

ANTIGUA AND BARBUDA



THE CULTURAL HERITAGE (PROTECTION) BILL, 2016

No. of 2016

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ANTIGUA AND BARBUDA

THE CULTURAL HERITAGE (PROTECTION) BILL, 2016

No. of 2016

AN ACT for the protection of cultural heritage, encompassing land- based as well as submerged immovable heritage as well as movable objects, in Antigua and Barbuda and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Cultural Heritage (Protection) Act 2016.

2. Definitions

“Continental shelf” means the seabed and subsoil of the submarine areas of a coastal State that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance;

“Cultural heritage” means

(a) all traces of human existence having a cultural, historical or archaeological character, which are older than 50 years such as, together with their archaeological and natural context—

(i) sites;

(ii) structures, and buildings;

(iii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents; and

artefacts, human remains, and objects of prehistoric character.

(b) objects and sites, together with their context, having a paleontological or scientific significance, which are older than 50 years;

(c) “underwater cultural heritage”, which is cultural heritage, which is or was partially or totally, periodically or continuously, located under water;

(d). “cultural heritage of an archaeological character” means undiscovered and discovered cultural heritage which is located in the soil or under water.

(e). “written and filmed heritage” encompasses books, documents, pictures or films older than 50 years;

“Exclusive Economic Zone” means an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in a State, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed;

“Minister” means the Minister for the time being with responsibility for Culture.

“national jurisdiction” means the contiguous zone as defined in the UN Convention on the Law of the Sea which means an area that does not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured;

“Rules” means the “Rules concerning Activities directed at Cultural Heritage” contained in the Schedule;

“State Vessels and Aircraft” means warships, and other vessels or aircraft that were owned or operated by another State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage;

“Verifiable Link” to underwater cultural heritage is a relationship between a State and cultural heritage, in particular of a cultural, historical or archaeological character;

“UNESCO” means the United Nations Educational, Scientific and Cultural Organization;

“International Seabed Authority” means the Authority established under Article 156 of the United Nations Convention on the Law of the Sea.

II COMPETENT NATIONAL AUTHORITY

3. Competent National Authority

(1) The Competent National Authority for the protection of cultural heritage is the National Parks Authority. It shall operate under the direct supervision of the Ministry of Culture.

(2) The Competent Authority shall be advised by a regularly meeting National Advisory Committee, consisting of appropriate national stakeholders.

(3) The opinion of the Advisory Committee shall be sought in any matter of national or particular importance.

4. Designation

The Competent National Authority may declare as cultural heritage any trace of human existence having a cultural, historical or archaeological character, which is not more than 50 years old.

5. Tasks of the Competent National Authority

- (1) The Competent National Authority has the task, in particular, to—
 - (a) ensure the effective control, protection, conservation, presentation and management of cultural heritage and issue permissions in that regard;
 - (b) encourage and foster research, public awareness, appreciation and education in cultural heritage, support NGO establishment and cooperation and foster the establishment of museums.
- (2) The Competent National Authority shall establish, entertain and maintain an inventory of cultural heritage located on land or under water which includes also—
 - (a) a list of important public and private cultural heritage whose export would constitute an appreciable impoverishment of the national cultural heritage;
 - (b) a list of underwater cultural heritage, that is located within the limits of national jurisdiction;
 - (c) a list of underwater cultural heritage, that is located beyond the limits of national jurisdiction if that underwater cultural heritage has a verifiable link with the State.
- (3) The inventory shall be regularly updated. It shall be open to limited public access. No information shall be disclosed if this would endanger the protection of the heritage concerned.
- (4) The Competent National Authority may conduct any necessary research on cultural heritage.
- (5) The authority shall act as the Competent National Authority according to the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage. The Director-General of UNESCO shall be notified of its name and address.

III. DISCOVERY, REPORT AND DISPLACEMENT OF CULTURAL HERITAGE**6. Report of Discoveries and intended Activities**

- (1) A person shall not search for, explore, investigate, interfere with, displace or remove cultural heritage of an archaeological character, including underwater cultural heritage, without a permit issued by the Competent National Authority.
- (2) Any person, who discovers cultural heritage of an archaeological character, including underwater cultural heritage, should leave it undisturbed, unless disturbance or recovery is authorized by the Competent National Authority or if it—
 - (a) is under actual and immediate danger of serious damage or destruction; or
 - (b) poses a concrete and immediate danger to human life.
- (3) Any person, who displaces cultural heritage of an archaeological character, including underwater cultural heritage, has to declare this to the Competent National Authority and has to deposit the object with it or hold it at its disposal in conditions ensuring conservation.
- (4) Any person, who discovers cultural heritage of an archaeological character, including underwater cultural heritage, shall report this upon discovery or, in case of underwater cultural heritage, on reaching the first national port, to the Competent National Authority.
- (5) Any person who is aware of any activity by any unauthorised person that poses an actual and immediate danger of serious damage or destruction to cultural heritage shall report that activity to the Competent National Authority.
- (6) Any person wishing to apply for permission to undertake an activity directed at cultural heritage, including underwater cultural heritage, must submit an application to the Competent National Authority at least six months prior to the intended activity commencing. In case of immediate danger of destruction or damage to such cultural heritage a shorter application time may be admitted. In the case of underwater cultural heritage, such an application must be submitted irrespective of where the underwater cultural heritage is situated.
- (7) A person shall not engage in any activity directed at underwater cultural heritage that is not in accordance with the Rules in the Schedule.
- (8) Nationals and the masters of the vessels flying the flag of Antigua and Barbuda shall report to the Competent Authority any discovery of or an intended activity directed at underwater cultural heritage wherever located.
- (9) In case of discoveries or activities concerning underwater cultural heritage located in the Exclusive Economic Zone or on the Continental Shelf of another State, nationals and vessels flying the flag of Antigua and Barbuda shall also report to the authorities of the concerned State.
- (10) Warships, government ships and military aircraft, operated for non-commercial purposes, undertaking their normal mode of operations, and not engaged in activities directed at cultural heritage shall report if this is reasonable and practicable to do so.

IV. PERMISSION OF ACTIVITIES AND PERMITS**7. Permission of Activities**

- (1) A person who wishes to engage in any activity directed at structures and buildings falling under the definition of cultural heritage including for example, search, intervention, recovery, displacement or excavation, as well as renovation and alteration need shall apply to the Competent National Authority for a permit.
- (2) A person shall not engage in activities directed at structures and buildings falling under the definition of cultural heritage including for example, search, intervention, recovery, displacement or excavation, as well as renovation and alteration without a permit.
- (3) The permit shall only be granted in the best interest of protection and if the concerned activity—

- (a) significantly contributes to the protection of, enhancement or knowledge about, the concerned cultural heritage;
 - (b) is in full conformity with this Act and Regulations made pursuant to it;
 - (c) ensures a proper scientific study and, in case of recovery, maximum protection and conservation of recovered objects.
- (4) A permit shall only be granted based on a Project Design in accordance with the Act.
- (5) A permit—
- (a) shall contain conditions to ensure the proper conduct of the activity, documentation and conservation as well as its control and the access to the site by the Competent National Authority;
 - (b) shall be issued for a limited time period not exceeding 1 year and may be renewed after revision of the project by the Competent National Authority;
 - (c) may be revoked in case of non-compliance with the conditions mentioned in the permit, the Rules, the project design deposited with the Competent National Authority or in the interest of the proper protection of the concerned heritage;
 - (d) may contain any other condition deemed necessary by the Competent National Authority.
- (6) Permits are non-transferable. A public register of all permits issued shall be kept by the Competent National Authority.
- (7) Permitted activities shall only be executed—
- (a) under the effective supervision of the Competent National Authority;
 - (b) respecting proper safety measures and the protection of the environment.
- (8) A permit for activities directed at underwater cultural heritage located beyond the limits of national jurisdiction may only be issued, if—
- (a) Antigua and Barbuda is the coordinating state; or
 - (b) an immediate danger threatens the concerned heritage; or
 - (c) the concerned heritage is located in the Exclusive Economic Zone or on the Continental Shelf and the permit is granted in order to prevent interference with sovereign rights or jurisdiction.
- (9) From and after the date when this Act comes into operation, no permission, approval, authority, sub-division, lease or permission relating to any land or property whether Crown land or otherwise which falls within the definition of cultural heritage shall be granted or made by the Central Housing and Planning Authority, the Development Control Authority or the Port Authority, or by anybody purporting to act with delegated authority from any such body unless the prior written approval of the Competent National Authority is obtained for that purpose; and if such approval is not obtained, any such action by any such body shall be null and void.
- (10) This Section does not prejudice the State of Antigua and Barbuda taking action to protect cultural heritage in case of immediate danger.

8. Activities directed at the Remains of State Vessels and Aircraft

- (1) If any underwater cultural heritage is identified as a State Vessel or Aircraft of another State the national authorities should inform the Flag State and States with a Verifiable Link to such cultural heritage.
- (2) No activity shall be permitted or directed at such heritage if it is located in the Exclusive Economic Zone or on the Continental Shelf without the agreement of the Flag State and, if applicable, the collaboration of the States which have assumed the obligation to coordinate protection measures under international law other than to prevent immediate danger.
- (3) If the concerned heritage is located beyond the limits of national jurisdiction, no activity shall be directed at such heritage without the consent of the Flag State other than to prevent immediate danger.

9. Export Certificate

- (1) An export certificate for cultural heritage may be issued to a person by the Competent National Authority if the heritage concerned—
- (a) is not of national importance;
 - (b) its export would not constitute a significant impoverishment of the national heritage or is not inscribed in the inventory of cultural heritage located on land or under water; and
 - (c) has been recovered in compliance with the law.
- (2) A temporary export certificate may be granted if—
- (a) the export occurs for reasons of research, conservation, restoration, exhibitions or similar reasons;
 - (b) and if a return of the objects is ensured within 5 years. The Competent Authority can set conditions ensuring the return of the object and the information or research result connected to it, if deemed necessary.
- (3) A person shall not export cultural heritage without an export certificate in the form set out in the Schedule.
- (4) Any person, wishing to apply for an export certificate shall do so by using the form set out in the Schedule to this Act.
- (5) The export certificate is non-transferable and shall be used as indicated in the Schedule. A copy of this certificate has to accompany any exported cultural heritage.
- (6) State institutions shall verify the provenance of any cultural heritage they acquire and shall not acquire any unlawfully recovered or unlawfully exported or imported cultural heritage.
- (7) The Competent National Authority shall publicise this Act by appropriate means, particularly among persons likely to export or import cultural property.

V. UNDERWATER CULTURAL HERITAGE BEYOND THE LIMITS OF NATIONAL JURISDICTION

10. Information and Notification to other States

- (1) The Competent National Authority shall notify the Director-General of UNESCO of discoveries of or intended activities directed at underwater cultural heritage located beyond the limits of national jurisdiction. Any discovery or intended activity

concerning underwater cultural heritage located in the Exclusive Economic Zone shall also be notified by the Competent National Authority to the Secretary-General of the International Seabed Authority.

(2) In case of discoveries or intended activities directed at underwater cultural heritage located in the Exclusive Economic Zone or on the Continental Shelf of another State that is a party to the UNESCO 2001 Convention, that State shall be informed by the relevant national or vessel flying the State flag.

11. Receipt of Information and Declaration of Interest

(1) Any declaration or invitation for consultation from other States and or the Director-General of UNESCO regarding underwater cultural heritage shall be lodged with the Competent National Authority.

(2) Where the Competent National Authority determines that the Antigua and Barbuda has a Verifiable Link with certain underwater cultural heritage it shall declare the interest of Antigua and Barbuda, where it is located —

- (a) beyond the limits of the Exclusive Economic Zone of Antigua and Barbuda, to the Director-General of UNESCO and any State who coordinates, controls, authorizes or undertakes a search of or activities directed at such heritage;
- (b) in the Exclusive Economic Zone or on the Continental Shelf of another State, to that State, if that State is a State Party to the UNESCO 2001 Convention.

12. Consultation and Coordination

(1) In case of discoveries of or intended activities directed at underwater cultural heritage located in the national Exclusive Economic Zone or on the Continental Shelf, the Competent National Authority shall—

- (a) consult all States Parties to the UNESCO 2001 Convention, which have declared their interest on how to best protect such heritage, if this declaration is based on a Verifiable Link as coordinating state; or
- (b) make a declaration that it does not wish act as coordinating state if a reasonable motive exists that makes it desirable for the State not to act as such.

(2) Where the relevant underwater cultural heritage is located in the Area and the Competent National Authority has declared the interest of the State to be consulted and is invited by the Director-General of UNESCO it shall—

- (a) declare how this underwater cultural heritage should be best protected;
- (b) declare which State should be appointed as coordinating state; and
- (c) conduct and coordinate consultations as coordinating State if the State who enacts the Act was appointed to this function.

13. Coordination of Measures

(1) If the State acts as coordinating state according to the UNESCO 2001 Convention the Competent National Authority shall implement the measures of protection for the underwater cultural heritage which have been agreed in consultation with all other States consulted and issue all necessary permits for such measures in conformity with the Rules, unless it has been agreed that another State Party shall do so.

(2) In coordinating or authorizing activities and in implementing measures the Competent National Authority shall act on behalf of all concerned States and for the benefit of humanity.

(3) Particular regard shall be paid to the preferential rights of States of cultural, historical or archaeological origin in respect of the underwater cultural heritage concerned.

14. Immediate Danger

(1) The Competent National Authority shall take all practicable measures, and/or issue any necessary permits, if necessary prior to any consultations, to prevent immediate danger to any cultural heritage. In taking such measures, the Competent National Authority may seek assistance from other States.

(2) The Competent National Authority shall, as far as practicable and, provided it is not contrary to national interests, when requested by another State or States, take all necessary measures to assist the other State or States in taking measures preventing immediate danger to cultural heritage.

VI. ACTIVITIES INCIDENTALLY AFFECTING CULTURAL HERITAGE

15. Activities incidentally affecting Cultural Heritage

(1) Any person or corporation, intending to undertake an activity in an area that contains cultural heritage; or where there is a reasonable expectation that an area may contain cultural heritage such as—

- (a) known cultural heritage sites or settlements;
- (b) ports or former ports;
- (c) shipping or trade routes; or
- (d) terrestrial or marine battlefields;

has to notify the Competent National Authority of its intended activity at least 60 days prior to the commencement of that activity. The intended activity shall be prohibited if it endangers or damages such heritage more than appears to be reasonable in comparison to the achieved public benefit.

(2) Industrial activities impacting areas, where cultural heritage is or may possibly be present, have to undertake an impact assessment study as part of their application for the authorization of the concerned development or other project.

(3) The Competent National Authority has to be consulted mandatorily in the authorization of development and resource extraction projects that concern areas where cultural heritage is or may possibly be present.

(4) The public and private developers of such projects shall provide the funds and be responsible for—

- (a) the assessment of the project area and the identification of cultural heritage therein;

- (b) the prevention, to the extent possible, of impact to cultural heritage caused by the project in the project area and its surrounding environment;
- (c) the mitigation of negative effects caused by the project in the project area and its surrounding environment;
- (d) the conservation of the affected cultural heritage; and the promotion of affected cultural heritage and the dissemination of knowledge about it.

VII. OWNERSHIP OF CULTURAL HERITAGE

16. Ownership of Cultural Heritage

(1) Cultural heritage of an archaeological character, including underwater cultural heritage, is owned by the State, provided there is no existing ownership immediately prior to its discovery.

(2) The law of finds does not apply to cultural heritage and in addition the law of salvage does not apply to underwater cultural heritage.

(3) A person who discovers cultural heritage of an archaeological character, including underwater cultural heritage, may be rewarded at the discretion of the Competent National Authority.

17. Public Acquisition

(1) The Competent National Authority may decide upon the public utility of an acquisition by Antigua and Barbuda of any cultural heritage, and if applicable, its context or the site where it is located. If such utility is given, it may negotiate acquisition for Antigua and Barbuda.

(2) If negotiations are not successful, the Competent National Authority may in the case of objects, upon approval by the Ministry of Culture seek to have a compulsory transfer of ownership within the scope of the Land Acquisition Act Cap. 233.

(3) If no agreement can be reached about the amount of indemnification or if there is an objection to the declaration of compulsory transfer of ownership, the provisions of the Land Acquisition Act Cap 233 shall apply.

(4) A person shall not dispose of or acquire an object while it is under consideration for public acquisition or when compulsory transfer has been declared.

VIII. ENFORCEMENT

18. Seizure and Disposition of Cultural Heritage

(1) Cultural heritage is subject to seizure if—

- (a) it has been recovered from a person who does not hold a valid permit in relation to the heritage;
- (b) it was stolen or illicitly imported, exported or the transfer of ownership was illegal.

(2) Seized cultural heritage shall be immediately recorded, protected and stabilized, as far as needed and practicable. The disposition shall be for the public benefit, taking into account the need for conservation and research, the reassembly of a dispersed collection, the need for public access, exhibition and education; and the interests of any State with a verifiable link, especially a cultural, historical or archaeological link, in respect of the cultural heritage concerned.

(3) If underwater cultural heritage is seized which had been recovered from a site outside of the national territorial waters, the Competent National Authority shall notify the Director-General of UNESCO and any other State with a verifiable link, especially a cultural, historical or archaeological link, to the heritage concerned of this seizure.

(4) The following shall be authorised to enforce the provisions of this Act—

- (a) The Royal Police Force of Antigua and Barbuda;
- (b) The Antigua and Barbuda Defence Force;
- (c) The Customs and Excise Department of Antigua and Barbuda;
- (d) The Immigration Department of Antigua and Barbuda; and
- (e) any other entity designated by the Minister by Order published in the Gazette.

19 Access to Premises

(1) A person authorised by this Act to enforce its provisions who has reasonable cause to believe that an offence under this Act has been committed and by virtue of that belief, has cause to search any premises and conduct any inspection if this is reasonably necessary to fulfil its tasks, in particular regarding an object, which appears to be cultural heritage may apply to a Magistrate for a warrant.

(2) An object that is found during such a search may be removed or seized for further inspection and safekeeping.

20. Prohibition of Use and Entry into State Territory, Dealing, Possession

(1) A person shall not enter into Antigua and Barbuda with, or be in possession of cultural heritage unlawfully exported and recovered from another State or recovered in a manner not in conformity with the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

(2) A person shall not engage in any activity within the State of Antigua and Barbuda, including maritime ports, artificial islands, installations and structures, in support of any illegal or damaging activity directed at cultural heritage.

21. Infringements and Sanctions

(1) A person who—

- (a) undertakes any research, activity or recovery directed at cultural heritage of an archaeological character, including underwater cultural heritage, without a valid permit;

- (b) damages or destroys cultural heritage;
- (c) exports any cultural heritage without a valid export certificate;
- (d) alienates cultural heritage, which is under consideration for public acquisition or has been publicly acquired;

commits an offence and is liable to a fine not exceeding \$ 100,000.00 or to imprisonment for a term not exceeding 5 years or to both a fine and imprisonment.

(2) A person, who by hiding, falsifying or refusing factual information or by violent action steals, damages, destroys, exports or unlawfully recovers cultural heritage or opposes any actions of the Competent National Authority in an unlawful manner commits an offence and is liable to a fine not exceeding \$ 100,000.00 or to imprisonment for a term not exceeding 5 years or to both a fine and imprisonment.

IX. RETURN

22. Return of Illegally Trafficked Cultural Heritage

- (1) Any cultural heritage, which has been brought into the State, be it—
 - (a) without an export certificate, if this is mandatory due to the regulations of the State of origin;
 - (b) has been stolen from a public institution or museum, in whose register it had been inscribed;
 - (c) was lost against the will of the owner;
 - (d) was illegally excavated or legally excavated but unlawfully retained; or
 - (e) was declared inalienable by the national authorities of the State of origin,

shall be returned if reciprocity is ensured by the demanding State. All expenses incident to the return and delivery of the cultural heritage shall be borne by the requesting State and this State has to furnish at its expense the evidence necessary to establish its claim.

(2) As soon as the Competent National Authority learns of a case falling under subsection 1 it shall inform the embassy of the concerned State or of the State likely to be concerned.

(3) The claim for return shall be brought through diplomatic offices to the attention of the Ministry of Culture within a period of 3 years from the moment when the requesting State learns of the location of the cultural heritage and the identity of its possessor, and in any case within a period of one hundred years from the time of the theft or of the export, otherwise it loses its claim.

(4) A claim for return of cultural heritage forming an integral part of a classified site, or belonging to a public collection, shall not be subject to time limitations other than a period of one year from when the claimant knew the location of the object and the identity of its possessor.

X. REGULATIONS

23. Regulations

- (1) The Minister may make Regulations providing for any matter which is to be prescribed under this Act, or for giving effect to the purposes of this Act.
- (2) The Minister may by amend the Rules in the Schedule to this Act by way of an Order published in the Gazette.

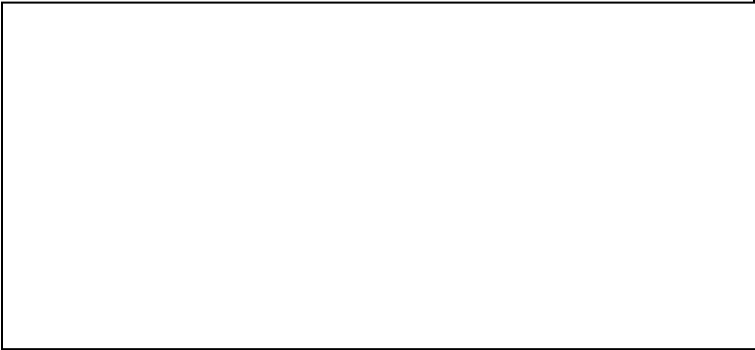
SCHEDULE

EXPORT CERTIFICATE FOR CULTURAL OBJECTS

ANNEX 1 EXPORT CERTIFICATE FOR CULTURAL OBJECTS

This document is issued in 5 copies, each heading must be completed, except headings 2, 12 and 18 if they do not apply


1	1. Beneficiary applicant requesting the exportation (name and address)	2. Beneficiary applicant's representative (name and address)
Applica		

<p>3. Issuing authority (name and address)</p>	<p>4. Export authorization No. Duration: _____ From : ___ / ___ / ___ Country of destination :</p>
<p>5. Initial consignee (and subsequent consignee(s)) if known (name and address)</p>	<p>6. Type of export Permanent export Temporary export Time limit for re-importation : ___ / ___ / ___</p>
<p>7. Owner of the cultural object (name and address)</p>	
<p>8. Photograph of the cultural object : 9 x 12 centimetres minimum</p>	
	
<p>(Continue on supplementary pages if necessary. Validate with the issuing authority's signature and stamp)</p>	
<p>9. Dimensions and net weight of the cultural object (possibly with its stand)</p>	<p>10. Inventory number or other identification <input type="checkbox"/> Inventory : No.</p>

	<input type="checkbox"/> No existing inventory <input type="checkbox"/> Other classification : No. <input type="checkbox"/> No other existing classification
11. Description of the cultural object (a) Type : (e) Geographical origin : (b) Author /co-author: (f) Dating : (c) Title or, failing that, subject matter : (g) Other information for identification purposes: (d) Scientific name if there is one:	
12. Number of cultural objects in the collection Presented : Not presented :	13. Copy, attribution, period, studio and/or style
14. Material(s) and Technique(s)	
15. Actual value of the cultural object or, failing that, estimated value based on reasonable criteria in the country of exportation :	
16. Legal status and use of the cultural object Status: <input type="checkbox"/> Sold <input type="checkbox"/> Loaned <input type="checkbox"/> Exchanged <input type="checkbox"/> Other (please specify) : Exported for: <input type="checkbox"/> Exhibition <input type="checkbox"/> Appraisal <input type="checkbox"/> Research <input type="checkbox"/> Repair <input type="checkbox"/> Other (please specify) :	
17. Attached documents /special identification methods <input type="checkbox"/> Photograph (colour) <input type="checkbox"/> Bibliography <input type="checkbox"/> Other (please specify) : <input type="checkbox"/> List <input type="checkbox"/> Catalogue <input type="checkbox"/> Seals <input type="checkbox"/> Valuation documents	
18. Supplementary pages : number of supplementary pages if applicable (in figures and letters)	
19. Application I hereby apply for an export authorization for the cultural object described above and declare that the information in this application and the supporting documents is true. Place and date : Signature : (Position and name of signatory)	20. Signature and stamp of issuing authority Place and date :

EXPORT CERTIFICATE FOR CULTURAL OBJECTS **COPY 2**

Each heading must be completed, except headings 2, 12 and 18 if they do not apply

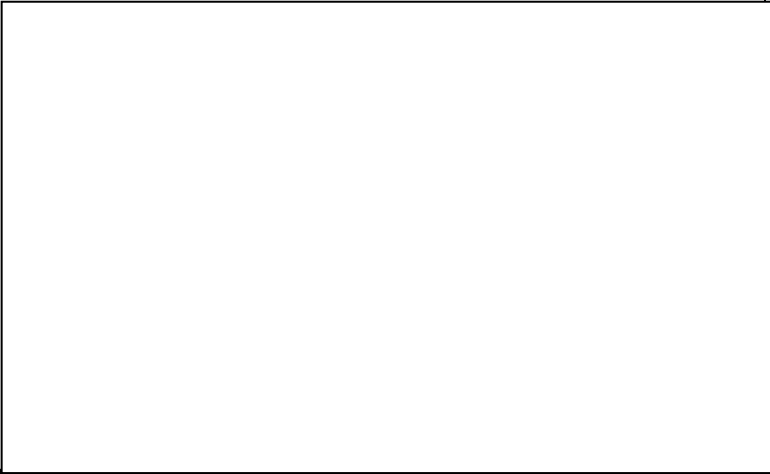
Applicant's copy	1. Beneficiary applicant requesting the exportation (name and address)	2. Beneficiary applicant's representative (name and address)
	3. Issuing authority (name and address)	4. Export authorization No. Duration: _____ From : ___ / ___ / ___ Country of destination :
	5. Initial consignee (and subsequent consignee(s)) if known (name and address)	6. Type of export Permanent export Temporary export Time limit for re-importation : ___ / ___ / ___
	7. Owner of the cultural object (name and address)	
8. Photograph of the cultural object: 9 x 12 centimetres minimum		
		
(Continue on supplementary pages if necessary. Validate with the issuing authority's signature and stamp)		
9. Dimensions and net weight of the cultural object (possibly with its stand)	10. Inventory number or other identification <input type="checkbox"/> Inventory : No. <input type="checkbox"/> No existing inventory <input type="checkbox"/> Other classification : No. <input type="checkbox"/> No other existing classification	
11. Description of the cultural object (a) Type : (e) Geographical origin : (b) Author /co-author: (f) Dating : (c) Title or, failing that, subject matter : (g) Other information for identification purposes:		

(d) Scientific name (if there is one):	
12. Number of cultural objects in the collection Presented : Not presented :	13. Copy, attribution, period, studio and/or style
14. Material(s) and Technique(s)	
15. Actual value of the cultural object or, failing that, estimated value based on reasonable criteria in the country of exportation :	
16. Legal status and use of the cultural object Status: <input type="checkbox"/> Sold <input type="checkbox"/> Loaned <input type="checkbox"/> Exchanged <input type="checkbox"/> Other (please specify) : Exported for: <input type="checkbox"/> Exhibition <input type="checkbox"/> Appraisal <input type="checkbox"/> Research <input type="checkbox"/> Repair <input type="checkbox"/> Other (please specify) :	
17. Attached documents /special identification methods <input type="checkbox"/> Photograph (colour) <input type="checkbox"/> Bibliography <input type="checkbox"/> Other (please specify) : <input type="checkbox"/> List <input type="checkbox"/> Catalogue <input type="checkbox"/> Seals <input type="checkbox"/> Valuation documents	
18. Supplementary pages : number of supplementary pages if applicable (in figures and letters)	
19. Endorsement by Customs Export Office Signature and stamp : Customs office : Country : Export document No. : Dated:	20. Signature and stamp of issuing authority Place and date :

EXPORT CERTIFICATE FOR CULTURAL OBJECTS COPY 3

Each heading must be completed, except headings 2, 12 and 18 if they do not apply

3	1. Beneficiary applicant requesting the exportation (name and address)	2. Beneficiary applicant's representative (name and address)
Issuing authority's copy	3. Issuing authority (name and address)	4. Export authorization No. Duration: _____ From : ___ / ___ / ___ Country of destination :

<p>5. Initial consignee (and subsequent consignee(s)) if known (name and address)</p>	<p>6. Type of export</p> <p>Permanent export</p> <p>Temporary export</p> <p>Time limit for re-importation : ____ / ____ / ____</p>
<p>7. Owner of the cultural object (name and address)</p>	
<p>8. Photograph of the cultural object: 9 x 12 centimetres minimum</p> 	
<p>(Continue on supplementary pages if necessary. Validate with the issuing authority's signature and stamp).</p>	
<p>9. Dimensions and net weight of the cultural object (possibly with its stand)</p>	<p>10. Inventory number or other identification</p> <p><input type="checkbox"/> Inventory : No.</p> <p><input type="checkbox"/> No existing inventory</p> <p><input type="checkbox"/> Other classification : No.</p> <p><input type="checkbox"/> No other existing classification</p>
<p>11. Description of the cultural object</p> <p>(a) Type : (e) Geographical origin :</p> <p>(b) Author /co-author: (f) Dating :</p> <p>(c) Title or, failing that, subject matter : (g) Other information for identification purposes:</p> <p>(d) Scientific name (if there is one):</p>	
<p>12. Number of cultural objects in the collection</p> <p>Presented :</p> <p>Not presented :</p>	<p>13. Copy, attribution, period, studio and/or style</p>
<p>14. Material(s) and Technique(s)</p>	
<p>15. Actual value of the cultural object or, failing that, estimated value based on reasonable criteria in the country of exportation :</p>	

16. Legal status and use of the cultural object Status: <input type="checkbox"/> Sold <input type="checkbox"/> Loaned <input type="checkbox"/> Exchanged <input type="checkbox"/> Other (please specify) : Exported for: <input type="checkbox"/> Exhibition <input type="checkbox"/> Appraisal <input type="checkbox"/> Research <input type="checkbox"/> Repair <input type="checkbox"/> Other (please specify) :	
17. Attached documents /special identification methods <input type="checkbox"/> Photograph (colour) <input type="checkbox"/> Bibliography <input type="checkbox"/> Other (please specify) : <input type="checkbox"/> List <input type="checkbox"/> Catalogue <input type="checkbox"/> Seals <input type="checkbox"/> Valuation documents	
18. Supplementary pages : number of supplementary pages if applicable (in figures and letters)	
19. Endorsement by Customs Export Office <p style="text-align: center;">Signature and stamp</p> Customs office : Country : Export document No.: Dated:	20. Signature and stamp of issuing authority Place and date :
21. Customs exit office Stamp and date :	

EXPORT CERTIFICATE FOR CULTURAL OBJECTS COPY 4

Each heading must be completed, except headings 2, 12 and 18 if they do not apply

4	1. Beneficiary applicant requesting the exportation (name and address)	2. Beneficiary applicant's representative (name and address)
	3. Issuing authority (name and address)	4. Export authorization No. Duration: _____ From : ___ / ___ / ___ Country of destination :
	5. Initial consignee (and subsequent consignee(s) if known) (name and address)	6. Type of export Permanent export Temporary export Time limit for re-importation : ___ / ___ / ___
	7. Owner of the cultural object (name and address)	
8. Photograph of the cultural object : 9 x 12 centimetres minimum		

Copy for Customs authorities at exportation

<p>(Continue on supplementary pages if necessary. Validate with the issuing authority's signature and stamp).</p>	
<p>9. Dimensions and net weight of the cultural object (possibly with its stand)</p>	<p>10. Inventory number or other identification</p> <p><input type="checkbox"/> Inventory : No.</p> <p><input type="checkbox"/> No existing inventory</p> <p style="padding-left: 20px;"><input type="checkbox"/> Other classification : No.</p> <p><input type="checkbox"/> No other existing classification</p>
<p>11. Description of the cultural object</p> <p>(a) Type : (e) Geographical origin :</p> <p>(b) Author /co-author: (f) Dating :</p> <p>(c) Title or, failing that, subject matter : (g) Other information for identification purposes:</p> <p>(d) Scientific name (if there is one):</p>	
<p>12. Number of cultural objects in the collection</p> <p>Presented :</p> <p>Not presented :</p>	<p>13. Copy, attribution, period, studio and/or style</p>
<p>14. Material(s) and Technique(s)</p>	
<p>15. Actual value of the cultural object or, failing that, estimated value based on reasonable criteria in the country of exportation :</p>	
<p>16. Legal status and use of the cultural object</p> <p>Status: <input type="checkbox"/> Sold <input type="checkbox"/> Loaned <input type="checkbox"/> Exchanged <input type="checkbox"/> Other (to be specified) :</p> <p>Exported for: <input type="checkbox"/> Exhibition <input type="checkbox"/> Appraisal <input type="checkbox"/> Research <input type="checkbox"/> Repair <input type="checkbox"/> Other (please specify) :</p>	
<p>17. Attached documents /special identification methods</p> <p><input type="checkbox"/> Photograph (colour) <input type="checkbox"/> Bibliography <input type="checkbox"/> Other (please specify) :</p> <p><input type="checkbox"/> List <input type="checkbox"/> Catalogue</p> <p><input type="checkbox"/> Seals <input type="checkbox"/> Valuation documents</p>	
<p>18. Supplementary pages : number of supplementary pages if applicable (in figures and letters)</p>	

<p>19. Endorsement by Customs Export Office</p> <p style="text-align: center;">Signature and stamp</p> <p>Customs office : Country : Export document No. : Dated:</p>	<p>20. Signature and stamp of issuing authority</p> <p>Place and date :</p>
<p>21. Customs exit office Stamp and date :</p>	

EXPORT CERTIFICATE FOR CULTURAL OBJECTS COPY 5

Each heading must be completed, except for headings 2, 12 and 18 if they do not apply

5	1. Beneficiary applicant requesting the exportation (name and address)	2. Beneficiary applicant's representative (name and address)
	3. Issuing authority (name and address)	4. Export authorization No. Duration: _____ From : ___ / ___ / ___ Country of destination :
	5. Initial consignee (and subsequent consignee(s) if known) (name and address)	6. Type of export Permanent export Temporary export Time limit for re-importation : ___ / ___ / ___
	7. Owner of the cultural object (name and address)	
	8. Photograph of the cultural object : 9 x 12 centimetres minimum	
<div style="border: 1px solid black; height: 150px; width: 100%;"></div> <p>(Continue on supplementary sheet for photograph and authority's signature and stamp).</p>		
9. Dimensions and net weight of the cultural object (possibly with its stand)	10. Inventory number or other identification <input type="checkbox"/> Inventory :	

	No. <input type="checkbox"/> No existing inventory <input type="checkbox"/> Other classification : No. <input type="checkbox"/> No other existing classification
11. Description of the cultural object (a) Type : (e) Geographical origin : (b) Author /co-author: (f) Dating : (c) Title or, failing that, subject matter : (g) Other information for identification purposes: (d) Scientific name (if there is one):	
12. Number of cultural objects in the collection Presented : Not presented :	13. Copy, attribution, period, studio and/or style
14. Material(s) and Technique(s)	
15. Actual value of the cultural object or, failing that, estimated value based on reasonable criteria in the country of exportation :	
16. Legal status and use of the cultural object Status: <input type="checkbox"/> Sold <input type="checkbox"/> Loaned <input type="checkbox"/> Exchanged <input type="checkbox"/> Other (to be specified) : Exported for: <input type="checkbox"/> Exhibition <input type="checkbox"/> Appraisal <input type="checkbox"/> Research <input type="checkbox"/> Repair <input type="checkbox"/> Other (please specify) :	
17. Attached documents /special identification methods <input type="checkbox"/> Photograph (colour) <input type="checkbox"/> Bibliography <input type="checkbox"/> Other (please specify) : <input type="checkbox"/> List <input type="checkbox"/> Catalogue <input type="checkbox"/> Seals <input type="checkbox"/> Valuation documents	
18. Supplementary pages : number of supplementary pages if applicable (in figures and letters)	
19. Endorsement by Customs Export Office Signature and stamp Customs office : Country : Export document No. : Dated:	20. Signature and stamp of issuing authority Place and date :
21. Customs exit office Stamp and date :	

ANNEX 2 RULES CONCERNING ACTIVITIES DIRECTED AT CULTURAL HERITAGE OF AN ARCHAEOLOGICAL CHARACTER, INCLUDING UNDERWATER CULTURAL HERITAGE

I. GENERAL RULES

Rule 1. Protection Standards

- 1.) Activities directed at cultural heritage of an archaeological character, which includes terrestrial, sub-terrestrial and underwater cultural heritage, shall be authorized in a manner consistent with their protection and for the purpose of making a significant contribution to their protection and enhancement or to gain knowledge about them.
- 2.) The preservation of cultural heritage of an archaeological character including underwater cultural heritage in its original location in situ shall be considered as the first option before allowing or engaging in any activity, including a recovery or displacement. It shall not be commercially exploited, bartered or sold. This shall not be interpreted as prohibiting responsible public access, museum exhibition, exchange between museums or scientific research.

Rule 2. Rejection of Commercial Exploitation

- 1.) The commercial exploitation of cultural heritage of an archaeological character, including underwater cultural heritage, for trade or speculation or its irretrievable dispersal is fundamentally incompatible with its protection and proper management. It shall not be traded, sold, bought or bartered as commercial goods.
- 2.) This Rule cannot be interpreted as preventing:
 - a) the provision of professional archaeological services or necessary services incidental thereto whose nature and purpose are in conformity with the law and are authorized by the Competent National Authority;
 - b) the deposition of material recovered in the course of an authorized research project, provided such deposition does not prejudice the scientific or cultural interest or integrity of this material or results in its dispersal and is in accordance with Rule 21.

Rule 3. Mitigation of Adverse Effects

- 1.) Activities directed at cultural heritage of an archaeological character, including underwater cultural heritage shall affect them not more adversely than necessary for the objectives of the project.
- 2.) Non-destructive techniques and survey methods must be used in preference to excavation and recovery of objects. If excavation or recovery is necessary for the purpose of scientific studies or for protection, the methods and techniques used must be as non-destructive as possible and the preservation of the remains should be ensured.

Rule 4. Human Remains and Venerated Sites

- 1.) Activities directed at cultural heritage of an archaeological character, including underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.
- 2.) No public exhibition or media publication of human remains shall be made
 - a) against the pronounced wish of the family or State of origin of a deceased;
 - b) without scientific necessity or a considerable public interest, this being also the interest of public information and education;
 - c) without respecting the dignity of the deceased.

Rule 5. International Cooperation

International cooperation in the conduct of activities directed at cultural heritage of an archaeological character, including underwater cultural heritage shall be encouraged. It shall further the:

- a) exchange and use of historical, technical and scientific knowledge;
- b) exchange and use of archaeologists and other relevant professionals; and
- c) effectiveness of protection measures.

Rule 6. Content of Project Design

- 1.) Prior to the permission of any activity directed at cultural heritage of an archaeological character, including underwater cultural heritage, a project design shall be developed and submitted to the Competent National Authorities.
- 2.) The project design needs to include:
 - a) the project description and its objectives;
 - b) an assessment of previous or preliminary studies and the vulnerability of the site or objects;

- c) the methodology to be used and the techniques to be employed;
- d) the anticipated funding and its sources;
- e) a timetable to assure the completion of all stages of the project;
- f) the composition of the team and the qualifications, responsibilities and experience of each team member;
- g) plans for post-fieldwork analysis and other activities;
- h) a conservation programme;
- i) a site management and maintenance policy for the whole duration of the project;
- j) a documentation programme;
- k) a safety policy;
- l) an environmental policy;
- m) arrangements for collaboration with museums and other institutions, in particular scientific institutions;
- n) a report preparation;
- o) a plan for the deposition of archives, documentation and recovered cultural heritage ; and
- p) a programme for publication.

3.) The project design shall furthermore

- a) demonstrate the ability to fund the project through to completion; and
- b) include a contingency plan that will ensure conservation of cultural heritage and supporting documentation in the event of any interruption of funding or any interruption or termination of the project.

Rule 7. Compliance with the Project Design

- 1.) Activities directed at cultural heritage of an archaeological character, including underwater cultural heritage shall be carried out in accordance with the project design as approved by the Competent National Authority.
- 2.) Where unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended subject to approval by the Competent National Authority.

Rule 8. Immediate Danger

In cases of immediate danger, urgency or chance discoveries, activities, including conservation measures or activities for a period of short duration, in particular site stabilization, may be authorized in the absence of a project design if this is the interest of protection.

II. SPECIFIC RULES

Rule 9. Project Objective, Methodology and Techniques

The applied project methodology shall comply with the project objectives, and the techniques employed shall be as non-intrusive as possible.

Rule 10. Preliminary Work and Prior Assessments

- 1.) Any work preliminary to the start of the intended activity shall include an assessment that evaluates the significance and vulnerability of the concerned cultural heritage and the surrounding natural environment to be impacted by the proposed project, and the potential to obtain data that would meet the project objectives.
- 2.) The assessment shall also include background studies of available historical and archaeological evidence, the archaeological and environmental characteristics of the site, and the consequences of any potential intrusion for the long-term stability of the cultural heritage affected by the activities.

Rule 11. Funding

Except in cases of immediate danger to the concerned cultural heritage an adequate funding base shall be assured in advance of any activity, which needs to be sufficient to complete all stages of the project design, including conservation, documentation and curation of recovered artefacts, report preparation and dissemination.

Rule 12. Project duration – timetable

An adequate timetable shall be developed to assure in advance of any activity the completion of all stages of the project design, including conservation, documentation and curation of recovered material, as well as report preparation and dissemination.

Rule 13. Composition of the Team, Competence and Qualifications

- 1.) Activities directed at cultural heritage of an archaeological character, including underwater cultural heritage shall only be undertaken under the direction and control of, and in the regular presence of, a qualified archaeologist with scientific competence appropriate to the particular project in question.
- 2.) All persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the project.

Rule 14. Conservation Programme

The conservation programme for artefacts and the site shall be elaborated in close cooperation with the competent authorities and provide for the treatment of the cultural heritage during the activities directed at them, during transit and in the long term. Conservation shall be carried out in accordance with professional state-of-the-art standards.

Rule 15. Site Management Programme

A site management programme shall be elaborated in close cooperation with the competent authorities and provide for the protection and management *in situ* of the cultural heritage of an archaeological character, including underwater cultural heritage in the course of and upon termination of fieldwork. It shall include public information, reasonable provision for site stabilization, monitoring, and protection against interference.

Rule 16. Documentation

- 1.) The documentation programme shall set out thorough documentation including a progress report of activities, in accordance with current professional standards of archaeological documentation.
- 2.) Documentation shall include, at a minimum, a comprehensive record of the site, including the provenance of cultural heritage moved or removed in the course of the activities, field notes, plans, drawings, sections, and photographs or recording in other media.

Rule 17. Safety

- 1.) A safety policy shall be prepared that is adequate to ensure the safety and health of the project team and third parties and that is in conformity with any applicable statutory and professional requirements.
- 2.) In the case of activities directed at underwater cultural heritage safety measures have to include appropriate dive training for the project team as well as adequate technical and medical equipment.

Rule 18. Environment

An environmental policy shall be prepared that is adequate to ensure that the environment, including fauna and flora are not unduly disturbed.

Rule 19. Reporting

- 1.) Interim and final reports shall be made available according to the timetable set out in the project design, and deposited with the [Competent National Authority] and in relevant public records.
- 2.) They shall include:
 - a) an account of the project objectives;
 - b) an account of the methods and techniques employed;
 - c) an account of the results achieved;
 - d) graphic and photographic documentation on all phases of the activity;
 - e) recommendations concerning conservation and curation of the site and of any material removed; and
 - f) recommendations for future activities.

Rule 20. Curation of Project Archives

- 1.) Arrangements for curation of the project archives shall be agreed to before any activity commences, and shall be set out in the project design.
- 2.) The project archives, including any material recovered and a copy of all supporting documentation shall, as far as possible, be kept together and intact as a collection in a manner that is available for professional and public access as well as for the curation of the archives. This should be done as rapidly as possible and in any case not later than ten years from the completion of the project, compatible with conservation of the cultural heritage concerned.
- 3.) The project archives shall be managed according to international professional standards and subject to the approval by the [Competent National Authority].

Rule 21. Public Education and Dissemination

- 1.) Projects shall provide for public education and popular presentation of the project results where appropriate.
- 2.) A final synthesis of a project shall be:
 - a) made public as soon as possible, having regard to the complexity of the project and the possible confidential or sensitive nature of any of the information; and
 - b) deposited in relevant public records.

Passed by the House of Representatives on the , 2016.

Passed by the Senate on the , 2016.

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

The Bill seeks to provide for incorporating into Antigua and Barbuda, the internationally accepted standards for heritage protection, in particular on the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage and for the incidental and related matters.

The Bill is divided into ten parts.

Part I, Preliminary, Clauses 1 - 2:

Part 1 addresses preliminary matters of the Bill such as the short title and the interpretation of words commonly used in the Bill.

Part II, Competent National Authority, Clauses 3 – 5:

Part 2 designates the National Parks Authority to be the Competent National Authority for the purposes of the Bill, and defines its tasks.

Part III, Discovery, Report and Displacement Of Cultural Heritage Preliminary, Clause 6

Part 3 sets out the criteria on how cultural heritage should be handled if discovered or if activity is to be taken with respect to it.

Part IV. Permission of Activities and Permits, Clauses 7 - 9

Part 4 establishes the regime for the issue of permits with respect to activities surrounding cultural heritage, including the conditions that would allow the export of heritage from Antigua and Barbuda.

Part V. Underwater Cultural Heritage Beyond The Limits Of National Jurisdiction , Clauses 10 - 14

Part 5 illustrates what procedure be followed if underwater heritage is discovered outside the limits of Antigua and Barbuda's jurisdiction.

Part VI. Activities Incidentally Affecting Cultural Heritage, Clause 15

Part 6 stipulates certain requirements to be followed if certain activities such as property development is to be undertaken in an area with heritage.

Part VII. Ownership of Cultural Heritage , Clauses 16 - 17

Part 7 sets out the conditions surrounding ownership of heritage.

Part VIII. Enforcement, Clauses 18 - 21

Part 8 sets out the criteria for enforcement of this Act and establishes offences and penalties.

Part IX. Return Clause 22

Part 9 deals with the steps required to be taken for the return of illegally trafficked heritage.

Part X. Regulations

Part 10 permits the Minister to make Regulations to enable this Act to be more effective.

*E. Paul Chet Greene
Minister with responsibility
for Culture*