



Ministry of Education, Culture and
Science

Import and Export of Cultural Property



Member states of the European Union

Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom

See www.unesco.org for a list of the approx. 120 States Parties to the 1970 UNESCO Convention (the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property).

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Foreword

Imagine that a billionaire has bought Vermeer's Girl with a Pearl Earring to hang above the mantelpiece in his Swiss chalet. Or that Rembrandt's Night Watch is waiting at an art fair in New York to be auctioned off to the highest bidder. Your reaction is probably: that's impossible. And you are right. The Girl with a Pearl Earring and the Night Watch are part of the Netherlands' cultural heritage. They 'belong to us' – and we feel instinctively that they do.

Many other countries cherish their own Girls with a Pearl Earring and Night Watches. Such works make up a country's protected cultural heritage: objects that are important to the cultural identity and historical consciousness of a people. Independent of their financial value, such works are often irreplaceable and indispensable. They are not allowed to leave their country of origin without official permission, for example for an exhibition.

Art and antiques are taken across borders every day. Museums lend objects for exhibitions; art dealers make deals; collectors add to their collections; tourists buy beautiful items. Because cultural property may be legally protected, we must ensure that this active trade takes place in accordance with the applicable rules.

You should be careful when buying, selling, importing and exporting cultural property. Ask questions; investigate; double-check the facts. Make sure that you are not robbing a country and its people of their legally protected cultural heritage.

The European Union has had rules since 1993 for the export of cultural property. Since 2009 the Netherlands has also been bound by international law: the 1970 UNESCO Convention. The rules for the import and export of cultural property also apply to sales and purchases made via the internet or by post. If you violate these rules, the property may be taken into custody and you may have to pay heavy fines. This brochure explains what pitfalls you need to avoid.



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1. Import and export of cultural property

In a shop in Mexico you discover a wooden sculpture that you like. The salesperson cannot say where it comes from or how old it is.

It would be unwise to buy the sculpture and innocently pack it in your suitcase. After all, you don't know anything about it. How old is it? Where does it come from? It may well be from Mexico, which is a State Party to the 1970 UNESCO Convention. Or from another country that is a State Party. Or, who knows, it could even be from an EU member state, like the Netherlands. In any of these cases the sculpture may be protected cultural property.

Protected cultural property from the Netherlands, other EU member states and States Parties to the 1970 UNESCO Convention

Protected cultural property from any of these countries either may never leave its country of origin or may only be taken abroad with official permission, for example for an exhibition or for restoration. If 'your' sculpture is protected Mexican cultural property, you could encounter problems at both the Mexican and the Dutch borders, because both countries are bound by the 1970 UNESCO Convention. In the Netherlands the sculpture could be taken into custody by the Ministry of Education, Culture and Science and returned to Mexico with the help of the Cultural Heritage Inspectorate, Police and Customs.

Retroactive effect?

To be defined as protected cultural property of the Netherlands or another EU member state, an object must have been unlawfully removed from its territory after 1 January 1993. In the case of States Parties to the 1970 UNESCO Convention, the situation is more complex. Take the example of the sculpture: in Mexico the Convention has been in force for years, but in the Netherlands only since 1 July 2009. As the most recent date is the one that counts, Mexico can only recover the sculpture from the Netherlands if it was exported after 1 July 2009. Ask the Cultural Heritage Inspectorate when the Convention entered into force in countries where you have dealings.

Due care

Suppose that your sculpture is taken into custody at the Dutch border. You claim that you bought and transported it in good faith, as you had no idea that it was protected cultural property. Credulity is not enough to establish good faith, however; you must have done everything that could reasonably be expected of you to discover whether an object is in fact protected cultural property, and be able to prove that you have done so (see sidebar). If you have, even if it turns out that the object you tried to import was protected, you can claim that you acted in good faith. In this case you will still not be allowed to keep the object, but you are entitled to fair compensation.

How can you find out whether an object is protected cultural property of the Netherlands, another EU member state or a State Party to the 1970 UNESCO Convention?

Cultural property that falls under Dutch protective legislation

- Objects or collections, mainly owned privately, that have been designated as protected under the Cultural Heritage Preservation Act
- Objects from public collections in institutions such as museums, archives and libraries that are funded by a public body
- Objects from ecclesiastical collections
- Protected historic buildings and monuments and parts of them
- Archives
- Unlawfully excavated archaeological objects

Do you have doubts as to whether an object's origin is lawful? Contact the Cultural Heritage Inspectorate or consult <http://www.erfgoedinspectie.nl>.

Cultural property that falls under the protective legislation of other EU member states and States Parties to the 1970 UNESCO Convention

Your rule of thumb should be: if an object is more than 50 years old, there is a chance that it cannot be taken out of its country of origin. Check whether the seller is known to be reliable. Photograph the object. Ask the seller for written information, certificates and other statements, and verify their authenticity. Consult authorities like:

- www.erfgoedinspectie.nl
- www.douane.nl/english
- the EU website: europa.eu/pol/cult/index_en.htm
- www.unesco.org/culture/natlaws for a database of national cultural heritage laws
- www.icom.museum/redlist for lists of cultural objects at risk in Africa, Latin America and especially Afghanistan, Cambodia, Iraq and Peru
- the Customs, national museum and/or Ministry of Culture of countries that the object may have come from
- Interpol's database of stolen works of art:
see www.interpol.int/public/ICPO/PressReleases/PR2009/PR200978.asp

2. Export of cultural property from a European Union member state

Licences for specific categories of cultural property

The previous section concerned protected cultural property in countries all over the world. The main rule was: be careful when importing or exporting cultural property. This section concerns cultural goods in EU member states that may only be exported to a destination outside the EU with a licence. Since 1 January 1993, a licence has been required for temporary or permanent export of specific categories of cultural goods.

When do you need an export licence?

This depends on the thresholds for value and age for the particular category of cultural property. The same thresholds apply in all EU member states. The object to be exported must be the property or in the lawful possession of the person who intends to sell, use or exhibit it in a country outside the EU.

Annex A to this brochure lists the categories of cultural property concerned and the corresponding international Customs codes, and gives the financial value and age thresholds for each category. For example: if you would like to export a 60-year-old drawing with a value of €20,000, the value threshold for drawings (category 5) is €15,000 and the age threshold is 50 years, so you need a licence. These thresholds apply not only to goods being permanently exported to a country outside the EU, for example for sale, but also to goods being temporarily exported, for restoration or for exhibition in a museum or at an art fair.

An export licence is also required for certain categories of removal goods. The form of transport across the border makes no difference. Even if you take cultural goods with you in your baggage or send them through the post, a licence may be required.

Annex B tells you how to apply for an export licence and what types of export licence there are.

When is an export licence not required?

You do not have to apply for an export licence when the financial value or age of a cultural object is under the threshold that applies to its specific category. Customs officials may however ask you for evidence, such as invoices, expert reports and insurance documents.

If necessary, the Central Office for Import and Export (CDIU) at the Groningen regional office of the Tax and Customs Administration can give you or your representative a written statement showing that no export licence is required for your property.

No export licence is required for transport of cultural property inside the EU, except in the case of objects covered by the protective legislation of the Netherlands or another member state. Such objects may be exported only by special permission of the owner or, in the case of the Netherlands, of the Minister of Education, Culture and Science.



3. Strict prohibitions

Cultural property from Iraq

Since the outbreak of the Gulf Wars, Iraq has lost a great deal of its protected cultural property. Important objects have been stolen from Iraqi museums, archives and libraries. Archaeological sites have been and still are being plundered. Iraqi art and archaeological objects are surfacing all around the world. International organisations have taken measures to put a stop to these practices, and the EU has announced the following prohibitions:

1. You may not bring any Iraqi cultural objects into EU territory or, if they are already in the EU, take them out of EU territory.
2. You may not trade in Iraqi cultural property that you know or should reasonably suspect has been illegally removed from Iraq. The list of categories with the corresponding customs codes is largely identical to the list in the annex on page 10, though without value thresholds. Specific information on cultural property from Iraq can be found at www.icom.museum/redlist, under the heading 'Emergency Red List of Iraqi Antiquities at Risk'. If you have doubts, contact the Cultural Heritage Inspectorate.

Violations of these rules are considered offences in the Netherlands, in some cases serious offences. The Cultural Heritage Inspectorate is responsible for ensuring compliance with them, and works closely to this end with the Customs, Police, experts and colleagues around the EU.

The prohibitions do not apply to cultural property that you can prove was exported from Iraq before 6 August 1990, or to property that is being returned to Iraqi institutions in accordance with the objective of safe return as set out in UNSC Resolution 1483 (2003).

Cultural property from an occupied territory

It is prohibited in the Netherlands to import or have in one's possession cultural property that was taken after 1959 from a territory occupied during an armed conflict. The First Protocol to the 1954 UNESCO Convention became legally binding in the Netherlands in 2007 with the adoption of the Cultural Property (Return from Occupied Territory) Act. This Act has retroactive effect to 1959, when the Netherlands became a party to this UNESCO Convention.

Annex A: Cultural property from EU member states for which an export licence is required

(under Annex A to Council Regulation (EC) No. 116/2009)

Category	Description	Value threshold in euros	Customs code
1	Archaeological objects more than 100 years old which are the products of: <ul style="list-style-type: none"> • excavations and finds on land or under water • archaeological sites • archaeological collections 	none	9705 00 00 9706 00 00
2	Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, of an age exceeding 100 years	none	9705 00 00 9706 00 00
3	Pictures and paintings, other than those included in categories 4 or 5, executed entirely by hand in any medium and on any material (1)	150.000	9701
4*	Watercolours, gouaches and pastels executed entirely by hand on any material (1)	30.000	9701
5	Mosaics in any material executed entirely by hand, other than those falling into categories 1 or 2, and drawings** in any medium executed entirely by hand on any material (1)	15.000	6914 9701
6	Original engravings, prints, serigraphs and lithographs with their respective plates and original posters (1)	15.000	Chapter 49 9702 00 00 8442 50 99
7	Original sculptures or statuary and copies produced by the same process as the original (1), other than those in category 1	50.000	9703 00 00
8	Photographs, films and negatives thereof (1)	15.000	3704, 3705, 3706 4911 91 80
9	Incunabula and manuscripts,*** including maps and musical scores, singly or in collections (1)	none	9702 00 00 9706 00 00 4901 10 00 4901 99 00 4904 00 00 4905 91 00 4905 99 00 4906 00 00
10	Books more than 100 years old, singly or in collections	50.000	9705 00 00 9706 00 00
11	Printed maps more than 200 years old	15.000	9706 00 00

Category	Description	Value threshold in euros	Customs code
12	Archives, and any elements thereof, of any kind or any medium which are more than 50 years old	none	3704, 3705, 3706 4901, 4906 9705 00 00 9706 00 00
13	a) Collections (2) and specimens from zoological, botanical, mineralogical or anatomical collections b) Collections (2) of historical, palaeontological, ethnographic or numismatic**** interest	50.000	9705 00 00 9705 00 00
14	Means of transport more than 75 years old	50.000	9705 00 00 Chapters 86 - 89
15	Any other antique items not included in categories 1 to 14: a) between 50 and 100 years old: • toys, games • glassware • articles of goldsmiths' or silversmiths' wares • furniture • optical, photographic or cinematographic apparatus • musical instruments • clocks and watches and parts thereof • articles of wood • pottery • tapestries • carpets • wallpaper • arms b) more than 100 years old	50.000	 Chapter 95 7013 7114 Chapter 94 Chapter 90 Chapter 92 Chapter 91 Chapter 44 Chapter 69 5805 00 00 Chapter 57 4814 Chapter 93 9706 00 00

(1) Which are more than 50 years old and do not belong to their originators.

(2) As defined by the Court of Justice in its judgment in Case 252/84, as follows: 'Collectors' pieces within the meaning of heading No 97.05 of the Common Customs Tariff are articles which possess the requisite characteristics for inclusion in a collection, that is to say, articles which are relatively rare, are not normally used for their original purpose, are the subject of special transactions outside the normal trade in similar utility articles and are of high value.

Notes by the Cultural Heritage Inspectorate:

* Watercolours, gouaches and pastels on which a signature is visible are considered drawings (category 5).

** Drawings do not include coloured drawings as described in category 4 (watercolours, gouaches and pastels).

*** Incunabula are defined as books printed before 1501. Manuscripts include printed books that are more than 50 years old and contain handwritten notes.

**** Individual coins are not considered collections and fall under category 15.



Annex B: Export licences: applications and licence types

How to apply for an export licence

Export licence application forms can be requested from the CDIU:

Tax Department/Customs-Central Office for Import and Export (CDIU)
P.O. Box 30033
9700 RD Groningen
The Netherlands
Tel.: +31 (0)50 523 2600
Fax: +31 (0)50 523 2183
Email: drn-cdiu.groningen@belastingdienst.nl

Information can also be obtained by phoning the Customs Information Line, in the Netherlands at 0800 0143 or from abroad at +31 45 574 3031. For more information, see www.douane.nl/contact/en/.

It is possible to apply for an export licence for several objects at the same time, on the condition that they all belong to the same category, will all be transported together to the same destination, and in the case of temporary export will all be returned together. If cultural goods of different categories, e.g. paintings and archaeological objects, are being transported together, a separate licence must be requested for each category of goods.

The completed forms should be sent to the CDIU by post, accompanied by the documents needed for identification. Applications for permanent export must also be accompanied by three photographs of the object. If you do not know the Customs code requested on the form, please contact the CDIU for assistance.

The Cultural Heritage Inspectorate will use the completed form received by the CDIU to determine whether an export licence is in fact required for the objects in question. You will be informed if no licence is required. A determination will also be made as to whether the goods are protected cultural property of any of the EU member states. The Customs and Cultural Heritage Inspectorate may require that an object be examined before a licence is granted. When there is no objection to export, the CDIU will provide you with two copies of the export licence, based on the information in your application.

Three types of export licences

1. *Standard licence*

- A standard licence is appropriate for temporary or permanent export of a separate object or consignment of goods.
- For multiple objects to be exported with a single licence, the objects must all belong to the same category, all be transported together to the same address, and in the case of temporary export all be returned together to the exporting country. When this is not the case, multiple licences must be applied for.
- A temporary export licence is needed for cultural goods destined for exhibition at an art fair. When one or more objects are sold, the sale must be reported in writing to the CDIU; in this case a permanent export licence will not be required.
- The licence is valid for a period of 12 months from its date of issue.

2. *Specific open licence*

- This type of licence is used for the temporary export from the EU on several occasions of a specific category of cultural property (e.g. musical instruments) by a person or organisation for the purposes of use or exhibition in a third country.
- The person or organisation concerned must provide all necessary guarantees that the property will be returned in good condition to the exporting country.
- The licence is valid for a period of three years from its date of issue.

3. *General open licence*

- This type of licence is used for the temporary, frequent export of cultural property from the EU by a person or organisation for the purposes of use or exhibition in a third country.
- The objects to be exported must be part of a permanent collection belonging to a museum or other institution.
- It must be known before the licence is applied for what objects will be located outside the EU for the following three years.
- The licence can be used for any temporary export of any subset of the property that is covered by the licence and is part of the permanent collection, and for a number of different subsets, which can be exported either in succession or simultaneously.
- The list of the cultural goods to be exported must be submitted on the letterhead of the institution concerned; each page must be signed by a representative of the institution who is designated by name; and each page must bear the stamp of the institution.

- The person or organisation concerned must provide all necessary guarantees that the property will be returned in good condition to the exporting country.
- The licence is valid for a period of three years from its date of issue.
- All objects in a subset must be exported at the same time to the same address and be returned together to the exporting country.



For additional information and new developments

Cultural Heritage Inspectorate

P.O. Box 16478 (IPC 3500)
2500 BL The Hague
The Netherlands
Tel.: +31 (0)70 412 4012
Fax: +31 (0)70 412 4014
Email: info@ergoedinspectie.nl
<http://www.ergoedinspectie.nl>

Tax Department/Customs-Central
Office for Import and Export (CDIU)

P.O. Box 30033
9700 RD Groningen
The Netherlands
Tel.: +31 (0)50 523 2600
Fax: +31 (0)50 523 2183
Email: drn-cdiu.groningen@belastingdienst.nl
<http://www.douane.nl/contact/en/>

Applicable legislation

International

- 1970 UNESCO Convention: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
- • 1954 UNESCO Convention: Convention for the Protection of Cultural Property in the Event of Armed Conflict and its (1954) Protocol, Second (1999) Protocol

EU

- Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State
- Council Regulation (EC) No. 116/2009 on the export of cultural goods
- Council Regulation (EC) No. 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq (art. 3)

Netherlands

- Cultural Heritage Preservation Act (1984/2002)
- Iraq Sanctions Order (II) (2004)
- Cultural Property (Return from Occupied Territory) Act (2007)
- 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property (Implementation) Act (2009)



Colophon

With special thanks to

- Cultural Heritage Inspectorate (Den Haag)
- Museum Volkenkunde (Leiden)
- Comando Carabinieri Tutela Patrimonio Culturale (Rome)
- Tropenmuseum (Amsterdam)
- Museum Catharijneconvent (Utrecht)
- National Museum of Antiquities (Leiden)
- Netherlands Police Agency (Zoetermeer)

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The text of this brochure has been drafted with the greatest possible care. For current information, please consult the Cultural Heritage Inspectorate website at www.erfgoedinspectie.nl. No rights may be derived from the information in this brochure. The Conventions and legislation on cultural property listed above are legally binding.

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