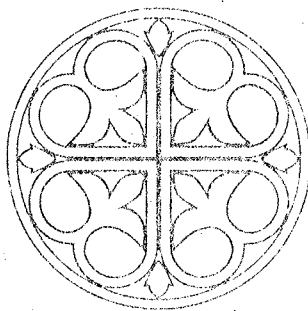


Cheltenham Art Gallery & Museum



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Director:
George Breeze MA AMA

TO ALL MEMBERS OF THE EXECUTIVE BOARD OF ICOM INTERNATIONAL COMMITTEE FOR
MUSEUMS OF FINE ART (ICFA).

Dear Colleague,

On 11th December, 1981, I was pleased to send you a formal invitation to attend a meeting of the Executive Board of ICFA in Stockholm from 17th- 21st April, 1982. Please now find enclosed the final working programme. I am happy to say that the following have confirmed that they will attend:-

Mlle Irene Bizot
M. Per Bjurstrom
Mr. George Breeze
Dr. Gorel Cavalli-Bjorkman,
Mr. Timothy Clifford
Mr. Ian McKibbin White
M. Herve Oursel
Dr. Vitali Souslov
Mr. Christopher Till

Dr. Simon Levie will be in the United States at this time.

I have held over sending this letter until these confirmations had come through. French translations of this letter and agenda will be sent to francophones as soon as possible. In order to save on heavy postage costs the documents identified in the agenda will be tabled at the opening session, and copies will be posted to those who are not able to attend. Lunches will be provided by the Nationalmuseum.

Yours sincerely,

George Breeze
Secretary, ICFA.

Saturday, 17th April

a.m. Arrival of Members

15.00 hrs.	Opening Session at Nationalmuseum & tea.
15.25-16.10	Session 1: Applications for membership; potential new members
16.15-17.00	Session 2: Liaison with other International Committees; Treasurer's Report; Request to Executive Board of ICOM for funds for 1982/3; information regarding rest of program

Evening: Buffet dinner by invitation of Director, Nationalmuseum.

Sunday 18th April

Excursion to Gripsholm Castle and Portrait Gallery.

Evening programme: to be advised.

Monday 19th April

Collecting activities of Fine Art Museums

9.00-9.45	Session 3: Collecting Policies
9.50-10.35	Session 4: " "
10.35-11.00	Coffee
11.00-12.00	Session 5: Exchange of information regarding Market Manipulation of Fine art objects; exchange of information regarding fakes and forgeries.
12.00-14.00	Lunch
14.00-14.35	Session 6: It is hoped that David Vaughan, an expert on the subject, will give a paper on Export Rules for European Countries.
14.50-15.35	Session 7: Impact of import & export controls.
15.35-16.00	Tea.
16.00-17.00	Session 8: Problems of de-accessioning, sharing, long term loan and exchanges.

Continuation, as necessary, in the evening.

Evening: Information about the International Committee of Keepers and Curators of Public Collections of Graphical Arts - Per Bjurström.

Tuesday, 20th April

10.00-12.30	Museums in Stockholm: Thielska Galleriet and Valdemarsudde.
13.00	Lunch at the Museum of Modern Art
15.00	Hallwylska Museet, Stockholm.

Evening: optional visit to the Opera (to be confirmed).

Wednesday, 21st April

9.00-9.45	Session 9: Draft Rules for International Committees; any rule changes for ICFA.
9.50-10.35	Session 10: Plenary Session in September: location and outline programme; representative at Advisory Committee in Paris in July; ICOM '83.

10.35-10.45 Coffee.

10.45-11.30 Session 11: Annual Report for ICFA;
any other business.

Close of Board Meeting.

INTERNATIONAL COUNCIL OF MUSEUMS

INTERNATIONAL COMMITTEE FOR MUSEUMS OF FINE ART (ICFA)

MEETING OF EXECUTIVE BOARD : STOCKHOLM

17-21 APRIL 1982

M I N U T E S

Present: Mr. Timothy Clifford (Chairman)
Mr. George Breeze (Secretary)
M. Hervé Oursel (Treasurer)
Mlle. Irène Bizot
Dr. Per Björström
Dr. Görel Cavalli-Björkman
Mr. Ian McKibbin White
Dr. Vitali Souslov
Mr. Christopher Till

Apologies for absence received from

Mme. Irina Antonova
M. Dirk de Vos
Dr. Simon Levie
Dr. H. Ganslmayr (Chairman, Advisory Committee
of ICOM)

The Chairman opened the meeting at 15.00 hrs. on 17 April by welcoming all those present and thanking the hosts, Dr. Per Björström and Dr. Görel Cavalli-Björkman, for all the arrangements they had generously made to enable this meeting to take place in the Nationalmuseum, Stockholm.

A. 1. Applications for Membership.

(a) The following were confirmed as members of the Committee. In accordance with ICOM Statutes and ICFA Rules those marked with an asterisk (*) before their names will need to have their membership ratified at the next General Meeting of the Committee.

Belgium M. Dirk de Vos, Stedelijke Musea, Brugge.
M. Robert Hoozee, Museum Voor Schone Kunsten, Gent.

Brazil * Mlle. I. M. Menendez Aranha, Museo Antonio Parreiras,
Niteroi.

Canada * Ms. Jean Sutherland Boggs, National Gallery of Canada,
Ottawa.

- Denmark * M. A. Friis Jespersen, Thorvaldsens Museum,
Kobenhaven.
- France Mlle. Irène Bizot, Réunion des Musées Nationaux,
Paris.
M. François Bergot, Musée des Beaux-Arts, Rouen.
Mlle. Françoise Debaisieux, Musée des Beaux-Arts,
Caen.
M. Jean-René Carborit, Musée du Louvre, Paris.
Mme. Viviane Huchard, Musée des Beaux-Arts, Angers
* Mme. Madeleine Rocher-Jauneau, Musée des Beaux-Arts
Lyons.
* M. Claude Souviron, Musée des Beaux-Arts de Nantes
* M. J. Kuhnrich, Musée des Beaux-Arts de Dunkerque
* M. Patrick Ramade, Musée des Beaux-Arts et
d'Archéologie, Rennes.
- German Democratic Republic * Dr. A. Mayer-Meintschel, Gemäldegalerie
Alte Meister, Dresden.
(subject to confirmation)
- Nigeria Mr. Otu E.P. Ekpa, Department of Museology,
University of Baroda, India (Member of
Nigerian Committee at present working
in India).
- Netherlands Dr. Simon H. Levie, Rijksmuseum, Amsterdam.
- Norway * M. Alf Boe, Kommunes Kunstsamlinger, Oslo.
- Portugal Mme. Maria Figueiredo, Museu da Camara Municipal,
Lisboa.
- Singapore Mr. Christopher Hooi, National Museum, Singapore.
- Sweden Dr. Per Bjurström, Nationalmuseum, Stockholm.
Dr. Görel Cavalli-Björkman, Nationalmuseum,
Stockholm.
* Mr. Torsten Gunnarsson, Nationalmuseum, Stockholm
- United Kingdom Mr. Alasdair A. Auld, Museums & Art Galleries,
Glasgow.
* Mr. Martyn Anglesea, Ulster Museum, Belfast.
Mr. George Breeze, Art Gallery & Museum,
Cheltenham.
Mr. Timothy Clifford, City Art Galleries,
Manchester.
Mr. Michael E. Keen, Victoria & Albert Museum,
London.
Mr. John William Last, Walker Art Gallery,
Liverpool.

United States of
America

- * Dr. Carter Brown, National Gallery of Art,
Washington D.C.
- * Dr. James Pilgrim, Metropolitan Museum of
Art, New York.
- Mr. Ian McKibbin White, Fine Art Museums,
San Francisco.
- Mr. Michael Bell, Midland Art Council,
Midland, Michigan.
- Mr. Ildiko Heffernan, Robert Hull Fleming
Museum, Burlington, Vermont.
- Mr. John Holverson, Museum of Art, Portland,
Maine.
- Mr. Donald E. Knaub, Museum of Art,
Huntsville, Alabama.
- Dr. Nina G. Parris, Museums of Art & Science
Columbia, South Carolina.
- Miss Jane G. Rice, Museum of Art,
San Diego, California.
- Mr. Mitchell A. Wolfson, Audubon House
Museums, Key West, Florida.

Union of Soviet
Socialist Republics

- Mme. Irina Antonova, Musée d'Etat des
Beaux-Arts Pouchkine, Moscou.
- Dr. Vitali Souslov, Musée de l'Ermitage,
Leningrad.
- M. Juri Korolev, La Galerie Tretiakov,
Moscou.
- M. Nikolai Rabot Jagov, Musée des Beaux-Arts
Kharkov.
- Mme. Inge Teder, Musée des Beaux-Arts,
Tallin.

Zimbabwe

- Mr. Christopher Till, National Gallery,
Harare.

(b) Membership of the following was not permitted as not being compatible with the aims of the Committee. All, except the first named below, having their membership reviewed for a second time. Membership was not agreed to by a unanimous vote of those present.

- Mr. Richard Martin, Shirley Goodman Resource Center,
Fashion Institute of Technology, New York.
- Mrs. Leila Kimche, Washington D.C.
- Mrs. Madeleine Lejwa, New York.
- Mrs. Mary Weaver, Studio City, California.

(c) Members of the Executive Board agreed to seek out new members for the Committee as a whole.

2. (a) Liaison with Other International Committees

Although it was felt that liaison with other International Committees was very important it was not thought appropriate to formalise such relations at this stage in the Committee's life. Accordingly Board members decided not to accept for the time being the invitation from the MPR Committee (Public Relations) to accept M/s Maritta Pitkanen as their Liaison Officer. Liaison, in particular with the Conservation Committee, would be pursued further at ICOM '83.

It was agreed, however, that Mlle. Bizot should approach officers of the International Advisory Committee of Keepers of Public Collections of Graphic Art since its work clearly related closely to that of ICFA.

2. (b) Treasurer's Report

The Treasurer reported that the only expenses to date were secretarial costs in connection with translation and printing, and postage, for meetings of the Committee. He had opened a US dollar account in Paris as advised by the Secretary-General of ICOM, on behalf of ICFA.

2. (c) Request to Executive Board of ICOM for funds for 1982/3

It was resolved that a working document would be produced as a result of the deliberations at the September General Meeting of the Committee on "the collecting activities of Fine Art Museums", and that a further \$ 750 in addition to the present \$ 200 would be needed to provide for this publication.

3. (a) Plenary Session and General Meeting of ICFA

It was decided that, subject to what Dr. Levie had to say, the next Plenary Session and General Meeting of the Committee would be held in September. (Following Dr. Levie's return from the United States, he offered the hospitality of the Rijksmuseum for Thursday and Friday, 9 and 10 September for these meetings, the programmes for which have already been circulated to all members of ICFA together with all Secretaries of other International Committees of ICOM and Associated Bodies - document ICFA 82/6).

3. (b) Next Meeting of the Executive Board of ICFA

Apart from meetings of the Executive Board before and after the Amsterdam meeting in September, it was decided that the Executive Board should meet again on its own in Lille. The Treasurer kindly invited the Board to meet there 4-5 March 1983, or after the meeting of the ICOM Executive Board meeting to be held in Paris about that time, to facilitate the attendance of members of both Boards at both meetings.

3. (c) ICOM '83

(Outline details of the programme have been circulated to all members of ICFA with the invitation to the September General Meeting. At that meeting it is necessary for the Committee to decide approximately how many members will be going to London in the Summer of 1983 and what special excursions it would like to see organised.)

3. (d) Representative at ICOM Advisory Committee in Paris in July 1982.

It was unanimously agreed that Mr. Hervé Oursel, the Treasurer, should represent the Committee at both the meeting of International Committee Chairmen and the meeting of the Advisory Committee of ICOM.

4. Annual Report.

(This has already been circulated to all members of the Committee, on the lines agreed at this meeting.)

5. (a) Draft Model Rules for International Committees of ICOM.

(Please find enclosed a copy of a letter dated 4th June, sent to Dr. Ganslmayr, Chairman of the Advisory Committee of ICOM, setting out the rules changes unanimously agreed at this meeting.)

5. (b) ICFA Internal Rule Changes.

(Details of the internal rule changes proposed, and discussed at this meeting, and the agreed alterations, are embodied on the agenda for the Plenary Session of 9 September, a copy of which has already been sent to all members of ICFA - document ICFA 82/7).

B. COLLECTING ACTIVITIES OF FINE ART MUSEUMS

Summary of a number of points

1. Principle of what is Fine Art?

(a) Ian McKibbin White spoke of ethnography forming a part of the Fine Arts in the USA. Christopher Till said that what Europeans might call African ethnography would be called fine art by many Africans.

(b) It was resolved, after a discussion, that the Fine Arts for the purposes of this Committee are Painting, Sculpture (including medals) and Graphic Art (including architect's drawings and tapestry cartoons).

2. Impact of Import & Export Controls

(a) See ICOM 1974 Handbook on "The Protection of Cultural Property" and additional volume, 1981, on further countries not included in the earlier volume.

(b) Discussion was centred on a number of important topics including (i) the greater understanding of cultures through the exchange of objects, (ii) problems of the diplomatic bag, (iii) declarations of immunity, especially with regard to objects borrowed for international loan exhibitions.

3. Reports

(a) Draft British and Scandinavian reports on Collecting Policies were presented to the meeting. The French reported on theirs verbally and circulated a copy of their detailed questionnaire

they sent out to selected French Museums. Vitali Souslov spoke of the Soviet system and Christopher Till of that in different parts of Africa, while Ian White gave his views on American policies. Dirk de Vos, who was not able to be present, subsequently sent a copy of the questionnaire he had prepared for Belgian Museums.

(b) It was resolved that all Reports should be with the Chairman by 1 July 1982, and that if the information was not all available, whatever was available should be sent. The Chairman was to seek out Reports not yet provided and to obtain reports for Germany and Italy where there were not yet Committee members.

(c) Copies of the Reports would be circulated to all members of the Committee prior to the General Meeting so that the contents could be digested in advance and thus enhance the standard of debate at the meeting. It was decided that where there was more than one member of the Committee in a country, only one person would be provided with copies by the Chairman, and that the appointed person in each country would then copy these reports and disseminate them to other colleagues on the Committee in his country. This was seen as an important contribution to the saving of postal charges in what would otherwise be a prohibitively expensive operation. It was agreed that Görel Cavalli-Björkman would distribute Scandinavian copies, Dirk de Vos Belgian copies, Vitali Souslov Soviet Union copies, Ian White USA copies, Irène Bizot French copies, and Timothy Clifford British copies.

(d) It was decided to abandon the original intention of the Chairman making a precis of all the national reports, since much of the interest of the various reports was evident in the details and examples given. It was felt it would be a more comprehensive document if the reports were printed in more or less the format that they were presented in, though the discussion at the General Meeting would draw conclusions that would form the framework for an introductory essay by the Chairman.

(e) It was agreed that the Report would be a working document or "document de travail" since such a Report could never be definitive by its nature. It could be updated periodically.

(f) It was hoped that the Report could include photographs, but this would depend to an extent on the degree of financial support provided by ICOM for the Committee in the ensuing year. (See the item in 'A' above on funding.)

(g) Reports should include the names of the publications in each country which lists its Fine Art Museums.

GEORGE BREEZE
Secretary, ICFA

THE COLLECTING ACTIVITIES OF FINE ARTS MUSEUMS IN THE UNITED STATES

(a) Inquiry into Collecting Policies

In the United States, unquestionably the encyclopedic museum is The Metropolitan Museum of Art, New York City. The National Gallery of Art, Washington, D.C., is essentially a paintings gallery modelled upon the example of its counterpart in London. In the last two decades, both have begun to add the work of living artists even though other museums in their respective localities have been active in the field. The pre-dominate type of American Museum, though, is that found in cities across the United States with collections that were built from the private fortunes of a society which grew affluent during the Industrial Revolution and western expansion of the country. Many museums attempt an overview of world art, often with areas of concentration, inevitably with gaps. These collections vary in size and scope. Many special purpose museums exist; some are regional in emphasis, some concentrate on a specific period, such as modern art. Museums founded and reflecting the interests of private individuals or collectors are not unusual. Of these some are maintained by endowment but have static collections (The Isabella Stewart Gardner Museum, Boston, Mass., the Hill-Stead, Farmington, Conn., the Barnes Foundation, Merion, Penn.; some continue to expand or upgrade their collections (Solomon R. Guggenheim Museum, New York City, Norton Simon Museum of Art, Pasadena, Calif.). University art museums rely primarily on alumni for gifts or art and for acquisition funds. To qualify as tax exempt institutions, collections in university museums usually are available for public viewing, but their primary purpose is for teaching. Their works of art are sought for instructional value: to cite just two examples, a typical work of a period or

an artist who changed art history, or a work such as an oil sketch particularly revealing of an artist's method of handling paint.

There are a number of corporations who find it prestigious to form art collections which exemplify the values of their business. In the Corning Museum of Glass the product itself is the focus of a collection which displays man's artistic expression in glass from antiquity to the present.

A museum devoted to the work of one artist such as the Rodin Museum in Philadelphia, Penn., is rare. It was realized by the initiative of Jules Mastbaum, a private benefactor.

In an overview of American art museums certain characteristics are discernable. First, they are largely the result of private initiative and support. In this, the income tax deduction for gifts to eleemosynary institutions and deterring inheritance taxes have been incentives to the building of public art collections. Second, American art museums demonstrate a great variety of collecting patterns. The myriad points of emphasis and combinations are largely subjective in origin. They represent the collecting predilections of individuals or groups of benefactors. Frequently the influence and preferences of individual curators and museum directors have shaped collections. Third, money is a determining factor. As a country with a short collecting history compared to Asia and Europe, the United States has amassed considerable artistic wealth in three hundred years. However, today most art museums in the country, even the relatively wealthy ones, feel the effects of inflation eroding their buying ability along with the reduced availability of art.

works. It is generally acknowledged as bad practice during difficult times to ameliorate the situation by selling part of the collection. But soaring operating costs pose a conflict between raising money to keep the museum operating by creating an endowment for that purpose, or raising money to build an art purchase endowment. It is more often than not deemed a higher priority to preserve what one presently has than to acquire additional works of art. In such a equation, American art museums wait for bequests to provide them with windfalls of art works and acquisition endowments.

Government support of the arts in the United States is modest by European standards. It is widely questioned and its future expansion not assured. It is interesting that the impact of art minded individuals is here again detectable; two outstanding examples: Nancy Hanks for the National Endowment for the Arts and Nelson Rockefeller, a prolific art collector, for the New York State Council of the Arts. Typically government funding has been directed to the basic operation of art museums or their exhibition or other programs. Some programs are designed to stimulate the purchase of the work of living artists, but few, the work of artists of the past.

If American art collections are noteworthy for their accidental birth and willy-nilly growth this phenomenon may become less typical in the future. Many museums are beginning to find value in scrutinizing their future activities, including their collecting policy, through a process known as Long Range Planning. A study which may last a few months or several years is undertaken using in-house talent (staff and trustees) or by hiring a consultant. The purpose of the exercise is to determine

the future viability of the museum and in regard to collecting, to assess the present collection, determine who the museum's audience is (local, national, international), and establish or update a policy to guide future acquisition. One expects that a greater consensus among those responsible for governing the museum and a more objective pattern of collecting will result.

- (b) Inquiry into impact of Import and Export controls with special reference to the extent to which a nation's works of fine art should be retained by their country of origin.

The 1972 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property has been under study since 1980 in the Subcommittee on International Trade of the United States Senate Committee of Commerce and Finance. Periodically various of the art museum professional associations i.e. American Association of Museums (AAM), Association of American Museum Directors (AAMD) reaffirm their belief in the principles and have urged the United States Congress to take action. Alan D. Ullberg in his useful handbook Museum Trusteeship published in 1981 by the American Association of Museums, pp 77-78, points out that "(M)ost of the nations importing objects in the categories covered by the document, including the United States, have not as yet effectuated the UNESCO convention by enacting the legislation required for implementation... Enforcing authorities, therefore, are exercising great determination and ingenuity in the use of existing laws to attempt to halt the traffic in irreplaceable biological and cultural materials."

A Code of Ethics for Art Museum Directors adopted by the AAMD (addended) declares that it shall be unprofessional for a museum director "to know-

ingly acquire or allow to be recommended for acquisition any art object which have been stolen or illegally imported into the United States in contravention of the applicable laws of the countries of origin or exporting countries and/or contravention of international treaties and international conventions." Such principles have been discussed by ICOM over the years and need not be reiterated here. It is sufficient to say that at this time the United States has no control over the export of its patrimony. This situation is felt to be regrettable by the art museum community.

(c) Exchange of information regarding market manipulation of fine art objects

Museums in the United States enjoy a healthy working relationship and active communication with various organizations and institutions involved in the commerce of works of art. Frequently, this relationship is founded upon an active acquisitions program of a museum, a museum's attempts to encourage local private collectors and a flourishing art community, the need for a museum to avail itself of services such as appraisals which museums cannot perform, and the research and development of temporary loan exhibitions. While museums and their staffs are prohibited by a written or implied code of ethics from fostering outside commercial transactions, they nonetheless have the potential to influence such transactions.

In the process of building a strong acquisitions program, a museum frequently, relies upon dealers as one of the primary sources for new material. This may take the form of a long-standing working relationship or the occasional visit in which needs are stated and financial possibilities within a museum are discussed. There is a growing tendency

one which should be encouraged, of curators and directors to exchange at least on an informal basis amongst themselves market prices against a given object or type of object. Inevitably, the decisions to purchase and the price paid are of a very individual nature related to the work of art itself and the context into which it will be placed. A museum, if unable to purchase the art itself, may attempt to place a private collector in contact with several dealers in order to encourage a collector to acquire in anticipation of those works of art coming to the museum at a later date.

The commercial services of fine art objects dealers frequently involve making appraisals either for a museum itself or for private individuals with the intent of giving to a museum for tax deductions. Less well known are the archival services of dealers and auction houses. Frequently, they can be the source of critical information in the development of catalogue information or the present whereabouts of a work of art necessary for comparative purposes or for a loan exhibition. For instance in recognition of these crucial services, The J. Paul Getty Museum, Malibu, California has begun to gather dealers archives and auction houses are beginning to publish photographs and data covering past activity, for the benefit of the art community as a whole.

American museums have a long tradition of utilizing commercial galleries for loan exhibitions. Fifty years ago it was not uncommon to have temporary loan exhibitions entirely of works for sale as museums were embarking upon an era of burgeoning growth and wished for such works of art in these exhibitions to become a part of their permanent collection. To some extent, this situation continues, though to a lesser degree, in

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museums today for very much the same reasons. However, it is in the area of loan exhibitions that the scrutiny and criticism of market manipulation can occur if one adheres to the somewhat questionable premise that a museum's name or imprimatur enhances the value of a work of art. The formation of a loan exhibition stems from an intellectual concept. In the United States, if a work of art meets the intellectual and qualitative criteria of the exhibition, it may be borrowed from a dealer just as it would be from another museum or from a private individual who in turn might choose to sell it at a later date. Frequently, these objects can be unpublished or new material in a particular field.

The risk of market manipulation becomes even stronger when the focus of an exhibition may require a museum to work with a single gallery or small group of galleries that specialize in that field to insure the strength and comprehensiveness of the idea and the objects selected. In turn, the museum is in a de facto position of endorsement but not of manipulation.

If a museum is in the advance guard in an area of acquisition or exhibition idea, or if it is retrospectively reviewing a past artist or artistic phenomena, or if it is acquiring and exhibiting at the crest of a particular movement, there will be financial implications of this activity outside of the museum. This seems to be unavoidable. As long as the museum's and its public's interests are paramount, which they usually are, this should override any short-term change in the marketplace.

(d) Exchange of information regarding Fake and Forgeries

Curators try to keep abreast of problems of fakes and forgeries in their exchanges among colleagues and professional reading. The recent international cause celebre stirred up by The Metropolitan Museum's George de la Tour, The Fortune Teller brought the issues by television to a large lay audience. Conservators address the subject more methodically. The American Institute for Conservation in its Code of Ethics charges conservators with the responsibility to report and combat the problems.

Conservation laboratories in museums use scientific means to the extent of their capabilities to authenticate works of art. On difficult cases they turn to specialized sources. The Walter McCrowne laboratory of Chicago specializes in authentication using an array of instruments and techniques and is widely used.

In the paintings conservation laboratory at Henry Francis du Pont Winterthur Museum, Delaware, I saw a recent painting done by one of the conservators in the style of an 18th century American artist. It had been covered with varnish that produced a very convincing pattern of craquelure; a new product on the market probably developed for the home craft trade to obtain a look of aging. The conservator's exercise demonstrated the potential threat that the varnish posed if used unscrupulously. This experiment will be reported no doubt in a professional publication such as the Journal of the American Institute of Conservation (AIC). Preprints and post prints of conference proceedings are another place to disseminate information. Information is picked up for international exchange in studies in conservation of the International Institute for Conservation (IIC).

It should be noted that the education of conservators no longer is limited to the sciences; art history is a requisite, also. The contemporary conservator brings to bear knowledge of both disciplines to authenticate an object. For instance, to determine the age of a rug, the conservator would test for aniline dye and would be aware that such dyes were not in use prior to the 19th century.

Guidelines for Reproductions of Works of Art (addended) which address the subject of discouraging forgeries and related matters were adopted by the membership of the AAMD in January 1979.

(e) Inquiry into the problems posed by de-accessioning, long term loans and exchanges.

De-accessioning or the formal removal and disposition of objects from the museum's permanent collection is an acceptable practice in American museums but it must be done carefully. It is justified by the need to improve the quality of the collection or sharpen its focus in one area and deemphasize in another. It may involve the deteriorated condition of the object, financial implications of retention, or its future use. The same reasons are the usual motives for long-term loans and exchanges which are discussed later.

Criticism of the intentions and practices of art museums has been notorious in the current period of increased scrutiny. Implications that the institution is careless, covert or dishonest, among other things, is very unsettling to donors and may jeopardize future or intended gifts. After all, the subject of deaccessioning is likely to be sensitive with patrons who think of their benefactions as a way to immortalize themselves.

The deaccessioning process should be according to a well considered plan which is part of a collections management policy approved by the museum's trustees. This policy assures consensus and consistency and attempts to protect the collection from decisions based on the bias of current taste. The decision to deaccession an object should be arrived at formally by vote of the board of trustees on the recommendation of the director who has received the prior recommendation of the curatorial staff. Any stipulations pertaining to disposal of an object if it came to the museum as a gift should be observed, including terms that it not be sold. Courts can grant exception to past promises if a museum can demonstrate good reasons to break its original commitment.

Consideration for the original donors must extend also to heirs. Some museum boards of trustees vote twice to deaccession an object; a preliminary vote and a final vote with a waiting period in between of several months or longer. The waiting period permits the staff to reevaluate the merits of quality and historical importance and to research the records to study the original terms of acceptance, or notify the donors or their heirs.

Museums are required by policy or law in some instances to obtain the highest possible price for the object it disposes of by sale. Therefore public auction is frequently considered the preferred vehicle, but even here the proper market place, reserve price to place on the object and timing are matters of judgement and subject to scrutiny and criticism.

Sales to private dealers imply covert transactions and are questionable because it is certain that dealers purchase at one price and sell at a

higher price. Usually the museum has no control over the mark-up which could be substantial.

It is considered bad practice and usually prohibited by policy for staff or trustees or their family members to acquire even by public auction deaccessioned objects from their museum.

The money from objects sold generally is used to acquire other objects, preferably in the same department and the original donors credited on the identification label of the new object.

Some museums are willing to receive less than fair market value for an object in order to place it in another more appropriate museum, but this kind of disposition is more often archived by long term loan and exchanges.

Loans and exchanges are instigated with the public interest in mind by placing art objects in a more suitable context in another museum, but the lending institution (unless an exchange is a permanent arrangement) has the concern of the proper care of its objects. Periodic inspections or calling in the loans at regular intervals are reassuring, but are costly, time consuming for an over taxed staff and cause wear on the objects.

The borrowing institution can grow fond of the loaned objects, perhaps invest in costly installation of them, or count on them as integral to their own display or programs only to have them withdrawn abruptly by a change in policy of the lending institution. The best protection against

surprise is to have the terms of the loan or exchange well defined in a written agreement.

Joint ownership of single works of art, shared pairs, sets or component parts of an object or a complex work (like a diptych) also raise issues of hazard to the objects which are perhaps similar to the problems attended to loans to special exhibitions. These are sophisticated schemes, however, which are not yet widely practiced.

Ian McKibbin White
Director of Museums

IMW:11

25 August 1982

A Code of Ethics for Art Museum Directors As Adopted by the Association of Art Museum Directors

The position of a Museum Director is one of trust, involving great responsibilities. It is the moral obligation of a Museum Director, in implementing the policies of his governing board, to accept and discharge these to the best of his ability for the benefit of his institution and the public. It is assumed that, in all his activities, he will act with integrity and in accordance with the highest moral principles; that he will assiduously avoid any and all activities which could in any way compromise him or the institution which he directs. It is further assumed that, in all undertakings within his jurisdiction, he will be personally responsible for the highest standards and excellence of performance. Through his own professional integrity he will set an example to his staff, to whom he should communicate the contents of this Code of Ethics, in substance and detail, upon assuming the position of Director, and to each member of his professional staff hired subsequent to that occasion before the latter's acceptance of employment by the museum.

The members of the Association of Art Museum Directors, maintaining that the position of a Museum Director is dependent upon his professional competence and integrity, and that it requires impartiality and a sense of public responsibility, especially in the area of museum acquisitions, declare that it should be unprofessional for a Museum Director:

- (A) to use his influence or position in the art world for personal gain. He should not traffic in works of art for monetary reasons, nor be party

to the recommendation of works of art for purchase by museums or collectors in which he has any undisclosed financial interest; nor should he accept any commission or compromising gift from any seller or buyer of works of art. If he himself is a collector he should exercise extraordinary discretion to assure that no conflict of interest arises between himself and the concerns of the museum. If such an occasion should arise, it must be resolved by granting the museum's governing board the first option to acquire the work or works of art in question;

- (B) to give, for a fee or on a retainer, any certificate or statement as to the authenticity or authorship of a work of art, or any statement of the monetary value of a work of art, except where authorized by and in accordance with the lawful purposes of his own or other non-profit institutions concerned or government agencies;
- (C) to knowingly acquire or allow to be recommended for acquisition any art objects which have been stolen or illegally imported into the United States in contravention of the applicable laws of the countries of origin or exporting countries and/or contravention of international treaties and international conventions.

Infractions of these canons of professional conduct, when duly established, will render a member of the Association of Art Museum Directors subject to discipline by reprimand, suspension, or expulsion from the Association.

Guidelines For Reproductions of Works of Art

Art museum directors are responsible for maintaining a climate of artistic integrity. Such integrity should therefore characterize all museum operations, including sales activities. In recent years, increasing enthusiasm for the arts has nurtured a growing market for items that go beyond those traditionally sold to complement the collections and exhibitions. These changing conditions must not compromise professional standards.

Income has been generated by art museums through the sale of such educational materials as catalogues, books, postcards, and reproductions. Recently, however, a proliferation of "art-derived" materials, coupled with the marketing of copies of original works, have created such widespread confusion as to require clarification if ethical standards of art museums are to be maintained.

To offer reproductions to the public as an adjunct to the work of art is one thing; to offer a surrogate for original works of art is quite another, and could lead to confusion in the public mind as to what constitutes originality in a work of art.

We endorse the educational role that reproductions can play as reminders of the original and as a way of making images of art widely accessible. There can be no quarrel with the manufacture and knowledgeable use of reproductions for teaching purposes or in a decorative context.

In view of these considerations, we recommend the following guidelines:

1. Museums, when producing and/or selling reproductions, should through the use of integral markings on the objects as well as signs, labels and advertising, clearly indicate that it is a reproduction. Signatures, print edition numbers, and printers'

symbols or titles should not appear in the reproduction if in the original they occur outside the borders of the image. Similarly, signatures, edition numbers and/or foundry marks on sculpture should not appear on the reproduction.

2. Museums, when producing and/or selling reproductions of paintings and sculpture, should offer them in materials and/or size other than those used by the artist in the original work of art. It is recognized that reproductions of decorative arts serving functional purposes may pose special problems, but the fact that they are reproductions should be clearly indicated.

3. The so-called investment value sometimes touted in advertising is deplorable since the object or work being offered for purchase is not original and the resale value is highly in doubt. The retail pricing of reproductions should be in accord with cost effective and standard marketing practices.

4. When advertising these reproductions in public media, museums should not use language implying that there is any identity of quality between the copy and the original, or lead the potential buyer to believe that, by purchasing any such reproduction, he or she is in effect acquiring an original work of art.

A resolution adopted by the membership of the Association of Art Museum Directors, January 30, 1979.

UK

I C F A R E P O R T:

THE COLLECTION ACTIVITIES OF FINE ART MUSEUMS IN GREAT BRITAIN

note: For the purposes of this paper, all museums, art galleries, country houses, sculpture collections, print rooms, etc. are described as 'museums'.

1(a) Inquiry into collecting policies

(i) The Museums Association of the British Isles provides a 'code of practice for Museum authorities' which is set out in the current Museums Yearbook, 4.4:

'Each museum authority should adopt and publish a written statement of its acquisitions policy. This policy should be reviewed from time to time, at least once every five years. Acquisitions outside the current stated policy should only be made in very exceptional circumstances, and then only after proper consideration by the governing body of the museum itself, having regard to the interests of other museums.'

(ii) Regional Museums

This policy appears to be more honoured in the breach than the observance. Most major regional galleries have no such written statements, although documents have been drawn up by Birmingham and Leicester. The Museums Association claim some 20 British authorities have lodged papers with them. The West Midlands Area Service have gone so far as to insist that all participating museums should ratify the code. In certain regional museums it is possible to identify clear collecting policies, like the Norfolk Museums Service, with their headquarters at Norwich Castle Museum, which attempt to amass a definitive collection of Norwich School artists, and Nottingham, which actively collect their local School of Mediaeval alabaster sculptures and works by R. P. Bonington (1801 - 1828), a native of their city.

(iii) National Museums

National museums do not have written policy statements for acquisitions, although they are frequently self-evident.

The National Gallery, London, for example, collects masterpieces of European painting from c. 1260 - c. 1900, but contains certain key work by acknowledged masters outside this date bracket - like Picasso and Mondrian. The majority of the British paintings are shown at the Tate Gallery as are most of the nation's finest European paintings post-1900. The Victoria and Albert Museum collects applied art objects and sculpture to complement the National Gallery, but is also most actively increasing its post-1900 holdings, and does not confine itself necessarily to masterpieces but rather documents. The British Museum, like an illustrated encyclopaedia, chronicles and documents mankind with a global view, from the earliest time until the present day. Between the institutions there are,

for historical reasons, many anomalies. Much of what the Victoria and Albert Museum collects is duplicated, on a smaller scale, by the Mediaeval and Later Antiquities Department of the British Museum. There is regrettably still considerable duplication between the different print rooms. The British Museum buys drawings for fine art objects; the Victoria and Albert Museum for applied art objects, and the Tate buys graphic items only post-1960. In reality none of these institutions abide by their self-imposed guidelines.

(iv) University Museums

The University Museums tend to have little or no purchase grant and depend to a great extent on the generosity of benefactions of old alumni. The galleries of Oxford and Cambridge tend to collect along catholic lines, like miniature amalgams of the British Museum, National Gallery, Victoria and Albert Museum and Tate Gallery. The Barber Institute of the University of Birmingham, which is well endowed, buys occasionally masterpieces of Old Master painting. The Whitworth Institute of the University of Manchester buys contemporary paintings, and adds to its superb collection of British graphic works, c. 1700 - 1950.

(v) Summary

From this brief survey it is clear that most art museums in Britain follow no consistent collecting policy, apart from acquiring what is good (or even excellent) when it becomes available, if it will complement or extend in a useful or interesting direction the existing collections. Money is what really governs collecting policies, and who can afford to pay the most dictates his own policy. For example, the National Gallery has over £3,000,000 per annum for acquisitions, while Birmingham City Museum and Art Gallery has £10,000, and Liverpool some £6,000. The British Museum Print Room spends per annum some £250,000, which is considerably more than the Tate and the Victoria and Albert Museum spend together in a year on graphic art.

So, to sum up, collecting policies in Britain depend on the skill or good fortune of the institution to attract donations, benefactions and money. The fact that they have no rigid policy may add to the vigour, variety and vitality of the collections - but sometimes can lead to thoughtlessness, duplication, lack of direction, and an air of aimlessness.

1(b) Inquiry into impact of Import and Export Controls with special reference to the extent to which a nation's works of fine art should be retained by their country of origin

(i) Reviewing Committee (constitution)

In Britain the Reviewing Committee for the Export of Works of Art was set up as a result of the Report of a Committee appointed by the Chancellor of the Exchequer, H.M.S.O. 1952 under the

chairmanship of Viscount Waverley. This Committee, which consists of seven members to supervise the operation under an independent chairman, calls on each occasion that it sits in judgment three independent members of experience and high standing. It reports to the Minister for the Arts, while the machinery of export licensing is administered by the Board of Trade.

(ii) Reviewing Committee (Regulations)

In Britain export control is currently confined to limited categories of objects of high importance. No fine art objects are the subject of special scrutiny if worth less than £3,000. This limit can, however, be reviewed if necessary.

The tests for assessing the importance of an object of national importance (usually called the Waverley Criteria) are:

- (1) Is it so closely associated with our history and national life that its departure would be a misfortune?
- (2) Is it of outstanding aesthetic importance?
- (3) Is it of outstanding significance for the study of some particular branch of art, learning or history?

(iii) Reviewing Committee (Operation)

If the Committee decide to advise the Minister for the Arts to stop temporarily the export of a particular work of art, the owner, or his accredited agent, is expected to be paid by a museum in Great Britain, after a time limited by the Committee, the same sum as its genuine and reasonable market price.

(iv) The present situation Satisfaction or conflict?

It is generally agreed that the system for exporting works of fine art usually operates with fairness and to the satisfaction of both the museum and the owner and/or agent. There are areas of dispute where two institutions and two countries cannot agree. For example, a silver relief by Paulus van Vianen of The Resurrection of Christ was bought by the Rijksmuseum at auction in London, stopped from export (following the guidelines of the Waverley Criteria) and purchased, for the same sum as the Rijksmuseum paid, by the Royal Scottish Museum. The Rijksmuseum have not surrendered the item but are keeping it, for the time being, in Britain and are attempting, under E.E.C. legislation, to get the British decision reversed and the silver relief released. This is a case where a work of art is seen to play an important part in two countries' cultural heritages, as Van Vianen worked both in Utrecht and London. The present situation could also be open to market manipulation by unscrupulous museums and dealers. (See 1(c) below.)

(v) The Future

The British system can only work satisfactorily for the national

heritage when museums in Britain can afford to buy the majority of 'export stopped' items. With recent tighter controls on public spending in local government and universities which have had a dramatic effect on the reduction of purchase grants, the system is likely to work much less effectively. Added to this, the potential menace of the Getty Museum's almost limitless purchasing funds will have to be faced, and probably a revised and tougher form of protection will have to be introduced. This is currently one topic being discussed by a select committee of the House of Commons (Education, Science and Arts), inquiring into the Public and Private Funding of the Arts.

(vi) Restitution and the Dismembered Work of Art

The vexed question of restitution of works of fine art to their country of origin need not be discussed here in depth, but it is one of great topical significance, especially within I.C.O.M. British museums, generally speaking, would, we believe, argue for their retention in Britain on the grounds that paintings and works of art from foreign countries and cultures add overall to human understanding, peaceful co-existence and co-operation. However, museum staff in general believe that dismembered masterpieces, with sections in foreign countries, ideally should be re-united. The missing sections on these occasions ideally could be exchanged for other desirable items or placed on long loan.

1(c) Exchange of Information regarding the market manipulation of fine art objects

(i) Scholarship and the Market Place

Scholars working in museums, whether they like it or not, affect the price of fine art objects. For example, the publication of a definitive catalogue of a formerly under-researched collection of items often has a dramatic effect on the increased auction price of such items. Museum colleagues internationally can, and sometimes do, help each other by seeking such scholarly advice on possible acquisitions, preferably before such catalogues are published. There is, however, more room for co-operation in this area of activity.

(ii) Information to the Art Trade

It is important to be sure that information provided by museums to the Art Trade and to auctioneers will not put other museums at a financial disadvantage. However, in certain circumstances it can be difficult to deny this information to the Trade, and amicable relations can often be of inestimable value when museums wish to make acquisitions.

(iii) Manipulation of Prices to gain export

On several occasions, notably most recently on the attempted export of Algardi's Bust of Monsignor Antonio Ceri to the United States, it has been suspected in some quarters that dealers have added an enormous 'mark up' after an auction sale to preclude a

museum in Britain acquiring a work of art. The Reviewing Committee for the Export of Works of Art has, however, the teeth to counteract this by insisting on a price reduction to what the committee consider 'fair and reasonable'. The committee advised this course of action over the Algardi bust (now in Manchester City Art Galleries), but the Minister rejected their advice. This could be seen as a dangerous precedent.

(iv) Irregularities

When there are clear irregularities in prices caused by auction 'rings', partnerships, and other restrictive practices, the museum has recourse to drawing the attention of the police, press and lobbying members of parliament. So far no successful prosecution has been made in Britain against auction rings, although they are manifestly outlawed by the Auction and Bidding Agreements Act of 1927. The charters of membership of the British Antique Dealers Association and the Society of London Art Dealers forbids involvement in the ring.

(v) Communication

When necessary, much useful pressure can be exerted through professional journals and the editorials of art historical magazines against the most flagrant examples of market manipulation.

1(d) Exchange of Information regarding fakes and forgeries

(i) Communication

This is an area where information can often best be transmitted on an informal basis. Connoisseurs may be fairly sure that certain classes of items are being faked, but do not yet have sufficient evidence and data to convince a court of law. It is, for example, sometimes said that van Megeren's fake Vermeers would have been detected sooner had it not been for the Second World War and the consequent interruption, internationally, of scholars' travel and communication.

(ii) Scientific Research

Much new information is coming to light with pioneering work by conservation laboratories in British museums, particularly at the British Museum, National Gallery, and the Hamilton Kerr Institute, Cambridge.

At Oxford University, thermo-luminescent tests on terracotta have proved a very useful aid, as has dendrological research on wooden panels at the National Gallery. In this area we would welcome liaison with our colleagues of I.I.C. and with the Conservation Committee of I.C.O.M.

(iii) Recent Exposures

In the last few years in Britain there has been considerable

publicity concerning the faking of drawings and watercolours, principally by Samuel Palmer and John Constable. These were admitted to be by Mr. Geoffrey Keating, and a useful catalogue raisonné of his false works has been compiled by the journalist Mrs. Geraldine Norman. Further information has recently come to light about a group of fake Old Master drawings, including sheets attributed to Pontormo, Della Bella, van Dyck and Castiglione, which it appears may have been drawn either by a certain Mr. Eric Hebburn, resident in Italy, or by an accomplice. Mr. Julian Stock, a director of Sotheby's, London, has been compiling a list of these works.

(iv) Unwelcome Publicity

In Britain, on television (B.B.C. 2) have been screened a series of 25 minute talks entitled The Genuine Article, about fakes and forgeries at peak viewing time by Mr. John Fitz-Maurice Mills. Fascinating though these talks have been, unfortunately Mr. Mills has described and demonstrated precisely how objects can be faked convincingly, and no doubt others will be tempted to emulate him.

1(e) Inquiry into the problems posed by de-accessioning, sharing, long term loans and exchanges

(i) De-accessioning

The Museums Association frown upon any form of de-accessioning. They set out their position in the Code of Practice (5., Disposal of Collections) and draw attention to the legal position in Report of the Committee of Enquiry into the Sale of Works of Art by Public Bodies (H.M.S.O., London, 1964). The Association stress that 'there must be a strong presumption against the disposal of any items in the collections of a museum.'

This is, however, at variance with the practice followed by individual institutions. Manchester, for example, is permitted in the City of Manchester Act of 1882 (re-enacted in the Greater Manchester Act 1981) to sell paintings and works of art as long as the funds raised thereby are re-used solely for acquiring other paintings and works of art. The City of Birmingham operates a similar system. Both Manchester and Birmingham now regret losing many of the objects that they have disposed of.

The national museums, in particular the Victoria and Albert Museum, euphemistically have held 'boards of survey' in which a board of museum staff sit to decide whether or not certain items should be disposed of. The Victoria and Albert Museum have certainly lived to regret certain of the objects that they have 'boarded', like a superb collection of footwear from the Indian Sub-Continent and major exhibits from the 1862 Exhibition.

Historic collections of plaster casts have suffered greatly. Indeed, very recently the Victoria and Albert's own collection was under threat. Manchester destroyed fine early plaster casts bought directly from Canova, Gibson and Westmacott. The same tragic situation is widespread in colleges of art.

(ii) Sharing

This topic has already been touched on in 1(b) vi. There has been discussion in the press about possible sharing of purchases, so that major works of art can be retained in Britain. This happened with the pair of Elizabethan silver-gilt Mostyn flagons in 1977, shared between Leeds and Manchester. The Victoria and Albert Museum is usually happy to split sets between themselves and the regional museums. Some museum staff however believe that pairs ideally should not be split. Sets, pairs and pendants may be considered as a single work of art.

The Hugh Lane bequest to the nation is a curious anomaly and is shared between the National Gallery, London and the National Gallery of Ireland, with certain pictures travelling back and forth across the Irish Sea. This sort of arrangement (which also happens in the U.S.A. between the Getty Museum and the Norton Simon Foundation) can put objects at unnecessary risk, and is usually frowned upon in museum circles in Britain.

The British Government accepts paintings and objects 'in lieu' of Capital Transfer Tax and Estate Duty. These can now be allocated to a public institution - like the Tate Gallery or National Portrait Gallery, but left on display in the house for which they were painted. This has recently happened at Arundel Castle in Sussex and Corsham Court in Wiltshire.

(iii) Long term loans

Certain objects in British national institutions are considered inalienable - therefore when a drawing by a French XVII century artist in the British Museum was proved to have been stolen out of a book in the Bibliothèque Nationale, Paris, the sheet was returned to Paris and rebound in the book on 'permanent loan' from the Trustees of the British Museum.

Other items have been lent from British institutions on similar long term loans - like the early Rembrandt copy of the Night Watch, showing its original dimensions before being cut down, which has been lent by the National Gallery to the Rijksmuseum, Amsterdam.

There is a close relationship between British national institutions and the Crown. Therefore, since the days of the Prince Consort, the Raphael cartoons have been lent to the Victoria and Albert Museum. Similarly, H.M. the Queen has lent a major Van der Goes of King James III of Scotland and Queen Margaret to the National Gallery of Scotland, and a panel to complete the Pesellino altarpiece, Trinity with Saints, in the National Gallery, London, and nine other works.

(iv) Exchanges

Usually British institutions, assuming the items are robust and not put at unnecessary risk, are pleased to lend, nationally and internationally. Recently there has been one major exception, Michelangelo's marble tondo at the Royal Academy, which the Minister for the Arts would not permit to travel to

Japan and the United States. The reasons for this were not revealed in their entirety, but it may have been believed that this was a prelude to a possible attempted sale. It is to be hoped that no British government would permit the export of this great national treasure.

SCANDINAVIA

ICFA REPORT

THE COLLECTING ACTIVITIES OF FINE ART MUSEUMS IN THE SCANDINAVIAN COUNTRIES

1 (a) Inquiry into collecting policies

(i) No general written policy statement for acquisitions exist in any of the Scandinavian countries. Mostly museums cooperate, however, not trying to compete when an object that could be of interest for more than one museum appears on the market. The National Museums there have special responsibility much dependant on the fact that they mostly have the greatest financial resources.

(ii) National Museums

Denmark, Finland, Iceland, Norway and Sweden all have their National Museum (Statens Museum for Kunst, Copenhagen; Atheneum, Helsinki; Listasafn Islands, Reykjavik; Nasjonalgalleriet, Oslo; and Nationalmuseum/Moderna museet, Stockholm).

The National Museums have the highest collecting activity of all art museums. They all have the responsibility for the documentation of the art of the own country, many times with funds specially predestinated for this purpose. (In Stockholm the Moderna museet, which has the same administration as the Nationalmuseum collects paintings and sculptures while the responsibility for covering the fields of modern prints, drawings and applied art has remained in the Nationalmuseum.) This is also one of the means of the states to support the living artists.

The Statens Museum for Kunst in Copenhagen makes few but important acquisitions of international art, mostly drawings. There also the Ny Carlsberg Foundation often offers substantial economical support.

Atheneum in Helsinki, Listasafn Reykjavik and Nasjonalgalleriet in Oslo have a very limited international activity while the Nationalmuseum in Stockholm tries to supplement its strong collections of primarily Netherlandish 17th century paintings and French 18th century paintings and sculpture, thus stressing those parts of the collection which already have an international reputation.

(iii) Regional Museums

Most regional museums have no written statements of their collecting policy but as for most of them the Fine Arts is just a branch or a department the same policy applies to the arts as to other fields of their collecting activity. This means that the museums mostly concentrate in the documentation of local schools and important artists born and/or active in the region. There are, however, a number of larger regional museums trying to build up more complete collections of art. Thus Denmark has an important art museum in Aarhus (supported by the state), Norway in Bergen, Finland in Åbo/Turku and Sweden in Gothenburg, Malmö and Norrköping, the later ones completely financed by the cities.

The city owned museums are all more or less concentrated in forming a survey of the art of the own country stressing the importance of the region where they are situated. An exception is the Gothenburg Art Museum, which during a period until ca 1940 was still able to acquire works of international importance. Today the museum is concentrated in Danish art of the 19th century as a first step to change it into a Scandinavian museum (please, observe the geographical position of Gothenburg - almost equal distance to Copenhagen, Oslo and Stockholm).

(iv) University Museums

The University Museums tend to have little or no purchase grant and do make no or almost no acquisitions. An exception is the Museum of Decorative Art of the Lund University, founded in the thirties and actively collecting studies, sketches and other preparatory material for contemporary monumental and decorative works of art ordered and executed for official buildings in Sweden. The museum has further acquired similar material of French origin.

(v) Museums devoted to one artist or originating in a private collection

Many of the Fine Art Museums are devoted to one artist (Thorvaldsen Museum Copenhagen; Gallen Kalela Museo, Helsinki; Vigeland museet and Munch museet, Oslo; and Millesgården, Stockholm) or preserve the collection of one collector (Den Hirschsprungske Samling, Copenhagen; Sinebrychoffska samlingarna, Helsinki; Sonia Hennie/Onstad museum, outside Oslo; Thielska galleriet and Prins Eugens Waldemarsudde, Stockholm). In the later mentioned museums almost no acquisitions are made.

3

A special position is taken by the Ny Carlsberg Glyptotek in Copenhagen, which receives substantial contributions from state and city but which - as far as the acquisitions are concerned - is strongly supported by the Ny Carlsberg foundation. The Glyptoteket has two specialities: Sculpture from antiquity and French 19th Century art.

The resources for acquisitions are very limited in all Scandinavian Art Museums and it is an obvious ambition primarily to document the art of the own country.

1 (b) Impact of import and export controls with special references to the extent to which a nation's works of fine art should be retained by their country of origin.

The question of export control of works of fine art has been differently treated in the different Scandinavian countries.

In Sweden a law has existed since 1927 which prohibits the export of wooden objects executed before 1860 without a licence. The law was originally created to stop an outflow of rural objects as painted chests and cupboards and so on primarily to the emigrants in the US. Today it is used to control the export of good Swedish furniture.

In connection with the expiration of the system with entailed estates, the government in 1965 created a new grant making it possible for state museums to acquire specially important cultural objects threatened with export.

In 1974 a state committee was elected to investigate the possibility of creating a new law to protect works of fine art and other remains of the cultural heritage from export. The committee presented its report in 1979 and the government has then passed the proposal to the parliament where it has been discussed.

The proposition is very strict and suggests that a large number of cultural objects of Swedish origin (i.e. paintings, sculptures and drawings) more than 100 years old and with a value exceeding Sw.Kr. 1.000.- need an export licence and that the state can refuse export without being obliged to remunerate the owner or acquire the object. The parliament at the moment is not prepared to endorse the proposition and wants to extend the law also to works of fine art executed in foreign countries but having been kept in Sweden for more than 100 years. It is supposed, however, that if the export

of such a work of art would be stopped, the owner, or his accredited agent, will be paid the same sum as its reasonable market price by the Swedish state of a Swedish museum.

Denmark does not have any export restrictions while the restriction in Finland, Norway and Iceland are extremely rigid. Since 1978 it is forbidden to export works of art and other cultural objects from Finland without special permission if they are more than 50 years old or - in case of objects of foreign origine - have been more than 50 years in the country. In Norway the same applies to objects more than 100 years of age according to an old law revised in 1979. Iceland has similar restrictions.

There is a recommendation from the council of the Northern governments from 1977 to equalize the laws of the Scandinavian countries as far as possible.

The history of Finland and Norway is in principle fairly different from that of Sweden and Denmark. Sweden and Denmark are old kingdoms with a nobility and rather lively cultural contacts with the continent. Finland was dependent of Sweden until 1809, Norway of Denmark until 1814, when it became dependent of Sweden instead. A peasantly culture thus dominates in both Finland and Norway and it is primarily that tradition one is eager to save as is the case on Iceland which traditionally was a peasant republic.

It is further an obvious fact that the Northern countries are happy in the way that so many remains from the past have been left. Neither occupations or war, nor nature catastrophes have destroyed the cultural heritage to some greater extent and further the cold climate has helped to preserve primarily all wooden and textile objects.

Sweden and Denmark have their rural traditions too. But apart from that there exists in both countries a rich documentation and valuable remains of the very lively contacts between these countries and Germany, the Netherlands and France during different periods of their history, remains that ought to be subject to export control.

In Denmark the interest for export restrictions is growing and it seems logical that Denmark and Sweden would try to coordinate their laws in this respect.

1 (c) Exchange of Information regarding the market manipulation of fine arts object

(i) Scholarship and the Market Place

Scholars working in museums many times are the greatest specialist on certain artists, schools or collections. By publishing or in other ways communicating their knowledge and the results of their research they do, whether they like it or not, affect the price of fine art objects. The interest in and price of certain groups of material definitely rise after a major scholarly exhibition arranged of it in a museum. Museum colleagues nationally and internationally do, however, help each other by seeking scholarly advice on possible acquisitions. In the Scandinavian countries there is an obvious interest in helping each other to build up important collections of works of art from the other Scandinavian countries.

(ii) Information to the Art Trade

It is important to be sure that information provided by museum officials to the Art Trade and auctioneers will not put the own or other museums at a financial disadvantage. For that reason certain rules apply to the scholars working in museums regulating their right to inform and cooperate with the trade to balance their duty to the museum world with the possibility to amicable relations with the Trade that often can be of great value when museums wish to make acquisitions.

(iii) Irregularities

Obvious irregularities in prices caused by auktion "rings", partnership, and other restrictive practice has so far not been detected in Scandinavia. On the other hand museums normally try to decide about the right place for an attractive object avoiding to overbid each other at auction.

1 (d) Exchange of Information regarding fakes and forgeries

(i) Communication

By natural reasons the Scandinavian countries have little experience of market manipulations of works of fine art objects, of fakes and forgeries. The market is so limited that a dealer trying to sell forgeries would be lost. At least in Sweden there is an intimate and well organized cooperation with the police. Forgeries never or almost never appear in the open market but are sold through advertisements.

(ii) Research

There is a good contact between museums and dealers and the different national galleries have of course developed a speciality in revealing forgeries of the big artist of the own country. The Nationalmuseum in Stockholm has a rich documentation concerning i.a. forgeries of Anders Zorn's etchings and of paintings of the classes of Swedish items most frequently being faked.

On the international level, the International Committee of Curators of Prints and Drawings, where the Statens Museum for Kunst in Copenhagen, the Nasjonalgalleriet in Oslo and the Nationalmuseum in Stockholm are represented, an informal exchange of experiences takes place with good result. It is many times a rather delicate question to reveal forgeries where both well known dealers as sellers and knowledgeable colleagues as buyers are involved. Although a fake can be quite obvious to the connoisseur it is many times difficult or impossible to prove as the fakes are mostly made on genuine old paper and so on. Therefore one has to be careful from legal point of view.

1 (e) Inquiry into the problems posed by de-accessioning, sharing, long term loan and exchanges

(i) De-accessioning

Scandinavian museums are normally not permitted to practice any form of de-accessioning. Nevertheless at least the Nationalmuseum of Stockholm has on a limited number of occasions got special permission from the Ministry of Culture to sell duplicates from its department of prints and applied art. To solve the problems with ever increasing collections, the museum does instead practice a generous policy of depositing works of art in regional museums, embassies and other official buildings.

(ii) Long term loans and exchanges

In fact the most famous painting of the Nationalmuseum in Stockholm, the "Claudius Civilis" by Rembrandt, is a long term loan from the Royal Academy of Sweden. Since a couple of years, the museum shows a group portrait by Jacob Backer, owned by the city of Amsterdam in exchange of a sculpture by Adrian de Vries which is on long term loan to the Rijksmuseum in Amsterdam. This is a type of exchange that could be profitable for most museums which many times are rich in certain areas and poor in other.

The heading of this report gives some idea of the magnitude of the task of attempting to compile a comprehensive assessment of the policies of the countries covered in this area. Communication between countries and lack of published material compounds the task. Accordingly this report serves as a general working paper and is not comprehensive or specific to each country, but where known policies are followed, they have been referred to. However, the report is made considerably simpler by the fact that there are very few Fine Art Museums in Africa as defined by IOFA. Those that do exist are mainly confined to South Africa and Zimbabwe.

a) Enquiry into Collecting Policies

The National Gallery of South Africa and other Fine Art Museums in the main centres are state or city funded. The financial resources for acquisition are limited and the emphasis in most of these is primarily to document and collect art of national emphasis and interest. It is interesting to note that one of the smaller city funded galleries has the largest purchase grant. Collections of 16th, 17th, 18th and 19th Century European Art are present in most of the state or city funded museums with emphasis in Durban, Pietermaritzburg and Johannesburg being particularly on Victorian and Pre-Raphaelite work, the Johannesburg gallery having excellent and in some cases unique examples of Pre-Raphaelite work. An historical regional emphasis is evident in the Durban Art Gallery and the King George VI Gallery in Port Elizabeth. The latter particularly, collecting British painting from 1820 onwards through the city's connection with the English settlers of this period.

Collection of International modern 20th Century American and European Art is collected by the National Gallery and the Johannesburg Art Gallery with modern graphic work forming part of the collections of the majority of the other state or city funded galleries.

The National Gallery has the responsibility of forming the National Collection and places its emphasis on the collection of South African Art as well as adding to its collection of European work particularly in respect to the influences on South African artists. British art of all periods is particularly prominent in this collection.

University Galleries rely on bequests and have small purchase grants. The majority of these collections are of South African Art.

The National Gallery of Zimbabwe has had various collections bequeathed to it, the most significant being that of Sir Stephen Courtauld which contains 16th, 17th, 18th & 19th Century English, French and German work. A collection of 19th Century English watercolours is of particular interest. While these collections will be added to if the opportunity presents itself, by virtue of bequests or purchases locally, the focus of the present collecting policy is on collecting traditional and contemporary art from Africa. The National Gallery is state funded with a municipal grant and the Bulawayo Gallery falls under the National Gallery's jurisdiction. The collecting policy mirrors that of the National Gallery, and a small collection of European painting from 19th and 20th Centuries forms part of the collection.

The Botswana Museum and Art Gallery has a collection of contemporary work of Botswana and other Southern African states as well as various historical pieces by European painters.

The Maputo Museum of Art in Mozambique has a collection of contemporary Mozambiquan work and also has examples of Portuguese painting dating to early colonial times.

The majority of African countries have a colonial past with the relics of this in the form of paintings which were scattered at the time of independence. Outside South Africa and Zimbabwe there is no available information or evidence to suggest that significant collections of work of pre-1910 origin exist in any public institution given that for the purpose of this enquiry, painting, sculpture and graphic work is being considered and not traditional African sculpture and applied art.

It is interesting to note that there are some extraordinary pieces of 16th - 19th Century European work in the hands of private individuals, which have been loaned from time to time for exhibition purposes in Zimbabwe. This is sure to be true for other countries in Africa.

Foreign exchange restriction and lack of funds, not to mention lack of available work, together with Nationalistic considerations and anti-colonial feelings confines the collection of art from Europe, virtually non-existent outside of South Africa.

b) Enquiry into Impact of Import and Export Controls with Special Reference to the Extent to which a Nation's Works of Fine Art should be Retained by their Country of Origin.

The many countries represented in Sub-Saharan Africa have divergent and varying legislation restricting the export of works of art from these countries. In the vast majority of cases this applies to traditional African art and relics. The South African Monuments Act restricts the export of any drawing, painting on stone by Bushmen or any drawing or painting by any other people executed prior to European settlement, as well as any painting, print, document, deed, seal or manuscript known to have been in the country for longer than 80 years unless a permit is issued by the National Monuments Council. No compensation is paid if the permit is refused.

The National Museum and Monuments Act of Zimbabwe contains within its text the following clause: "that no relic can be removed or exported from the country without the consent of the Director, and under relic, painting and drawing on stone or petroglyph believed to be executed in the country prior to 1890, is included.

No specific reference to Fine Art objects is made. However, a new act is currently being drawn up which will include a broader definition of protected items.

Many African countries have legislation regarding the preservation of cultural property which in some cases refer directly to works of Fine Art.

Angola, in a decree issued by the Presidency of the Republic includes reference to National or Foreign works of art being part of the Angolan's cultural heritage.

Chad has legislation in force which makes reference to the moveable cultural heritage of that country, and Liberia refers to the Director of the National Museum having the responsibility of taking all lawful measures necessary to prevent the export from Liberia of rare works of art. Cammeroon has passed federal laws protecting historical or artistic monuments and instituting measures for the protection of works of art.

Other countries through multilateral cultural co-operation have attempted to follow an OAU (Organisation of African Unity) resolution which calls for a unified

effort in preventing the sale and export of works of art of national importance, and the restitution of cultural property to countries of origin.

There is a strong emphasis on the retention of works of art in the countries of origin.

- c) Exchange of Information regarding the Market Manipulation of Fine Art Objects.
Exchange of Information regarding Fakes and Forgeries.

The majority of Fine Art sales take place in South Africa through a number of commercial galleries and international auctioneering firms. Manipulation of prices may well take place through the limited availability of works offered for sale. In Zimbabwe the prices are generally a third to 50% higher than the London market, a direct result of Fine Art being viewed as a transportable asset. Exchange of information regarding fakes and forgeries has taken place in regard to South African works of Art on an informal basis between colleagues. There is very little contact between African countries and no reports indicate that information is circulated between institutions. Recently in Zimbabwe however, two Benin Bronze figurines were offered for sale and brought to the National Gallery for authentication, after the Nigerian government had requested the Zimbabwean authorities to stop the sale in terms of the OAU agreement. Photographs and information were sent to the British Museum which revealed them as 20th Century copies. This information was circulated to dealers and made public.

- d) Enquiry into the problems posed by de-accessioning long term loans and exchanges

The South African National Gallery has a policy of not de-accessioning work and all work is now inalienable once accepted into the collection. This appears to be fairly general among the state and city galleries in this country due to previous experience of losing collections which in hindsight have proved to be valuable.

The National Gallery in Zimbabwe has not had occasion to de-accession work which requires the permission of the Minister of Finance, and the Minister of Education and Culture and no firm position has been adopted. There is no ready information immediately available regarding de-accessioning in other African countries.

LES ACQUISITIONS DES MUSEES DES BEAUX-ARTS EN FRANCE

*Picasso Catalogue
- à exemplaire
n° 1000
à Paris*

N.B. : Ne sont pris en considération dans l'exposé qui suit que les musées au sens strict du terme : musées nationaux, musées classés et contrôlés (par commodité, ceux-ci sont appelés dans le texte musées de province). Ne sont concernés ni les châteaux relevant du service des Monuments historiques, pour lesquels il est exceptionnel que des acquisitions soient réalisées (mis à part quelques achats réalisés par la Caisse nationale des Monuments historiques et des Sites, en particulier pour le château de Chambord), ni le Cabinet des Estampes de la Bibliothèque nationale, récemment rattachée au Ministère de la Culture mais qui relevait précédemment du Ministère de l'Education nationale.

I-a Les politiques d'acquisition

- 1) Les acquisitions des musées français en général (et donc des musées d'art ancien, traditionnellement appelés musées des Beaux-Arts) sont décidées selon deux processus différents :
 - pour les musées nationaux (liste en annexe 1), l'initiative appartient au responsable de chaque musée (ou de chaque département dans le cas du Louvre). Toute acquisition à titre gratuit (dons et legs) ou onéreux (achats et oeuvres offertes en paiement des droits de succession) est soumise au comité consultatif des conservateurs, composé des conservateurs en chef et des plus anciens conservateurs (annexe 2), puis au conseil artistique, composé de membres de droit et de personnalités nommées par le ministre (annexe 3).
 - pour les musées dépendant des collectivités locales (quel que soit leur statut), l'initiative appartient théoriquement au conservateur mais la décision finale est prise par la collectivité propriétaire, qui est cependant tenue de soumettre pour avis toutes ses acquisitions à titre gratuit ou onéreux au conseil artistique des musées classés et contrôlés (annexe 4), dont la composition a été récemment modifiée. Mais dans les faits, le pouvoir d'intervention de ce conseil (et donc de la Direction des musées de France) est limité, sauf dans le cas où il y a une demande de subvention.

Dans ce cadre institutionnel assez rigide, est-il possible aux musées d'art ancien français de définir une politique d'acquisition ? Un petit nombre, parmi ces musées d'art ancien, de par l'étendue et la variété de leurs collections (c'est-à-dire le Louvre et les musées de Lyon, Lille, Nantes, Rouen, etc.) ont vocation à présenter un panorama aussi complet que possible de l'art occidental de l'Antiquité à nos jours. Pour ces musées, la politique d'acquisition vise donc à combler les lacunes de leurs collections.

Pour la plupart des autres musées d'art, aux collections moins vastes ou plus spécialisées, il s'agit au contraire plutôt de compléter les séries existantes afin de donner plus de cohérence aux collections telles que les ont composées les hasards de l'histoire ou les goûts de leurs premiers responsables. La politique de dépôt de l'Etat et l'action de l'Inspection générale des musées de province ont contribué depuis trente ans à "typer" certains musées en fonction de leur position géographique ou de la présence de certains chefs-d'oeuvre (domaine germanique à Strasbourg, peinture italienne à Avignon, peinture espagnole à Castres...).

Les musées français disposent d'un certain nombre d'atouts non négligeables pour définir une véritable politique d'acquisition :

- au niveau du comité des conservateurs, la décision d'acquérir est collégiale. Le vote sanctionne, de façon positive ou négative, les choix de celui qui propose et met également chacun devant ses responsabilités à l'égard d'une politique plus globale qui tend par exemple à accorder une priorité relative à l'art français, à combler les lacunes les plus évidentes, y compris par des achats sur le marché international, et à poursuivre le remeublement des musées-châteaux. Le caractère collégial de toutes les décisions concernant les acquisitions permet aussi de définir les domaines respectifs de chaque musée ou département qui disposent collectivement des crédits les plus importants, et d'éviter la concurrence entre eux.
- Pour les musées de province, l'Inspection générale joue un rôle essentiel dans l'harmonisation et la coordination des politiques d'acquisitions :
 - . elle centralise, diffuse et oriente les informations relatives aux oeuvres d'art disponibles sur le marché, grâce à ses propres enquêtes, mais aussi grâce aux renseignements qui lui sont fournis par les conservateurs des musées parisiens et provinciaux ;
 - . elle gère la politique de subvention, politique incitative puisqu'elle contribue dans une proportion variant de 20 % à 50 % aux acquisitions décidées en dernier ressort par la collectivité locale.

Les principales limites de son action tiennent à un personnel relativement réduit et à un manque de facilités matérielles essentiellement du point de vue de la documentation.

Dans les faits, cette politique "volontariste" d'acquisition se heurte à trois types d'obstacles :

- La nécessité prioritaire de défendre le patrimoine contraint les musées, et en particulier le Louvre, à intervenir pour empêcher la sortie du territoire d'oeuvres importantes même quand elles ne viennent pas à proprement parler combler des lacunes et ne s'inscrivent donc pas dans le programme que se sont tracé les responsables.
- Le hasard des offres (faites par les marchands et les particuliers) ou des passages en vente publique fournit des occasions qu'on ne peut laisser échapper mais qui, pour des raisons de disponibilités financières, ne profitent pas toujours au musée qui aurait eu le plus vocation à les accueillir. Les échanges ultérieurs, rarissimes, s'avèrent souvent difficiles.

.../...

- Le conseil artistique d'une part, les responsables des collectivités locales d'autre part peuvent parfois représenter un frein à une politique dynamique d'acquisition dans le domaine des Beaux-Arts. Plutôt traditionnel dans ses goûts et ses choix, le conseil artistique est généralement peu favorable à l'entrée dans les musées nationaux d'oeuvres qui lui paraissent marginales par rapport à la "voie royale" de l'histoire de l'art telle qu'elle était définie il y a un demi-siècle. Il lui arrive d'affirmer, parfois contre l'avis des conservateurs, une politique dite "des chefs-d'oeuvre" qui pourrait faire préférer l'oeuvre mineure d'un nom célèbre à l'oeuvre majeure d'un artiste moins connu. Par ailleurs, les responsables des collectivités locales se montrent souvent réticents aux acquisitions d'art ancien, cherchant peut-être par là à affirmer une ouverture à l'art contemporain ou un attachement aux objets d'arts et traditions populaires considérés comme plus intéressants sur le plan local.

2) Les musées de province

Les moyens financiers des musées de province sont en priorité ceux de la collectivité propriétaire.

Il est difficile d'évaluer le chiffre global des acquisitions des musées depuis 5 ans. Toutefois, une enquête a été diffusée parmi les musées. Les réponses apportées permettent de donner une juste configuration de la situation depuis 1976. La majorité des musées dispose de 0 à 50.000 F par an, les grands musées classés, sauf exception, disposent d'un crédit régulier d'entre 50.000 et 200.000 F, quelques trop rares musées disposent régulièrement de plus de 200.000 F annuels (voir graphique en annexe 5).

L'importance des crédits d'acquisition ne dépend ni du nombre d'habitants des villes, ni de l'importance des collections existantes, ni de l'importance du budget culturel de la ville. Elle semble plus liée à la personnalité du conservateur, à une tradition de culture locale.

Outre le budget voté par la collectivité propriétaire, les musées peuvent bénéficier de subventions de l'Etat (ministère de la Culture, direction des musées de France). Celles-ci sont relativement importantes. Le tableau suivant fait apparaître la totalité des crédits des acquisitions soumises au conseil artistique et des subventions accordées par l'Etat.

Les subventions peuvent également venir d'autres instances administratives, mais rarement (département, conseil régional), ou d'associations des amis des musées, très exceptionnellement d'une souscription publique (ex. : opération du Crédit du Nord au bénéfice des musées de Lille, Caen, Troyes, ou plus anciennement la Belle Strasbourgeoise de Largillière à Strasbourg).

Les acquisitions notoires par dons, donations ou legs restent plus rares et imprévisibles, constituant soit des musées entiers (donation Masurel à Villeneuve d'Ascq, donation Levy à Troyes...), soit une section importante d'un musée (donation Granville à Dijon, donation Baderou à Rouen...).

A ces différents moyens s'ajoutent deux fonds d'achat régionaux institués en 1982 par le Ministère de la Culture : les fonds régionaux d'acquisition des musées (30 millions de francs en 1982) et les fonds régionaux d'acquisition d'oeuvres d'art contemporain (22 millions de francs en 1982) : les premiers fonds concernent directement les musées d'art et doivent permettre à chaque région de soutenir et encourager les politiques d'acquisitions

CREDITS D'ACQUISITION DES MUSEES DE PROVINCE

	1976	1977	1978	1979	1980	1981	Total
Montant des crédits des acquisitions soumises au conseil artistique	4 326 475	6 076 304	6 746 680	8 441 009	11 635 580	16 118 944	53 344 992
Montant des subventions de l'Etat	1 467 635	2 007 019	1 922 088	2 037 341	1 769 460	2 161 450	11 364 994
Pourcentage de subvention de l'Etat	33,92 %	33,03 %	28,48 %	24,13 %	15,20 %	13,40 %	21,30 %

des musées classés et contrôlés. Ces fonds seront alimentés à la fois par la région et par l'Etat. Ils doivent en priorité réserver leurs subventions à des taux suffisants pour des achats d'oeuvres majeures et inaccessibles d'ordinaire pour les budgets de musées de province. Chaque achat devra requérir une participation financière de la collectivité locale intéressée. Il s'agira notamment

- Combler certains manques très importants des collections traditionnelles (acheter par exemple une oeuvre significative de tel ou tel grand artiste originaire de la région et mal représenté dans un musée) ;
- Compléter des collections dans le sens de leur spécificité régionale ou locale (ethnographie, archéologie) ;
- Accroître les collections d'art moderne notamment dans les grands musées où un fonds existe déjà.

L'attribution des subventions est confiée à un comité régional d'acquisition et les propositions d'achat sont transmises préalablement selon l'usage au conseil artistique des musées classés et contrôlés.

3) Les musées nationaux

La politique d'acquisition des musées nationaux est définie dans le cadre décrit précédemment (I-a 1).

Elle aboutit à plusieurs types d'acquisitions, dont certaines sont communes aux musées nationaux et aux musées de province :

- acquisition à un particulier ou à un marchand
- dons et legs (ceux-ci étant soumis à une autorisation préfectorale).

D'autres sont propres aux musées nationaux, et ne peuvent profiter qu'indirectement et exceptionnellement aux musées de province à l'aide de :

- la préemption en vente publique, qui ne peut être exercée que par l'Etat
- la retenue à l'exportation
- la dation (cf. ci-dessous).

Aux crédits d'acquisition des musées d'art ancien (cf. tableaux page suivante) s'ajoutent naturellement des donations (dons et legs) qu'il est très difficile de chiffrer et qui ont tendance à se raréfier en nombre (mais heureusement non en qualité). Donations et achats sont parfois liés : l'achat d'une pièce importante est suivie de la donation d'une oeuvre ou d'un groupe d'oeuvres dont l'intérêt n'est pas négligeable.

Inspirée par la législation anglo-saxonne, une loi relativement récente (1968) permet le paiement des droits de succession et de donation par remise à l'Etat d'oeuvres d'art dont la valeur marchande est estimée égale à tout ou partie de la somme due. Ces "dations" sont malgré les apparences une forme d'acquisition onéreuse. Réservées aux oeuvres exceptionnelles, dont elles évitent souvent l'exportation, elles représentent une source d'enrichissement considérable qui, certaines années, peuvent l'emporter en valeur sur les acquisitions faites à l'aide des crédits normaux. Dans un cas extrême, une dation a même permis de programmer un nouveau musée : Picasso (annexe 6 : catalogue de l'exposition de la dation Picasso).

Enfin, une ligne spéciale du budget de l'Etat, consacrée depuis 1979 au fonds national du Patrimoine, permet d'abonder les fonds des différentes institutions (musées, archives, bibliothèques) pour des acquisitions exceptionnelles d'oeuvres appartenant au Patrimoine national. Les musées d'art ne sont donc pas les seuls à bénéficier des dations et des crédits exceptionnels dispensés par le fonds du Patrimoine : fonds d'archives et souvenirs historiques ont aussi été acquis grâce à ce double financement.

.../...

CREDITS D'ACQUISITION DES MUSEES D'ART

Musées	1976	1977	1978	1979	1980	1981	Total
Musées d'art							
Musée du Louvre, futur musée d'Orsay (Jeu de Paume), musée de Cluny, musée de céramique de Sèvres	8.574.870	9.398.281	11.911.168	14.419.975	20.354.837	19.016.269	83.675.400
Châteaux							
Versailles, Malmaison, Fontainebleau, Compiègne, Pau	1.490.796	776.802	900.199	779.701	2.534.638	1.772.319	8.254.455
Total	10.065.666	10.175.083	12.811.367	15.199.676	22.889.475	20.788.588	91.929.855

POURCENTAGE DES CREDITS D'ACQUISITION DES MUSEES D'ART PAR RAPPORT A CEUX DES MUSEES NATIONAUX

	1976	1977	1978	1979	1980	1981	Total
Crédits d'acquisition des musées nationaux	11.910.739	12.198.157	16.625.790	17.774.640	28.084.766	23.041.451	109.635.543
Crédits d'acquisition des musées d'art	10.065.666	10.175.083	12.811.367	15.199.676	22.889.475	20.788.588	91.929.855
Pourcentage	84,51	83,41	77,05	85,51	81,50	90,22	83,8

4) Les musées universitaires et musées à statut particulier

Les musées d'universités sont pratiquement inexistants en France. Sans doute pourrait-on trouver ici ou là quelques collections de moulages, le plus souvent d'oeuvres antiques, plus ou moins négligées du fait qu'elles ne répondent plus, et depuis longtemps déjà, aux besoins de l'enseignement moderne. Mais l'un des ensembles qui entre tout à fait dans le cadre des musées des Beaux-Arts est le musée Atger de Montpellier, appartenant à la faculté de médecine de cette ville.

On peut sans doute établir une analogie entre ces établissements et les musées relevant de l'Institut de France, comme le musée Condé à Chantilly, le musée Jacquemart-André et le musée Marmottan. Ces musées offrent presque tous la particularité d'être des collections particulières léguées toutes constituées et pour ainsi dire définitivement figées, à l'exception de quelques rarissimes enrichissements par donation ou legs. Perçues comme des ensembles cohérents et historiques par leurs responsables comme par le public, ces collections échappent à la nécessité d'enrichissements réguliers. Mais, si d'aventure une opportunité se présente, nul doute qu'elles ne se soumettent aux règles habituelles en matière de déontologie, en restant soumises aux modalités fixées par leurs autorités de tutelle.

Il n'en va pas autrement du musée de l'Ecole nationale supérieure des Beaux-Arts de Paris, héritier des collections de l'Académie de peinture et de sculpture, et enrichi de diverses donations. Son statut et les moyens dont il dispose ne lui permettent pas de mener une politique d'acquisition telle que peuvent en pratiquer le musée des Arts décoratifs de Paris, dont la vocation pédagogique est incontestable et n'a jamais été démentie par l'Union centrale des Arts décoratifs, responsable de ses enrichissements, ou le musée d'Unterlinden à Colmar, brillant exemple d'un musée géré par une association privée, la Société Schaugauer de Colmar, répondant au type fixé par la loi de 1901. Néanmoins, les ressources forcément limitées d'une telle société n'autorisent pas une politique d'acquisitions de grande envergure, en dépit des efforts consentis depuis deux ou trois ans. Les propositions du conservateur sont examinées par le comité de la société en question avant d'être soumises à la procédure administrative générale. Mais les choses se passent le plus souvent d'une façon satisfaisante, en raison, notamment, de l'autorité morale acquise par le conservateur. On peut encore citer, parmi ces musées de statut particulier, le musée des Arts décoratifs et des Tissus de Lyon ou le musée de la Marine à Marseille relevant de la Chambre de Commerce de ces villes.

Les 'fondations', encore peu nombreuses en France, ont nécessairement une politique d'acquisition étroitement liée à la volonté et à la personnalité du fondateur, tout autant qu'aux moyens que celui-ci a mis à leur disposition. Dans les faits, mis à part des fondations du type de la Maison de la Chasse et de la Nature à Paris, les fondations sont essentiellement orientées vers l'art contemporain.

.../...

5) Résumé

La politique d'acquisition des musées français est évidemment soumise, comme partout, à des contingences financières. L'existence d'une direction des musées de France assure une relative cohérence de cette politique, sinon au niveau de la définition théorique (jamais officiellement et explicitement formulée) du moins au niveau de la pratique. Face à une politique de régionalisation considérée par ailleurs comme nécessaire et bénéfique, les conservateurs des musées ressentent de plus en plus le besoin de resserrer leurs liens de collaboration.

I-b Impact des contrôles à l'importation et à l'exportation

- 1) La législation française sur le contrôle des oeuvres d'art à l'exportation a été établie par une loi de 1941 (qui a repris l'essentiel des dispositions d'une loi de 1920, abrogée dès 1921). Elle a été complétée en 1944 par une loi de caractère très général qui soumet toute exportation à une autorisation individuelle, aussi bien dans le cas d'une opération commerciale que d'une affaire privée (déménagement). Les dispositions particulières s'appliquent aux oeuvres exportées pour être vendues en vente publique (cf. plus bas : I-c 3/b).

Des "avis aux exportateurs" ont précisé les modalités pratiques de l'opération. Le champ d'application de la loi y est assez clairement défini : "Toutes les oeuvres d'art doivent être soumises au visa de l'Etat avant exportation. L'Etat a le droit de retenir (donc d'acheter) en douane au prix fixé par l'exportateur soit pour son compte, soit pour le compte d'un établissement public, d'un département, d'une commune, toute oeuvre de peintres ou de sculpteurs exécutée avant 1900 et les objets mobiliers d'avant 1830 (loi du 23 juin 1941). Par contre, l'Etat peut interdire l'exportation des oeuvres de peintres ou de sculpteurs décédés exécutées depuis plus de 20 ans, les objets d'antiquité ayant plus de cent ans d'âge, les objets de collection présentant un intérêt historique, ethnographique, numismatique (avis aux exportateurs du 27 février 1949 modifié par l'avis du 30 octobre 1975)."

2) Contrôle des exportations - Règlements

Le contrôle des exportations est assuré au nom du Ministre par la Direction des musées de France, qui désigne des conservateurs choisis en fonction de leur compétence, compte tenu de la nature des oeuvres exportées. Plusieurs cas peuvent se présenter :

a) Dans la très grande majorité des cas, l'autorisation d'exporter est donnée immédiatement en signant le document douanier établi préalablement au nom de l'exportateur. L'administration conserve la trace de ce passage en douane (facture ou estimation et photographie des objets d'une valeur déclarée supérieure à 5.000 F).

b) Si l'oeuvre paraît à un titre quelconque pouvoir être considérée comme faisant partie du patrimoine national, elle peut être retenue et la licence n'est pas signée immédiatement. L'administration dispose alors d'un délai d'un mois pour mener des recherches complémentaires et en proposer l'acquisition à un musée ; ce délai peut être porté à six mois dans des cas exceptionnels.

c) Si le principe de l'acquisition de l'oeuvre est retenu, le prix payé est celui indiqué sur le document douanier par l'exportateur sans possibilité de négociation, ni (en baisse) de la part des musées, ni (en hausse) de la part de l'acheteur. L'acquisition de l'oeuvre retenue en douane se fait selon les procédures décrites plus haut (I-a 1, 2 et 3).

.../...

d) Il peut arriver que l'autorisation d'exporter ne soit pas accordée sans qu'il y ait pour autant acquisition. Cette solution très exceptionnelle n'est appliquée qu'à des oeuvres majeures déclarées à des prix qui interdisent leur acquisition par l'Etat ou plus rarement à des éléments d'un ensemble démembré mais dont l'essentiel est conservé en France.

3) Contrôle des exportations - Fonctionnement

La loi laisse aux représentants de l'Etat le soin d'apprécier dans quelle mesure les oeuvres présentées à l'exportation font, ou ne font pas, partie du patrimoine national. Dans les faits, le conservateur chargé du contrôle peut toujours s'entourer de l'avis des collègues de son choix et en référer au directeur des musées de France qui, dans les cas les plus importants (toute exportation supérieure à 1 million de francs), ne prend une décision (en cas, en particulier, de refus d'autorisation d'exporter sans achat) que selon les instructions du ministre de la Culture. Le passage de toutes les acquisitions, soit devant le comité des conservateurs et le conseil artistique, soit devant le conseil des musées de province, est une garantie supplémentaire contre les retenues abusives. La jurisprudence du Conseil d'Etat est d'ailleurs plutôt défavorable aux retenues (cf. plus bas I-c 4).

Il est certain par contre que la nécessité de prendre parfois très rapidement une décision est une lourde responsabilité pour les responsables de l'Etat : le fait de ne pas avoir retenu une oeuvre importante (qui peut parfois être déclarée avec une fausse attribution) peut leur être en effet imputé comme une faute professionnelle grave.

4) Situation présente

Dans son ensemble, le contrôle des exportations se révèle assez efficace et satisfaisant, avec cependant certaines limites inévitables :

- Les exportations illicites sont sans doute assez abondantes, notamment, pour des raisons variées, aux frontières communes avec la Belgique (objets volés surtout), la Suisse (oeuvres de grande valeur "mises à l'abri") et l'Italie (objets volés et objets acquis légalement). Mais il est regrettable que certains conservateurs de musées étrangers n'aient pas hésité à favoriser l'exportation en fraude d'objets acquis en France ou à acheter des objets dont l'exportation frauduleuse leur était connue.
- L'usage étant d'être plus tolérant, en matière d'exportation, pour les déménagements que pour les opérations commerciales, il est certain que certains transports de collection de résidence à résidence sont fictifs et dissimulent des opérations commerciales.
- Un autre usage qui ne se fonde sur aucun texte législatif ou réglementaire, mais tend à éviter d'inutiles conflits, consiste également à ne pas retenir à la douane une oeuvre adjugée en vente publique lorsque l'exportation est faite sur bordereau d'adjudication. Les musées ont en effet, lors de la vente, déjà eu la possibilité de faire jouer leur droit de préemption. Si ce principe est valable pour les grandes ventes de Paris, de Versailles ou de Monte Carlo (et de façon générale pour toutes les ventes avec catalogue), il peut présenter de graves inconvénients chaque fois que la vente et son contenu n'ont

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fait l'objet que d'une publicité insuffisante, que les oeuvres ont été exposées tardivement et dans un endroit d'accès peu commode (vente sur place des oeuvres et du mobilier d'un château) ou qu'il n'y a pas eu de catalogue. Certains litiges sont nés aussi de la description inexacte (erreur sur les dimensions ou le matériau) ou incomplète (signature ou poinçons non signalés) d'oeuvres qui n'étaient pas reproduites au catalogue.

5) L'avenir

Le système français de contrôle des exportations d'oeuvres d'art, pour fonctionner de façon pleinement satisfaisante, implique une augmentation sensible des crédits d'acquisition, notamment pour les musées de province, non pas pour augmenter le nombre des retenues en douane (car ce mode d'acquisition ne peut et ne doit être qu'exceptionnel), mais pour pouvoir intervenir "en amont" de l'exportation, dans les ventes, chez les marchands et même auprès des particuliers. La loi sur les datations devrait permettre de résorber peu à peu le problème des oeuvres interdites de sortie mais qui n'ont pas été acquises : telle était bien en effet l'intention des législateurs, clairement exprimée dans le titre officiel de la loi ("loi tendant à favoriser la conservation du patrimoine artistique national").

6) Restitution - Oeuvres d'art démembrées

La position des musées français a été claire sur ce point, si tant est qu'un tel problème puisse recevoir des solutions claires.

a) Les musées français ont adhéré à la position de l'I.C.O.M. en la matière ; la note qui a été faite sur ce sujet à la demande de l'U.N.E.S.C.O. et qui a servi de base à la discussion de la réunion de Dakar sur le retour des biens culturels, a été en partie rédigée par des Français membres de l'I.C.O.M.

b) La France engage les procédures nécessaires à la ratification de la convention sur le trafic illicite des biens culturels.

c) Les musées français ne sont pas hostiles aux dépôts de longue durée : ainsi des fragments importants ont-ils pu être déposés en Irak par le Louvre.

I-c Echanges d'informations concernant la manipulation du marché des oeuvres d'art

1) Travaux d'érudits et marché

Les rapports entre les conservateurs de musées français et le marché de l'art sont régis par une réglementation très stricte : les conservateurs ne doivent pas intervenir dans les transactions concernant des oeuvres d'art, ni comme experts, ni comme intermédiaires. Dans le statut des conservateurs (décret n° 70-51 du 8 janvier 1970), l'article 7 précise que "Ne peuvent occuper les emplois régis par le présent décret les personnes qui se livrent directement ou indirectement ou dont le conjoint se livre au commerce ou à l'expertise des oeuvres d'art et des objets de collection". Quoique moins formellement définie, la déontologie est la même pour les conservateurs de musées contrôlés

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Dans la pratique, cela implique que les conservateurs de musées français n'ont pas le droit :

- 1°) d'indiquer la valeur marchande d'une oeuvre d'art appartenant à un particulier ;
- 2°) de fournir un document certifiant l'authenticité ou constatant le caractère douteux ou apocryphe d'une oeuvre d'art appartenant à un particulier ;
- 3°) de proposer un prix pour les oeuvres dont leur musée souhaite faire l'acquisition car, en cas de non réalisation de vente, la proposition risquerait de prendre valeur d'expertise.

Seule dérogation à ces usages, le cas (rarissime) d'une expertise demandée par l'autorité judiciaire à un conservateur : le statut des conservateurs (article 7) dit : "Cependant, les membres du corps peuvent, chaque fois qu'ils y sont autorisés par le ministre des affaires culturelles, procéder à des expertises ordonnées par un tribunal ou donner des consultations à la demande d'une autorité administrative".

Il a été précisé en outre en diverses occasions que lors du contrôle à l'exportation, la signature du conservateur donnant l'autorisation de sortie n'engageait pas sa responsabilité en ce qui concerne l'authenticité de l'oeuvre, sa provenance, ou sa valeur (en cas de fraude sur ce dernier point, l'administration des douanes a ses propres experts). De même pour les oeuvres données en paiement des droits de succession (dations, cf. plus haut I-a 3), les oeuvres proposées à la commission compétente ne sont jamais expertisées et estimées par des conservateurs de musée. La valeur en est fournie par le dataire avec l'aide éventuelle d'experts professionnels. Il en va de même des oeuvres trouvées au cours de fouilles fortuites et que l'Etat se propose d'acquérir.

Il faut par contre noter que les conservateurs français sont habilités à fixer la valeur des oeuvres conservées dans leurs propres musées lorsque se posent des problèmes d'assurance.

2) Cette réglementation très restrictive présente l'avantage, auquel les conservateurs français sont en général très attachés, de tenir les musées en dehors de toute opération spéculative sur les oeuvres d'art.

Elle leur impose une attitude très prudente pour toute publication (ou présentation dans une exposition) d'oeuvres conservées en main privée. Ces règles strictes mettent toutefois les conservateurs de musée dans une position difficile dans deux cas :

- Lorsqu'un particulier (qui n'est pas forcément un collectionneur averti...) propose pour l'achat une oeuvre à un musée, celui-ci, pour fixer le prix, doit le renvoyer à un expert professionnel.

- Les négociants et professionnels du marché de l'art (commissaires priseurs, experts, courtiers), sachant qu'ils ne peuvent obtenir des conservateurs aucun avis sur l'authenticité d'une oeuvre, ni surtout aucune attestation ou certificat, ne font que très rarement bénéficier les musées de la "première vue" d'une oeuvre. Il arrive par contre que certaines oeuvres soient présentées aux conservateurs munies d'expertises ou d'études signées de collègues étrangers, qui ne sont pas soumis aux mêmes règles.

3) Manipulation des prix pour obtenir l'exportation

Face aux manipulations de prix, les musées français sont relativement désarmés. Il est assez fréquent que le prix des objets présentés à l'exportation soit surestimé afin de gêner ou d'empêcher une retenue en douane. Le cas peut être vérifié pour les oeuvres passées en vente publique quelques mois avant leur exportation. Il est vrai que dans ce cas l'adjudication officielle a pu être suivie d'une "révision", pratique frauduleuse rigoureusement pénalisée par la loi mais largement répandue (entente entre acheteurs éventuels qui laissent un seul d'entre eux enchérir lors de la vente publique puis organisent entre eux une vente clandestine dont ils se partagent les bénéfices).

Les musées disposent cependant de deux armes assez efficaces :

a) interdire la sortie sans retenue (cf. plus haut (I-b 2/c) et, au besoin, demander au ministre de la Culture de prononcer, après avis du Conseil d'Etat, le classement d'office de l'oeuvre parmi les "monuments historiques" (cette mesure est tout à fait exceptionnelle) ;

b) dans le cas d'objets exportés pour être vendus en vente publique, exiger le rapatriement de l'oeuvre dont l'enchère n'a pas atteint le prix déclaré lors de l'exportation.

Cette dernière mesure découle d'une réglementation douanière générale et est ordonnée non par le ministre de la Culture, mais par celui des Finances (direction générale des douanes). Dans la pratique, elle n'est appliquée qu'après avis de la direction des musées de France.

4) Irrégularités

Selon l'opinion la plus répandue, sinon dans un large public, du moins parmi les responsables politiques et économiques (qui sont d'accord sur ce point avec les professionnels du marché de l'art), les musées français disposent d'un arsenal juridique suffisant pour protéger efficacement le patrimoine et l'essentiel serait de maintenir la liberté du commerce, surtout s'il est susceptible d'apporter des devises. C'est ainsi que le contrôle de la réexportation des oeuvres importées de l'étranger prévu par un décret de 1958 a été interprété en un sens restrictif par un arrêt du Conseil d'Etat en 1969. De même, sauf cas très exceptionnels, les oeuvres qui viennent de passer en vente publique ne sont, on l'a déjà vu, ni préemptées à l'exportation ni interdites de sortie (sauf si cette interdiction a été annoncée à la vente, ce qui est un usage rarissime et non une obligation). Cette législation mériterait sans doute d'être revue, le problème étant d'équilibrer justement la protection du patrimoine et la liberté du commerce de l'art.

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5) Communication

La presse et les "médias" sont en général peu informés des problèmes relatifs au prix des oeuvres d'art. Les prix très élevés atteints (lors des ventes de Sotheby Parke Bennett à Monaco par exemple) par des meubles ou des tableaux surprennent et parfois scandalisent. L'exportation de certaines oeuvres a par contre ému l'opinion (les cas les plus illustres sont ceux de la Diseuse de bonne aventure de La Tour et des Grandes baigneuses de Cézanne). Mais l'extrême discrétion qui est de règle dans l'administration française ("devoir de réserve" des fonctionnaires) interdit en fait aux musées de donner une véritable publicité à leurs difficultés et à leurs échecs, mais aussi aux prix "amicaux" qu'ils ont pu obtenir de certains marchands et collectionneurs et dont la divulgation pourrait avoir une influence sur le marché de l'art.

I-d Echange d'informations concernant les faux

1) Communication

Les informations sur les faux sont évidemment de caractère confidentiel. Surtout s'il s'agit moins de faux au sens strict du terme (le problème se pose en effet de façon moins problématique pour les oeuvres relevant des "Beaux-Arts" que pour l'archéologie) que d'oeuvres "non originales" (répliques anciennes, etc.) "non authentiques" (surmoulés, etc.) ou abusivement restaurées.

On peut regretter que la publication du "Museum de Verband" qui avait son siège au "Kunstgewerbe Museum" de Hambourg, n'ait pas duré au delà de 1931. Elle s'entourait de précautions extrêmes dans sa diffusion mais quelques conservateurs français y collaboraient. Elle concernait il est vrai surtout, mais non exclusivement, les objets d'art.

2) Recherche scientifique

Un usage non écrit mais constant oblige à soumettre au laboratoire de la direction des musées de France toute proposition d'acquisition faite au comité des conservateurs pour lesquelles une recherche à l'aide de procédés physiques et chimiques serait susceptible d'apporter des éléments d'appréciation (authenticité ou état de l'oeuvre). Le rapport établi à cette occasion est d'un grand poids dans la décision du comité des conservateurs et du conseil artistique (cf. plus haut I-a 1 et 2).

Dans la mesure du possible, le laboratoire examine aussi les acquisitions éventuelles des musées de province.

On peut regretter que le système de publication de ce type de recherches ne permette pas à l'ensemble des conservateurs de profiter des résultats obtenus. Une meilleure définition du rôle des laboratoires et de ce que l'on peut attendre d'eux, au niveau non pas de la seule conservation mais de la connaissance objective des oeuvres, favoriserait sans doute la collaboration.

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3) Révélation récentes

La "Revue de l'Art" a publié en 1973 un numéro spécial sur le thème "Copies, répliques et faux".

4) Publicité non souhaitable

Pour les raisons évoquées plus haut (cf. I-c 1) les conservateurs de musées français ne peuvent fournir aucun renseignement sur les faux. Les chercheurs de l'Université, peu sensibilisés à ce problème en général, n'interviennent guère à ce propos. Peut-être serait-il souhaitable dans une certaine mesure d'éclairer le public sur l'ambiguïté de la notion même de "faux". Une exposition du département des peintures du Louvre s'y est employée avec un succès certain en 1973-1974. Elle présentait aux visiteurs sous le titre "Copies, répliques, pastiches" les divers aspects du problème : originaux résultant de la collaboration de plusieurs artistes, originaux altérés ou modifiés, originaux multipliés par répétitions autographes, copies, interprétations, pastiches, fausses signatures, attributions erronées, contrefaçons.

I-e Informations concernant les problèmes de vente-désaisissement, partage, prêts à long terme et échanges

1) Désaisissement

Le "désaisissement" (en français "aliénation") est une pratique interdite aux musées français. Quelques ventes ont pu être pratiquées peu après la création du Louvre sous le Directoire (1796), quelques concessions à des particuliers ont été faites par les gouvernements de Louis XVIII et de Charles X. Mais dans l'ensemble, et en particulier depuis une ordonnance du 22 février 1839, toutes les collections conservées dans les musées sont considérées comme partie intégrante du "domaine public mobilier" et à ce titre inaliénables et imprescriptibles. Cette imprescriptibilité s'étend aussi aux objets volés : ainsi le Calice de Suger volé au *Washington* XIXe siècle à la Bibliothèque nationale de Paris et aujourd'hui à la National Gallery de Londres fait toujours en théorie partie des collections nationales françaises. Seraient exclues de cette catégorie les œuvres appartenant à des institutions publiques qui ne sont pas des musées et dont la finalité n'est pas de conserver des œuvres d'art (œuvres appartenant à des hôpitaux, des écoles, des universités...) : une autre protection (classement parmi les monuments historiques) est alors nécessaire sans être suffisante pour empêcher théoriquement, une aliénation du moins sur le territoire français.

Aucune œuvre des collections des musées français ne peut donc être vendue, donnée ou détruite, sauf autorisation législative. Cette dernière solution a cependant été retenue, notamment par certaines municipalités, mais de façon clandestine, il est vrai, pour remédier à l'encombrement des réserves de leur musée. Moulages, sculptures du XIXe siècle, éventuellement peintures de très grand format, en ont été les principales victimes.

2) Partage

En raison même du caractère inaliénable et imprescriptible des collections la législation française est peu favorable à la possession en indivis par plusieurs musées d'un objet ou d'une série d'objets.

Quelques musées de province exposent cependant des séries cohérentes dont certains éléments leur appartiennent en propre et dont d'autres ont été acquis puis déposés par les musées nationaux. C'est le cas des bronzes de Daumier au musée de Marseille et de la suite de tapisseries du Chant du Monde de Lurçat au musée d'Angers. Il s'agit là, en fait, d'une forme déguisée de subvention.

Le seul cas de co-propriété entre un musée français et un musée étranger concerne le Metropolitan Museum de New York et le département des objets d'art du Louvre, qui ont acquis en commun deux ivoires médiévaux (exposition en alternance cinq ans dans chaque musée).

En théorie cependant le propriétaire côté français n'est pas le département des objets d'art, mais la Réunion des musées nationaux, établissement public dont les biens ne sont ni inaliénables ni imprescriptibles.

3) Prêts à long terme

Entre musées français et en particulier entre musées nationaux et musées de province, la pratique des dépôts à long terme est si ancienne et a été si constante qu'elle a engendré des abus : oeuvres déposées non retrouvées, prêtées ou déposées sans l'accord du musée propriétaire, exposées ou restaurées dans des conditions incompatibles avec leur bonne conservation, etc.

C'est pourquoi la pratique du "dépôt pour trois ans ^{renouvelables} par tacite reconduction" a été récemment remplacée par celle du "dépôt pour cinq ans renouvelable par arrêté ministériel ou municipal", ce qui implique un récolement et un contrôle périodique de tous les objets déposés.

Les dépôts à l'étranger sont beaucoup plus rares et sont liés en fait le plus souvent à des échanges de dépôt (cf. I-e 4). Quelques cas peuvent être assimilés par contre à des restitutions (chapiteaux déposés par le Louvre à Aix-la-Chapelle, sans contrepartie).

4) Echanges

La notion d'échange recouvre pour les musées français deux réalités fort différentes : les échanges de dépôt et les échanges aliénation.

Les échanges de dépôt, sans être très fréquents, ont été assez systématiquement pratiqués dans le domaine de la céramique antique lorsqu'il était possible de réunir les fragments complémentaires d'un vase. Les éléments de l'échange peuvent être soit de même nature (céramique grecque, bronzes de la Renaissance), soit différents (tableaux déposés par le musée de Varsovie en échange de sculptures antiques). Plus original le cas de la statue d'Ur-Ningursu combine l'échange et le partage, puisque la tête du Metropolitan Museum de New York a été refixée sur le corps du musée du Louvre ; les deux musées profitent alternativement, pour trois ans, de la statue complète.

Parfois l'échange de dépôt est ressenti à la longue comme inégal : ainsi le Louvre a repris le Portrait de Titus de Rembrandt déposé trente ans durant au Rijksmuseum en échange du dépôt au Louvre d'une nature morte du Maître de l'Annonciation d'Aix. Le musée de Douai a par contre maintenu le dépôt du Portrait de Huygens par Lievens en échange du dépôt de deux tableaux et d'un objet d'art. L'échange inégal peut toujours être remis en cause ou renégocié s'il s'agit d'un simple échange de dépôt.

Il n'en va pas de même quand l'échange aboutit à un transfert de propriété, ce qui implique selon le droit français la promulgation d'une loi spéciale. Si celle du 29 juin 1956 qui a autorisé le musée Guimet à échanger des pièces de fouilles avec le musée national de Tokyo n'a pas été contestée, il n'en va pas de même de celle du 23 juin 1941 par laquelle les couronnes de Guarazzar du musée de Cluny, la "Dame d'Elche" et l'Assomption de Murillo du Louvre ont, entre autres oeuvres, été cédées à l'Espagne contre la remise de tableaux d'un intérêt secondaire. Les circonstances historiques qui ont entouré cet échange expliquent en partie son caractère scandaleux. Il n'en est pas moins considéré par les conservateurs de musées français comme un des arguments en faveur du renforcement du caractère inaliénable des collections publiques et comme une incitation à la prudence dans toute politique d'échange.