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Introduction

Since its adoption in 1977, the *Cultural Property Export and Import Act* (Act) has served to encourage and ensure the preservation in Canada of significant examples of our artistic, historic, and scientific heritage. The Act accomplishes this objective through the following five provisions:

- Designation of organizations that have demonstrated the capacity to preserve cultural property and make it accessible to the public;
- Tax incentives to encourage Canadians to donate or sell significant cultural property to designated organizations;
- Grants to assist designated organizations with the purchase of cultural property;
- Export control; and
- Import control.

The responsibility for carrying out these provisions is shared by the Minister of Canadian Heritage and an independent administrative tribunal established by the Act, the Canadian Cultural Property Export Review Board, together with other government organizations responsible for administering and enforcing specific elements of the legislation.

This report will cover the aspects of the Act that are the responsibility of the Minister of Canadian Heritage from April 1, 2021 to March 31, 2022. Activities under the Act that are the responsibility of the Board, including the certification of cultural property for income tax purposes and the review of refused export permits, are covered in a separate report, issued by the Board.

Minister's message

As Minister of Canadian Heritage, I am proud to present the Annual Report on the Administration of the *Cultural Property Export and Import Act* for 2021–2022. Since its adoption in 1977, the Act has helped ensure the preservation of significant examples of Canada's artistic, historic and scientific heritage.

This report refers solely to the work of the Department of Canadian Heritage to support the administration of the Act. The Canadian Cultural Property Export Review Board has prepared a separate report detailing its own work administering the Act. I am pleased to table both reports before Parliament and make them available to Canadians.



Arts and culture are at the very heart of our identity. They not only enrich our lives, but also bring us together, help us better understand one another, and allow us to make our mark on the world stage. This is why it is so important to preserve Canada's cultural property and heritage. In 2021–2022, the Government of Canada's commitment to protect cultural heritage internationally also took on greater importance. We stand in solidarity with the people of Ukraine and have provided them with our assistance to protect their cultural heritage from looting, illicit trafficking and destruction. In March 2022, Canadian Heritage, Parks Canada and the Canada Council for the Arts contributed \$4.8 million to UNESCO's Heritage Emergency Fund to help protect endangered cultural heritage, with a focus on Ukraine.

The Movable Cultural Property Program also provides support to acquire and repatriate cultural property relating to our national heritage and to retain cultural property threatened with export. This year, the Program helped the University of British Columbia Rare Books and Special Collections Library acquire a rare first edition of Shakespeare's collected works, known as the "First Folio." It also helped the Manitoba Museum acquire a painting by Canadian artist Paul Kane, and the Museum of Northern British Columbia to purchase a Shaman's waist robe associated with the Tlingit people of the Pacific Northwest Coast. All three objects have been made available to the Canadian public.

To learn more about the accomplishments of the Movable Cultural Property Program over the past year, I invite you to continue reading this report. I would like to thank everyone who has demonstrated vigilance and professionalism to help safeguard our country's cultural property, both here in Canada and around the world.

A handwritten signature in black ink, appearing to read 'Pascale St-Onge'. The signature is fluid and cursive, with a long horizontal flourish extending to the right.

The Honourable Pascale St-Onge

Report of the Movable Cultural Program

Overview

The Movable Cultural Property Program (MCP) within the Department of Canadian Heritage is responsible for:

- assessing organizations for the purpose of designation;
- assessing applications for Movable Cultural Property grants;
- export control; and
- import control.

Designation of organizations

Organizations such as museums, art galleries, libraries, archives, municipalities, and public authorities must be designated in order to be eligible to apply for the certification of cultural property or for a Movable Cultural Property grant. Designation is a ministerial responsibility and a means of ensuring that cultural property certified by the Review Board or acquired with the assistance of a Movable Cultural Property grant is housed in organizations that have the capacity to ensure its long-term preservation and to make it accessible to the public through research, exhibitions, and in print or online publication.

Organizations may be designated as Category A or B. Under Category A, organizations are designated in relation to any cultural property that falls within their collecting mandate. Under Category B, organizations are designated only in relation to a specific cultural property or collection.

A total of 4 organizations were granted designation in 2021-22. For an overview of organizations designated in 2021-22, please refer to [Appendix 1-4](#). During the course of the year, the Department also continued its targeted review of designated organizations collecting audiovisual material and digital records. Eleven organizations in total have been identified as part of this exercise. These organizations are now required to obtain a designation for Class 9 objects to ensure they have the capacity to preserve these specialized materials for the long term. This year, two other organizations were designated for Class 9, bringing to three the total number of organizations so far designated through this exercise.

For a complete list of Category A organizations, please refer to the [corresponding page](#) of the departmental website.

Movable Cultural Property grants

Under Section 35 of the Act, the Minister may provide grants to designated organizations to assist with the purchase of cultural property that has been denied an export permit or that is outside of Canada but available for sale on the international market and related to the national heritage.

Three Moveable Cultural Property grants were awarded in 2021-2022 to aid in the purchase of the following cultural property: a Shaman's waist robe associated with the Tlingit people of the Pacific Northwest Coast, a painting by Canadian artist Paul Kane, and a first edition of Shakespeare's collected works referred to as the "First Folio." All three objects were found to have a strong association with Canada's national heritage and have been made available to the Canadian public.

The waist robe has been put on permanent display in the galleries of the Museum of Northern British Columbia and the Paul Kane painting has been put on permanent display at the Manitoba Museum, both of which are open to the public year-round. The "First Folio" was temporarily displayed at the Vancouver Art Gallery and is now permanently housed in the University of British Columbia Rare Books and Special Collections Library, who has fully digitized the book and made it available online.

For an overview of the Movable Cultural Property grants issued in 2021-22, please refer to [Appendix 1-3](#).

Import control

International cooperation under the 1970 UNESCO Convention

In 1978, Canada became a signatory to the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. This Convention places the onus on each signatory state to develop its own legislation to protect and preserve its cultural heritage and to establish measures to facilitate the return of illegally exported cultural property to its country of origin. The Act contains provisions making it an offence to import into Canada cultural property that has been illegally exported from a state that is a fellow signatory to an international cultural property agreement. Penalties upon conviction of an offence under the Act include a fine, imprisonment, or both.

Canada has returned over 22,000 objects on 27 occasions to 14 different states in Africa, Asia, Europe, the Middle East as well as South and Central America since the 1970 UNESCO Convention came into force in Canada in 1978.

The Program reviewed over 50 imports in 2021-22, which were detained by the Canada Border Services Agency. On average 98 per cent of these cases were resolved in less than 90 days.

International cooperation under the 1954 UNESCO Hague Convention

The *UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict*, known as the *1954 Hague Convention*, was developed in response to concerns over the destruction of cultural property,

including monuments, museums, libraries and archives, during the Second World War. The *Convention* is regarded as one of the most important components of the international effort to protect cultural heritage.

The two Protocols to the *Convention* make it illegal to export cultural property from occupied territories as well and provide for the return of any illegally exported property. They also impose obligations on the prosecution of violations of the Convention.

Canadians who participate in the deliberate destruction or illegal export of cultural property, either during peace time or during conflict, may be committing an offence under the Criminal Code or the *Cultural Property Export and Import Act*.

Since 2005, it is also an offence under the Criminal Code for Canadians to damage or destroy cultural property anywhere outside Canada at any time.

In 2021-22, there were no convictions for offences committed by Canadians against cultural property outside of Canada.

Illegal imports

There were no returns of illegally imported cultural property in 2021-22.

Response to the invasion of Ukraine

While most armed conflicts result in damage and destruction of cultural heritage, the Russian invasion of Ukraine (begun February 24, 2022) has been marked by significant levels of deliberate destruction, accompanied by indications of looting from museums as well as archaeological and heritage sites and illicit traffic in cultural property derived from such acts.

In 2015, UNESCO established the Heritage Emergency Fund (HEF) a multi-donor and non-earmarked funding mechanism to enable a quick and effective response to crises resulting from armed conflicts and natural and human-made disasters. In March 2022, Canadian Heritage, Parks Canada and the Canada Council for the Arts contributed \$4.8 million to the HEF to help protect endangered cultural heritage, with a focus on Ukraine.

Export control

Archaeological, historical, cultural, artistic, and scientific objects are all considered movable cultural property, but only certain types of cultural property are subject to export control under the Act. The *Canadian Cultural Property Export Control List* defines classes of property that are subject to export control based on age and value (see [Appendix 1-1](#) for a summary of the groups on this list).

If cultural property is included on the Control List, an export permit is required for its temporary or permanent removal from the country. The Movable Cultural Property Program liaises with and responds to questions from Canada Border Services Agency permit-issuing offices, expert examiners, and members of the public to

ensure that the export-control system works effectively. Movable Cultural Property also interprets the *Control List* for these stakeholders.

Export permits

Temporary and permanent export permits are issued by permit officers in 16 Canada Border Services Agency permit offices located across Canada. Applications for temporary export, for objects that have been in Canada less than 35 years or which are being returned after a loan to a Canadian institution by a non-resident will all be issued automatically by the Canada Border Services Agency. All other applications for permanent export will be reviewed by an expert examiner (i.e., for sale on an international market, delivery to foreign buyers, or moving abroad). Close to 80 institutions are designated to act as expert examiners. These include museums, art galleries, archives, libraries and universities across Canada. The role of expert examiners is to advise Canada Border Services Agency as to whether cultural property faced with export meets the criteria of outstanding significance and national importance as set out in the Act.

If the permit officer determines that an object subject to permanent export is included on the *Control List* and has been in the country for more than 35 years, the officer must forward a copy of the application to an expert examiner for a recommendation as to whether that object is of outstanding significance and national importance. If the expert examiner deems this to be the case, the officer will refuse the permit; otherwise, it will be issued.

In response to the COVID-19 pandemic, and the extended closure of many designated expert examiner institutions, measures were put in place to facilitate the review of applications by expert examiners with minimal delay to exporters. These measures were continued in 2021-22.

Information regarding reviews of refused permit applications is available in the report of the activities of the Canadian Cultural Property Export Review Board.

General export permits

A general permit may be issued to any resident of Canada who regularly exports cultural property that falls under the *Control List*. General permits may be granted to organizations whose core business is unduly inconvenienced by the necessity of applying for individual permits or to organizations which have a large volume of cultural property exports.

A general permit will be issued when it can be demonstrated that the property to be exported would routinely be approved for export. Routinely approved permits include temporary permits, permits for objects that have been in Canada less than 35 years or permits for objects returned after loan to a Canadian institution or public authority. Cultural property that must be reviewed by an Expert Examiner under the permanent export permit process would not normally be considered eligible for a general permit.

To date, a total of 14 General Permits have been issued. For an overview of export-permit applications covering the 2021-22 fiscal year, please refer to [Appendix 1-2](#).

Illegal exports

Pursuant to Article 1 of the *1970 UNESCO Convention*, Section 38 of the Act states that any cultural property included on the *Control List* is designated by Canada to be of importance for archaeology, ethnography, history, culture, art, or science. The Act contains provisions making it a criminal offence to export or attempt to export from Canada any property included on the *Control List* except under the authority of and in accordance with a temporary or permanent permit issued under the Act. Penalties upon conviction of an offence under the Act include a fine, imprisonment, or both. Under the terms of the *1970 UNESCO Convention*, if illegally exported cultural property is imported into a fellow signatory state, Canada may be afforded the opportunity to request its return.

In 2021-22, there were no convictions under the Act.

Appendices

Appendix 1-1: Canadian Cultural Property Export Control List

The following list describes the groups of cultural property controlled under the *Cultural Property Export and Import Act*.

Group I: Objects recovered from the soil or waters of Canada.

Group II: Objects of ethnographic material culture.

Group III: Military objects.

Group IV: Objects of applied and decorative art.

Group V: Objects of fine art.

Group VI: Scientific or technological objects.

Group VII: Textual records, graphic records, and sound recordings.

Group VIII: Musical instruments.

Appendix 1-2: Export-permit applications

Table 1. Export-permit applications, fiscal year 2021-22

Export-permit applications	Number of applications
Number of applications for temporary permits (i.e., for exhibition, conservation, or research).	53
Number of applications for permanent export. Includes permits issued automatically and reviewed by an expert examiner.	962
Total number of applications received.	1015
Number of applications refused (To access the complete list of refused applications, please refer to the report on the activities of the Board).	5
Number of general permits issued or renewed.	6

Appendix 1-3: Movable Cultural Property grants issued

Table 2. Movable Cultural Property grants, fiscal year 2021-2022

Grant no.	Description	Grant value (CAD)
823	Museum of Northern British Columbia: Shaman's waist robe associated with the Tlingit people of the Pacific Northwest Coast, c. 1830-1860.	\$37,500
824	University of British Columbia Library, Rare Books and Special Collections: <i>Mr. William Shakespeare's Comedies, Histories and Tragedies (The First Folio)</i> , 1623.	\$500,000
825	The Manitoba Museum: <i>The Trapper</i> , painting attributed to Canadian artist Paul Kane, 1849.	\$50,000
Total		\$587,500

Appendix 1-4: Category A and B designations

Table 3. Category A and B designations, fiscal year 2021-22

Category	Object Class	Organization	Effective Date
A	9	University of Calgary, Libraries and Cultural Resources	September 21, 2021
A	9	University of British Columbia Library, Rare Books and Special Collections	March 10, 2022
B	5	Trent University (Trent University Art Collection)	November 15, 2021
B	5	Manitoba Museum	February 18, 2022

For a complete list of Category A organizations, please refer to the [corresponding page](#) of the departmental website.