

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Import of cultural goods		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	TAXUD / UNIT B1	DATE OF ROADMAP	17/11/2016
LIKELY TYPE OF INITIATIVE	European Parliament and Council Regulation		
INDICATIVE PLANNING	2 nd quarter 2017		
ADDITIONAL INFORMATION	-		
<p>This Inception Impact Assessment aims to inform stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options. The Inception Impact Assessment is provided for information purposes only and its content may change. This Inception Impact Assessment does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</p>			

A. Context, Problem definition and Subsidiarity Check
<p>Context</p> <p>The European Commission, responding to the conclusions of the Council on the fight against the financing of terrorism of 12 February 2016, as well as to the requests of several Member State governments, is considering to propose measures which will counter the illicit trafficking in cultural goods more effectively. The Commission adopted, in February 2016, a Communication on an Action Plan for strengthening the fight against terrorist financing [COM(2016) 50 final]. The Commission Action Plan lists, among other actions, the preparation of a legislative proposal against the illicit trade in cultural goods by June 2017. This proposal is included in the Commission Work Programme 2017.</p> <p>The proposal for legislative measures regarding the import of cultural goods aims to complement the existing EU legislation on the export of cultural goods (Regulation 116/2009) and to provide a more comprehensive response to the problem of illicit trafficking than the current prohibition of trade in cultural goods which covers only Iraq and Syria (Regulations 1210/2003 and 36/2012).</p>
<p>Problem the initiative aims to tackle</p> <p>Cultural heritage is essential for people's identity and memory, for preserving traditions, uniqueness and creating the sense of belonging to a community. While plundering of archaeological sites and historical monuments is a very old phenomenon, it has significantly escalated in recent times due to major technological advancements. Thieves and traffickers have benefited from the availability of powerful detecting and digging tools, better transport and travel, as well as from online means of communication which allow them to sell the artefacts to potential clients undetected. Social and geopolitical factors further contribute to the rise of this threat to world cultural heritage, namely, the trafficking of cultural heritage objects perpetrated by terrorist or warring factions with an aim to culturally cleanse populations in the territories they occupy and to obtain financing for their activities and, last but not least, the emergence of demand in wealthy countries for archaeological or ethnographic objects as investment opportunities, status symbols or just for their aesthetic properties.</p> <p>Europe, where art and culture are highly prized and where many wealthy buyers can be found, is a favourite outlet for illicit trafficking. Unscrupulous dealers buy cultural goods from middlemen operating in impoverished or war-torn countries, who themselves pay only a tiny fraction of the final sale price – studies indicate less than 1% - to the locals who do the digging. This short-term gain, robs them and their country from the benefits of sustainable tourism, education and preserving a cultural identity. Trafficking in cultural goods is a transnational illicit trade which fosters terrorism, money laundering, tax evasion, and organised crime.</p> <p>The European Union does not have common rules with regard to the import of cultural goods and this creates uncertainty about the applicable law and favours the development of trafficking routes through the most vulnerable parts of the unevenly regulated Union. While EU customs are uniquely well-placed at the stage of physical delivery to intercept incoming illicit cultural goods and prevent trafficking, they lack the appropriate legal and operational means, as well as sufficient access to specialised expertise, to carry out the difficult task of detecting and, most of all, proving the illicit character of the goods, i.e. that the goods exited the export country illegally.</p> <p>While cases of seizures of illicit cultural goods by customs at import confirms that the problem is real, their numbers are not enough to draw up reliable official statistics on the exact magnitude of what is after all an illegal</p>

<p>activity. However, with regard in particular to the financing of terrorism, there is evidence that ISIS and other warring factions derive income from the trade of looted cultural goods. Official communications to the United Nations Security Council estimate that the illicit trade in antiquities and archaeological treasures from the Middle East amounts to \$ 150-200 million per year.</p>
<p>Subsidiarity check (and legal basis)</p>
<p>The legal basis for this legislative proposal is Article 207 of the Treaty on the Functioning of the European Union (TFEU). Article 207 lays down provisions regarding the common commercial policy of the EU. It states that the European Parliament and Council, acting by means of Regulations in accordance with the ordinary legislative procedure, adopt measures defining the framework for implementing the common commercial policy.</p>
<p>B. Objectives and Policy options</p>
<p>The main objective of this initiative is to combat illicit trafficking in cultural goods by facilitating the work of EU customs authorities in identifying and intercepting cultural goods that have exited the third country of origin illegally. This would disrupt an important source of revenue for organised crime and terrorists and would, in general, protect world cultural heritage.</p> <p>In the absence of EU action (except for the two <i>ad hoc</i> Regulations on Syria and Iraq) illicit trafficking in cultural goods will continue to be covered by diverging or even no national measures, as not all Member States currently have legislation in this area. The absence of uniform rules will continue to foster smuggling routes used by criminals who exploit the absence or laxity of law in certain Member States. Moreover, the applicable law would remain unclear for museums, art dealers, collectors, tourists and travellers. As a result, criminals and terrorists will continue their activities unhindered and precious cultural artefacts will continue disappearing to the detriment of cultural identity, education and science.</p> <p>Customs measures at import could range from authorisation requirements, either in the country of export and/or in the EU, to 'self-certification' requirements, i.e. declarations by the EU importer that the good has exited the country of export in accordance with its laws and regulations. In any case, customs should be able to seize the cultural good when there is sufficient reason to believe it was exported illegally and the importer is unable to prove the legality of export from the source country; also, traceability of the object after entry in the EU should be ensured.</p> <p>The effectiveness of import measures could be enhanced if they are followed by appropriate training of customs officers, awareness campaigns, exchange of information and co-operation between customs and other authorities and internal market measures addressing the art market and museums, such as inventorying obligations and the formal recognition by the EU of existing codes of ethics or conduct for museums and the art market.</p>
<p>C. Preliminary Assessment of Expected Impacts</p>
<p>Likely economic impacts</p>
<p>The customs measures at import could result in the loss of income from sales of illicit cultural goods, i.e. goods that were exported in violation of the origin country's laws and regulations. As such income usually profits criminal elements, including terrorists, this should be seen as a positive outcome for society and the protection of world cultural heritage. Moreover, the law-abiding collectors, investors and art dealers in Europe will benefit from greater legal certainty and transparency. The latter will be able to boast conflict-free works of art to their clients – and possibly charge higher prices – as it happened in the case of conflict-free diamonds after implementation of the Kimberley Process.</p> <p>With regard to EU customs authorities, additional expenses are foreseen to cover training, inspections and formalities. The likely impact on EU public administrations will depend mostly on the choice of stricter, authorisation requirements at import or of other, softer import control measures.</p> <p>The impact on third countries is expected to be positive. While in the short term local populations may lose a source of income from selling objects they find in illegal excavations ('subsistence digging') and bribes they receive to smuggle the goods outside the country, in the longer term, (a) the national treasures will stay in the country and provide more sustainable income for the whole area as they attract tourism; (b) terrorist plans to culturally cleanse the population in the areas they control will not succeed; (c) organised crime, warring factions and terrorists will lose a source of income.</p>
<p>Likely social impacts</p>
<p>Combatting illicit trafficking is expected to have a positive impact on security by depriving terrorists and organised crime from a source of income. Moreover, by helping to preserve humanity's cultural heritage it will promote social cohesion, sustainable tourism and education and will preserve national and historical identity.</p>
<p>Likely environmental impacts</p>
<p>The initiative is not expected to have any environmental impact.</p>

Likely impacts on fundamental rights
The initiative is not expected to have any impact on fundamental rights.
Likely impacts on simplification and/or administrative burden
Common rules and procedures on the import of cultural goods will provide legal certainty to trade operators and buyers, as opposed to the fragmented and unequal protection offered by national measures - where such measures even exist. By adopting common rules and procedures, the work of EU customs will be simplified, as there will be clear requirements and procedures to follow when cultural goods arrive at the EU borders. Compliance costs for operators will depend on the requirements chosen. Effort will be made to achieve the same objectives by the least burdensome import requirements. The impact assessment will examine ways to avoid any disproportionate compliance burden placed on SMEs.
D. Data Collection and Better Regulation Instruments
Impact assessment
An impact assessment is being carried out to support the preparation of this proposal and to inform the Commission's decision. An Inter-Service Steering Group has been set up to steer the work. In addition to the relevant services from DG Taxation and Customs Union (TAXUD), the following Commission services have been involved: the Legal Service; the Secretariat-General; DG EAC; DG GROW; DG HOME; DG TRADE; DG JUST; and DG DEVCO.
Data collection
The study carried out in 2011 by DG HOME, titled ' Preventing and fighting illicit trafficking in cultural goods in the European Union ' analysed the phenomenon extensively from an EU point of view (i.e. focusing mostly on the protection of EU cultural goods) and made a number of recommendations for actions and measures addressing the various parameters and drivers of the problem. In January 2016, DG TAXUD launched a study titled 'Fighting illicit trafficking in cultural goods: analysis of customs issues in the EU' to examine how the role and powers of EU customs could be enhanced in fighting illicit trafficking in cultural goods, in particular with a focus on the importation of those goods. The first results were delivered at the end of October 2016. In addition, DG TAXUD intends to use implementation reports of related EU legislation, as well as information from online publications, databases, <i>fora</i> and documents produced by international organisations (UNESCO, UNSC, Interpol, WCO and ICOM). Reference will also be made to a large list of books, press articles and documentaries that has been compiled for this purpose.
Consultation strategy
Within the framework of the preparatory study 'Fighting illicit trafficking in cultural goods: analysis of customs issues in the EU' commissioned by DG TAXUD, a targeted consultation of stakeholders was carried out via interviews and detailed online questionnaires (EU Member States cultural and customs authorities; international organisations, market operators; some third country authorities). A 12-week open public consultation was launched on 28.10.2016, accessible via YourVoiceInEurope as well as TAXUD's consultation page. The questionnaire will be available in all official languages and replies can be provided in any of the 24 official EU languages. The results of all consultation activities will be summarised in a Synopsis Report. This report will be published on the consultation web page. Consultation sessions with the Expert Group on Customs Issues related to Cultural Goods were organised and targeted consultation on administrative burden and compliance costs is also foreseen once the policy choice on import requirements is made.
Will an Implementation plan be established?
No implementation plan will be established, given that the Regulation will not be one of a complex nature.