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Introduction

Since its adoption in 1977, the *Cultural Property Export and Import Act* (Act) has served to encourage and ensure the preservation in Canada of significant examples of our artistic, historic, and scientific heritage. The Act accomplishes this objective through the following five provisions:

- Designation of organizations that have demonstrated the capacity to preserve cultural property and make it accessible to the public;
- Tax incentives to encourage Canadians to donate or sell significant cultural property to designated organizations;
- Grants to assist designated organizations with the purchase of cultural property;
- Export control; and
- Import control.

The responsibility for carrying out these provisions is shared by the Minister of Canadian Heritage and an independent administrative tribunal established by the Act, the Canadian Cultural Property Export Review Board, together with other government organizations responsible for administering and enforcing specific elements of the legislation.

This report will cover the aspects of the Act that are the responsibility of the Minister of Canadian Heritage from April 1, 2020 to March 31, 2021. Activities under the Act that are the responsibility of the Board, including the certification of cultural property for income tax purposes and the review of refused export permits, are covered in a separate report, issued by the Board.

Minister's message

As Minister of Canadian Heritage, I am pleased to present the Annual Report on the Administration of the *Cultural Property Export and Import Act* for 2020–2021. Since its adoption in 1977, the Act has helped ensure the preservation of significant examples of Canada's artistic, historic and scientific heritage.

This report refers solely to the Department of Canadian Heritage's work to support the administration of the Act. The Canadian Cultural Property Export Review Board has prepared a separate report detailing its work administering the Act. I am pleased to table both reports before Parliament and make them available to Canadians.

In 2020, we witnessed the devastating arrival of COVID-19. Across Canada, museums, galleries and countless related businesses felt the impact of the pandemic through prolonged closures, loss of staff and revenue, and increased operating pressures. Nevertheless, they adapted as much as possible and worked tirelessly to find alternate ways to connect Canadians with their artistic and cultural heritage. At the same time, the Department pivoted to remote operations and focused on providing immediate support to the sector. The Department also maintained its work to support the administration of the Act and its related obligations.

On a happier note, in 2020 UNESCO celebrated the 50th anniversary of the 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. In an online interview to mark the occasion, the Honourable Steven Guilbeault, then Minister of Canadian Heritage, reaffirmed that Canada recognizes that the illicit import and export of cultural property impoverishes the heritage of a nation, and that Canada will continue its efforts to prevent this illicit activity.

Indeed, in keeping with Canada's obligations under the 1970 Convention, the Government of Canada returned a statue of a small bronze cat, representing the Egyptian goddess Bastet, dating from approximately 664–323 BCE, to the Arab Republic of Egypt in March 2021. The antiquity had been detained in Canada by the Canada Border Services Agency. This return of property is an example of the successful cooperation of government departments and agencies working together to enforce the *Cultural Property Export and Import Act*.

I would like to commend the Movable Cultural Property program for its accomplishments during this difficult year and thank all those who work to preserve and protect Canada's artistic and cultural heritage.



The Honourable Pablo Rodriguez

Report of the Movable Cultural Program

Overview

The Movable Cultural Property Program (MCP) within the Department of Canadian Heritage is responsible for:

- assessing organizations for the purpose of designation;
- assessing applications for Movable Cultural Property grants;
- export control; and
- import control.

Designation of organizations

Organizations such as museums, art galleries, libraries, archives, municipalities, and public authorities must be designated in order to be eligible to apply for the certification of cultural property or for a Movable Cultural Property grant. Designation is a ministerial responsibility and a means of ensuring that cultural property certified by the Review Board or acquired with the assistance of a Movable Cultural Property grant is housed in organizations that have the capacity to ensure its long-term preservation and to make it accessible to the public through research, exhibitions, and in print or online publication.

Organizations may be designated as Category A or B. Under Category A, organizations are designated in relation to any cultural property that falls within their collecting mandate. Under Category B, organizations are designated only in relation to a specific cultural property or collection.

A total of 9 new applications for designation were received in 2020-21, four of which were for Category A designation. For an overview of organizations designated in 2020-21, please refer to [Appendix 1-3](#). During the course of the year, the Department also continued its targeted review of designated organizations collecting audiovisual material and digital records. These organizations are now required to obtain a designation for Class 9 objects to ensure they have the capacity to preserve these specialized materials for the long term. While the process was slowed by the COVID-19 pandemic, the review was commenced, and in one case completed, for six of the 11 organizations targeted in the first instalment of this exercise.

For a complete list of Category A organizations, please refer to the [corresponding page](#) of the departmental website.

Movable Cultural Property grants

Under Section 35 of the Act, the Minister may provide grants to designated organizations to assist with the purchase of cultural property that has been denied an export permit or that is outside of Canada but available for sale on the international market and related to the national heritage.

No Movable Cultural Property grants were awarded in 2020-21.

Import control

International cooperation under the 1970 UNESCO Convention

In 1978, Canada became a signatory to the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. This Convention places the onus on each signatory state to develop its own legislation to protect and preserve its cultural heritage and to establish measures to facilitate the return of illegally exported cultural property to its country of origin. The Act contains provisions making it an offence to import into Canada cultural property that has been illegally exported from a state that is a fellow signatory to an international cultural property agreement. Penalties upon conviction of an offence under the Act include a fine, imprisonment, or both.

Canada has returned over 22,000 objects on 26 occasions to 14 different states in Africa, Asia, Europe, the Middle East as well as South and Central America since the 1970 UNESCO Convention came into force in Canada in 1978.

The Program reviewed 26 imports in 2020-21, which were detained by the Canada Border Services Agency. On average 85 per cent of these cases were resolved in less than 90 days.

International cooperation under the 1954 UNESCO Hague Convention

The UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict, known as the 1954 Hague Convention, was developed in response to concerns over the destruction of cultural property, including monuments, museums, libraries and archives, during the Second World War. The Convention is regarded as one of the most important components of the international effort to protect cultural heritage.

The two Protocols to the Convention make it illegal to export cultural property from occupied territories as well and provide for the return of any illegally exported property. They also impose obligations on the prosecution of violations of the Convention.

Canadians who participate in the deliberate destruction or illegal export of cultural property, either during peace time or during conflict, may be committing an offence under the Criminal Code or the *Cultural Property Export and Import Act*.

Since 2005, it is also an offence under the Criminal Code for Canadians to damage or destroy cultural property anywhere outside Canada at any time.

In 2020-21, there were no convictions for offences committed by Canadians against cultural property outside of Canada.

Illegal imports

There was one return of illegally imported cultural property in 2020-21. In March 2021, Canada returned a small bronze figurine of a cat, representing the Egyptian goddess Bastet, believed to date from the Late Period to beginning of the Ptolemaic Period (roughly 664-323 BCE), to the Arab Republic of Egypt.

Export control

Archaeological, historical, cultural, artistic, and scientific objects are all considered movable cultural property, but only certain types of cultural property are subject to export control under the Act. The *Canadian Cultural Property Export Control List* defines classes of property that are subject to export control based on age and value (see [Appendix 1-1](#) for a summary of the groups on this list).

If cultural property is included on the Control List, an export permit is required for its temporary or permanent removal from the country. The Movable Cultural Property Program liaises with and responds to questions from Canada Border Services Agency permit-issuing offices, expert examiners, and members of the public to ensure that the export-control system works effectively. Movable Cultural Property also interprets the *Control List* for these stakeholders.

Export permits

Temporary and permanent export permits are issued by permit officers in 16 Canada Border Services Agency permit offices located across Canada. Applications for temporary export, for objects that have been in Canada less than 35 years or which are being returned after a loan to a Canadian institution by a non-resident will all be issued automatically by the Canada Border Services Agency. All other applications for permanent export will be reviewed by an expert examiner (i.e., for sale on an international market, delivery to foreign buyers, or moving abroad). Close to 80 institutions are designated to act as expert examiners. These include museums, art galleries, archives, libraries and universities across Canada. The role of expert examiners is to advise Canada Border Services Agency as to whether cultural property faced with export meets the criteria of outstanding significance and national importance as set out in the Act.

If the permit officer determines that an object subject to permanent export is included on the *Control List* and has been in the country for more than 35 years, the officer must forward a copy of the application to an expert examiner for a recommendation as to whether that object is of outstanding significance and national importance. If the expert examiner deems this to be the case, the officer will refuse the permit; otherwise, it will be issued.

In response to the COVID-19 pandemic, and the extended closure of many designated expert examiner institutions, temporary measures were put in place to facilitate the review of applications by expert examiners with minimal delay to exporters.

Information regarding reviews of refused permit applications is available in the report of the activities of the Canadian Cultural Property Export Review Board.

General export permits

A general permit may be issued to any resident of Canada who regularly exports cultural property that falls under the Control List. General permits may be granted to organizations whose core business is unduly inconvenienced by the necessity of applying for individual permits or to organizations which have a large volume of cultural property exports.

A general permit will be issued when it can be demonstrated that the property to be exported would routinely be approved for export. Routinely approved permits include temporary permits, permits for objects that have been in Canada less than 35 years or permits for objects returned after loan to a Canadian institution or public authority. Cultural property that must be reviewed by an Expert Examiner under the permanent export permit process would not normally be considered eligible for a general permit.

To date, a total of 12 General Permits have been issued. For an overview of export-permit applications covering the 2020-21 fiscal year, please refer to [Appendix 1-2](#).

Illegal exports

Pursuant to Article 1 of the 1970 UNESCO Convention, Section 38 of the Act states that any cultural property included on the *Control List* is designated by Canada to be of importance for archaeology, ethnography, history, culture, art, or science. The Act contains provisions making it a criminal offence to export or attempt to export from Canada any property included on the Control List except under the authority of and in accordance with a temporary or permanent permit issued under the Act. Penalties upon conviction of an offence under the Act include a fine, imprisonment, or both. Under the terms of the 1970 UNESCO Convention, if illegally exported cultural property is imported into a fellow signatory state, Canada may be afforded the opportunity to request its return.

In 2020-21 there were no convictions under the Act.

Appendices

Appendix 1-1: Canadian Cultural Property Export Control List

The following list describes the groups of cultural property controlled under the *Cultural Property Export and Import Act*.

Group I: Objects recovered from the soil or waters of Canada.

Group II: Objects of ethnographic material culture.

Group III: Military objects.

Group IV: Objects of applied and decorative art.

Group V: Objects of fine art.

Group VI: Scientific or technological objects.

Group VII: Textual records, graphic records, and sound recordings.

Group VIII: Musical instruments.

Appendix 1-2: Export-permit applications

Table 1. Export-permit applications, fiscal year 2020-21

Export-permit applications	Number of applications
Number of applications for temporary permits (i.e., for exhibition, conservation, or research).	16
Number of applications for permanent export. Includes permits issued automatically and reviewed by an expert examiner.	209
Total number of applications received.	225
Number of applications refused (To access the complete list of refused applications, please refer to the report on the activities of the Board).	3
Number of general permits issued or renewed.	0

Appendix 1-3: Category A and B designations

Table 2. Category A and B designations, fiscal year 2020-21

Category	Object Class	Organization	Effective Date
A	5, 7	Ottawa Art Gallery, Ottawa, Ontario	September 22, 2020
A	9	Library and Archives Canada, Ottawa, Ontario and Gatineau, Quebec	January 20, 2021

For a complete list of Category A organizations, please refer to the [corresponding page](#) of the departmental website.