

FINE ARTS AND CUSTOMS FORMALITIES

Formalities required ?

Gallery owners and private owners : do you know whether your works are « cultural items » requiring an authorization to leave the country ?

Museums and exhibition organizers : are you thoroughly familiar with the temporary exit procedure for a « national treasure » ?

In France, as in other countries, the circulation of works of art is regulated. Control is exercised jointly by the Ministry of Culture and the customs department. These necessary so-called « fine arts » formalities must be carried out before the customs formalities.

There are various stages in the fine arts and customs Formalities.

Where should you go ? Which forms should you complete ?

Which documents should you enclose ?

Administrative and customs formalities are therefore an important part of our business and carrying them out requires skill and experience.

Here are some practical explanations :

Export formalities

FINE ARTS REGULATIONS IN FRANCE

In spite of the abolition of customs formalities for trade within the European Union, the circulation of works of art is still controlled in order to protect national heritage.

There are three separate cases depending on the type of work :

- if the work is listed as a national treasure, it can only leave France temporarily once authorization has been given,
- if the work is not a national treasure but exceeds the control threshold it is a cultural item and its temporary or definitive removal from the country is subject to authorization (see the simplified table of cultural items),
- if the work is below the control threshold, it is not considered to be a cultural item and can therefore be sold without authorization and circulate freely throughout the world.

The fine arts formalities only apply in the first two cases, i.e. if the work is a national treasure or a cultural item.

In all cases, exports outside Europe involve customs formalities.

IF YOU WANT TO EXPORT A NATIONAL TREASURE TEMPORARILY

You must complete a temporary export authorization application for a national treasure (DASTTN), which will be approved by the appropriate department of the Ministry of Culture ¹ covering the work.

1. Direction des Archives de France, Direction du Livre et la Lecture, Centre National de la Cinématographie, Direction des Musées de France, Direction du Patrimoine.



What is a national treasure ?

Any work in France on the public museums list is considered a « national treasure ».

Exceptionally, works owned by private individuals may be also be national treasures.

A « national treasure » can only be removed from France temporarily and in the following cases : cultural event, restoration, valuation or study, or deposit in a public collection.



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What is a cultural item ?

According to the regulations, there are two criteria for defining a work as a cultural item : the age and value of the work. A work exceeding the age and value thresholds defined for its category is considered to be a cultural item. It can only circulate with a certificate (a sort of passport for the work) or a temporary export authorization (valid for one trip only).

The DASTTN is enough for temporary **exit within Europe**. It must accompany the work at all times during the trip. When it returns, a detachable return attestation must be sent to the appropriate department.

If the work is loaned outside Europe, the DASTTN, properly approved, is required to obtain the export licence issued by the Ministry of Culture.

To carry out the customs formalities, you must append a list of the values and an attestation from the foreign borrower undertaking to return the works.

IF YOU WANT TO EXPORT A CULTURAL ITEM TEMPORARILY

If you want to export a cultural item temporarily, particularly for an exhibition, you have two options :

- you can make an application for a cultural item certificate (DCBC) to the department of the Ministry of Culture covering your work. This certificate authorizes the circulation of the work during its period of validity, which is 20 years for a work of art that is over 100 years old),
- a quicker procedure is to make an application for the temporary export of a cultural item (DASTBC) to the department covering your work. This authorization is valid for only one trip outside France.

Either of these documents is enough **for circulation within Europe**. Note that to obtain the certificate (which attests that the work is not a national treasure) the work may have to be presented to a curator from the appropriate department of the Ministry of Culture covering the work.

If the work has to be sent outside Europe, once you have a DCBC or a DASTBC, you can apply for the export licence issued by the Ministry of Culture.

To carry out the customs formalities, you must obtain an invoice, an attestation from the foreign borrower undertaking to return the works, plus photographs in the case of a private exhibition in a gallery.

IF YOU WANT TO SELL A CULTURAL ITEM ABROAD

If you want to sell a cultural item in Europe, all you need is a certificate, which it must be possible to present in the event of a control.

Gallery owners must not forget to include the work on the goods exchange declaration that must be filed each month with the customs department.

Private individuals, if they have owned the work for less than 12 years and if the value of the work exceeds 5,000 € must pay a tax of 5 % (capital gains tax of 4.5 % plus welfare debt repayment of 0.5 %).

If you want to sell a cultural item outside Europe, in addition to the certificate you must obtain a definitive export licence issued by the Ministry of Culture.

To carry out the customs formalities, private individuals must obtain an invoice and the attestation of payment of capital gains tax.

IF YOU ARE SELLING A WORK THAT IS NOT A CULTURAL ITEM

A private individual residing in France (or a foundation) selling a picture more than fifty years old and worth less than 150,000 € outside the European Union only has to make a customs declaration. However, a tax of 5 % of the customs value will be payable if he has owned the work of art for more than 12 years and if the work is valued more than 5,000 €.



LIST OF CULTURAL ITEMS IN FRANCE

Type of work	Age	Value threshold European Union (as at 17/07/04)	Value threshold Other countries (as at 17/07/04)
Category 1 Archaeological objects	100 years	1 500 to 15 000 € according to the object	0 to 15 000 € according to the object
Category 2 Parts of artistic, historical or religious monuments	100 years	-	-
Category 3 Pictures and paintings	50 years	150 000 €	150 000 €
a. Watercolours, gouaches and pastels	50 years	30 000 €	30 000 €
Category 4 Mosaics and drawings	50 years	15 000 €	15 000 €
Category 5 Original engravings, prints, silkscreens and lithographs, postcards	50 years	15 000 €	15 000 €
Category 6 Sculptures	50 years	50 000 €	50 000 €
Category 7 Photographs, films	50 years	15 000 €	15 000 €
Category 8 Incunabula and manuscripts	50 years	1 500 €	-
Category 9 Books and musical scores	50 years	50 000 €	50 000 €
Category 10 Printed maps	100 years	15 000 €	15 000 €
Category 11 All types of archives	50 years	300 €	-
Category 12 All types of collections	-	50 000 €	50 000 €
Category 13 Means of transport	75 years	50 000 €	50 000 €
Category 14 Other antiquities not included in categories 1 to 13 and over 50 years old	50 or 100 years	50 000 €	50 000 €

SPECIALIZED CUSTOMS OFFICES FOR THE EXPORT OF CULTURAL ITEMS AND NATIONAL TREASURES IN FRANCE

Annecy CRD (74)	Mulhouse CRD (68)
Annemasse CRD (73)	Nancy CRD (54)
Besançon CRD (25)	Nantes-Aéroport CRD (44)
Bordeaux-Bassens CRD (33)	Nantes-Port (44)
Bordeaux-Mérignac (33)	Nice-Aéroport CRD (06)
Bordeaux-St Jean (33)	Paris-Douane Centrale (75)
Dijon CRD (21)	Paris-Garantie (75)
Ennery CRD (57)	Pau CRD (64)
Grenoble CRD (38)	Poitiers CRD (86)
La Rochelle-Pallice CRD (17)	Rennes CRD (35)
Le Lamentin (97)	Rochambeau (97)
Le Raizet (97)	Rouen-Port (76)
Lille CRD (59)	Strasbourg CRD (67)
Lyon-Chassieu CRD (69)	Strasbourg-Hausbergen CRD (67)
Lyon-Ville (69)	Toulouse-Fondyre (31)
Marseille-Port CRD (13)	St Julien-Bardonnex (74)
(CRD: regional customs centre)	

Are you sure that you can carry out the customs operations in your town?
Note that not all offices are authorized for the export of cultural items.

Import formalities for France

Documents to be used



IN THE CASE OF A WORK RETURNING TO FRANCE

The only fine arts formality is returning the attestation of return of the work to the authorizing department. A detachable coupon is provided with the national treasure and cultural item temporary export documents.

If the work is a cultural item, you are required to present it to the appropriate Department of the French Ministry of Culture. If the work is returning from a non-EU country, an IM6 customs declaration is required.

IN THE CASE OF A WORK ENTERING FRANCE TEMPORARILY

No documents are required for a work coming from an EU country.

If the work comes from a non-EU country, the importer must make an application for temporary entry (customs declaration IM5), with a guarantee for the VAT applicable. Public sector and equivalent organizations, particularly national museums, are generally given an exemption from the requirement to provide a guarantee on condition that they apply for it.

Galleries can also obtain this exemption if they belong to the Comité Professionnel des Galeries d'Art (CPGA) or the Syndicat National des Antiquaires (SNA), and if they can prove that the works are covered by an insurance recognized by the Customs authorities.

Under no circumstances can a work be taken into France temporarily under a private individual's name.

IN THE CASE OF A WORK IMPORTED DEFINITELY INTO FRANCE

Museums purchasing a work outside the EU must make a duty-free import application (by registering the imported work), exempting them from duties and taxes.

Galleries and private individuals must pay duties and taxes when they make the inward clearance declaration (including VAT at a rate that may vary depending on the type of work concerned).

FINE ARTS AUTHORIZATIONS IN FRANCE

Cultural item certificate issued by the competent department of the French Ministry of Culture.	Sort of passport for the temporary or definitive export of a cultural item for twenty years from the date of issue.
Authorization for the temporary export of a national treasure issued by the competent department of the French Ministry of Culture.	For the temporary export of a work defined as a national treasure (particularly all museum works).
Authorization for the temporary export of a cultural item issued by the competent department of the French Ministry of Culture.	For a single temporary export of a cultural item belonging to a gallery or private individual.
Export licence issued by the appropriate department of the French Ministry of Culture.	For exports outside Europe, temporary licence for a national treasure, temporary or definitive licence for a cultural item.

CUSTOMS DOCUMENTS

Goods exchange declaration	For definitive imports and exports in Europe, document filed each month with the customs department by museums and galleries (but not private individuals).
EX1 customs declaration	For definitive exports to non-EU countries.
EX 2 customs declaration	For temporary exports to non-EU countries.
IM 6 customs declaration	For re-importing works exported temporarily to a non-EU country.
IM4 inward clearance declaration	For definitive imports from non-EU countries (payment of any duties and taxes by galleries and private individuals, exemption for museums).
IM 5 customs declaration	For temporary imports from non-EU countries.
EX 3 customs declaration	For re-exporting works returning from an exhibition in the EU to a non-EU country.
INF3/INF6 declaration	For transfer of temporary admission between two member countries of the European Union.

Documents to be used

OTHER IMPORTANT DOCUMENTS IN FRANCE

Attestation of exhibition dates and venue	Letter appended to the temporary export application whereby the exhibition organizer undertakes to return the works to the lenders on the closure date.
Power of attorney	Letter whereby the museum, gallery or private individual grants power of attorney to the customs broker.
List of values	List of the works and their values, required for temporary exports or re-exporting outside Europe.
Pro forma invoice	Document issued by the owner certifying the value of the work if it were to be sold.
Capital gains exemption	For temporary exports of works by private individuals. In the case of a possible sale, an expert valuation or restoration work, this exemption is issued by the person's local tax office. For exhibitions, the exemption is issued by the appropriate Department of the French Ministry of Culture.
Duty-free attestation	For definitive imports by a museum of works from non-EU countries. This attestation exempts the museum from inward clearance duties and taxes.
Guarantee exemption issued by the C.P.G.A. (Comité Professionnel des Galeries d'Art) or the S.N.A. (Syndicat National des Antiquaires).	For temporary imports by galleries or antique dealers. If the gallery or antique dealer does not have this exemption, it needs a bank guarantee just like a private individual.

Attention ! Bear in mind that when a cultural item returns to France, it must be physically presented to the appropriate Department of the French Ministry of Culture.