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## **PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the import of cultural goods

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Delegations will find attached document SWD(2017) 263 final.

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Brussels, 13.7.2017  
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**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Regulation of the European Parliament and of the Council on the import  
of cultural goods**

{COM(2017) 375 final}  
{SWD(2017) 262 final}

## Executive Summary Sheet

Impact assessment on a proposal for customs measures on the import of cultural goods

### A. Need for action

#### **Why? What is the problem being addressed? Maximum 11 lines**

In the framework of the 2015 European Agenda on Security<sup>1</sup> and of the 2016 Action Plan to step up the fight against the financing of terrorism<sup>2</sup> the Commission announced that it would prepare a legislative proposal against illicit trade in cultural goods by the end of second quarter 2017.

The proposal addresses the problem of cultural goods from third countries illegally taken from their historical and archaeological context being brought in to the EU, thereby fostering organised crime, terrorism financing, money laundering and tax evasion as well loss of cultural identity and heritage to source countries. It follows up on EU legislation prohibiting trade in cultural goods from Iraq and Syria (Regulations 1210/2003 and 36/2012).

#### **What is this initiative expected to achieve? Maximum 8 lines**

The initiative aims to prevent the import and storage in the EU of cultural goods illicitly exported from a third country; thereby reducing trafficking in cultural goods, combatting terrorism financing and protecting cultural heritage, especially archaeological objects in source countries affected by armed conflict. For this purpose it proposes to: establish a common definition for cultural goods at import; ensure importers exercise diligence when buying cultural goods from third countries; determine standardised information to certify the goods are legal; provide for effective deterrents to trafficking; and promote the active involvement of stakeholders in protecting cultural heritage.

#### **What is the value added of action at the EU level? Maximum 7 lines**

Control and scrutiny measures undertaken by one Member State do not prevent illicit cultural goods entering that Member State from a different Member State that has not established such controls. The uneven treatment of economic operators in different Member States results in discrimination. A common approach is necessary to ensure effectiveness and homogenous treatment of imports throughout the EU.

### B. Solutions

#### **What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why? Maximum 14 lines**

Policy options were considered in groupings:

Firstly, soft-law options to foster stakeholder goodwill and self-discipline and improve capacities of competent authorities (GROUPING A).

Secondly, regulatory options addressing two important elements:

- the appropriate definition of the scope of the cultural goods to be covered by the initiative (GROUPING B);
- the documentary requirements needed to certify the licit nature of the goods (GROUPING C)

More specifically, Grouping C comprises the following certification options:

- (a) Export certificate issued by the source country and administrative cooperation with the country in question;
- (b) Importer statement (affidavit) together with an Object ID form providing basic information on the goods;
- (c) Import licence issued by EU cultural authorities for all cultural goods
- (d) Import licence for cultural goods at high risk from pillage (archaeological objects) and importer statement and Object ID for all other cultural goods (combining elements of b + c).

#### **Who supports which option? Maximum 7 lines**

Enterprises and interest representatives favour non-regulatory options and would rather have no specific EU documentary requirements at import. Among these, they would seem to object less to the importer statement. Member States public authorities, NGOs and civil society favour stronger measures, such as export certification or import licencing; they are unsure about the effectiveness of importer statements, as self-certification has not been tried in this domain.

<sup>1</sup> COM (2015) 185 final

<sup>2</sup> Commission Communication the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing [COM(2016) 50 final]

<b>C. Impacts of the preferred option</b>
<b>What are the benefits of the preferred option (if any, otherwise main ones)?</b> <u>Maximum 12 lines</u>
The preferred option is a combination of soft-law options and regulatory measures with a large typology of goods, limited by a 250 years minimum age limit. Documentation requirements are foreseen also, in order to prove licit provenance. In this way, through more effective controls, it is expected to reduce trafficking in cultural goods, combat terrorism financing and protect cultural heritage, especially in source countries affected by armed conflict.
<b>What are the costs of the preferred option (if any, otherwise main ones)?</b> <u>Maximum 12 lines</u>
Economic operators who import cultural goods considered endangered heritage (a very small part of the art market) will have to obtain import licences for them before they can import them in the EU. This will involve some costs for importers to gather the documentation and submit it to the authorities, as well as some expense for cultural authorities to ensure they have the appropriate expertise to examine applications. For other goods, importers will need to fill in the importer statement & Object ID and present them to customs for examination and registration.
<b>How will businesses, SMEs and micro-enterprises be affected?</b> <u>Maximum 8 lines</u>
The quasi-totality of art market enterprises are micro- or small businesses. For this reason, the proposed measures were considered as if all operators were SMEs, i.e. an effort was made to select solutions requiring limited operational resources and lowest possible compliance costs.
<b>Will there be significant impacts on national budgets and administrations?</b> <u>Maximum 4 lines</u>
Except in the case of import licencing for archaeological objects and elements of monuments for which Member States will have to ensure they have the specialised expertise to process applications, the rest of the measures do not imply significant needs in human resources or operational costs.
<b>Will there be other significant impacts?</b> <u>Max 6 lines</u>
Customs controls and other deterrents to trafficking (penalties) will have a negative impact on organised crime and terrorist financing operating in the EU and abroad. The EU measures may have a positive impact on third countries whose cultural heritage is at risk.
<b>Proportionality</b>
The measure does not impose unreasonable costs on traders and administrations.
<b>D. Follow up</b>
<b>When will the policy be reviewed?</b> <u>Maximum 4 lines</u>
The Commission will report every five years on the implementation of the Regulation.