



# Memorandum D19-4-1

Ottawa, January 23 2023

## Export and Import of Cultural Property

### In brief

This memorandum has been updated to update the list of areas with greater issues of conflict or recognized as being sources for the illicit trafficking of cultural property.

The Canada Border Services Agency (CBSA) has specific responsibilities to administer and enforce the [Cultural Property Export and Import Act](#) in collaboration with the Department of [Canadian Heritage](#). This memorandum explains the legislation, how exporters may obtain a cultural property export permit, and the permit issuance procedure. It also provides information on cultural property that may be subject to import controls.

## Legislation

*Cultural Property Export and Import Act*  
[Customs Act – section 101](#)  
[Cultural Property Export Regulations](#)  
[Canadian Cultural Property Export Control List](#)

## Guidelines and general information

1. The *Cultural Property Export and Import Act* and its regulations are designed to protect Canada's national heritage through the establishment of export controls for objects of historical, scientific, and cultural significance.
2. The *Cultural Property Export and Import Act* and its regulations enable Canada to meet its obligations under the [1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#) to recover and return illegally imported cultural property.
3. The Department of Canadian Heritage is responsible for administering the Act. [Contact the Department](#) directly for information about the Act, export permits and import controls.

### Export control

4. Export control is accomplished by means of the [Canadian Cultural Property Export Control List \(Control List\)](#), which defines categories of cultural property according to age, weight and dollar value limits. The broad categories include mineralogy, palaeontology and archaeology; ethnographic material culture; military objects; objects of applied and decorative art; objects of fine art; scientific or technological objects; textual records, graphic records and sound recordings and; musical instruments.

5. The Control List does not apply to objects which are less than 50 years old, or made by a person still living. It should be noted that other restrictions may apply to individual categories identified on the Control List.

### **Application for export permits**

6. The export of controlled cultural property is subject to a permit procedure, which is administered by designated permit issuing officers at specified CBSA offices across Canada (refer to the Appendix in this memorandum).

7. These permit issuing officers, upon completion of the application form by the exporter, will verify the application for completeness. They will then either issue the export permit, or refer the application to an expert examiner for a decision. Expert examiners are affiliated with Canadian institutions designated by the Minister of Canadian Heritage.

### **Permit issuance – permanent or temporary exportation**

8. A permit to export cultural property may be issued by a designated permit issuing officer to authorize either the permanent or temporary export of an object. A permanent export permit is required for exports of five years or more while a temporary export is not to exceed five years from the date the permit was issued.

9. In either case, the property must be accompanied by a valid permit to export cultural property and the permit must be presented to a CBSA office at the place of export.

10. Upon presentation, the permit will be reviewed by the CBSA to:

(a) ensure that the permit has been completed and authorized by a designated permit issuing officer in the allocated space;

(b) ensure that the permit is in effect (i.e., the effective and expiry dates have been completed on the permit by the permit issuing officer);

(c) validate (date stamp and sign) the form; and

(d) forward the validated permit to Canadian Heritage.

11. In the event that an amendment is required to a permit that has been issued by a permit issuing officer, the exporter must contact Canadian Heritage to request the change before the cultural property is exported.

### **Permit issuance – importation after temporary exportation**

12. Upon importation after temporary export of an object subject to this legislation, the importer/owner is responsible for notifying Canadian Heritage that the object has returned to Canada.

13. If the CBSA is presented with a “Notice of Return to Canada” form, it will be reviewed by the CBSA to:

(a) validate (date stamp and sign) the form; and

(b) return the form to the importer/owner. The importer / owner is responsible for forwarding the completed form to Canadian Heritage.

### **Permit issuance – cultural property general permit declaration**

14. A general permit may be issued to any resident of Canada who regularly exports a particular type of cultural property that falls under the Control List. General permits are issued by the Minister of Canadian Heritage and may be valid for a period of up to five years.

15. When exporting cultural property under a general permit, a completed Cultural Property Export Permit Declaration must be given to and validated by the CBSA officer at the port of exit prior to export.

### **Import control**

16. [Section 37 \(2\) of the Cultural Property Export and Import Act](#) states that “after the coming into force of a cultural property agreement in Canada and a reciprocating State, it is illegal to import into Canada any foreign cultural property that has been illegally exported from the reciprocating State”. This applies even if the cultural property arrives in Canada via a third state.

17. A cultural property agreement includes the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Over 125 states are signatories to the 1970 UNESCO Convention. Cultural property illegally exported from these signatory states, after both Canada and that State became signatories to the Convention, may not be imported into Canada.

18. Each signatory state has its own rules regarding the types of cultural property subject to export control. Although not exhaustive, certain types of objects are likely to be controlled. These include: archaeological objects, important historical or scientific objects, works of arts, and old manuscripts and old books. These types of objects, or other cultural property, may be detained by border services officers who will then contact Canadian Heritage for further instructions on how to proceed.

19. Archaeological objects and works of art from specific countries or regions are also at a heightened risk for illicit traffic. Importers of cultural property should note that given the UN or [International Council of Museums - International Observatory on Illicit Traffic in Cultural Goods](#) warnings, goods from certain countries or regions (which include but are not limited to the following): Ukraine, the Middle-East (particularly, but not limited to, Syria, Iraq, Egypt, Afghanistan, Libya and Yemen), West Africa and Africa in general, Latin America (particularly, but not limited to Mexico, Central America, the Dominican Republic, Peru and Colombia), South-East Europe, China, Cambodia and Haiti (please note the list is not exhaustive and subject to change) may be under additional scrutiny at the border.

## **Non-compliance, appeals, detention and penalty information**

### **Non-compliance**

20. In the event an exporter of cultural property presents an invalid or incomplete export permit, the border services officer should immediately seek advice from Canadian Heritage.

21. Should an exporter/importer fail to present an export/ permit at the time of export/import, for an object which a border services officer has reason to believe is subject to this Act, the border services officer may detain the shipment and forward a detailed description of the goods and any relevant documentation along with the name and address of the exporter/importer to Canadian Heritage. Canadian Heritage will then provide the border services officer with a decision regarding the status of the shipment. If Canadian Heritage advises that the importer should have documentation proving the legal export from a foreign state, the importer should have the appropriate documentation readily available to provide to the border services officer.

22. The onus is on the exporter/importer, whether it be a dealer, collector, institution, or the public at large, to obtain information and comply with the procedure for objects which may be considered cultural property. Questions regarding objects subject to export/import controls should be directed to Canadian Heritage.

### **Appeals**

23. Decisions to refuse the permanent export of an object included on the Control List may be appealed by the applicant to the [Canadian Cultural Property Export Review Board](#). Questions concerning the appeals procedure should be directed to Canadian Heritage.

### **Detention**

24. Cultural property subject to the *Cultural Property Export and Import Act* and its regulations may be detained by the CBSA on behalf of Canadian Heritage under Section 101 of the *Customs Act*.

25. Detention periods for cultural property will vary since each import must be assessed on a case-by-case basis. If the cultural property is not subject to import controls, detention periods will generally be less than 30 days. Detention periods for cultural property illegally imported into Canada may be lengthy, pending a decision by the Courts. To avoid import delays, importers should ensure that the cultural property they are trying to import into Canada has all the necessary documents, such as the export permit issued by the foreign state.

26. In some circumstances special arrangements are required to care for the cultural property during the detention period.

**Penalty information**

27. Any person who contravenes the provisions contained in the *Cultural Property Export and Import Act* is guilty of an offence, and is liable:

(a) on summary conviction – to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding twelve months, or both; or

(b) on conviction upon indictment – to a fine not exceeding \$25,000, or to imprisonment for a term not exceeding five years, or both.

28. Exporters may be subject to CBSA's Administrative Monetary Penalty System (AMPS). For example an AMP penalty may be applied where an exporter fails to provide an export permit when required or the information on the permit is not accurate or complete.

**Additional information**

29. Additional information on this legislation may be obtained from:

Heritage Policy and Programs Directorate  
Department of Canadian Heritage  
25 Eddy Street, 9<sup>th</sup> Floor (25-9-P)  
Gatineau QC K1A 0M5

Email : [mcp-bcm@pch.gc.ca](mailto:mcp-bcm@pch.gc.ca)

Toll-free: **1-866-811-0055**

Facsimile: 819-997-7757

30. The [CBSA's Border Information Service \(BIS\)](#) line responds to public inquiries related to import requirements of other government departments, including the Department of Canadian Heritage. You can access BIS free of charge throughout Canada by calling 1-800-461-9999. If you are calling from outside Canada, you can access BIS by calling 204-983-3500 or 506-636-5064 (long distance charges will apply). To speak directly to an agent, please call during regular business hours from Monday to Friday (except holidays), 8 a.m. to 4 p.m. local time.

**APPENDIX****PERMIT ISSUING LOCATIONS- CULTURAL PROPERTY EXPORT PERMITS**

<b>PROVINCE/ REGION</b>	<b>ADDRESS</b>	<b>FAX</b>
British Columbia	Canada Border Services Agency Metro Vancouver District 412-4th floor, 1611 Main St. Vancouver, BC V6A 2W5	604-666-6453
	Canada Border Services Agency 400-1321 Blanshard Street Victoria, BC V8W 1X1	250-363-3179
Whitehorse, Yukon (West Coast, Yukon District, Pacific Region)	Canada Border Services Agency 300 Main Street, Suite 110 Whitehorse, YT Y1A 2B5	867-668-2869
Alberta and Northwest Territories	Canada Border Services Agency Central Alberta District Commercial Operations By Mail: 2588 27th Street NE Room 171, 220-4 <sup>th</sup> Avenue SE Calgary, AB T2G 4X3 In Person: 175 Aero Way NE Unit 162 Calgary, AB T2E 6K2	403-292-4141
	Canada Border Services Agency Edmonton – Commercial Operations Central Alberta District #100-1727 35 Avenue E Edmonton International Airport Edmonton, AB T9E 0V6	780-890-4311
	Canada Border Services Agency Hwy 4, P.O. Box 220 Coutts, AB T0K 0N0	403-344-4427
Saskatchewan	Canada Border Services Agency 2510 Sandra Schmirler Way P.O. Box 4080 Regina, SK S4P 3W5	306-780-5630
	Canada Border Services Agency #21 – 2625 Airport Drive Saskatoon, SK S7L 7L1	306-975-5917
Manitoba	Canada Border Services Agency Unit 130 - 1821 Wellington Avenue Winnipeg, MB R3H 0G4	204-983-0330
Ontario	Canada Border Services Agency Northern Ontario Region 50 Terminal Street, Suite 4 North Bay, ON P1B 8G2	705-472-3997
	Canada Border Services Agency Greater Toronto Area Region	905-676-5034

<b>PROVINCE/ REGION</b>	<b>ADDRESS</b>	<b>FAX</b>
	Lester B. Pearson International Airport (LBPIA), Commercial Operations District Attention: Special Cell Desk 2720 Britannia Rd East, Cargo 3 Mississauga, ON L5P 1A2	
Quebec	General Desk Canada Border Services Agency Longroom 400 Place d'Youville Montréal, QC H2Y 2C2	514-283-0384
New Brunswick	Canada Border Services Agency 495 Prospect Street Fredericton, NB E3B 9M4	506-452-3587
Prince Edward Island	Canada Border Services Agency 250 Maple Hills Avenue Suite 194 Charlottetown, P.E.I C1C 1N2	902-566-7275
Nova Scotia	Canada Border Services Agency Commercial Ops 263 Susie Lake Crescent Halifax, NS B3S 0J5	902-426-5648
Newfoundland	Canada Border Services Agency 6th Floor, 165 Duckworth Street St. John's, NL A1C 1G4	709-772-2286

<b>References</b>	
<b>Issuing Office</b>	Program and Policy Management Division Commercial Programs Directorate Programs Branch
<b>Headquarters File</b>	7614-5-1
<b>Legislative References</b>	<i>Cultural Property Export and Import Act</i> <i>Cultural Property Export Regulations</i> <i>Customs Act</i> <a href="#"><u>Canadian Cultural Property Export Control List</u></a>
<b>Other References</b>	1970 UNESCO Convention
<b>Superseded Memorandum D</b>	D19-4-1 dated November 15, 2022

## Final Approval

(check one option, obtain required signatures and date)

- OK to E-PRINT
- OK to E-PRINT once written corrections are made
- Once written corrections are made, RESUBMIT new proofs

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Manager's approval/signature

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Date: \_\_\_\_\_

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Director's approval/signature

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Date: \_\_\_\_\_