

Public consultation on rules on the import of cultural goods

Fields marked with * are mandatory.

Practical matters

Methodology employed for this public consultation

In the first part of this consultation we would like to collect some data about you/ your organisation/ company or the public authority which you represent. Please make sure you are aware of and agree with the specific privacy and confidentiality statement associated with this consultation which can be consulted in the right hand column of this page.

Parts of this consultation might not apply to you or you might not feel you have any input to provide; this is not a problem as you have the option to select 'Don't know / No opinion' with each question.

If you have a preference for one or more policy options suggested, please select it. In order to help us understand your answer we would also like to learn why this particular option carries your preference and although providing this information is optional, we encourage you to succinctly explain your choice in the space provided with each option or alternatively, in a response to the last question of the document in which we enquire if you wish to add any other pertinent information.

Filling in the questionnaire should normally take 15-20 minutes.

Your contribution

Please note: In order to ensure a fair and transparent consultation process, only responses received through our online questionnaire will be taken into account.

Contributions received are intended for publication "as submitted", respondent by respondent and question by question, on the Commission's websites. Below, you have the possibility to indicate whether you agree to the publication of your individual responses under your name, or anonymously.

Furthermore, the European Commission will prepare a synopsis report summarising all responses received (including those by respondents not agreeing to publication of their individual contribution).

Should you have a problem completing this questionnaire or if you require particular assistance, please contact: TAXUD-B1-CULTURALGOODSCONSULT@ec.europa.eu

* Do you agree to your individual contribution being published?

- ☒ Yes, I consent to all my answers being published under my name.
- ☐ Yes, I consent to all of my answers/personal data being published anonymously.

* I declare that none of the information I provide in this consultation is subject to copyright restrictions.

- ☒ The information provided is not subject to copyright restrictions.
- ☐ The information provided is subject to copyright restrictions.

* Information about you

Are you responding as:

- ☐ Individual citizen
- ☐ Enterprise
- ☐ Interest representative (association or professional organisation)
- ☐ NGO or other association of the civil society
- ☒ Public Authority (National or regional government, customs authority, ...)
- ☐ Other, please specify

In case we have questions regarding an answer or remark you have provided, can we contact you?

- ☒ Yes
- ☐ No

Please enter your email address:

f.altena@minocw.nl

Please enter your name – or, in case you respond on behalf of a private enterprise, an organisation or of a public authority - the name of your enterprise or organisation:

Ministry of Education, Culture and Science, Arts and Heritage Department, on behalf of the Government of the Netherlands

* Where do you live or where is the headquarters of your enterprise or organisation?

Netherlands

Introduction



In the last years, the European and international community has witnessed crimes perpetrated against our common cultural heritage by warring factions and terrorist entities all over the world. From the destruction of the Bamiyan Buddhas by the Taliban, to the destruction of Sufi tombs and mausoleums in Timbuktu by Ansar Dine, to the destruction of the Baalshamin temple in Palmyra by ISIS – to name but a few incidents. The European Union – followed by the United States – responded to urgent calls for action and United Nations Security Council Resolutions by adopting measures prohibiting the import of cultural artefacts from Iraq and Syria. Those measures are implemented by the EU customs authorities, whose position at the Union's borders places them at the frontline of action.

Europe, with its rich cultural heritage and appreciation for art and history, its proximity to the Middle East and Africa and home to a great number of affluent potential clients is an attractive market destination for this illicit trade. With the exception of the above-mentioned two measures for Iraq and Syria and Regulations protecting European art, the Union has no common rules for the import of cultural goods from third countries. Some Member States have adopted or are in the process of adopting national measures in this area while others have no specific provisions. This favours the development of trafficking routes through the more vulnerable and unregulated parts of the Union.

The European Commission, responding to numerous calls for action from the other EU institutions and several national governments is considering adopting measures to counter the illicit trafficking in cultural goods from third countries more effectively. The Commission Communication on an Action Plan for strengthening the fight against terrorist financing lists, among other planned actions, the adoption of measures regarding the import of cultural goods from third countries.

An initiative on the import of cultural goods aims primarily to prevent illicit trafficking in cultural goods, regardless of the third country of export. It aspires also to provide EU customs and other authorities with information on the cultural goods that enter the EU territory; to disrupt sources of financing for organised crime and terrorists and to enhance the efforts of third countries and international bodies to protect our common cultural heritage.

GLOSSARY

Third country

All countries which are not members of the European Union.

Illicit trafficking

Illicit trafficking is to be understood in this context as the illegal export of cultural goods, i.e. the export of cultural goods from a third country in violation of its national laws, with the intent to import those goods in the territory of the European Union.

Import

Import is to be understood in this context as the entry of cultural goods into the territory of the EU, including cases of smuggling

Export

Export is to be understood in this context as the exit of cultural goods from the territory of a third country, including cases in violation of the third country's laws.

Export certificate

An administrative document issued by the competent authority of a third country, which authorises the export of the cultural good in accordance with this third country's laws and regulations

Import licence

An administrative document issued by EU customs or other EU competent authority of a Member State, at the request of the person concerned, which authorises the import of a cultural good by this person, in accordance with EU laws and regulations

Self-certification

The submission by the importer to EU customs of a declaration certifying that the cultural good has been exported from the third country in accordance with the third country's laws and regulations. It is accompanied by a document providing sufficient information about the cultural good for it to be identified.

In addition to the information provided in the introduction and the questionnaire itself it might be useful to consult the following documents as they are relevant to the topic covered in this consultation (click to open the link in a new window):

[Action Plan for strengthening the fight against terrorist financing](#)

[United Nations Security Council Resolution 2199](#)

[United Nations Security Council Resolution 2253](#)

[UNESCO 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict](#)

[UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#)

[UNIDROIT 1995 Convention on Stolen or Illegally Exported Cultural Objects](#)

Your opinion

1. At the level of the European Union, there are currently no customs rules in place preventing the import of cultural goods into the EU that were exported illicitly from a third country. Do you believe that the EU should adopt customs rules to prevent and deter such imports?

	Disagree very much	Disagree	Neutral	Agree	Agree very much	Don't know/No opinion
Please answer	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Do you believe that an EU measure against the illicit trafficking in cultural goods, in addition to help protecting cultural goods, would contribute to the fight against organised crime and would potentially deprive terrorists and warring factions from a source of income?

	Would not contribute at all	Would not contribute much	Neutral	Would contribute	Would contribute very much	Don't know/No opinion
Please answer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. What in your opinion are the main weaknesses which allow illicit cultural goods to enter the EU territory?

You may select more than one and also add other weaknesses you have identified.

- ☐ Insufficient human resources for systematic controls at the border
- ☒ Uncertainty as to the applicable legislation
- ☐ No national legislation on the import of cultural goods
- ☒ Diverse regulatory measures in Member States
- ☐ No access to expertise that can cover every third country's cultural history
- ☐ Tourists and travellers returning with small 'souvenir' items that they don't declare
- ☒ Difficulty to investigate and prove the illicit character of the export from the third country
- ☒ Other

Please specify:

Uncertainty as to the applicable legislation:

The legislation of the countries of origin outside the EU could be made better accessible, especially as it contains information on the protected cultural goods. The UNESCO Database of National Cultural Heritage Laws is a good instrument for this. However, at this point not all relevant legislation is present, or it is not available in English or French translation.

Diverse Regulatory measures in MS:

the UNESCO 1970 Convention could be the starting point of a level playing field, also in regard to the import of cultural goods into the EU. This goal is almost obtained with 25 EU MS having ratified this Convention. With the ratification and implementation of this instrument in all EU MS cooperation could be further developed, even though differences in implementation might exist.

Difficulty to investigate and prove illicit character of the export from the third country:

The WCO standard model for export licences should also have a wide use outside of the EU.

Other:

The Interpol database of stolen works of art could be better accessible and search possibilities could be improved.

4. One of the most important questions regarding the measure to be taken in the present context is what cultural goods it intends to target.

Which of the following criteria you consider important in order to define which cultural goods from third countries need to be protected?

Please rate on the scale below.

You may also make additional suggestions in the space provided below.

	Not appropriate at all	Not appropriate	Neutral	Appropriate	Most appropriate	Don't know /no opinion
Age	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Geographical origin	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Market value	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Scientific or edicational value	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rarity	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Whether it comes from a country in armed conflict	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please elaborate on other or additional criteria you would consider useful for identifying which cultural goods from third countries should be targeted:

The cultural and historical value is important, especially for archaeological, ethnographic and religious heritage as well as for old manuscripts and archives, which are particular vulnerable categories of cultural goods. For unlawful import the object must be legally protected in the country of origin. In this regard also ICOM's red lists are a useful tool as is Object ID, the international standard for describing art.



















5. In order to tackle the multi-faceted problem of illicit trafficking in cultural goods, the EU could consider taking various measures.

In your view, how appropriate are the potential measures in order to prevent the import of cultural goods into the EU that were illicitly exported from third countries?

Please rate on the scale below the following potential actions.

You may also make additional suggestions in the space provided below.

	Not appropriate at all	Not appropriate	Neutral	Appropriate	Most appropriate	Don't know/ no opinion
Training for EU customs officers to improve their ability to identify or investigate suspect cultural goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Awareness campaigns targeting potential buyers such as travellers and tourists	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

The EU formally endorsing existing codes of ethics or codes of conduct for the art market and museums						
Adopt legislation empowering EU customs to prevent the import of cultural goods that were exported illegally from third countries						
Promote co-operation with third countries whose cultural heritage is under threat and who agree to adopt themselves protective measures at export						

Please specify your other suggestion:

At the basis of the decision on measures should be that the measures are appropriate to solving the problem. Instrument(s) need to be feasible; customs and other enforcement agencies need to be able to handle the working load and this working load needs to be in line with the size of the problem dealt with. The administrative burden on the art trade should be appropriate, and not unnecessarily hinder it.

‘The EU formally endorsing existing codes of ethics or codes of conduct for the art market and Museums’:

Several codes of ethics have been developed by ICOM (museum field), UNESCO (for the art trade) and for the heritage fields of a.o. archaeology and archives. These codes are instruments from and for the diverse sectors itself (self regulatory mechanism). In our opinion it is not up to the government or EU to ‘endorse’ this in the literary sense of officially endorsing it. Governments or EU could however ‘promote’ the use.

‘Promote cooperation with third countries whose cultural heritage is under threat and who agree to adopt themselves protective measures at export’:

In our opinion it is important to promote preventive measures (inventarisation and registration of cultural heritage, safety and security measures) in countries of origin, or third countries, this also includes awareness raising on registering stolen or illicitly exported cultural goods in the relevant registries/databases as the Interpol database on stolen works of art.

Rules and regulations should be seen in the context of the existing juridical judicial framework, including the UNESCO 1954 (including two Protocols) and 1970 Conventions and UNTOC. The three EU countries that have not yet ratified the UNESCO 1970 Convention should be encouraged to do so, to develop a level

playing field.

The international legal framework also implies existing cooperation between Member States and different actors in and between Member States and third countries.

Developing specific sanction rules measures for countries which are involved in conflict is efficient. It is an easy to develop and targeted measure on high risk areas. It doesn't obstruct unnecessarily the trade with area's where the existing juridical framework and preventive measures can fight the illicit traffic. Texts of the sanction rules should however be made consistent and uniform.

Preventive measures are very important to tackle illicit traffic in cultural goods. 'Training for EU customs officers to improve their ability to identify or investigate suspect cultural goods', and 'awareness campaigns targeting potential buyers such as travellers and tourists', are therefor in our opinion of utmost importance. Other practical preventive measures are: consistent custom procedures and consistent custom control within the EU.

6. If customs rules on the import of cultural goods were proposed by the EU, what should such customs rules cover?

Multiple options can be selected.

- ☐ The customs rules should require from EU Member States to criminalise the illicit trafficking in cultural goods, and to provide for penalties for offenders.
- ☒ Reversing the burden of proof: the customs rules should require the importer – and not EU customs – to prove that the cultural good in question was exported legally from the third country.
- ☒ The customs rules should require some form of information/documentation to be submitted by the importer, before the cultural good can be imported in the EU, so authorities can trace the object if needed.
- ☐ The customs rules should prohibit any import into the territory of the EU of cultural goods from countries in armed conflict or suffering a natural disaster.
- ☒ The customs rules should allow controls on cultural goods in transit or entering/exiting free zones located in the EU territory.
- ☐ The customs rules should allow exchanges of cultural goods with third countries for scientific or educational purposes.
- ☐ The customs rules should provide for EU museums to act as temporary repositories of illicit cultural goods that were seized by customs, until they can be safely returned to the third country.
- ☐ Don't know/No opinion
- ☒ Other suggestions

Please specify your other suggestions:

See answer under 1. Customs rules are not a priority. Preventive measures (see 5) and better cooperation within the existing framework of UNESCO 1970 is desirable.

If rules on the import should be developed, it should be a separate rule, not within the EU rules on the Customs Union.

Regarding 'The customs rules should require from EU Member States to criminalize the illicit trafficking in cultural goods, and to provide for penalties for offenders.': There is already a Commission proposal on customs infringements and sanctions as well as the PIF Directive (protection des intérêts financiers) that covers the illicit trafficking of cultural goods as well. NL is not in favor of harmonization of customs penalties on a European level. Member States have already sanction/penalty systems in place that are deterrent, effective and proportional.

If rules were to developed, other suggestions are:

- To include the taric measures: the obligation to mention the code on declarations to depict whether it is a cultural good or not
- Verification of the control
- To include the cooperation with heritage institutions and police

7. If some form of documentation was required to import cultural goods in the EU, which one of the following types would you consider more appropriate and effective for combatting illicit trade in cultural goods crossing the EU external border? Please rate

You may also make additional suggestions in the space provided below.

	Not appropriate at all	Not appropriate	Neutral	Appropriate	Most appropriate	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Import licence	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Self-certification	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please elaborate on other or additional documentation you would consider useful to be required:

Export certificate including information on the provenance and legal title (legal right to ownership or property in the country concerned). Also an affidavit could be useful if not all relevant information is available on provenance.

It is important that the legal trade should not be unduly hindered with an unnecessary administrative burden, as free movement of goods is an important aspect of the EU, with the exception of legally protected cultural objects. Regarding a system of self-certification: it should be kept in mind that this could be a useful tool, but only if there is also a system or some kind of a database in which the diverse forms can be checked and controlled by the authorities (including e.g. examples of official stamps and signatures). UNESCO and WCO could advise on the use of a uniform certificate.

8. Assuming that the EU adopted legislation requiring either export certificates, import licences, or self-certification, in order for the cultural goods to be imported into the EU. In your view, what would be the **impact on national customs authorities?**

In your view, what would be the **impact** on national customs authorities **in terms of additional operational human resources** due to the new legal obligation:

Please rate

	No impact	Some additional human resources	Significant additional human resources	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Import licence	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Self-certification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

In your view, what would be the **impact** for national customs authorities **in terms of additional administrative costs** to cover training, filing of information, inspections and verifications due to the new legal obligation:

Please rate

	No impact	Some additional administrative costs	Significant additional administrative costs	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Import licence	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Self-certification	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

9. Assuming that the EU adopted legislation requiring either export certificates, import licenses, or self-certification, in order for the cultural goods to be imported into the EU. In your view, what would be the **impact on EU importers/traders in cultural goods?**

In your view, what would be the **impact** on EU importers/traders in cultural goods in terms of **volume of imports of cultural goods** from third countries:

Please rate

	Imports will significantly decrease	Imports will decrease	No impact on imports	Imports will increase	Imports will significantly increase	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Import licence	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Self-certification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In your view, what would be the **impact** for EU importers/traders **in terms of additional operational human resources** due to the new legal obligation:

Please rate

	No impact	Some additional human resources	Significant additional human resources	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Import licence	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Self-certification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

In your view, what would be the **impact** for EU importers/traders **in terms of compliance costs** due to the new legal obligation:

Please rate

	Compliance costs will significantly decrease	Compliance costs will decrease	No impact on compliance costs	Compliance costs will increase	Compliance costs will significantly increase	Don't know/ No opinion
Export certificate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Import licence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Self-certification	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Final remarks

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here.

Background Documents

[Privacy statement \(/eusurvey/files/40775f64-0319-463e-88b0-7699afe16dd9\)](/eusurvey/files/40775f64-0319-463e-88b0-7699afe16dd9)

Contact

TAXUD-B1-CULTURALGOODSCONSULT@ec.europa.eu
