Guidance to Exporters of Archaeological Objects
(Including Numismatic Items)

1. This note sets out the export licensing requirements for the export of archaeological objects (including numismatic items). It is supplemental to the guidance entitled UK Export Licensing for Cultural Goods issued by the Export Licensing Unit (“ELU”) of Arts Council England, and should be read in conjunction with that guidance (Arts Council England’s Guidance for Exporters).

Summary

2. The export of archaeological objects which are in free circulation from the UK to a destination outside the European Union ("EU") requires a European Union licence ("EU licence") when the object is more than 100 years old. This is subject to the archaeological and scientific interest exemption described below (see paragraphs 8 to 10 below for a more detailed explanation).

3. The export of archaeological objects from the UK to any destination requires a UK licence if the object is more than 50 years of age. The type of licence required will depend on where the object was found and, in some cases, the value of the object (see paragraphs 14 and 15 below for a more detailed explanation).

4. It is important to note that the EU licence and UK licence requirements are not mutually exclusive. There may be circumstances where both a UK licence and an EU licence are required; or where only a UK licence is required even though the destination is outside the EU (see paragraphs 16 and 17 below for a more detailed explanation).

European Union Licence

5. If you are intending to export an object to a destination outside the EU, Council Regulation (EC) No 116/2009 on the export of cultural goods ("the Regulation") will apply. For information on which territories comprise the EU please see Appendix B of Arts Council England’s Guidance for Exporters.

6. The general purpose of the Regulation is to ensure that cultural goods that fall within the Annex to the Regulation are not exported outside the EU without an export licence issued by the appropriate Member State.

7. The starting point is that any object that falls under Category A.1 of Annex I to the Regulation will require an EU licence under the Regulation. Category A.1 comprises:

   “Archaeological objects more than 100 years old which are the products of:
   - excavations and finds on land or under water

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a See Arts Council England’s guidance on the export of cultural goods not released into free circulation
b Following the introduction of the Lisbon Treaty the term European Union (rather than European Community (EC)) is used to describe the countries which have joined the Union.
- archaeological sites
- archaeological collections"

Category A.1 covers all such archaeological items (including numismatic items) whatever their value and regardless of the location of the archaeological site from which they were excavated.

8. Article 2.2 of the Regulation allows Member States to dispense with the requirement for an EU licence for certain objects of limited archaeological or scientific interest. It provides that:

“the Member State ... is authorised not to require export licences for the cultural goods specified in the first and second indents of category A.1 [see para. 7 above] of Annex I where they are of limited archaeological or scientific interest, and provided that they are not the direct product of excavations, finds or archaeological sites within a Member State, and that their presence on the market is lawful.”

9. The UK has decided to exercise its discretion under Article 2.2 by classifying the following categories of archaeological objects as being of limited archaeological or scientific interest:

(a) numismatic items of a standard type which are published in a reference work on numismatics; and
(b) objects, other than numismatic items, which possess no special or rare features of form, size, material, decoration, inscription or iconography and which are not in an especially fine condition for the type of object.

10. This means that objects falling within paragraph 9 (a) or (b) above will not require an EU licence for export outside the European Union under the Regulation provided that:

(a) they do not form part of a recognised archaeological collection of special historical significance;
(b) they are not the direct product of excavations, finds or archaeological sites within a Member State;
(c) they are lawfully on the market: objects which are illegally excavated, imported or traded would not qualify; and
(d) they do not fall within any other category of Annex I to the Regulation. Category A.2 (which covers elements forming an integral part of artistic, historical or religious monuments which have been dismembered, of an age exceeding 100 years in particular may be relevant. Annex I to the Regulation, is available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:039:0001:0007:EN:PDF

11. Where an exporter chooses to make use of the exemption from the requirement to obtain an EU licence for an object of limited archaeological or scientific interest, as set out above, it is the exporter’s responsibility to be satisfied that the object falls within paragraph 9 (a) or (b) AND meets all of the criteria set out in paragraph 10 (a) to (d) above.

12. We strongly recommend that anyone who wishes to take advantage of the exemption
from the requirement to obtain an EU licence, as set out in paragraphs 9 and 10, should forward full details of the object to the ELU at Arts Council England for confirmation that the object does not need an EU licence before the object is exported. This is a free service which assures the person who wishes to export an archaeological object without an EU licence that they have correctly assessed that object as being exempt. People who use the service will be required to provide a full description including all known provenance and published references of the object which they propose to export. There is no prescribed form for submitting the information which could, for example, be submitted in the form of a sales catalogue or a detailed list. Information should be submitted in writing, by email or by post, to the ELU at elu@artscouncil.org.uk or Arts Council England, 21 Bloomsbury Street, London, WC1B 3HF. The details will be forwarded by ELU to an expert adviser for assessment, so please allow 20 working days, from the time the ELU receives the information, before you obtain a decision.

13. Where an EU licence is required then the application for a licence should be made on the standard EU form and submitted to the ELU. In considering the application the ELU will also take into account the need for a licence under UK domestic legislation. Further details on how to apply for an EU licence can be found in Arts Council England’s Guidance for Exporters.

UK Licence

14. If you are intending to export an object from the UK the provisions set down in the Export of Objects of Cultural Interest (Control) Order 2003, will apply. Any archaeological object which is over 50 years of age\(^c\) will require a UK licence.

15. Arts Council England’s Guidance for Exporters prescribes the types of licences which are required for archaeological objects:

- If the object is from UK soil or UK territorial waters, regardless of the object’s monetary value or its destination, it will require an individual licence.
- If the object is from a non-UK source it will require an individual licence if it is worth £65,000 or more (regardless of its destination).
- If the object is from a non-UK source and is worth less than £65,000 it will qualify for the Open General Export Licence\(^d\).
- If an object requires both a UK licence and an EU licence, the object will qualify for the Open General Export Licence insofar as the UK licence is concerned.

Licence Application

16. There may be circumstances where both an EU licence and a UK licence are required for a particular object. For example, where an object has been excavated from UK soil, is over 100 years old and is destined for export to the USA, both the UK and EU licence requirements will have been satisfied. In this case, however, it is only necessary to apply for an EU licence because, where an EU licence has been granted, the exporter can rely on the UK Open General Export Licence to satisfy the UK requirements.

17. There may be circumstances where an EU licence is not required to export an object outside the EU (because the object is not in free circulation, or is less than 100 years old, or meets the criteria set out in paragraphs 9 and 10) but, exporters are required to obtain an export licence under UK domestic legislation. For example, an object which is excavated from UK soil; is 80 years old and is destined for export to Australia will not

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\(^{c}\) Note that the relevant age of the object for EU requirements is more than 100 years old.

require an EU licence because the age of the object is not more than 100 years; it will, however, require a UK licence because its age is over 50 years. More detailed guidance on the provisions of the Regulation and its relationship to UK domestic legislation is given in Arts Council England’s Guidance for Exporters.

18. All applications for the export of archaeological material found in UK soil or UK territorial waters are referred to an Expert Adviser for scrutiny as to its national importance (see para. 17 of Arts Council England’s Guidance for Exporters). Expert advisers will need detailed contextual information in order to decide whether the material is of national importance and to aid this process there is separate guidance issued by Arts Council England entitled Guidance for Exporters of Archaeological Material over 50 years of age found in UK soil that gives details of the information that might be included in the application form for such material to assist in the timely processing of it.