



2017/0158(COD)

8.6.2018

OPINION

of the Committee on Culture and Education

for the Committee on International Trade and the Committee on the Internal Market and Consumer Protection

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))

Rapporteur for opinion: Santiago Fisas Ayxelà

(*) Associated committee – Rule 54 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

I, as Rapporteur, welcome the proposal's objective of tackling money laundering and the alternative sources of terrorism financing, including the looting and smuggling of antiquities, always bearing in mind that the protection of the cultural heritage must be the ultimate purpose, specially this current year 2018 being the European Year of Cultural Heritage.

In this regard, it should be noted that there must be a balance between the measures to be adopted for the protection of the cultural heritage and the measures to be taken in favour of the art market, this is, not to impede licit trade of cultural goods across the external border disproportionately.

As Rapporteur I am in favour of setting a 250 year minimum age threshold for all the categories of cultural goods since it seems an appropriate age limit in line with the goal of the proposal. Moreover, I agree upon the fact that certain categories of cultural goods which are exposed to an increased risk of pillage, loss or destruction require reinforced protection measures.

On the one hand, with regards to the measures to be adopted in favour of the art market, first and foremost, the legality of the export should be examined based on the laws and regulations of the export country instead of the source country since I believe that the obligation to provide documents that prove the licit export from the source country is an additional burden on the art market. Consequently, the distinction made between signatory and non signatory states of the 1970 UNESCO Convention regarding the obligation to prove licit export from the export country or the source country respectively must be removed, having all Member States the obligation to prove that the export from the third country was licit according to its own laws and regulations.

Secondly, although the term "holder of the goods" is defined in the proposal by making reference to Article 5(34) of Regulation (EU) No 952/2013, I believe it is relevant to be certain that the term does not imply ownership since who is willing to obtain an import license may not be the owner of the goods yet.

Thirdly, according to the proposal, the temporary admission of cultural goods for educational, scientific or academic research purposes should not be subject to the presentation of a licence or a statement and I believe that restoration purposes should also be included in this exception.

On the other hand, with regards to the measures to be adopted in favour of the protection of the cultural heritage, firstly I propose to increase the time period considered as "permanently" from one month to ten years for the categories of goods referred to in points (c), (d) and (h) of the Annex; and to one year for the rest of categories set in the Annex.

Secondly, I would like to emphasise that taking into account the special nature of the goods, the role of the cultural experts within the customs authorities is extremely relevant since they may, if deemed necessary, require additional information from the declarant and physically examine the cultural goods by conducting an expertise.

Thirdly, with regards to the storage of the cultural goods into the customs territory of the

Union in case of temporary retention, due to the special nature of the goods, there shall be minimum conservation guarantees.

In order to facilitate the adaptation to this new regime, I completely agree on the organization of training and building activities by the Member States for the authorities and the professionals concerned, as well as awareness-raising campaigns for the buyers. Moreover, I believe that information contact points should be made available in each Member State in order to assist the market actors to implement this Regulation. Last but not least, it is essential to reinforce the electronic administration by means of the use of appropriate electronic standardised forms to prepare the importer statements or to apply for import licences, which shall be electronically submitted and registered by attributing a serial number and a registration date to them; together with the development of a fully operative electronic system for the exchange of information between the authorities of the Member States, which will certainly contribute to the prevention of forum shopping.

AMENDMENTS

The Committee on Culture and Education calls on the Committee on International Trade and on the Committee on the Internal Market and Consumer Protection, as the committees responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) 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 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, should be used in the Regulation, considering the familiarity of many third countries and most Member States with their provisions.

Amendment

(6) The definitions based on those used in ***the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict***, 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 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, should be used in the Regulation, considering the familiarity of many third countries and most Member States with their provisions.

Amendment 2

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) The legality of export should be examined based on the laws and regulations of the country where the cultural goods were discovered or created ('source country'). ***In order to avoid circumvention***, when the cultural goods enter the Union from a different third country, the person who seeks to introduce them into the customs territory of the Union should demonstrate that they were exported ***from there legally, when the third country in question is a signatory State of the 1970 UNESCO Convention and thus a country committed to fighting against illicit trafficking of cultural property. In other cases, the person should prove lawful export*** from the source country.

Amendment

(7) The legality of export should be examined based on the laws and regulations of the country where the cultural goods were discovered or created ('source country'). When the cultural goods enter the Union from a different third country, the person who seeks to introduce them into the customs territory of the Union should demonstrate that they were ***legally*** exported from the source country. ***In cases where the source country of the cultural goods cannot be reliably determined, the person who seeks to introduce them into the customs territory of the Union should demonstrate that they were legally exported from the last country where they were held before their dispatch into the Union (“export country”) in accordance with its laws and regulations.***

Amendment 3

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Considering that the Article 5 of the 1970 UNESCO Convention calls for the establishment of one or more national services, equipped with qualified personnel and sufficient in number, in order to ensure the protection of their own cultural goods against illegal import, export and transfer; considering also the need for active collaboration with the competent authorities of third countries in the area of security and fight against illegal import of cultural goods, especially in areas of crisis, States Parties to the

1970 UNESCO Convention are asked to comply with the commitments envisaged within the Convention and those Member States that have not yet done so, are urgently required to ratify it.

Amendment 4

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) In order not to impede trade ***with*** 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 ***250*** year minimum age threshold for ***all*** categories of cultural goods. That minimum age threshold 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.

Amendment

(8) In order not to impede trade ***in*** goods across the ***Union's*** external ***borders*** disproportionately, this Regulation should only apply to goods meeting a certain age ***and value*** limit. For that purpose, it seems appropriate to set a ***100*** year minimum age threshold for ***the most vulnerable*** categories of cultural goods, ***in line with the provisions of the 1954 Hague Convention, the 1970 UNESCO Convention and of the 1995 UNIDROIT Convention***. That minimum age threshold 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.

Justification

The 250 years minimum age, doesn't seem to comply with some international treaties (the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict in art.1, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 in art. 1 and the UNIDROIT Convention on stolen or illegally exported cultural objects in art.2).

Amendment 5

Proposal for a regulation

Recital 10

(10) Since certain categories of cultural goods, namely archaeological objects, elements of monuments, rare manuscripts and incunabula 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 the Member State of entry 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 source country with the appropriate supportive documents and evidence, in particular, export certificates or licences issued by the third country of export, 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.

(10) Since certain categories of cultural goods, namely archaeological objects, elements of monuments, rare manuscripts and incunabula 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 the *first* Member State of entry 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 ***that the cultural goods have been exported from the source country in accordance with its laws and regulations or to prove the absence of such laws and regulations. The*** licit export from the source country ***should be proved*** with the appropriate supportive documents and evidence, in particular, export certificates or ***export*** licences issued by the third country of export, 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. ***In cases where the source country of the cultural goods cannot be reliably determined, the application should be accompanied by any supporting documents and information, providing evidence that the cultural goods were exported from the export country in accordance with its laws and regulations. The import of cultural goods that originate in conflict-affected or high-risk countries should always require the presentation of a licence issued by the competent authority of the first Member State of entry. Persons seeking to obtain such a licence should be able to prove that***

the cultural goods have been exported from the source country in accordance with its laws and regulations, therefore excluding the possibility to prove the legal export from the export country. The Commission should establish, by means of implementing acts, a regularly updated list of conflict-affected and high-risk countries by means of which restrictive measures applied to cultural goods should be established, in accordance with Article 215 of the Treaty on the Functioning of the European Union. The Commission should call upon external expertise such as UNESCO and the International Council of Museums (ICOM) to provide for such list which should be based, along the lines of the Resolutions of the UN Security Council, on the Red Lists published by ICOM, which classify the endangered categories of archaeological objects or works of art in the most vulnerable areas of the world in order to prevent them being sold or illegally exported.

Amendment 6

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Taking into account the particular nature of the goods, the role of the cultural experts within the customs authorities is extremely relevant since they should be able, where necessary, to require additional information from the declarant and to physically examine the cultural goods by conducting an expertise.

Amendment 7

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) For other categories of cultural goods, the persons seeking to introduce 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, should be used to describe the cultural goods. ***Customs should register the entry of those cultural goods, keep the originals and give*** a copy of the relevant documents ***to the declarant***, in order to ensure traceability after the goods enter the internal market.

Amendment

(11) For other categories of cultural goods, the persons seeking to introduce them into the customs territory of the Union should ***be able to prove licit export from the source country with the appropriate supportive documents and evidence, in particular, export certificates or licences issued by the third country of export, ownership titles, invoices, sales contracts, insurance documents, transport documents and experts appraisals.*** ***Accompanied with an electronic statement certifying and assuming their responsibility for their lawful export from the source country, the persons seeking to introduce the cultural goods into the customs territory of the Union*** 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 ***an electronic*** standardised document. The Object ID standard, recommended by UNESCO, should be used to describe the cultural goods. ***Those cultural goods should be electronically registered and the declarant should be provided with*** a copy of the relevant ***submitted*** documents in order to ensure traceability after the goods enter the internal market.

Amendment 8

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Temporary admission of cultural goods for educational, scientific or academic research purposes should not be subject to the presentation of a licence or

Amendment

(12) Temporary admission of cultural goods for educational (***such as cultural and musical***), scientific, ***restoration, conservation, exhibition*** or academic research purposes ***and for the purpose of***

of a statement.

cooperation between museums or similar public non-profit institutions for the organisation of exhibitions should not be subject to the presentation of a licence or of a statement.

Amendment 9

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Cultural goods to be presented at commercial fairs and international art fairs should not be subject to the presentation of an import licence.

Amendment 10

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) In order to take account of experience with the implementation of this Regulation and of changing geopolitical and other circumstances which place cultural goods at risk, while not impeding trade with third countries disproportionately, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of modifications to the minimum age threshold criterion for the different categories of cultural goods. That delegation should also allow the Commission to update the Annex following amendments to the Combined Nomenclature. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down

(14) In order to take account of experience with the implementation of this Regulation and of changing geopolitical and other circumstances which place cultural goods at risk, while not impeding trade with third countries disproportionately, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of modifications to the minimum age *and financial* threshold criterion for the different categories of cultural goods. That delegation should also allow the Commission to update the Annex following amendments to the Combined Nomenclature. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down

in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

²⁷ OJ L 123, 12.5.2016, p. 1.

in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

²⁷ OJ L 123, 12.5.2016, p. 1.

Amendment 11

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt specific modalities 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 database for the storage and 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 ²⁸.

Amendment

(15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt specific modalities for the temporary admission and storage of cultural goods into the customs territory of the Union, ***which should be done while guaranteeing adequate conservation conditions, having due regard to the particular nature of the cultural goods. Those modalities should also apply to the electronic standardised*** templates for import licence applications and forms, as well as for ***electronic*** importer statements and their accompanying documents, as well as ***to*** further procedural rules on their ***electronic*** submission and processing. Implementing powers should also be conferred on the Commission to make arrangements for the establishment of an electronic database for the storage and 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 ²⁸.

Implementing powers should also be conferred on the Commission to establish a regularly updated list of conflict-affected and high-risk countries by means of which restrictive measures applied to cultural goods should be established, in accordance with Article 215 of the Treaty on the Functioning of the European Union.

²⁸ 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).

²⁸ 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).

Amendment 12

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Relevant information on trade flows of cultural goods should be collected to support the efficient implementation of the Regulation and to provide the basis for its future evaluation. 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 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.

Amendment

(16) Relevant information on trade flows of cultural goods should be collected to support the efficient implementation of the Regulation and to provide the basis for its future evaluation. 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.

Amendment 13

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) The EU Strategy and Action Plan for customs Risk Management²⁹ 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.

²⁹ COM/2014/0527 final: Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the EU Strategy and Action Plan for customs risk management.

Amendment

(17) The EU Strategy and Action Plan for customs Risk Management²⁹ aims – inter alia- to strengthen capacities **and training** 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.

²⁹ COM/2014/0527 final: Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the EU Strategy and Action Plan for customs risk management.

Amendment 14

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Since the trafficking of cultural objects can be a source of terrorism financing and money laundering, there is an urgent need to set up awareness-raising campaigns to sensitise in particular buyers of cultural goods; moreover, in order to assist the market actors to implement this Regulation, information, contact points should be made available in each Member State.

Amendment 15

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Sufficient time should be provided for the Commission to adopt rules implementing this Regulation, in particular those regarding the appropriate forms to use to apply for an import licence or to prepare an importer statement. Consequently, the application of this Regulation should be deferred.

Amendment

(19) Sufficient time should be provided for the Commission to 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. Consequently, the application of this Regulation should be deferred.

Amendment 16

**Proposal for a regulation
Article 1 – paragraph 1**

Text proposed by the Commission

This Regulation sets out the conditions and procedure for the ***entry*** of cultural goods into the customs territory of the Union.

Amendment

This Regulation sets out the conditions and procedure for the ***import*** of cultural goods into the customs territory of the Union.

Justification

Within Article 1, when the object and scope of this Regulation are concerned, the vague concept of "entry" should be replaced by the more accurate concept of "import".

Amendment 17

**Proposal for a regulation
Article 1 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

The entry into the customs territory of the Union of cultural goods which have been illegally exported from a third country shall be prohibited when there are reasonable grounds to suspect that the cultural goods in question have been removed from the territory of the source country or the export country without the consent of their legitimate owner or have been removed in breach of those

countries' laws and regulations.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

This Regulation shall be without prejudice to stricter regimes established by the instruments in force in the Member States for the import of cultural goods into their customs territory.

Amendment 19

Proposal for a regulation

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) 'cultural goods' means any object which is of importance for archaeology, prehistory, history, literature, art or science and which belongs to the categories listed in the table in Annex and meets the minimum age threshold specified therein;

(a) 'cultural goods' means any ***item*** which is of importance for archaeology, prehistory, history, literature, art or science and which belongs to the categories listed in the table in Annex and meets the minimum age ***and financial*** threshold specified therein;

Amendment 20

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) 'source country' means the country in the current territory of which the cultural goods were created or discovered;

(b) 'source country' means the country in the current territory of which the cultural goods were created, discovered ***or removed, excavated or stolen from land or underwater in the current territory of the such country, or the country that has such***

a close tie with the cultural goods that it views these goods as its cultural heritage and protects them as such, meaning it legally regulates their export;

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) 'export country' means the last country in which the cultural goods were ***permanently*** held in accordance with that country's laws and regulations before their dispatch to the Union;

Amendment

(c) 'export country' means the last country in which the cultural goods were held in accordance with that country's laws and regulations before their dispatch to the Union;

Amendment 22

Proposal for a regulation

Article 2 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) 'conflict-affected and high-risk countries' means those countries listed by the Commission which are identified by the presence of armed conflicts, widespread violence or other risks of harm to people or cultural goods;

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) 'permanently' means for a period of time of at least one month and for purposes other than temporary use,

Amendment

deleted

transit, export or dispatch;

Amendment 24

Proposal for a regulation Article 2 – paragraph 2

Text proposed by the Commission

2. The Commission is empowered to adopt delegated acts in accordance with Article 12 in order to amend the ***second column of the table in the Annex following amendments in the Combined Nomenclature and to amend*** the minimum age threshold ***in the third column of the table*** in the Annex in the light of ***experience gathered during*** the implementation of this Regulation.

Amendment

2. The Commission is empowered to adopt delegated acts in accordance with Article 12 in order to amend the ***categories of cultural goods and*** the minimum age ***and financial*** threshold in the Annex, in the light of ***the results of*** the implementation of this Regulation.

Amendment 25

Proposal for a regulation Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission is empowered to adopt delegated acts in accordance with Article 12 in order to modify the categories of goods that are subject to the presentation of an import licence or the submission of an importer statement to the customs authorities of the first Member State of entry, in the light of the experience gathered during the implementation of this Regulation.

Amendment 26

Proposal for a regulation Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The issuance of an import licence by the competent authorities of the first Member State of entry or the correct submission of the importer statement shall not be construed to be evidence of licit provenance or ownership of the cultural goods.*

Amendment 27

Proposal for a regulation

Article 3 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the temporary admission, within the meaning of Article 250 of Regulation (EU) No 952/2013, in the customs territory of the Union of cultural goods for educational, scientific and academic research purposes;

(a) the temporary admission, within the meaning of Article 250 of Regulation (EU) No 952/2013, in the customs territory of the Union of cultural goods for educational *(such as cultural and musical)*, scientific, *restoration, conservation, exhibition,* and academic research purposes *and for the purpose of cooperation between museums or public non-profit institutions for the organisation of exhibitions;*

Amendment 28

Proposal for a regulation

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Temporary admissions, within the meaning of Article 250 of Regulation (EU) No 952/2013, in the customs territory of the Union of cultural goods presented at commercial fairs and international art fairs should be permitted provided an importer statement is submitted in accordance with Article 5.*

Amendment 29

Proposal for a regulation Article 3 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Reintroduced cultural goods under Article 203 of Regulation 952/2013;

Amendment 30

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. The holder of the goods shall apply for an import licence to the competent authority of the Member State of entry. The application shall be accompanied by any supporting documents and information substantiating that the cultural goods in question have been exported from the source country in accordance with its laws and regulations. **However**, where the **export country is a Contracting Party to 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')**, the application shall be accompanied by any supporting documents and information **substantiating** that the cultural goods **have been** exported from **that** country in accordance with its laws and regulations.

2. The holder of the **cultural** goods **listed in the previous paragraph** shall apply for an import licence to the competent authority of the **first** Member State of entry. The application shall be accompanied by any supporting documents and information substantiating that the cultural goods in question have been exported from the source country in accordance with its laws and regulations **or in the absence of such laws and regulations. In cases** where the **source country of the cultural goods cannot be reliably determined**, the application **for the import licence** shall be accompanied by any supporting documents and information, **providing evidence** that the cultural goods **were** exported from **the export** country in accordance with its laws and regulations.

The holder of cultural goods that originate in conflict-affected or high-risk countries shall always apply for an import licence to the competent authority of the first Member State of entry. The application shall be accompanied by any supporting documents and information substantiating that such cultural goods have been exported from the source country in accordance with its laws and

regulations.

Amendment 31

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. The competent authority of the Member State of entry shall verify whether the application is complete. It shall request any missing information or document from the applicant within 30 days of receipt of the application.

Amendment

3. The competent authority of the **first** Member State of entry shall verify whether the application is complete. It shall request any missing information or document from the applicant within 30 days of receipt of the application.

Amendment 32

Proposal for a regulation

Article 4 – paragraph 4 – introductory part

Text proposed by the Commission

4. The competent authority shall, within 90 days of the submission of the complete application, examine the application and decide to issue the import licence or reject the application. It *may* reject the application on the following grounds:

Amendment

4. The competent authority shall, within 90 days of the submission of the complete application, examine the application and decide to issue the import licence or reject the application. It **must** reject the application on the following grounds:

Amendment 33

Proposal for a regulation

Article 4 – paragraph 4 – point a

Text proposed by the Commission

(a) where ***the export country is not a Contracting Party to the 1970 UNESCO Convention***, it is not demonstrated that the cultural goods were exported from the source country in accordance with its laws and regulations;

Amendment

(a) where it is not demonstrated that the cultural goods were exported from the source country in accordance with its laws and regulations ***or where it is not demonstrated that the export from the source country was made in the absence of such laws and regulations;***

Amendment 34

Proposal for a regulation

Article 4 – paragraph 4 – point b

Text proposed by the Commission

(b) where *the export* country is a Contracting Party to the 1970 UNESCO Convention, it is not demonstrated that the cultural goods were exported from the export country in accordance with its laws and regulations;

Amendment

(b) where *there are pending claims for restitution by the authorities of the source* country.

Amendment 35

Proposal for a regulation

Article 4 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) when there are pending requests for repayment from the competent authorities of the source country;

Justification

Among the reasons for which the application for the issue of an import license may be refused by the competent authority, the case of a pending request by the country of origin must also appear.

Amendment 36

Proposal for a regulation

Article 4 – paragraph 4 – point c

Text proposed by the Commission

(c) the competent authority has reasonable grounds to *believe* that the holder of the goods did not acquire them lawfully.

Amendment

(c) the competent authority has reasonable grounds to *affirm* that the holder of the goods did not acquire them lawfully.

Amendment 37

Proposal for a regulation

Article 4 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) if the import request concerns a cultural good for which the same application was previously refused by another member state of the Union, refusal that the applicant is required to communicate to the competent authority for the issue of the license import;

Justification

Among the reasons for which the application for the issue of an import license might be refused by the competent authority, there must be also the case in which the same application was previously refused by another Member State, refusal that the applicant is held to communicate to the competent authority for the issue of the license import.

Amendment 38

Proposal for a regulation

Article 4 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In case the import licence is issued, the competent authority shall register that licence electronically.

Amendment 39

Proposal for a regulation

Article 4 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. In the event of rejection of the application, the administrative decision referred to in paragraph 4 shall be accompanied by a statement of reasons, including information on the appeal

procedure, which shall be communicated to the applicant affected at the time it is issued.

Amendment 40

Proposal for a regulation

Article 4 – paragraph 6

Text proposed by the Commission

6. The Commission *may* establish, by means of implementing acts, the template for the application for the import licence as well as the procedural rules on the submission and processing of such an application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

Amendment

6. The Commission *shall* establish, by means of implementing acts, the *electronic standardised* template for the application for the import licence as well as the procedural rules on the *electronic* submission and processing of such an application *together with the relevant supporting documents, which shall be done by electronic means*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

Amendment 41

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

1. The *release for free circulation and the placing under a special procedure other than transit in the Union* of the cultural goods referred to in points (a), (b), (e), (f), (g), (i), (j), (k) and (l) of the Annex shall be subject to the submission of an importer statement to the customs authorities of the Member State of entry.

Amendment

1. The *import* of the cultural goods referred to in points (a), (b), (e), (f), (g), (i), (j), (k) and (l) of the Annex shall be subject to the submission of an *electronic* importer statement to the customs authorities of the *first* Member State of entry.

The previous paragraph does not apply to cultural goods that originate in conflict-affected or high-risk countries. Such cultural goods require the presentation of an import licence issued by the competent authority of the first Member State of entry in accordance with the provisions

set out in Article 4.

Amendment 42

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. *The importer statement shall contain a declaration signed by the holder of the goods that the goods have been exported from the source country in accordance with its laws and regulations. However, where the export country is a Contracting Party to the UNESCO Convention on Cultural Property, the importer statement shall contain a declaration signed by the holder of the goods that the goods have been exported from that country in accordance with its laws and regulations.*

The importer statement shall include a standardised document describing the cultural goods in question in sufficient detail for them to be identified by the customs authorities.

Amendment

2. *In cases where the source country of the cultural goods can be reliably determined, the electronic importer statement shall consist of:*

(a) a declaration signed by the holder of the goods;

(b) a standardised *electronic* document describing the cultural goods in question in sufficient detail for them to be identified by the customs authorities; *and*

(c) *an export licence or certificate issued by the source country. In cases where the source country's legislation does not foresee the issue of export licences or certificates, the importer statement shall be accompanied by reliable supportive documents and information that prove that the cultural goods have been exported from the source country in accordance with its laws and regulations or to prove the absence of such laws and regulations.*

In cases where the source country of the cultural goods cannot be reliably determined, the electronic importer statement shall consist of:

- (a) *a declaration signed by the holder of the goods;*
- (b) *a standardised electronic document describing the cultural goods in question in sufficient detail for them to be identified by the customs authorities; and*
- (c) *an export licence or certificate issued by the export country. In cases where the export country's legislation does not foresee the issue of export licences or certificates, the importer statement shall be accompanied by reliable supportive documents and information that prove that the cultural goods have been exported from the export country in accordance with its laws and regulations.*

Amendment 43

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

3. The Commission *may* adopt, by means of implementing acts, the template for the importer statement as well as the procedural rules on the submission and processing of the importer statement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

Amendment

3. The Commission *shall* adopt, by means of implementing acts, the *electronic standardised* template for the importer statement as well as the procedural rules on the *electronic* submission and processing of the importer statement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.

Amendment 44

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

1. The import licence referred to in Article 4 or the importer statement referred to in Article 5, as the case may be, shall be submitted to the customs office competent

Amendment

1. The import licence referred to in Article 4 or the importer statement referred to in Article 5, as the case may be, shall be *electronically* submitted to the customs

to release the cultural goods for free circulation or for placing them under a special procedure other than transit.

office competent to release the cultural goods for free circulation or for placing them under a special procedure other than transit.

Amendment 45

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

2. With regard to cultural goods requiring the issue of an import licence to enter the customs territory of the Union, the customs authorities shall check whether the import licence corresponds to the goods presented. For that purpose, they may physically examine the cultural goods, including by conducting an expertise.

Amendment

2. With regard to cultural goods requiring the issue of an import licence to enter the customs territory of the Union, the customs authorities shall check whether the import licence corresponds to the goods presented. For that purpose, they may physically examine the cultural goods by conducting an expertise, ***in close collaboration with the competent authorities for cultural goods. The import licence electronically registered shall be attributed a serial number and a registration date and, upon release of the goods, the declarant will be provided with a copy of the registered import licence.***

Amendment 46

Proposal for a regulation Article 6 – paragraph 3

Text proposed by the Commission

3. With regard to cultural goods requiring the submission of an importer statement to enter the customs territory of the Union, the customs authorities shall check whether the importer statement complies with the requirements provided for in or on the basis of Article 5 and corresponds to the goods presented. For that purpose, they may require additional information from the declarant and

Amendment

3. With regard to cultural goods requiring the submission of an importer statement to enter the customs territory of the Union, the customs authorities shall check whether the importer statement complies with the requirements provided for in or on the basis of Article 5 and corresponds to the goods presented. For that purpose, they may require additional information from the declarant and

physically examine the cultural goods, including by conducting an expertise. ***They shall register the importer statement by attributing to it*** a serial number and a registration date and, upon release of the goods, provide the declarant with a copy of the registered importer statement.

physically examine the cultural goods by conducting an expertise ***as set out in paragraph 2. The importer statement registered electronically shall be attributed*** a serial number and a registration date and, upon release of the goods, the declarant ***will be provided*** with a copy of the registered importer statement.

Amendment 47

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

Where Member States restrict the number of customs offices competent to ***release*** cultural goods ***for free circulation or to place them under a special procedure other than transit***, they shall communicate the details of those customs offices as well as any changes in that respect to the Commission.

Amendment

Where Member States restrict the number of customs offices competent to ***import*** cultural goods, they shall communicate the details of those customs offices as well as any changes in that respect to the Commission. ***Even though the number of customs offices is restricted, Member States shall ensure that the holders of the goods or the importers have sufficient access to these offices.***

Amendment 48

Proposal for a regulation Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In case of retention of the cultural goods, adequate conservation conditions shall be guaranteed in accordance with the conditions and responsibilities for the temporary storage of goods as stated in Article 147 of Regulation (EU) No 952/2013, having due regard to the specific nature of the goods.

Amendment 49

Proposal for a regulation

Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Customs authorities shall immediately notify the source country or the export country, as the case may be, if, after having taken the decision referred to in paragraph 1, there are reasonable grounds to suspect that the cultural goods in question have been removed from the territory of the source country or the export country without the consent of their legitimate owner or have been removed in breach of those countries' laws and regulations.*

Amendment 50

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. An electronic system **may** be developed for the storage and the exchange of information between the authorities of the Member States, in particular regarding importer statements and import licences.

2. An electronic system **shall** be developed for the storage and the exchange of information between the authorities of the Member States, in particular regarding importer statements and import licences.

Amendment 51

Proposal for a regulation Article 9 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The Commission **may** lay down, by means of implementing acts,

The Commission **shall** lay down, by means of implementing acts,

Amendment 52

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

The Member States shall lay down the rules on penalties applicable to infringements of Articles 3, 4 and 5 and in particular, to the making of false statements and the submission of false information to obtain entry of cultural goods into the customs territory of the Union, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and of those measures within 18 months of the entry into force of the Regulation and shall notify it, without delay, of any subsequent amendment affecting them.

Amendment

The Member States shall lay down the rules on penalties applicable to infringements of Articles 3, 4 and 5 and in particular, to the making of false statements and the submission of false information to obtain entry of cultural goods into the customs territory of the Union, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States ***furthermore undertake to assess the advisability of establishing, where they are not already present in their own legal systems, specific operational units specialising in combating the unlawful import of cultural goods.*** Member States shall notify the Commission of those rules and of those measures within 18 months of the entry into force of the Regulation and shall notify it, without delay, of any subsequent amendment affecting them.

Amendment 53

**Proposal for a regulation
Article 11 – paragraph 1**

Text proposed by the Commission

11. Member States shall organise training and capacity building activities to ensure the effective implementation of this Regulation by the authorities concerned. They ***may*** also use awareness-raising campaigns to sensitise in particular buyers of cultural goods.

Amendment

11. Member States shall organise training and capacity building activities to ensure the effective implementation of this Regulation by the authorities ***and the professionals*** concerned. They ***shall*** also use awareness-raising campaigns to sensitise in particular buyers of cultural goods. ***Moreover, in order to assist the market actors to implement this Regulation, information contact points shall be made available in each Member State. In their preparatory works for the implementation of this Regulation, the***

Commission and the Member States shall cooperate with international organisations, such as UNESCO, Interpol, EUROPOL and the ICOM, to ensure effective training, capacity building activities and awareness raising campaigns.

Amendment 54

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall establish, by means of implementing acts, a regularly updated list of conflict-affected and high-risk countries by means of which restrictive measures applied to cultural goods shall be established, in accordance with Article 215 of the Treaty on the Functioning of the European Union.

Amendment 55

Proposal for a regulation

Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

In tandem with the European External Action Service and the OECD, the Commission is drafting non-binding guidelines in the shape of a handbook that explains how best to apply criteria for determining conflict-affected areas and high-risk areas. That handbook shall be based on the definition of 'conflict-affected and high-risk' areas set out in Article X(letter) of this Regulation and shall take into account the OECD Due Diligence Guidance in this field, including other supply chain risks

triggering red flags as defined in the relevant supplements to that Guidance.

The Commission shall call upon external expertise that will provide an indicative, non-exhaustive, regularly updated list of conflict-affected and high-risk areas. This list is based on analyses from the handbook mentioned in paragraph 1 that have been conducted by experts, as well as on information from academic research and due diligence systems for supply chains. Union importers sourcing from areas which are not mentioned on that list shall also maintain their responsibility to comply with the due diligence obligations under this Regulation.

Amendment 56

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) number of cases in which cultural goods have been retained **and**

(e) number of cases in which cultural goods have been retained;

Amendment 57

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) number of cases where cultural goods have been abandoned to the State in accordance with Article 199 of Regulation (EU) No 952/2013.

(f) number of cases where cultural goods have been abandoned to the State in accordance with Article 199 of Regulation (EU) No 952/2013 **and**

Amendment 58

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) *the criminal penalties adopted in order to implement this Regulation.*

Amendment 59

Proposal for a regulation Annex – table

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The Annex of the proposal of the Commission shall be deleted and replaced with the Annex of the Export Regulation of cultural goods 116/2009, adapted to a single 100-year threshold and with some value thresholds recalibrated. Due to procedural reasons, two different amendments have been proposed (one to delete, the other one to modify the previous Annex) and they shall be voted jointly.

Amendment 60

Proposal for a regulation Annex – table a (new)

Text proposed by the Commission

Amendment

***Proposal for a Regulation of the European Parliament and of the Council
on the import of cultural goods
Cultural goods covered by Article 2 (1)***

A.

1. Archaeological objects more than 100 years old which are the products of:

– excavations and finds on land or under water

9705 00 00

–	<i>archaeological sites</i>	9706 00 00
–	<i>archaeological collections</i>	
2.	<i>Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, of an age exceeding 100 years</i>	9705 00 00
		9706 00 00
3.	<i>Pictures and paintings, other than those included in categories 4 or 5, executed entirely by hand in any medium and on any material</i>	9701
4.	<i>Watercolours, gouaches and pastels executed entirely by hand on any material</i>	9701
5.	<i>Mosaics in any material executed entirely by hand, other than those falling in categories 1 or 2, and drawings in any medium executed entirely by hand on any material</i>	6914
		9701
6.	<i>Original engravings, prints, serigraphs and lithographs with their respective plates and original posters</i>	Chapter 49
		9702 00 00
		8442 50 99
7.	<i>Original sculptures or statuary and copies produced by the same process as the original, other than those in category 1</i>	9703 00 00
8.	<i>Photographs, films and negatives thereof</i>	3704
		3705
		3706
		4911 91 80
9.	<i>Incunabula and manuscripts, including maps and musical scores, singly or in collections</i>	9702 00 00
		9706 00 00
		4901 10 00
		4901 99 00
		4904 00 00
		4905 91 00
		4905 99 00
		4906 00 00
10.	<i>Books more than 100 years old, singly or in collections</i>	9705 00 00
		9706 00 00
11.	<i>Printed maps more than 100 years old</i>	9706 00 00

- 12.
- | | |
|--|------------|
| (a) Collections and specimens from zoological, botanical, mineralogical or anatomical collections; | 9705 00 00 |
| (b) Collections of historical, paleontological, ethnographic or numismatic interest | 9705 00 00 |
| 13. Any other antique items not included in categories A.1 to A.12 more than 100 years old | 97060000 |

The cultural objects in categories A.1 to A.13 are covered by this Regulation only if their value corresponds to, or exceeds, the financial thresholds under B.

B.

Financial thresholds applicable to certain categories under A (in euro)

Value:

Whatever the value

- 1 (Archaeological objects)
- 2 (Dismembered monuments)
- 9 (Incunabula and manuscripts)

15 000

- 5 (Mosaics and drawings)
- 6 (Engravings)
- 8 (Photographs)
- 11 (Printed maps)

30 000

- 4 (Watercolours, gouaches and pastels)

50 000

- 3 (Pictures)
- 7 (Statuary)
- 10 (Books)
- 12 (Collections)
- 13 (Any other object)

The assessment of whether or not the conditions relating to financial value are fulfilled must be made when an application for an import licence is submitted. The financial value is that of the cultural object in the Member State referred to in Article 2, point 1(a).

For the Member States which do not have the euro as their currency, the values expressed in euro in Annex I shall be converted and expressed in national currencies at the rate of exchange on 31 December 2001 published in the Official Journal of the European Communities. This countervalue in national currencies shall be reviewed every two years with effect from 31 December 2001. Calculation of this countervalue shall be based on the average daily value of those currencies, expressed in euro, during the 24 months ending on

the last day of August preceding the revision which takes effect on 31 December. This method of calculation shall be reviewed, on a proposal from the Commission, by the Advisory Committee on Cultural Goods, in principle two years after the first application. For each revision, the values expressed in euro and their counter values in national currency shall be published periodically in the Official Journal of the European Union in the first days of the month of November preceding the date on which the revision takes effect.

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1522064603053&uri=CELEX:32009R0116>)

Justification

The European Union must guarantee the same level of protection recognized to its cultural goods, including those imported from third countries on its territory. To this end, also in order to facilitate the application of this regulation by the competent customs authorities and the authorities responsible for issuing import licenses, the originally proposed annex shall be replaced with that of Regulation 116/2009 concerning exportation of cultural goods, adapting it to a single 100-year threshold and recalibrating some value thresholds, bearing in mind the scope of this regulation.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Import of cultural goods
References	COM(2017)0375 – C8-0227/2017 – 2017/0158(COD)
Committees responsible Date announced in plenary	INTA IMCO 11.9.2017 11.9.2017
Opinion by Date announced in plenary	CULT 11.9.2017
Associated committees - date announced in plenary	18.1.2018
Rapporteur Date appointed	Santiago Fisas Aixelà 24.10.2017
Rule 55 – Joint committee procedure Date announced in plenary	18.1.2018
Date adopted	7.6.2018
Result of final vote	+: 21 -: 3 0: 1
Members present for the final vote	Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Nikolaos Chountis, Silvia Costa, Damian Drăghici, Jill Evans, María Teresa Giménez Barbat, Giorgos Grammatikakis, Petra Kammerevert, Svetoslav Hristov Malinov, Rupert Matthews, Luigi Morgano, John Procter, Sabine Verheyen, Julie Ward, Bogdan Andrzej Zdrojewski
Substitutes present for the final vote	Norbert Erdős, Sylvie Guillaume, Dietmar Köster, Morten Løkkegaard, Martina Michels
Substitutes under Rule 200(2) present for the final vote	John Flack, Gabriel Mato, Fernando Ruas

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE	María Teresa Giménez Barbat, Morten Løkkegaard
EFDD	Isabella Adinolfi
ENF	Dominique Bilde
GUE/NGL	Nikolaos Chountis, Martina Michels
PPE	Andrea Bocskor, Norbert Erdős, Svetoslav Hristov Malinov, Gabriel Mato, Fernando Ruas, Sabine Verheyen, Bogdan Andrzej Zdrojewski
S&D	Silvia Costa, Damian Drăghici, Giorgos Grammatikakis, Sylvie Guillaume, Petra Kammerevert, Dietmar Köster, Luigi Morgano, Julie Ward

3	-
ECR	John Flack, Rupert Matthews, John Procter

1	0
VERTS/ALE	Jill Evans

Key to symbols:

+ : in favour

- : against

0 : abstention