Southeast Asian countries, we have been visiting Thailand, Indonesia, and Taiwan from about two years ago, and they have agreed to lend us their cultural properties because it will be an opportunity for Koreans to understand their cultures. In Korea, there currently isn’t much awareness of cultural property from foreign countries.

JC: It is known that Japan supports exchange trips abroad for scholars to study works of art. It would be interesting to know whether China and Korea offer similar programs of study for their scholars and students. Also, what are your key future problems, what challenges do you confront now over the next decade?

Dr. Washizuka, what about the current Japanese effort to study Japanese works held abroad?

WH: In Japan, as you mentioned, sending a team to study items held outside of Japan is done fairly frequently. For example, at the Nara National Museum, we conduct such studies mainly in European countries. We research Japanese art objects that are held in Europe. The purposes of this research are as follows: by conducting these research projects, we are able to accumulate basic information about these art objects, since such information has not yet been recorded. Taking photos, measuring the size of the objects, and collecting relevant information are done to determine the periods when these items were created. By accumulating basic information we can create a basic database, which could be published in Japanese as well as the local language of the region where these items are held. Then we can share such information worldwide. Through this research, we come to know that some items need repair. There are a considerable number of such items. When that is the case, the Japanese government could offer some financial help to do the necessary repair work. Though the government cannot undertake a large number of repairs, it will still engage in repair of what it considers important objects. If that could not be done due to the limited budget of the government, we can still offer technical assistance to do the necessary repair. Therefore I think it is very important to do such research on Japanese art objects held outside of Japan.
JC: Ms. Wang, as China gets more prosperous, do you see because of the vast Chinese art holdings abroad, that China will want to do something similar? Or is China already trying to study the state of its art objects in other countries? Is that yet on your agenda?

WLM: Well, certainly many Chinese art objects have gone out to other countries, and many of these are very rare and precious items. I’d like to briefly say a few words about some of the collaboration we had with other countries in protecting Chinese artifacts, although of course we also worked with them to study our Chinese art objects. We are working with the Mellon Foundation of the U.S. to create a digital archive of works from Dunhuang. As you all know, many writings and paintings from Dunhuang were dispersed to other countries at the beginning of the twentieth century. Many of these found their way to Britain, France, Germany, Russia, and India. This causes a problem for people who want to study Dunhuang, because there are these gaps, and now with the help of the Mellon Foundation, there is an effort underway to digitize all of these scattered Dunhuang materials and put them together so that we can plug these gaps. For scholars in China who study Dunhuang, this is a wonderful thing. Through this collaboration with the Mellon Foundation, our Dunhuang scholars will have access to large quantities of Dunhuang writings and paintings that are now abroad. This project will provide them with first-hand access to these materials, and that’s why we think it’s such a wonderful project.

We are also doing collaborative research with many other countries in areas that help promote the protection and study of Chinese art objects. For instance, we are working together with Germany and France on some problems for which we still need to find solutions. For example, you’ve all heard of the terra cotta army. When these terra cotta pieces were excavated, many of them still had paint on them. For technical reasons, once they are unearthed, many of the pigments on these terra cotta soldiers oxidize, and therefore the colors fade. So, we have been working with a German research institute to find ways to preserve the colors on these terra cotta soldiers. So now the pigments on the mail and on the faces of these soldiers are preserved as if they were newly made. More of these projects focused on the protection or preservation of Chinese artifacts are occurring year after year. But of course, we would also like to learn more about what types of Chinese art objects are in various collections or institutional holdings in other countries. Some of these items may be extremely important ones that are critical to an understanding of Chinese art history or of Chinese history in general. We will be moving to do more in that area in the near future.

JC: Mr. Park, the interest in Korean art, as you know, is growing very fast in this country in both the museum and commercial world. What is Korea doing to monitor the state of Korean objects abroad and to cooperate with countries that possess them?

PY: We are carrying out studies on Korean cultural properties overseas. The Korea Foundation has published about ten books with photos and a brief explanation of Korean objects that are overseas. The Cultural Property Research Institute is carrying out a more in-depth study on this. There are cases where we bring ruined objects back to Korea, restore them, and return them back to the country they came from. For example, Korea
has more advanced restoration technology for celadon ceramics. We have plans to continue studies of Korean objects overseas, either owned by private collectors or by museums. Korean antiques have not been as well known as those of China or Japan, but they are drawing more attention nowadays. Although our nation has a long history, we don’t have a lot of cultural objects so we are taking more interest in those that are overseas and will try to have them donated or loaned so that they can be exhibited and seen by more people. We are in the process of collecting more information on these objects. Of course, we could purchase certain objects if necessary through the right channels.

**Audience Q&A**

Q: For Ms. Wang: There are many examples of China having similar valuable cultural objects. Since there are so many, why wouldn’t China consider an export policy for duplicate materials? In other words, if you have a lot of duplicates of very valuable objects, wouldn’t it be reasonable to allow some to go abroad not just for exhibition but permanently, for sale? Couldn’t it be a good source of foreign exchange currency for the Chinese government?

WLM: That’s not the first time we’ve been asked this question. People have often said to me, “Well, you have over 6,000 terra cotta soldiers. Why don’t you consider selling some of them?” But those of us who work in agencies with responsibility for these cultural objects look at it this way: these are not objects that we will continue to produce more of. And they are not property only of people of our generation. They should belong to the Chinese people in many years to come. And we hope that in the future when people see them they will continue to show that grandeur and scale that their numbers possess, so that people will have the same sense of awe when they see them together. That’s why, in accordance with our law on the protection of cultural artifacts, there may be items of which we have more than one, but because they are items that we will not be producing again or find again, we have no consideration of selling such items. Even though there are 6,000 soldiers so far, no two of the terra cotta soldiers are entirely alike, because these were not all stamped out of the same mold. Each of them was individually formed by artisans. So while there are indeed a great many of them, each and every one of them is a very rare Chinese cultural object. So, I tell my friends, “Well, even if we had 60,000 of them, I would not consider selling them.” You leased pandas for 6 months. If you want to lease a terra cotta soldier, I could even lease it to you for 12 months.

JC: Of course, you have many more terra cotta warriors than you have Giant Pandas. This gets back to a question we confronted in New York during Mayor Koch’s era. He was determined that the Bronx Zoo would get two Giant Pandas just like Washington. And many times, Chinese officials patiently explained that China just couldn’t start giving cities that weren’t national capitals two pandas because there wouldn’t be enough to go around. Koch was very persistent. Finally, I hit upon an idea – I was then head of the New York-Beijing Sister City Committee: Lease a panda. And indeed, we did lease two Giant Pandas for six months. So maybe, by analogy, we could start leasing some terra cotta warriors with an option to review the deal every few years with China. We could
always give them back, but keep them as long as we keep them in good condition; no harm would be done. I don’t know if they’d earn as much as we had to pay for the Giant Pandas, but it wouldn’t be a bad deal.

WLM: The terra cotta army was first discovered in 1974 and pieces of it began to be exhibited abroad in 1980, where they were extremely well received. Because they are a major find in Chinese history, in the 20-odd countries where they have been displayed, they’ve always been extremely popular. I’m also happy to tell you of some recent new discoveries in the vicinity of Qinshihuang’s tomb – that is to say, within a radius of 10 kilometers, there are many objects that are buried underground. Recently, at a site that is adjacent to the terra cotta army, we found more terra cotta figures, but they are not standing ones. These are life-like figures that are in seated positions, but we’re not quite sure what they are doing. They are not wearing shoes; they’re only wearing socks. We don’t know what they’re doing. Are they rowing a boat? Are they practicing Qigong? Next to them, we found some bronze geese and wild swans. The terra cotta army is indeed a very mysterious thing. In the future, I’m sure there will be new discoveries – certainly, more than we would be able to discover in our generation. So, don’t think of the terra cotta army as just as an army of 6,000-odd figures. In the future, many more things will be discovered. So, we hope that you’ll come see the terra cotta army. Of course, it’s possible for you to borrow them for exhibitions, but they cannot be abroad for more than 12 months at a time.

Q: There are several Korean tombs in China. These tombs were created during the period of the Korean Three Kingdoms in what was once Koguryo, but is now a part of China. Several years ago, one of the tombs was looted and the murals were destroyed. I was wondering whether the same cultural property laws are applicable to tombs that belonged to other cultures. I’m also wondering if there have been any collaborative efforts between the Chinese and Korean governments on these particular sites.

WLM: Well, you asked just now about an ancient Korean tomb that is in China, but I think that the question could be phrased somewhat more precisely. The tombs you mentioned date back to 36 BCE, and they were the tombs of a relatively small kingdom called Koguryo, during the Han Dynasty. And it is true that later, this kingdom was part of Korea, but historically, at that time, it was part of the Han Dynasty. But culturally, it was very similar to that of the Koguryo Kingdom located in northern Korea. Of course, there are still historical questions which deserve our study, but at that time, this kingdom was a prefecture of the Han Dynasty. The looting and the destruction of these tombs did indeed happen, and what is very unfortunate is that we subsequently heard that some of the murals that were taken from this tomb showed up in South Korea. Perhaps they were removed through a collusion of people both inside and outside of China, but certainly we attach great importance to the protection of such tombs. The murals of the tombs from Koguryo are also considered a very precious part of China’s cultural heritage. So we do have very strict measures in place to oversee and to supervise the protection and security of the artwork in these sites. So, I think it’s safe to say that a repeat of this is not going to happen again, but so far, we have not engaged in any collaboration with North Korea on
this subject. But we attach the same importance to these murals that we do to any other part of China’s cultural heritage.

PY: As you have just heard, there is a different understanding between Korea and China regarding the Manchuria region. We believe that it was a part of Koguryo, and China thinks it was related to the Han Dynasty. Whatever the case may be, the Koguryo murals are one of the most precious cultural properties that were created by humans. The same kind of murals can also be found in large numbers in Pyongyang. It seems that China became more aware of these sites from about ten years ago. I have never been to these sites, but I have heard from Koreans who have been there that they are more protected now, with, for example, iron entrances that block intruders. The problem of looting, like murder or robbery, is one of many crimes from which no nation can be free. You mentioned that murals have been looted, but people just assume that since they are Koguryo murals Koreans must have stolen them. First of all, it would be very difficult to bring it out in the first place, and customs in Korea is very strict in inspections of inbound objects. Ms. Wang said that they were discovered in Korea, but this is just a rumor. It has not been confirmed. In order to protect similar murals that are in Pyongyang, the South Korean government has funded a project through UNESCO that works to protect the murals through better technology and other support. At first, North Korea declined the fund because it was from South Korea, but later they accepted. Regarding the issue with China, historians will continue to study the matter. The murals in North Korea, of which some of the fractured parts are in South Korea, are very important, so we have developed better technology to protect them. It has only been about twelve years since we normalized relations with China, so this is an area that requires closer cooperation between the two countries in the future, which could include providing more advanced technology to better protect such murals.

JC: It’s interesting what Mr. Park said. It reminds me that it wasn’t many years ago that North Korea would not participate in any cooperation with other countries if South Korean money was involved. Now, we are in an opposite situation where North Korea won’t participate unless a lot of South Korean money is involved.

Q: This is a question for Dr. Washizuka. Clearly, Japan is one of the few countries, especially in Asia, that has had a very important and distinctive policy of selectively allowing objects for sale to go abroad, because your charter clearly provides for the promotion of Japanese art in the world arena. In the current economic market, more Japanese objects from private collections and even museums are coming up for sale in the open market. Is there a discussion in Japan about a) changing that policy or b) reviewing the procedure by which objects are or are not designated initially as Important Cultural Properties? What happens to these objects, and how do they still come out on the open market for sale in the world arena?

WH: Registration of important art objects was tentative under the National Treasure Preservation Law period. The main purpose of it was to be able to choose important objects among the rest. If later research proves that there are similar objects of similar value in quantity, not all of them might be registered as Important Cultural Properties.
The registration can be lifted and the items can be exported. The reason is that, generally speaking, not all the art objects outside of Japan are of high level and high quality except the truly ancient ones. If people overseas are taking the trouble to go and see Japanese art objects, there should be excellent objects there as well. But I am not saying that tentative registration should be lifted indiscriminately. Unlike ancient times, it is fairly easy to go abroad nowadays owing to the development of transportation. If we want to conduct research, we could go and visit the country where these items are held. I don’t believe, therefore, that we should hold everything within the borders. Did I answer your question?

JC: I think it’s worth noting that as one of my students informed me recently, Japan has been in the process of reviewing its original designations of certain folk art as being very valuable. Originally they designated large numbers, but given time now to review the situation, have decided that not all of those deserve the highest protection. Is that correct, Dr. Washizuka?

WH: No, I don’t think that is the case. They are not in any process of review.

JC: I understood that originally, you designated a very large number of objects as folk art cultural protected objects. And that that was done in 1950 or so. And that subsequently, you’ve been in the process of reviewing that and reducing the number of objects in that classification. That’s not correct?

WH: No, I don’t believe that is correct.

JC: How would you characterize the situation, with respect to folk art?

WH: Under the concept of folk art properties, we register folk art objects. This is also for record keeping purposes. That is the direction we are taking.

JC: How do you take account of the situation when attitudes change over generations? You’ve now had over 50 years since the end of WWII. You have a new generation coming to maturity in Japan. Will there be differing perceptions of what should or should not be deemed a National Treasure or an Important Cultural Property?

WH: I personally do not think there is a perception gap among generations. It is possible that the situation might change in the future, decades or centuries from now. I think the concept of the Old Shrine and Temple Preservation Act enacted in 1897 is followed in recent years, and it should be followed in the future as well.

Q: Ms. Wang, I wonder if you could tell us about the state of relations between Taiwan and China. Many people know that for approximately fifty years now, a large number of China’s most important art objects have been residing at the National Palace Museum, and indeed that they have so many of them, they can only display a relatively small number at any given time. When I was a student visiting Taiwan, we had to go back five different times for five rotations of the collection to see it all. They’ve expanded the gallery space since. I’m just wondering whether there have been communications,
whether the directors of the National Palace Museum in Taiwan and counterparts in the PRC are meeting, communicating, whether there have been exchanges, exhibitions, whether this very sensitive subject has loosened up somewhat, whether there’s been a thaw in relations, in this domain.

WLM: I think we can say that we have quite a few exchanges going on with museums and other institutions that deal with cultural objects in Taiwan. It is certainly the case that exhibitions or shows from the mainland have been extremely popular with the people in Taiwan. And many of the objects in the Palace Museum collection in Taiwan originated in the Palace Museum in Beijing. During and after WWII, they moved from Beijing first to Nanjing, and then from Nanjing eventually to Taiwan. Most of these items are from the Imperial collections of the Ming and Qing Dynasties, but what they are short on are the many types of objects that have been excavated in China after 1949, and that’s why the shows of these post-1949 excavated items have been especially popular in Taiwan. I myself have been to Taiwan, and I’ve asked the person who was then the head of the Palace Museum in Taiwan – Mr. Qin Xiaoyi – I asked him if it might be possible for there to be a show in Beijing of items from the Palace Museum collection in Taiwan. But the Taiwanese were extremely nervous about this idea. They were afraid that perhaps we would hold on to these objects, although in fact that would not happen. Because this was a circumstance that was a result of history, and also it is still China on both sides of the Taiwan Straits. But indeed, they were being extremely cautious – perhaps cautious to the point of being petty – because many friends then raised the possibility of our doing a show involving the Palace Museum collections on both sides of the Straits in a third location. And the mainland side had no problem with this suggestion, but the Taiwanese had reservations about the whole concept. There have been many exchanges of people who work in museums or who do research on cultural objects across the Straits, because many of them on the Taiwan side previously were not able to travel to the mainland, and so they were cut off from the objects of their study. Once it became possible for them to do so, many of them traveled to the mainland. In the past, they could only do their studies through books or through photographs to study their own culture, but now they can go to museums or other places on the mainland where these items are collected to have first-hand access to these objects. They’ve also been able to study these jointly with their colleagues on the mainland. I think this has resulted in a considerable lifting of standards of theoretical studies for them. I think it’s fair to say that we have very good cooperative relations with our colleagues at the museums and cultural artifact research organizations in Taiwan, but right now it’s not very interactive. Overall, there are many more exhibitions going from the mainland to Taiwan. Nevertheless, there are a few shows of more recent cultural objects from Taiwan going to the mainland. For instance, there was a show of Zhang Daqian’s works, sponsored by the Historical Museum of Taipei, which was shown at the Historical Museum in Beijing. But so far, there has been no show of objects from the Taiwan Palace Museum on the mainland. I remember Mr. Qin Xiaoyi saying to me that if we wanted such a show to happen, we would have to pass a law, and I said to him that that would be impossible. We’ll just have to see how things develop in the future.
JC: Ms. Wang, could you say a word about your concrete cooperation with respect to having Taiwan return to the mainland a Buddha very recently?

WLM: Well, there was a Buddha which had been smuggled out of China, and was in the collection of a person in Taiwan, and after he heard that this had been stolen from the mainland, he took the initiative, told us about it, and offered to send it back. This is not the first time something of this sort has happened. Several years ago, a Mr. Chen of Taiwan purchased the heads of 18 arhats in Hong Kong. These all came from a single temple in Shanxi, and as soon as he became aware of this, he immediately contacted us. And without asking for any compensation, he sent the eighteen heads back to Shanxi. As I said, this was several years ago. This episode was very widely praised, and the return of the Buddha to Simensi, that you mentioned just now, is, as far as I know, the second such episode. I think this goes to show that the people of Taiwan also pay a lot of attention to protecting our country’s cultural heritage. They bought these objects not knowing how they had been obtained, and soon as they found out the circumstances, they took it upon themselves to get in touch with us. And then they took the initiative to send the objects back. And certainly these episodes had a lot of impact.

Q: To follow up on Ms. Wang’s response to the previous question. She has discussed a few individual cases of art objects leaving China illegally and being repatriated. But those are really just one or two examples amongst a huge flood of objects that are coming out. Does the Chinese government have any intention of taking legal action on a grand scale to repatriate objects already abroad?

WLM: I’d like to share with you a description of how we managed to get an object from Japan, because we considered the resolution of this matter to have been a very good method of handling such a situation. This all started two years ago, and it was actually reported last year in the New York Times. On April 16, 2001, we signed an agreement with the Miho Museum regarding the return of a stolen Buddha image. What happened was this: In 1976 in Shandong, we had discovered a statue of Buddha that dated back to the Northern Qi Dynasty. It was notable because it had a very large mandorla in the back and also a topknot on its head. It was 120.5 cm tall. It was stolen in the early morning of July 4, 1996. Subsequently the sculpture showed up on the market in Britain. Without realizing it had been stolen, the Miho Museum purchased this art object. In August of 2000, I went to the Miho Museum to talk to them about how to handle this stolen relic. The museum belongs to a religious organization called the Shinji Shumeikai, and I had my initial contact with the director, Ms. Koyama Hiroko, that August to talk about this matter. I told her that there was absolute proof that this item had been stolen from China, and we hoped that we could come to some satisfactory resolution of this problem. Ms. Koyama indicated to me that even though Japan was not a signatory to the 1970 UNESCO convention prohibiting trafficking in stolen cultural objects, and therefore was not bound by its provisions, that with consideration to borders and to Sino-Japanese friendship, she, too, would like to see this issue resolved in a satisfactory manner. So after talks and negotiations which lasted more than eight months, we did finally come to a signed agreement. Under the terms of the agreement, the possession rights to this stone sculpture reverted to China. At the same time, we recognized that the Japanese side was
also a victim because they were unaware that this was a stolen item and had purchased it in good faith. By way of giving them some compensation, we agreed to let them display it until 2007. We felt that this resolution showed that you could also get an object repatriated through friendly, non-governmental discussions. In using this method, we also drew upon a precedent which had been set between the U.S. and India, so I think it shows that we can be very flexible in the methods that we use to try to recover stolen pieces that have left China. We are certainly very grateful to the Miho Museum because we feel that they have certainly shown the highest standards of professional ethics. They also certainly demonstrated their friendship and good intentions toward China, and that’s why I wanted to take this opportunity to tell you all about this particular case.