

PART 2

INTRODUCTION BY THE DEPARTMENT OF CULTURE, MEDIA AND SPORT TO THE DRAFT EXPORT CONTROL AND NON-PROLIFERATION BILL: EXPORT CONTROLS ON CULTURAL OBJECTS

INTRODUCTION

1. The Export Control and Non-Proliferation Bill includes provisions relating to export controls on all types of goods. This Part addresses only those provisions of the Bill which are likely to be exercised in relation to the export control of cultural objects. Part 1 of this Paper provides a general commentary on the Bill and covers the detail of strategic export controls.

II PROVISIONS RELATING TO EXPORT CONTROLS ON CULTURAL OBJECTS

Purposes of export controls

2. In practice, it is not intended to change significantly the export control regime for cultural goods currently established under the Import, Export and Customs Powers (Defence) Act 1939. The purposes in the draft Bill have been included to aid transparency and are intended to cover all of the reasons that are necessary for the Government to exercise controls on the export of cultural objects. As clause 3(5) shows, however, a power is provided to make orders of limited duration which will not be subject to the purposes. Such orders will primarily deal with emergency situations and are unlikely to be exercised in relation to cultural objects.

3. When taken together, the purposes at paragraphs 1, 2 and 4 of the schedule of the draft Bill will allow the Secretary of State to make export control orders to establish a regime which would enable him to identify and control the export of goods of significance to the culture of the UK and Europe. If, as announced, the UK Government accedes to the *1970 UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of cultural property*, the purposes would allow the Secretary of State to implement measures in relation to export control which may contribute to giving it effect in UK law. Finally, the purposes would also allow export control orders to be made which would assist in deterring the illicit trade of cultural objects.

Export Control Orders

4. As previously mentioned, it is not intended to substantially change the export control regime applicable to cultural objects. It is likely that any order made under clause 1 would, to a large extent, reflect the provisions contained in the Export of Goods (Control) Order 1992. In particular this specifies that an export licence is required for:

“Any goods manufactured or produced more than 50 years before the date of exportation except:

- (1) postage stamps and other articles of philatelic interest;

- (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; and
- (4) any goods exported by, and being the personal property of, the manufacturer or producer thereof, or the spouse, widow or widower of that person”

5. In order to reduce the burden on would-be exporters, the Government has issued a number of open licences, which permit the export of certain specified cultural objects without the need to obtain an individual export licence from the Department for Culture, Media and Sport (DCMS). There are currently two types in operation: the Open General Export Licence and the Open Individual Export Licences.

Open General Export Licence (OGEL)

6. The OGEL, which can be used by any exporter, permits the permanent export of those objects valued below specified financial thresholds. The OGEL also permits the export (for up to three months) of some common temporary exports and the re-export of some common temporary imports. Further, in order to avoid the need for exporters to obtain an individual UK licence from DCMS, the OGEL also permits the export of a cultural object (which would otherwise require an individual UK licence) where a licence has been granted under the EU Regulation (No 3911/92) on the export of cultural goods.

Open Individual Export Licences (OIELs)

7. An OIEL is granted to a named individual, company or institution, to permit either the permanent or temporary export of specified objects.

8. Where neither the OGEL nor an OIEL cover a particular object, an individual export licence is required from DCMS. None of these provisions can over-ride any requirement to obtain an individual licence under the EU Regulation (for exports to destinations outside the European Customs Union).

9. It is intended to operate a similar regime under any order made pursuant to the power in clause 1.

Enforcement

10. It is likely that any control order made under clause 1 will, as is currently the case in the 1992 Order, contain enforcement provisions although it is unlikely that the penalty for any offence committed under the Order will be the maximum allowable under the Bill (clause 7(2)).

Annual Report

11. The Bill will require the Secretary of State to make an annual report to Parliament.

Consultation

12. Views are invited on the draft Export Control and Non-Proliferation Bill with regard to those provisions which relate to cultural objects by Thursday 24th May 2001. Written comments should be sent to:

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13. In commenting on the draft Bill, it would be helpful if you could **specify the clause on which you are commenting**. It is not necessary to quote at length passages from this document.

14. As noted earlier, an electronic copy of this document is available on the website of the DTI's Export Control Organisation, at <http://www.dti.gov.uk/export.control> and on the Cabinet Office's website at <http://www.cabinet-office.gov.uk>.

Publication of responses

15. The Government intends to publish responses to this consultation document. It will be assumed that respondents are content for their comments to be published unless they indicate otherwise. Consultees who wish their responses to remain confidential should make clear whether they wish to protect their identity, the content of their responses (or part of it), or both.