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#### 'I' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the introduction and the import of cultural goods

- Confirmation of the final compromise text with a view to agreement

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1. On 13 July 2017, the Commission submitted to the Council and the European Parliament a Proposal for a Regulation of the European Parliament and of the Council on the introduction and the import of cultural goods.
2. The Working Party on Customs Union examined this proposal at various meetings in 2017 and 2018.
3. At its meeting on 7 November 2018, the Permanent Representatives Committee confirmed the mandate to start negotiations with the European Parliament on the compromise text of the proposal for a Regulation as laid down in doc. ST 13603/1/18 REV 1<sup>1</sup>.

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<sup>1</sup> CY and FR have issued statements, as laid down in doc. ST 13736/18 ADD 1.

4. In the European Parliament, this proposal was referred to the Committee on International Trade (INTA). Ms Alessia Maria MOSCA (S&D, IT) and Mr Daniel DALTON (ECR, UK) were appointed rapporteurs. The INTA and IMCO Committees voted their draft report on 25 October 2018.
5. After two political trilogues and a series of technical trilogues, a provisional agreement on a compromise text was reached between the co-legislators<sup>2</sup> on 11 December 2018.
6. **Against this background, the Permanent Representatives Committee is invited to:**
  - **approve the text of the proposal for a Regulation as set out in Annex to this Note with a view to reaching an agreement at first reading with the European Parliament; and**
  - **give to the Chairman of the Permanent Representatives Committee the mandate to inform the Chairs of the European Parliament's INTA and IMCO Committees that, should the European Parliament adopt the text of the proposal in the exact form as set out in Annex to this Note , the Council would adopt the proposed Regulation thus amended, subject to legal-linguistic revision by both Institutions.**

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<sup>2</sup> DE, SE, FR, UK, LT, DK, IT, NL, PL expressed scrutiny reservations.

Proposal for a

**Regulation of the European Parliament and of the Council on the introduction and the import of cultural goods**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas,

- (1) In light of the Council Conclusions of 12 February 2016 on the fight against the financing of terrorism, the Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing<sup>3</sup> and Directive (EU) 2017/541 of the European Parliament and of the Council<sup>4</sup>, common rules on trade with third countries should be enacted so as to ensure the effective protection against trafficking in cultural goods and, their loss or destruction, the preservation of humanity's cultural heritage and the prevention of terrorist financing and money laundering through the selling of looted cultural heritage to buyers in the Union.

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3 COM(2016) 50 final

4 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA; OJ L 88, 31.3.2017, p.6-21

- (1a) With respect to the exploitation of peoples and territories that usually leads to the illicit trade and trafficking in cultural goods, in particular when such illicit trade and trafficking originates from a context of armed conflict, this Regulation should take into account regional and local characteristics of people and territories, rather than the market value of cultural production.
- (2) Cultural goods are often of major cultural, artistic, historical and scientific importance. Cultural heritage constitutes one of the basic elements of civilisation with, inter alia, symbolic value and cultural memory of humankind. It enriches the cultural life of all peoples and it unites people in shared memory knowledge and development of civilization. It should therefore be protected from unlawful appropriation and pillage. Looting of archaeological sites has always happened, but has now reached an industrial scale. As long as it is possible to engage in lucrative trade in illegally excavated cultural goods and to profit therefrom without any notable risks, such excavations and looting will continue into the future. The economic and artistic value of cultural heritage creates a strong demand on the international market, whereas the lack of strong international legal measures or ineffective enforcement of such measures leads to the transfer of such goods to the shadow economy. Looting of archaeological sites and trading in illegally excavated cultural heritage is a serious crime that causes significant suffering to those directly or indirectly affected. The illicit trade in cultural goods in many cases contributes to forceful cultural homogenisation or expulsion, while the looting and pillage of cultural goods leads, inter alia, to the disintegration of cultures. The Union should accordingly prohibit the import into the customs territory of the Union of cultural goods unlawfully exported from third countries, with particular emphasis on cultural goods from third countries affected by armed conflicts, in particular where such goods have been exported by terrorist or other criminal organisations. While this general prohibition does not entail systematic controls, Member States should be allowed to intervene when receiving intelligence of suspicious shipments and to take all appropriate measures to intercept illicitly exported cultural goods.

- (3) In view of different rules applying in the Member States regarding the import of cultural goods into the customs territory of the Union, measures should be taken in particular to ensure that certain imports of cultural goods are subject to uniform controls upon their entry into the customs territory of the Union, on the basis of existing processes, procedures and administrative tools aiming to achieve a uniform implementation of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>5</sup>.
- (4) The protection of cultural goods which are considered national treasures of the Member States is already covered by Directive 2014/60/EU of the European Parliament and of the Council<sup>6</sup> and Council Regulation (EC) No 116/2009<sup>7</sup>. Consequently, this Regulation should not apply to cultural goods which were created or discovered in the customs territory of the Union. The common rules should cover the customs treatment of non-Union cultural goods entering the customs territory of the Union. Relevant for the application of this Regulation should be the extent of the customs territory of the Union at the time of import.
- (5) Control measures to be put in place regarding free zones (and so-called “free ports”) should have as broad a scope as possible in terms of customs procedures concerned in order to prevent circumvention of this Regulation by the exploitation of free zones, which represent potential background areas for the continued proliferation of trade in illegal products in the Union. Those control measures should therefore not only concern cultural goods released for free circulation but also cultural goods placed under a special customs procedure. However, such a broad scope should not go beyond the objective of preventing illicitly exported cultural goods from entering the customs territory of the Union. Accordingly, while encompassing special customs procedures under which goods entering the customs territory of the Union may be placed, systematic control measures should exclude transit.

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<sup>5</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1)

<sup>6</sup> Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (OJ L 159, 28.5.2014, p. 1).

<sup>7</sup> Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ L 39, 10.2.2009, p. 1).

- (6) Due to the fact that many third countries and most Member States are familiar with their provisions, the definitions based on those used in the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property signed in Paris on 14 November 1970 ('the 1970 UNESCO Convention') and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects signed in Rome on 24 June 1995, to which a significant number of Member States are a party, are used in this Regulation.
- (7) The legality of export should be primarily examined based on the laws and regulations of the country where the cultural goods were discovered or created. However, in order not to unreasonably impede legitimate trade, the person who seeks to import cultural goods into the customs territory of the Union should be exceptionally allowed to demonstrate instead the licit export from a different third country where the cultural goods were located before their dispatch to the Union. This should apply in cases where the country in which the goods were created or discovered cannot be reliably determined or when the export of the goods in question took place before the 1970 UNESCO Convention became applicable. In order to prevent circumvention of this Regulation by simply bringing illegal cultural goods to another third country prior to their import to the Union, these exceptions should only be applicable to those countries, in which the cultural goods have been located for a period of more than five years and for purposes other than temporary use, transit, re-export or transshipment. Where these conditions are fulfilled for more than one country, the last of those countries before the introduction of the cultural goods into the customs territory of the Union should be the one relevant.

- (7a) Article 5 of the 1970 UNESCO Convention calls for the establishment of one or more national services for the protection of the cultural heritage of Member States which are Parties to that Convention against illegal import, export and transfer of ownership. In accordance with that Convention, such national services should be equipped with a sufficient number of qualified personnel to ensure that protection and to allow for the necessary active collaboration between the competent authorities of Member States which are Parties to that Convention in the area of security and in the fight against the illegal import of cultural goods, especially in areas of crisis.
- (8) In order not to impede trade in goods across the external border disproportionately, this Regulation should only apply to goods meeting a certain age limit. For that purpose, it seems appropriate to set a minimum age threshold for the conditions and procedures for the import of cultural goods. It seems furthermore appropriate to also set a financial threshold in order to exclude objects with lower values from the application of the conditions and procedures for the import of cultural goods. These thresholds will ensure that the measures provided for in this Regulation focus on cultural goods most likely to be targeted by looters in conflict areas, without excluding other goods the control of which is necessary for ensuring protection of cultural heritage.
- (9) Trafficking in looted artefacts and antiques has been identified as a possible source for terrorist financing and money laundering activities in the context of the supranational risk assessment on money laundering and terrorist financing risks affecting the internal market.

- (10) Since certain categories of cultural goods, namely archaeological objects and elements of monuments are particularly vulnerable to pillage and destruction, it seems necessary to provide for a system of increased scrutiny before they may enter the customs territory of the Union. Such a system should require the presentation of a licence issued by the competent authority of a Member State prior to the release for free circulation of those goods or their placement under a special customs procedure other than transit. Persons seeking to obtain such a licence should be able to prove licit export from the country where the goods were created or discovered with the appropriate supportive documents and evidence, such as, export certificates or ownership titles, invoices, sales contracts, insurance documents, transport documents and experts appraisals. Based on complete and accurate applications, the competent authorities of the Member States should decide whether to issue a licence without undue delay. All import licences should be stored in an electronic system.
- (10a) Taking into account the particular nature of the goods, the role of the customs authorities is extremely relevant since they should be able, where necessary, to require additional information from the declarant and to analyse the cultural goods by means of a physical examination.
- (11) For other categories of cultural goods, the persons seeking to import them into the customs territory of the Union should, by means of a statement, certify and assume responsibility for their lawful export from the third country and should provide sufficient information for those goods to be identified by customs. In order to facilitate the procedure and for reasons of legal certainty, the information about the cultural good should be provided using a standardised document. The Object ID standard, recommended by UNESCO, could be used to describe the cultural goods. The holder of the goods should register these details in an electronic system, in order to facilitate identification by the customs authorities and to allow for risk analysis and targeted controls and to ensure traceability after the goods enter the internal market.



(11a) An icon is any representation of religious figures or religious events, produced in various media and sizes, monumental as well as portable. An icon, as a vital and inseparable part of divine worship and liturgical life, should be considered as forming an integral part of a religious monument which has been dismembered, if it was once part of the interior of a church, a monastery, a chapel, etc., either free-standing or as part of architectural furniture, e.g. an iconostasis or icon stand. Even in cases where the specific monument that the icon belonged to is unknown, but there is evidence that it once formed an integral part of a monument, in particular when it preserves signs or elements which indicate that it was once part of an iconostasis or an icon stand, the icon should be still covered by category (d) "elements of monuments".

(11aa)The Commission should be responsible to establish, in the context of the Single Window environment for customs, a centralised electronic system for the submission of applications for import licences and importer statements and the storage and the exchange of information between the authorities of the Member States, in particular regarding importer statements and import licences.

(11b) It should be possible for the processing of data under this Regulation to also cover personal data and should be carried out in accordance with Union law. Member States and the Commission should process personal data only in a manner compatible with the purposes of this Regulation or in duly justified circumstances for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. Any collection, disclosure, transmission, communication and other processing of personal data within the scope of this Regulation should be subject to the requirements of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>8</sup> and Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>9</sup>. The processing of personal data for the purposes of this Regulation should also respect the fundamental rights to respect for private and family life recognised by Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, as well as the right to respect for private and family life, and the right to the protection of personal data recognised, respectively, by Articles 7 and 8 of the Charter of Fundamental Rights of the European Union (the 'Charter')."

(11c) Cultural goods which were not created or discovered in the customs territory of the Union but which have been exported as Union goods should not be subject to the presentation of an import licence or of an importer statement when they are returned to that territory as returned goods within the meaning of the Union Customs Code.

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<sup>8</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1)

<sup>9</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (12) Temporary admission of cultural goods for educational, scientific, conservation, restoration, exhibition, digitisation, performing arts, for the purpose of research conducted by academic institutions or for the purpose of cooperation between museums or similar institutions should also not be subject to the presentation of a licence or of a statement.
- (13) Storage of cultural goods for the express purpose of seeking a safe haven for ensuring their safe keeping by, or under the supervision of, a public authority from countries affected by armed conflict or suffering a natural disaster should also be permitted without the presentation of a licence or a statement in order to ensure their safety and preservation.
- (14) In order to facilitate the presentation of cultural goods at commercial art fairs, an import licence should not be necessary where the cultural goods are under temporary admission, within the meaning of Article 250 of Regulation (EU) No 952/2013, and an importer statement has been provided instead of the import licence. However, an import licence should be presented where such cultural goods will remain in the Union after the art fair.
- (15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt specific detailed arrangements for the temporary admission and storage of cultural goods into the customs territory of the Union, the templates for import licence applications and forms, as well as for importer statements and their accompanying documents, as well as further procedural rules on their submission and processing. Implementing powers should also be conferred on the Commission to make arrangements for the establishment of an electronic system for the submission of applications for import licences and importer statements and the storage of information and the exchange of information between Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

- (15a) In order to ensure effective co-ordination and to avoid duplication of efforts when organising training, capacity building activities and awareness-raising campaigns, as well as to commission relevant research and the development of standards, where appropriate, the Commission and the Member States should co-operate with international organisations and bodies, such as the UNESCO, INTERPOL, EUROPOL, the World Customs Organisation (WCO), the International Centre for the Preservation and Restoration of Cultural Property (ICCROM) and the International Council of Museums (ICOM).
- (16) Relevant information on trade flows of cultural goods should be electronically collected and shared by Member States and the Commission, to support the efficient implementation of the Regulation and to provide the basis for its future evaluation. In the interest of transparency and public scrutiny, as much information as possible should be made public. Trade flows of cultural goods cannot be efficiently monitored only by their value or weight since these two measurements can fluctuate. It is essential to electronically collect information on the number of items declared. As no supplementary measurement unit is specified in the Combined Nomenclature for cultural goods, it is necessary to require that the number of items is declared.
- (17) The EU Strategy and Action Plan for customs Risk Management aims, *inter alia*, to strengthen capacities of customs authorities to increase the responsiveness to risks in the area of cultural goods. The common risk management framework laid down in Regulation (EU) No 952/2013 should be used and relevant risk information be exchanged between customs authorities.

- (17aa) In order to benefit from the expertise of international organisations and bodies which are active in cultural matters and from their experience with illicit trade in cultural goods recommendations and guidance issued from these organisations and bodies should be taken into consideration in the common risk management framework when identifying risks related to cultural goods. In particular, the Red Lists published by the International Council of Museums (ICOM) should serve as guidance to identify the third countries the heritage of which is most at risk and the objects exported from there that would more often be the object of illicit trade.
- (17a) It is necessary to establish awareness-raising campaigns targeted at purchasers of cultural goods regarding the risk of illicit goods and to assist the market actors in their understanding and application of this Regulation. Member States should involve relevant national contact points and other information provision services in the dissemination of this information.
- (17b) The Commission should ensure that micro, small and medium-sized enterprises (SMEs) benefit from adequate technical assistance and should facilitate the provision of information to them in order to efficiently implement this Regulation. SMEs established in the Union which import cultural goods should therefore benefit from current and future EU programmes in support of the competitiveness of small and medium-sized enterprises.
- (18) In order to encourage compliance and deter circumvention, Member States should introduce effective, proportionate and dissuasive penalties for failing to comply with the provisions of this Regulation and communicate those penalties to the Commission. Penalties introduced by Member States should have an equivalent deterrent effect across the Union on the infringement of this Regulation.
- (18a) Member States should ensure that the customs authorities and the competent authorities agree on measures under Article 198 Union Customs Code. Details should be subject to national law.

- (19) Without delay, the Commission should adopt rules implementing this Regulation, in particular those regarding the appropriate electronic standardised forms to use to apply for an import licence or to prepare an importer statement, and establish the electronic system afterwards within the shortest possible timeframe. The application of the provisions regarding import licences and importer statements should be deferred accordingly.
- (20) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve that objective.

## HAVE ADOPTED THIS REGULATION

### *Article 1*

#### *Subject matter and scope*

1. This Regulation sets out the conditions for the introduction and the conditions and procedures for the import of cultural goods for the purposes of safeguarding humanity's cultural heritage and preventing the illicit trade in cultural goods, in particular where it may contribute to terrorist financing.
2. This Regulation shall not apply to cultural goods which were either created or discovered in the customs territory of the Union.

### *Article 2*

#### *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'cultural goods' means any item which is of importance for archaeology, prehistory, history, literature, art or science as listed in the Annex;
- (b) 'introduction of cultural goods' means any entry of cultural goods into the customs territory of the Union which are subject to customs supervision or customs control within the customs territory of the Union in accordance with Regulation (EU) No 952/2013;
- (c) 'import of cultural goods' means:
  - (i) release for free circulation as referred to in Article 201 of Regulation (EU) No 952/2013; or
  - (ii) the placing of goods under one of the following categories of special procedures referred to in Article 210 of Regulation (EU) No 952/2013:
    - a. storage, comprising customs warehousing and free zones,
    - b. specific use, comprising temporary admission and end-use,
    - c. inward processing;

- (d) holder of the goods' means holder of the goods as defined in Article 5(34) of Regulation (EU) No 952/2013;
- (e) 'competent authorities' means the authorities designated by the Member States to issue import licences.

### *Article 3*

#### *Introduction and import of cultural goods*

1. The introduction of cultural goods listed in Part A of the Annex which were removed from the territory of the country where they were created or discovered in breach of ~~its~~ laws and regulations of that country is prohibited.

The customs authorities and competent authorities shall take any appropriate measure when there is an attempt to introduce the cultural goods referred to in the first subparagraph.

2. The import of cultural goods listed in Parts B and C of the Annex shall only be permitted upon the presentation of an import licence issued in accordance with Article 4 or of an importer statement submitted in accordance with Article 5.
3. The import licence or the importer statement referred to in paragraph 2 shall be provided to the customs authorities in accordance with Article 163 of Regulation (EU) No 952/2013. In case of placing the cultural goods under the free zone procedure, the import licence or the importer statement shall be provided upon presentation of the goods in accordance with Article 245 (1) (a) and (b) of Regulation (EU) No 952/2013.
4. Paragraph 2 shall not apply to:
- (a) returned cultural goods, within the meaning of Article 203 of Regulation (EU) No 952/2013;
  - (b) the import of cultural goods for the exclusive purpose of ensuring their safe keeping by, or under the supervision of, a public authority, with the intent to return these goods, when the situation so allows;



- (c) the temporary admission of cultural goods, within the meaning of Article 250 of Regulation (EU) No 952/2013, in the customs territory of the Union for educational, scientific, conservation, restoration, exhibition, digitisation, performing arts, for the purpose of research conducted by academic institutions and for the purpose of cooperation between museums or similar institutions;
5. An import licence shall not be required for cultural goods under temporary admission, within the meaning of Article 250 of Regulation (EU) No 952/2013, to be presented at commercial art fairs where an importer statement has been provided. Where cultural goods that would require an import licence are subsequently placed under an other customs procedure referred to in Article 2(c), an import licence issued in accordance with Article 4 shall be presented.
6. The Commission shall adopt, by means of implementing acts, the specific modalities for the returned cultural goods, or the import of cultural goods for their safe keeping, or the temporary admission as referred to in paragraphs 3 and 4 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.
7. Paragraph 2 shall be without prejudice to other measures adopted by the Union in accordance with Article 215 of the Treaty on the Functioning of the European Union.
8. When submitting a customs declaration for the import of cultural goods listed in Parts B and C of the Annex, the quantity of the items shall be indicated using the supplementary unit, as set out in the Annex. In case of placing the cultural goods under the free zone procedure the quantity of the items shall be indicated upon presentation of the goods in accordance with Article 245 (1) (a) and (b) of Regulation (EU) No 952/2013.

## Article 4

### Import licence

1. The import into the Union of the cultural goods referred to in Part B of the Annex other than those referred to in Article 3(4) and (5) shall be subject to an import licence issued by the competent authority of the Member State in which the goods are placed under one of the customs procedures referred to in Article 2(1) c for the first time.
2. Import licences issued by the competent authorities of the Member States in accordance with this Regulation shall be valid throughout the Union.
3. The import licence shall not be construed to be evidence of licit provenance or ownership of the cultural goods concerned.
4. The holder of the goods shall apply for an import licence to the competent authority of the Member State referred to in paragraph 1 of this Article via the electronic system referred to in Article 9a. The application shall be accompanied by any supporting documents and information providing evidence that the cultural goods in question have been exported from the country where they were created or discovered in accordance with its laws and regulations of that country or providing evidence of the absence of such laws and regulations at the time they were taken out of its territory.

By derogation from the first subparagraph, the application may be accompanied instead by any supporting documents and information providing evidence that the cultural goods in question have been exported in accordance with the laws and regulations of the last country where they were located for a period of more than 5 years and for purposes other than temporary use, transit, re-export or transshipment, in the following cases:

- (a) the country where the cultural goods were created or discovered cannot be reliably determined or
- (b) the cultural goods left the country where they were created or discovered before 24 April 1972.

5. Evidence that the cultural goods in question have been exported in accordance with the laws and regulations according to paragraph 4 shall be provided in the form of export certificates or export licences insofar as the country in question has established such documents for the export of cultural heritage.
6. The competent authority shall verify whether the application is complete. It shall request any missing or additional information or document from the applicant within 21 days of receipt of the application.
7. The competent authority shall within 90 days of receipt of the complete application examine the application and decide to issue the import licence or reject the application.

The competent authority shall reject the application where

- (a) it has information or reasonable grounds to believe that the cultural goods were removed from the territory of the country where the cultural goods were created or discovered in breach of its laws and regulations of that country;
  - (b) the evidence required in paragraph 4 is not provided;
  - (c) it has information or reasonable grounds to believe that the holder of the goods did not acquire them lawfully; or
  - (d) it is informed that there are pending claims for return by the authorities of the country where the cultural goods were created or discovered.
8. In the event of rejection of the application, the administrative decision referred to in paragraph 7 shall be accompanied by a statement of reasons including information on the appeal procedure which is communicated to the applicant affected at the time it is issued.

9. When an application is made for an import licence relating to cultural goods for which such an application has been previously rejected, the applicant shall inform the competent authority to which the application is submitted of the previous rejection.
10. Where a Member State rejects an electronic application, that rejection as well as the grounds on which it was based shall be communicated to the other Member States and to the Commission via the electronic system referred to in Article 9a.
11. Member States shall designate without delay the public authorities competent to issue import licences in accordance with this Article. They shall communicate the details of those authorities as well as any changes in that respect to the Commission.

The Commission shall publish the details of those competent authorities and any changes thereto in the 'C' series of *the Official Journal of the European Union*.

12. The Commission shall establish, by means of implementing acts, the template for and the format of the application for the import licence and possible supporting documents to prove licit provenance of the cultural goods in question as well as the procedural rules on the submission and processing of such an application. In establishing those elements, the Commission shall endeavour to achieve uniform application by competent authorities of the import licencing procedures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

## *Article 5*

### *Importer statement*

1. The import of the cultural goods referred to in Part C of the Annex shall be subject to the submission of an importer statement.
2. The importer statement shall be registered by the holder of the goods via the electronic system referred to in Article 9a.

It shall consist of:

- a) a declaration signed by the holder of the goods that the goods have been exported from the country where they were created or discovered in accordance with its laws and regulations of that country at the time they were taken out of its territory; and
- b) a standardised document describing the cultural goods in question in sufficient detail for them to be identified by the authorities and to perform risk analysis and targeted controls.

By derogation from point a), the declaration may instead be that the cultural goods in question have been exported in accordance with the laws and regulations of the last country where they were located for a period of more than 5 years and for purposes other than temporary use, transit, re-export or transshipment, in the following cases:

- (i) the country where the cultural goods were created or discovered cannot be reliably determined or
- (ii) the cultural goods left the country where they were created or discovered before 24 April 1972.

3. The Commission shall adopt, by means of implementing acts, the electronic standardised template for and the format of the importer statement as well as the procedural rules on its submission, the possible supporting documents to prove licit provenance of the cultural goods in question that should be in the possession of the holder of the goods and the rules on processing of the importer statement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

#### *Article 7*

##### *Competent customs offices*

Member States may restrict the number of customs offices competent to allow the import of cultural goods subject to this Regulation. Where Member States apply such a restriction they shall communicate the details of those customs offices as well as any changes in that respect to the Commission.

The Commission shall publish the details of the competent customs offices and any changes thereto in the 'C' series of *the Official Journal of the European Union*.

#### *Article 9*

##### *Administrative co-operation*

For the purposes of implementing this Regulation, Member States shall ensure co-operation between their customs administrations and with the competent authorities referred to in Article 4.

#### *Article 9a*

##### *Use of an electronic system*

- 1 The storage and the exchange of information between the authorities of the Member States, in particular regarding importer statements and import licences, shall be carried out by a centralised electronic system.

Other means for the exchange and storage of information may be used on a temporary basis, in the event of a temporary failure of the electronic system.

2. The submission of an application for an import licence as well as the importer statement shall be registered by the holder of the goods in this electronic system.
3. The Commission shall lay down, by means of implementing acts
  - a) the arrangements for the deployment, operation and maintenance of the electronic system, as referred to in paragraph 1;
  - b) the detailed rules regarding the submission, processing, storage and exchange of information between the authorities of the Member States by means of the electronic system or by the other means, as referred to in paragraph 1.

Those implementing acts shall be adopted in accordance with the procedure referred to in Article 13 within two years of the entry into force of the Regulation.

#### *Article 9aa*

##### *Establishment of an electronic system*

The Commission shall establish the electronic system referred to in Article 9a. That system shall be operational at the latest four years after the entry into force of the implementing acts referred to in Article 9a paragraph 3.

#### *Article 9b*

##### *Personal data protection and data retention periods*

1. The customs authorities and competent authorities shall act as controllers of the personal data they obtained in accordance with Articles 4, 5, and 9a.
2. The processing of personal data on the basis of this Regulation shall take place only for the purposes as defined in Article 1(1).

3. The personal data obtained in accordance with Articles 4, 5, and 9a shall be accessed only by duly authorised staff of the authorities, and shall be adequately protected against unauthorised access or communication. They may not be disclosed or communicated without the written express authorisation of the authority which originally obtained the information. However, that authorisation shall not be necessary where the authorities are required to disclose or communicate that information pursuant to legal provisions in force in the Member State in question, particularly in connection with legal proceedings.
4. The authorities shall store personal data obtained by operation of Articles 4, 5, and 9a for a period of 20 years from the date on which the data were obtained. Those personal data shall be erased upon the expiry of that period.

#### *Article 10*

##### *Penalties*

The Member States shall lay down the rules on penalties applicable to infringements of this Regulation and in particular, to the introduction of cultural goods in breach of Article 3 (1) and the making of false statements and the submission of false information, and shall take all necessary measures to ensure that these are implemented. The penalties provided for shall be effective, proportionate, and dissuasive. The Member States shall notify the Commission of those rules and of those measures at the latest on the day the Regulation becomes applicable as set out in Article 16(2) and (3) respectively, and shall notify it without delay of any subsequent amendment affecting them.

#### *Article 11 a*

##### *Cooperation with third countries*

In matters covered by its activities and to the extent required for the fulfillment of its tasks under this Regulation, the Commission may organise training and capacity building activities towards third countries in cooperation with Member States.



## Article 13

### *Committee procedure*

1. The Commission shall be assisted by the committee established by Article 8 of Council Regulation (EC) No 116/2009. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.

## Article 14

### *Reporting and evaluation*

1. Member States shall provide information to the Commission on the implementation of this Regulation.

For this purpose, the Commission shall address relevant questionnaires to the Member States. Member States shall have 6 months, from the receipt of the questionnaire, to communicate the requested information to the Commission.

2. The Commission shall present a report to the European Parliament and the Council on the implementation of this Regulation three years after the date of application of this Regulation and, every five years thereafter. That report shall include relevant statistic information at both Union and national level, such as the number of import licences issued and applications rejected, and the number of importer statements submitted. This report shall be publicly available. It shall include consideration of practical implementation, including the impact on Union economic operators, particularly SMEs.

3. The Commission shall present a report to the European Parliament and the Council on the progress on laying down the implementing acts as set out in Article 9a(3) and on the progress on establishing the electronic system as set out in Article 9aa twelve months after the date of entry into force of this Regulation and, every twelve months thereafter. This report shall be submitted for the last time when the electronic system as set out in Article 9aa has been established.

*Article 15*

*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in *the Official Journal of the European Union*.

*Article 16*

*Application*

1. This Regulation shall apply from the date of its entry into force.
2. However,
  - (a) Article 3(1) shall apply from 18 months after the date of entry into force of this Regulation;
  - (b) Articles 4(1), 5(1), and 9a(1) shall apply from the date on which the electronic system referred to in Article 9a becomes operational or at the latest 6 years after entry into force of the Regulation. The Commission shall publish the date on which the conditions of this paragraph have been fulfilled in the 'C' series of the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament,*

*The President*

*For the Council*

**Part A. Cultural goods covered by Article 3 (1)**

(a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
(b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries on land or underwater;
(d) elements of artistic or historical monuments or archaeological sites which have been dismembered <sup>10</sup> ;
(e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
(f) objects of ethnological interest;
(g) objects of artistic interest, such as: <ul style="list-style-type: none"> <li>(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);</li> <li>(ii) original works of statuary art and sculpture in any material;</li> <li>(iii) original engravings, prints and lithographs;</li> <li>(iv) original artistic assemblages and montages in any material;</li> </ul>
(h) rare manuscripts and incunabula;
(i) old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
(j) postage, revenue and similar stamps, singly or in collections;
(k) archives, including sound, photographic and cinematographic archives;
(l) articles of furniture more than one hundred years old and old musical instruments.

<sup>10</sup> Liturgical icons and statues, even free-standing, are to be considered as cultural goods belonging to this category.

**Part B. Cultural goods covered by Article 4**

<b>Categories of cultural goods according to Part A</b>	<b>Combined Nomenclature (CN) Chapter, Heading or Subheading</b>	<b>Minimum age threshold</b>	<b>Minimum financial threshold (customs value)</b>	<b>Supplementary units</b>
(c) products of archaeological excavations, including regular or clandestine, or of archaeological discoveries on land or underwater;	ex 9705; ex 9706	More than 250 years old	Whatever the value	number of items (p/st)
(d) elements of artistic or historical monuments or archaeological sites which have been dismembered <sup>11</sup> ;	ex 9705; ex 9706	More than 250 years old	Whatever the value	number of items (p/st)

<sup>11</sup> Liturgical icons and statues, even free-standing, are to be considered as cultural goods belonging to this category.

**Part C. Cultural goods covered by Article 5**

<b>Categories of cultural goods according to Part A</b>	<b>Combined Nomenclature (CN) Chapter, Heading or Subheading</b>	<b>Minimum age threshold</b>	<b>Minimum financial threshold (customs value)</b>	<b>Supplementary units</b>
(a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;	ex 9705	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;	ex 9705	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(e) antiquities, such as inscriptions, coins and engraved seals;	ex 9706	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(f) objects of ethnological interest;	ex 9705	More than 200 years old	18.000 euros or more per item	number of items (p/st)

<b>Categories of cultural goods according to Part A</b>	<b>Combined Nomenclature (CN) Chapter, Heading or Subheading</b>	<b>Minimum age threshold</b>	<b>Minimum financial threshold (customs value)</b>	<b>Supplementary units</b>
(g) objects of artistic interest, such as:				
(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);	ex 9701	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(ii) original works of statuary art and sculpture in any material;	ex 9703	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(iii) original engravings, prints and lithographs;	ex 9702;	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(iv) original artistic assemblages and montages in any material;	ex 9701	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(h) rare manuscripts and incunabula	ex 9702; ex 9706	More than 200 years old	18.000 euros or more per item	number of items (p/st)
(i) old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;	ex 9705; ex 9706	More than 200 years old	18.000 euros or more per item	number of items (p/st)