

REVIEW BOARD DECISION

December 23, 2025

REQUEST FOR REVIEW OF AN APPLICATION FOR CULTURAL PROPERTY EXPORT PERMIT

Application No.: 0495-25-06-28-002
Head IV, 1911-1912, by Amadeo Modigliani

Held:

The Review Board finds that the Object is included in the Control List, is of outstanding significance, and is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage.

The Review Board also finds that an institution or public authority in Canada might make a fair offer to purchase the Object within six months of this decision. The Review Board therefore establishes a delay period of 6 months, ending **June 23, 2026**, during which it will not direct that an export permit be issued in respect of the Object.

BACKGROUND

1. On June 26, 2025, PACART Inc. (the Applicant) applied to the Canada Border Services Agency (CBSA) for a permit to export *Head IV, 1911-1912*, stone sculpture (the Object), by Amadeo Modigliani.
2. On August 1, 2025, a permit officer employed by the CBSA sent to the Applicant a written notice of refusal with respect to the Object. The refusal was based on the advice of a representative of the Art Gallery of Ontario (the Expert Examiner), who determined that, in accordance with the *Cultural Property Export and Import Act* (the Act), the Object is of outstanding significance by reason of its aesthetic qualities and its value in the study of the arts. He also determined that the loss of the Object would significantly diminish the national heritage by reason of its representativeness, contextual association and research value.
3. On August 26, 2025, the Applicant requested a review of its application for an export permit (the Request for Review) by the Canadian Cultural Property Export Review Board (the Review Board).
4. On September 25, 2025, and in response to a request by the Review Board, the Applicant filed a written statement and images of the Object in support of its Request for Review (Written Statement).
5. The Review Board met on November 6, 2025 to consider the Request for Review.

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ANALYSIS**Legislative Framework**

6. According to subsection 29(3) of the Act, when reviewing a refused application for an export permit, the Review Board shall determine whether the object:
 - a) is included in the Control List;
 - b) is of outstanding significance by one or more reasons set out in paragraph 11(1)(a):
 - its close association with Canadian history or national life,
 - its aesthetic qualities, or
 - its value in the study of the arts or sciences; and
 - c) meets the degree of national importance referred to in paragraph 11(1)(b): is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage.
7. Where the Review Board determines that an object fails to meet one or more of the criteria set out in subsection 29(3), it shall direct a permit officer to issue an export permit forthwith (subsection 29(4)).
8. In accordance with subsection 29(5), where the Review Board determines that an object meets all the criteria in subsection 29(3):
 - a) if it is of the opinion that a fair offer to purchase the object might be made by an institution or public authority in Canada within six months after the date of its determination, the Review Board shall establish a delay period of not less than two months and not more than six months during which it will not direct that an export permit be issued in respect of the object; or
 - b) in any other case, direct a permit officer to issue an export permit forthwith.

Is the Object included in the Control List?

9. The Review Board finds that the Object is included in the Control List.

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10. An object that falls under the Canadian Cultural Property Export Control List cannot be exported from Canada without a permit. The Control List applies to an object that:

- is 50 or more years old;
- was made by a natural person who is no longer living; and
- meets specific criteria including age or a minimum dollar value, as set out in the Control List.

11. The Applicant and the Expert Examiner agree that the Object is included in the Control List under Group V, Objects of Fine Art, subsection 4(b). Subsection 4(b) applies to paintings or sculptures made outside the territory that is now Canada by a person who at the time was not ordinarily resident in the territory that is now Canada, and that have a fair market value in Canada of more than \$30,000.00 CAN.

12. The Review Board agrees that the Object is a sculpture that was made more than 50 years ago outside the territory that is now Canada by a person who is no longer living. The Review Board also agrees that the Object's fair market value, as specified by the Applicant in its export permit application, exceeds \$30,000.00 CAN.

Is the Object of Outstanding Significance?

13. The Review Board finds that the Object is of outstanding significance by reason of its aesthetic qualities and its value in the study of arts.

14. The Expert Examiner found that the Object is of outstanding significance for its aesthetic quality and its value in the study of the arts.

15. The Applicant agreed that the Object is of outstanding significance.

Aesthetic qualities

16. In his report, the Expert Examiner noted that the Object is one of only twenty-eight stone sculptures Modigliani made and stands out for its originality, style, and execution. It blends rough carving with refined facial features, drawing on ancient Cycladic, Egyptian, Greek, and other global sculptural traditions. Influenced by artists

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like Brancusi, and shaped by Parisian avant-garde circles, the work helped redefine twentieth century sculpture and influenced artists worldwide.

17. With respect to the Object's aesthetic qualities, the Review Board finds that the Object demonstrates exceptional aesthetic qualities through the synthesis of archaic form, modern abstraction, and material presence. The Object's elongated facial proportions, schematic treatment of eyes and nose, and restrained surface articulation reflect Modigliani's sustained engagement with Cycladic, Egyptian, and African sculptural traditions, while simultaneously asserting a modernist vocabulary grounded in simplification and abstraction. The tension between the work's rough-hewn surfaces and its refined facial geometry exemplifies Modigliani's innovative approach to stone carving and contributes to the Object's enduring visual power.
18. The Review Board further notes that the Object embodies a sculptural language that is immediately recognizable and emblematic of Modigliani's artistic identity. Its clarity of form, balance, and rhythmic verticality place it among the most resolved and compelling examples of the artist's sculptural practice.

Value in the study of arts

19. In regard to value in the study of the arts, the Expert Examiner stated that the Object is especially important because it was shown in Modigliani's 1912 Paris exhibition and formed part of a broader artistic concept he envisioned as a "temple of beauty." According to the Expert Examiner, the work reflects experimental ideas about sculpture as ritual, space, and experience. It expands how sculpture was understood by early twentieth century artists and offers insight into Modigliani's artistic philosophy and process.
20. The Review Board finds that the Object is of outstanding value in the study of the arts due to its pivotal role in understanding Modigliani's artistic philosophy and the broader development of modern sculpture. Created during the period leading up to Modigliani's participation in the 1912 Paris exhibitions, the work forms part of his conceptual project for a sculptural "temple of beauty," in which individual heads were conceived as elements of an immersive architectural and spiritual environment.
21. As such, the sculpture provides critical insight into early twentieth-century debates concerning the relationship between sculpture, space, ritual, and meaning. It also

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illuminates Modigliani's engagement with direct carving as both a technical and ideological position, aligning him with contemporaries who sought to reclaim the expressive potential of stone as a primary material.

Is the Object of such a degree of national importance that its loss to Canada would significantly diminish the national heritage?

22. The Review Board finds that the Object is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage. The Review Board makes this finding on the basis of the Object's rarity, contextual associations and research value.
23. The Applicant agreed that the Object is of national importance.

Rarity

24. The Expert Examiner found that the Object is of national importance by reason of its rarity. In his report, he noted there are no Modigliani sculptures in Canadian collections. Most surviving examples are held by major museums in Europe and the United States or in private collections. *Head IV* is highly representative of Modigliani's sculptural style and closely relates to key works in major international institutions, making it exceptionally rare in the Canadian context.
25. The Review Board agrees, and further finds that the Object is not only rare but highly representative of Modigliani's sculptural achievement. As one of the earliest and most resolved examples within the *tête* series, the Object establishes formal and conceptual precedents that recur throughout the artist's subsequent sculptural production. Its survival and condition enhance its value as a reference work for scholars and curators seeking to understand Modigliani's sculptural intentions and methods.

Contextual association

26. The Expert Examiner also found that the Object is of national importance by reason of its contextual associations. In his report, he noted Modigliani's work is central to the

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development of modern art in Paris and influenced Canadian artists directly and indirectly. His impact can be seen in works by artists such as Arthur Lismer and William Ronald, showing the relevance of *Head IV* to the history of modern art in Canada.

27. The Review Board finds that the Object is of national importance due to its contextual associations. It is firmly embedded within a critical moment in the development of international modernism. Modigliani's sculptural practice emerged within the Parisian avant-garde milieu, where sustained dialogue with artists such as Constantin Brancusi and Jacob Epstein shaped new approaches to form, material, and abstraction. The work reflects these exchanges while maintaining a distinctive artistic voice rooted in historical and cross-cultural reference.
28. The Review Board further finds that Modigliani's influence on modern art extended well beyond France, shaping artistic discourse internationally, including in Canada. Canadian artists and audiences encountered Modigliani's work through exhibitions, publications, and reproductions, situating his practice within the intellectual framework through which modern art was understood and taught in Canada throughout the twentieth century.

Research value

29. The Expert Examiner also found that the Object is of national importance by reason of its research value. In his report, he noted *Head IV* offers strong potential for technical and conservation research because it has only been privately owned and is well preserved. As an early example of direct carving, it is especially valuable for studying sculptural techniques that later influenced artists like Henry Moore and Barbara Hepworth, both of whom are represented in Canadian collections.
30. The Review Board finds that the Object offers exceptional opportunities for future research due to its material integrity, limited exhibition history, and early position within Modigliani's sculptural oeuvre. Technical study of the stone, tool marks, and carving methodology would contribute to a deeper understanding of Modigliani's working process and his engagement with direct carving practices at a formative moment in modern sculpture.

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31. The Review Board further notes that such research would meaningfully complement existing Canadian collections of twentieth-century sculpture and support comparative study with artists influenced by direct carving traditions, thereby enhancing Canada's capacity for original scholarship in the field of modern art.

Conclusion on national significance

32. Based on the degree of rarity, the strength of its contextual associations, and its substantial research potential, the Review Board concludes that the loss of the Object to Canada would significantly diminish the national heritage.

Whether an institution or public authority in Canada might make a fair offer to purchase the Object within six months after the date of the determination

33. If the Review Board determines that an object is on the Control List and is of outstanding significance and of national importance, subsection 29(5) of the Act requires that the Review Board form an opinion as to whether an institution or public authority in Canada might make a fair offer to purchase the object within six months after the date of the determination.

34. The threshold under the Act for determining whether an institution or public authority might make a fair offer to purchase an object is very low. Paragraph 29(5)(a) uses the word "might". The threshold is therefore just a possibility – far less than a probability or a certainty. The Review Board therefore concludes that only limited evidence or information is required for the Review Board to be satisfied that an institution or public authority might make a fair offer to purchase.

35. The Review Board is satisfied that an institution or public authority might make a fair offer purchase. There are no Modigliani sculptures in Canadian public collections. This is an important early work in the artist's short sculptural oeuvre and there can be no doubt that Modigliani is an influence on generations of Canadian sculptors and artists.

36. The Review Board finds that an institution or public authority might make a fair offer to purchase the Object within six months of the Review Board's determination in this matter.

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Delay period during which the Review Board will not direct that an export permit be issued in respect of the Object

37. When the Review Board is of the opinion that an institution or public authority in Canada might make a fair offer to purchase an object within six months after the date of the determination, the Review Board must establish a delay period of not less than two months and not more than six months during which the Review Board will not direct that an export permit be issued in respect of the object.
38. The Review Board establishes a delay period of six months during which it will not direct that an export permit be issued in respect of the Object.
39. In establishing a six-month delay period, the Review Board took into consideration the long process needed for curators, collection committees and boards to review the potential purchase and apply for additional funds where needed.

Determination

40. In conclusion, the Review Board determines that the Object is on the Control List, that it is of outstanding significance, and that it is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage. Furthermore, the Review Board is of the opinion that a fair offer to purchase the Object might be made by an institution or public authority in Canada within six months after the date of this decision. The Review Board therefore establishes a delay period of six months ending June 23, 2026 and will not direct that an export permit be issued in respect of the Object.

Decision by:
Joanne Stober, Chairperson (Chairing)

Concurred by:
Stephen Borys, Member
Daniel Chouinard, Member
Tzu-I Chung, Member
Jo-Ann Kane, Member
Susan Mackenzie, Member