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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the import of cultural goods
- Outcome of the European Parliament's first reading
(Strasbourg, 11 to 14 March 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the co-rapporteurs Ms MOSCA, (S&D, IT), and Mr DALTON (ECR, UK) presented a compromise amendment (amendment 97) to the proposal for a Regulation on behalf of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 12 March 2019, the plenary adopted the compromise amendment (amendment 97) to the proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Import of cultural goods *I**

European Parliament legislative resolution of 12 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the import of cultural goods (COM(2017)0375 – C8-0227/2017 – 2017/0158(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0375),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0227/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the provisional agreement approved by the committees responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the joint deliberations of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection under Rule 55 of the Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Culture and Education and the Committee on Civil Liberties, Justice and Home Affairs (A8-0308/2018),
1. Adopts its position at first reading hereinafter set out¹;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ This position replaces the amendments adopted on 25 October 2018 (Texts adopted, P8_TA-PROV(2018)0418)

Position of the European Parliament adopted at first reading on 12 March 2019 with a view to the adoption of Regulation (EU) 2019/... 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 procedure¹,

¹ Position of the European Parliament of 12 March 2019.

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 of 2 February 2016 on an Action Plan for strengthening the fight against terrorist financing and Directive **(EU) 2017/541 of the European Parliament and of the Council¹**, common rules on trade with third countries should be adopted so as to ensure the effective protection against **illicit trade in cultural goods and against their loss or destruction**, the preservation of humanity's cultural heritage and the prevention of terrorist financing **and money laundering** through the sale of pillaged cultural goods to buyers in the Union.
- (2) ***The exploitation of peoples and territories can lead to the illicit trade in cultural goods, in particular when such illicit trade originates from a context of armed conflict. In this respect, this Regulation should take into account regional and local characteristics of peoples and territories, rather than the market value of cultural goods.***

¹ 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).

- (3) *Cultural goods are a part of cultural heritage and are often of major cultural, artistic, historical and scientific importance. Cultural heritage constitutes one of the basic elements of civilisation having, inter alia, symbolic value, and forming part of the cultural memory of humankind. It enriches the cultural life of all peoples and unites people through shared memory, knowledge and development of civilisation. It should therefore be protected from unlawful appropriation and pillage. Pillaging of archaeological sites has always happened, but has now reached an industrial scale and, together with trade in illegally excavated cultural goods, 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 forceful loss of cultural identity, while the pillage of cultural goods leads, inter alia, to the disintegration of cultures. As long as it is possible to engage in lucrative trade in illegally excavated cultural goods and to profit therefrom without any notable risk, such excavations and pillaging will continue. Due to the economic and artistic value of cultural goods they are in high demand on the international market. The absence of strong international legal measures and the ineffective enforcement of any measures that do exist, lead to the transfer of such goods to the shadow economy. The Union should accordingly prohibit the introduction 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 conflict, in particular where such cultural goods have been illicitly traded by terrorist or other criminal organisations. While that general prohibition should not entail systematic controls, Member States should be allowed to intervene when receiving intelligence regarding suspicious shipments and to take all appropriate measures to intercept illicitly exported cultural goods.*

- (4) In view of different rules applying in 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**¹.
- (5) **The protection of cultural goods which are considered national treasures of the Member States is already covered by Council Regulation (EC) No 116/2009² and Directive 2014/60/EU of the European Parliament and of the Council³. Consequently, this Regulation should not apply to cultural goods which were created or discovered in the customs territory of the Union.** The common rules introduced by this Regulation should cover the customs treatment of non-Union cultural goods entering the customs territory of the Union **■**. **For the purposes of this Regulation, the relevant customs territory should be the customs territory of the Union at the time of import.**

¹ **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).**

² **Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ L 39, 10.2.2009, p. 1).**

³ **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).**

- (6) ***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 the customs procedures concerned ***in order to prevent circumvention of this Regulation through the exploitation of those free zones, which have the potential to be used for the continued proliferation of illicit trade.*** 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, the scope should not go beyond the objective of preventing illicitly exported cultural goods from entering the customs territory of the Union. Accordingly, while encompassing the release for free circulation and some of the special customs procedures under which goods entering the customs territory of the Union may be placed, ***systematic*** control measures should exclude transit.
- (7) ***Many third countries and most Member States are familiar with the definitions*** 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’***) ***to which a significant number of Member States are a party,*** and in the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects signed in Rome on 24 June 1995. ***For that reason the*** definitions used in ***this*** Regulation are based on those definitions.

- (8) The legality of export of cultural goods should be *primarily* examined based on the laws and regulations of the country where those cultural goods were created or discovered . *However, in order not to impede legitimate trade unreasonably*, a person who seeks to *import cultural goods* into the customs territory of the Union should, in certain cases, *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. That exception should apply in cases where the country in which the cultural goods were created or discovered cannot be reliably determined or when the export of the cultural goods in question took place before the 1970 UNESCO Convention entered into force, namely 24 April 1972. In order to prevent circumvention of this Regulation by simply sending illicitly exported cultural goods to another third country prior to importing them into the Union, the exceptions should be applicable where the cultural goods have been located in a third country for a period of more than five years for purposes other than temporary use, transit, re-export or transshipment. Where those conditions are fulfilled for more than one country, the relevant country should be the last of those countries before the introduction of the cultural goods into the customs territory of the Union.*

- (9) *Article 5 of the 1970 UNESCO Convention calls on the States Parties to establish one or more national services for the protection of cultural goods against illicit import, export and transfer of ownership. Such national services should be equipped with qualified staff sufficient in number to ensure that protection in accordance with that Convention, and should also enable 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 from areas affected by armed conflict.*
- (10) In order not to disproportionately impede trade *in* cultural goods across the Union's external border, this Regulation should only apply to cultural goods above a certain age limit, which is established by this Regulation. *It also seems appropriate to set a financial threshold in order to exclude cultural goods of lower value from the application of the conditions and procedures for import into the customs territory of the Union. Those thresholds* will ensure that the measures provided for in this Regulation focus on those cultural goods most likely to be targeted by pillagers in conflict areas, without excluding other goods the control of which is necessary for ensuring the protection of cultural heritage.

- (11) Illicit trade in pillaged cultural goods has been identified as a possible source of 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 █.
- (12) 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 are permitted to enter the customs territory of the Union. Such a system should require the presentation of an import licence issued by the competent authority of **a** Member State █ prior to the release for free circulation of those cultural goods into the Union 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 cultural goods were created or discovered** with the appropriate supportive documents and evidence, **such as** export certificates, █ 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.**
- (13) ***An icon is any representation of a religious figure or a religious event. It can be produced in various media and sizes and can be monumental or portable. In cases where an icon was once part, for example, of the interior of a church, a monastery, a chapel, either free-standing or as part of architectural furniture, for example an iconostasis or icon stand, it is a vital and inseparable part of divine worship and liturgical life, and should be considered as forming an integral part of a religious monument which has been dismembered. Even in cases where the specific monument that the icon belonged to is unknown, but where there is evidence that it once formed an integral part of a monument, in particular when there are signs or elements present which indicate that it was once part of an iconostasis or an icon stand, the icon should still be covered by the category "elements of artistic or historical monuments or archaeological sites which have been dismembered" listed in the Annex.***

- (14) *Taking into account the particular nature of the cultural goods, the role of the customs authorities is extremely relevant and 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.*
- (15) For categories of cultural goods the import of which does not require an import licence, the persons seeking to **import** such goods 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 cultural goods to be identified by the customs authorities. In order to facilitate the procedure and for reasons of legal certainty, the information about the cultural goods 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 those details in an electronic system, in order to facilitate identification by the customs authorities, to allow for risk analysis and targeted controls and*** to ensure traceability after the cultural goods enter the internal market.

- (16) *In the context of the EU Single Window environment for customs, the Commission should be responsible for the establishment of a centralised electronic system for the submission of applications for import licences and of importer statements, as well as the storage and the exchange of information between the authorities of the Member States, in particular regarding importer statements and import licences.*
- (17) *It should be possible for the processing of data under this Regulation to also cover personal data and such processing should be carried out in accordance with Union law. Member States and the Commission should process personal data only for 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 Regulations (EU) 2016/679¹ and (EU) 2018/1725² of the European Parliament and of the Council. The processing of personal data for the purposes of this Regulation should also respect the right 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.*

¹ *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).*

² *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

- (18) *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 Regulation (EU) No 952/2013.*
- (19) The temporary admission of cultural goods for the purpose of education, science, *conservation, restoration, exhibition, digitisation, performing arts, research conducted by academic institutions or cooperation between museums or similar institutions should not be subject to the presentation of an import licence or of an importer statement.*
- (20) The storage of cultural goods from countries affected by armed conflict or a natural disaster *for the exclusive purpose of ensuring their safe keeping and preservation by, or under the supervision of, a public authority* should not be subject to the presentation of an import licence or an importer statement.
- (21) 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 where an importer statement has been provided instead of the import licence. However, the presentation of an import licence should be required where such cultural goods are to remain in the Union after the art fair.*

- (22) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt ***detailed arrangements*** for: cultural goods that are returned goods or, the temporary admission of cultural goods into the customs territory of the Union and their safe keeping, the templates for import licence applications and for import licence forms, the templates for importer statements and their accompanying documents, and 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*** for 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 Council¹ .
- (23) ***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 UNESCO, INTERPOL, EUROPOL, the World Customs Organization, the International Centre for the Preservation and Restoration of Cultural Property and the International Council of Museums (ICOM).***

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (24) Relevant information on trade flows of cultural goods should be *electronically* collected *and shared by Member States and the Commission* in order to support the efficient implementation of this 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 by their value or weight only. 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.
- (25) The EU Strategy and Action Plan for customs Risk Management¹ 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 should be exchanged between customs authorities.

- (26) *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 those 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 ICOM should serve as guidance to identify those third countries whose heritage is most at risk and the objects exported from there that would more often be the object of illicit trade.*
- (27) *It is necessary to establish awareness-raising campaigns targeted at buyers of cultural goods regarding the risk of illicit trade and to assist 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 that information.*
- (28) *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 Union programmes in support of the competitiveness of small and medium-sized enterprises.*

- (29) ***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 for infringements of this Regulation should have an equivalent deterrent effect across the Union.***
- (30) ***Member States should ensure that the customs authorities and the competent authorities agree on measures under Article 198 of Regulation (EU) No 952/2013. The details of those measures should be subject to national law.***
- (31) The Commission ***should, without delay***, adopt rules implementing this Regulation, in particular those regarding the appropriate ***electronic standardised*** forms to be used 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***.

(32) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of this Regulation to lay down rules on the introduction, and the conditions and procedures for the import, of cultural goods into the customs territory of the Union. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union,

■

HAVE ADOPTED THIS REGULATION ■ :

Article 1

Subject matter and scope

1. This Regulation sets out the conditions *for the introduction of cultural goods and the conditions and procedures for the import of cultural goods for the purpose of safeguarding humanity's cultural heritage and preventing the illicit trade in cultural goods, in particular where such illicit trade could contribute to terrorist financing.*
2. This Regulation *does* 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 apply:

- (1) 'cultural goods' means any *item* which is of importance for archaeology, prehistory, history, literature, art or science *as* listed in the *Annex*;
- (2) *'introduction of cultural goods' means any entry into the customs territory of the Union of cultural goods which are subject to customs supervision or customs control within the customs territory of the Union in accordance with Regulation (EU) No 952/2013;*

■

- (3) **'import of cultural goods' means:**
- (a) the release of cultural goods for free circulation *as* referred to in Article 201 of Regulation (EU) No 952/2013; *or*
 - (b) the placing of cultural goods under one of the **following categories of special** procedures referred to in **Article 210** of Regulation (EU) No 952/2013:
 - (i) *storage, comprising customs warehousing and free zones;*
 - (ii) *specific use, comprising temporary admission and end-use;*
 - (iii) *inward processing;*
- (4) 'holder of the goods' means **holder of the goods as defined** in point (34) of Article 5 of Regulation (EU) No 952/2013;
- (5) **'competent authorities' means the public authorities designated by the Member States to issue import licences.**

Article 3

Introduction and import of cultural goods

1. *The introduction of cultural goods referred to in Part A of the Annex which were removed from the territory of the country where they were created or discovered in breach of the laws and regulations of that country shall be prohibited.*

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

2. *The import of cultural goods listed in Parts B and C of the Annex shall be permitted only upon the provision of either:*

(a) an import licence issued in accordance with Article 4; or

(b) an importer statement *submitted* in accordance with Article 5.

3. *The import licence or the importer statement referred to in paragraph 2 of this Article shall be provided to the customs authorities in accordance with Article 163 of Regulation (EU) No 952/2013. In the event that the cultural goods are placed under the free zone procedure, the holder of the goods shall provide the import licence or the importer statement upon presentation of the goods in accordance with points (a) and (b) of Article 245(1) of Regulation (EU) No 952/2013.*

4. *Paragraph 2 of this Article shall not apply to:*

(a) *cultural goods that are returned 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 safekeeping by, or under the supervision of, a public authority, with the intent to return those cultural 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, into the customs territory of the Union for the purpose of education, science, conservation, restoration, exhibition, digitisation, performing arts, research conducted by academic institutions or cooperation between museums or similar institutions.*

5. *An import licence shall not be required for cultural goods that have been placed under the temporary admission procedure within the meaning of Article 250 of Regulation (EU) No 952/2013, where such goods are to be presented at commercial art fairs. In such cases an importer statement shall be provided in accordance with the procedure in Article 5 of this Regulation.*

However, if those cultural goods are subsequently placed under another customs procedure referred to in point (3) of Article 2 of this Regulation, an import licence issued in accordance with Article 4 of this Regulation shall be required.

6. The Commission *shall* lay down, by means of implementing acts, detailed arrangements for *cultural goods that are returned goods, for the import of cultural goods for their safe keeping and for the temporary admission of cultural goods as referred to in paragraphs 4 and 5 of this Article*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).

7. Paragraph 2 of this Article 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 number of items shall be indicated using the supplementary unit, as set out in that Annex. Where the cultural goods are placed under the free zone procedure, the holder of the goods shall indicate the number of items upon presentation of the goods in accordance with points (a) and (b) of Article 245(1) of Regulation (EU) No 952/2013.*

Article 4

Import licence

1. *The import of cultural goods listed in Part B of the Annex other than those referred to in Article 3(4) and (5) shall require an import licence. That import licence shall be issued by the competent authority of the Member State in which the cultural goods are placed under one of the customs procedures referred to in point (3) of Article 2 for the first time.*
2. *Import licences issued by the competent authorities of a Member State in accordance with this Article shall be valid throughout the Union.*
3. *An import licence issued in accordance with this Article shall not be construed to be evidence of licit provenance or ownership of the cultural goods in question.*

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 8*. 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 the █ 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 way of 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 five 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 were taken out of 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 paragraph 4 shall be provided in the form of export certificates or export licences where the country in question has established such documents for the export of cultural goods at the time of the export.*
6. The competent authority ■ shall check 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. Within 90 days of *receipt* of the complete application ■ , the competent authority shall ■ examine it and decide whether to issue the import licence or to 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 they were created or discovered in breach of the laws and regulations of that country;*
- (b) *the evidence required by paragraph 4 has not been provided;*
- (c) *it has information or reasonable grounds to believe that the holder of the goods did not acquire them lawfully; or*
- (d) *it has been informed that there are pending claims for the return of the cultural goods by the authorities of the country where they were created or discovered.*

8. *In the event that the application is rejected, the administrative decision referred to in paragraph 7, together with a statement of reasons and information on the appeal procedure, shall be communicated to the applicant without delay.*
9. *Where 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 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 8.*
11. Member States shall designate *without delay* the competent authorities for the issuing of import *licences* in accordance with this Article. The Member States shall communicate the details of the competent authorities as well as any changes in that respect to the Commission.

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

12. The Commission *shall* lay down, by means of implementing acts, the template for *and the format of* the application for the import licence *and shall indicate 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(2).

Article 5

Importer statement

1. *The import* of the cultural goods listed in *Part C* of the Annex shall require an importer statement ■ which the holder of the goods shall submit *via the electronic system referred to in Article 8.*
2. The importer statement *shall consist of:*
 - (a) *a declaration signed by the holder of the goods stating* that the cultural goods have been exported from the ■ country *where they were created or discovered* in accordance with the 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 way of derogation from point (a) of the first subparagraph, the declaration may instead state 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 five 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 were taken out of the country where they were created or discovered before 24 April 1972.*

3. The Commission *shall* lay down, by means of implementing acts, the *standardised* template for *and the format of* the importer statement as well as the procedural rules on *its submission and shall indicate 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(2).

■

Article 6
Competent customs offices

■ Member States *may* restrict the number of customs offices competent to *handle 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 7
Administrative co-operation

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

Article 8

Use of an electronic system ■

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

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

2. The Commission ***shall*** lay down, by means of implementing acts: ■

- (a) the arrangements for the deployment, operation and maintenance of the electronic system 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 other means*** referred to in paragraph ***1***.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article ***13(2) by ... [two years after the entry into force of this Regulation].***

Article 9

Establishment of an electronic system

The Commission shall establish the electronic system referred to in Article 8. The electronic system shall be operational at the latest four years after the entry into force of the first of the implementing acts referred to in Article 8(2).

Article 10

Personal data protection and data retention periods

- 1. The customs authorities and competent authorities of the Member States shall act as controllers of the personal data obtained pursuant to Articles 4, 5 and 8.*
- 2. The processing of personal data on the basis of this Regulation shall take place only for the purpose defined in Article 1(1).*
- 3. The personal data obtained in accordance with Articles 4, 5 and 8 shall be accessed only by duly authorised staff of the authorities and shall be adequately protected against unauthorised access or communication. The data shall not be disclosed or communicated without the express written authorisation of the authority which originally obtained the information. However, such 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 pursuant to Articles 4, 5 and 8 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 11

Penalties

Member States shall lay down the rules on penalties applicable to infringements of *this Regulation* and shall take all **■** *measures* necessary to ensure that *they* are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

By ...[18 months after the date of application of this Regulation], Member States shall notify the Commission of the rules on penalties applicable to the *introduction of cultural goods in breach of Article 3(1)*, and of the related measures.

By ... [six years after the date of application of this Regulation], Member States shall notify the Commission of the rules on penalties applicable to other infringements *of this Regulation, in particular the* making of false statements and the submission of false information **■** , and of the related measures.

The Member States shall notify the Commission **■** without delay **■** of any subsequent amendment affecting those rules.

Article 12 **■**

Cooperation with third countries

The Commission may, in matters covered by its activities and to the extent required for the fulfilment of its tasks under this Regulation, organise training and capacity building activities for 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 paragraph, 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 that purpose, the Commission shall address relevant questionnaires to the Member States. Member States shall have six months ***from receipt of the questionnaire*** to communicate the requested information to the Commission.

2. Within three years of the date on which this Regulation becomes applicable in its entirety, and **■** every five years *thereafter*, the Commission shall present a report to the European Parliament and to the Council on the implementation of this Regulation. *That report shall be publicly available and shall include relevant statistical information at both Union and national level, such as the number of import licences issued, of applications rejected and of importer statements submitted. It shall include a consideration of practical implementation, including the impact on Union economic operators, particularly SMEs.*
3. *By ... [twelve months after the date of entry into force of this Regulation] and every 12 months thereafter until the electronic system as set out in Article 9 has been established, the Commission shall present a report to the European Parliament and to the Council on the progress made in adopting the implementing acts as set out in Article 8(2) and in establishing the electronic system as set out in Article 9.*

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. *Notwithstanding paragraph 1:*
 - (a) *Article 3(1) shall apply from ... [18 months after the date of entry into force of this Regulation];*

- (b) *Article 3(2) to (5), (7) and (8), Article 4(1) to (10), Article 5(1) and (2) and Article 8(1) shall apply from the date on which the electronic system referred to in Article 8 becomes operational or at the latest from ... [six years after the date of entry into force of this 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 ...,

For the European Parliament

For the Council

The President

The President

█

ANNEX



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

<i>(a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;</i>
<i>(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;</i>
<i>(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries on land or underwater;</i>
<i>(d) elements of artistic or historical monuments or archaeological sites which have been dismembered¹²;</i>
<i>(e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;</i>
<i>(f) objects of ethnological interest;</i>
<i>(g) objects of artistic interest, such as:</i> <i>(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);</i> <i>(ii) original works of statuary art and sculpture in any material;</i> <i>(iii) original engravings, prints and lithographs;</i> <i>(iv) original artistic assemblages and montages in any material;</i>

¹² *Liturgical icons and statues, even free-standing, are to be considered as cultural goods belonging to this category.*

(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.

Part B. Cultural goods covered by Article 4

<i>Categories of cultural goods according to Part A</i>	<i>Combined Nomenclature (CN) Chapter, Heading or Subheading</i>	<i>Minimum age threshold</i>	<i>Minimum financial threshold (customs value)</i>	<i>Supplementary units</i>
<i>(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries on land or underwater;</i>	<i>ex 9705; ex 9706</i>	<i>More than 250 years old</i>	<i>Whatever the value</i>	<i>number of items (p/st)</i>
<i>(d) elements of artistic or historical monuments or archaeological sites which have been dismembered⁹;</i>	<i>ex 9705; ex 9706</i>	<i>More than 250 years old</i>	<i>Whatever the value</i>	<i>number of items (p/st)</i>

⁹ ***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

Categories of cultural goods <i>according to Part A</i>	Combined Nomenclature (CN) Chapter, Heading or Subheading	Minimum age threshold	Minimum financial threshold (customs value)	Supplement ary units
(a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;	ex 9705	More than 200 years old	EUR 18 000 or more per item	number of items (p/st)
(b) <i>property</i> 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	EUR 18 000 or more per item	number of items (p/st)
█	█	█	█	
█	█	█	█	

Categories of cultural goods <i>according to Part A</i>	Combined Nomenclature (CN) Chapter, Heading or Subheading	Minimum age threshold	<i>Minimum financial threshold (customs value)</i>	Supplement ary units
(e) antiquities, such as inscriptions, coins and engraved seals;	ex 9706	More than 200 years old	<i>EUR 18 000 or more per item</i>	number of items (p/st)
(f) objects of ethnological interest;	ex 9705	More than 200 years old	<i>EUR 18 000 or more per item</i>	number of items (p/st)
(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	<i>EUR 18 000 or more per item</i>	number of items (p/st)

Categories of cultural goods <i>according to Part A</i>	Combined Nomenclature (CN) Chapter, Heading or Subheading	Minimum age threshold	<i>Minimum financial threshold (customs value)</i>	Supplement ary units
(ii) original works of statuary art and sculpture in any material;	ex 9703	More than 200 years old	EUR 18 000 or more per item	number of items (p/st)
(iii) original engravings, prints and lithographs;	■ ex 9702;	More than 200 years old	EUR 18 000 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	EUR 18 000 or more per item	number of items (p/st)
(h) rare manuscripts and incunabula; ■	ex 9702; ex 9706 ■	More than 200 years old	EUR 18 000 or more per item	number of items (p/st)
(i) old books, documents and publications of special interest ■ ■ <i>(historical, artistic, scientific, literary, etc.)</i> singly or in collections.	ex 9705; ex 9706 ■	More than ■ 200 years old	EUR 18 000 or more per item	■ number of items (p/st)
■	■ ■	■	■	
■	■	■	■	