



# **UK EXPORT LICENSING FOR CULTURAL GOODS**

**PROCEDURES AND GUIDANCE FOR  
EXPORTERS OF WORKS OF ART AND OTHER  
CULTURAL GOODS**

**A Department for Culture, Media and Sport Notice**

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# INTRODUCTION

1. This notice provides guidance on the procedures involved in applying for an export licence for cultural goods. Part I sets out the export controls that apply to 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 within the Department for Culture, Media and Sport (DCMS): address and telephone numbers at Appendix A (page 17).

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

## PART I: THE EXPORT CONTROL

### What is the purpose of the export control?

2. The purpose of the export controls is to give an opportunity for the retention in this country of cultural goods considered to be of outstanding national importance. The system is designed to strike a balance, as fairly as possible, between the various interests concerned in any application for an export licence - for instance, the protection of the national heritage; 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 work?

3. For cultural goods over certain age and monetary limits, an individual licence is required for export from the UK to European Union (EU) destinations and non-EU destinations (see paragraphs 4 and 5), unless one of the exceptions in **Table 1** applies (see page 13). 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. Licences may be required for both permanent and temporary exports, including when you are transferring your own property abroad.

### When must I have an individual export licence?

4. If you are intending to export a cultural object, regardless of its destination (within or outside the EU), you must apply for an individual licence if your object is valued at or above a specified financial threshold. To determine whether you require an individual licence, please refer to the flow chart and tables on pages 14-16. **If the object is valued below the specified threshold, no individual licence application is required.**
5. The Member States of the EU are listed at Appendix B.

I have looked at the flow chart and tables on pages 14-16 and have concluded that I need to apply for an individual export licence.

6. 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 **EC licence (EC ELA March 1993)** or a **UK licence (ELU Form C)** for some objects). The flow chart and tables on pages 14-16 should have helped you to determine which form you require. If, however, you are intending to despatch an object to a destination in **another EU Member State**, then in all cases you need to apply for a **UK licence** (again, the flow chart and tables on pages 14-16 should have helped you to determine whether you need to apply for an individual licence).

**How do I obtain the required licence application form?**

7. Telephone the Export Licensing Unit on 020 7211 6164 or 6167 and request either an **EC licence** application form or a **UK licence** application form. If you are unsure, the staff of the Licensing Unit 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 Margaret Cates in the Export Licensing Unit: address at Appendix A (page 17).**

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

8. This depends on whether your application is referred to an Expert Adviser in a national museum or gallery for scrutiny as to national importance (see paragraph 13). If an Expert Adviser needs to be consulted, the papers will normally be referred within five working days of the receipt of your application. We ask our Expert Advisers to respond to us within 15 working days.
9. However, if you can provide evidence with your licence application that the object arrived in the UK within the last 50 years, your application will not normally be referred to the Expert Adviser (but see the note to Appendix B on page 18 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?**

10. The documentary evidence must provide details of the provenance of the object concerned. However, if the object is a recent arrival in the UK, 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.
11. 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 Export Licensing Unit can provide details of the evidence that is required for a particular originating Member State.

**What about the special considerations that apply to manuscripts?**

12. 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, DCMS will ask for a copy, so that it may be deposited in 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. 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 in the British Library, your licence application will be referred by DCMS to the Reviewing Committee on the Export of Works of Art (see paragraph 24).

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

13. An Expert Adviser may object to the granting of a licence if he or she believes that an object satisfies one or more of the **Waverley criteria** (see paragraph 25). This can include an object by a living manufacture or producer. Expert Advisers are entitled to view an object before reaching a decision.

#### **What happens if the Expert Adviser makes an objection under one or more of the Waverley criteria?**

14. If the Expert Adviser objects, DCMS refers the licence application to the Reviewing Committee on the Export of Works of Art (see paragraph 24).

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

15. If no objection is lodged, the export licence will normally be granted. Our Expert Advisers collectively object to the granting of licences for between 25 and 50 objects each year out of a total of 3,000-5,000 applications (covering 8,000-10,000 objects) referred to them.

#### **Do museums and galleries need to apply for export licences?**

16. 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 is not normally referred to an Expert Adviser.

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

17. Yes. Ministers may modify or revoke an issued export licence at any time.

#### **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?**

18. 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 elect not to object to the granting of a temporary export licence where he would object to a permanent licence for the same object. You must inform Sabrina Belle in the Export Licensing Unit in writing of the return of all objects granted a temporary export licence, quoting the licence number and the expiry date.

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

19. You should contact your local Customs and Excise Advice Centre (telephone number in the Yellow Pages or on the internet at [www.yell.co.uk](http://www.yell.co.uk)) for advice and copies of Customs and Excise 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 the manner in which to apply, contact the Wildlife Licensing Section of DEFRA (details in Appendix C on page 19). An export licence may also be required from the Department of Trade and Industry for cultural goods classified as firearms, military or paramilitary equipment, regardless of monetary value. For advice, contact the Export Control Organisation within the DTI (details in Appendix C on page 19).

### **What should I do if I lose my export licence?**

20. You should write to the Export Licensing Unit, explaining the circumstances of the case, and request a replacement licence.

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

21. You should make a voluntary written disclosure of the facts and circumstances to the Head of the Export Licensing Unit. DCMS may then refer your written disclosure to Customs and Excise who are responsible for the enforcement of the export control. It is then for Customs and Excise to consider what action is appropriate.
22. 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 Customs and Excise have stopped the export of my object?**

23. You should speak to the office of Customs and Excise concerned.

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

## **PART II : OBJECTS OF NATIONAL IMPORTANCE**

### **What is the role of the Reviewing Committee on the Export of Works of Art?**

24. The Reviewing Committee is a non-statutory independent body set up to advise Ministers whether a cultural object, which is the subject of an application for an export licence, is of national importance under the Waverley criteria. The Committee consists of eight members appointed by the Secretary of State for Culture, Media and Sport each of whom has 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 D (pages 20-21). Correspondence for the Chairman of the Committee should be sent via Elizabeth Foxell, Secretary of the Committee, (see Appendix A on page 17).

### **What are the Waverley criteria ?**

25. Objects are assessed against the following three criteria (named after the Chairman of a 1950 committee which was appointed to consider and advise on an export policy):

#### Waverley one.

Is it so closely connected with our history and national life that its departure would be a misfortune?

#### Waverley two.

Is it of outstanding aesthetic importance?

#### Waverley three.

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

26. In its 1988-89 Annual Report, the Reviewing Committee set out its interpretation of the Waverley criteria:

*'The first criterion is whether an item is 'so closely connected with our history or national life that its departure would be a misfortune'. This was originally intended to catch such objects as the Alfred Jewel or the manuscript of Gray's Elegy but we interpret it in a somewhat wider context to include items which are of major importance for local history, or which are part of collections which are of the greatest historical significance, or which are associated with significant historical events.*

*The second criterion refers to 'outstanding aesthetic importance'. There can be no definitive guidelines for judging whether an item is aesthetically outstanding, but we do not restrict this criterion to great works of painting or sculpture. We might, for instance, conclude 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. We are not always swayed by such arguments and may take into account the condition or restoration to which it may have been subjected.*

*The third criterion is whether an item is 'of outstanding significance for the study of some particular branch of art, learning or history'. Almost anything could be caught under this heading: the worst works of the best artists (just to show that Homer nods), a poet's laundry list, a collection of seaside postcards. We therefore apply this criterion with rigour to objects which, in our view, are important for the study of some significant branch of art, learning or history; they have to be important for study rather than merely interesting to study. Many objects might provide attractive topics for a Ph.D thesis but are not of wider significance for the study of the subject as a whole.'*

## What happens if my application is referred to the Reviewing Committee on the Export of Works of Art?

27. When an export licence application is referred to the Reviewing Committee, 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 he believes the object satisfies one or more of the Waverley criteria. The Secretary of the Committee ensures that all parties see both statements. A meeting is convened at which the appointed members are joined by three independent advisers chosen for their expertise on the object in question. These independent advisers are treated as members of the Committee for the application under consideration. Officials from DCMS are also present to advise the Committee.
28. 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 each of you some questions. 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.
29. Once questions have been answered, you and the Expert Adviser leave the meeting while the Committee members (appointed and independent) vote on whether the object satisfies any of the Waverley criteria. If the object does, the Committee **recommends** to the Secretary of State that a decision on the licence application should be **deferred** for a specified period (normally between two and six months although the Committee can recommend a deferral of any length, see paragraph 31) to enable an offer to purchase to be made at or above the fair market price, which will also be recommended by the Committee. If the object does not satisfy one or more of the Waverley criteria, the Committee recommends that the export licence should be granted.

### What is the purpose of a deferral period?

30. The purpose in recommending a deferral period is to allow time for an offer to purchase to be made at or above 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?

31. The Committee has a wide discretion. The criteria on which the length of deferral is normally based include:
  - the value of the object;
  - the likelihood of a fund-raising 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 requested three months' notice of an intention to sell the object to Resource, the Council for Museums, Archives and Libraries; and

- whether the owner is willing for the object to be publicly displayed (in appropriate conditions) to assist any fund raising appeal that might arise as a result of a deferral period.

The deferral period may consist of a single period of time, known as a 'straight deferral' or a two-stage period, known as a 'split deferral'.

#### What is a 'straight deferral' period?

32. If the Committee recommends a straight deferral, it is recommending that Ministers should defer a decision for a period of time (three months is the most common) to enable an offer to purchase to be made at or above the fair market price. The fair market price is also recommended by the Committee.

#### What is a 'split deferral' period?

33. In a split deferral, the Committee recommends that Ministers should defer a decision for an initial period (two months is the most common) to enable an offer to purchase to be made. 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 Ministers should normally extend the deferral period by a further amount of time (four months is the most common). 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 49).

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

34. 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. This valuation is likely to fall into one of three categories, viz:

- 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.

35. 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).
- 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.

36. 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 that might satisfy the Waverley criteria should be aware, or should be made aware by his 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

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 are the Committee likely to ask me in relation to valuation?**

37. Questions could include the following:

#### ***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 auctioneer's commission inclusive of VAT?

#### ***For privately agreed sales and other situations:***

- What does the value on the export licence application represent?
- Is there a sale agreement between you and the overseas purchaser? If so, what are the payment terms?
- Are you in any way connected in business with the overseas purchaser?
- If it is an estimated price (i.e. no sale agreement), what is the basis of the estimate you have used?
- Has the piece been sold at auction in the last 10 years? If so, when and what was the auction price?
- If 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 your piece, what would the price be inclusive of VAT, bearing in mind the price you quoted on your export licence application?

38. If the Committee accepts your valuation, the licence application is likely to be deferred at that value. If the Committee disagrees with your valuation, it may seek an independent valuation from experts in the field, or recommend an alternative fair market price to Ministers.

### **How do I get to know the Committee's recommendation?**

39. 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 fair market price. You are also told which of the criteria 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?**

40. Following the meeting, the Secretariat informs Ministers of the Committee's recommendation. Ministers then make a decision as to deferral period and fair market price, taking into account the Committee's recommendations. Once a Ministerial decision is received, 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 DCMS Press Notice, not the date of the Committee hearing. If the licence is to be granted, this will normally be issued within five working days of the receipt of the Ministerial decision.

### **What does the DCMS Press Notice say?**

41. The Press Notice invites interested parties to make an offer to purchase through the Secretary of the Committee. The Notice explains why the object is of national importance and details the length of the deferral period and the fair market price. It does not reveal the name of the applicant for the export licence or the consignee as this information is commercially confidential. In addition to the media, the Notice is circulated to museums and galleries, Area Museum Councils, the Heritage Lottery Fund, the National Heritage Memorial Fund, the National Art Collections Fund, and other interested parties.

### **What are my options once I have received the Ministerial decision on my export licence application?**

42. On receipt of a letter informing you of the deferral of a decision on your export licence application, you should consider how you wish to proceed and /or advise the owner accordingly. If you are content for your licence application to be deferred at the price quoted, you or your client may simply wait to see whether you receive any offer(s) to purchase. If you are not content, you may wish to consider withdrawing your application and keeping the object in the UK. Any offers will be communicated to you through the Secretary of the Committee, as will (where there is a split deferral) any serious intention to raise funds with a view to making an offer to purchase.

### **What happens if I receive an offer to purchase from a public source?**

43. If an offer to purchase is received by an owner from a public source, (a museum, gallery or other heritage body such as the National Trust) he or she is free to accept or reject it. There is no compulsion on an owner to sell. However, where an owner does not accept an offer from a public source, Ministers, in deciding on the licence application, will take the existence of the offer into account and will normally refuse a licence. Similarly, where an owner makes known his intention to refuse an offer from a public source, Ministers will normally refuse a licence.

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

44. If an owner receives an offer to purchase from a private source, again he or she is free to accept or reject it. There is no compulsion on an owner to sell. However, where an owner does not accept an offer from a private source, Ministers will determine whether to grant the licence. In so doing, Ministers will normally take the existence of an offer into account only where the offerer has combined his offer with a signed undertaking with a public institution that he will:

- (i) guarantee reasonable public access to the object;
- (ii) provide satisfactory conservation conditions; and
- (iii) not sell the object for a specified period (to secure the access in (i) above).

45. Where a private offer is combined with such an undertaking, Ministers will normally refuse an export licence. If no undertaking is given, Ministers will not take the existence of the offer into account and will normally grant an export licence.

**What happens if I accept an offer to purchase?**

46. If you accept an offer to purchase, from either a public or private source, the export licence application lapses.

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

47. 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 55-58 will apply.

**What happens if I receive both a public offer and a private offer with the undertaking as set out in paragraph 44?**

48. Ministers hope that an owner will accept the offer providing the better public access.

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

49. If you do not receive an offer to purchase, your export licence will normally be granted at the end of the deferral period, (or possibly earlier if a split deferral applies, see paragraph 33) although in some circumstances Ministers may decide to defer a decision on your licence application for a further period.

**In what circumstances have Ministers decided to defer a licence for a further period?**

50. If, at the time of the expiry of the deferral period, a public source attempting to acquire the object has a real possibility of finding the outstanding funds required for purchase, Ministers have, in the past, agreed to a further deferral. Additional deferral periods are rare and normally only allowed 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?**

51. The Reviewing Committee only provides advice and recommendations to Ministers. It is for Ministers to make a decision on your licence application. Ministers have discretion in deciding on licence applications; but, that discretion must be exercised reasonably.

**Which offers, in the context of paragraphs 43-45, will Ministers take into account in deciding on an export licence?**

52. Ministers, in deciding on an export licence application in the context of paragraphs 43-45, will take into account the existence of a **compensating offer to purchase**. A compensating offer should not normally disadvantage an owner, or put him in a worse position than he would be in were he to accept a fair market price. An offer from a public source under the private treaty sale arrangements for less than the recommended fair market price can, in certain circumstances, be considered to be a compensating offer to purchase.

## **What are the private treaty sale arrangements?**

53. A private treaty sale of a cultural object to a qualifying public body may be exempt from capital taxation. 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 Ministers 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 private treaty sales to private purchasers.
54. 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 Inland Revenue 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?**

55. Where a subsequent application is made for a licence to export an object of Waverley standard belonging to a person who, at the time of the first application, refused (or declined to consider) an offer to purchase, 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.
56. If a subsequent application is being made within 10 years or so of a licence application which was refused, the applicant for the fresh licence should include, in his 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 he wishes to advance as to why the Committee should not (assuming the object is still found to be of Waverley standard) recommend a further licence refusal, without a deferral period, given the history of the previous application. 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.
57. If the applicant argues that, since the previous application, he has made the object available for sale to a public body (or a private owner within the context of paragraph 44) the Committee can advise on, and Ministers will take into account, all relevant factors, such as, whether the price was reasonable, the identity of the prospective purchaser, the time since the offer and the time since the previous licence refusal. Ministers will take the absence of such a purchase offer into account in deciding on the licence application, but this factor will not necessarily be decisive.
58. An application by a person closely connected with the person who was the owner at the time of the earlier application (for example the spouse of or a company controlled by the previous applicant) will normally be treated in accordance with paragraphs 55-57.

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

59. Staff in the Export Licensing Unit 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 our service, you should contact the person who dealt with the matter, or Lynn Gates, Head of the Export Licensing Unit on 020 7211-6163. Alternatively, you can contact Ms Alex Stewart, Director of Arts and Culture, at the address given in Appendix A on page 17. If you are still not satisfied with the way your complaint has been handled and wish to take the matter further, you can write to the Secretary of State for Culture, Media & Sport or alternatively an MP (who could refer the case to the Parliamentary Commissioner for Administration). As an alternative you may wish to take up your case with your trade association, which is represented on the Advisory Council on the Export of Works of Art.

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

60. 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 is 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 E on pages 22-23.

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

61. 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?**

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

### **What further guidance is available from the Export Licensing Unit?**

63. The following guidance is available free of charge:

*Export Licensing Unit: Code of Practice* (a guide to standards of service - DNH 1994).

### **What guidance is available on the Internet?**

64. DCMS Press Notices about export licensing decisions, and this guidance, can be found on the DCMS website:

[www.culture.gov.uk](http://www.culture.gov.uk)

### **From whom can I obtain further copies of this guidance?**

65. Contact Lily Lokko on 020-7211 6167.

# Table 1

## **Objects excluded from the export control**

*(referred to in paragraph 3)*

### **How to use this table**

If you intend to export an item 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.

### **For a despatch to another EU Member State:**

#### **category of item**

2. Birth, marriage or death certificates or other documents relating to the personal affairs of the exporter or the spouse of the exporter.
3. Letters or other writings written by or to the exporter or the spouse of the exporter.
4. 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.
5. Any object less than 50 years of age at the time of export.

### **For an export to a destination outside the EU**

#### **category of item**

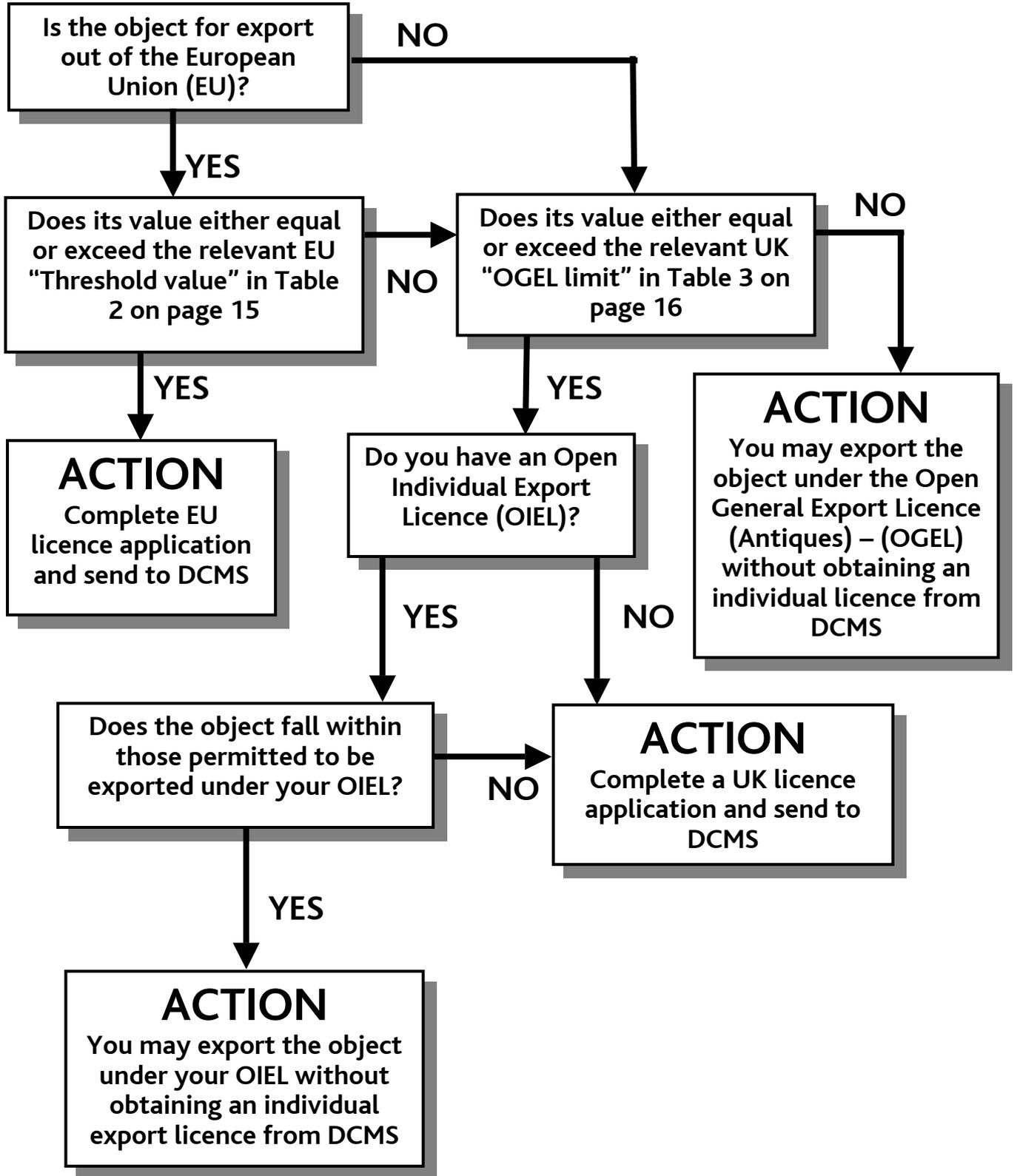
6. Letters or other writings written by or to the exporter or the spouse of the exporter.
7. Any object less than 50 years of age at the time of export.

# Flow chart

(as referred to in paragraphs 4-8)

## 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 15 to 16)*



## Table 2

# EU categories for the export of cultural goods

Category of cultural object	Threshold value
1. Archaeological objects more than 100 years old which are the products of: <ul style="list-style-type: none"> <li>● excavations and finds on land or under water</li> <li>● archaeological sites</li> <li>● archaeological collection</li> </ul>	£ Zero
2. Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, of an age exceeding 100 years	£ Zero
3. Pictures and paintings, other than those included in category 3A or 4, executed entirely by hand in any medium and on any material <sup>(1)</sup>	£ 91,200
3A. Water-colours, gouaches and pastels executed entirely by hand on any material <sup>(1)</sup>	£ 18,200
4. 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 <sup>(1)</sup>	£ 9,100
5. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters <sup>(1)</sup>	£ 9,100
6. Original sculptures or statuary and copies produced by the same process as the original <sup>(1)</sup> , other than those in category 1	£ 30,400
7. Photographs, films and negatives thereof <sup>(1)</sup>	£ 9,100
8. Incunabula and manuscripts, including maps and musical scores, singly or in collections <sup>(1)</sup>	£ Zero
9. Books more than 100 years old, singly or in collections	£ 30,400
10. Printed maps more than 200 years old	£ 9,100
11. Archives, and any elements thereof, of any kind or any medium which are more than 50 years old	£ Zero
12. (a) Collections <sup>(2)</sup> and specimens from zoological, botanical, mineralogical or anatomical collections; (b) Collections <sup>(2)</sup> of historical, palaeontological, ethnographic or numismatic interest	£ 30,400
13. Means of transport more than 75 years old	£ 30,400
14. Any other antique items not included in categories 1 to 13 more than 50 years old <sup>(3)</sup> .	£ 30,400

<sup>1</sup> Which are more than 50 years old and do not belong to their originators

<sup>2</sup> 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.

<sup>3</sup> Please note that Archaeological objects between 50 – 99 years old, Elements forming an integral part of artistic, historical or religious monuments which have been dismembered between 50 – 99 years old, Books between 50 – 99 years old, Printed Maps between 50 – 199 years old and Means of transport between 50 – 74 years old do not require an individual EC licence for export to a non-EU destination. However, these objects may require an individual UK licence for export to a non-EU destination. Please refer to Table 3 on page 16 to see if it would require an individual UK licence.

## Table 3

# OGEL limits for the export of cultural goods

Category of Object	OGEL limit
1. Any item over 50 years of age (excluding objects listed in categories 2 - 10 below) <sup>1</sup>	£ 65,000
2. Archaeological material found in UK soil or UK territorial waters over 50 years of age	£ Zero
3. Manuscripts, documents and archives (excluding printed matter) <sup>2</sup> over 50 years of age	£ Zero
4. Architectural, scientific and engineering drawings 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 likeness of a British Historical Person <sup>3</sup> over 50 years of age	£10,000
8. A firearm over 100 years of age and any other arms or armour <sup>4</sup>	£ 35,000
9. A firearm between 50 and 100 years of age <sup>4</sup>	£ 65,000
10. A painting in oil or tempera (excluding portraits of British Historical Persons) over 50 years of age	£180,000

<sup>1</sup> An individual export licence is not required to export goods to another EU Member State for the following:

- i. musical instruments exported for less than 3 months by a professional musician for use in the course of work;
- ii. musical instruments exported following importation for less than 3 months by a professional musician for use in the course of work;
- iii. motor vehicles (other than those designed or adapted for military or paramilitary use) exported for less than 3 months for use for pleasure purposes;
- iv. foreign registered motor vehicles (other than those designed or adapted for military or paramilitary use) exported following importation for less than 3 months for pleasure purposes.

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

- v. motor vehicles more than 50 and less than 75 years of age (other than those designed or adapted for military or paramilitary use) exported for less than 3 months for use for pleasure purposes;
- vi. foreign registered motor vehicles more than 50 and less than 75 years of age (other than those designed or adapted for military or paramilitary use) exported following importation for less than 3 months for pleasure purposes.

<sup>2</sup> Before considering submitting a licence application for manorial documents, applicants must consult the Secretary of the Royal Commission on Historical Manuscripts (RCHM) on whether the Master of the Rolls will consent to their export.

<sup>3</sup> A British Historical person is someone listed in the *Dictionary of National Biography*, *Who's Who*, or *Who was Who*.

<sup>4</sup> A Department of Trade and Industry export licence 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.

# Appendix A

## Export Licensing Unit and the Secretariat to the Reviewing Committee on the Export of Works of Art

### Export Licensing Unit

Address licence applications to:

**Mrs Margaret Cates**  
Export Licensing Unit  
Department for Culture, Media and Sport  
2-4 Cockspur Street, London, SW1Y 5DH

Telephone numbers: (020) 7211 (then number as shown below- direct dialling)

Margaret Cates  
(In charge of the processing of applications) 6166

Raymond Toth 6168  
Sylvia Smith 6164  
Lily Lokko 6167

Sabrina Belle  
(Verifications on temporary licences) 6153

Fax 6170

email enquiries: [exportlicensing@culture.gsi.gov.uk](mailto:exportlicensing@culture.gsi.gov.uk)

### Secretariat to the Reviewing Committee on the Export of Works of art

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

**Elizabeth Foxell**  
Secretary of the Reviewing Committee on the Export of Works of Art  
2-4 Cockspur Street, London, SW1Y 5DH

Telephone numbers:(020) 7211 (then number as shown below- direct dialling)

Elizabeth Foxell (Secretary) 6160  
Lisa Ray 6162  
Rebecca Mathews 6161

Fax 6170

# Appendix B

## Member States and territories of the European Union

Member States of the European Union (EU) are:

Austria	Ireland
Belgium	Italy
Denmark	Luxembourg
Finland	The Netherlands
France	Portugal
Germany	Spain
Greece	Sweden
United Kingdom	

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 8 and 9. For the purpose of Paragraph 9, 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 C

### Useful addresses:

#### TSO (The Stationery Office)

PO Box 29  
Norwich  
NR3 1GN

Telephone Orders/General Enquiries: 0870-600 5522

Fax Orders: 0870-600 5533

e-mail: [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

#### Wildlife Licensing Section

Global Wildlife Division  
DEFRA  
1/17 Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6EB

General Enquiries: 0117 372 8168/8691

e-mail: [wildlife.licensing@defra.gsi.gov.uk](mailto:wildlife.licensing@defra.gsi.gov.uk)

website: <http://www.defra.gov.uk/wildlife-countryside/gwd/cites/>

#### Export Control Organisation

Department of Trade and Industry  
4th Floor  
4 Abbey Orchard Street  
London  
SW1P 2HT

Telephone: 020 7215 8070

Fax: 020 7215 0558

e-mail: [eco.help@dti.gsi.gov.uk](mailto:eco.help@dti.gsi.gov.uk)

Website: <http://www.dti.gov.uk/export.control/>

#### Historical Manuscripts Commission

Quality House  
Quality Court  
Chancery Lane  
London  
WC2A 1HP

Telephone: 020-7242 1198

Fax: 020-7831 3550

e-mail: [nra@hmc.gov.uk](mailto:nra@hmc.gov.uk)

Website: <http://www.hmc.gov.uk/>

# Appendix D

## Terms of reference and membership of the Reviewing Committee on the Export of Works of Art

### Terms of reference

The Committee was established on 1952, following the recommendations of the Waverley Committee in its Report in September of that year, and was directed:

- (a) to advise on the principles which should govern the control of export of works of art and antiques under the Import, Export and Customs Powers (Defence) Act 1939;
- (b) to consider all cases where refusal of an export licence for a work of art or antique 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; and
- (d) to supervise the operation of the export control system generally.

### Membership

#### **SIR JOHN GUINNESS CB (CHAIRMAN)**

He is a Trustee of the Royal Collection Trust and a Governor of Compton Verney. He was a member of the National Portrait Development Committee and has a deep interest in and knowledge of portraiture, particularly British historical portraits. He was also a member of the East Anglia Regional Committee of the National Trust from 1989 to 1994. He had previously been a member of HM Diplomatic Service and had worked in the Cabinet Office (inter alia involved in the setting up of the National Heritage Memorial Fund) and had been Permanent Secretary of the Department of Energy and Chairman of BNFL.

**Appointed 1 December 1995: appointment expires on 30 November 2003.**

#### **AMANDA ARROWSMITH**

Trained as an archivist at the Bodleian Library. Ms Arrowsmith subsequently worked in archives for Northumberland, Berkshire and Suffolk County Councils before being appointed Director of Libraries and Heritage for Suffolk in 1990, a post from which she retired in March 2001. She has served as a member of the Lord Chancellor's Advisory Committee on Public Records and is a past president of the Society of Archivists. She currently serves on the Executive Committee of the Friends of National Libraries and on the Eastern Region Committee of the South East Museums Service. She is also Chair of the Heritage Lottery Fund Committee for the East of England. **Appointed 1 February 2002: appointment expires 31 January 2006**

#### **PROFESSOR ROSEMARY CRAMP**

Emeritus Professor of Archaeology at the University of Durham. A Commissioner for the Royal Commission on Ancient and Historical Monuments of Scotland, she is also a Member of the Advisory Board for Redundant Churches; former Trustee of the British Museum; Vice President of the Council for British Archaeology and General Editor, *Corpus of Anglo-Saxon Stone Sculpture*. **Appointed 1 March 1994: appointment expires 28 February 2003.**

## DR DAVID EKSERDJIAN

Editor of Apollo magazine since 1997. The author *Correggio* (1997) and *Parmigianino* (forthcoming 2003), he is an expert on Italian renaissance paintings and drawings. Formerly a Fellow of Balliol College Oxford (1983-86) and Corpus Christi College, Oxford (1987-91) he worked in the Old Master Paintings and Master Drawings departments at Christies in London from 1991-1997, and, in addition, from 1992 was Head of European Sculpture and Works of Art Department there. He has organised and contributed to the catalogues of numerous exhibitions, including *Old Master Paintings from the Thyssen-Bornemisza Collection*, Royal Academy 1988) and *Andrea Mantegna* (Royal Academy, London and Metropolitan Museum of Art, New York, 1992). **Appointed 14 November 2002; appointment expires 13 November 2006**

## IAN GOW

The Head of the Curators Department of the National Trust for Scotland. Formerly Curator of Architectural Collections at the National Monuments Record of Scotland. He is Honorary Curator and an Honorary Fellow of the Royal Incorporation of Architects in Scotland and is the Secretary of the Curatorial Committee of the National Trust for Scotland. He has published extensively on the decorative arts and architecture of Scotland. **Appointed 1 December 1994; appointment expires on 30 November 2003.**

## JOHNNY VAN HAEFTEN

Chairman and Managing Director of Johnny Van Haeften Ltd, the gallery specialising in 17<sup>th</sup>-century Dutch and Flemish Old Master pictures which he has run for twenty-five years after working at Christie's. Vice Chairman of the Society of London Art Dealers, member of the Board of the European Fine Art Foundation, former council member of BADA and former Chairman of Pictura, the pictures section of the European Fine Art Fair in Maastricht. **Appointed 28 June 2001; appointment expires on 27 June 2004.**

## TIM KNOX

Architectural Historian at the National Trust since March 1996 and formerly Assistant Curator and Research Assistant at the Royal Institute of British Architects Drawings Collection. He is Chairman and founder member of the Mausolea and Monuments Trust, a Trustee of Spitalfields Historic Buildings Preservation Trust and a member of the Society of Architectural Historians of Great Britain, the Ancient Monuments Society, the Georgian Group, the Victorian Society and the National Arts Collection Fund (The Art Fund). He regularly lectures at home and abroad on subjects such as sculpted wood and the care of outdoor sculpture and has published numerous articles on historic houses, National Trust acquisitions landscape gardens and natural history collections. **Appointed 14 March 2002; appointment expires 13 March 2006.**

## MARTIN LEVY

Chairman of H Blairman & Sons. He was Chairman of the British Antique Dealer's Association 1993-94, Council member of the Furniture History Society 1994-96, and is a member of the Collections Committee for the Jewish Museum and a member of the Spoliation Advisory Panel. He has been published by various journals including *Furniture History*, *Apollo* and *Country Life*. **Appointed 1 March 1997; appointment expires on 28 February 2003.**

# Appendix E

## Composition of the Advisory Council on the Export of Works of Art

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 (that is representatives of the Department for Culture, Media and Sport, Department of Trade and Industry, HM Treasury, Foreign and Commonwealth Office, HM Customs and Excise, Scottish Executive Education Department, National Assembly for Wales and the Northern Ireland Department for Culture, Arts and Leisure);
- (c) the Directors of the English and Scottish national collections, the National Museum of Wales, the Ulster Museum, and the Librarians of the National Libraries of Wales and Scotland;
- (d) the Expert Advisers to the Department for Culture, Media and Sport, 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 of England  
Arts Council of Northern Ireland  
Arts Council of Wales  
Association of Independent Museums  
Conference of Directors of the National Museums and Galleries  
Friends of the National Libraries  
Heritage Lottery Fund  
National Archives of Scotland  
National Art Collections Fund  
National Heritage Memorial Fund  
National Trust  
National Trust for Scotland  
Pilgrim Trust  
Public Record Office  
Resource\Science Museum Fund for the Preservation of Scientific and Industrial Material (PRISM)  
Resource\Victoria & Albert Museum Purchase Grant Fund  
Scottish Arts Council

- (g) representatives of:

British Academy  
British Records Association  
Canadian Cultural Property Export Review Board (*Observer Status*)  
Chartered Institute of Library and Information Professionals  
Council for British Archaeology  
Historic Houses Association  
Historical Manuscripts Commission  
Resource: The Council for Museums, Archives and Libraries  
Royal Academy of Arts

Royal Historical Society  
Royal Scottish Academy  
Scottish Records Association  
Society of Antiquaries of London  
Society of Archivists  
Standing Conference of National and University Libraries

(h) representatives of the trade nominated by:

Antiquarian Booksellers' Association (two)  
Antiquities Dealers' Association (two)  
Association of Art and Antique Dealers (two)  
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)  
Sotheby's