

UK Export Licensing for Cultural Goods

**Procedures and guidance for exporters of works of
art and other cultural goods**

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Contents	page
Introduction	3
Part I: Export Control	3
Part II: National Treasures	12
Tables/Flow chart	
Table 1	
Objects excluded from export control	26
Flow chart	
What type of licence do I require for export?	27
Table 2	
European Union categories for the export of cultural goods	28
Table 3	
Open General Export Licence (OGEL) value limits for the export of cultural goods	30
Appendices	
Appendix A	
Export Licensing Unit and the Secretariat to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest	32
Appendix B	
Open General Export Licence (Objects of Cultural Interest)	33
Appendix C	
Member States and territories of the European Union	37
Appendix D	
Useful addresses	38
Appendix E	
Terms of reference and membership of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest	39
Appendix F	
Composition of the Advisory Council on the Export of Works of Art and Objects of Cultural Interest	43
Appendix G	
Standard formats for digital copies of manuscripts	45
Appendix H	
Non-Community goods	47

Introduction

1. This notice provides guidance on the procedures involved in applying for an export licence for cultural goods. Part I sets out the controls which apply to the export from the United Kingdom and the Isle of Man of cultural goods (works of art, antiques and collectors' items etc.), when an individual export licence is required and how you should apply for one. Part II details how decisions are reached on licence applications for objects of national importance. All references to the UK include the Isle of Man. The operation of the export control regime for cultural goods is the responsibility of the Export Licensing Unit (ELU) within Arts Council England (the Arts Council): address and telephone numbers at **Appendix A**.

Part I: Export Control

This part sets out the export controls which apply to cultural goods, when an individual export licence is required and how you should apply for one.

What is the purpose of the export control system?

2. The purpose of the export control system is to provide an opportunity for the UK to retain cultural goods judged to be of outstanding national importance that would otherwise be exported. The system is designed to strike a balance, as fairly as possible, between the various interests concerned in any application for an export licence: the protection of national treasures; the rights of the owner selling the goods; the exporter or overseas purchaser; and the position and reputation of the UK as an international art market.

How does the export control system work?

3. For cultural goods over certain age (with exceptions for certain collections or for certain objects of particular interest) and monetary limits, an individual licence is required for despatch from the UK to European Union (EU) destinations and for export from the UK to non-EU destinations (see paragraphs 9 and 10), unless one of the exceptions in **Table 1** applies. There is both EU and UK legislation on the export control of cultural goods and either an EU or a UK licence application may be required depending on the type of object and the destination to which you intend to export it. Licences may be required for both permanent and temporary exports, including when you are transferring your own property abroad.

Open Licences

4. In order to reduce the burden on would-be exporters, the Secretary of State has issued a number of open licences permitting the export of certain specified objects without the need to obtain an individual export licence. There are three types currently in operation, the first two under UK legislation for intra-EU despatch and the third under EU legislation for temporary exports to third countries: the Open General Export Licence (Objects of Cultural Interest) (OGEL); the Open Individual

Export Licence (OIEL); and the Specific Open Licence. An exporter may not rely on either the OGEL or an OIEL where there is a requirement to obtain an individual licence under EU legislation. The relevant legislation is Council Regulation (EC) No 116/2009 on the export of cultural goods (as amended) (the EU Regulation)¹. This regulates the export of certain cultural objects to destinations outside the European Customs Union.

Open General Export Licence (Objects of Cultural Interest)

5. The OGEL may permit the permanent export to any destination, except an embargoed one, of certain classes of cultural goods provided the value of the object is less than the figure specified in the OGEL for the relevant class. It removes the need to apply for an individual licence.
6. The OGEL is available for use by any exporter in the UK; it is a valid export licence and the conditions attached to it are binding. No prior authorisation is required from the ELU to use an OGEL, no licence need be applied for from the ELU and no licence has to be presented to Customs. Customs officials at ports and airports should be informed that the goods are being exported under the OGEL (Objects of Cultural Interest) by quoting its title in the export documentation. A copy of the current OGEL (Objects of Cultural Interest) is at Appendix B and on the Arts Council's website (www.artscouncil.org.uk). Because the OGEL (Objects of Cultural Interest) is revised from time to time, you should always check that you have the latest information (especially value limits) by checking the Arts Council's website or contacting the ELU which will be able to provide you with a copy of the latest OGEL (Objects of Cultural Interest).

Open Individual Export Licences (OIELs)

7. Exporters who regularly despatch items intra EU (e.g. for fairs) may obtain an OIEL for certain documents, manuscripts or archives and such licenses may be issued for certain other classes of cultural goods. There is also (i) a Museums and Galleries OIEL which permits the temporary despatch of any object owned or under the care of the museum holder to any EU Member State for a period of up to three years without having to apply for a UK export licence and (ii) an Objects of Cultural Interest OIEL which allows the export from the UK of any goods imported into the UK within 50 years of the date of export. Possession of an OIEL may also mean that applications for individual export licences required under the EU Regulation should not be subject to scrutiny for national importance. For information about these, please contact the ELU.

Specific Open Licences

8. This type of licence is issued under the EU Regulation for the temporary export from the EU on several occasions of a specific category of cultural good by a person or organisation for the purposes of use and/or exhibition in a third country

¹ See also implementing Regulation (EU) No. 1081/2012

(i.e. a country outside the EU). This type of licence can only currently be issued in the UK in respect of musical instruments and motor vehicles. It enables the repeated temporary exports of such objects for up to six months over a period of three years after which time the licence may be renewed. For information about these and an application form, please contact the ELU. The person or organisation concerned must provide all necessary guarantees that the object will be returned in good condition to the EU and that the object can be so described or marked that there will be no doubt at the moment of temporary export that the object being exported is that described in the specific open licence.

When must I have an individual export licence?

9. If you are intending to export a cultural object that is valued at or above a specified financial threshold and cannot be exported under the OGEL, OIEL or a Specific Open Licence, you must apply for an individual licence if your object is valued at or above a specified age and financial threshold, regardless of its destination (within or outside the **EU**). To determine whether you require an individual licence, please refer to the flow chart and tables on pages 26 to 31. **If the object is valued below the specified threshold, no individual licence is required.**
10. The Member States of the EU are listed at Appendix C.

I have looked at the flow chart and tables on pages 26 to 31 and have concluded that I need to apply for an individual export licence. What type of licence do I apply for?

11. If you are intending to export an object to a final destination **outside the EU**, please ensure that you apply for an export licence on the correct form (in most cases an **EU licence** or a **UK licence (ELU Form C)** for some objects). The flow chart and tables on pages 26 to 31 should help you to determine which form you require. If, however, you are intending to despatch an object to a destination **in another EU Member State**, you must apply for a **UK licence** in all cases.

How do I obtain the required licence application form?

12. Telephone the ELU on 020 7268 9606/9635/9623/9622/9642/9614/9572 and request either an **EU licence** application form or a **UK licence** application form. If you are unsure which form you require the staff of the ELU will be happy to advise you. **You should apply as soon as you know that an object is to be exported and the name and address of the consignee to whom it is going. Completed application forms, detailing the full provenance or history of the object,** should be sent to the ELU (address at Appendix A).

How soon will I receive my export licence once I have submitted my application?

13. This depends on whether your application is referred to an Expert Adviser (usually a director, senior keeper or curator in a national museum or gallery) for scrutiny as to whether the object is of national importance (see paragraph 22). If an Expert Adviser needs to be consulted, your application will normally be referred within five working days of receipt of it. We ask Expert Advisers to respond to us within 15 working days. Allowing for postage and processing by the ELU the total time taken will normally be 28 working days. Expert Advisers will need detailed contextual information and all known provenance (including any catalogue entries) in order to decide whether a cultural object is of Waverley standard. They also require photographs. When providing photographs please ensure they are up to date and of sufficient size and quality to show details of workmanship. In reference to clocks, the Expert Adviser will require an external photograph of the clock and another photograph of its workings. Failure to provide any of this information will result in delay, or it may result in the ELU not being able to process your application.
14. If, however, you can provide evidence with your licence application that the object arrived legally in the UK within the last 50 years, your application will not normally be referred to an Expert Adviser (but see the note to Appendix C regarding the exclusion of imports into the UK from the Channel Islands). If there is no referral to an Expert Adviser, the licence can normally be granted within five working days from receipt of your application, **provided that all the necessary information has been submitted.**

If my cultural object has arrived in the UK within the last 50 years, what evidence should accompany the application?

15. The documentary evidence must provide details of the provenance of the object concerned. If the object is a recent arrival in the UK from outside the EU, it may be simpler to provide copies of the commercial shipping documentation or a copy of the Customs Single Administrative Document (C88) with your licence application. If there are no recent import documents it is important that an export licence application is supported by provenance dating back to at least 1 January 1993 or, in the case of material from Iraq, 1 August 1990. Failure to provide any of this information will result in delay, or it may result in the ELU not being able to process your application.
16. In addition, where an object has come from another EU Member State on or after 1 January 1993, either directly or indirectly via a third country, applicants requiring an EU licence should include evidence that the object was legally despatched from the originating Member State. The ELU can provide details of the evidence that is required for a particular originating Member State.

What about the special considerations which apply to manuscripts?

17. For some manuscripts, the Expert Adviser may recommend that the UK national interest can be satisfied by the retention of a copy and that the originals should be granted an export licence. In such cases, the ELU will ask for a copy, so that it may be deposited at the British Library. Access to the copy is then normally denied for seven years, unless the owner of the original specifically consents to some lesser restriction. To save time, you may therefore wish to provide (where possible) a good quality copy of the original with your licence application. Illegible or poor quality copies (e.g. with parts of the text cut off in copying) are not acceptable, as they will be of no use to researchers in the future. If the manuscript in question is unsuitable for photocopying, copies can be made using a camera mounted above the manuscript. Prints made using a standard camera or a digital camera are acceptable, as is the use of microfilm. When using microfilm please ensure that it is 35mm. Digital copies are also acceptable provided they meet the standard set out in Appendix G and are accompanied by a signed statement confirming that they meet this standard. Digital copies will be stored at the British Library.
18. You should, however, ensure that by making a copy, you are not infringing the rights of the copyright owner. If you choose not to agree to a copy being deposited at the British Library, your licence application will be referred by the ELU to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (see paragraph 38).

When will the presence of marginalia mean that printed matter should be treated as a manuscript for the purposes of export

19. Where printed material contains significant manuscript annotations of literary, scholarly or historical interest, it shall be treated as a manuscript for the purposes of export licensing. Simple ownership or presentation inscriptions will not be considered to meet this test.

Manorial Documents

20. No manorial documents may be removed from England and Wales without the permission of the Master of the Rolls so before considering submitting a licence application for such documents, applicants must consult the Secretary of the Royal Commission on Historical Manuscripts (HMC) on whether the Master of the Rolls will consent to their export (details at Appendix D). A copy of the written comments from the HMC should accompany the licence application.

What special considerations apply in Scotland?

20. Under Scottish law certain public records, such as court related records, are considered to be *extra commercium*. This means that they are held for the benefit of the community at large and cannot become private property by sale or gift. In practice, the Keeper of the Records of Scotland has a responsibility for such

records and can take action to reclaim those that may have passed into private hands.

21. If you want to export Scottish public records that may potentially be defined as being *extra commercium*, you should contact the Keeper's Office at the National Archives of Scotland for advice.
Telephone number: 0131 535 1314 or email: RG-Keeper@scotland.gsi.gov.uk

How does an Expert Adviser decide what is of national importance?

22. An Expert Adviser may object to the granting of a licence if they believe that an object satisfies one or more of the **Waverley criteria** (see paragraphs 39-41). This can include an object by a living manufacturer or producer. Expert Advisers are entitled to view an object before reaching a decision.
23. If the Expert Adviser objects, the ELU refers the licence application to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (see paragraph 38). In cases of doubt Expert Advisers should refer the application to the Reviewing Committee for it to decide.

What happens if the Expert Adviser makes no objection under the Waverley criteria?

24. If no objection is lodged, the export licence will normally be granted. Usually, our Expert Advisers collectively object to the granting of licences for about 25 to 50 objects each year out of a total of approximately 13,000 applications (covering approximately 55,000 objects) referred to them.

Do museums and galleries need to apply for export licences?

25. Yes. Museums and galleries must apply for export licences. A museum or gallery is more likely to be arranging a temporary loan of an object for an exhibition abroad rather than seeking a permanent export. A temporary licence application by a national museum or gallery or one that holds a Museums & Galleries OIEL (see paragraph 7) is not normally referred to an Expert Adviser.

Can an export licence be revoked once it has been issued?

26. Yes. The Secretary of State may modify or revoke an issued export licence at any time.

What if I want to apply for a temporary licence?

27. Applications for temporary export licences are made on the same forms. The same considerations apply to them as to applications for permanent export licences except that they are not scrutinised as to national importance. Instead the

Expert Adviser will be requested specifically to comment on the object's fitness to travel and whether there are sufficient assurances provided as to its return in good condition at the end of the temporary licence period. Such applications will not normally be referred to the Reviewing Committee. Applications for extensions to temporary licences (see paragraph 29) will not normally be referred to an Expert Adviser.

How long is a temporary licence issued for?

28. A temporary licence will not normally be issued for a period of more than three years. It is possible to apply for one extension to an existing temporary licence, but this extension will not normally exceed three years, irrespective of the period for which the original temporary licence was granted. The object must be returned to the UK on expiry of the temporary licence. Failure to return it within the specified period constitutes an offence under section 5(b) of the Export of Objects of Cultural Interest (Control) Order 2003. Exporters who wish to keep a cultural object outside the UK for longer should apply for a permanent licence.

How do I apply for an extension to an existing temporary licence?

29. You must apply in writing to the ELU stating why the extension is required, confirming the new return date and providing any further details such as a change of venue. You should also include a copy of the existing temporary licence. An extension must be applied for before the return date stamped on the existing temporary licence. Any applications for an extension received after the return date has expired cannot be processed as the licence will have been exhausted, and the object or objects will have to be returned to the UK.

I have been granted a temporary licence for an object, but now wish to export it permanently. Do I need to make a fresh application?

30. Yes. Temporary licences are issued on the basis that an object will be returned to the UK by a specified date. An Expert Adviser may decide not to object to the granting of a temporary export licence where they would have objected to a permanent licence for the same object. You must inform the ELU in writing of the return of all objects granted a temporary export licence, quoting the licence number and the expiry date. It is a condition of all temporary export licences that the objects be returned to the UK by the date stated thereon.

What if I fail to return an object exported under a temporary licence within the specified time period?

31. Failure to return an object exported under a temporary licence within the specified time period will be taken into account when considering any further temporary licence applications by the same applicant in respect of any object at any time. The temporary licence application will normally be refused unless the applicant

can give a reasonable explanation for their failure to comply with the terms of the previous temporary licence.

Can I apply for a temporary licence for my object if it was found to be a national treasure?

32. Enabling the long-term export of objects that have been found by the Reviewing Committee to be national treasures under a temporary licence fundamentally undermines the aims of the export licensing system for cultural objects. As a result, a temporary licence will only be issued for such objects for a maximum period of three years, and normally only for the purposes of display in a public institution. No extension will be available and the object will have to be returned to the UK when the licence expires and will then have to remain in the UK for a further period of three years before a further application for a temporary licence can be made on the same terms. This would allow such objects to be displayed abroad for a specified period, but would ensure their return to the UK for at least a further three years.

I have my export licence. What other export paperwork do I need?

33. You should contact your local HM Revenue and Customs Advice Centre (telephone number in the Yellow Pages or on the internet at (www.yell.co.uk) for advice and copies of HM Revenue and Customs publications. You should also be aware that there are prohibitions on the export of certain species of animals and plants and their derivatives (e.g. works of art incorporating ivory or plumage) covered by the Convention on International Trade in Endangered Species (CITES). For advice as to whether CITES export permits are required and how to apply, contact the Animal Health CITES Team (details at Appendix D). An export licence may also be required from the Department for Business, Innovation and Skills (BIS) for cultural goods classified as firearms, military or paramilitary equipment, regardless of monetary value (details at Appendix D). For advice, contact the Export Control Organisation within BIS.

What should I do if I lose my export licence?

34. You should write to the ELU explaining the circumstances of the case and requesting a replacement licence.

What should I do if I discover that I have inadvertently exported an object without the required licence?

35. You should make a voluntary written disclosure of the facts and circumstances to the Export Licensing Manager of the ELU. The Arts Council may then refer your written disclosure to HM Revenue and Customs and/or Border Force, a law enforcement command within the Home Office which is responsible for the

enforcement of the export control. Border Force will then consider what action, if any, is appropriate.

36. You should be aware that if an object is presented to Customs for export without an export licence where one is required, the exporter and any other party concerned with the unlicensed exportation may be subject to penalties including criminal prosecution under the Customs and Excise Management Act 1979. The unlicensed object may also be subject to seizure under the provisions of the same Act.

What if I learn that HM Revenue and Customs has stopped the export of my object?

37. You should speak to the office of HM Revenue and Customs concerned.

Part II: National Treasures

This part sets out how decisions are reached on licence applications for objects which are potentially of national importance and describes the role of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest.

What is the role of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest?

38. The Reviewing Committee is a non-statutory independent body set up to advise the Secretary of State on whether a cultural object that is the subject of an application for an export licence is a national treasure in the context of the Waverley criteria. The Committee consists of eight members appointed by the Secretary of State for Digital, Culture, Media and Sport, who have expertise in one or more fields (paintings, furniture, manuscripts etc.). The terms of reference of the Committee and details of the present membership are given at Appendix E. Correspondence for the Chairman of the Committee should be sent via the Secretary (see Appendix A for details).

What is a National Treasure?

39. The Reviewing Committee will designate an object as a 'national treasure' if it considers that its departure from the UK would be a misfortune on one or more of the following three grounds:

History	Aesthetics	Scholarship
Is it closely connected with our history and national life?	Is it of outstanding aesthetic importance?	Is it of outstanding significance for the study of some particular branch of art, learning or history?
Waverley 1	Waverley 2	Waverley 3

40. These are known as the Waverley criteria (named after the 1950 committee chaired by Viscount Waverley which was appointed to consider and advise on an export policy). They are used to measure an object's importance and are not, nor ever have been, mutually exclusive, nor is any one criterion more important than the others. An object need only meet one criterion to be considered a national treasure. The first criterion is concerned with our history and the object's national importance, the second with aesthetic and artistic importance and the third relates to historic value for scholarship. References to 'Waverley one', 'Waverley two' and 'Waverley three' should not be interpreted as indicating a hierarchical ranking.

41. A helpful elucidation of the criteria is as follows:

I - History

Is it closely connected with our history and national life?

This category can include objects which have been produced abroad, but which have acquired national importance by association with an important person, location or event. The first criterion was originally intended to catch such objects as the 'Alfred jewel' or the manuscript of Gray's *Elegy* but it is now interpreted in a somewhat wider context to include objects which are of major importance for local history, or which have been part of collections which are of great historical significance, or which are associated with significant historical events, people or places. Examples of 'Waverley History' objects have included: the archive of manuscripts relating to the editing of Newton's *Principia Mathematica*; a pair of paintings by Canaletto entitled '*View of the Grand Walk, Vauxhall Gardens*' and '*the Rotunda of Ranelagh House*'; a 'jadeite' Neolithic axe-head; a collection of Thomas Hardy typescripts; Benjamin Britten's complete draft score of '*The Young Person's Guide to the Orchestra*'; and a copy of the warrant for the execution of Mary Queen of Scots.

II - Aesthetics

Is it of outstanding aesthetic importance?

The assessment of outstanding aesthetic importance involves a subjective judgment. It is not restricted to great works of painting or sculpture. It might, for instance, be concluded that an exquisite snuff box met this criterion as well as a painting by Poussin. In the case of works by great artists it may be claimed that anything from the hand of Rembrandt is outstanding. However, such arguments will not always be accepted, and the condition as well as the quality of the work in question and the extent of the damage or restoration to which it may have been subjected may also be taken into account. Examples of 'Waverley Aesthetics' objects have included: the painting '*Venus and Adonis*' by Titian; a watercolour painting, '*The Blue Rigi Sunrise*', by J M W Turner; the 'jadeite' Neolithic axe-head also listed above; Domenichino's '*Saint John the Evangelist*'; Van Dyck's last self-portrait; and a Pietro Lorenzetti altarpiece.

III - Scholarship

Is it of outstanding significance for the study of some particular branch of art, learning or history?

The object might be considered of outstanding significance for scholarship either on its own account or on account of its connection with a person, place, event, archive, collection or assemblage. Such objects serve as benchmarks for assessing other items since they can throw new light on the study of their type. It is considered that 'learning' in relation to culture should cover a wide number of disciplines e.g. art history, archaeology, ethnography, anthropology, palaeontology, science, engineering, architecture or literature, etc. However, this is an illustrative list and not necessarily a comprehensive one. Examples of 'Waverley Scholarship' objects include: Benjamin Britten's complete draft score of

'The Young Person's Guide to the Orchestra' also listed above; a 17th-century lead merchant's ledger from the Peak District; a peridot and gold suite of jewellery given by the Prince of Wales to be worn at his daughter's wedding; and a bilingual Middle English-Latin dictionary dating from 1483.

General statement applying to all criteria

The Reviewing Committee may take into account the condition as well as the quality of the object in question and the extent of any damage or restoration to which it may have been subjected.

What happens if my application is referred to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest?

42. When an export licence application is objected to by an Expert Adviser it is referred to the Reviewing Committee. A meeting of the Committee is convened at which the appointed members are usually joined by three independent assessors chosen for their expertise on the object in question. These independent assessors are treated as (temporary) members of the Committee for the application under consideration. Officials from the Arts Council are also present to advise the Committee. Prior to the meeting, you are invited to submit a written statement to the Committee giving reasons why, in your opinion, the object does not satisfy any of the Waverley criteria (if you feel it does not). You may also wish to advance any other arguments as to why the licence should be granted. The Expert Adviser likewise submits a written statement as to why they believe the object satisfies one or more of the Waverley criteria. The Secretary to the Committee ensures that all parties see both statements at least one week before the meeting.
43. At the meeting, there is an opportunity for both you and the Expert Adviser to add to your written statements and to ask questions of each other. The Committee members may also ask questions of each side. You may be accompanied by any adviser who you feel may help you in relation to some aspect of your case. You will also need to arrange for the object under consideration to be transported to the Committee venue, unless, exceptionally, the Committee agrees to undertake a visit because the object is too large or fragile.
44. Once questions have been answered, you and the Expert Adviser leave the meeting while the Committee members vote on whether the object satisfies any of the Waverley criteria. If the Committee finds that this is the case, it **recommends** to the Secretary of State that a decision on the licence application should be **deferred** for a specified period to enable an offer to purchase to be made at or above the market price (the "fair market price"), which will also be recommended by the Committee. (Normally an object is deferred for between two and six months although the Committee can recommend a longer or shorter deferral period – see paragraph 46.) Where the Committee considers that none of the Waverley criteria are met it will recommend that the export licence should be granted.

What is the purpose of a deferral period?

45. The purpose of recommending a deferral period is to allow time for an offer to purchase to be made at the fair market price to keep an object in the UK. In most cases, such offers are likely to come from public sources (museums, galleries or other heritage bodies such as the National Trust).

How does the Committee decide the length of the deferral period?

46. The Committee has wide discretion. The criteria on which the length of deferral is normally based include:

- the value of the object;
- the likelihood of a fundraising attempt being launched;
- the proximity of the beginning of the deferral period to a new financial year;
- the proximity of the beginning of the deferral period to the summer and, to a lesser extent, the Christmas and New Year holiday periods;
- whether the owner of an object which has been conditionally exempted from capital taxation has given the Arts Council the requested three months' notice of an intention to sell the object; and
- whether the owner is willing for the object to be displayed publicly (in appropriate conditions) to assist any fundraising appeal that might arise as a result of a deferral period.

The deferral period normally consists of a two-stage period, known as a 'split deferral'.

What is a 'split deferral' period?

47. In a split deferral, the Committee recommends that the Secretary of State should defer a decision for an initial period (two months is the most common) to enable interested parties to consider whether they wish to make an offer to purchase the object and keep it in the UK. If at the end of the initial period, there is a potential purchaser who shows a **serious intention** to raise funds with a view to making an offer to purchase, the Committee recommends that the Secretary of State should normally extend the deferral period by a further amount of time (usually two, three or four months). The reasoning behind a recommendation of a split deferral is that, should there not be an expression of serious interest to raise funds at the end of the initial deferral period, the Committee is in effect recommending that the licence should be granted at that stage (see paragraph 71).

How does the Committee arrive at a recommended fair market price?

48. The objective of the Committee is to recommend a valuation which is fair and reasonable to the owner and national heritage interests alike by examining carefully the elements included in the valuation. Therefore, at the Reviewing Committee meeting, the Committee will normally ask what the value as stated on the application form represents and you will be asked to provide evidence to support that valuation. This valuation is likely to fall into one of three categories:
- the price at which the present owner has bought, either at auction or through a private sale; or
 - the price at which the present owner has agreed to sell (either unconditionally or subject to the granting of an export licence); or
 - an estimated price with supporting evidence, such as recent prices fetched by other important objects in the same field.
49. Without the information requested, the Committee may not be able to consider the case at the meeting and this will cause delay in considering your licence application.
50. In addition to the base price the Committee may include several additional elements in the recommended fair market price. These are:
- buyer's premium;
 - reasonable conservation costs (those incurred by a new owner as being necessary to stabilise the condition of an object); and
 - dealer's commission on a sale to a third party (which will not normally include a commission on a sale to a connected party). The Secretary of the Committee can provide further advice on this policy in specific cases.
51. The Committee may also exclude certain elements in arriving at the recommended fair market price. The Committee considers that an overseas purchaser of an object which might satisfy the Waverley criteria should be aware, or should be made aware by their agent, that there is a risk that a decision on the export licence application might be deferred. Such purchasers should be prepared to take account of that risk and, therefore, the following factors are not normally included in the Committee's recommended fair market price:
- interest charges;
 - transport and storage costs;
 - insurance costs;
 - legal fees; and

- fluctuations in foreign currency exchange rates.
52. To assist the Committee in arriving at a recommended fair market price, you should be prepared at the meeting to answer the Committee's questions in respect of valuation.

What questions is the Committee likely to ask me in relation to valuation?

53. Questions could include the following:

a) For recent auction sales:

- When was the auction?
- What was the hammer price?
- What does the value on the export licence application represent? Is it the hammer price plus the buyer's premium plus VAT? Is the sale under the margin scheme? You will be asked to provide, in advance of the meeting, a copy of the sales invoice and a breakdown of its components.

b) For privately agreed sales and other situations:

For objects where the valuation provided represents a private sale, a privately agreed sale or an agreement to sell, you will be asked to provide, in advance of the meeting, the original signed written agreement or a certified copy of it together with a copy of the invoice or, where the sale has completed, a copy of the receipted invoice. You will also be asked for confirmation whether the sale agreement is a single transaction or whether the agreement (and in particular the amount payable under it) will be affected by any other past, current or future transactions between the owner and the purchaser. For objects where the valuation provided represents an estimate, you will be asked to provide, in advance of the meeting, a written explanation of how the value was reached. You may be asked the following questions at the meeting:

- What does the value on the export licence application represent?
- Is there a sale agreement between the owner and the overseas purchaser? If so, what are the payment and other terms?
- Is the owner in any way connected in business with the overseas purchaser?
- Has the object been sold at auction in the last ten years? If so, when and what was the auction price?
- If the object was bought by a dealer at an auction, was the dealer purchasing for stock or bidding on behalf of the present overseas purchaser?

- If a UK purchaser wishes to buy the object, what would the price be bearing in mind the price you quoted on your export licence application? Would VAT be payable and if so on what and how much would it amount to?

54. If the Committee accepts your valuation, the licence application is likely to be deferred at that value.

What will happen if the Committee is not satisfied that the valuation provided is adequately substantiated?

55. If, after hearing your answers to the questions at the meeting, the Committee is not satisfied that the valuation provided is adequately substantiated, it may request that you provide further information to dispel any remaining concerns. If the Committee has grounds for considering that there is evidence to substantiate a value other than the value given on the export licence application (for example a recent price at auction, or an agreed sale price that differs from the value on the licence application) it may recommend that the Secretary of State bases the fair market price on this evidence. If the Committee does not consider that the valuation is adequately substantiated and considers that further independent advice is needed, it may recommend to the Secretary of State that an independent valuation be sought.

When will I know the Committee's recommendation?

56. Once the Committee has completed its discussions on the Waverley criteria, deferral period and price, and has voted, you and the Expert Adviser are invited back into the meeting room and are informed of the Committee's recommendation, including, where relevant, the recommended length of the deferral period and the recommended fair market price. You will have been asked in preparation for the hearing whether the owner is prepared to accept an offer at the fair market price (a "matching offer") recommended by the Committee and you will be asked to confirm this. (If a matching offer is refused, the Secretary of State will normally refuse a licence - see paragraph 61). You are also told which of the criteria the Committee considers have been satisfied. If you have any further questions, they are dealt with at this stage.

What happens to the Committee's recommendation after the Committee meeting?

57. Following the meeting, the Secretariat informs the Secretary of State of the Committee's recommendation. The Secretary of State then makes a decision on the deferral period and fair market price, taking into account the Committee's recommendations. Once the Secretary of State has made a decision, the Secretariat will inform you in writing of that decision. If there is to be a deferral period, this runs from the date of the press notice announcing the decision, not the date of the Committee hearing. If the licence is to be granted, it will normally be

issued within five working days of receipt of the Secretary of State's decision.

What does the press notice say?

58. The press notice invites interested parties to make an offer to purchase through the Secretary of the Committee. It explains why the object is of national importance and details the length of the deferral period and the fair market price. The press notice is circulated to museums and galleries, the Heritage Lottery Fund, the National Heritage Memorial Fund, the Art Fund and other interested parties, as well as to the media.

What happens once I have received the Secretary of State's decision on my export licence application?

59. When you receive a letter informing you that the decision on your export licence application has been deferred, you should consider how you wish to proceed and/or advise the owner accordingly. Any offers to purchase will be communicated to you through the Secretary of the Committee, as will any serious intention to raise funds with a view to making an offer to purchase.

What happens when a deferral period is extended into the second period?

60. If the deferral period is extended because a potential purchaser has made a serious expression of interest in raising funds with a view to making an offer to purchase (see paragraph 47), the Secretary of the Committee will write to you informing you and asking you to complete a form confirming that the owner is still prepared to accept a matching offer. Failure to complete and return this confirmation form will be assumed to indicate an unwillingness to accept a matching offer.

What happens if I receive an offer to purchase from a public body?

61. If an owner receives an offer to purchase from a public body, they are free to accept or reject it. (See paragraph 63 for a definition of a public body.) There is no compulsion on an owner to sell. Where, however, an owner does not accept an offer from a public body, the Secretary of State will take the existence of the offer into account when making a decision on the licence application and will normally refuse a licence. Similarly, where an owner makes known their intention to refuse an offer from a public source, the Secretary of State will normally refuse a licence.
62. It is for the Secretary of State to decide if a body is a public body for the purposes of this guidance. Broadly speaking, this will be the case if the body is listed below. This list is not exhaustive, but does indicate the sort of body that the Secretary of State is likely to treat as a public body.

63. The National Gallery; The British Museum; The National Museums of Scotland; The National Museums and Galleries of Wales; The National Museums of Northern Ireland and other museums and galleries:

- any museum, art gallery, library or other similar institution in the UK having as its purpose or one of its purposes the preservation for the public benefit of a collection of historic, artistic or scientific interest;
- any library the main function of which is to serve the needs of teaching and research at a university in the UK;
- English Heritage (officially known as the Historic Buildings and Monuments Commission for England); the National Trust; the National Trust for Scotland; the Art Fund (formerly known as the National Art Collections Fund); the Trustees of the National Heritage Memorial Fund; the Friends of the National Libraries; the National Churches Trust (formerly known as the Historic Churches Preservation Trust); Natural England (formerly known as the Nature Conservancy Council);
- any local authority (including National Park Authorities); and
- any Government department; any university or university college in the UK.

What happens if I receive an offer to purchase from a private source?

64. If an owner receives an offer to purchase from a private source, again they are free to accept or reject it. There is no compulsion on an owner to sell. Where, however, an owner does not accept an offer from a private source, the Secretary of State will determine whether to grant the licence. In so doing, the Secretary of State will normally take the existence of such an offer into account only where the offeror has combined their offer with a signed undertaking to the Secretary of State that they guarantee reasonable public access and satisfactory conservation and security arrangements. It is for the Secretary of State to decide whether the undertaking is adequate, but as a guideline the following will be expected:

- a) reasonable public access to the object in a public institution. As a guideline, access for a minimum of 100 days a year (except in exceptional circumstances) will normally be considered to constitute reasonable public access;
- b) satisfactory conservation conditions and security arrangements;
- c) agreement not to part with ownership within ten years without obtaining an undertaking from the purchaser guaranteeing comparable requirements on access, conservation, security and re-sale; and
- d) written confirmation from the public body concerned that it will facilitate the access guaranteed by the undertaking.

65. Copies of the undertaking and the agreement with the public body should be supplied to the Secretariat.
66. Where a private offer is combined with such an undertaking, the Secretary of State will normally take this offer into account when deciding whether or not to issue an export licence. This means that if the owner refuses the offer, the licence application will normally be refused. If no undertaking is given, the Secretary of State will not take the existence of the offer into account and will normally grant an export licence.

How do I go about arranging such an agreement with a public body?

67. You can, of course, approach a public body direct. Alternatively, the person appointed as Champion for the case may be able to help you with this. The Secretariat will be able to provide you with contact details for the Champion.

What happens if I accept an offer to purchase?

68. If you accept an offer to purchase, from either a public body or a private source, your licence application will automatically be treated as withdrawn.

What happens if I withdraw my application after receiving an offer to purchase from a public source?

69. You are likely to be considered to have refused the purchase offer. Any subsequent licence application will normally be treated as if there had been a licence refusal and the procedures in paragraphs 77-80 will apply.

What happens if I receive both a public offer and a private offer with the undertaking as set out in paragraph 64?

70. You are free to choose between the offers made to you. The Secretary of State hopes that you will accept the offer which provides the greater public benefit.

What happens if I do not receive an offer to purchase?

71. If you do not receive an offer to purchase, your export licence will normally be granted at the end of the deferral period although in some circumstances the Secretary of State may decide to defer a decision on your licence application for a further period.

In what circumstances has the Secretary of State decided to defer a licence for a further period?

72. There have been cases where the Secretary of State has agreed to a further deferral period at the end of the deferral period originally set where a public body attempting to acquire the object had a real possibility of finding the outstanding funds required for purchase. However, additional deferral periods are rare and normally only granted where there is a reasonably certain prospect of raising the residual sum within a prescribed timescale.

Who is the ultimate authority to decide whether I get an export licence?

73. The Reviewing Committee only provides advice and recommendations to the Secretary of State. It is for the Secretary of State to make a decision on your licence application. The Secretary of State has discretion when making decisions on licence applications, but that discretion must be exercised reasonably.

Which offers, in the context of paragraphs 61 to 66, will the Secretary of State take into account when making a decision on an export licence application?

74. When making a decision on an export licence application in the context of paragraphs 61 - 66, the Secretary of State will take into account the existence of a **compensating offer to purchase**. A compensating offer should not normally disadvantage owners, or put them in a worse position than they would have been in had they accepted a fair market price. An offer from a public body under the private treaty sale arrangements for less than the specified fair market price can, in certain circumstances, be considered to be a compensating offer to purchase.

What are the private treaty sale arrangements?

75. A private treaty sale of a cultural object to a qualifying public body may be exempt from capital taxation (i.e. Inheritance Tax, Capital Gains Tax and Corporation Tax on companies' chargeable gains). Where the exemption does apply, the vendor will receive the sale proceeds without any liability to tax. If applicable, a tax exemption on sale proceeds can enable a purchasing public body to make (and the Secretary of State to take into account as an effective compensating offer) an offer which is lower than the fair market price (i.e. the fair market price less the allowance against capital taxation). These tax concessions are not available on sales to private purchasers.
76. This is only a general outline of the arrangements that exist for a private treaty sale of a cultural object to qualifying public bodies. For further information contact your local HM Revenue and Customs tax office (telephone number in the Yellow Pages).

What happens if an export licence has been refused in the past and I wish to re-apply for a licence?

77. Where a subsequent application is made for a licence to export an object which has been found by the Committee to be a national treasure belonging to a person who, at the time of the first application, refused (or declined to consider) an offer to purchase, or withdrew their application in circumstances where it was reasonably likely that they had knowledge of an offer being imminent, it will be subject to the normal licensing procedures as set out in this notice. If the Expert Adviser objects to the granting of the licence under the Waverley criteria, the application will be referred to the Reviewing Committee for consideration as to whether the object still satisfies the Waverley criteria.
78. If a subsequent application is being made within ten years or so of a licence application which was refused (or where the owner declined to consider an offer to purchase), the applicant for the fresh licence should include, in their written statement to the Committee, details of any change of circumstances since the earlier application, or other arguments in support of the new application. In particular, the applicant should set out any arguments they wish to advance as to why the Committee should not recommend a further licence refusal, without a deferral period, given the history of the previous application (assuming the object is still found to be a national treasure). If the Committee sees no change of circumstances to justify recommending approval of the licence, it will normally recommend that the licence be refused without a deferral period.
79. If the applicant can show that, since the previous application, the owner has made the object available for sale to a public body (or a private owner within the context of paragraph 64), the Committee can advise on all relevant factors, such as whether the price at which it had been offered was reasonable, the identity of the prospective purchaser, the time since the offer and the time since the previous licence refusal. The Secretary of State will take all factors relating to such an offer into account including the absence of any such offer in deciding on the licence application but this latter factor will not necessarily be decisive.
80. An application by, or on behalf of, a person closely connected with the person who was the owner at the time of the earlier application (for example the spouse of the previous owner or a company controlled by the previous owner) will normally be treated in accordance with paragraphs 77-79.

To whom should I speak if I am not content with the handling of my licence application?

81. Staff in the ELU and the Reviewing Committee Secretariat are happy to answer queries by telephone about export licensing. We encourage people to contact us about any problems so that we can try to remedy them. If you are not happy with the service provided, please tell the person who is dealing with your enquiry why you are dissatisfied with the way in which it is being handled. They will try and address the problem there and then or refer you to someone who can help. Alternatively, you can contact the Head of Enquiries. If you want to do this in writing please address your letter to the Head of Enquiries, Arts Council England,

21 Bloomsbury Street, London, WC1B 3HF. The telephone number is: 0845 300 6200 or email: enquiries@artscouncil.org.uk. If you are not happy with the response to your complaint, you can ask for a review of how it has been dealt with by the Chief Executive – same contact details as The Head of Enquiries.

82. You can seek to have your complaint reviewed by the Parliamentary Ombudsman, an officer of the House of Commons who is wholly independent of the Government, at any time, by asking your MP to put your complaint to the Ombudsman.

What is the Advisory Council on the Export of Works of Art?

83. The Reviewing Committee is guided in its policy advice by the membership of the Advisory Council on the Export of Works of Art. The Council was established to provide a forum for the discussion of the principles and operation of the export control system and usually meets once a year in June or July. Museums and galleries, representatives of art trade organisations and various 'heritage' bodies are represented on the Council. A full list of members is at Appendix F.

Can I get an advance ruling from an Expert Adviser or the Reviewing Committee on whether my object meets the Waverley criteria?

84. No. The recommendations of the Reviewing Committee cannot be pre-judged. Each licence application is treated on its own merits.

Does the Reviewing Committee publish details of its past recommendations?

85. Yes. The Reviewing Committee has an Annual Report which is published by the Stationery Office Publications Centre (see Appendix D). The Report, which is presented to Parliament, outlines the Committee's policy discussions and gives detailed accounts of the cases considered.

What guidance is available on the internet?

86. This guidance is on the Arts Council's website at:

<http://www.artscouncil.org.uk/export-controls/export-licensing>

87. Notes of Reviewing Committee case hearings, together with associated papers, are on the Arts Council's website at:

<http://www.artscouncil.org.uk/export-controls/reviewing-committee>

88. Press notices about export licensing decisions by the Secretary of State are on the DCMS website at:

<https://www.gov.uk/government/announcements>

From whom can I obtain further copies of this guidance?

89. Contact the ELU on 020 7268 9606/9635/9623/9622/9642/9614/9644.

Table 1: Objects excluded from the export control (referred to in paragraph 3)

How to use this table

If you intend to export an object which falls fully within one of the categories described below, an export licence application is **not** required for the destination shown in the heading:

For any destination:

category of item

1. Postage stamps and other articles of philatelic interest.
2. Letters or other writings written by or to the exporter or the spouse of the exporter.
3. 'Non-Community' goods i.e. goods not released into free circulation in the EU (guidance on what constitutes non-Community goods is at Appendix H).

For despatch to another EU Member State:

category of item

1. Birth, marriage or death certificates or other documents relating to the personal affairs of the exporter or the spouse of the exporter.
2. Any object exported by, and being the personal property of, the manufacturer or producer thereof (does not apply to companies), or the spouse, widow or widower of that person.
3. Any object less than 50 years of age at the time of export.

For despatch outside the EU:

category of item

1. Objects as described under EU licence categories 3, 4, 5, 6, 7, 8 and 9 (see table 2 on pages 28 and 29) which belong to their originators.

Flow chart (as referred to in paragraphs 9-11)

What type of licence do I require for export?

(Please ensure that you read any relevant footnotes and take account of the age limits applicable in Tables 2 and 3 on pages 28/29 and 30/31).

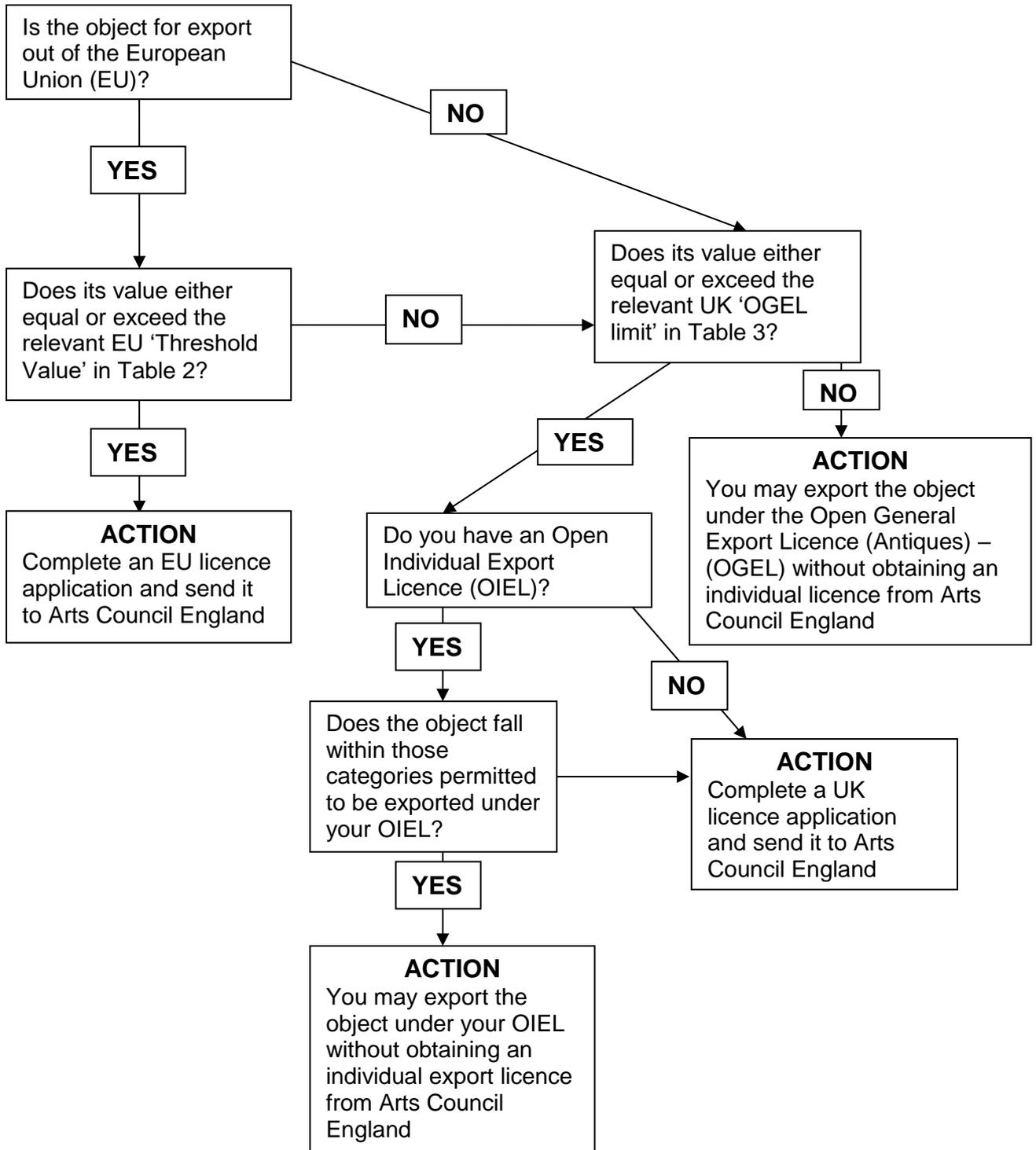


Table 2: EU categories for the export of cultural goods

Category	Description	Threshold value in GBP £	Customs code (CN Code)
1	Archaeological objects more than 100 years old ¹ which are the products of: <ul style="list-style-type: none"> • excavations and finds on land or under water • archaeological sites • archaeological collections 	Zero	9705 00 00 9706 00 00
2	Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, of an age exceeding 100 years	Zero	9705 00 00 9706 00 00
3	Pictures and paintings, other than those included in categories 4 or 5, executed entirely by hand in any medium and on any material ²	123,055	9701
4	Watercolours, gouaches and pastels executed entirely by hand on any material ²	24,611	9701
5	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 ²	12,305	6914 9701
6	Original engravings, prints, serigraphs and lithographs with their respective plates and original posters ²	12,305	Chapter 49 9702 00 00 8442 50 99
7	Original sculptures or statuary and copies produced by the same process as the original ² , other than those in category 1	41,018	9703 00 00
8	Photographs, films and negatives thereof ²	12,305	3704, 3705, 3706 4911 91 80
9	Incunabula and manuscripts, including maps and musical scores, singly or in collections ²	Zero	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	Books more than 100 years old, singly or in collections	41,018	9705 00 00 9706 00 00
11	Printed maps more than 200 years old	12,305	9706 00 00
12	Archives, and any elements thereof, of any kind or medium which are more than 50 years old	Zero	3704, 3705, 3706 4901, 4906 9705 00 00 9706 00 00
13	(a) Collections ³ and specimens from zoological, botanical, mineralogical or anatomical collections; (b) Collections ³ of historical, palaeontological, ethnographic or numismatic interest	41,018	9705 00 00 9705 00 00
14	Means of transport more than 75 years old	41,018	9705 00 00 Chapters 86-89
15	Any other antique items not included in categories 1 to 14: (a) between 50 and 100 years old: <ul style="list-style-type: none"> • toys, games • glassware • articles of goldsmiths' or silversmiths' wares • furniture • optical, photographic or cinematographic apparatus • musical instruments • clocks and watches and parts thereof • articles of wood • pottery • tapestries • carpets 	41,018	Chapter 95 7013 7114 Chapter 94 Chapter 90 Chapter 92 Chapter 91 Chapter 44 Chapter 69 5805 00 00 Chapter 57

	<ul style="list-style-type: none"> • wallpaper • arms⁴ 		4814
	(b) more than 100 years old	41,018	Chapter 93 9706 00 00

1. There is a discretion under the EU Regulation which allows a Member State not to require an EU export licence for objects of limited archaeological or scientific interest. Guidance on this can be obtained from the ELU.
2. Which are more than 50 years old and do not belong to their originators
3. As defined by the Court of Justice in its judgement in Case 252/84, as follows: 'Collectors' pieces within the meaning of heading No 97.05 of the Common Customs Tariff are articles which possess the requisite characteristics for inclusion in a collection, that is to say, articles which are relatively rare, are not normally used for their original purpose, are the subject of special transactions outside the normal trade in similar utility articles and are of high value'.
4. An export licence from the Export Control Organization within the Department for Business, Invocation and Skills (BIS) may be required for cultural goods classified as firearms, military or paramilitary equipment manufactured or produced less than 100 years before the date of exportation, regardless of monetary value. See address at Appendix D.

Table 3: OGEL value limits for the export of cultural goods

	Category of Object	OGEL value limit¹
1.	Any article over 50 years of age (excluding objects listed in categories 2-10 below) ²	£ 65,000
2.	Archaeological material found in UK soil or UK territorial waters over 50 years of age	£ Zero
3.	A manuscript, document or archive (excluding printed matter) ³ over 50 years of age	£ Zero
4.	An architectural, scientific or engineering drawing produced by hand over 50 years of age	£ Zero
5.	A photographic positive or negative or any assemblage of such photographs over 50 years of age	£10,000
6.	A textile (excluding carpets and tapestries) over 50 years of age	£12,000
7.	A portrait or other article consisting of or including a representation of the likeness of any British historical personage ⁴ (made otherwise than by photography and excluding a coin) over 50 years of age	£10,000
8.	A firearm over 100 years of age and any other arms or armour over 50 years of age ⁵	£35,000
9.	A firearm between 50 and 100 years of age ⁵	£65,000
10.	A painting in oil or tempera (excluding any portrait of a British historical personage) over 50 years of age	£180,000

1. The value is the value of the article as required to be declared for Customs purposes and if the goods to be exported consist of a matching set or pair of articles the value is the value of the matching set or pair.
2. **An individual export licence is not required to despatch goods to another EU Member State for the following:**
 - a) any musical instrument over 50 years of age temporarily exported for a period of less than 6 months for use in the course of work by a professional musician;
 - b) any musical instrument over 50 years of age exported following temporary importation for a period of less than 6 months, having been imported for use in the course of work by a professional musician;
 - c) any motor vehicle (wherever registered) over 50 years of age (other than those designed or adapted for military or paramilitary use) temporarily exported for a period of less than 6 months for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition);
 - d) any foreign registered motor vehicle over 50 years of age (other than those designed or adapted for military or paramilitary use) exported following temporary importation for a period of less than 6 months, having been imported for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition).
 - e) any article over 50 years of age that is in the UK following its importation solely for the purpose of transit through the UK with a view to export;
 - f) any article over 50 years of age that has been imported into the UK from a country outside the EU and is not in free circulation within the EU;
 - g) any article over 50 years of age that the Secretary of State has approved for return to the claimant following a recommendation of the Spoliation Advisory Panel. For such articles there must be produced to Customs at the place of export a copy of the Spoliation Advisory Panel's report together with a letter from the claimant confirming that they are content for the article to be exported.

An individual export licence is not required to export goods to a non-EU destination for the following:

- h) any motor vehicle more than 50 and less than 75 years of age (other than those designed or adapted for military or paramilitary use) exported for a period of less than 6 months for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition);
 - i) any foreign registered motor vehicle more than 50 and less than 75 years of age (other than those designed or adapted for military or paramilitary use) exported following temporary importation for a period of less than 6 months, having been imported for use for social, domestic or for pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition);
 - j) any article over 50 years of age that is in the UK following its importation solely for the purpose of transit through the UK with a view to export;
 - k) any article over 50 years of age that has been imported into the UK from a country outside the EU and is not in free circulation within the EU;
 - l) any article over 50 years of age that the Secretary of State has approved for return to the claimant following a recommendation of the Spoliation Advisory Panel. For such articles there must be produced to Customs at the place of export a copy of the Spoliation Advisory Panel's report together with a letter from the claimant confirming that they are content for the article to be exported.
3. Before considering submitting a licence application for manorial documents, applicants must consult the Secretary of the Royal Commission on Historical Manuscripts (HMC) on whether the Master of the Rolls will consent to their export.
 4. A British historical personage means any person, living or dead, in respect of whom an entry appears in the *Dictionary of National Biography* (or any supplement thereto), *Who's Who*, or *Who was Who*.
 5. An export licence from the Export Control Organisation within the Department for Business, Innovation and Skills may be required for cultural goods classified as firearms, military or paramilitary equipment manufactured or produced less than 100 years before the date of exportation, regardless of monetary value. See address at Appendix D.

Appendix A

Export Licensing Unit and the Secretariat to the Reviewing Committee
on the Export of Works of Art and Objects of Cultural Interest

Export Licensing Unit

Address licence applications to:

**Export Licensing Unit
Arts Council England
21 Bloomsbury Street
London
WC1B 3HF**

Telephone numbers:

Export Licensing Assistants

Amy Jones	020 7268 9642
Laura Lupska (part-time)	020 7268 9622
Gregory Porter	020 7268 9644

Export Licensing Officers

Margaret Cates	020 7268 9635
Laurence Counter	020 7268 9623

Export Licensing Manager

Frances Wilson	020 7268 9606
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Secretariat to the Reviewing Committee on the Export of Works of Art
and Objects of Cultural Interest

Address export policy questions and correspondence for the Reviewing Committee
to:

**The Secretary
Reviewing Committee on the Export of Works of Art and Objects of Cultural
Interest
Arts Council England
21 Bloomsbury Street
London
WC1B 3HF**

Secretary

Peter Rowlands	020 7268 9671
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Appendix B

OPEN GENERAL EXPORT LICENCE

Open General Export Licence (Objects of Cultural Interest) dated 12 March 2015 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 2 of the Export of Objects of Cultural Interest (Control) Order 2003¹ ("the 2003 Order"), hereby grants the following Open General Export Licence:

Licensed exports

1. Subject to the following provisions of this Licence, the following goods, manufactured or produced more than 50 years before the date of exportation, may be exported from the United Kingdom to any destination except an embargoed destination:
 - a) any musical instrument temporarily exported for a period of less than six months for use in the course of work by a professional musician;
 - b) any musical instrument exported following temporary importation for a period of less than six months, having been imported for use in the course of work by a professional musician;
 - c) any motor vehicle (wherever registered) temporarily exported for a period of less than six months for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition);
 - d) any foreign registered motor vehicle exported following temporary importation for a period of less than six months, having been imported for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally or non-commercial exhibition);
 - e) any photographic positive or negative or any assemblage of such photographs, the value of which is less than £10,000;
 - f) any firearms manufactured or produced more than 100 years before the date of exportation, and any other arms or armour manufactured or produced more than 50 years before the date of exportation, the value of which is less than £35,000;
 - g) any firearms manufactured or produced more than 50 years but not more than 100 years before the date of exportation, the value of which is less than £65,000;
 - h) any painting in an oil or tempera medium (excluding any portrait of a British historical personage, which would fall within sub-paragraph i) below), the value of which is less than £180,000;
 - i) any portrait or other article consisting of or including a representation of the likeness of any British historical personage (made otherwise than by photography and excluding a coin), the value of which is less than £10,000;

¹ S.I. 2003/2759

- j) any article of clothing or footwear, or any article manufactured from textiles and textiles in the length or piece (excluding any carpet or tapestry), the value of which is less than £12,000;
- k) any article the value of which is less than £65,000 other than one of a description specified in the Schedule hereto;
- l) any article for which an EU licence has been issued;
- m) any article that is in the United Kingdom following its importation solely for the purpose of transit through the United Kingdom with a view to export;
- n) any article that has been imported into the United Kingdom from a country outside the European Union and is not in free circulation within the European Union. Nothing in this sub-paragraph shall permit the exportation of (i) any article which has been imported into the United Kingdom from the Channel Islands or any other jurisdiction which is within the customs territory of the European Union but outside the fiscal territory of the European Union or (ii) any article which has been returned to the United Kingdom following its temporary export under the authority of a temporary export licence;
- o) any article that the Secretary of State has approved for return to the claimant following a recommendation to that effect by the Spoliation Advisory Panel.

Conditions

2. In respect of any musical instrument licensed to be exported under paragraph 1(a) above and any motor vehicle licensed to be exported under paragraph 1(c) above this Licence is subject to the following conditions:
 - a) that the exporter must return the goods to the United Kingdom within six months of the date of exportation; and
 - b) that the goods must not be sold when they are not in the United Kingdom and must at all times remain in the possession of the exporter.
3. In respect of an article falling within paragraph 1(l) above and being exported on the basis that an EU licence for temporary export has been issued, the exporter must return the article to the United Kingdom by the date stated for re-importation on the temporary EU licence and must immediately notify the Export Licensing Unit of its return in writing.
4. In respect of any article falling within paragraph 1(o) above, there must be produced to the proper officer of HM Revenue and Customs/the UK Border Force at the place of export a copy of the Spoliation Advisory Panel's report relating to the article, together with a letter from the claimant confirming that they are content for the article to be exported.

Interpretation

5. Any reference in this Licence to the value of an article shall:
 - a) where the goods to be exported consist of a matching set or pair of articles, be construed as a reference to the value of the matching set or pair;
 - b) be construed as the value of the article as required to be declared for Customs purposes.
6. In this Licence;

“British historical personage” means any person, living or dead, in respect of whom an entry appears in the *Dictionary of National Biography* (or any supplement thereto), *Who’s Who* or *Who was Who*;

“tapestry” means a fabric with a non-repetitive pattern woven in during making;

“embargoed destination” means a destination to which an export ban applies by virtue of a prohibition contained in legislation implementing European Union obligations or United Nations sanctions.
7. Unless the context otherwise requires, any other expression used in this Licence shall have the meaning it bears in the Export Control Act 2002² or in the 2003 Order.

Prohibition not affected by this Licence

8. Nothing in this Licence shall affect any prohibition or restriction on the export of any goods other than under the 2003 Order.

EU Licence

9. This Licence does not permit the export of an article that requires an EU Licence unless an EU Licence is also granted.

Entry into force and revocation

10. The Open General Export Licence (Objects of Cultural Interest) dated 1st May 2004 is revoked.

An Official of the Department for Digital, Culture, Media and Sport, authorised to act on behalf of the Secretary of State for Digital, Culture, Media and Sport

² 2002 c.28

SCHEDULE (see paragraph 1(k))

Any document or manuscript (in any case not being printed matter);

Any archive of manuscripts and documents in any medium, created and/or accumulated by an individual, family, corporate body or institution, which has survived or been preserved as evidence of their purpose and activities;

Any architectural, scientific or engineering drawing produced by hand;

Any article which has been recovered at any time from the soil of the United Kingdom or from the bed of any lake, river, stream or other area of water therein or from the bed of the sea within the territorial waters of the United Kingdom other than any article which has been buried or concealed for a period of less than 50 years;

Any photographic positive or negative or any assemblage of such photographs;

Any firearms, arms or armour manufactured or produced more than 50 years but less than 100 years before the date of export;

Any article of clothing or footwear, and any article manufactured from textiles and textiles in the length or piece (excluding carpets and tapestries);

Any portrait or other article consisting of or including a representation of the likeness of any British historical personage (made otherwise than by photography and excluding a coin).

EXPLANATORY NOTE

(This note is not part of the Licence)

The provisions of this Licence only apply for the purposes of the Export of Objects of Cultural Interest (Control) Order 2003 (S.I. 2003/2759) ("the 2003 Order"). This Licence permits (in some cases subject to certain conditions) the export from the United Kingdom to any destination (except an embargoed destination) of certain goods which were manufactured or produced more than 50 years before exportation. Exporters should note that this Licence does not remove the need for other consents that may be required for the export of particular cultural goods. In particular, where an export licence is also required by Council Regulation EC 116/2009 (which requires a licence for specified cultural goods exported outside the European Customs Union) exporters will also need an EU licence as well as a licence for the purposes of the 2003 Order. In such cases this Licence will not be valid unless an EU licence is also held.

This Licence does not affect any other prohibitions or restrictions on the export of certain types of cultural goods. Details of those types of goods can be obtained by contacting the Export Licensing Unit, which issues export licences for objects of cultural interest on behalf of the Secretary of State.

Appendix C

Member States and territories of the European Union

Member States of the European Union (EU) are:

Austria	Germany	Poland
Belgium	Greece	Portugal
Bulgaria	Hungary	Romania
Croatia	Ireland	Slovakia
Cyprus	Italy	Slovenia
Czech Republic	Latvia	Spain
Denmark	Lithuania	Sweden
Estonia	Luxembourg	United Kingdom
Finland	Malta	
France	The Netherlands	

The following territories are also in the EU for export licensing purposes:

Andorra

Canary Islands

Channel Islands (**see note**)

French Overseas Departments of Guadeloupe, French Guiana, Martinique and Reunion

Monaco

Mount Athos (Greece)

Note

The policy in respect of the referral of applications to Expert Advisers is set out in paragraphs 13 and 14. For the purpose of Paragraph 14, the Channel Islands are regarded as part of the UK. Therefore, objects which have arrived in the UK within the last 50 years from the Channel Islands are normally referred to an Expert Adviser for scrutiny as to national importance.

Appendix D

Useful addresses

TSO (The Stationery Office)

PO Box 29
Norwich
NR3 1GN
Telephone orders/
Enquiries: 0870 600 5522
Fax orders: 0870 600 5533
Email: book.orders@tso.co.uk

Animal and Plant Health Agency CITES Team

1/17 Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6EB
General enquiries: 0117 372 3700
Email: wildlife.licensing@apha.gsi.gov.uk

Export Control Organisation

Department for International Trade
3rd Floor
1 Victoria Street London SW1H 0ET
Telephone: 020 7215 4594
Fax: 020 7215 2635
Email: eco.help@trade.gsi.gov.uk
Website: <https://www.gov.uk/government/organisations/export-control-organisation>

The Secretary of the Royal Commission on Historical Manuscripts

Archives Sector Development
The National Archives
Kew
Richmond
Surrey TW9 4DU
Telephone: 020 8392 5369
Email: asd@nationalarchives.gsi.gov.uk
Website: <http://www.nationalarchives.gov.uk>
<http://www.nationalarchives.gov.uk/information-management/legislation/other-archival-legislation/manorial-documents/>

Appendix E

Terms of reference and membership of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

Terms of reference

The Committee was established in 1952, following the recommendations of the Waverley Committee in its Report in September of that year. Its terms of reference are:

- (a) to advise on the principles which should govern the control of export of objects of cultural interest under the Export Control Act 2002 and on the operation of the export control system generally;
- (b) to advise the Secretary of State on all cases where refusal of an export licence for an object of cultural interest is suggested on grounds of national importance;
- (c) to advise in cases where a special Exchequer grant is needed towards the purchase of an object that would otherwise be exported.

Membership

Membership of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

Membership of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

Sir Hayden Phillips GCB DL (Chairman)

Sir Hayden Phillips is the Independent Reviewer of the Rulings of the Advertising Standards Authority. He is also a Director of the Energy Saving Trust and of St Just Farms Ltd; and Chairman of the Wellington Collection Management Committee and of the IPSO Appointments Panel. He is a Deputy Lieutenant of Wiltshire, a Lay Canon of Salisbury Cathedral and Chairman of its Fabric Advisory Committee. He was Chairman of the National Theatre from 2004-10 and of Marlborough College (2006-13). Sir Hayden's previous career was in the Civil Service, latterly heading two Departments as Permanent Secretary – the Department for Culture, Media & Sport from 1992-98, and the Lord Chancellor's Department (now the Ministry of Justice) from 1998 to 2004. He reviewed the Honours System (report 2004) and the Funding of Political Parties (report 2007).

Appointed 17 March 2014: appointment expires 16 March 2019

Peter Barber

Peter Barber, former Head of Cartographic and Topographic Materials at the British Library, has many exhibitions to his name, and was awarded an OBE for services to

Cartography and Topography in 2012. He began his career at The British Library in the Department of Manuscripts where he was involved in the cataloguing of the Blenheim and Althorp archives and oversaw the acquisition of a number of important manuscripts. He was a consultant to several television series on the history of maps and was editor and principal contributor to *Tales from the Map Room: Face and Diction about Maps and their makers* (1993) and *The Map Book* (2005), and author of *The Queen Mary Atlas: Commentary* (2005) and *King Henry's Map of the British Isles: BL Cotton MS Augustus I.i.9: Commentary* (2009) as well as contributing an extended chapter on mapmaking in England between 1470 and 1650 to volume 3 of the University of Chicago's multi-volume, *History of Cartography*. He is a Vice President of the Hakluyt Society and a Trustee of the Hereford Mappa Mundi Trust. He is a Council Member of the Society of Antiquaries' Library and Collections Committee, and a past Council Member of the Royal Numismatic and British Art Medal Societies. He has recently been appointed a Visiting Professor in the Department of History at King's College London and has been elected President of the Hornsey Historical Society. He is also a board member of The Lauderdale House Society Ltd.

Appointed 1 August 2015: appointment expires on 31 July 2019

Richard Calvocoressi

Richard Calvocoressi, Director and Senior Curator of the Gagosian Gallery, London (2015-), former Director of the Henry Moore Foundation and former Keeper, and then Director, of the Scottish National Gallery of Modern Art (1987-2007), was originally a curator at the Tate Gallery (1979-87), where he was responsible for building up the collections of pre- and postwar European art. He also organised major exhibitions of Jean Tinguely (1982) and Oskar Kokoschka (1986). In Scotland, he acquired important international collections of dada and surrealist art from the estates of Roland Penrose and Gabrielle Keiller and was instrumental in attracting the Anthony d'Offay gift to Edinburgh and London. Richard Calvocoressi has published on various artists, including Francis Bacon, Georg Baselitz, Reg Butler, Lucian Freud, Anselm Kiefer, Paul Klee, René Magritte, Lee Miller, Henry Moore, Michael Andrews and Yves Klein. He is an Expert Member of the Comité Magritte and a Trustee of the Art Fund. In 2008, he was awarded a CBE for services to the arts, particularly in Scotland.

Appointed 13 November 2012: appointment expires 12 November 2020

Philippa Glanville

Philippa Glanville FSA is currently a Trustee of the Art Fund and a member of the Westminster Abbey Fabric Commission. Former Curatorial Adviser to the Harley Foundation, Trustee of the Belmont House Trust, Bishopsland Educational Trust and the Geffrye Museum, she is a PastMaster of the Company of Arts Scholars and a Liveryman of the Worshipful Company of Goldsmiths. She was awarded an OBE in 2015 for services to the history of decorative arts and heritage. An historian and curator at the London Museum, Museum of London and Victoria & Albert

Museum, she was Keeper of Metalwork at the V&A from 1989-99. From 1999 to 2003, she was Academic Director at Waddesdon Manor (the Rothschild Collection), and Associate Curator at the Gilbert Collection, Somerset House. She writes on silver, social history and the history of collecting; her books include *London in Maps* (Connoisseur/Ebury Press 1972), *Silver in England* (Unwin Hyman 1972, Routledge 2010), *Silver in Tudor & Early Stuart England* (V&A 1990), *Women Silversmiths 1697-1845* (with J. Goldsborough, Thames & Hudson 1991), for the V&A, *Silver, Elegant Eating* and *The Art of Drinking* (1996, 2002, 2007) and for the Harley Foundation, *Dinner with a Duke* (2010). Philippa has contributed to many publications including *City Merchants & the Arts 1670-1720* (Oblong/Corporation of London 2004), *Feeding Desire* (Cooper Hewitt 2006), *Les Tables Royales en Europe & Quand Versailles etait Meuble en Argent* (RMN & Chateau de Versailles 1993 & 2001), *Treasures of the English Church* (Goldsmiths Company/Holberton 2008) and *Baroque* (V&A 2009).
Appointed 2 April 2010: appointment expires 1 April 2018

Christopher Rowell

Christopher Rowell was appointed to the curatorial staff of the National Trust in 1977 and has been Furniture Curator since 2002, advising on the Trust's collections in England, Wales and Northern Ireland. He is Chairman of the Furniture History Society and a Fellow of the Society of Antiquaries. He has published widely, mainly on country house collections, the display of art, and furniture. He was editor and principal contributor to *Ham House: 400 Years of Collecting and Patronage* (2013), which was shortlisted for the William MB Berger Prize for British Art History 2014, and has also contributed to *Hardwick Hall: A Great Old Castle of Romance* (2016), the second book in this series on the Trust's most significant houses, which is published by Yale University Press for the National Trust and the Paul Mellon Centre for Studies in British Art.

Appointed 10 April 2015: appointment expires 9 April 2019

Aidan Weston-Lewis

Aidan Weston-Lewis has worked at the National Gallery of Scotland since 1992, where he is Chief Curator, with responsibility for the Italian and Spanish collections. Before that he was Assistant Librarian at the Witt Photographic Library at the Courtauld Institute of Art in London. He has organised a series of major exhibitions and has published widely in his area of specialism, particularly on North Italian painting and drawing of the 16th and 17th centuries. In 2005, Aidan received from the Italian Republic the honour of Cavaliere dell'Ordine della Stella della Solidarieta Italiana in recognition of his contribution to the study of Italian art.

Appointed 10 May 2011: appointment expires 9 May 2019

Lowell Libson

Lowell Libson is an art dealer and Managing Director and Proprietor of Lowell Libson Ltd, which specialises in British paintings, watercolours and drawings of the 17th to

20th centuries. His specialist area of expertise is the art market and British works of the aforementioned period.

Appointed 3 June 2011: appointment expires 9 April 2019

Leslie Webster

Former Keeper of the Department of Prehistory and Europe, and senior curator of the early medieval collections at the British Museum, she specialises particularly in the Anglo-Saxon and Viking period, on which she publishes and lectures widely. Her latest book is *Anglo-Saxon Art: a new History* (2012). She is currently Honorary Visiting Professor at the Institute of Archaeology, UCL. She co-curated four major exhibitions on early medieval themes at the British Museum, and also co-ordinated a series of exhibitions in five major European museums, as part of the European Science Foundation's *Transformation of the Roman World AD 400-900 Project*. She has served as a Trustee and committee member on many professional bodies, including the Society of Antiquaries of London, the Royal Archaeological Institute, and the Society for Medieval Archaeology, where she served as President from 2007-10. Other advisory work has included membership of the former English Heritage Museums and Archives Advisory Panel, the British Academy Corpus of Anglo-Saxon Stone Sculpture Committee, and the National Heritage Memorial Fund Advisory Panel. She is actively engaged in the Staffordshire Hoard Research Project, and is co-editor of the forthcoming publication of this major Anglo-Saxon find.

Appointed 18 February 2013: appointment expires 17 February 2021

Appendix F

Composition of the Advisory Council on the Export of Works of Art and Objects of Cultural Interest

The Chairman of the Reviewing Committee is the Chairman of the Advisory Council and the membership is as follows:

- a) the independent members of the Reviewing Committee ex officio;
- b) the departmental assessors on the Reviewing Committee (representatives of the Department for Digital, Culture, Media and Sport, Department for Business, Innovation and Skills, HM Treasury, Foreign and Commonwealth Office, HM Revenue and Customs, Scottish Executive Department for Culture, National Assembly for Wales Department for Culture and Northern Ireland Department for Culture);
- c) the Directors of the English and Scottish national collections, National Museums Wales, National Museums Northern Ireland, and the Librarians of the National Libraries of Wales and Scotland;
- d) the Expert Advisers to whom applications for export licences are referred, other than those who are members by virtue of (c) above;
- e) eight representatives of non-grant aided museums and galleries in

England, Scotland, Wales and Northern Ireland, nominated by the Museums Association;

f) representatives of the:

Arts Council England
Arts Council of Northern Ireland
Arts Council of Wales
Association of Independent Museums
Conference of Directors of the National Museums and Galleries
English Heritage
Friends of the National Libraries
Heritage Lottery Fund
National Archives
National Archives of Scotland
The Art Fund
National Fund for Acquisitions
National Heritage Memorial Fund
National Trust
National Trust for Scotland
Pilgrim Trust
PRISM Grant Fund for the Preservation of Scientific and Industrial Material
ACE/V&A Purchase Grant Fund

g) representatives of the:

British Academy
British Records Association
Canadian Cultural Property Export Review Board (Observer Status)
Chartered Institute of Library and Information Professionals (CILIP)
Council for British Archaeology
Historic Houses Association
Historical Manuscripts Commission
Royal Academy of Arts
Royal Historical Society
Royal Scottish Academy
Scottish Records Association
Society of Antiquaries of London
Society of Archivists
Society of College, National and University Libraries

h) representatives of the trade nominated by the:

Antiquarian Booksellers' Association (two)
Antiquities Dealers' Association (two)
Association of Art and Antique Dealers (two)
Bonhams
British Antique Dealers' Association (three)
British Art Market Federation

British Numismatic Trade Association (two)
Christie's
Fine Art Trade Guild
Society of London Art Dealers (two)
Society of Fine Art Auctioneers
Sotheby's

Appendix G

Standard formats for digital copies of manuscripts

Originals should be digitally captured to create a master image that should be at least of the same legibility as the original. A good quality scanner or digital camera will normally generate images of sufficient quality. The following standards apply:

- Where images are generated using a flatbed scanner the digital image must be at a minimum resolution of 300 pixels per inch.
- For images created using a digital camera, the camera used should have a minimum specification of 6 megapixels, although 8 megapixels are recommended.
- The image must be in colour or greyscale.
- The files must be submitted in uncompressed .tiff format.
- A clear ruler should be placed on one edge of the image with the scale clearly shown.
- Files must be named so that each of them is uniquely identified. This can be done using the name of the collection with a sequential number for each image captured. For example each image in the collection Styles Family letters could be named stylesletter0001.tif, stylesletter0002.tif etc. Software is available that automatically generates file names like these.
- The files must be submitted on a DVD/CD, memory stick or hard drive. They should be clearly labelled.
- An electronic file containing information about the images should be supplied with the image files. This must be at least to the standard of a sale catalogue description of the item. Where this is a collection the description should provide details of individual volumes and groups of letters. A table is attached as an example of the form this file should take.

Note

All digital images submitted as copies of manuscripts must be accompanied by a signed and dated declaration stating that the images meet the standards set out above

APPENDIX H

Non-Community Goods

This term refers to cultural goods brought into the UK from outside the EU which have not been released into 'free circulation' within the EU.

'Community goods' have the meaning given in article 4 of the Community Customs Code and are defined as goods:

- wholly obtained or produced in the customs territory of the Community under the conditions referred to in Article 23 of Council Regulation (EEC) No 2913/92 of 12 October 1992 and not incorporating goods imported from countries or territories not forming part of the customs territory of the EU,
- imported from countries or territories not forming part of the customs territory of the EU which have been released into free circulation,
- obtained or produced in the customs territory of the EU, either from goods referred to in the second indent alone, or from goods referred to in the first and second indents above.

This means that cultural goods which:

1. have been imported from countries or territories which do not form part of the customs territory of the EU; and
2. have not been released into free circulation;

do not require an EU export licence for export outside the EU (even if they are being exported to a different territory outside the EU from the territory from which they were brought into the UK) nor do they require an individual UK licence as they are covered by the UK OGEL.

Non-Community goods (goods imported from a jurisdiction outside the customs territory of the EU) may be imported into the UK under a Temporary Admission procedure and subsequently re-exported outside the EU. In such cases they are not 'released' into free circulation in the EU, import duty and/or VAT is suspended and the goods remain non-Community goods. Examples include goods imported under Customs Procedure Codes 53 00 D 25 (goods for exhibition) and 53 00 D26 (goods for auction). Where, however, non-Community goods are imported into the UK for exhibition at a museum or gallery approved by the National Import Relief Unit (NIRU) of HM Revenue & Customs under Customs Procedure Code 40 00 C12, they are 'released' into free circulation even though they are relieved from payment of any import duty and/or VAT. Such latter goods therefore are Community goods.

Payment of any import duty and VAT are also suspended while non-Community goods travel 'in transit' from one member state to another within the EU without being released into free circulation. Where this happens, the goods retain their status as non-Community goods and do not need an EU or a UK licence to leave the UK.

In some cases, cultural goods may be imported under the Temporary Admission procedures even though they have come from a jurisdiction within the EU customs territory. This is because various territories of the EU are treated as special cases because they are outside the EU for fiscal purposes, but inside the EU for customs purposes. These territories are listed below. Cultural goods from these territories may be held on Temporary Admission, but because they are from a jurisdiction from within the customs territory of the EU, they are Community goods for the purposes of EU licensing requirements. For example, cultural goods from the Channel Islands which are held on Temporary Admission are Community goods (because the Channel Islands are within the customs territory of the EU) and therefore will need either an EU export licence or a UK one.

Community goods (whether they enjoy that status either as a result of being wholly obtained or produced in the EU or because they were originally non-Community goods but were subsequently brought into free circulation) will generally become non-Community goods if they leave the customs territory of the EU on a permanent basis, accompanied when necessary by the appropriate export licence. In certain circumstances, however, Community goods could retain their status if exported on a temporary basis, with a temporary licence if required, such as when sent abroad for exhibition under cover of an ATA carnet. Applicants who are unclear whether items they wish to export are Community goods or non-Community goods should telephone the HM Revenue & Customs helpline on 0845 010 9000.

Special Territories of the European Union

Aland Islands

Andorra

Canary Islands

Channel Islands

French Overseas Departments

- French Guiana
- Guadeloupe
- Martinique
- Reunion

Mount Athos (Greece)

San Marino

Leading strategically, the Arts Council England promotes best practice in museums, libraries and archives, to inspire innovative, integrated and sustainable services for all.

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