



Questions and Answers on the illegal import of cultural goods used to finance terrorism

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Why is the Commission proposing new rules on the import of cultural goods?

In recent years, a string of crimes against world cultural heritage have been perpetrated by warring factions and terrorist entities all over the world. The Taliban in Afghanistan destroyed the Bamiyan Buddhas, the Ansar Dine militia attacked tombs and mausoleums in the ancient city of Timbuktu and ISIS demolished the Baal Shamin temple in Palmyra in Syria, to name just a few. Recent reports have also shown that valuable artworks, sculptures and archaeological artefacts are being sold and imported into the EU from certain non-EU countries, with those profits potentially used to finance terrorist activities. For example, two Syrian friezes that may have been intended for criminal gain were seized at Roissy airport, France last year.

The EU has already responded to urgent calls for action and to resolutions from the United Nations Security Council by adopting measures prohibiting the import of cultural artefacts from Iraq and Syria. Those measures are implemented by EU customs authorities, whose position at the Union's borders places them at the frontline of action. But aside from these two targeted measures for Iraq and Syria, the EU 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.

Germany, France, Austria and the Netherlands have introduced some legislation and due diligence measures to combat illicit trafficking in cultural goods. Germany and France require an export certificate from the source country to allow the entry of cultural goods into their territory, whereas Austria and the Netherlands stipulate that the importation of cultural goods that have been illegally exported from the countries of origin is forbidden.

This patchwork of rules favours the development of trafficking routes through the more vulnerable and unregulated parts of the EU – a phenomenon known as 'port-shopping'. Europe, with its rich cultural heritage and appreciation for art and history, its proximity to the Middle East and Africa and its huge art market is an attractive destination for this illicit trade.

The European Commission is now responding to numerous calls for action from the other EU institutions and national governments by proposing measures to counter the illicit trafficking of cultural goods from non-EU countries more effectively. The proposal adopted today is also foreseen in the Commission Action Plan for [strengthening the fight against terrorist financing](#) that was presented in December 2016 and aims to disrupt the sources of revenue used by terrorist organisations by targeting their capacity to raise funds.

The Commission is responding to multiple calls for action, such as a [European Parliament Resolution on the destruction of cultural sites perpetrated by ISIS/Da'esh](#). This Resolution called for measures to disrupt the illegal trade of cultural goods and the development of European training programmes for customs and law enforcement officials. In July 2017, [the G20 called](#) for countries to 'address all alternative sources of financing of terrorism, including dismantling connections, where they exist, between terrorism and transnational organized crime, such as... looting and smuggling of antiquities'. This followed a [call from the G7 in March](#) to identify and prohibit the trade in looted and trafficked cultural property, to reinforce the monitoring of free ports and free zones and to ensure closer cooperation between international law enforcement authorities.

The proposal is also highly relevant in view of next year's [European Year of Cultural Heritage 2018](#) which will offer further opportunities to show the EU's commitment to the protection and promotion of the world's cultural heritage. Similarly, the protection of cultural heritage has been defined as a key objective of the Joint Communication [Towards an EU strategy for international cultural relations](#).

What are the main features of this proposed law on the import of cultural goods?

The proposed legislation covers the import in the EU of cultural goods of a minimum of 250 years. It provides for certain certification and documentation requirements before such goods can enter the EU

Customs Union.

For cultural goods belonging to the categories of archaeological objects, parts of monuments that have been dismantled and old manuscripts and books, importers in the EU will have to apply for and obtain a licence. The licence is issued by the competent authority in the Member State of entry, after they examine the evidence submitted by the importer that the cultural good has been exported legally from the third country.

For all other categories of cultural goods, the person who seeks to bring them into the Union will have to submit to customs a signed standard statement, an affidavit, certifying that the goods in question have been exported legally from the third country. This statement must be accompanied by an 'Object ID': an international standard developed for the identification and registration of cultural goods which provides the minimum necessary information to identify the object, including a photograph.

What is a cultural good?

Common rules for the import of cultural goods require an agreed definition of what is meant by a 'cultural good', which is being proposed today.

The best-known reference point is the [1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#) which currently numbers [131 signatory States](#) from all over the world, including 25 EU Member States. This Convention describes cultural property as that "specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science".

The Commission's proposal to combat the illicit trade of cultural goods in the EU features a combination of the definitions provided by the UNESCO Convention and of the [UNIDROIT 1995 Convention](#) as its starting point. This common definition for 'cultural goods' at importation covers a broad range of objects including archaeological finds, ancient scrolls, the remains of historical monuments, artwork, collections and antiques. However, the new EU rules will apply only to cultural goods that have been shown to be most at risk, i.e. those at least 250 years old at the moment of importation. The annex in which these categories are laid out will be regularly updated.

Why is the Commission setting a top age limit of 250 years for cultural goods in this proposal?

The age limit of 250 years helps to focus action on those cultural goods that are most affected, and will help to reduce any undue administrative burden for other objects. Furthermore, the art market already has experience with this limit as it already exists in U.S. legislation. This rule will also take most of the contemporary art out of scope of the new measures, ensuring that art dealers are not unduly burdened.

When should the import of a cultural good be deemed illicit?

The import of cultural goods into the EU can be considered illicit when those goods have been exported from a non-EU country illegally, i.e. it is the laws of the exporting country which determine the licit or illicit character of the goods in question. These laws can range from national legislative measures for the protection of cultural goods, or implementation of the UNESCO Convention.

Cultural goods imported from Iraq or Syria are already considered illegal where there are reasonable grounds to suspect that the goods have been removed without the consent of their legitimate owner or have been removed in breach of national or international law. Such imports are in violation of the prohibitions laid down by [Regulations \(EC\) No 1210/2003](#) and [\(EU\) No 36/2012](#). In this case, the illegality stems from decisions taken by the Council of the EU, in line with United Nations Security Council Resolutions.

What is the value of the cultural goods that are imported illegally to the EU?

The value of the illegal trade in cultural goods is difficult to assess, since it is a criminal activity. Reliable data and instruments for measuring illicit commerce are scarce. [According to Interpol](#), however, the black market in works of art is becoming as lucrative as those for drugs, weapons and counterfeit goods. Some estimates suggest that in 80-90% of sales of antiquities, the goods have illicit origins. Another study suggests that the total financial value of the illegal antiquities and art trade is larger than any other area of international crime except arms trafficking and narcotics and has been estimated at €2.5 - €5 billion yearly.

UNESCO [has also stated](#) that, together with the drugs and armaments trades, the black market in antiquities and culture constitutes one of the most firmly rooted illicit trades in the world.

What impact will the new rules have on legitimate art importers and dealers?

Art dealers, museums and traders who import cultural goods from third countries should already be aware and complying with those countries' laws and regulations on the export of cultural property.

Therefore it is not expected that they will be unduly impacted by an obligation to demonstrate compliance when these goods are imported into the EU.

The Commission examined various options of documentation or authorisation requirements at import, taking in particular into consideration the increased risk of theft and destruction for certain endangered categories of cultural goods, such as archaeological goods. For these there will be an obligation to obtain a licence from an EU authority. These goods however represent only a very small fraction of the art market.

Another expected outcome of this new law is the change of attitudes among buyers, who will learn to expect from importers and dealers of cultural goods some form of documentation providing information on the provenance and guaranteeing the legitimate character of the goods, thereby improving the market standing of law-abiding traders.

What impact will these rules have on EU customs authorities?

The impact on customs authorities is expected to be minimal as they already routinely check for certificates or licences at import for a variety of other reasons. However, extra training for customs officers and officials from cultural authorities is envisaged under the proposal to help them develop relevant expertise and cooperation between them at Member State, EU and international level as well as with businesses in the art market.

What will happen when illicit goods are seized by EU customs?

Today's proposal does not regulate the restitution or return of illicitly exported cultural goods. In practice, the return of stolen cultural goods to the source country is carried out through diplomatic contact between the EU Member State in which the goods are found and that of the source country. However, the new rules do foresee future provisions for the storage of cultural goods coming from countries affected by armed conflict or suffering a natural disaster in order to ensure their safety and preservation.

Who will ultimately ensure that these rules are respected?

EU customs and other competent authorities such as Ministries of Cultural Affairs in Member States will be responsible for the implementation of the new rules and for making sure that the measures are followed by importers. Member States should monitor any false information that is given to obtain entry of cultural goods into the EU. Effective, proportionate and dissuasive penalties should also be introduced for those who break the rules. The Commission will be provided with regular reports on how the new rules are being implemented and can take action where it sees that those measures are not being respected.

How does this proposal fit in with global trends in this area?

Protection of cultural goods is established international practice. Three international agreements are in place to protect cultural goods from plunder and to combat illicit trade:

- [The Hague Convention of 1954 for the Protection of Cultural Property in the Event of an Armed Conflict \(128 parties\)](#).
- [the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, \(132 parties\)](#)
- [The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, \(40 contracting states\)](#).

The US imposes import restrictions at the request of members of the 1970 UNESCO Convention and publishes a list of objects subject to such restrictions. The objects listed may only be imported into the US after an export permit is issued by the source country, or when accompanied by other documentation showing that the object left the source country prior to the imposition of restrictions.

Switzerland requires an accompanying declaration when cultural property is imported or in transit which says that cultural property from signatories of the 1970 UNESCO Convention is not subject to a permit under the laws of that state. Similar rules apply to the storage of cultural property in a free zone and in addition an official audit for every archaeological object bound for importation in the Freeport is also imposed. In case of dubious origin or absence of an internationally recognised paper trail, the item is barred from entering the free zone.

What additional steps will be taken to facilitate enforcement of the new rules?

A series of EU actions will help ensure that the new rules are enforced effectively. These measures will address the factors driving both the supply of and the demand for illicitly traded cultural goods. For example, awareness raising campaigns are being prepared that will target buyers of cultural goods, such as professional art market importers but also buyers of cultural goods in Europe. In parallel, Member States will organise training sessions for customs officers and other law enforcement services

in order to improve their ability to recognise suspicious shipments and to co-operate more efficiently in preventing illicit trade. Steps will also be taken to enhance cooperation between Member States as well as with the relevant international organisations and authorities of third countries.

What special rules are in place to deal with conflict zones?

In line with UN Security Council Resolutions, the EU has adopted two *ad hoc* measures prohibiting trade with [Iraq](#) and [Syria](#). These Regulations prohibit trade in cultural goods with these countries where there are reasonable grounds to suspect that the goods have been removed without the consent of their legitimate owner or have been removed in breach of national or international law.

Why do you foresee a different treatment depending on where the cultural goods originate?

Rules governing imports of cultural goods into the EU will be enforced in a number of ways to avoid loopholes and ensure consistency. The aim is also to avoid situations where cultural goods can be moved to countries with no protective legislation to by-pass the export prohibitions or restrictions of the source country (a form of 'laundering' of the cultural good). The rules state:

- When the cultural good is exported directly from the country to whose cultural heritage it belongs (source country), the importer must prove that the export from the source country was legal.
- When it is not being exported from its original country, but from another signatory member of the [1970 UNESCO Convention](#), it is enough to prove that the cultural good is being exported legally from that signatory member into the EU. For example, an ancient sarcophagus originally from Egypt and that has been legally imported into the US can be exported into the EU, as long as a license is obtained for the US-EU import.
- If the country of dispatch is not a signatory member of the 1970 UNESCO Convention, then the importer will have to prove that the cultural good was legally imported from the initial source country. For example, an EU importer trying to bring an Egyptian sarcophagus that has already been moved to a country that has not signed the UNESCO Convention, must prove that the initial export from Egypt to the non-signatory was legal.

Who was consulted for the proposal?

An open public consultation was held between October 2016 and January 2017 and received 305 responses from business and other interested sectors. The Commission has also held three Expert Group meetings with representatives from customs and cultural authorities of Member States. This provided an opportunity to present the initiative and have an in-depth exchange of opinions and a discussion on the various challenges and objectives. Member States' customs and cultural authorities were also surveyed on the potential costs and burden for administrations. Lastly, a targeted consultation on customs issues was carried out for Member States authorities, international organisations and stakeholder representatives.

What are the next steps?

The proposal for a Regulation will now be submitted to the European Parliament and the Council of the EU. The Commission hopes that this will be swiftly adopted in the co-decision process.

Why is this law only due to enter into force in 2019?

For the customs authorities to apply the law, certain secondary legislation will need to be drawn up to put in place the harmonised license applications and importer statements, etc. The Commission is confident that following the agreement of Member States, enough time will remain to adopt these measures and for the rules to come into force on time.

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Press contacts:

[Vanessa MOCK](#) (+32 2 295 61 94)

[Patrick McCullough](#) (+32 229 87183)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)