

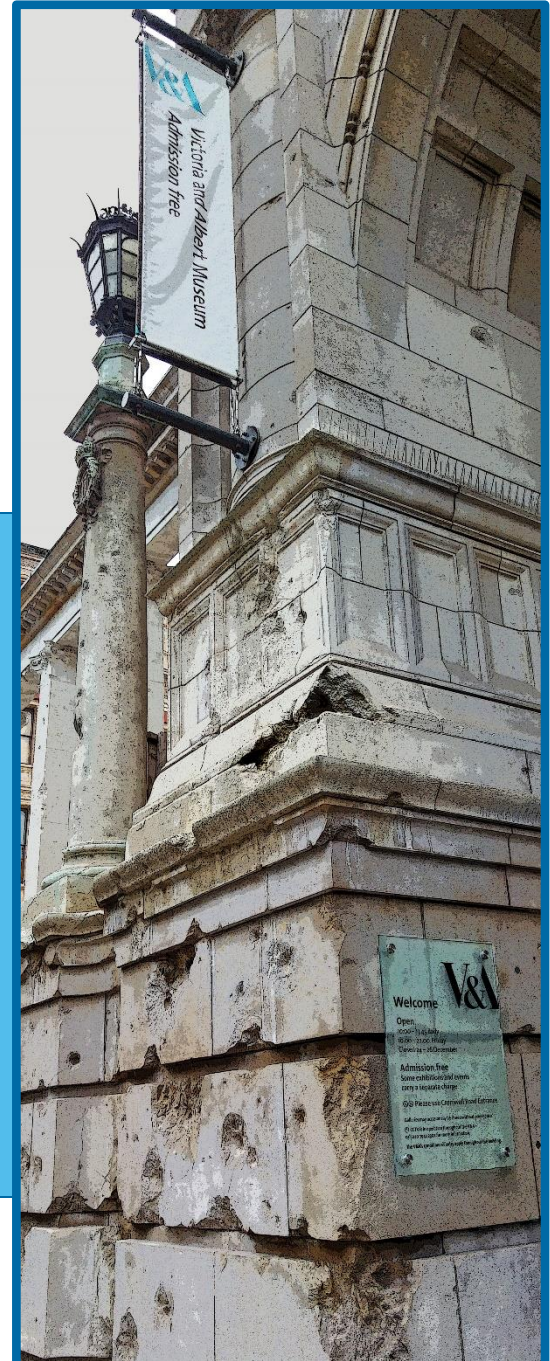


UK BLUE SHIELD

**UK IMPLEMENTATION OF  
THE 1954 HAGUE  
CONVENTION FOR THE  
PROTECTION OF CULTURAL  
PROPERTY IN THE EVENT OF  
ARMED CONFLICT: S. 17  
*OFFENCE DEALING IN  
UNLAWFULLY EXPORTED  
CULTURAL PROPERTY***

**POSITION PAPER**

30 April 2018





## 1.0 Introduction

- 1.1 In December 2017, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its First and Second Protocols (1954/1999) (hereafter the “Convention”, “First Protocol”, and “Second Protocol” respectively) entered into force in the UK, together with the Cultural Property (Armed Conflict) Act 2017 (“CPAC Act”). The CPAC Act includes a criminal offence pursuant to Article 15 of the First Protocol which creates the offence of Dealing in Unlawfully Exported Cultural Property. (“s.17 Offence”). In November 2017 the Department of Culture Media and Sport released Guidance for art dealers and those in the art market in respect of the CPAC Act, and specific guidance in respect of the s.17 Offence (“s.17 Guidance”).
- 1.2 In July 2017, Deloitte suggested that the estimated profit made by terrorist groups through the illicit trade was between 150 to 200 million USD per year<sup>1</sup>. Whilst reliable reports and data are not widely available, the illicit trafficking of antiquities is recognised as a source of income for organised crime, causing countries around the world to implement measures to combat it. UK Blue Shield welcomes the implementation of the Convention and its Protocols as an important step in the UK’s fight to protect cultural heritage during armed conflict. We also welcome the UK’s implementation of a right to seize unlawfully exported cultural property, as set out in s.19 of the CPAC Act, which we hope may contribute to the repatriation of cultural property to territories that have suffered the loss of their cultural heritage as a result of conflict.
- 1.3 However, as the s.17 Guidance is addressed largely to those in the art market, which typically includes collectors, art dealers, auction houses, and shipping agents, the majority of whom do not have a legal background, we are concerned that the s.17 Guidance lacks necessary detail and clarity in some fundamental areas which are vital to the spirit of the Convention and its Protocols.
- 1.4 As a conviction under s.17 of the CPAC Act may attract a custodial sentence of up to 7 years, we urge the UK Government to address the concerns set out herein to provide greater clarity to those involved in the art market as to their obligations and to highlight how these obligations have changed as a result of the introduction of the s.17 Offence.
- 1.5 We hope that the s.17 Offence acts as a deterrent and encourages all those involved in the art market to exercise due diligence when dealing in cultural property, thus ensuring that the UK fulfils its obligations under the Convention to respect cultural heritage and to combat the illicit trafficking of cultural property unlawfully exported during conflict.

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<sup>1</sup> *Fighting Illicit Trafficking in Cultural Goods: Analysis of Customs Issues in the EU*  
[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/annex\\_08\\_dg\\_taxud\\_study\\_fighting\\_illicit\\_traffic\\_king\\_in\\_cultural\\_goods\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/annex_08_dg_taxud_study_fighting_illicit_traffic_king_in_cultural_goods_en.pdf)



## 2.0 Current implementation standards and identified issues

- 2.1 Whilst the UK Blue Shield welcomes the implementation of the Convention through the CPAC Act and the s.17 Offence, we express in this position paper some concerns about the level of detail and clarity in several aspects of the s.17 Guidance. These concerns arise largely because the s.17 Guidance is addressed primarily to those who are not from a legal, military, or heritage background. In this position paper, we address:
- a) **s.17 Guidance note Section 2.2** – Definition of cultural property and the wording used to explain this definition in the s.17 Guidance;
  - b) **s.17 Guidance note Section 1.2 and Annex A (Checklist for Dealers)** – Ambiguity surrounding whether import is interpreted solely as “first import” or also covers “re-import”;
  - c) **Implementation of Article 2 of the First Protocol and s.19 of the CPAC Act** – Rights and obligations of forfeiture and reconciliation with conflict of law principles; and
  - d) **Sentencing Guidelines**- We note that sentencing guidelines have not been issued, but we have set out one particular area of concern. Prosecutors and courts in the UK may need to be made aware that legal owners of cultural property may nevertheless be in violation of s.17 after having been displaced by conflict in their country.

The following paragraphs provide more detail on these concerns.

## 3.0 Guidance note Section 2.2 – Definition of Cultural Property

- 3.1 Guidance note 2 tackles the question of ‘What cultural property is covered?’ The Guidance states that ‘cultural property’ as defined within the CPAC Act has the meaning given in Article 1 of the Convention. The Guidance then goes on to say:

*‘It is important to note that, in order to qualify as ‘cultural property’ under the Convention, the property must be of “great importance to the cultural heritage of every people”. As such, the definition will only apply to a small but very special category of cultural objects.’*

There are a number of flaws in this answer to the question of ‘What cultural property is covered?’

- 3.2 Firstly, this wording is somewhat misleading and fails to adequately explain the definition of cultural property in the Convention. Cultural property as defined in Article 1 of the Convention is, in effect, the cultural property within a territory that that State Party



considers to be of great importance to its cultural heritage (and thus worthy of protection during conflict). It does not relate only to cultural property that would be considered of great importance to all humankind, such as a World Heritage site. As set out in the preamble to the Convention, damage to cultural property considered by one State Party to be of great importance to its cultural heritage represents damage to the cultural heritage of the world<sup>2</sup>. Cultural property in Article 1 of the Convention is limited to that which is considered worthy of a greater level of protection during conflict due to its identified importance<sup>3</sup> but which does not necessarily meet the criteria for “Special Protection” or “Enhanced Protection”. The s.17 Offence, therefore, encompasses cultural property that warrants protection during conflict even if this is only the lowest level of protection afforded by the Convention, as long as it is (or was) illegally removed from territory while it was occupied by another State Party, and either the occupied or occupying State was party to either the First Protocol or Second Protocol. Although unlawfully exported cultural property for the purpose of the s.17 Offence must meet several further criteria, we anticipate that this will be more than a “small but very special category of objects”.

- 3.3 It is fair to say that - of all objects that could be considered in generic terms to be of some cultural, archaeological, artistic, historical or scientific significance - the number of objects that would be considered worthy of protection during conflict due to their great importance may be proportionally small (when compared to the possible total number). However, as the s.17 Guidance is aimed at the art market, their business models and objectives are to seek and obtain precisely those rare and culturally significant objects. We therefore consider that of those cultural objects that are offered to a dealer or collector in the UK, a much larger proportion of these objects could potentially be cultural property for the purposes of the s.17 Offence than is suggested in the s.17 Guidance.
- 3.4 We recommend the deletion of this wording at Guidance note 2.2 and encourage a clearer explanation of the meaning of cultural property in the Convention. This is especially important as it relates to the first question on the checklist for dealers set out at Annex A of the s.17 Guidance. We also stress that while an offence may not have been committed under s.17, an offence may still have been committed under other legislation (such as under POCA or Dealing in Cultural Objects (Offences) Act 2003). We therefore recommend that the Checklist for Dealers is amended as annexed to this position paper (Annex 1) to highlight this further risk, and that the CPAC Act is just one part of the legislative framework governing this area.
- 3.5 Secondly, although ‘cultural property’ is defined at s.2 of the CPAC Act as having the meaning as set out in Article 1 of the Convention, the definition of “unlawfully exported cultural property” in the CPAC Act for the purposes of Part 4 of the Act is given at s.16(1)

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<sup>2</sup> Chamberlain, K. (2013). *War on Cultural Heritage: A commentary of the 1954 Hague Convention and its Two Protocols* 2<sup>nd</sup> ed.

<sup>3</sup> This provision refers only to cultural property inventoried under the 1954 Hague Convention Article 1 definition. Cultural property more generally may, of course, also be eligible for protection under other instruments, such as the 1907 Hague Regulations, and as civilian property.



and refers simply to ‘property’ in an undefined sense rather than the previously defined ‘cultural property’. Part 4 of the CPAC Act includes the s.17 Offence and thus it would appear that, for the purposes of the s.17 Offence, cultural property is not limited to the definition given at s.2 of the CPAC Act, and instead relates to all property that could generically be considered cultural.

- 3.6 Whilst we suspect that the use of ‘property’ rather than ‘cultural property’ in the definition of “unlawfully exported cultural property” at s.16 is an oversight, (and indeed the s.17 Guidance refers to the s.2 definition of ‘cultural property’), the wording of s.16 does suggest that the s.17 Offence is much wider than the s.17 Guidance would indicate. We would urge the UK Government to clarify this ambiguity and state explicitly how ‘cultural property’ should be interpreted within the defined term “unlawfully exported cultural property”. As it stands, this could be interpreted so widely as to include all kinds of cultural property unlawfully exported from occupied territories during conflict, in which case the s.17 Guidance should be updated accordingly.
- 3.7 Thirdly, as cultural property under the CPAC Act and the Convention covers state and privately owned cultural property, the unlawful export is not necessarily linked to theft. The legal owner in the country of origin could unlawfully export cultural property, and attempt to sell it in the UK, which would be an offence under s.17. In our discussions with law enforcement and the art market, much of the discussion is around ‘looting’ which is linked to theft. As explained in this position paper, as the s.17 Offence may attract a custodial sentence, we consider it important that the art market is fully aware and informed of its obligations. We therefore encourage the inclusion of additional wording in the s.17 Guidance to expressly set out that acquiring cultural property from the legal owner may still constitute a s.17 Offence if there is reason to suspect that the cultural property was unlawfully exported from occupied territory.
- 3.8 Finally, we ask the UK Government to clarify whether it considers single objects unlawfully removed from important monuments, collections or sites to be capable of falling within ‘unlawfully exported cultural property’ (assuming that the monument, collection or site from which they have been removed was itself considered ‘of the greatest importance to every people’ pursuant to Article 1 of the Convention).

Below are some examples<sup>4</sup> with two potential interpretations:

- An ancient manuscript which forms part of a collection that together is considered ‘cultural property’; for example, 314 items were recently stolen from the rare

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<sup>4</sup>As many countries have not yet inventoried their properties ‘of the greatest importance to every people’, it is not possible to provide examples from inventoried sites in occupied areas. Instead, these examples show the types of looting that could be reasonably expected to occur in conflict situations and occupation from significant buildings and collections across the world, and which could potentially appear on the UK Art Market.



books room at the Carnegie Library<sup>5</sup>, and the number of book and manuscript thefts is considered to be on the rise<sup>6</sup>. Interpol has recently featured a number of individual objects on its “Most Wanted” works of art that have been stolen from museum collections in Syria and Iraq, although the individual objects are not always themselves “masterpieces”<sup>7</sup>.

- A single statue which is part of a monument which is considered ‘cultural property’; for example, there has been prolific looting of statues and statue heads from significant sites in Cambodia, with a number of recent high profile returns<sup>8</sup>; similarly more than 120 statue heads and torsos have been seized following their theft from the World Heritage site of Palmyra<sup>9</sup>. Some were affixed to tomb walls and therefore immovable, and others removed from coffins, which were themselves ‘moveable’ but forming part of the cultural importance of the monument.
- Carved stone taken from an ancient building that is considered ‘cultural property’; for example, there have been cases of stolen tiles from significant buildings that have been seized<sup>10</sup>.
- Small finds such as coins from a site that is considered ‘cultural property’ with numerous (previously) unexcavated remains that have now been looted and offered for sale; for example, there are thought to be large numbers of looted coins that have been illegally excavated from significant sites in Syria, such as Apamea and Dura Europos<sup>11</sup>.
- Decorative features from a significant building (such as Grade 1 listed buildings, included on the UKs Convention inventory), where the national significance listing is reflective of the decoration.

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<sup>5</sup> [http://www.post-gazette.com/ae/books/2018/03/19/Carnegie-Library-rare-atlases-maps-books-japanese-prints-stolen-Oliver-Room/stories/201803190007?utm\\_campaign=Echobox&utm\\_medium=Social&utm\\_source=Facebook](http://www.post-gazette.com/ae/books/2018/03/19/Carnegie-Library-rare-atlases-maps-books-japanese-prints-stolen-Oliver-Room/stories/201803190007?utm_campaign=Echobox&utm_medium=Social&utm_source=Facebook)  
Or see <https://www.uu.nl/en/news/phd-candidate-from-utrecht-finds-stolen-manuscripts>

<sup>6</sup> <https://www.theguardian.com/books/shortcuts/2017/feb/13/heist-tome-raiders-stolen-rare-books>

<sup>7</sup> <https://www.interpol.int/Media/Files/Crime-areas/Works-of-art/Poster/Objects-stolen-from-Raqqa-Museum,-Syria>

<sup>8</sup> See, for example, <http://www.bbc.co.uk/news/world-asia-35378747>

And <https://www.phnompenhpost.com/national/more-looted-antiquities-welcomed-home>

And <https://www.reuters.com/article/us-cambodia-usa-statue/u-s-museum-returns-monkey-god-statue-to-cambodia-idUSKBN0NX17L20150513>

<sup>9</sup> For example, see <http://dgam.gov.sy/index.php?d=314&id=1272> or

<https://www.interpol.int/Media/Files/Crime-areas/Works-of-art/Poster/Sculptures-stolen-in-Palmyra,-Syria>

<sup>10</sup> <https://www.antiquestradegazette.com/news/2017/stolen-islamic-tile-discovered-in-london-art-gallery-will-return-to-uzbekistan/>

<sup>11</sup> <https://www.tandfonline.com/doi/abs/10.1080/00934690.2017.1410919>



There are two interpretations:

1. Although any of these objects (whether movable or immovable) may be considered cultural property under Article 1 of the Convention when *'in situ'*, once removed from their location they are judged on the basis of their individual cultural significance as an independent object, irrespective of their origin; **or**
2. If these objects were considered cultural property for the purpose of Article 1 of the Convention whilst they were *'in situ'*, and assuming their removal is unlawful, they shall continue to be considered cultural property after they have been unlawfully exported.

Whilst it could be difficult to prove a small fragment or piece of stone was from a particular site, as many of the above examples show, it is not impossible. If an item can be identified as stolen from a location which is considered cultural property, we consider that its removal during conflict (potentially turning an immovable to a movable object) should also be covered by the s.17 Offence. Were this not the case, cultural property such as sites, collections and monuments may be damaged significantly by being looted piece by piece but dealing in such objects would not be an offence in the UK. We believe this would be contrary to the spirit of the Convention and its Protocols, and the CPAC Act.

## 4.0 Import:

4.1 Paragraph 1.2 of the s.17 Guidance states:

*'The offence is only committed where the cultural property concerned is imported into the United Kingdom on or after 12th December 2017. No offence is committed in relation to cultural property which is not imported into the United Kingdom, or which was imported into the United Kingdom before this date.'*

4.2 The s.17 Guidance does not deal with re-import of cultural property, which is extremely common in the art market. In fact, it is rare for a cultural object of the sort described at 2.2 of the s.17 Guidance which is on the market to remain in one country without being exported at some point, even if only temporarily, for exhibition, conservation, study, or an art fair. It is unclear from the s.17 Guidance whether a person commits an offence by importing (or "re-importing") cultural property after 12 December 2017 that was first imported into the UK on or before 12 December 2017 but has since been exported. This clarification is vital as on the one hand, the wording could be interpreted as meaning that any cultural property that has at one time been imported into the UK (prior to 12 December 2017) is not covered by the s.17 Offence and can be re-imported into the UK in future despite any original unlawful export. On the other hand, it could be interpreted to mean that whilst cultural property has been in the UK previously, it cannot now be re-imported once it has left without the importer being liable for an offence. The effect of the second interpretation would be that whilst the owner/ holder of cultural property that is currently in the UK (and was imported prior to 12 December 2017) can continue to keep



this object in the UK without committing the offence, should they export it (for exhibition, conservation or any other reason) it could be an offence under s.17.

- 4.3 Our view is that the correct interpretation is the latter, as the offence is committed when the person knows or has reason to suspect that the cultural object is unlawfully exported cultural property. Therefore, the re-import of such cultural property in that knowledge or suspicion should not be exempt simply because the UK did not ratify and implement the Convention until 2017. Furthermore, the first interpretation would be contradictory to the UK's obligations in Article 2 of the First Protocol which states:

*'Each High Contracting Party undertakes to take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory.'*

We would therefore recommend that the Guidance be clarified to reflect this interpretation.

- 4.4 Following on from this, a further clarification is required with respect to the s.17 Offence and Article 2 of the First Protocol, as neither Part 4 of the CPAC Act nor the s.17 Guidance addresses the word "indirectly" when defining "unlawfully exported cultural property". We would encourage the s.17 Guidance be amended to expressly state that it is irrelevant whether the import of cultural property into the UK is directly from the occupied territory, or whether it has previously been imported into one or more other countries, as is apparent from Article 2 of the First Protocol. This clarity is important as there is a retroactive element to the s.17 Offence. It may be applied to cultural property that was unlawfully exported from the occupied territory of a State Party to the Convention at any time after 7 August 1956 (the date the Convention entered force), even if it has since been through third countries, sold at public auction, or on display in museums, but is now found in the UK.
- 4.5 Finally, neither the CPAC Act nor the s.17 Guidance address the issue of customs bonded warehouses in the UK. Cultural property can be brought into the UK under a customs bond, meaning it is not considered 'imported' into the UK for many purposes (such as tax), and does not need to be formally exported to leave the UK. Whilst we understand that the s.17 Offence would apply to unlawfully exported cultural property found within a customs bonded facility in the UK, we encourage the UK Government to expressly address this in the s.17 Guidance, so as not to suggest that a customs bond is exempt from the s.17 Offence and therefore that the art market does not need to exercise the same standards of due diligence if using such facilities.
- 4.6 We urge the UK Government to clarify these matters in the Guidance to assist those involved in the art market in understanding their new obligations, which we hope will reduce the illicit trafficking of cultural property exported during conflict. UK Blue Shield would be happy to assist in this process.





## 5.0 Forfeiture and Compensation

### 5.1 Article 2 of the First Protocol states:

*'2. Each High Contracting Party undertakes to take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory. This shall either be effected automatically upon the importation of the property or, failing this, at the request of the authorities of that territory.*

*3. Each High Contracting Party undertakes to return, at the close of hostilities, to the competent authorities of the territory previously occupied, cultural property which is in its territory, if such property has been exported in contravention of the principle laid down in the first paragraph. Such property shall never be retained as war reparations.*

*4. The High Contracting Party whose obligation it was to prevent the exportation of cultural property from the territory occupied by it, shall pay an indemnity to the holders in good faith of any cultural property which has to be returned in accordance with the preceding paragraph.'*

### 5.2 The obligation on the UK Government as a High Contracting Party to the First Protocol is to 'take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory'. This obligation exists regardless of whether or not the possessor committed a criminal offence under s.17, and in fact, whether or not the possessor has legal title in England & Wales to the cultural property by operation of law (whether under the law of England & Wales, or by operation of the laws of another country, such as acquisitive prescription or good faith acquisition). This could give rise to a situation whereby the UK Government is legally obliged by the First Protocol to take cultural property into its possession (on import, or as requested by the State Party from whose occupied territory the cultural property was unlawfully exported) with the ultimate aim of returning it should it come to light that such cultural property was illegally exported from the occupied territory during conflict. This would be the case even if the UK courts would otherwise recognise the possessor's legal ownership.

### 5.3 UK Blue Shield recognises that conflict of law principles and limitation periods have long been a barrier to the return of illicitly exported cultural property, and we do not consider this can be reconciled by this statute alone. However, given the objective of the s.17 Offence is to reduce illicit trafficking of cultural property from occupied territories, we are disappointed that the s.17 Guidance does not address the UK Government's obligations to seize such cultural property, even if the possessor has not committed an offence under s.17. We would also encourage the s.17 Guidance to make clear the importance of good faith and due diligence, not only to avoid violation of s.17, but to give the possessor the potential opportunity to be compensated if its cultural property is forfeited (pursuant to Article 2 of the First Protocol and s.19 of the CPAC Act).



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## 6.0 Sentencing Guidelines

- 6.1 We note that no sentencing guidelines for the s.17 Offence have been prepared and we consider that this might be due to the low number of convictions anticipated under the s.17 Offence. We welcome confirmation as to whether the UK Government intends to do so or whether Historic England's *Guidance for Sentencers: Heritage Crime* will be updated.
- 6.2 One particular area for consideration when producing sentencing guidelines, should the UK Government be minded to do so, is that it is possible that cultural property unlawfully exported from an occupied territory may be imported into the UK by persons fleeing the same conflict (including refugees). Whilst such persons may own the cultural property concerned and be entitled to privately own such cultural property within that occupied territory, its export without an export licence may be in violation of the laws of that territory and thus create an offence if brought into the UK.
- 6.3 Many countries (such as the UK) allow for private ownership of items of cultural significance but prohibit the export of such objects under certain conditions. We wish to highlight to the UK Government that there may be situations when the import of cultural property is in fact by the legal owner, who has fled or been displaced by conflict, but that this situation would still amount to an offence under s.17 and we consider that this ought to be taken into account in any sentencing guidelines that are produced.

## 7.0 Conclusion

- 7.1 UK Blue Shield welcomes the implementation of the Convention and its Protocols and the creation of the s.17 Offence. However, given that the primary objective of the implementation of Article 2 of the First Protocol and Article 15 of the Second Protocol is to prevent the illicit trafficking of cultural property during conflict and to create systems whereby such cultural property should be returned, we consider that the s.17 Guidance should be free from ambiguity and accurately reflect the operation of the CPAC Act and its implementation of the Convention.
- 7.3 UK Blue Shield regrets that given the time that has passed since the Convention was drafted, the s.17 Offence does not go far enough to tackle the growing problem of illicit trafficking of cultural property, as it relates only to those territories which are (or have been) occupied since it entered into force in 1956<sup>12</sup>. The s.17 Offence therefore does not impact cultural property that is illegally exported during conflicts involving non-state

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<sup>12</sup> Defined in s. 16(5) CPAC Act 2017 as 'In determining for the purposes of this Part whether territory is occupied regard must be had to Article 42 of the Regulations respecting the Laws and Customs of War on Land annexed to the Convention respecting the Laws and Customs of War on Land (Hague IV), done at the Hague on 18 October 1907.'



actors such as Daesh, which is a considerable gap in the UK's legislation. Whilst the Dealing in Cultural Objects (Offences) Act 2003 could cover this gap to an extent for items unlawfully exported after 2003, the threshold for the offence is considerably higher than in the CPAC Act in that it requires dishonesty and knowledge or belief that the object is tainted. We therefore consider that despite the introduction of the s.17 Offence there is still a significant gap in the UK's legislation to target illicit trafficking of cultural property.

- 7.4 UK Blue Shield remains willing to assist the UK Government in drafting further Guidance for the s.17 Offence or providing any assistance with further implementation of the Convention and its Protocols.

## 8.0 Further Assistance

- 8.1 UK Blue Shield reaffirms its hope that the UK will capitalise on its ratification of the Convention and its Protocols by setting an international standard for the prevention of illicit trafficking of cultural property during conflict through implementing further legislation and policy aimed at closing the gaps that allow this illicit traffic to continue. A particular concern that remains to be addressed is in respect of conflicts involving non-state actors. This would place the UK as a world leader in this field. Strengthening the standards of the UK's market for cultural property in this way, alongside ensuring the application of the Convention, can only benefit the UK.

In particular, we welcome the opportunity to assist and consult with DCMS on the following two instruments:

The forthcoming **EU Regulation on the Import of Cultural Goods**, which is due to come into force in early 2019; and

The **Council of Europe Convention on Offences relating to Cultural Property** (the Nicosia Convention), which has now been signed by 10 states.

- 8.2 The UK has implemented the Convention and its Protocols only recently and it is anticipated that the EU Regulation on the Import of Cultural Goods will soon become domestic law with direct effect (as it is due to come into force in January 2019). There is therefore an opportunity for the UK to consider all of these legal instruments together to ensure that any implementation measures, guidance issued to the art market, and training to law enforcement and border control provides comprehensive and integrated coverage of all existing and upcoming legislation, thus setting global standards for best practice in this field.
- 8.3 With several new legal instruments introduced in such close proximity, it can be difficult for those involved in the art market to reconcile the guidance and their obligations under the law, and equally difficult for law enforcement and border control to know their responsibilities. There must be a balance between over-regulating the art market and protecting cultural property. It is vital that legislation with which the art market must



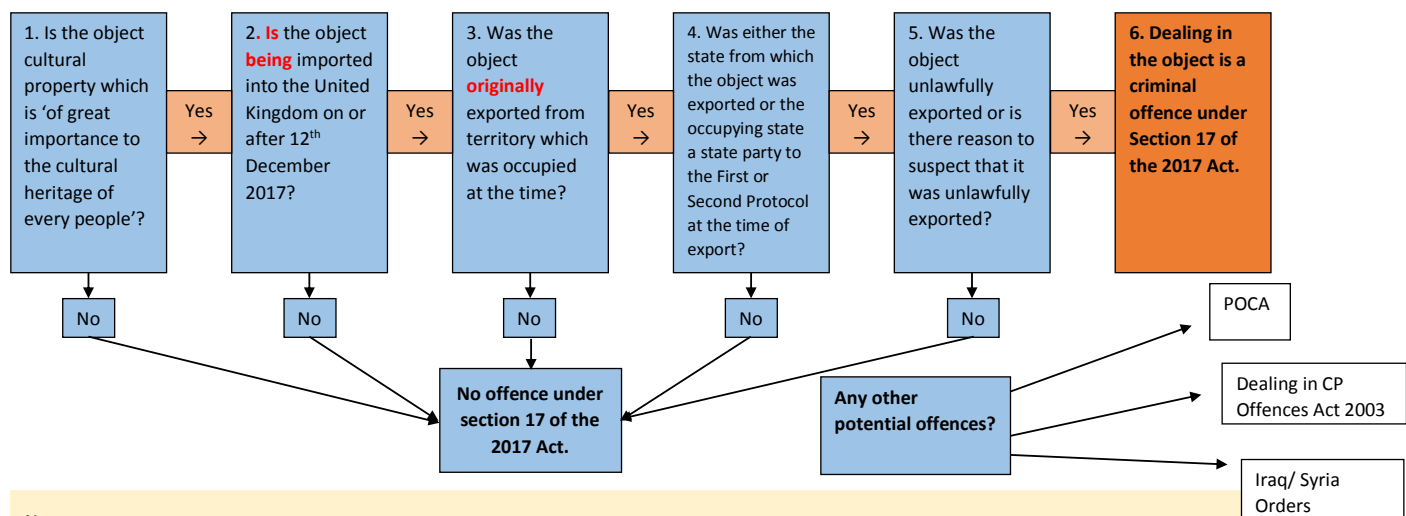
comply is effective and targeted towards achieving the objective of closing down the illicit antiquities trade in the UK. At present, we do not consider there is effective legislation to combat the problem.

It is important for the UK Government to ensure consistency between the obligations inherent in, and guidance about, the various legal instruments, and that their application in the UK is comprehensive and unambiguous to those involved in the art market, in order to ensure that the UK effectively demonstrates and enforces its commitment to the prevention of illicit trafficking of cultural property. We therefore intend to provide position papers to DCMS on both instruments to allow DCMS to influence the draft legislation (in respect of the EU Import Regulations) and consider ratification in respect of the Council of Europe Convention.



## Annex 1

### Proposed Amendments to Checklist for Dealers



#### Notes:

1. The full definition of cultural property is set out in Article 1 of the Convention.
2. The 2017 Act comes into force on 12<sup>th</sup> December 2017. Cultural property imported into the UK before this date is not covered by Section 17 of the 2017 Act.
3. The definition of occupied territory is set out in the Regulations respecting the Laws and Customs of War on Land annexed to the Convention respecting the Laws and Customs of War on Land of 1907.
4. The First Protocol came into force on 7 August 1956. State parties to the Convention and Protocols, together with their dates of ratification and/or accession, are listed on the UNESCO website.
5. Due diligence in accordance with trade standards will be required.
6. "Dealing" is defined in Section 17(3) of the 2017 Act.

Please note, further amendment may be beneficial subject to the response to the recommendations above. For example at box 1 it might be necessary to ask "Is the object cultural property or part of cultural property which is "of great importance to the cultural heritage of every people?" (see 3.8 above)



## Organisation Information

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Cover: World War II shrapnel scarring on the Victoria and Albert Museum, London. 2017.

Photograph: Emma Cunliffe.