

# Lending to Europe

Recommendations on collection mobility  
for European museums



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A report produced by an independent group of experts,  
set up by Council resolution 13839/04:

# April 2005

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Lending to Europe

Recommendations on collection mobility for European museums

# Lending to Europe



# page 8

## chapter 1 Introduction

1 Museums are a link between Europe's heritage and the citizens of today and tomorrow. They have become lively laboratories which stimulate our senses and extend our perception of culture. Museums have an enormous potential to bring the riches of our cultural diversity to the fore, to bridge different cultures and to raise awareness of the common elements of our cultural heritage. In the proposed EU Constitution, cultural heritage is one of the objectives of the Union: "the Union respects cultural and linguistic diversity and ensures that Europe's cultural heritage is safeguarded and enhanced."

The museum collections of Europe are, first and foremost, one of society's common assets. It is therefore important to safeguard them, but also to make them available to society as much as possible. In this sense, museums hold collections in trust.

Museums have a long tradition of sharing the cultural heritage in their custody with other museums and institutions. To lend objects to other museums, both in the same country and abroad, is considered one of their most important tasks. To have the opportunity to borrow from other museums is crucial for large and small museums alike. The mobility of collections is ideally based on the principle of reciprocity, but it is not an end in itself. There are valid reasons for preventing a specific object or group of objects from travelling; see, for example, appendix 1.

Europeans have access to a rich heritage. Some of these treasures are permanently on show, for example in museums and galleries, or are temporarily on display in exhibitions. But others are of limited access because they are hidden from view in storage<sup>1</sup>. All these objects taken together – works of art, historical objects, and so on – are what Europe has in common and what unites Europe in diversity. It is important that Europeans become acquainted with, can appreciate, enjoy and understand their own and other cultures and are able to pass on this heritage to future generations.

At present, there are more than 30,000 museums in Europe, which are visited by some 500 million people each year. Only 300 museums regularly hold major temporary exhibitions. Studies show that the number of museum visitors (as an indicator of public interest) depends on having an active exhibitions programme. Temporary exhibitions also encourage the public to revisit a museum's permanent collection, a side-

effect underlined by the blockbuster exhibitions organised over the past few decades, which have turned out to be magnets for visitors. Such exhibitions also make it possible to study historical themes and to survey the oeuvre of an artist or the products of a particular movement or period, which may well be scattered all over the world<sup>2</sup>. The mobility of collections therefore fits in with the fundamental principles of the European Union, i.e. the free movement of persons, goods, services and capital.

European treasures are highly regarded all over the world. Oddly enough, it is sometimes easier for them to travel to the United States or Japan, because museums in these countries can draw from larger funds or benefit from advantageous support schemes (such as the federal indemnity scheme in the United States) that considerably reduce operating costs. If museums in Europe want to become more competitive, measures should be taken to enable them to mount scholarly or educational exhibitions at the highest level that include objects illustrating Europe's dispersed heritage, borrowed from all over Europe and the rest of the world.

The present set of recommendations aims to encourage collection mobility, both by stimulating a larger number of European institutions to share in cultural exchanges within Europe and by redressing the imbalance vis-à-vis financially stronger and better equipped partners outside Europe.

It should be noted in this context that one of the three objectives of the new Culture 2007 Programme proposed by the European Commission is "to encourage the transnational circulation of works and cultural and artistic products."

In the following two chapters the group describes first the working method and second the subject areas and its recommendations. Chapter II, working method, consists of three paragraphs, first its mandate and objectives, second the subjects areas which are conducive or obstacles to collection mobility. The third paragraph describes the decision makers involved.

Chapter III, subjects areas and its recommendations, is a result of the obstacles and conducive identified by the group in paragraph two of the working method. After a concluding observation, the group presents a schematic overview of all the recommendations mentioned in Chapter III.

## chapter 2 Working method

### 2.1

#### Mandate and objectives

During the Netherlands Presidency of the European Union, the Council adopted resolution 13839/04 on the working plan for Culture 2005 – 2006, which focuses on five priority areas for the years 2005 and 2006 (appendix 2). The aims and measures set out in these areas are intended to improve cultural cooperation and to remove the main obstacles to such cooperation. The subsequent EU Presidencies will guarantee a continuous and sustained follow-up.

Within this context, the mobility of art collections and exhibitions has been identified as one of the priority areas. Based on the findings of an expert study surveying national systems of public indemnity guarantees relating to exhibitions in 31 European countries<sup>3</sup> and on the outcome of the *Museum Collections on the Move*<sup>4</sup> conference, the Council Presidency set up a working group of museum experts, under chairmanship of Ronald de Leeuw, director general of the Rijksmuseum in Amsterdam, to advise on facilitating European collection mobility.

The mandate of this group was to prepare practical recommendations for improving the mobility of museum collections, with a special emphasis on questions related to insurance and indemnity, standards and guidelines, and the role of the registrar. However, the group took the opportunity to discuss more subjects related to collection mobility.

The aim was to come up with realistic and practical advice for all kinds of museums (natural history, historical, art, etc.). Furthermore, the group was to underline the specific added value that the Member States and EU Institutions could provide when implementing these recommendations.

The group found that a number of good practices already exist in the field, and that it was now important to identify, and if necessary adapt, the relevant models and promote them on a

wider scale. These practices, together with the recommendations developed by the group, should provide the basis for:

- putting greater emphasis on the mobility of collections;
- including collections from museums and countries which have – so far – been less closely involved in international exhibitions.

### 2.2

#### Approach

In order to ensure that its work would have a significant impact leading to actual improvements, the group had to decide on a general approach. It chose a pragmatic approach in which it first tackled problems that appeared to present the main obstacles to collection mobility. The group is fully aware that other steps will have to follow.

The group consequently first identified the areas which it considered to be the main obstacles or conducive to the mobility of museum collections on a wider scale. It found the following subjects:

1. conduct and administration
2. value, non insurance, indemnity and insurance
3. immunity from seizure
4. long term loans
5. loan fees
6. publications/copyrights
7. digitisation
8. trust

These different subjects are elaborated in section III of this report. The group emphasises that although other subjects could have been tackled, for example terrorism and different customs practices, these have not been addressed in this report for practical reasons.

In line with Article 151 of the Treaty establishing the European Community any measures to harmonise national legislation are excluded. However, the group did find examples of legislation in

<sup>1</sup> The responses of 411 museums in 11 European countries to a questionnaire on collection mobility sent via the Network of European Museum Organisations in 2003 show that these 411 museums possess 315 million objects, of which (on average) 73.3% is in storage.

<sup>2</sup> Introduction to Study no.° 2003-4879, see footnote 3.

<sup>3</sup> Study no. 2003-4879 - An inventory of national systems of public guarantees in 31 European countries (June 2004).

<sup>4</sup> The Hague, Netherlands, 28 - 29 October 2004, [www.museumcollectionsonthemove.org](http://www.museumcollectionsonthemove.org)

similar areas, posing the question whether a more active approach to legislation, i.e. indemnity and immunity from seizure, would be feasible in collection mobility. Furthermore, the group felt that stakeholders in the museum sector were in the best position to propose solutions that could be implemented and developed in more detail over time, as they are the parties who come up against practical obstacles on a daily basis.

The group concluded that significant progress in this field could only be achieved by combining the efforts of museum professionals, the Member States and the EU Institutions. It therefore prepared recommendations arising from the daily work and the practical problems encountered by museum professionals who deal with collection mobility. The group regrets not having been in a position to consult all the various stakeholders. Given its mandate, timetable and the resources at its disposal, it had to rely on the networks and practices already in place within the sector.

The group would like to thank all the professional organisations and experts who have contributed to the findings of this report, as well as the EU Presidencies that have organised conferences and submitted resolutions on this matter.

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### 2.3

#### Three levels of decision making

Removing the obstacles to museum collection mobility requires a considerable effort at all three levels concerned: the museum professionals, the Member States, and the EU Institutions. Each of these three levels has a specific role to play in this process.

#### Museum professionals (and their organisations)

Museums and their professional organisations are in an ideal position to identify the practical obstacles to collection mobility. They are also well placed to work out practical solutions to these problems and to adapt them to new developments in the sector. In addition, professional bodies can provide specific added value by creating a self-regulatory regime to prevent disputes that may hamper the mobility of museum collections. This would require all museums potentially involved in the mobility of collections to become stakeholders of the new regime.

#### Member States

The national authorities of the Member States provide the legal framework for the objectives and practical operation of museums.

Some of the national legislation in force may need to be reviewed so that a commonly agreed code of conduct and established best practices can be applied in all Member States. Furthermore, the Member States can play an important role in promoting and implementing these guidelines and best practices by creating specific incentives for museum professionals.

#### EU Institutions

The major added value of the EU Institutions is twofold. First of all, it can lay down a clear and active policy on the mobility of museum collections; secondly, it can set up and implement an appropriate monitoring process that involves all three levels of stakeholders.

The foregoing makes clear that all three levels can offer specific added value. While some recommendations may work at their own level, others depend on legislation or the approval of the other parties, such as the national governments and the EU Institutions (Council, European Parliament and European Commission). What now needs to be done is to bring the different levels together and to provide for a regular exchange of information, in particular concerning the problems encountered, possible solutions and the best way of implementing these solutions and promoting their use on the widest possible scale. The application of such an approach in other sectors has led to encouraging results.

The group believes that an approach which includes the elements outlined above as well as in section III of this document will help to considerably improve the mobility of museum collections.

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### 3

## Subject areas and recommendations

This part of the report deals with the different subject areas which have been identified either as conducive to collection mobility or as obstacles to such mobility. Each section describes the situation, possible solutions and offers recommendations to museum professionals, the Member States and the EU Institutions. A schematic overview of all the recommendations can be found at the end of the report. A more detailed analysis of the problem areas can be found in the appendices to this report.

## chapter 3 Subject areas and recommendations

### 3.1 Conduct and administration

In this sub-section, the group describes existing guidelines (appendix 3, 4 and 5) for the conduct of museums and their administration. Such tools can be regarded as best practices for museum professionals and are therefore recommended as guidelines for streamlining collection mobility.

#### 3.1.1 ICOM Code of Ethics<sup>5</sup>

The ICOM Code of Ethics (appendix 3) is a code of conduct for museums concerning the preservation, interpretation and promotion of man's natural and cultural heritage. In brief, the code considers the responsibility museums bear for their collections, research and the pursuit of knowledge, public service, exhibitions, and so on. It suggests how museums can work in close contact with communities in which their collections originate, and what legal and professional standards they should adhere to. The ICOM Code of Ethics was revised in October 2004. It sets minimum standards of conduct and performance to which professional museum staff throughout the world may reasonably aspire and provides a statement of reasonable public expectations for the museum profession. The group considers the ICOM Code of Ethics and ICOM's continuing work on museum issues important contributions to international discussions on promoting cultural heritage exchange. The group points out that the ICOM Code of Ethics contains specific paragraphs related to collection management and ethical questions of importance for wider collection mobility.

The group recommends that:

#### **Museum professionals**

- act according to the ICOM Code of Ethics.

### 3.1.2 General principles on administration of loans

A worldwide informal group of art museum directors meet regularly to discuss their profession. They are known as the Bizot Group<sup>6</sup>. The group has formulated general principles on the administration of loans and exchange of works of art between institutions. They have agreed to work according to these guidelines governing long-term and short-term loans. Because they are already upheld as standards by certain art museums in several countries, during the Italian Presidency the indemnity survey and the participants in the Museum Collections on the Move conference considered whether these guidelines could be standardised and applied by all kinds of museums. The group reread the guidelines to see whether they can be amended and extended in scope. With the permission of the Bizot Group, the group amended the guidelines and recommends that museum professionals use them as their standards. An amended version of guidelines, suitable for all kinds of museums, can be found in an appendix (4) to this report.

In order to arrive at a set of Europe-wide guidelines for museum professionals, the group would like to ask the Network of European Museum Organisations (NEMO)<sup>7</sup> to take this further.

The group recommends that:

#### **Museum Professionals**

- use the "General principles on administration of loans" as their standard.
- NEMO develop European guidelines.

#### **Member States**

- support museum associations in developing European guidelines.
- support European networks.

#### **EU Institutions**

- support European network organisations (like NEMO).

<sup>5</sup> The *ICOM Code of Professional Ethics* was adopted unanimously by the 15<sup>th</sup> General Assembly of ICOM meeting in Buenos Aires, Argentina on 4 November 1986. It was amended by the 20<sup>th</sup> General Assembly meeting in Barcelona (Spain) on 6 July 2001, and revised by the 21<sup>st</sup> General Assembly meeting in Seoul (Republic of Korea) on 8 October 2004.

<sup>6</sup> Named after the initiator Ms. Irene Bizot, Administrateur Général de la Réunion des Musées Nationaux.

<sup>7</sup> NEMO is an independent network providing representation and information for the European museum community.

29 European countries participate in NEMO. [www.ne-mo.org](http://www.ne-mo.org)

## chapter 3 Subject areas and recommendations

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### Role of the Registrar

#### 3.1.3

The position of museum registrar was established in the United Kingdom 25 years ago, and the United Kingdom Registrars Group (UKRG) founded in 1991. The profession of museum registrar is making its way into Europe, with formal groups having been set up in France, Italy and Germany and informal groups in several other countries.

The job of the registrar is to manage the practical, administrative and logistical aspects of caring for and moving works of art, including the legal and financial aspects. This role is particularly vital when it comes to lending and borrowing objects, liaising with other museums, and managing the details of organising an exhibition in order to clarify and simplify information and decision-making. The role varies from museum to museum and encompasses some or all of the following: transportation, packing, loans procedures, exhibition organisation, liaising with lenders, inventory, loan forms, arranging and tracking object movements, policy and procedures, insurance and indemnity, organising couriers, planning and scheduling.

The UKRG has developed a Standard Facilities Report<sup>8</sup> (appendix 5) form to meet the need for a simple, easy-to-use checklist for lending museums that supplies all the information required for assessing a loan request. The form need be completed only once and can then be copied and sent to any lender. It asks all the questions the lender needs to know about the type of museum, its facilities and suitability for the proposed object, such as size of entrance and freight lift, the possibility of excluding light, and whether the museum has an automatic fire-prevention system.

The purpose of the form, which of course needs to be updated regularly, is not to deter the borrower but rather to provide a point of departure for discussion between the two parties. If there are areas of concern, lender and borrower can work together to solve them. The form can also serve as a guide for smaller museums on the facilities they should be working towards achieving.

The Facilities Report, which has been generally adopted as the standard for museums throughout the UK and has been in use for the past 10 years, is considered a best practice by the group.

The group recommends that:

#### **Museum Professionals**

- establish the function of a registrar or a Registrar's Department combining both exhibition and loans activities.
- use the UKRG Facilities Report form as a standard.

#### **Member States**

- support the creation of the position of registrar or a Registrar's Department.

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#### 3.2

### **Value, non-insurance, indemnity and insurance**

Insurance costs put a tremendous strain on museum budgets because the expenditure represented by the premiums is disproportionately high, for two reasons. The first reason is that insurance premiums take up a large share of the exhibition budget; the second reason is that over a long period of time, a lot of money is spent on premiums but scarcely any compensation is paid because damage hardly ever occurs. It is therefore important to lower premiums. While non-insurance agreements may remove the need for insurance premiums, indemnity schemes (government guarantees) can offer a variety of ways of reducing the premium, in some cases by as much as 100% depending on the particular scheme. There may be further benefits to reducing the agreed value of the insured object, depending on the rules of the individual indemnity scheme.

One of the conclusions of the *Museum Collections on the Move* conference was that museums should seek a new balance in their use of various insurance schemes or combine other approaches at their discretion, such as agreed value, non-insurance and indemnity. In the paragraphs of this section the group discuss the options in order of preference.

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#### 3.2.1

### **Valuation**

When the market value of an object increases, the museum's expenses rise as well because the market value is generally used as a reference for insurance and indemnity. The valuation of objects was discussed during *Museum Collections on the Move*.

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<sup>8</sup> [www.ukrg.org](http://www.ukrg.org)

<sup>9</sup> Unlike European museums, museums in the USA maintain the practice of deaccessioning.

## chapter 3 Subject areas and recommendations

Private persons and foundations are likely to retain an economic interest in owning or acquiring an object. The value of cultural objects is determined by market criteria and expressed in monetary terms, such as the purchase price, sales price or auction price. This value is a result of the market mood, public taste, certain trends, and the supply of objects. Since the value is expressed in monetary terms, it is used as a basis for determining the amount of compensation in the event of damage or total loss. Private owners who lend objects value these objects according to their market value.

It is common for exhibition costs to be directly affected by an increase in the market value of the objects concerned. The market value is used as a reference for insurance and indemnity. It is the group's opinion that museums should not be unduly concerned about the continuous rise in the market value of their holdings, nor should museums follow the "dictates of the market" slavishly. After all, as soon as an object has entered a permanent collection, it leaves the marketplace and will never enter it again<sup>9</sup>. Other values – cultural, artistic – prevail in museums, and because these other values determine why objects are borrowed and lent, why should market value be used as a reference for a museum object? Doing so is only inescapable in the case of private owners or private museums, for whom the monetary value is real. In such cases, insurance or indemnity are the only alternatives.

The indemnity survey and the conference proceedings have raised the idea of creating a European institution that would judge the value of objects for indemnity purposes from a central vantage point. The group's opinion is that such an institution is neither desirable nor realistic. To obtain and weigh up information pertaining to the market values of innumerable objects originating from all over Europe would cost too much time and require such wide-ranging expertise that it would clearly be self-defeating. Such an institution would be costly to run and would likely cause enormous delays in the process of organising exhibitions. Moreover, its authority could be easily challenged by counter-expertise.

The group favours following established practice in the United Kingdom. In order to obtain a reasonable valuation in the event of an indemnity request, it is the duty of the curator organising the exhibition to research the value and verify his findings by referring to published auction results, acquisition papers and the like.

Appraisal is of relative value. Museums and governments (in indemnity cases) should be willing to accept that insurance values do not have to keep pace with the market for art and cultural objects. To overcome resistance to this idea and reduce premium costs, the group recommends that lenders, borrowers and governments work according to an agreed value that is much lower than market value. Working according to an agreed value is much easier when it is based on reciprocity and mutual agreement. One suggested guideline is to accept a reduction of up to 40% of the current market value, but not less than the price paid by the lending institution when it acquired the object.

The group recommends that:

### **Museum professionals**

- accept that insurance values do not have to keep pace with the market for art and cultural objects.
- accept an agreed value that is much lower than the market value.

### **Member States**

- accept that insurance values do not have to keep pace with the market.
- develop a policy which makes it possible for museums to work according to an agreed value that is much lower than market value.
- allow their museums to insure for far less than market value.

### **EU Institutions**

- support ideas and policy intended to reduce values.

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### 3.2.2

#### **Non-insurance/self-insurance**

In many European countries, works held in the collections of major museums are not insured because the state is the owner of these objects and does not insure its own property. In a *self-insurance* scheme, an agreement can be made between institutions that are financed from the same budget (for example, all state museums directly subject to a state provider or to the state government) that no insurance need be taken out for borrowed objects loaned internally. *Non-insurance* describes the same situation, but here the institutions are in a contractual relationship in which they draw funds from various budgets (for example, museums from different states). *Non-insurance* means that there is no coverage in the event of the total loss of an object. The group will look more closely at these

## chapter 3 Subject areas and recommendations

two alternative insurance and indemnity measures in the following sections. Essentially, the question is: why take out insurance on objects lent abroad if the object is not insured when it remains on home ground?

Museums that are willing to waive insurance coverage of certain risks may want assurances that transport, display, security and climate control are of the highest standard. However, it would be counterproductive to impose additional demands that again increase costs, especially when the insurance waiver was intended to reduce such costs. Basically, the standards of object handling and security should be beyond reproach under any of the circumstances described in the guidelines (appendix 4).

Insurance waivers should preferably be arranged between institutions on the basis of reciprocity. Before museums are able to waive insurance, they would need approval from the highest relevant authority, often at national level.

In the case of self-insurance or non-insurance agreements, the contractual parties must specify the extent to which liability is limited or fully excluded in the event of damage or total loss.

The group recommends that:

### **Museum professionals**

- agree to waive certain risks.
- consider lending on a non-insurance basis.
- cover only restoration of material damage and waive depreciation.
- ask for approval of the highest authority to waive certain risks.

### **Member States**

- allow and give permission to their museums to waive certain risks in general or otherwise on a case-by-case basis.
- promote mobility of cultural objects within Europe based on non-insurance.
- agree on common policy line concerning non-insurance.
- extend the system of non-insurance and apply it at European level.

### **EU Institutions**

- support and monitor developments in non-insurance and self-insurance in the Member States.

For more detailed information on these subjects, see appendix 6.

## 3.2.3

### **Indemnity**

State indemnity means that the national state provides financial compensation directly to the lender should a borrowed object be damaged or destroyed. State indemnity not only aids museums financially, it lowers the risk to the borrowed object by ensuring the highest standard of care for the indemnified works. It also promotes cultural exchanges and cultural representation at regional or national level. In 2003, at the request of the European Commission, an extensive study was carried out on indemnity in 31 European countries. The group's opinion is that this was an important study that clearly analysed the problems related to indemnity. The study shows that there are as many opinions about indemnity as there are indemnity schemes. The many differences between indemnity schemes complicate exhibition exchanges because expertise is needed to study all the existing schemes. The group therefore recommends clarifying indemnity schemes and making clear the major differences between them, something that requires parties to be well informed about each other's schemes. The group discussed the recommendation of the study, which is to have a single European indemnity scheme. The group came to the conclusion that a single scheme is desirable, but it questions whether it is in fact feasible. The group emphasises that every country should have an indemnity scheme. To bridge the period until all the Member States have such a scheme, the group would like to see an interim indemnity scheme put into place. It is up to the EU Institutions to prepare such a proposal.

The group emphasises that indemnity schemes in which the state indemnifies 100% of the object are preferable. The group recommends that the Member States adapt their national systems to offer 100% indemnity. Those Member States that do not have an indemnity system should develop a scheme and take the 100% UK indemnity scheme as an example of best practice. Another problem with indemnity is that several Member States do not accept the indemnity schemes of other EU countries. The group emphasises that museum professionals should accept indemnity schemes, as described in the guidelines of appendix 4, and encourage Member States and EU institutions to stimulate the active use of indemnity schemes.

The group recommends that:

### **Museum professionals**

- accept indemnity when offered.

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### Member States

- have indemnity schemes for international exhibitions and long-term loans.
- accept the indemnity schemes of other Member States.
- make their indemnity schemes better known.
- adapt existing indemnity schemes to offer 100% coverage.
- speed up the development of their indemnity schemes.

### EU Institutions

- agree on a common policy line on indemnity.
- investigate whether a European interim scheme for those countries not benefiting from a scheme is possible.
- monitor progress concerning indemnity within the Member States.
- speed up the process of indemnity by developing an interim scheme.

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### 3.2.4

#### Insurance

Insurance costs can be reduced by means of non-insurance and indemnity. Although indemnity and non-insurance can considerably reduce insurance premiums or eliminate them altogether, insurance always plays a certain role. However, that role could be less prominent than it has been.

The indemnity survey shows that there are very few accidents during exchanges of objects and that the national authorities therefore do not run substantial risks. This is supported by *Museum Collections on the Move*, where another conclusion was the need for a good combination of non-insurance, indemnity and insurance and their mutual use. Different combinations between these instruments are conceivable. In the case of non-insurance, insurance companies can play a role by insuring the cost of restoration in the event of damage and during transport. However, depreciation should not be insured because the value of an object is not important in collection mobility. Insurance can also play a role in countries where indemnity coverage is less than 100% and where insurance is complementary. In the case of partial indemnity, the insurance premium for the part not covered by the indemnity scheme would be reduced. Even then, depreciation should not be insured. Finally, in cases in which non-insurance and indemnity do not apply, insurance would still be required, depending on the conditions of the lender.

The group recommends that:

#### Museum professionals

- make good use of the possibilities created by a combination of non-/self-insurance, indemnity and insurance.
- not insure depreciation of objects in public collections.

#### Member States

- not make insurance compulsory.
- allow museums not to insure depreciation.

#### EU Institutions

- foster and monitor best practices.

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### 3.3

#### Immunity from seizure

Immunity from seizure involves the legal protection that one state grants to an object on loan in its territory from another state within the context of a temporary exhibition. The purpose is to secure the object against any legal claims by former owners or claimants who dispute the legitimacy of the current ownership. The claimant takes advantage of the fact that the object is temporarily in a different country with a different set of laws and requests its seizure. The protection offered by immunity from seizure is granted for a specific period, i.e. the period of the exhibition, extended by the number of days necessary to prepare the exhibition. Since the most recent enlargement of the European Union, immunity from seizure has become even more important, particularly in view of the involuntary removal of objects around the world since the Second World War.

The scope of measures intended to provide immunity from seizure is vast, as such measures can potentially cover all property disputes that involve cultural objects. The risks related to the seizure of the goods cannot be covered by an insurance policy.

At present there is a great disparity between the various systems of immunity from seizure applied in the European Union and around the world. There are also vast differences with regard to the categories of protected goods and their legal status, and the methods by which the law is applied. Many countries do not offer immunity from seizure at all. Those European countries that do are Germany, Austria, Belgium, France, and Ireland. Spain is currently considering such a measure. France was the first country in Europe to have introduced a system of immunity from seizure (1994). The American federal system goes back to 1965.

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## chapter 3 Subject areas and recommendations

A brief comparison of existing systems shows that they are divided into two categories. The first involves the automatic protection of any loan object authorised within the framework of a not-for-profit exhibition taking place in a cultural institution. Such protection takes the form of a general regulatory provision (State of New York and Texas, and some provinces of Canada). The other, while posing a general principle of protection, requires the legal designation of the goods concerned. This second category is divided into two further subcategories. In the first case, it is the responsibility of the organising institution to see to the object's protection, as the document bestowing title to the objects is considered unassailable under the relevant law (e.g. American federal law). In the second subcategory, the object is open to claims for a period published in the relevant government gazette, protection becoming effective upon expiry of this period (France).

In certain countries, the system of immunity from seizure applies as much to publicly-held objects as to privately-held ones (United States), whereas in others it is reserved for objects in public collections (France).

At the legal level, the principle of immunity from seizure is sometimes called into question because it conflicts with the various legal measures of restitution imposed on those states in which privately-owned objects were illegally confiscated from their owners. The strictly suspensive nature of immunity from seizure guarantees that there can be no conflict of that kind. Immunity from seizure does not affect the legal basis of protection.

One of the conclusions of the indemnity survey was to create a standardised European system of immunity from seizure. The participants in the *Illegal Trade: Fighting illicit traffic in cultural goods within the European Union* conference also recommended an anti-seizure law<sup>10</sup>.

The risk of an object lent abroad being seized will obviously be very dissuasive for possible lenders. Such a risk can also throw up enormous problems (e.g. the refusal of a loan) for the organisers of an exhibition. Museum professionals have agreed that the introduction of a European system of immunity from seizure would support cultural exchanges by facilitating loans between Member States. Such a measure would also be simpler than having each state work out its own legislation, as there will inevitably be disparities between them, in particular as collection mobility increases and the number of exhibitions that tour several countries of Europe grows.

The methods by which such a law is applied will have to reconcile effective protection and flexibility of operation. The legal and administrative procedures involved in immunity from seizure take a great deal of time and the delay can have a prohibitive effect on loan agreements between organisers.

Collection mobility should not be misused to settle ownership disputes. However, museum professionals should do their utmost to know the provenance of the objects concerned, as avoiding risk is part of collection mobility.

Immunity from seizure is a problematic subject. The complex legal nature of this issue means that the group is not in a position to recommend a detailed proposal for immunity from seizure. The complexity of the subject makes it necessary to carry out a detailed comparative study of the various systems of immunity from seizure currently applied. The study would take into account the wishes of those European countries that do not yet have anti-seizure laws, and it would furthermore analyse the American system, which – as the oldest such system – will offer the greatest number of practical examples. The study should conclude by making precise recommendations as to the relevant law. The group stresses the importance of establishing a good policy on immunity from seizure. A Europe-wide legal system of immunity from seizure should be based on the outcome of the study.

The group recommends that:

### **Museum professionals**

- research the provenance of objects in its collection and make this information available.
- inform borrowers of possible risks when applicable.

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<sup>10</sup> The Hague (8 and 9 November 2004), Conference documentation and final recommendations.

<sup>11</sup> Conference, 10 October 2003, Naples, Italy.

## chapter 3 Subject areas and recommendations

### Member States

- that do not have an immunity from seizure system should develop one.
- introduce a Europe-wide legal system of immunity from seizure.

### EU Institutions

- commission a study on immunity from seizure (European Commission).
- adopt a Europe-wide legal system of immunity from seizure (Council and European Parliament).

---

## 3.4

### Long-term loans

There are two kinds of loans in the museum world: short-term loans, mostly related to exhibitions, and long-term loans for other purposes. The principle for both is the same: there is a starting date and fixed end date.

There are many different reasons for showing objects elsewhere for a longer period of time. For example, doing so helps to place objects in a meaningful historical context; it facilitates permanent displays in museums or other places like public buildings; it makes it possible to tell stories from a different perspective; and it encourages co-operation among various museums. These examples show that long-term loans can be regarded as a form of “museum twinning” that allows museums to borrow items from elsewhere. A museum with an enormous collection of Picassos, for instance, could show generosity to a fellow institution that is without such a work to help it improve its collection.

Long-term loans may also coincide with research in such fields as conservation, art history, history and other sciences. Scientific research can be seen as an added benefit of collection mobility. Displaying and treating objects in a context other than the customary one can reveal additional information about them.

One problem in long-term loans policy, however, is insurance. Most state-owned museum objects are not insured. Bearing in mind the criteria proposed for loan objects as presented in the guidelines, long-term loans should be accorded the same status as the borrower’s museum collection. This means that non-insurance is preferable for these objects. If non-insurance is not possible, the working group recommends having indemnity schemes to cover long-term loans.

The group recommends that:

### Museum professionals

- move towards an active policy on long-term loans.
- co-operate by twinning.

### Member States

- develop an active policy by allowing objects on long-term loans to be treated as part of the permanent collection.
- allow non-insurance or indemnity as a second option.

---

## 3.5

### Loan fees

The topic of loan fees was discussed during the *Loan for Exhibitions: Ethical and Economic Aspects*<sup>11</sup> conference, and the Bizot Group has returned to this subject repeatedly as well (appendix 4). Organising an exhibition is expensive, mainly for the borrower, but also for the lender. It means extra work to get the loan object to the right place. It is therefore reasonable for lending museums to ask for a reimbursement of their out-of-pocket expenses and, in certain cases, a small overhead charge. It is, however, in the common interest of museums to minimise the charges that they pass on to borrowing museums.

Unfortunately, it is common practice nowadays for museums to ask for more than the minimum as a fund-raising measure, a practice that could seriously hamper collection mobility. Museums commonly agree to loan objects to other institutions if those institutions agree in return to pay an extra fee on top of the standard expenses associated with organising the loan. The “loan fee” is a source of income for museums. Such “profit-making” is against the spirit of public memory institutions. Museums also ask for money to cover the costs incurred when preparing to make loan objects available (restoration, administrative expenses, etc.). In such cases, the charges should be governed by rules of reciprocity. Keeping costs to a minimum, especially those related to documentation and courier fees, could have a positive influence on collection mobility.

The group recommends that:

### Museum professionals

- avoid unnecessary or unfair costs and also limit costs.
- limit loan fees.

### Member States

- not ask museums to raise income through loan fees.

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### 3.6

#### Publications/copyright

Access to scholarly publications is essential for the museum professional. Digitisation, in particular via the Internet (museum and library websites) provides growing access to scholarly publications and relevant museum data. In order to facilitate mobility, access to museum management systems needs to be facilitated and the group feels that wide support should be given to projects making collection data available to a broader professional audience. The costs associated with these processes are considerable, and the data are useless if not available in translation.

When loan objects form part of an exhibition, it is natural for their significance and place within the exhibition to be documented in a catalogue for scholarly or educational purposes. It is advisable to publish multi-language editions so that the knowledge can be shared with as many people as possible. Access can be enhanced by having publications appear not only in printed but also in digital form, either at the same time, or – depending on the arrangements made with the publishers – after a brief delay.

Lenders should provide borrowers with generous assistance in obtaining up-to-date information about the object, its provenance and condition. Providing the borrowing museum with recent publications that might otherwise escape its notice is a service that increases the quality of the accompanying publication and saves time and travelling expenses. However, it remains the ultimate responsibility of the borrower to produce a publication worthy of the trust implied by the granting of the loan.

Copyrights are often a serious obstacle in making data and images (reproductions) available. Where copyrights are related to objects by living artists or by deceased artists whose copyright has not yet expired, they often form a source of high, if not insurmountable costs. Many exhibitions or related publications have been cancelled because the copyright costs were unaffordable. On the other hand, museums often see copyrights as a source of income for their own institution.

The group considered it far beyond its scope to attempt any recommendation that touches formally on the reduction or waiver of copyrights in the wake of cultural exchange. The group does recommend, however, that museums should waive

copyrights for their partners in collection mobility wherever possible. Where loans are granted, photographic material for scholarly or educational purposes should preferably be made available at cost, and copyrights as such waived when within the jurisdiction of the lending institution (see also appendix 3).

The group recommends that:

#### **Museum professionals**

- make publications available for the general public and for professional colleagues.
- not abuse copyright costs as a form of income.

#### **Member States and Council**

- support translations.
- should be aware of the possible effect of copyright legislation for the cultural field.

---

### 3.7

#### Digitisation

Like other institutions founded to preserve our collective memory, museums benefit from information and communication technologies. Through digitisation museums will be able to promote collection mobility between partners, the study of culture within the relevant European research areas, and the showcasing of national collections and exhibitions to the European public, even of those collections that are inert or extremely fragile. In this respect it is crucial to support the European coordination of national digitisation policies and initiatives in order to ensure the further development of a European digital cultural network as presented at The Hague conference on digitisation in September 2004. Collection mobility should therefore be one of the items in the new Dynamic Action Plan that will be delivered during the United Kingdom Presidency of the European Union.

The group recommends that:

#### **Museum professionals**

- use digital networks to improve and increase collection information exchange for the general public and the professional.
- digitise their collections.
- take advantage of digital collections for exhibition planning and research.

#### **Member States**

- create the conditions to foster and guide technological

## chapter 3 Subject areas and recommendations chapter 4 Concluding observation

innovations on a European level.

- define common approaches and choices of technology.
- take up collection mobility as part of their Coordination Action Plan as announced by the Council on 17 November 2004.
- promote multilingual access to museum collections.

### EU Institutions

- work together with the new National Representatives Group and the Dynamic Action Plan (to be established under UK Presidency) to stimulate and encourage collection mobility by digital means (Council).

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### 3.8. Trust

*"If your neighbour asks to borrow your car, you will probably say yes. But you are not likely to hand over your car keys if a complete stranger knocks on your door and asks for them"<sup>12</sup>.*

Trust is a prerequisite for collection mobility and based on reciprocity. To build up trust, the parties must know one another. There are several ways for museum professionals to get acquainted, for example by participating in networks, adopting the same guidelines, or setting up databases with proper and verified data. Although networks, guidelines and databases have been around for quite some time, these tools are not always familiar to everyone, and even if they are, they might not suit a given situation or budgetary considerations may prohibit professionals from joining.

In that respect, investment in European networks is an important way of encouraging collection mobility. Travel grants are one way of making it possible for individuals to participate in networks.

Another tool that will help to expand existing networks is "twinning" between museums in different Member States. At the moment, there is a relatively small network of larger European museums focusing on different fields. In general, smaller museums do not participate in European networks. Twinning could encourage these networks to grow.

Although trust provides a basis for collection mobility, liability should always be arranged and confidentiality taken into account. In order to ensure that the relationship between two museums remains on a positive footing, it is important to make liability arrangements even when lenders waive liability. Regarding confidentiality, the exchange of information on collections is a crucial element of collection mobility. Such information must always be treated in confidence. Museum professionals should regard the confidentiality of information in exchanges as a matter of common sense. The security of data exchanges via Internet should also be improved.

Museums should not leave trust to chance; they should be proactive about it. Trust is the starting point for a rich history of collection mobility.

The group recommends that:

#### Museum professionals:

- extend trust by participating in networks, using existing guidelines, and setting up databases.
- make reciprocity the guiding principle in dealing with partners.

#### Member States

- extend travel grants allowing museum professionals to participate in networks.
- support national and European networks.

#### EU Institutions

- support European network organisations (like NEMO).
- make it possible for museum professionals to meet one another regularly in a European setting.

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## 4 Concluding observation

The group is convinced that the findings and recommendations contained in this paper will constitute an important starting point. At the same time, it emphasises that these recommendations can only be implemented if they are widely supported and applied by the museums concerned and promoted by the governments of the Member States, the Council of the European Union, the European Parliament and the European Commission. The group hence invites the Council to endorse these recommendations, to facilitate their application at national and EU level, and to set up a monitoring process for their implementation.

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<sup>12</sup> Van der Laan, M.C., Presentation during *conference Museum Collections on the Move*, 28 October 2004, The Hague.

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## chapter 5 The group recommends that:

	Subject matter	Museum Professionals
1.1	ICOM Code of Ethics	- act according to the ICOM Code of Ethics.
1.2	General principles on administration of loans.	- use the "General principles on administration of loans" as their standard. - NEMO develop European guidelines.
1.3	Registrar	- establish the function of a registrar or a Registrar's Department combining both exhibition and loans activities. - use the UKRG Facilities Report form as a standard.
2.1	Valuation	- accept that insurance values do not have to keep pace with the market for art and cultural objects. - accept an agreed value that is much lower than the market value.
2.2	Non insurance/self insurance	- agree to waive certain risks. - consider lending on a non-insurance basis. - cover only restoration of material damage and waive depreciation. - ask for approval of the highest authority to waive certain risks.
2.3	Indemnity	- accept indemnity when offered.
2.4	Insurance	- make good use of the possibilities created by a combination of non-/self-insurance, indemnity and insurance. - not insure depreciation of objects in public collections.

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## Member States

## EU Institutions

- support museum associations in developing European guidelines.
- support European networks.

- support European network organisations (like NEMO).

- support the creation of the position of registrar or a Registrar's Department.

- accept that insurance values do not have to keep pace with the market.
- develop a policy which makes it possible for museums to work according an agreed value that is much lower than market value.
- allow their museums to insure for far less than market value.

- support ideas and policy intended to reduce values.

- allow and give permission to their museums to waive certain risks in general or otherwise on a case-by-case basis.
- promote mobility of cultural objects within Europe based on non-insurance.
- agree on common policy line concerning non-insurance.
- extend the system of non-insurance and apply it at European level.

- support and monitor developments in non-insurance and self-insurance in the Member States.

- have indemnity schemes for international exhibitions and long-term loans.
- accept the indemnity schemes of other Member States.
- make their indemnity schemes better known.
- adapt existing indemnity schemes to offer 100% coverage.
- speed up the development of their indemnity schemes.

- agree on a common policy line on indemnity.
- investigate whether a European interim scheme for those countries not benefiting from a scheme is possible.
- monitor progress concerning indemnity within the Member States.
- speed up the process of indemnity by developing an interim scheme.

- not make insurance compulsory.
- allow museums not to insure depreciation.

- foster and monitor best practices.

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## chapter 5 The group recommends that:

	Subject matter	Museum Professionals
3	Immunity from seizure	<ul style="list-style-type: none"><li>- research the provenance of objects in its collection and make this information available.</li><li>- inform borrowers of possible risks when applicable.</li></ul>
4	Long term loans	<ul style="list-style-type: none"><li>- move towards an active policy on long-term loans.</li><li>- co-operate by twinning.</li></ul>
5	Loan Fees	<ul style="list-style-type: none"><li>- avoid unnecessary or unfair costs and also limit costs.</li><li>- limit loan fees.</li></ul>
6	Publications	<ul style="list-style-type: none"><li>- make publications available for the general public and for professional colleagues.</li></ul>
	Copy rights	<ul style="list-style-type: none"><li>- not abuse copyright costs as a form of income.</li></ul>
7	Digitisation	<ul style="list-style-type: none"><li>- use digital networks to improve and increase collection information exchange for the general public and the professional.</li><li>- digitise their collections.</li><li>- take advantage of digital collections for exhibition planning and research.</li></ul>
8	Trust	<ul style="list-style-type: none"><li>- extend trust by participating in networks, using existing guidelines, and setting up databases.</li><li>- make reciprocity the guiding principle in dealing with partners.</li></ul>

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## Member States

## EU Institutions

- that do not have an immunity from seizure system should develop one.
- introduce a Europe-wide legal system of immunity from seizure.

- commission a study on immunity from seizure (European Commission).
- adopt a Europe-wide legal system of immunity from seizure (Council and European Parliament).

- develop an active policy by allowing objects on long-term loans to be treated as part of the permanent collection.
- allow non-insurance or indemnity as a second option.

not ask museums to raise income through loan fees.

- support translations.

- support translations (Council).

- should be aware of the possible effect of copyright legislation for the cultural field.

- should be aware of the possible effect of copyright legislation for the cultural field (Council).

- create the conditions to foster and guide technological innovations on a European level.
- define common approaches and choices of technology.
- take up collection mobility as part of their Coordination Action Plan as announced by the Council on 17 November 2004.
- promote multilingual access to museum collections.

- work together with the new National Representatives Group and the Dynamic Action Plan (to be established under UK Presidency) to stimulate and encourage collection mobility by digital means (Council).

- extend travel grants allowing museum professionals to participate in networks.
- support national and European networks.

- support European network organisations (like NEMO).
- make it possible for museum professionals to meet one another regularly in a European setting.

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appendix 1

Reasons to lend or not to lend

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# Reasons to lend or not to lend

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## Appendix 1: Reasons to lend or not to lend

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### REASONS TO LEND

1. Contributing to an important exhibition.
  2. Adding to the knowledge of a particular work.
  3. Making an object available for an interesting educational purpose and reaching out to new audiences.
  4. Temporarily re-uniting ensembles or parts of objects that have drifted apart in time.
  5. Showing objects (or works of artists) that seldom or never leave the reserves and thereby give access to them for pleasure or study.
  6. Introducing and interpreting other culture.
  7. An opportunity to conserve an object to exhibition standard.
  8. Sharing and improving museum staff working practices.
  9. Repaying other museums' generosity.
  10. Introducing and interpreting other cultures.
- 

### REASONS NOT TO LEND

1. Legal restrictions placed on object by owner, donor or museum's statute.
2. The subject of the exhibition is too limited or too commercial to let an object travel.
3. Purpose of the object in the proposed exhibition is unclear or necessity for inclusion of a particular object not sufficiently demonstrated by the request. There is no confidence in the added value of lending the object.
4. Fragility of the object or sensitivity to exposure to light (works on paper, textiles) or the fact that it has travelled too often in recent times.
5. Efforts and costs required for conservation or restoration (making it fit for travel) not in reasonable proportion to the quality of the object.
6. Object not available, because already promised to another exhibition or because it is a key-work in the display of the museum or central to a specific educational program.
7. Object of great actual symbolical, historical or religious value for the own community, only to be lent under exceptional circumstances or outside the tourist season.
8. Object asked at too short notice to process the preparations for the loan in a responsible way.
9. Borrowing museum not up to standard: security, fire prevention system, climate control, conditions for display, poor scholarly or educational standing.
10. Unstable political situation, threat of terrorism or risk of a third party claim.

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appendix 2

Work Plan for Culture 2005 / 2006

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# Work Plan for Culture 2005/2006

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## Appendix 2: Work Plan for Culture 2005 / 2006

*Draft Council Conclusions  
on the  
Work Plan for Culture 2005 - 2006*

*THE COUNCIL OF THE EUROPEAN UNION,*

*NOTING that in terms of cultural diversity, Europe has much to offer,*

*Also NOTING the substantive potential of culture for Europe,*

*ACKNOWLEDGING that Europe's citizens should be able to benefit more from these assets,*

*RECOGNISING THAT improvement of cultural cross-border mobility and cultural dialogue make a bottom up contribution to European citizenship,*

*RECALLING the importance of bringing the common cultural heritage to the fore, as stated in Article 151 paragraph 1 of the Treaty establishing the European Community,*

*STRESSING the important contribution which creativity and creative industries already make to economic growth and to the development of a common cultural area based on cultural and linguistic diversity and pluralism; Also stressing the potential of this cultural sector in helping to achieve the Lisbon objectives,*

*UNDERLINING that Article 151 paragraph 4 of the Treaty establishing the European Community provides that the Community shall take cultural aspects into account in its action under other provisions of the Treaty,*

*ACKNOWLEDGING that the work plan 2002-2004 contributed to set up a framework structure for the Council's work and provided a new approach in European cultural cooperation,*

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## Appendix 2: Work Plan for Culture 2005 / 2006

*CONCLUDING that a new step forward has to be taken in order to improve cultural cooperation, which is more focused and result-oriented,*

*STRESSING that in setting priorities, it is important to take appropriate measures to eliminate obstacles so as to achieve the best output from the future programme starting in 2007,*

*AGREES that the Work Plan should aim at an operational follow up in terms of addressees, tasks and timeframe and should lead to concrete results.*

*In setting future policy priorities, while fully respecting the prerogatives of the European Commission, the Council will aim at focussing on the following five priorities to be achieved and implemented in the years 2005 and 2006. Throughout the years the Presidencies will guarantee a continuous and sustained follow up.*

<i>Topic</i>	<i>Actor(s)</i>	<i>Objective (specific)</i>	<i>Result</i>	<i>Deadline</i>
<i>1. Lisbon strategy (Contribution of creativity and cultural industries to European growth and cohesion)</i>	<i>- European Commission</i>	<i>- Study on ways in which creativity, creative industries, and public-private partnerships in the cultural sector already contribute to European economic, social and cultural potential and thereby to the achievement of Lisbon targets</i>	<i>Progress Report</i>	<i>second half of 2005</i>
	<i>- Council</i>	<i>- Present policy document for European Council, recommending further action in the field of culture, cultural tourism and cultural industries (including the audiovisual sector), according to Article 151.4 of the Treaty, so as to enhance the contribution of this sector to the achievement of the Lisbon targets in terms of European growth, employment and cohesion</i>	<i>Policy document</i>	<i>first half of 2006</i>

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## Appendix 2: Work Plan for Culture 2005 / 2006

<i>Topic</i>	<i>Actor(s)</i>	<i>Objective (specific)</i>	<i>Result</i>	<i>Deadline</i>
2. Coordination of digitisation (provide citizens with unrestricted, sustainable and reliable digital access to Europe's cultural heritage. Support the move towards a digital Europe with rapid sharing of cultural knowledge and thus contribute to the establishment of a knowledge economy)	Council, Member States, European Commission	- Proceed with coordination through a dynamic action plan after 2005 (follow up of Lund action plan)	Action plan	second half 2005
	Member States	- Translate commitment into a more defined and stable organisation in order to assure significance and output	Transformation of National Representatives Group as informal network into a strong European cooperative group with clear function and range	second half 2005
	European Commission	- strategically integrate digitisation with different sectors (culture, education, technology, research)	Report on European Community support for digitisation	second half 2005
3. Culture Portal with a view to improving information on: - mobility of artists - mobility of works - intercultural dialogue.	European Commission	Present project plan to Council including the role to be played by Member States in the context of the culture portal	Project Plan	first half 2005
	Member States, European Commission, cultural sector	Implementation	Renewed and fully equipped Cultural Portal	second half of 2006

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## Appendix 2: Work Plan for Culture 2005 / 2006

<i>Topic</i>	<i>Actor(s)</i>	<i>Objective (specific)</i>	<i>Result</i>	<i>Deadline</i>
<i>4. Mobility (works of art and art collections and exhibitions)</i>	<i>Member States in cooperation with the European Commission</i>	<i>- develop on a representative basis a Committee of museum experts to advise on ways to facilitate European Collection Mobility</i>  <i>Committee should particularly advise on: - insurance (indemnities) - standards setting on couriers and loan agreements - Registration - Digitisation (see also Lund action Plan above under 2 )</i>	<i>Report</i>	<i>first half of 2005</i>
	<i>European Commission, Council, Member States</i>	<i>Develop and implement an action plan on European collection mobility</i>	<i>Action Plan</i>	<i>second half 2006</i>
<i>5. Mobility (persons) Solving obstacles caused by taxation of mobile artists</i>	<i>Member States, European Commission</i>	<i>Define and assess taxation problems specific to mobile artists in the EU Include the findings in the report on Economics of Culture (see above under 1)</i>	<i>Report (see above under 1)</i>	<i>first half 2006</i>

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# appendix 3

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ICOM code of ethics for museums

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## Appendix 3: ICOM code of ethics for museums

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- A Minimum Standard for Museums
- Translations of the Code of Ethics for Museums

#### GLOSSARY

#### SECTIONS

- 1. Museums preserve, interpret and promote aspects of the natural and cultural inheritance of humanity**
  - Institutional standing
  - Physical resources
  - Financial resources
  - Personnel
- 2. Museums that maintain collections hold them in trust for the benefit of society and its development.**
  - Acquiring collections
  - Removing collections
  - Care of collections
- 3. Museums hold primary evidence for establishing and furthering knowledge**
  - Primary evidence
  - Museum collecting & research
- 4. Museums provide opportunities for the appreciation, enjoyment, understanding and management of the natural and cultural heritage**
  - Display and exhibition
  - Other resources
- 5. Museum resources provide opportunities for other public services and benefits**
  - Identification services
- 6. Museums work in close collaboration with the communities from which their collections originate as well as those they serve**
  - Origin of collections
  - Respect for communities served
- 7. Museums operate in a legal manner**
  - Legal framework
- 8. Museums operate in a professional manner**
  - Professional conduct
  - Conflicts of interest

The ICOM Code of Professional Ethics was adopted unanimously by the 15th General Assembly of ICOM meeting in Buenos Aires, Argentina on 4 November 1986. It was amended by the 20th General Assembly meeting in Barcelona (Spain) on 6 July 2001, and revised by the 21st General Assembly meeting in Seoul (Republic of Korea) on 8 October 2004.

Text updated: November 2004

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## Appendix 3: ICOM code of ethics for museums

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### INTRODUCTION

This edition of the *ICOM Code of Ethics for Museums* is the culmination of six years' revision. Following a thorough review of the ICOM's *Code* in the light of contemporary museum practice, a revised version, structured on the earlier edition, was issued in 2001. As envisaged at that time, this has now been completely reformatted to give it the look and feel of the museum profession and is based on key principles of professional practice, elaborated to provide general ethical guidance. The *Code* has been the subject of three periods of consultation with the membership. It was approved at the 21<sup>st</sup> General Assembly of ICOM, Seoul in 2004 with acclamation.

The whole ethos of the document continues to be that of service to society, the community, the public and its various constituencies, and the professionalism of museum practitioners. While there is a changed emphasis throughout the document resulting from the new structure, the accentuation of key points and the use of shorter paragraphs, very little is totally new. The new features will be found in paragraph **2.11** and the principles outlined in sections **3, 5** and **6**.

The *Code of Ethics for Museums* provides a means of professional self-regulation in a key area of public provision where legislation at a national level is variable and far from consistent. It sets minimum standards of conduct and performance to which museum professional staff throughout the world may reasonably aspire as well as a providing a statement of reasonable public expectation from the museum profession.

ICOM issued its **Ethics of Acquisition** in 1970 and a full *Code of Professional Ethics* in 1986. The present edition - and its interim document of 2001 - owe much to that early work. The major work of revision and restructuring, however, fell on the current members of the Ethics Committee and their contribution in meetings - both actual and electronic - and their determination to meet both target and schedule is gratefully acknowledged. Their names are listed below.

Like its precursors, the present *Code* provides a global minimum standard on which national and specialist groups can build to meet their particular requirements. ICOM encourages the development of national and specialist codes of ethics to meet particular needs and will be pleased to receive copies of them. These should be sent to the Secretary-General of ICOM, Maison de l'UNESCO, 1 rue Miollis, 75732 Paris Cedex 15, France.

E-mail: [secretariat@icom.museum](mailto:secretariat@icom.museum)

Geoffrey Lewis  
Chair, ICOM Ethics Committee

### ICOM Ethics Committee for the period 2001-2004

**Chair:** Geoffrey Lewis (UK)

**Members:** Gary Edson (USA); Per Kåks (Sweden); Byung-mo Kim (Rep. of Korea); Pascal Makambila (Congo) - from 2002; Jean-Yves Marin (France); Bernice Murphy (Australia) to 2002; Tereza Scheiner (Brazil); Shaje'a Tshiluilu (Democratic Rep. of Congo); Michel Van-Praët (France).

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## Appendix 3: ICOM code of ethics for museums

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### PREAMBLE

#### **Status of the *Code of Ethics for Museums***

This *Code of Ethics for Museums* has been prepared by the International Council of Museums. It is the statement of ethics for museums referred to in the ICOM Statutes. This *Code* reflects principles generally accepted by the international museum community. Membership of ICOM and the payment of the annual subscription to ICOM is an affirmation of this *Code of Ethics*.

#### **A Minimum Standard for Museums**

This *Code* represents a minimum standard for museums. It is presented as a series of principles supported by guidelines of desirable professional practice. In some countries certain minimum standards are defined by law or government regulation. In others, guidance on and assessment of minimum professional standards may be available in the form of 'Accreditation', 'Registration' or similar evaluative schemes. Where such standards are not defined, guidance can be obtained through the ICOM Secretariat, the National Committee of ICOM, or the appropriate International Committee of ICOM. It is also intended that individual nations and the specialised subject organisations connected with museums should use this *Code* as a basis for developing additional standards.

#### **Translations of the *Code of Ethics for Museums***

The *ICOM Code of Ethics for Museums* is published in three versions: English, French and Spanish. ICOM welcomes the translation of the *Code* into other languages. However, a translation will be regarded as "official" only if it is endorsed by at least one national committee of a country in which the language is spoken, normally as the first language. Where the language is spoken in more than one country it is preferable that the national committees of these countries should also be consulted. Attention is drawn to the need for linguistic as well as professional expertise in providing official translations. The language version used for the translation and the names of the national committees involved should be indicated. These conditions do not restrict translations of the *Code*, or parts of it, for use in educational work or for study purposes.

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### GLOSSARY

#### **Appraisal**

The authentication and valuation of an object or specimen. In certain countries the term is used for an independent assessment of a proposed gift for tax benefit purposes.

#### **Conflict of interest**

The existence of a personal or private interest which gives rise to a clash of principle in a work situation, thus restricting, or having the appearance of restricting, the objectivity of decision making.

#### **Dealing**

Buying and selling items for personal or institutional gain.

#### **Due diligence**

The requirement that every endeavour is made to establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before accepting it.

#### **Conservator-Restorer**

Museum or independent personnel competent to undertake the technical examination, preservation, conservation and restoration of cultural property. For further information see *ICOM News 39* (1), pp 5-6 (1986)

#### **Cultural Heritage**

Any thing or concept considered of aesthetic, historical, scientific or spiritual significance.

#### **Governing Body**

The persons or organisations defined in the enabling legislation of the museum as responsible for its continuance, strategic development and funding.

#### **Income-generating activities**

Activities intended to bring financial gain or profit for the benefit of the institution.

#### **Legal title**

Legal right to ownership of property in the country concerned. In certain countries this may be a conferred right and insufficient to meet the requirements of a due diligence search.

#### **Minimum Standard**

A standard to which it is reasonable to expect all museums and museum personnel to aspire. Certain countries have their own statements of minimum standards.

#### **Natural Heritage**

Any natural thing, phenomenon or concept, considered to be of scientific significance or to be a spiritual manifestation.

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## Appendix 3: ICOM code of ethics for museums

### Museum <sup>1</sup>

A museum is a non-profit making permanent institution in the service of society and of its development, open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, the tangible and intangible evidence of people and their environment.

### Museum professional <sup>1</sup>

Museum professionals consist the personnel (whether paid or unpaid) of museums or institutions as defined in Article 2, paras. 1 and 2, of the Statutes, who have received specialised training, or possess an equivalent practical experience in any field relevant to the management and operations of a museum, and independent persons respecting the *ICOM Code of Ethics for Museums* and working for museums or institutions as defined in the Statute quoted above, but not persons promoting or dealing with commercial products and equipment required for museums and museum services.

### Non-profit organisation

A legally established body, corporate or unincorporated, whose income (including any surplus or profit) is used solely for the benefit of that body and its operation. The term Not for profit has the same meaning.

### Provenance

The full history and ownership of an item from the time of its discovery or creation to the present day, from which authenticity and ownership is determined.

### Valid title

Indisputable right to ownership of property, supported by full provenance of the item from discovery or production.

<sup>1</sup> *It should be noted that the terms "museum" and "museum professional" are interim definitions for use in interpreting the ICOM Code of Ethics for Museums. The definitions of "museum" and "professional museum workers" used in the ICOM Statutes remain in force until the revision of that document has been completed.*

# 1.

## Museums preserve, interpret and promote the natural and cultural inheritance of humanity

**Principle:** *Museums are responsible for the tangible and intangible natural and cultural heritage. Governing bodies and those concerned with the strategic direction and oversight of museums have a primary responsibility to protect and promote this heritage as well as the human, physical and financial resources made available for that purpose.*

### INSTITUTIONAL STANDING

#### 1.1 Enabling documentation

The governing body should ensure that the museum has a written and published constitution, statute or other public document, in accordance with national laws which clearly states the museum's legal status, mission, permanence, and non-profit nature.

#### 1.2 Statement of the Mission, Objectives, and Policies

The governing body should prepare, publicise and be guided by a statement of the mission, objectives, and policies of the museum and of the role and composition of the governing body.

### PHYSICAL RESOURCES

#### 1.3 Premises

The governing body should ensure adequate premises with a suitable environment for the museum to fulfil the basic functions defined in its mission.

#### 1.4 Access

The governing body should ensure that the museum and its collections are available to all during reasonable hours and for regular periods. Particular regard should be given to those persons with special needs.

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## Appendix 3: ICOM code of ethics for museums

### 1.5 Health and Safety

The governing body should ensure that institutional standards of health, safety, and accessibility apply to its personnel and visitors.

### 1.6 Protection Against Disasters

The governing body should develop and maintain policies to protect the public and personnel, the collections and other resources, against natural and man-made disasters.

### 1.7 Security Requirements

The governing body should ensure appropriate security to protect collections against theft or damage in displays, exhibitions, working or storage areas, and while in transit.

### 1.8 Insurance & Indemnity

Where commercial insurance is used for collections, the governing body should ensure that the cover is adequate and includes objects in transit or on loan and other items currently the responsibility of the museum. When an indemnity scheme is in use, it is necessary that material not in the ownership of the museum is adequately covered.

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## FINANCIAL RESOURCES

### 1.9 Funding

The governing body should ensure that there are sufficient funds to carry out and develop the activities of the museum. All funds must be accounted for in a professional manner.

### 1.10 Income-generating Policy

The governing body should have a written policy regarding sources of income that it may generate through its activities or accept from outside sources. Regardless of funding source, museums should maintain control of the content and integrity of their programmes, exhibitions and activities. Income-generating activities should not compromise the standards of the institution or its public (See 6.6).

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## PERSONNEL

### 1.11 Employment Policy

The governing body should ensure that all action concerning personnel is taken in accordance with the policies of the museum as well as the proper and legal procedures.

### 1.12 Appointment of the Director or Head

The director or head of the museum is a key post and when making an appointment, governing bodies should have regard for the knowledge and skills required to fill the post effectively. These qualities should include adequate intellectual ability and professional knowledge, complemented by a high standard of ethical conduct.

### 1.13 Access to Governing Bodies

The director or head of a museum should be directly responsible, and have direct access, to the relevant governing bodies.

### 1.14 Competence of Museum Personnel

The employment of qualified personnel with the expertise required to meet all responsibilities is necessary. (See also 2.18; 2.24; 8.12).

### 1.15 Training of Personnel

Adequate opportunities for the continuing education and professional development of all museum personnel should be arranged to maintain an effective workforce.

### 1.16 Ethical Conflict

The governing body should never require museum personnel to act in a way that could be considered to conflict with the provisions of this *Code of Ethics*, or any national law or specialist code of ethics.

### 1.17 Museum Personnel and Volunteers

The governing body should have a written policy on volunteer work which promotes a positive relationship between volunteers and members of the museum profession.

### 1.18 Volunteers and Ethics

The governing body should ensure that volunteers, when conducting museum and personal activities, are fully conversant with the *ICOM Code of Ethics* and other applicable codes and laws.

---

# 2.

## Museums that maintain collections hold them in trust for the benefit of society and its development.

**Principle:** *Museums have the duty to acquire, preserve and promote their collections as a contribution to safeguarding the natural, cultural and scientific heritage. Their collections are a significant public inheritance, have a special position in law and are protected by international legislation. Inherent in this public trust is the notion of stewardship that includes rightful ownership, permanence, documentation, accessibility and responsible disposal.*

---

### ACQUIRING COLLECTIONS

#### 2.1 Collections Policy

The governing body for each museum should adopt and publish a written collections policy that addresses the acquisition, care and use of collections. The policy should clarify the position of any material that will not be catalogued, conserved, or exhibited (See 2.7; 2.8).

#### 2.2 Valid Title

No object or specimen should be acquired by purchase, gift, loan, bequest, or exchange unless the acquiring museum is satisfied that a valid title is held. Evidence of lawful ownership in a country is not necessarily valid title.

#### 2.3 Provenance and Due Diligence

Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in or exported from, its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item from discovery or production.

#### 2.4 Objects and Specimens from Unauthorised or Unscientific Fieldwork

Museums should not acquire objects where there is reasonable cause to believe their recovery involved the unauthorised, unscientific, or intentional destruction or damage of monuments, archaeological or geological sites, or species and natural habitats. In the same way, acquisition should not occur if there has been a failure to disclose the finds to the owner or occupier of the land, or to the proper legal or governmental authorities.

#### 2.5 Culturally Sensitive Material

Collections of human remains and material of sacred significance should be acquired only if they can be housed securely and cared for respectfully. This must be accomplished in a manner consistent with professional standards and the interests and beliefs of members of the community, ethnic or religious groups from which the objects originated, where known (See also 3.7; 4.3).

#### 2.6 Protected Biological or Geological Specimens

Museums should not acquire biological or geological specimens that have been collected, sold, or otherwise transferred in contravention of local, national, regional or international law or treaty relating to wildlife protection or natural history conservation.

#### 2.7 Living Collections

When the collections include live botanical and zoological specimens, special considerations should be made for the natural and social environment from which they are derived as well as any local, national, regional or international law, or treaty relating to wildlife protection or natural history conservation

#### 2.8 Working Collections

The collections policy may include special considerations for certain types of working collection where the emphasis is on preserving cultural, scientific or technical process rather than the object, or where objects or specimens are assembled for regular handling and teaching purposes (See also 2.1).

#### 2.9 Acquisition Outside Collections Policy

The acquisition of objects or specimens outside the museum's stated policy should only be made in exceptional circumstances. The governing body should consider the professional opinions available to them, and the views of all interested parties. Consideration will include the significance of the object or specimen including its context in the cultural or natural heritage,

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and the special interests of other museums collecting such material. However, even in these circumstances, objects without a valid title should not be acquired (**See also 3.4**).

### **2.10 Acquisition by Members of the Governing Body and Museum Personnel**

Special care is required in considering any item, either for sale, as a donation or as a tax-benefit gift, from members of governing bodies, museum personnel, or the families and close associates of these persons.

### **2.11 Repositories of Last Resort**

Nothing in this *Code of Ethics* should prevent a museum from acting as an authorised repository for unprovenanced, illicitly collected or recovered specimens and objects from the territory over which it has lawful responsibility.

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## **REMOVING COLLECTIONS**

### **2.12 Legal or Other Powers of Disposal**

Where the museum has legal powers permitting disposals, or has acquired objects subject to conditions of disposal, the legal or other requirements and procedures must be complied with fully. When the original acquisition was subject to mandatory or other restrictions these conditions must be observed unless it can be shown clearly that adherence to such restrictions is impossible or substantially detrimental to the institution and, if appropriate, relief obtained through legal procedures.

### **2.13 Deaccessioning from Museum Collections**

The removal of an object or specimen from a museum collection must only be undertaken with a full understanding of the significance of the item, its character (whether renewable or non-renewable), legal standing, and any loss of public trust that might result from such action.

### **2.14 Responsibility for Deaccessioning**

The decision to deaccession should be the responsibility of the governing body acting in conjunction with the director of the museum and the curator of the collection concerned. Special arrangements may apply to working collections (**See 2.7; 2.8**).

### **2.15 Disposal of Objects Removed from the Collections**

Each museum should have a policy defining authorised methods for permanently removing an object from the collections through

donation, transfer, exchange, sale, repatriation, or destruction, and that allows the transfer of unrestricted title to the receiving agency. Complete records must be kept of all deaccessioning decisions, the objects involved, and the disposition of the object. There will be a strong presumption that a deaccessioned item should first be offered to another museum.

### **2.16 Income from Disposal of Collections**

Museum collections are held in public trust and may not be treated as a realisable asset. Money or compensation received from the de-accessioning and disposal of objects and specimens from a museum collection should be used solely for the benefit of the collection and usually for acquisitions to that collection.

### **2.17 Purchase of Deaccessioned Collections**

Museum personnel, the governing body, or their families or close associates, should not be permitted to purchase objects that have been deaccessioned from a collection for which they are responsible.

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## **CARE OF COLLECTIONS**

### **2.18 Collection Continuity**

The museum should establish and apply policies to ensure that their collections (both permanent and temporary) and associated information, properly recorded, are available for current usage and will be passed on to future generations in as good and safe a condition as practicable, having regard to current knowledge and resources.

### **2.19 Delegation of Collection Responsibility**

Professional responsibilities involving the care of the collections should be assigned to persons with the appropriate knowledge and skill or who are adequately supervised (**See also 8.11**).

### **2.20 Documentation of Collections**

Museum collections should be documented according to accepted professional standards. This documentation should include a full identification and description of each item, its associations, provenance, condition, treatment and present location. Such data should be kept in a secure environment and be supported with retrieval systems providing access to the information by the museum personnel and other legitimate users.

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### 2.21 Protection Against Disasters

Careful attention should be given to the development of policies to protect the collections during armed conflict and other man-made and natural disasters

### 2.22 Security of Collection and Associated Data

The museum should exercise control to avoid disclosing sensitive personal or related information and other confidential matters when collection data are made available to the public.

### 2.23 Preventive Conservation

Preventive conservation is an important element of museum policy and collections care. It is an essential responsibility of members of the museum profession to create and maintain a protective environment for the collections in their care, whether in store, on display or in transit.

### 2.24 Collection Conservation and Restoration

The museum should carefully monitor the condition of collections to determine when an object or specimen may require conservation-restoration work and the services of a qualified conservator-restorer. The principle goal should be the stabilisation of the object or specimen. All conservation procedures should be documented and as reversible as possible, and all alterations should be clearly identifiable from the original object or specimen.

### 2.25 Welfare of Live Animals

A museum that maintains living animals should assume full responsibility for their health and well-being. It should prepare and implement a safety code for the protection of its personnel and visitors, as well as the animals, that has been approved by an expert in the veterinary field. Genetic modification should be clearly identifiable.

### 2.26 Personal Use of Museum Collections

Museum personnel, the governing body, their families, close associates, or others should not be permitted to expropriate items from the museum collections, even temporarily, for any personal use.

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# 3.

## Museums hold primary evidence for establishing and furthering knowledge

*Principle: Museums have particular responsibilities to all for the care, accessibility and interpretation of primary evidence collected and held in their collections.*

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### PRIMARY EVIDENCE

#### 3.1 Collections as Primary Evidence.

The museum collections policy should indicate clearly the significance of collections as primary evidence. The policy should verify that this is not governed by current intellectual trends or museum usage.

#### 3.2 Availability of Collections

Museums have a particular responsibility for making collections and all relevant information available as freely as possible, having regard to restraints arising for reasons of confidentiality and security.

---

### CARE MUSEUM COLLECTING & RESEARCH

#### 3.3 Field Collecting

Museums undertaking field collecting should develop policies consistent with academic standards and applicable national and international laws and treaty obligations. Fieldwork should only be undertaken with respect and consideration for the views of local communities, their environmental resources and cultural practices as well as efforts to enhance the cultural and natural heritage.

#### 3.4 Exceptional Collecting of Primary Evidence

In very exceptional cases an item without provenance may have such an inherently outstanding contribution to knowledge that it would be in the public interest to preserve. The acceptance of such an item into a museum collection should be the subject of a decision by specialists in the discipline concerned and without national or international prejudice (**See also 2.11**).

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### 3.5 Research

Research by museum personnel should relate to the museum's mission and objectives and conform to established legal, ethical and academic practices.

### 3.6 Destructive Analysis

When destructive analytical techniques are undertaken a complete record of the material analysed, the outcome of the analysis, and the resulting research, including publications, should become a part of the permanent record of the object.

### 3.7 Human Remains and Material of Sacred Significance

Research on human remains and materials of sacred significance must be accomplished in a manner consistent with professional standards and taking into account the interests and beliefs of the community, ethnic or religious groups from whom the objects originated where these are known (See also 2.5; 4.3).

### 3.8 Retention of Rights to Research Materials

When museum personnel prepare material for presentation or to document field investigation there must be clear agreement with the sponsoring museum regarding all rights to the work.

### 3.9 Shared Expertise

Members of the museum profession have an obligation to share their knowledge and experience with colleagues, scholars and students in relevant fields. They should respect and acknowledge those from whom they have learned and should pass on such advancements in techniques and experience that may be of benefit to others.

### 3.10 Co-operation Between Museums & Other Institutions

Museum personnel should acknowledge and endorse the need for co-operation and consultation between institutions with similar interests and collecting practices. This is particularly so with institutes of higher education and certain public utilities where research may generate important collections for which there is no long term security.

---

# 4.

## Museums provide opportunities for the appreciation, understanding and promotion of the natural and cultural heritage

*Principle: Museums have an important duty to develop their educational role and attract wider audiences from the community, locality, or group they serve. Interaction with the constituent community and promotion of their heritage is an integral part of the educational role of the museum.*

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### DISPLAY & EXHIBITION

#### 4.1 Displays, Exhibitions and Special Activities

Displays and temporary exhibitions, physical or electronic, should be in accordance with the stated mission, policy and purpose of the museum. They should not compromise either the quality or the proper care and conservation of the collections.

#### 4.2 Interpretation of Exhibits

Museums should ensure that the information they present in displays and exhibitions is well-founded, accurate and gives appropriate consideration to represented groups or beliefs.

#### 4.3 Exhibition of Sensitive Materials

Human remains and materials of sacred significance must be displayed in a manner consistent with professional standards and, where known, taking into account the interests and beliefs of members of the community, ethnic or religious groups from whom the objects originated. They must be presented with great tact and respect for the feelings of human dignity held by all peoples.

#### 4.4 Removal from Public Display

Requests for removal from public display of human remains or material of sacred significance from the originating communities

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must be addressed expeditiously with respect and sensitivity. Requests for the return of such material should be addressed similarly. Museum policies should clearly define the process for responding to such requests.

### 4.5 Display of Unprovenanced Material

Museums should avoid displaying or otherwise using material of questionable origin or lacking provenance. They should be aware that such displays or usage can be seen to condone and contribute to the illicit trade in cultural property.

---

## OTHER RESOURCES

### 4.6 Publication

Information published by museums, by whatever means, should be well-founded, accurate and give responsible consideration to the academic disciplines, societies, or beliefs presented. Museum publications should not compromise the standards of the institution.

### 4.7 Reproductions

Museums should respect the integrity of the original when replicas, reproductions, or copies of items in the collection are made. All such copies should be permanently marked as facsimiles.

---

# 5.

## Museum resources provide opportunities for other public services and benefits

**Principle:** *Museums use a wide variety of specialisms, skills and physical resources which have a far wider application than in the museum. This may lead to shared resources or the provision of services as an extension of the museum's activities. They should be organised in such a way that they do not compromise the museum's stated mission.*

---

## CARE IDENTIFICATION SERVICES

### 5.1 Identification of Illegally or Illicitly Acquired Objects

Where museums provide an identification service, they should not act in any way that could be regarded as benefiting from such activity, directly or indirectly. The identification and authentication of objects that are believed or suspected to have been illegally or illicitly acquired, transferred, imported or exported should not be made public until the appropriate authorities have been notified.

### 5.2 Authentication and Valuation (Appraisal)

Valuations may be made for the purposes of insurance of museums collections. Opinions on the monetary value of other objects should only be given on official request, from other museums, or competent legal, governmental or other responsible public authorities. However, when the museum may be the beneficiary, appraisal of an object or specimen must be undertaken independently.

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# 6.

## Museums work in close collaboration with the communities from which their collections originate as well as those they serve

**Principle:** *Museum collections reflect the cultural and natural heritage of the communities from which they have been derived. As such they have a character beyond that of ordinary property which may include strong affinities with national, regional, local, ethnic, religious or political identity. It is important therefore that museum policy is responsive to this possibility.*

---

### ORIGIN OF COLLECTIONS

#### 6.1 Co-operation

Museums should promote the sharing of knowledge, documentation and collections with museums and cultural organisations in the countries and communities of origin. The possibility of developing partnerships with museums in countries or areas that have lost a significant part of their heritage should be explored.

#### 6.2 Return of Cultural Property

Museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles as well as applicable local, national and international legislation, in preference to action at a governmental or political level.

#### 6.3 Restitution of Cultural Property

When a country or people of origin seek the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national conventions, and shown to be part of that country's or

people's cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.

#### 6.4 Cultural Objects From an Occupied Country

Museums should abstain from purchasing or acquiring cultural objects from an occupied territory and respect fully all laws and conventions that regulate the import, export and transfer of cultural or natural materials.

---

### RESPECT FOR COMMUNITIES SERVED

#### 6.5 Contemporary Communities

Where museum activities involve a contemporary community or its heritage, acquisitions should only be made based on informed and mutual consent without exploitation of the owner or informants. Respect for the wishes of the community involved should be paramount.

#### 6.6 Funding of Community Facilities

When seeking funds for activities involving contemporary communities, their interests should not be compromised (See 1.10).

#### 6.7 Use of Collections from Contemporary Communities

Museum usage of collections from contemporary communities requires respect for human dignity and the traditions and cultures that use them. Such collections should be used to promote human well-being, social development, tolerance, and respect by advocating multi-social, multicultural and multilingual expression (See 4.3).

#### 6.8 Supporting Organisations in the Community

Museums should create a favourable environment for community support (eg Friends of Museums and other supporting organisations), recognise its contribution and promote a harmonious relationship between the community and museum personnel.

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# 7.

## Museums operate in a legal manner

**Principle:** *Museums must conform fully to international, regional, national, or local legislation and treaty obligations. In addition, the governing body should comply with any legally binding trusts or conditions relating to any aspect of the museum, its collections and operations.*

---

### LEGAL FRAMEWORK

#### 7.1 National and Local Legislation.

Museums should conform to all national and local laws and respect the legislation of other states as they affect their operation.

#### 7.2 International Legislation

Museum policy should acknowledge the following international legislation which is taken as a standard in interpreting the *ICOM Code of Ethics*:

- **UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict** (The Hague Convention, First Protocol, 1954 and Second Protocol, 1999);
- **UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property** (1970);
- **Convention on International Trade in Endangered Species of Wild Fauna and Flora** (1973);
- UN Convention on Biological Diversity (1992);
- **Unidroit Convention on Stolen and Illegally Exported Cultural Objects** (1995);
- **UNESCO Convention on the protection of the Underwater Cultural Heritage** (2001);
- **UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage** (2003).

---

# 8.

## Museums operate in a professional manner

**Principle:** *Members of the museum profession should observe accepted standards and laws and uphold the dignity and honour of their profession. They should safeguard the public against illegal or unethical professional conduct. Every opportunity should be used to inform and educate the public about the aims, purposes, and aspirations of the profession to develop a better public understanding of the contributions of museums to society.*

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### PROFESSIONAL CONDUCT

#### 8.1 Familiarity with Relevant Legislation

Every member of the museum profession should be conversant with relevant international, national and local legislation and the conditions of their employment. They should avoid situations that could be construed as improper conduct.

#### 8.2 Professional Responsibility

Members of the museum profession have an obligation to follow the policies and procedures of their employing institution. However, they may properly object to practices that are perceived to be damaging to a museum or the profession and matters of professional ethics.

#### 8.3 Professional Conduct

Loyalty to colleagues and to the employing museum is an important professional responsibility and must be based on allegiance to fundamental ethical principles applicable to the profession as a whole. They should comply with the terms of the *ICOM Code of Ethics* and be aware of any other codes or policies relevant to museum work.

#### 8.4 Academic and Scientific Responsibilities

Members of the museum profession should promote the investigation, preservation, and use of information inherent in the

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collections. They should, therefore, refrain from any activity or circumstance that might result in the loss of such academic and scientific data.

### **8.5 The Illicit Market**

Members of the museum profession should not support the illicit traffic or market in natural and cultural property, directly or indirectly.

### **8.6 Confidentiality**

Members of the museum profession must protect confidential information obtained during their work. In addition, information about items brought to the museum for identification is confidential and should not be published or passed to any other institution or person without specific authorisation from the owner.

### **8.7 Museum and Collection Security**

Information about the security of the museum or of private collections and locations visited during official duties must be held in strict confidence by museum personnel.

### **8.8 Exception to the Obligation for Confidentiality**

Confidentiality is subject to a legal obligation to assist the police or other proper authorities in investigating possible stolen, illicitly acquired, or illegally transferred property.

### **8.9 Personal Independence**

While members of a profession are entitled to a measure of personal independence, they must realise that no private business or professional interest can be wholly separated from their employing institution.

### **8.10 Professional Relationships**

Members of the museums profession form working relationships with numerous other persons within and outside the museum in which they are employed. They are expected to render their professional services to others efficiently and to a high standard.

### **8.11 Professional Consultation**

It is a professional responsibility to consult other colleagues within or outside the museum when the expertise available is insufficient in the museum to ensure good decision-making.

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## **CONFLICTS OF INTEREST**

### **8.12 Gifts, Favours, Loans, or Other Personal Benefits**

Museum employees must not accept gifts, favours, loans, or other personal benefits that may be offered to them in connection with their duties for the museum. Occasionally professional courtesy may include the giving and receiving of gifts but this should always take place in the name of the institution concerned.

### **8.13 Outside Employment or Business Interests**

Members of the museum profession, although entitled to a measure of personal independence, must realise that no private business or professional interest can be wholly separated from their employing institution. They should not undertake other paid employment or accept outside commissions that are in conflict with, or may be viewed as being in conflict with the interests of the museum.

### **8.14 Dealing in Natural or Cultural Heritage**

Members of the museum profession should not participate directly or indirectly in dealing (buying or selling for profit), in the natural or cultural heritage.

### **8.15 Interaction with Dealers**

Museum professionals should not accept any gift, hospitality, or any form of reward from a dealer, auctioneer, or other person as an inducement to purchase or dispose of museum items, or to take or refrain from taking official action. Furthermore, a museum professional should not recommend a particular dealer, auctioneer, or appraiser to a member of the public.

### **8.16 Private Collecting**

Members of the museum profession should not compete with their institution either in the acquisition of objects or in any personal collecting activity. An agreement between the museum professional and the governing body concerning any private collecting must be formulated and scrupulously followed.

### **8.17 Use of the Name and Logo of ICOM**

Members of ICOM may not use of the words "International Council of Museums", "ICOM" or its logo to promote or endorse any for-profit operation or product.

### **8.18 Other Conflicts of Interest**

Should any other conflict of interest develop between an individual and the museum, the interests of the museum should prevail.

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# appendix 4

## General principles on the administration of loans and exchange of cultural goods between institutions

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## Appendix 4: Contents

General principles on the administration of loans and exchange of cultural goods between institutions

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## Appendix 4: Introduction, Code of practice

General principles on the administration of loans and exchange of cultural goods between institutions

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### INTRODUCTION

These guidelines are intended to inform, simplify and make more cost-effective the organisation and administration of international exhibitions.

They have been drawn up and accepted by the members of the international group of organisers of large-scale exhibitions which was founded by the Réunion des musées nationaux in 1992. Originally consisting of European institutions, the group was joined in 1993 by major museums in North America and elsewhere in the world, and continues to meet regularly. By common consent of Bizot this text has been amended for the purposes of the report Lending to Europe: Recommendations on collection mobility for European Museums. The text is amended in such a way that fine art specific wording and appendices are changed to suit wider application of the document. It is hoped that museum professionals will encourage other institutions in their own countries and elsewhere to observe these guidelines for the benefit of the international museum community.

The purpose of the guidelines contained in this document is:

- To promote the highest standards for the movement and care of objects
- To promote the highest standards for the information exchange and information security
- To promote a code of behaviour between museums involved in major international exhibitions
- To confirm a generally accepted balance of rights, responsibilities and customs between lenders and borrowers
- To inhibit the infliction of unnecessary or unfair costs on either lenders or borrowers
- To avoid the risk of physical and network terrorism and other impedence caused by the wide exchange of information

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### CODE OF PRACTICE

It is the hope of the participants that this document will help to encourage widespread collaboration between museums working towards a common cultural aim. The responsibility for the honourable and appropriate conduct of any museum as either borrower or lender rests ultimately with the director or chief professional officer of a museum. Thus, while fiscal responsibilities and allegiances to the appropriate financial authority and the need to maintain proper accountability must all be taken into consideration, a museum director's task is primarily cultural, allowing certain priorities to operate concerning the promotion of cultural heritage to the widest possible audience, and the care and preservation of those works for posterity.

In reaching decisions regarding exhibitions and loans, a museum director must consider the obligations of his or her museum, not only to the objects in its care, but also to the public, whether local, national or international, and to the international community of museums. This awareness should also engender the free exchange of contemporary scholarship regarding objects, their history and meaning, as well as promoting museum collections and specialist exhibitions on an international scale.

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## Appendix 4: Loans

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### LOANS

Temporary exhibitions depend upon the willingness of both public and private owners to lend objects in the interests of public enjoyment and education. In recognition of this support, and to safeguard objects, the borrower is obliged to provide satisfactory conditions for the transport and display of loans, to arrange liability adequately, and to meet all directly associated costs. These guidelines attempt to summarise the principles which should govern such loans. They do not cover exchanges of entire exhibitions between institutions, though many of the principles, including that of reciprocity, may apply in such instances.

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#### 1 General Principles

**1.1** Borrowers should in principle apply the same strict ethical and practical standards when asking for a loan, as when deciding, as lenders, whether or not a loan from their museum collection can be granted. It is possible for inconsistencies in applying such standards to arise as a result of financial, scholarly and artistic interests.

**1.2** Loans should primarily be granted for the benefit of other museums to which there is general public access. Museums are advised to consider carefully whether to lend to exhibitions held in non-museum environments such as town halls, department stores, churches, art or antique fairs and other spaces not specifically built for the display of cultural goods and without trained staff and adequate security and climate controls. Similar considerations should apply when lending to government departments.

**1.3** Loans should only be granted to exhibitions abroad which are artistically or academically of high quality or/and which develop research on the field of arts, sciences and conservation knowledge.

**1.4** An object should not be lent abroad if its physical presence is not strictly required in the context of an exhibition.

**1.5** Loans are, in principle, granted as a courtesy to other institutions abroad as a means of promoting a greater understanding and enjoyment of cultural heritage, and advancing

the interest of scholarship.

**1.6** Loans should, wherever possible, be granted direct from museum to museum, and not through intermediaries such as government agencies.

**1.7** Museums should not knowingly lend to any exhibition which includes objects that have been proven to be stolen, removed in contravention of international conventions or illegally exported.

**1.8** It is in the common interest of museums, whatever their legal or financial constraints, to minimise the charges which they pass on to borrowing museums.

**1.9** Lenders should always be kept informed of arrangements for the transport and the location for the display of their loans, and their permission must be sought where any changes are proposed.

**1.10** Private lenders' requests for confidentiality must be scrupulously respected.

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#### 2 Loan Requests and Loan Conditions

**2.1** Most museums have standard loan agreement forms, which stipulate the requirements that have to be met by the borrower and the rights that the lenders reserve for themselves. Institutions handle loan requests in various ways, depending on the legal basis for ownership (state, municipal, foundation, trustees, etc).

**2.2** The director of the borrowing institution should submit a formal loan request to the director of the lending institution. Once the loan is agreed, he or she should sign a written agreement with the lender or should authorise a senior member of staff to do so. Subsequent correspondence will normally be between curators or their nominees, such as registrars.

**2.3** Loan requests should be made as early as possible, preferably, for international loans, at least a year and no less than six months in advance of the exhibition opening.

**2.4** The borrower should clearly indicate the type and legal status of the institution that he or she represents.

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**2.5** It is the prerogative of the lender to draft the loan agreement if he or she wishes to do so. Such agreements will always take precedence over loan forms, information sheets, etc, provided by the borrower.

**2.6** The lending institution should stipulate clearly the conditions of loan. It should reserve not only the right to waive, reactivate or add to the loan conditions with due notice, but also to recall a loan at any time if conditions are not met, at the same time as issuing a disclaimer of liability.

**2.7** The borrowing institution may be asked for a facility report, and will be required to meet specific conditions laid down by the lender. The lender may also insist on visiting the institution to inspect those conditions at the borrower's expense.

**2.8** The borrowing institution is required to meet all costs directly related to the loan incurred both by itself and by the lender, including inspection visits beforehand when required by the lender.

**2.9** The lender should not make unreasonable demands regarding the means of transport, type or value of insurance or other requirements that can be avoided without increased risk to the loan.

**2.10** Rules of secure exchange of information about lent or loan objects and secure system of sending loan agreements.

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### 3 Transport

**3.1** Only specialist cultural heritage transport agents should be used for the transport of cultural goods.

**3.2** In any disagreement between the lender and borrower over the means of transport, the lender ultimately has the right to stipulate what means shall be used. However, lenders should, where possible, look favourably on options which may reduce costs, provided these do not compromise the safety of the loan.

**3.3** Decisions about transport should be determined principally by the security and safety requirements of the cultural goods, even when an airline or transport company is providing sponsorship or subsidised transport.

**3.4** If the lender intends to request a police escort for any part of the transport of a loan, this should be specified at the outset, before the signing of the loan agreement, in order that the costs can be evaluated, and the borrower has the opportunity to discuss the merits of such an escort with the lender.

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### 4 Insurance

**4.1** The lender should stipulate the fair market value, currency and other conditions of insurance with regard to the loan(s).

**4.2** The borrower is required to meet the costs of insurance.

**4.3** Wherever possible a loan should be insured for its agreed value rather than its declared value.

**4.4** In cases where it is agreed that the borrowing institution may negotiate the terms of insurance or use its own broker, the lending institution will require documentary evidence that the cover meets all its requirements.

**4.5** Lenders are entitled to demand copies of insurance certificates or indemnity statements well in advance of the transport date for loans.

**4.6** The borrower should confirm when cover commences and ceases.

**4.7** In cases where there is a legal or other impediment to accepting the borrower's own insurance policy, the lender should charge a fair premium exempt from any direct or incidental financial benefit to the lender.

**4.8** In the interests of reducing costs, lenders should, whenever possible, accept cover by government, federal or state indemnity schemes instead of or in addition to commercial insurance, provided such indemnities offer acceptable levels of cover.

**4.9** Wherever possible, borrowing institutions which ask lenders to accept government, federal or state indemnity schemes, or borrower's insurance should in turn always guarantee and accept reciprocity, i.e. accept indemnity from the other party or at least allow the other party to arrange his or her own insurance, provided that all the lender's conditions are met.

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**4.10** Lenders are encouraged not to change the insurance values of loans for the agreed period of a signed loan contract.

- the political and financial stability of the country or region involved.

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#### 5 Environmental Conditions

**5.1** The borrower must provide appropriate climatic conditions and lighting levels, as stipulated by the lender.

**5.2** All entertainment must be subject to strict observance of the conditions imposed by lenders, insurance companies and indemnity schemes, which normally exclude eating and drinking in any areas where objects are displayed.

**5.3** The borrower must always provide supervision for photographers, television companies, etc. and must ensure that the lenders' conditions are observed and the safety of loans is closely monitored. The use of high voltage equipment in exhibition rooms should be strongly discouraged.

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#### 6 Loan Decision

**6.1** The decision to grant a loan depends on a great number of factors, the most important being:

- the intrinsic value of the exhibition concept (i.e. its scholarly, artistic or educational purpose) and its feasibility in terms of the availability of other loans. No category of exhibition should be ruled out in principle. Each should be judged on its merits. The final decision in such matters should rest with the lending institution's professional staff.
- the material condition of an object and its ability to travel. Condition should be checked and a recommendation made by a qualified conservator. In view of the possible range of interpretation of technical data, the final decision should rest with the museum director.
- whether the removal of an object on permanent display can be justified.
- the type and reliability of the borrowing institution and its legal and financial status.
- the security and environmental suitability of the borrowing institution, and the professionalism of its staff and agents.

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#### 7 Dealers and Private Collectors

**7.1** Although some museums refuse to lend to or borrow from commercial galleries, these Guidelines do not attempt to exclude such loans. Nevertheless, it is recommended that, in addition to the criteria and conditions outlined above, the following requirements be expressly stipulated in such cases:

- Loans from dealers should not be withdrawn from an exhibition during its planned showing or during the course of an international tour, unless previously agreed in the loan agreement.
- When asked to lend to an exhibition in a commercial gallery, a museum should be informed in advance of the character of the other objects to be displayed, and should retain the right to withdraw loans if the quality of the selection or the display does not meet expectations.

**7.2** When borrowing from private collectors, museums are sometimes requested to lend an object in exchange, to substitute for the borrowed object during the period of the exhibition. Whether or not a museum is permitted in law to do so will depend on its status. However, it is inadvisable for museums to lend important objects to private collectors if public access is thus denied. Other factors that should be taken into account are security, environmental conditions and the character of the premises.

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#### 8 Counter-loans and Loan Payments

**8.1** It has been general practice, over many years, to exchange loans between institutions as a courtesy between colleagues, free of charge. Some museums consider the granting of a loan to an important exhibition as a cultural obligation which needs no compensation. For other museums granting loans is a part of a larger loan policy in which there is a reciprocal "give and take" attitude. However, in the world of exhibitions a perfect quid pro quo, benefiting both partners equally, is impossible to achieve. Works of art and other cultural objects are mainly unique and difficult to compare.

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**8.2** It has long been standard practice for the lender to stipulate conditions for travel, security, display and safety, and for all origination costs of an exhibition to be borne by the organiser/borrower. Until quite recently, all “overheads”, or internal costs were generally borne by the lender. Increasingly, however, lending institutions have taken to charging fees, either to cover their costs or to make a profit.

**8.3** Loans may therefore be granted under a number of different conditions:

- free of charge, with or without a reasonable handling fee constituting a recovery of some of the lender’s direct costs. Such a handling fee is not unusual and is generally considered acceptable. Some museums reduce this fee with each subsequent loan for the same exhibition. Some museums charge different fees for different kind of objects.
- in return for a loan fee, constituting a payment by the borrower to the lender for obtaining the loan, rather than a recovery of costs actually incurred.
- in exchange for other loans, or counter-loans (“an object for an object”). A lender may request the reciprocal loan of an object in exchange for a specific loan for an exhibition.
- in return for goods or services.
- in the context of a partnership (for example, in organising an exhibition tour).

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### 9 Recommendations

**9.1** The lender should, where possible and reasonable, respond sympathetically to the needs of the borrower.

**9.2** Lending museums should not take advantage of the fact that a loan requested from them is crucial to the success of an exhibition, by demanding excessive fees or unreasonable counter-loans.

**9.3** In considering loan requests, museums should take account of any generosity shown to them by potential borrowers in the past. Museums which cannot grant a loan request to an institution from which they have borrowed on a previous occasion should make special efforts to help by, for instance, offering alternative loans or assisting to secure replacement loans.

**9.4** If the lender intends to charge the borrower for any costs associated with preparation of the loan, these should be specified at the outset and included in the loan agreement.

**9.5** The cost of conservation treatment to enable an object to travel or to enhance its appearance should only be charged to the borrower if it cannot reasonably be borne by the lender, and after written agreement by the borrower. The borrower’s contribution to the costs of conservation treatment should preferably not exceed fifty per cent.

**9.6** Requests for loan fees should be restricted to institutions which cannot be expected ever to reciprocate and/or with whom future partnerships are unlikely.

**9.7** Counter-loans should not be requested unless the permanent display of the lending institution or its financial wellbeing (through tourism, for example) would be severely damaged by the temporary absence of a particular object. Small museums are most likely to suffer in this respect. Large institutions which have rich holdings are urged to refrain from requesting counter-loans.

**9.8** The cost of a counter-loan should normally be borne by the borrower of the counter-loans.

**9.9** Counter-loans “to replace a blank space” are only acceptable if the lender cannot reasonably be expected to provide a suitable replacement or if the duration of a loan is unusually long.

**9.10** Application of loan fees and counter-loans should wherever possible be governed by rules of reciprocity.

**9.11** Reciprocal loans between two parties should be subject to a written agreement, signed by both institutions. If museums decide to make long-term loans as an exchange, all loans involved should be inspected for fitness to travel before the exchange loan agreement is signed so that no doubt arises at a later date about their availability.

**9.12** When a counter-loan agreement is implemented, promised loans should not be withheld unreasonably as a consequence of stricter conditions or a change of loan policy.

**9.13** Museums should take a critical view of the number of venues

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of travelling shows. The fragility of the objects contained in an exhibition should be taken into account when the number of venues is being considered.

**9.14** Partners in an exhibition with multiple venues should support each other in obtaining the same works for all venues and not negotiate separately for loans to their own venue only, except when agreed between the partners.

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#### 10 Limitations and Restrictions

**10.1** Museums should avoid payment in cash or kind for loans, and are to be discouraged from “hiring out” works or allowing them to travel too frequently for financial gain. In cases where payments in cash are made, the borrower may be considered to have paid for the loan and will have incurred no “loan debt” towards the lender.

**10.2** Counter-loans which serve no artistic, scholarly or other museological function should be avoided, likewise counter-loans of objects which are unfit to travel.

**10.3** Counter-loans to large institutions are inappropriate and should not be granted.

**10.4** Counter-loans to private lenders should be very carefully considered and are generally frowned upon. A museum may face serious criticism if an object lent to a private collector suffers damage.

**10.5** Unnecessary advantages should not be awarded to museum staff or private lenders.

**10.6** Museums should resist loan fees in money or kind or counter-loans between regular colleagues.

**10.7** Counter-loans should not be made to a museum which is unfit to receive a loan because of the inadequacies of its climate control, security or staffing.

**10.8** No borrowing institution should accept conditions imposed by museums or private owners which violate or threaten the organiser’s artistic or scholarly independence, such as:

- adding to an exhibition objects which would not normally qualify

for inclusion;

- dating objects or making attributions against the better judgment of the scholars responsible for the exhibition;
- giving unjustifiable prominence to the illustration of certain works, for instance on the catalogue cover.

**10.9** Deals that bind the museum over too long a period should be resisted.

**10.10** Deals that imply the temporary loss of control of an object should likewise be avoided.

**10.11** Insurance valuations or special clauses benefiting the owner in case of damage or loss should not be agreed if the borrowing museum knows these to be unreasonable or excessive.

**10.12** Also to be avoided are deals whereby money or goods are supplied to individuals, intermediaries or museum employees, at no direct benefit to the lending museum itself. When dealing with very poor museums, for example it may be advisable to offer professional or technical assistance rather than money in return for loans.

**10.13** Museums, whether borrowing or lending, should not bow to any form of external political or diplomatic pressure.

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## Appendix 4: Couriers

General principles on the administration of loans and exchange of cultural goods between institutions

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### COURIERS

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#### 1 General Principles

**1.1** The role of the courier is to act as representative of the lender in ensuring safe handling of the loan during transit, unpacking, packing and, if necessary, during installation and de-installation, and to condition check loans for which he or she is responsible.

**1.2** It is the lender's right to insist on a courier, to ensure the safe handling of the loan.

**1.3** A courier must be allowed to be present when the object is installed or de-installed. A courier may also insist on safe storage for the loan if the exhibition space is not ready for installation.

**1.4** Careful consideration should be given by the lender as to whether a courier is really necessary before insisting on one as a condition of the loan. In some cases loans may not need to be accompanied by the lender. The implications for exhibition costs and staff time should be taken into account.

**1.5** The courier should be appropriately qualified and trained to undertake the duties of the role. The courier represents the institution on whose behalf he or she is acting and should behave responsibly at all times.

**1.6** Lenders should be prepared, when requested, to consider accepting a shared courier or escort for a loan if it forms part of a larger consignment coming from one city or area.

**1.7** The borrower should agree with the lender in advance the actual duties of the courier for particular loans.

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#### 2 Considerations

**2.1** The following concerns may affect the lending museum's decision to insist on a courier:

**(i) In preparation and transport:**

- the fragility of the object, or a very high value;

- a difficult or long journey possibly with trans-shipment, or a journey with unknown transport agencies;
- a new borrower where procedures and standards of handling are not yet known;
- a known borrower but one where the procedures and/or standards in the past have not been of sufficiently high standard.

**(ii) During installation:**

- a fragile or very valuable object or document;
- a sculpture, work of art or an object which is complicated to install without guidance, or which has special handling or installation requirements.
- a concern that the borrower is inexperienced in installing;
- a belief that objects are handled most safely by those familiar with them.

**(iii) In transit between venues on a tour:**

- a lender should be encouraged to share or assign courier responsibilities with/to designated staff of the organising institution and/or another lending institution during transfer between venues. However, where the lending institution is particularly concerned for the same reasons as described above then it may insist on sending its own courier, particularly in the following cases:
  - where the organising institution is not sending its own couriers or conservators/restorers;
  - where the organising institution is not experienced in touring shows and the receiving venues are unknown to the lender;
  - where there is no clear organiser controlling the tour.

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#### 3 Duties and Responsibilities on the Outward Journey

**3.1** To perform their duties properly, couriers should always travel with objects except in very exceptional circumstances and when the lender and borrower agree it is not necessary.

**3.2** In preparation, the courier must gather full information about the exhibition, the borrower and the transport agent, and must have all the necessary papers and keys.

**3.3** The courier must have full information about the condition of the object and about any installation problems. Current condition reports and/or record photographs which register the state of the objects immediately before packing should be available. If no report exists, a new one must be compiled.

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## Appendix 4: Couriers

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**3.4** Before and during transit the courier should:

- supervise the packing and understand the methods used;
- check the cleanliness of vehicles used and supervise loading;
- supervise handling wherever possible or instruct the transport agent to do this in areas which the courier cannot enter for airport security reasons.

**3.5** A courier should never leave a work unattended in a non-secure location.

**3.6** On arrival the courier should:

- check the cleanliness and security of the handling/unpacking area;
- supervise unpacking and advise on any special needs;
- leave the objects in a secure, climate-controlled storage space if the exhibition are not ready;
- check and agree condition with borrower;
- leave with the borrower a copy of the original and annotated report signed by both parties.

**3.7** Where it is an agreed condition of loan or where the courier is not confident about the safety of the object (even if it is not a condition of loan) he or she should:

- advise about methods of handling;
- install or supervise the installation in agreement with the exhibition organiser;
- check that the object is adequately protected whilst on display;
- check the environmental conditions.

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### 4 Re-packing and Return

**4.1** All the above duties should be carried out in reverse order at the end of an exhibition as follows: check and agree the condition and sign the papers accordingly; pack or supervise packing in clean uncluttered conditions; supervise all handling; never leave the object unattended unless in a secure lock-up. Finally, on return, check the condition with the in-house conservator/restorer, or against the initial report.

**4.2** A report, possibly in the form of answers to a questionnaire, should be completed on all courier trips and given to the registrar or equivalent on return, as the information may influence decisions on future loans, with or without a courier.

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### 5 Travel

**5.1** Couriers hand-carrying or accompanying freight should travel by the class required to ensure preferential treatment at all stages of the journey, particularly where there is a possibility of a change of schedule.

**5.2** For outward or return journeys, when the courier is not accompanying loans, economy class may be adequate, unless the journey is intercontinental and exceeds six hours, is particularly complicated or if the courier is expected to undertake specialist duties immediately on arrival.

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### 6 Length of Stay

**6.1** The following guidelines are recommended for couriers travelling outside their own country:

- 2 nights and 3 days for most trips;
- 3 nights and 4 days for intercontinental, longer or more difficult trips.

**6.2** Exceptionally the borrower may agree to meet the costs of a longer stay and will always be liable to do so whenever the display venue and/or show cases are not ready or otherwise in breach of the conditions agreed in advance.

**6.3** Where loans are made within the same country then the length of stay should be the minimum necessary to fulfil the duties required.

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### 7 Per Diem Allowances

**7.1** The borrowing institution should pay for a room for the courier in a three-star hotel (or equivalent) and, in addition, should provide a reasonable per diem allowance, including travel days, to cover all other expenses according to its own standard rate. This standard rate should be specified at an early stage when practical arrangements for the loan are being discussed.

**7.2** It is the responsibility of the borrower to make sure that the

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per diem allowance is easily available for the courier and to inform lenders in advance where and when the money can be collected.

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## SPONSORSHIP

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Sponsorship has become in recent years one of the most common means of financing temporary exhibitions. In exchange for providing funding, or sometimes goods in kind such as transport, the sponsor gains certain privileges, usually in the form of publicity and entertainment opportunities, as well as the association with a prestigious event and organisation. The benefits will vary according to the size and nature of the sponsorship. A sole sponsor may enjoy the additional advantage of sole credit on publicity material. For more expensive exhibitions, several sponsors may contribute towards the costs, and benefits will be scaled according to the size of their contribution. It is important that the precise nature of the arrangement be ratified in a contract, so that it is clear how each party benefits, and what rights they have. Sponsorship should be mentioned in the loan contract as well.

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### 1 Costs

**1.1** How much a sponsor may be asked to contribute will vary in individual cases. An institution may seek in sponsorship what it considers the exhibition is worth, rather than what it costs. Usually, however, direct costs are sought, such as transport, insurance, publicity, installation, education and fees. Overheads such as salaries and utilities are rarely included, though some institutions may need to recover overheads too, and the Royal Academy in London has pioneered “underwriting”, a form of guarantee against loss. Other costs, such as evaluation, opening events and sponsors’ catalogues, may need to be negotiated on an exhibition by exhibition basis.

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### 2 Benefits to Sponsors

**2.1** Sponsors are usually credited on a wide range of items associated with an exhibition. These may include the following:

- publicity material such as posters, publicity leaflets, press advertisements, private and press view cards, TV and radio

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campaigns, and press releases (Press are encouraged to credit sponsors in their editorial coverage);

- banners and hoardings announcing the exhibition both inside and outside the institution;
- educational material related to lectures, study programmes, schools programmes, etc;
- the exhibition catalogue and other visitor guides.

**2.2** Entertainment facilities are generally expected by the sponsor. For most businesses, corporate entertainment is an important part of their marketing/communications strategy. A sponsor will usually be offered the opportunity to give a certain number of receptions or dinners, including private views of the exhibition, for which the sponsor is expected to bear the costs. The sponsor will also be invited to the official opening of the exhibition and, in exceptional circumstances, may be invited to co-host the reception. Such entertainment is subject to strict observance of the conditions imposed by lenders, insurance companies, and indemnity schemes, which normally exclude eating and drinking in any areas where objects are displayed.

**2.3** Complimentary items are usually offered, such as a certain number of free tickets, catalogues and invitations to the press and private views. Access to the exhibition by the public should not be adversely affected by privileges granted to the sponsor.

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### 3 Restrictions

**3.1** The involvement of the sponsor may vary from exhibition to exhibition. Generally it is expected that the sponsor will be more involved in public relations aspects than in questions of a scholarly nature. It is important to define the extent of the sponsor's involvement in a sponsorship agreement. While there may be free and open discussions with the sponsor on a wide range of topics, the following restrictions should usually apply:

- no interference with the contents, title and design of the exhibition;
- no promotional material within the exhibition itself;
- no major promotional display or presentation of products in the immediate vicinity of the exhibition;
- no naming rights, and no use of the institution's name to endorse the sponsor's products;
- no sponsorship logo or credit on the front cover of the catalogue.

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### 4 Sponsorship Contact

**4.1** Contacts with the sponsor may be at various levels. While initial contact is often at a very senior level involving director or chairman, detailed arrangements are usually made between the head of public affairs, head of marketing or sponsorship manager for the sponsor, and the fundraiser or sponsorship officer for the institution. Sometimes a company will employ an outside public relations firm to act on its behalf. Regular contact needs to be maintained through meetings and invitations to events, if a good relationship is to develop with possible further benefits for the institution.

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## Appendix 4: Transporting objects by air

General principles on the administration of loans and exchange of cultural goods between institutions

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### TRANSPORTING OBJECTS BY AIR

#### Comparison of advantages and disadvantages of hand carry and cargo freight.

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##### 1 HAND CARRY

###### 1.1 Advantages

- Shortens overall time necessary for museum to museum transfers.
- If an object is wrapped in plastic, the humidity is easily controlled – provided that the temperature is kept close to ambient conditions. By hand carrying, this is easily achieved; objects move from museum to car to airport to aircraft to airport to car to museum – all of which are temperature-controlled.
- Eliminates handling by airport cargo personnel.
- Re-usable, gasket sealing (200 series) Haliburton aluminium cases are available in various sizes and are perfect for hand carries. Inside is easily modified by cutting out foam to fit object.
- Eliminates need to construct plywood crates against fork-lift tines.
- Reduces need for thermal insulation, thus reducing overall size.

###### 1.2 Disadvantages

- Above a certain size, hand-carries can be unwieldy for one person to carry and difficult to stow securely.
- Increased security at airports increases likelihood of case being opened and object inspected by security personnel.
- Airport personnel are increasingly reluctant to allow larger hand carries on the aircraft. Despite careful preparation and advance contact, this decision is entirely at the discretion of the flight crew.
- Cases usually have less thermal insulation because they have to be light enough to carry.
- Greater possibility of theft (statistics tell us theft is more likely than serious damage in transit).
- Small objects suffer greater accelerations when dropped/handled. Toppling is extremely likely.

##### 2 CARGO FREIGHT

###### 2.1 Advantages

- Cargo bays on aircraft are now kept at 50°F (because of the frequency of livestock transport).
- Pallets have plastic above and below.
- Netting tightens all crates on a pallet into a single unit, making it more stable and secure than the positioning of many hand carries.
- Once palletised and netted in the presence of a courier, it is virtually impossible that a crate be lost or stolen.

###### 2.2 Disadvantages

- Handled by many people unfamiliar with cultural goods.
- Cargo terminals are unclimatised and crates usually remain there upwards of eight hours making it necessary to include thermal insulation which increases crate size, weight and cost and is still usually inadequate for times in excess of five hours.
- Usually handled by heavy equipment, thus necessitating stronger, more durable crates.

NB. Truck or lorry, when it is an option, is probably the best means of transport as it involves less handling.

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## Appendix 4: Photographic permissions

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### PHOTOGRAPHIC PERMISSIONS FOR THE REPRODUCTION AND PHOTOGRAPHY OF LOANS TO EXHIBITIONS

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It is in the interests of all museums and galleries which mount exhibitions to facilitate the process whereby permission is granted for the reproduction and photography of works borrowed for exhibition. As all involved in mounting exhibitions will be aware, the process of obtaining permissions and photographic material can at present be time-consuming and difficult, as most museums require detailed applications to be made to the appropriate department after agreement to lend works has been granted. Much time would be saved by organisers of exhibitions if it were possible to reach a common agreement among major museums on ways of simplifying the process of obtaining permissions and the required photographs and transparencies. In some cases the owner of the object may not be the copyright holder, and permission will be required from the latter. In these cases there is probably little possibility of simplifying procedures. This paper therefore confines itself to permissions for works out of copyright, and puts forward a number of proposals for discussions in the hope that agreement might be possible.

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#### 1 Categories of Reproduction

**1.1** In attempting to streamline and simplify the process of granting permissions, it is important to distinguish between different categories of reproduction and their purposes. Certain kinds of reproduction - such as the reproduction of exhibits in the exhibition catalogue - are an essential requirement of an exhibition and directly contribute to its scholarly purpose; others are required for educational and interpretative purposes and in order to publicise and promote the exhibition; still others serve a subordinate and often commercial function, while still perhaps serving to support the exhibition financially.

**1.2** In seeking and granting permissions it seems right to distinguish between such categories of reproduction, and while

allowing free and uninhibited reproduction for some purposes, to impose restrictions and charges with regard to others. The purpose of this paper is to try to clarify some of these distinctions and, for those categories of reproduction which directly support the exhibition, to propose ways of facilitating the granting of permission. While not necessarily covering every case, the following represent the main categories, with proposals for how they may be treated.

#### 1.3 Catalogue Reproduction

In the case of most exhibitions, permission will be required to reproduce the works exhibited in the accompanying catalogue or publications, and possibly in foreign language editions. Such permission should be granted, without charge, when the loan to the exhibition is agreed. In order to simplify procedures for the organisers, it is desirable that such permission is granted on the signing of the loan agreement. It is here proposed that lenders should regard the loan agreement as a formal permit and no further application should be required. However, should the borrower wish to reproduce a loan on the cover of the catalogue, it is suggested that, as a courtesy, specific permission from the lender be requested.

#### 1.4 Reproductions for Press, Publicity and Advertising

Exhibition organisers will wish to use images of objects to publicise the exhibition, on posters, publicity leaflets, etc. and in media advertisements. They will also wish to provide images to the press for reproduction in reviews and articles. As with 1 above, it is proposed that such permission is granted, without charge, on the signing of the loan agreement, and that no further application should be required. However, as a courtesy to the lender, it is also suggested that the borrower should seek specific permission for the use of the lender's image in a major or highly visible way, such as on the exhibition poster, on carrier bags, etc. Such permission should not be unreasonably withheld. Publicity posters may also be offered for sale, in which case specific permission should be sought (see 1.6 below).

#### 1.5 Education Programmes

Reproduction of images may be required in connection with lecture programmes and other educational events related to the exhibition and for associated publicity. Photography and filming of objects, or transparencies, may also be required for educational materials, slides, films or videos produced to accompany the exhibition. Again, it is proposed that such permission is granted,

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without charge, on the signing of the loan agreement, and that no further application should be required.

### 1.6 Commercial Reproduction

Exhibition organisers may wish to produce for sale postcards, posters, prints, slides, etc, of exhibited works, or other merchandise incorporating images. The exhibition video may also be offered for sale. It is proposed that a separate application should be made with regard to all such commercial items. Permission should not be unreasonably withheld, and terms and fees should be agreed between the lender and the publisher.

### 1.7 Multimedia

Some exhibition organisers have begun to produce, in addition to printed catalogues, CD ROMs. They may also wish to reproduce loans on the Internet. Such digital reproduction is growing, and lenders are increasingly requested to grant permission for the digital reproduction of their objects. It is proposed that low resolution 72 dpi images be included as part of the standard permis

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## 2 Photography and Filming

**2.1** Exhibition organisers may wish to photograph and film exhibits and installations for record and educational purposes, and to allow the Press and TV to photograph and film them for publicity purposes. It is proposed that such permission is granted by the lender, without charge, on the signing of the loan agreement, provided the borrower undertakes to supervise all such photography and filming and observe the lender's conditions regarding lighting etc.

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## 3 Provision of Photographs and Transparencies

**3.1** Exhibition organisers will usually require both black and white photographs and colour transparencies of loans for registration purposes and for reproduction, and will order these from the lender. Charges and hire fees vary from museum to museum, and in certain circumstances may be waived altogether. However, it is normal practice to charge for photographs and charge a hire fee for the loan of transparencies for a limited period and additional fees for the extension of the loan.

**3.2** Since transparencies are often required for several months, throughout the production period of the catalogue and for publicity purposes, the cost to the organiser can be heavy. It is therefore proposed that, when lending to exhibitions, lenders should charge a nominal hire fee for the loan of transparencies for a period of up to one year. Black and white photographs should be provided at cost, including when necessary the cost of new photography. Whenever possible, museums should consider reciprocal arrangements whereby costs may be reduced or waived altogether.

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## 4 Reproduction Conditions

**4.1** The lender may impose particular conditions with regard to the reproduction and photography of their images. These conditions should, whenever possible, be provided to the borrower with the completed and signed loan agreement.

**4.2** The borrower should use the credit line provided by the lender on any reproduction of the loan. The borrower should also endeavour to ensure that reproductions in the press are also appropriately credited.

**4.3** Some museums and galleries impose various restrictions on the manner in which a loan is reproduced in order to protect the image from misuse, prohibiting, for example, the cropping of the image or over-printing of text. Such restrictions, however, can greatly inhibit the use of images for promotional and educational purposes. It is here proposed that, when granting reproduction permission, lenders should impose no such restrictions, but that the borrowing institution should undertake to treat images of objects with sensitivity and respect, and should refrain from reproducing them in any way which could be regarded as a gross misinterpretation of their character. In view of the time constraints on print production, it is also proposed that lenders should refrain from asking to see proofs of reproductions for approval.

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## Appendix 4: Photographic permissions

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### 5 Loan Agreement

**5.1** It is proposed that certain permissions relating to reproduction and photography should be granted on the signing of the loan agreement (see 1.3, 1.4, 1.5 and 2.1 above). For this purpose a statement should be included in the loan agreement on the following lines:

Unless permission is denied in writing at or prior to the date of this agreement, the lender authorises the work to be:

- a) reproduced in any exhibition related publication and any publicity, educational, audio-visual and archival material produced solely to support or record the exhibition;
- b) photographed and filmed on the borrower's premises under strict supervision solely for the purposes given in a) above.
- c) reproduced on the borrower's website at low resolution (72 dpi) solely for the purposes given in a) above.

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### 6 Recommendations

(note: these recommendations relate only to objects which are out of copyright).

**6.1** Reproduction permission should be granted, without charge, on the signing of the loan agreement for the following:

- a) The accompanying catalogue or publication (see 1.3)
- b) Exhibition publicity material and reproduction by the Press for reviews and articles (nevertheless, permission should be sought for highly visible publicity items – e.g. the exhibition poster) (see 1.4).
- c) Educational programmes and educational materials, slides films or videos related to the exhibition, and associated publicity (see 1.5).
- d) Reproduction of works on a museum's website for low-resolution 72 dpi images.

**6.2** Separate application for reproduction permission should be made for the following, and terms and fees agreed between the lender and the publisher:

- a) Postcards, posters, prints, slides, etc. of exhibited works produced for sale, and other merchandise incorporating images (see 1.6).
- b) Reproduction of works in CD ROMs and on the Internet (over and above low resolution 72 dpi images).

**6.3** Permission for exhibition organisers and the Press and TV to photograph and film objects for educational, publicity and record purposes should be granted, without charge, on the signing of the loan agreement (subject to the lender's conditions and proper supervision) (see 2.1).

**6.4** Lenders should provide transparencies and digital images for up to one year for a nominal hire fee, and black and white photographs at cost price. Reciprocal arrangements, to further reduce costs, should be encouraged (see 3.2).

**6.5** Any conditions relating to the reproduction and photography of loans should be provided by the lender with the completed loan agreement (see 4.1).

**6.6** The borrower should use the credit line provided by the lender on any reproduction of the loan (see 4.2)

**6.7** Lenders should refrain from imposing restrictions on the manner in which a loan is reproduced (in connection with catalogue, publicity and education uses), and from asking to see proofs of reproductions for approval. Borrowers should refrain from reproducing loans in any way that could be regarded as a gross misinterpretation of their character (see 4.3).

**6.8** Loan agreements should include wording granting the borrower permission to reproduce, photograph and film the work in accordance with these guidelines (see 5.1).

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## Appendix 4: Contract checklist

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### Appendix 1 CONTRACT CHECKLIST

This checklist may be consulted when drawing up a contract between institutions for an exhibition tour.

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#### 1 Exhibition Title

- 1.1 This should be clearly stated at the beginning of the contract.

#### 2 Contract Partners and Schedule

- 2.1 Specify parties to the agreement and give venues for the show with the dates.
  - 2.2 Specify if there is to be a separate agreement between the organising institution and each individual venue or if there will be one overall contract agreed and signed by all parties.
  - 2.3 Specify that the director or a senior member of staff should sign the agreement.
- 

#### 3 The Organisation and Selection of the Contents of the Exhibition

- 3.1 Specify the names of the selectors and of the institutions from which they come or their professional status.
- 3.2 Specify which institution will handle the initial administration, negotiating loans, collecting loan agreements, etc.
- 3.3 Specify whether the original loan request letters should be signed by the director of the organising institution or by all venues.
- 3.4 The list of objects selected, or from which the selection will be made, should be attached to the contract.
- 3.5 Specify that the organising institution should make every effort to secure loans for all venues.
- 3.6 Specify that the organising institution must send copies of any lender's loan forms and any relevant correspondence to all venues.
- 3.7 Specify that any condition imposed in a letter or on the loan forms signed by the lender must be respected.
- 3.8 Specify that a full list of agreed items with details of lender's

name, address and credit line, as well as dimensions of objects and their values, should be available for all venues as early as possible.

- 3.9 Consider whether individual venues may either omit or add objects for their particular show and, if so, make clear who handles the additional administration and who pays the additional costs.
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#### 4 Packing and Shipping

- 4.1 Specify which venue is responsible for the initial arrangements for case making, packing and shipment, lenders' couriers and customs clearances.
  - 4.2 Specify which venue is responsible for each stage of the transport between venues and for the return, including lenders' couriers and customs clearances.
  - 4.3 Specify that the organising institution should accept lenders' wishes for couriers for the original and final shipments but encourage them to accept transport in shared consignments with one courier.
  - 4.4 Discuss whether it is agreed that the organising institution should aim to reduce to a minimum lenders' couriers between venues, making this the responsibility of the exhibition organisers.
  - 4.5 Clarify which institution will provide couriers for each stage of the transport between venues.
- 

#### 5 Responsibility for objects, and their Care and Conservation

- 5.1 Specify that each venue must undertake to look after the object loaned to the exhibition with the greatest possible care during handling and installation, and that each must maintain the highest standards at all times.
- 5.2 Specify that no work of any kind can be done to any loan, except in a case of emergency, without permission from the lender, and decide whether it must be the responsibility of the institution organising the tour to contact the lender, or whether the organising institution can authorise the venue concerned to do so direct. No venue should contact a lender directly without first discussing the contact with the organising institution.

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## Appendix 4: Contract checklist

General principles on the administration of loans and exchange of cultural goods between institutions

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### 6 Condition Reports

- 6.1 Allocate responsibility for compiling the original report with a marked up photograph, on arrival at the first venue.
- 6.2 Clarify who has the responsibility for checking the objects, at each packing and unpacking stage, and who will add any notes and sign the reports.
- 6.3 Agree who is to inform the lender of any change of condition.
- 6.4 State that any agreement to do any conservation should be confirmed in writing and a report made.
- 6.5 Make clear who will keep the reports after the close of the exhibition.

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### 7 Environmental Conditions at Venues

- 7.1 State that Facilities Reports should be filled in by each venue and that all must be satisfied that the levels of heating, humidity, lighting and security in each venue are of an acceptable standard.

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### 8 Insurance/Indemnity/Immunity (add liability)

- 8.1 Make quite clear where the responsibility lies for the insurance/indemnity for each stage of the transport and during the display of the exhibition, and specify exactly where those responsibilities start and cease, and who should pay.
- 8.2 Specify whether insurance or indemnity is being offered.
- 8.3 Specify who applies for the commercial insurance, or for the indemnity.
- 8.4 Specify which venue will be responsible for processing any claims.
- 8.5 Emphasis the need to obey any conditions laid down by the insurance company or indemnity; i.e. the value of any one consignment in transit.
- 8.6 For institutions in the USA: if the exhibition includes objects from abroad or US works going abroad and US government indemnity coverage is to be sought, specify which museum will be responsible for applying for indemnity and whether the indemnity deductible will be commercially insured.
- 8.7 For institutions in the USA: if immunity from seizure is to be sought, specify which museum will be responsible for the application.

- 8.8 Specify liability in case of non insurance.
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### 9 Credit

- 9.1 Agree on a form of words for the title of the exhibition, the organisation and the venues.
  - 9.2 Agree on where this full credit should be used.
  - 9.3 Agree on an abbreviated version for other uses.
- 

### 10 Photography, Filming and Reproduction

- 10.1 Decide whether black and white photographs and colour transparencies are to be obtained by the organising institution and supplied to the other venues and what arrangement should be made for payment.
  - 10.2 Emphasise the need to follow the lenders' conditions given on the loan form or in a letter about photography and reproduction.
  - 10.3 State that the organising institution should convey any refusals for photography, etc, to the other venues and should provide a list of objects to indicate where permission is refused.
  - 10.4 State that no photography or filming will be allowed by visiting public. For other requests, state that no photography or filming of any kind can be allowed in any venue unless supervised by a responsible member of that venue.
  - 10.5 Specify whether the organiser/responsible party will secure rights for all venues or if each venue will need to clear copyright where relevant.
- 

### 11 Press and Promotion

- 11.1 Agree whether individual venues should act independently or whether there should be a shared press release, press kit, etc. If shared then the text must be approved by all venues. If costs are involved discuss how these should be shared.
- 11.2 Agree whether individual venues need to mention other venues in any publicity.

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## Appendix 4: Contract checklist

General principles on the administration of loans and exchange of cultural goods between institutions

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### 12 Audio -Visual and Educational Projects

**12.1** Agree whether these are to be the responsibility of each venue or whether there should be any collaboration and if so in what way and how they should be financed.

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### 13 Catalogue and other Publications

**13.1** Specify which venue will publish the catalogue and decide whether a separate contract should be drawn up. Areas to be considered should include the following:

- who should publish; the number of essays; the choice of authors; the number of reproductions in colour or black and white; the nature of any other material; who should arrange and pay for translations; should there be separate language editions?
- the director's foreword, whether jointly signed or signed by the director of the organising institution;
- the numbers of catalogues needed so that a price can be decided; the means of transport and who should pay the shipping.
- How many complimentary catalogues will be provided to the lenders, who will distribute them and how these will be budgeted for.

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### 14 Posters and Brochures

**14.1** Discuss whether these can be shared together with the costs or whether each venue would prefer to act independently using photographic material supplied by the organising institution. In this case copyright will have to be cleared by the venue.

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### 15 Sponsorship

**15.1** Decide on whether each institution will independently seek its own funds or whether a joint approach to companies would be better. If so decide on how to proceed.

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### 16 Costs

**16.1** Decide on how to organise the payment of costs and, if costs are to be shared, attach a draft shared cost budget. Reference should be made to the share of responsibilities agreed above. The arrangement for payment may take one of two forms:

- a flat fee based on a share of the estimated costs;
- a share of all the actual costs, agreed to be in the "to be shared" category.

**16.2** Agree on all the categories of costs to be shared and the categories which fall to each venue. Ideally, shared costs will be allocated at the start in such a way as to ensure minor final reconciliation. Shared costs may include the following:

- organisation; here may be included research and travel expenses of curators and any fees to guest curators;
- lender fees; any initial conservation work agreed by all venues as necessary to make an object fit for loan;
- any mounting and framing needed for display;
- any special display cases or graphic material which will travel with the exhibition;
- transport (see para 4) to include case making, packing and shipping, and courier travel. Make clear the length of stay and per diem amount to be offered. This should be 2 nights and 3 days for most trips, 3 nights and 4 days for inter-continental, longer or more difficult trips. Exceptionally a longer stay may be needed, but this must be agreed between all venues;
- condition reports (see para 6) to include any costs involved in their preparation;
- insurance and indemnity (see para 8) to include share of premium as appropriate;
- photography for press and promotion or any other purposes (see para 10); shared press material (see para 11);
- shared educational materials (see para 12)
- catalogue and any other publication (see para 13).

**16.3** Costs falling to each venue should include the following:

- all expenses of packing and unpacking on each venue's own premises, as well as installation, security, publicity and all other local costs;
- local hotel costs and per diems for lenders' couriers;
- additional days per diem allowances for a lender's courier, storage fees and any other costs arising from local delays,

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## Appendix 4: Contract checklist, Facilitiesreport checklist

General principles on the administration of loans and exchange of cultural goods between institutions

for instance failure of venue to be ready to receive the work and to offer acceptable conditions for unpacking and installation;

- all expenses associated with any work being shown in this venue only;
- all expenses connected with travel of staff from each institution except when acting as couriers.

**16.4** If costs are to be shared, agree which institution (probably the organising institution) should administer the shared costs. Decide on whether all relevant bills be invoiced to this institution for later division or whether, if other currencies and countries are involved, each institution should pay some bills subject to reimbursement or credit against its share of the shared costs.

**16.5** Decide on a date for agreeing the final division of costs and settling the bills.

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### 17 Cancellation

**17.1** Specify any permissible causes or deadlines for cancellation, such as inability to secure works or funds by a certain date or force majeure.

**17.2** Where cancellation seems unavoidable specify that an urgent discussion must be arranged with the other venues to discuss the implications on the organisation and the overall costs.

**17.3** Decide on the financial responsibility of the cancelling institution; what should be its share of costs incurred prior to date of cancellation, and what should be its share of other costs that only exist because of that venue's commitments?

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### 18 Entire Agreement and Modifications

**18.1** Specify that the agreement supersedes any earlier agreements or conversations, written or oral, and constitutes the entire agreement between or among the parties.

**18.2** Specify that any modifications to the agreement must be in writing and signed by all parties.

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### 19 Signature of all Parties

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## Appendix 2 FACILITIES REPORT CHECKLIST

### 1 General and Building

- General information (address, telephone, fax, contact names)
- Description/characteristics of the building
- Regular events in the building; where these take place (include private views, and whether smoking, eating, drinking is allowed)
- Restoration or building work in progress or planned

### 2 Exhibition Areas

- Description/characteristics of temporary exhibition areas
- Description of access; how loans are received, for instance, covered or exposed loading bay, freight lift
- What the limit of clearance is for cases (maximum size case that can be accommodated)
- Where loans are stored/unpacked
- Who handles and packs the loans
- Description of hanging methods

### 3 Environment

- Environment in exhibition, storage and unpacking areas
- Climate/environment (RH temperature in winter and summer, air filtration, lighting)
- Climate monitoring systems

### 4 Security

- Description of security in building, storage and unpacking areas
- Security/invigilation arrangements (twenty-four-hour, seven-days-a-week)
- Mechanical and electrical security systems
- Accountability (inventory, frequency of checking loans)

### 5 Fire/Disaster

- Fire protection systems, fire-fighting systems
- Disaster plan

### 6 Digitisation

- Digitisation and network access to the objects (control of information and copyrights)

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## Appendix 5: UKRG standard facilities report

### UKRG STANDARD FACILITIES REPORT Standard Facilities Report



#### CONFIDENTIAL

*This Facilities Report was devised by the United Kingdom Registrars' Group (UKRG) in consultation with the Museums, Libraries and Archives Council.*

*The form will enable lenders to assess the practicalities involved in making loans. It is intended to help both borrowers and lenders identify potential problems and reach agreement on how these can be resolved.*

*It should therefore be completed and returned as quickly as possible.*

*The form is intended for use in all kinds of museums and galleries, irrespective of type of collection or size. For this reason not all questions will be relevant to every borrower. However as a standard form it can be filled in once and updated for use with any future loan requests. Please complete the form therefore as fully and accurately as possible, adding any other information which you feel may be relevant. You should retain a copy for future use.*

Lending Institution Address	
Contact Position	
Telephone	
Fax	
Email	
Lending Institution's Reference Code	

Loan Venue Address	
Contact Position	
Telephone	
Fax	
Email	
Purpose of Loan/Title of Exhibition	
Dates at this Venue	
Date Form Completed	

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## Appendix 5: UKRG standard facilities report

This section aims to create a picture of the type of building in which loans would be housed, as well as covering potential dangers such as building work and infiltration by pests. It would be helpful if a photograph or postcard could be included.

Please note parts of this section are replicated in the UKRG Standard Facilities Report Security Supplement

<p>1.1 Are your premises purpose built, galvanized/insulated/other?</p> <p>1.2 If "OTHER" please supply details</p> <p>2. When was your premises completed?</p> <p>3.1 What type of building materials are used in the construction of the building?</p> <p>4.1 Do you have any construction or refurbishment work in progress or planned within the next 3 years?</p> <p>4.2 If YES, please supply details (nature of work, dates)</p> <p>5.1 Have your premises ever been assessed by the UK Maritime Security Advisor based at MI A?</p> <p>5.2 If YES, please supply details</p> <p>6. Does your institution have a procedure in place to deal with emergencies? (e.g. a disaster plan)</p> <p>7. If YES please supply a copy</p> <p>7. In the event of an emergency who would be authorised to remove items from danger?</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <table border="1"><thead><tr><th></th><th>Steel</th><th>Concrete</th><th>Other</th><th>Insul. Galv.</th><th>Steel</th><th>Steel</th><th>Other</th><th>Other</th></tr></thead><tbody><tr><td>Roofing</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>External Walls</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Windows</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Structural Supports</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></tbody></table> <p>If "OTHER" please provide details</p> <p>_____</p> <p>_____</p> <p>YES/NO</p> <p>_____</p> <p>_____</p> <p>YES/NO</p> <p>_____</p> <p>_____</p> <p>YES/NO</p> <p>_____</p> <p>_____</p>		Steel	Concrete	Other	Insul. Galv.	Steel	Steel	Other	Other	Roofing									External Walls									Windows									Structural Supports								
	Steel	Concrete	Other	Insul. Galv.	Steel	Steel	Other	Other																																						
Roofing																																														
External Walls																																														
Windows																																														
Structural Supports																																														

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## Appendix 5: UKRG standard facilities report

8.1 Is smoking permitted anywhere in the building?	YES/NO
8.2 If YES, please state where and how this is controlled	_____ _____ _____
9.1 Do you make routine inspections for odour, insect and mice or organic problems?	YES/NO
9.2 If YES, please supply details	_____ _____ _____

### [11] EXHIBITION AREAS

The information requested in this section will help lenders and borrowers decide which is the safest way of displaying a loan, as well as consider the practicalities of loading/unloading physically problematic objects.

Please attach floor plans of the exhibition areas to be used, clearly indicating each separate space and showing the position of routinely opened doors and windows, and, as far as possible, unshaded glazing, sources of heat, draughts etc.

1. When was the exhibition area to be used opened or last refurbished?	_____ _____ _____
2. What methods are used to secure loans to walls, partitions, plinths etc.? Please describe your usual method Please refer to the attached display case questionnaire	_____ _____ _____ _____ _____
3. How do you regulate the number of visitors in exhibition areas?	_____ _____ _____
4.1 Is the consumption of food or drink ever permitted, or are events (concerts, receptions, dance etc.) ever permitted in exhibition areas?	YES/NO
5.1 Do you use barriers or other methods of physical protection for material on display?	YES/NO
5.2 If YES, please supply details	_____ _____ _____

### [6] EXHIBITION AREAS (cont.)

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## Appendix 5: UKRG standard facilities report

<p>6</p> <p>Please supply details of how the exhibition area is routinely managed during an exhibition with regard to:-</p> <ul style="list-style-type: none"><li>• lamp replacement</li><li>• cleaning of floors &amp; display cases</li><li>• clearing of items on open displays etc.</li><li>• checking of equipment</li></ul>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
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### [C] ACCESS

The information requested in this section allows borrowers and lenders to think in terms of the problems that may be encountered (stairs, awkward corners etc.) when moving large or heavy objects and plan necessary precautions.

<p>1.1</p> <p>Are there any restrictions in vehicle access to your premises (low underways, tight corners, size/weight restrictions etc.)?</p>	YES/NO
<p>1.2</p> <p>If YES, please supply details</p>	<hr/> <hr/> <hr/> <hr/>
<p>2.1</p> <p>Do you have a covered loading bay?</p>	YES/NO
<p>2.2</p> <p>If NO, where do you take a delivery of loans?</p>	<hr/> <hr/> <hr/> <hr/>
<p>3.1</p> <p>Do you have a goods lift?</p>	YES/NO
<p>3.2</p> <p>If YES, what are its internal dimensions/load capacity?</p>	<hr/> <hr/> <hr/> <hr/>
<p>3.3</p> <p>If NO, how do you move items between different floor levels?</p>	<hr/> <hr/> <hr/> <hr/>
<p>4.</p> <p>What is the maximum size of object/packing case that can be brought into the exhibition space by the normal route?</p>	<hr/> <hr/> <hr/> <hr/>

### [D] HANDLING

The information requested here allows borrowers and lenders to agree on the most appropriate handling method/procedure for particular loans.

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## Appendix 5: UKRG standard facilities report

1.1 Who carries out the packing/unpacking of loans?	_____
1.2 What training etc. have they received?	_____
2. Where do you transport/pack loans prior to and after display?	_____
3. Where are cases, packing materials etc. stored?	_____
4. Who is responsible for completing incoming/outgoing condition reports?	_____
5.1 Are regular checks made for dust and damage?	YES/NO
5.2 If YES, by whom and how often?	_____
6. Who stores etc. loans on open display?	_____

### [F] ENVIRONMENTAL CONDITIONS

*This section is intended to assess the prevailing environmental conditions at a loan venue and identify any potential problems so that workable solutions can be agreed.*

*Please note that this section covers both the exhibition area as a whole and the possible use of display cases.*

**Please attach copies of readings for temperature and relative humidity for the areas in which you propose to display loans. The readings should be continuous and cover the period of the previous year equivalent to that of the loan period. They should clearly show the rate of change on the most regular basis available.**

*If these are not available please provide as much information as you are able.*

#### (a) Temperature and Humidity

1. Do you monitor temperature and relative humidity on a regular basis:	
1.1. In the exhibition area?	YES/NO
1.2. In display cases?	YES/NO

### [G] ENVIRONMENTAL CONDITIONS (cont.)

1.3. If YES, please supply details (method or equipment used, frequency of calibration or service)	_____
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## Appendix 5: UKRG standard facilities report

<p>3. What ranges of temperature and relative humidity are maintained over the year?</p>	<hr/>
<p>3. How is temperature and relative humidity controlled:</p>	
<p>3.1 In the exhibition area?</p>	<hr/>
<p>3.2 In display cases?</p>	<hr/>
<p>4. Are these control methods in operation 24 hours per day:</p>	
<p>4.1 In the exhibition area?</p>	YES/NO
<p>4.2 In display cases?</p>	YES/NO
<p>5.1 Do you maintain the same environmental conditions in your storage, unloading or packing areas to be maintained in exhibition areas?</p>	YES/NO
<p>5.2 If NO, please supply details of conditions and controls</p>	<hr/>
<p>6.1 Do you have the means of controlling atmospheric pollutants (eg. dust filters)?</p>	YES/NO
<p>6.2 If YES, please supply details of method used</p>	<hr/>

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## Appendix 5: UKRG standard facilities report

[F] ENVIRONMENTAL CONDITIONS (cont.)	
(B) Lighting	
1. How are exhibition areas lit overall?	_____ _____ _____
2. What type of light is used to illuminate individual items:	_____ _____
2.1 in exhibition areas?	_____ _____
2.2 inside display cases?	_____ _____
3. Do you monitor light on a regular basis throughout exhibition periods?	YES/NO
4. Do you monitor light on a regular basis when installing and dismantling exhibitions?	YES/NO
5. What range of visible and UV light can be maintained in exhibition areas?	_____ _____
6. Are you able to limit the levels of visible and UV light falling on sensitive objects?	_____ _____
7. How many hours per week will the items be exposed to light? (include hours when closed to the public)	_____ _____
8. How do you control daylight?	_____ _____
9. Please supply construction details of display cases to be used (construction materials, display materials, type of seal etc.)	_____ _____ _____
<i>Please note: You may be asked to supply more detail of the display cases you propose to use by completing a UKRG Standard Facilities Report Display Case supplement.</i>	_____ _____

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## Appendix 5: UKRG standard facilities report

Signal: \_\_\_\_\_ Name: \_\_\_\_\_

Position: \_\_\_\_\_ Date: \_\_\_\_\_

When reviewing this facilities form please include:  
(Tick as appropriate)

- Floor plans of each of the exhibition spaces to be used clearly indicating each separate space.
- Copies of continuous readings for temperature and relative humidity for the areas in which you propose to display loans taken over a period of the previous year equivalent to that of the loan period.
- Any photographs, photocards, interior views or publicity material which show the exterior of the building.
- Any other information which you feel might be helpful.

UKRG Standard Facilities Report, Spring 2004

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appendix 6

# Value, non- insurance, indemnity and insurance

appendix 6

Value, non-insurance, indemnity and insurance

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## Appendix 6: Value, non-insurance, indemnity and insurance

### Value, non-insurance, indemnity and insurance

### Value

#### **Cultural or artistic value**

Cultural or artistic value is, generally speaking, the decisive reason for making a work of art an exhibit. It is of primary importance to museums and for exhibitions, but it cannot be taken into consideration for the payment of damages because it cannot be expressed in monetary terms. This is where compensation limits come into play. The uniqueness reflected in this concept of value is nevertheless an aspect that influences the prices of art works.

#### **Commercial or market value**

For many institutions or private persons, the possession or acquisition of a work of art is associated with economic interests. Auctioneers, gallery owners and private persons are included in this category, since for them a work of art is an investment. In their case, the value of a piece of art is determined by market criteria. Such art acquires a certain monetary value which is expressed in terms of the purchase price, sale price or auction price. This value, expressed in monetary terms, is the result of extremely diverse conditions. Public taste, certain trends, the supply of some art works on the market (free competition) as well as national and international interests all play a role in determining it. Auction catalogues provide an indicative value of the average market price. Since the market price is a value expressed in monetary terms, it is used as a basis for determining the amount of compensation. It is precisely these developments in the art market that determine what sums the museums will have to deal with in part.

#### **Comparative value**

Because of the unique nature of works of art, their market value cannot but be seen as a comparative value. Seeing that pieces from museum collections are rarely found on the art market, their market value can only be estimated by comparing them with art works of equal importance. For those works of art which cannot be compared with anything else, there arises not only the problem of estimating their value but also of their replacement should it be required.

#### **Replacement value**

The market value is not only an indication of the price at which a work of art could be sold for on the market; it also determines the

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sum that would be required to compensate for a loss. The declared value of a work of art is therefore also its replacement value. The compensation should provide the museum or lender with the means required for a replacement equivalent to the loss suffered.

It is incumbent on the museum lending the work of art or owner of the work of art to specify its exact value. An inexact declaration of value can, when a claim is made, lead to legal disputes and conflict.

### **Moderation agreement**

At present, private and, frequently enough, also public lenders orient themselves towards the current market value if values are being assessed for loan agreements. If these market results are directly included in the loan agreements, the insurance and guarantee sums always reach the upper limit. On the other hand, it must be acknowledged that only the trends and contemporary proceeds from sales on the art market indicate the current value of a work of art, which under some circumstances has been in public ownership for decades or centuries, whether it has actually kept or increased its value since it was purchased.

The question is whether public museums and exhibition houses have to follow this market orientation and thus – against their own interests – sustain the market additionally. As long as public institutions follow principles which serve to secure the cultural inheritance as commercial interests, they should be able to accept that insurance values do not have to keep up with the developments on the art market. One possibility for implementing this recommendation would be to enter into self-insurance obligations or moderation agreements when assessing values, especially between public institutions.

A moderation agreement would not exclusively favour museums which were not insured through a state guarantee programme. Those museums, which are able to the state guarantee systems, have to ignore this system often enough because of the extremely high values exceed the state insurance levels. Lenders and borrowers from the state museum system should therefore agree to reject inflated valuations in order to create acceptance for the principles of moderation beyond the state sector.

The shortage in the market, and thus exploding prices, does not mean that there are not enough works of art. Instead, the reason is that they are not available on the market. This is reflected in

the current market situation. The prices for larger quantities and medium quality works of art remain stable while exorbitant prices are being achieved for top works.

We therefore recommend that for loans between public institutions it be remembered that valuations for insurance and guarantee values for high-value objects can be considerably lower. A guideline could be that one accepts a reduction of up to 40% of the current market value, but typically does not demand less than the price paid by the lending institution, unless a longer period has passed since its purchase and the price paid no longer objectively reflects the current value.

In case of dispute, an arbitration tribunal or independent ombudsman should be set up either at a national or international level in order to regulate disputes extra-judicially and bindingly between borrowers and lenders when assessing insurance values, reductions in value in the event of damage and when assessing compensation in case of total losses.

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## Commercial insurance

Art and exhibition insurance is, in its present form and specialisation, a relatively recent service when compared with other branches in the insurance sector. The emergence of this sector is a consequence of post-war developments. In the late 60s (and even before), the standard of living in Western industrial countries rose to such a level that it was able to sustain a renewed interest in culture, and particularly in art, across many levels of society. One of the consequences of this development was the "discovery" of art as a financial investment both in the private sphere and in private business. The 80s saw a veritable explosion in this market and the works belonging to certain artists or art trends, for example the modern art classics, were sold for such high prices that the work, artist, auction house and purchaser, when his name was known, made the front page of newspapers. At the same time public services in industrial countries spent much larger sums on art and culture, evidence of which is provided by the many new museums constructed and the large international exhibitions held. The concern over security, which was not only felt by investors who had turned to art, led the insurance sector to discover this new market. It is certainly a

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very specialised market and not all companies provide art or exhibition insurance. Nevertheless, following the rise in prices on the art market, first the premiums and then, as a consequence, the amount set aside for insurance in exhibition budgets increased. Even though, due to the rising number of exhibitions, companies have agreed to reduce their rates, insurance costs still threaten to suppress exhibition plans. Museums often question the merits of taking out insurance, because damages occur so rarely that the total premiums are generally disproportionate to the total compensation paid. This situation does however have its advantages: the scarcity of damages is a sign that the collections are treated with care and are a point in favour of the museums to which they were entrusted.

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### Non-insurance/self-insurance

*Self-insurance* (= independent cover) on one hand and of *Non-insurance* on the other for institutions must be kept separate because of different legal consequences.

Within the framework of *self-insurance*, an agreement can be made between institutions, which are financed from the same budget (for example, all state museums directly subject to a state provider or to the state government), that no insurance should be purchased for borrowed objects loaned internally.

*Non-insurance* describes the same situation, but institutions here are in a contractual relationship which draws funds from various budgets (for example, museums from different states).

The self-insurance or non-insurance agreement is merely designed for the lending institution not to be required to include a third party (an insurance company) in the contractual relationship. The acknowledgement that the lender gives lies in the waiver of insurance cover and the borrower's saving of insurance costs.

The borrower, however, remains fundamentally obliged to cover any losses, as the question of liability remains unaffected by the agreement regarding self or non-insurance. The lender bears the risk of the borrower's liquidity as it alone can sue its contractual partner.

However, the contractual parties are entitled, in addition to the

agreement regarding self or non-insurance, to agree a single contract or generally that the liability be limited or fully or partly excluded in the event of loss. In the case of a loss event, however, this means that compensation can only be paid for loss or damage in parts.

Typically, such an exclusion of liability in combination with an insurance waiver is not in the lender's best interest, especially if the financing of the borrowing institution comes from another budget and thus no internal compensation equalisation can be achieved.

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### State indemnity

State indemnity is the most significant way of economising on insurance costs. The State undertakes to provide compensation for damages directly, without any insurance company acting as an intermediary. When a temporary exhibition is held, by using state indemnity the borrower assures the owner of the work of art that, in case of damage or loss of the piece borrowed, the State will provide financial compensation. The different views on state indemnity make it possible to assess the importance that each country attributes to culture and its funding: the objective is not only to aid museums financially, but also to promote cultural exchanges and sometimes cultural representation at the regional and national level.

In order for a state indemnity system to be applied, the countries adopting it must have a particular legislative and statutory framework. The body administering this indemnity should be able to bind the State without discussion or prior notification, which requires that the indemnity be automatically included in the state budget.

The existent state indemnity schemes are economical alternatives that should provide the same coverage as commercial insurance companies if they are to be accepted by lenders. The systems vary greatly from one country to another and are not very well known, which may lead lenders to reject state indemnity schemes and consequently refuse to loan their works to temporary exhibitions or to demand that the borrowers resort to commercial insurance.

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### Advantages and drawbacks of non-insurance, commercial insurance and state indemnity

The observations made with respect to maintaining an insurance system or replacing it with a state indemnity scheme, or perhaps even acknowledging the state indemnity used by partner museums, have given rise to many arguments that need to be considered, arguments that have always come up when dealing with this issue. These arguments are provided below without any value judgement or discussion.

#### **Advantages and drawbacks of non-insurance**

No money is spent on insurance, so the money saved can be used for other aspects of the exhibition.

In the event of damage, lenders cannot depend on any financial compensation, which could have been used to restore the work of art or could serve as compensation for the damage suffered.

#### **Advantages and drawbacks of commercial insurance**

Insurance costs put a tremendous strain on museum budgets, because the expenditure represented by the premium payments is disproportionately high when compared with the compensation *ultimately* paid.

Insurance costs impose limits on exhibition projects and restrict the mobility of museum loans.

Insurance costs serve as obstacles for projects that are doubtful in terms of conservation, for the reason that insurers are not willing to cover particularly high risks. From this point of view, insurance costs are a guarantee against ill-considered exhibition projects.

Due to the fact that insurance companies set limits to the risks they are willing to cover, the insured party is always subject to a certain risk; museums are thus always inadequately covered despite the premiums paid and are likely to be faced with significant losses.

Insurance companies have an influence on security measures taken in museums, thus helping prevent damage.

Insurance companies sometimes hinder the work in museums with intolerable security instructions.

#### **Advantages and drawbacks of state indemnity**

State indemnity enables museums to economise on insurance premiums. Ideally, the museums take advantage of these savings,

which has a positive impact on the price of the admission ticket. State indemnity does not imply additional administrative formalities, except when large claims are made. State indemnity schemes are seen in a very favourable light by museums due to the significant savings they represent.

Adopting a state indemnity scheme could lead to an additional rise in premiums because of the significantly reduced market share of private insurance companies. These companies would then no longer have the capital reserves for large claims and would have to raise their premiums in order to remain profitable.

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### Long-term-loans

While State indemnities are principally used to cover works loaned and/or – more rarely – borrowed for temporary exhibitions, it should be noted that Spain, Norway, the United Kingdom and Sweden can also cover long-term loans. This option is frequently used by the British.

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Colofon

# Lending to Europe

Recommendations on collection mobility for European museums

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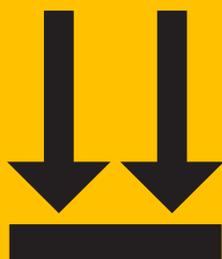






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# Lending to Europe

Recommendations on collection mobility  
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