



EUROPEAN COMMISSION
Directorate-General for Education and Culture
Culture policy and intercultural dialogue

Working Group „Mobility of Collections”

Sub- Working Group „State indemnity/insurance”

One of the central objectives of the Council work plan for culture 2008-2010 is to encourage the circulation of works of art. Accordingly, the Working Group “Mobility of Collections” was established in November 2008.

In the frame of this Working Group, a sub-group of experts focuses on the field of state indemnity, insurance and non-insurance models under the co-chairmanship of The Netherlands and Hungary.

The group aims to gather, compile and analyse as much information as possible on national legislation and practices in the field of state indemnity, insurance and non-insurance. Therefore, the group has drawn up a series of questions on which it would welcome replies from national specialists by no later than **15th April** 2009.

Please send back the completed questionnaire to the attention of the European Commission:

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as well as to the email addresses of the co-chairs of this group:

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QUESTIONNAIRE

		YES	NO
REGULATION			
COVERAGE			
Works covered	Incoming loans		
	Outgoing loans		
	Transitory/touring loans		
	Deposits		
	Long-term loans		
	National collections excluded		
Period included (scope)	Nail to nail		
	Certain intervals excluded		
Risks excluded	Terrorism		
	Acts of war and nuclear threats		
Waiver of subrogation ¹			
ELIGIBILITY CRITERIA			
Beneficiaries	National museums		
	Other publicly funded museums		
	Private museums		
Minimum/maximum limit per project/per year	Minimum limit		
	Maximum limit		
THE WAY THE SYSTEM WORKS			
Self risk/Deductible			
Maximum amount			
Cost of indemnity			
INFORMATION			
Web site			
English translation			
Brochure			

I. REGULATION

1. Does your country have a regulation or legislation concerning state indemnity? Please, indicate the precise source of law.

II. COVERAGE

2. What is the scope of the works covered by indemnity (e.g. incoming loans / outgoing loans / deposits / long-term loans)?

3. For what period is indemnity granted? (e.g. nail to nail / certain intervals or transport excluded)

4. What are the risks **not** covered by your state indemnity?

III. ELIGIBILITY CRITERIA

5. Who are the beneficiaries of the indemnity? (Who/what kind of institutes can apply for such an indemnity?) (e.g. national museums / other publicly funded museums / private museums)

6. Are there a selection criteria concerning the borrowing institution? Are there required security conditions? If so, who is responsible for inspecting these?

¹ Waiver of Subrogation: In the event of damage to a work, a clause waiving claims against the organisers, commissioners, curators, official representatives of the lender, transport companies, transit companies and packaging companies, except in the case of malice, deceit or gross negligence.

7. Is there a minimum financial limit per project? (Please, put the figure also in EUR)

8. Is there a maximum financial limit per project or per year? (Please, put the figure also in EUR) Is there a limit on the total sum for indemnities you can offer at any one time?

IV. THE WAY THE SYSTEM WORKS

9. Do you have a special appropriation for the state indemnity in the state budget? If so, how much is it?

10. Is state indemnity granted to the lender or to the organising museum?

11. Does the lender have to make a formal declaration on accepting the state indemnity?

12. For those cases when the lender is unwilling to accept state indemnity do you offer any kind of combination of state indemnity and commercial insurance (e.g. fronting, re-insurance etc.)? How does it work?

13. Which are the institutions involved in the procedure of granting an indemnity?

14. Does the system work with a deductible (limitation of liability)?²

15. What is the maximum amount covered by the indemnity?

16. Are there costs emerging when applying for state indemnity?

V. COMPENSATION MECHANISMS IN THE EVENT OF LOSS, THEFT OR DAMAGE

17. Please, write a short description of the procedure followed in the event of damage AND also answer the following questions.

a.) Who assesses the damage?

b.) Is the assessment of damage accepted automatically, or can this amount be debated? Who pays for the compensation?

c.) What is the timeframe for the payment of the compensation?

VI. EXPERIENCES AND GENERAL REMARKS

18. Please fill in the statistics chart in ANNEX 1.

19. Please answer the hypothetical case on government indemnity in ANNEX 2.

20. What are the grounds for you as a Lender to refuse state indemnity?

21. What are the problems and limitations of your own system?

22. Self- & non-insurance³

² Deductible

Some state indemnity schemes offer 100% coverage, while in others the liability is shared by the State and the museum. In the latter case, the museum must cover the first losses either by paying an insurance premium or by bearing the cost of damage using their own funds.

³ 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.

a.) Do you have any experience with a self- or non-insurance scheme within your country? If yes, please describe briefly.

b.) Do you have any experience with a self- or non-insurance scheme between your country and a particular foreign country? If yes, please describe briefly.

23. General remarks

VII. ADDITIONAL INFORMATION

24. Do you have a website concerning state indemnity in your country? If yes, please provide web address.

25. Do you have any translations of your legislation? If so, in what languages and where can they be found? If exists, please provide the text of the English version.

26. Have you issued brochures or leaflets concerning the state indemnity scheme of your country? If so, please attach a copy.

27. Contact person responsible for state indemnity scheme (name, title, organization, phone number, email).

In a **self-insurance** scheme, an agreement can be made between institutions that are financed from the same budget (for instance state museums) **non-insurance** describes the same situation but here the institutions are in a contractual relationship in which they draw funds from different budgets.

ANNEX 1

	Number of applications accepted	Number of applications rejected	Number of damages	Amount of compensation paid
2003				
2004				
2005				
2006				
2007				
2008				

ANNEX 2

Hypothetical case on government indemnity

National museum ♣ in your country applies for an indemnity grant for a 3 months exhibition (exhibition period 14 May – 16 August 2009). Transport & transit period: 2 weeks prior, 2 weeks after) The exhibition comprises of:

- a. 40 loans from reliable foreign museums (€ 120.000.000)
- b. 5 loans from foreign private owners (€ 13.000.000)
- c. 10 loans from national museums from your country (€ 30.000.000)
- d. 20 loans from other museums from your country (€ 25.000.000)
- e. 5 loans from private owners from your country (€ 10.000.000)
- f. 2 objects from your own museum ♣ (€ 2.000.000)

Most valuable object: € 20.000.000

Total costs of the exhibition: € 800.000

In this case the value of the objects presented in this exhibition and to be insured sums up to € 200.000.000

(if applicable, the commercial insurance broker charges an insurance premium of € 200.000 nail to nail)

Questions

1. What would be the period covered by your indemnity scheme?
2. Which object categories would be covered by your indemnity scheme (a. to f.)?
3. What would be the amount covered (a. to f.)?
4. What would be the own risk/deductible for the applicant in this case?
5. What would be cost of the application?
6. If applicable, what would be the reduction of the premium (estimate)?