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# International Art: Indemnification (1975): Speech 01

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Office of Management and Budget Exhibition Indemnification  
Questions

1. What and when were the art exhibits cancelled because of the insurance problem? What is your estimate of the number of Federally assisted exhibits that would not have taken place without such support due to the insurance problem?

1/ In order to answer this question and the one following, the National Endowment for the Arts and the National Endowment for the Humanities did a sampling of major museums. We found that, generally, museums do not schedule major historical shows which involve substantial insurance costs until they know that necessary funding is available. Examples of exhibitions which a museum wished to do, but could not plan because of the high insurance costs are the following:

Fauves	Museum of Modern Art
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Paul Klee	Museum of Modern Art
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But the following were actually cancelled:

Le Douanier Rousseau	Guggenheim Museum
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Nabis	Guggenheim Museum
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Pioneers of Modern Sculpture	Guggenheim Museum
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Some exhibitions have been reduced in scope because of the insurance problem:

European Vision of America	Cleveland Museum of Art
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Paul Revere	Boston Museum of Fine Arts
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David to Delacroix	Detroit Institute of Arts and Metropolitan Museum of Art
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Max Ernst	Guggenheim Museum
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Art Deco	Minneapolis Institute of Art
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Masterpieces of Fifty Centuries	Metropolitan Museum of Art
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Other exhibitions would never have taken place without extraordinary insurance arrangements:

Turner

Museum of Modern Art - a special indemnity from the British Government made this exhibition possible.

Modern Masters

Museum of Modern Art - this outstanding exhibition would not have been available for viewing in the United States because of the insurance problem. However, the Australian Government provided an indemnity for the exhibition to be assembled for Australia, which will make it possible for the works to be seen in New York before they are disbursed.

Old Masterpieces from the Hermitage

Museum of Fine Arts, Houston - A private donor is meeting the high insurance costs.

A number of Federally funded exhibitions would not have taken place without such support due to the insurance problem. Among them: Exhibition of Archaeological Finds from the People's Republic of China (Washington, D.C., Kansas City, San Francisco), Impressionist Epoch and Masterpieces of Tapestries (New York, Paris), The Late Cezanne (New York and Houston, 1977-78).

2. Is there any projection of future exhibitions where it seems clear that the problem of insurance will arise?

2/ The situation is such that any future exhibitions of major historical importance, which includes masterworks, is confronted with the insurance problem. It should be noted that many exhibitions of major importance, done in the past,

could not be done today because of the increasing insurance costs.

Examples of future proposed exhibitions that will have this problem - and which therefore are in jeopardy:

These are exhibitions of major historical importance and great audience appeal.

<u>Exhibitions of Korean Art</u>	Cleveland Museum of Art (also will be seen in New York and Los Angeles)
<u>The Taste of Second Empire France</u>	Philadelphia Museum of Art
<u>The Manifestations of Shiva Fauve</u>	Philadelphia Museum of Art  Museum of Modern Art (New York and two other locations)
<u>English Victorian Paintings</u>	Minneapolis Institute of Art
<u>Picasso</u>	Guggenheim
<u>Franz Marc</u>	Guggenheim
<u>Marc Chagall</u>	Guggenheim
<u>Works of Art from the Soviet Union</u>	National Gallery of Art and up to 15 other cities.
<u>Egyptian Exhibition of Tutankhamun Treasures</u>	Metropolitan Museum of Art and 5 other cities

3. What should be the scope of art objects covered under indemnification legislation; i.e., how might legislation define art objects to preclude application to an overly broad spectrum of objects? What information is available on the value of art exhibits involved in international art exchanges (these need not be "exchanges" per se but could include unilateral exhibitions) insured by private insurance companies over the past 5 years? What information is available on the cost of this insurance compared to losses paid?

3/ As defined by the proposed legislation, objects to be covered by Federal indemnification would include:

- (1) works of art including tapestries, paintings, sculpture, folk art, graphics, and craft arts;
- (2) manuscripts, rare documents, books and other printed or published materials;
- (3) other artifacts or objects; and
- (4) motion pictures or audio and video tape; which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

Discretion should be left to the implementing agency as to the full scope of objects to be covered. In connection with information available on the value of art exhibits involved in international art exchanges, insurance companies themselves are the best resource for this information. But, to the best of our knowledge, from consultation with Irving Pfeffer and Huntington T. Block, this information has not been specifically extrapolated from general insurance information and insurance companies' coding systems would make this difficult to retrieve. The same is true about losses, although museums questioned stated that there were almost no losses paid - and none at the level where proposed Federal indemnification would begin - i.e., for losses about \$25,000. In this regard the Metropolitan Museum of Art supplied us with the following data:

<u>Date</u>	<u>Title</u>	<u>Valuation of Works of Art</u> (in \$ millions)	<u>Premium Paid</u>
1970	The Year 1200	\$ 9.8	\$ 46,000
1970	Before Cortes	1.3	16,200
1971	Cubist Epoch	5.5	60,000
1972	Masterpieces of the Metropolitan Museum sent to Japan	27.6	298,000 <sup>1</sup>
1974	Masterpieces of Tapestry	9.1	87,000
1974-75	The Impressionist Epoch*	63.0	131,000
1975	Metropolitan Museum - U.S.S.R. Exchanges*	82.0	-- 2
1975	Art of the Momoyama Period	20.0	20,000
1975	French Painting 1774-1830: The Age of Revolution	43.5	160,000 <sup>3</sup>

1. Costs paid by a major Japanese newspaper.
2. U.S. Government Indemnity; otherwise premiums estimated at more than \$450,000.
3. Shared with Detroit Institute of Fine Arts; Metropolitan Museum portion \$80,000.

\* Major funding support provided by Federal Government (NEA and NEH)

4. How many grants has the Federal Government made over the past 5 years to assist international art exchanges (a) pursuant to international (i.e., government-to-government) agreements and (b) other exchanges receiving Federal assistance. For each category: (1) What is the total dollar value of these grants, (2) Of that total amount, what proportion was to cover insurance costs, and (3) Is there any information available on the losses paid pursuant to such exchanges?

4/ Selected examples of insurance costs of exhibitions supported by the National Endowment for the Arts FY 1974, 1975, and 1976

Bernice P. Bishop Museum, Honolulu Captain Cook and Pacific Ethnography	\$10,000
The Fine Arts Museums of San Francisco Triumph of Humanism (1450-1600)	\$15,000
San Antonio Museum, San Antonio, Texas Eighteenth Century Art of the Americas	\$ 3,000
Japan House Gallery, New York City Shinto, Japan's Indigenous Religion	\$14,000
The Cleveland Museum of Art, Cleveland, Ohio The European Vision of America	\$30,000
The St. Louis Art Museum, St. Louis, Mo. Island Arts of the South Pacific	\$ 7,100
Metropolitan Museum of Art (4 grants, 1974-75)	\$734,000

While sums are not specifically allocated, in some cases, to insurance, it is obvious that the Government is effectively subsidizing an important share of insurance costs which constitute the largest single expenditure of international art exhibitions. There have been no losses in these exhibitions.

5. If Federal indemnification were offered in appropriate cases when private insurance was not available "at reasonable rates" would there be any practicable way for determining reasonableness? If so, what criteria would be employed to determine what is a reasonable insurance rate prior to the Federal indemnification becoming effective?

5/ Since the proposed legislation is only to cover international exchange clearly in the national interest where works of great value are involved, private insurance will by definition be prohibitively expensive, particularly in view of the low loss

ratio experienced to date. The proposed legislation in no way infringes on private insurance coverage at reasonable rates for normal exhibitions in this country and abroad.

6. Describe the UK and Australian indemnification systems including items covered, eligible participants, provisions for deductible, extent of coverage (e.g., do they cover losses arising from negligence, acts of War, acts of God), etc. How do these systems compare in general with insurance available in the private sector?

6/ (The United Kingdom) See attached material provided by officials of the British Embassy in Washington as a description of the British system. The Australian system is similar. As can be seen, these systems are informal compared with a formal legislative approach such as the one under consideration, and probably would not be possible under our fundamentally different structure of Government. These systems compare generally very favorably with private insurance available. The British system is simpler and contains no "fine print" exclusions except for war risk.

7. Should a distinction be made between exhibitions carried out pursuant to international agreements and those worked out privately but receiving Federal assistance insofar as indemnification is concerned?

7/ No. As long as an exhibition is certified to be in the national interest by the Secretary of State or his designee (as the present bill provides) there should be no distinction made insofar as indemnification is concerned.



8. Should authority for a Federal indemnification program provide for covering U.S. exhibits abroad as well as foreign exhibits in the U.S.? What arrangements for reciprocity would you envision under such dual authority?

8/ At the present time the United States Information Agency, the State Department and the National Collection of Fine Arts have active programs of exhibition abroad of works from American collections or by American artists. All three agencies are obliged to purchase insurance commercially to cover these exhibitions. The Museum of Modern Art in New York spends annually \$60,000 on insurance for its International Exhibition Service. All of these institutions, and exhibitions originating in the United States for showing abroad, would benefit from a broadening of the legislation to include such exhibitions.

In addition, the United States is frequently invited to participate in the Venice Biennale, the Sao Paulo Biennial, the Delhi Triennial, the Paris Younger Artists Biennial, etc. For each of these invitational exhibitions the organizing institution(s) must purchase insurance commercially.

Also, for purposes of flexibility in the making of arrangements for loan exhibitions and exchange agreements generally, it might be well to provide for a Federal program which would authorize coverage of exhibitions abroad as well as in the United States.

9. In the long term would it be possible to negotiate in either bilateral agreement or on a multi-lateral basis arrangements by which each receiving nation would agree to indemnify art received pursuant to international, cultural agreements?

9/ Negotiated agreements require a great deal of time. The need for indemnification, according to American museum directors, is great and pressing. Hopefully the enactment of the legislation in question will serve to hasten the world-wide adoption of the indemnification policies that ICOM has urged all nations to implement. Also, such bilateral arrangements would be immediately possible between the U.S. and the U.K.

10. Why should not \$100K be minimum self-insurance by participating parties and Federal responsibility in excess?

10/ Current data show that more than 99% of loss and damage claims involve less than \$10,000. Then there would be no reduction of risk to the U.S. were the \$100K level applied. Also, that amount of insurance already carries a fairly high premium which under the proposed legislation would still be in the hands of the private insurance companies. The cost of \$100,000 premium is so high in exhibitions of this kind that a minimum self insurance at this level would defeat the intent of the proposed legislation for any but the most affluent and major museums.

11. Should there be an annual limit on overall value of outstanding Federal indemnification?

11/ Yes, in our view there should be an overall annual limit on value of outstanding Federal indemnities of no more than \$200-\$250 million, with a further limitation on a value of particular exhibitions of perhaps \$25 million. That itself may sound like a great deal of exposure, but it is intended only as

an upper limit, not that that much should necessarily be covered at any given time. Of course, that figure would involve coverage on several different exhibitions occurring in different parts of the world or in the United States. Remembering also that exhibitions are broken down into separate parts for shipping purposes, it can be said that, practically speaking, exposure at any given time would be much less than the total value of indemnities issued.

12. Should indemnification legislation require that the Federal Government set minimum standards of protection and handling if Federal responsibility for indemnification is assumed?

12/ It is not appropriate for the Federal Government to set minimum standards for handling (a) because of the lack of standardization in the museum profession and (b) because of the diversity of the objects involved. This should remain the professional responsibility of the museums involved.

However, it is assumed that under any indemnification legislation the implementing agency would promulgate regulations setting forth requirements relating to security and packing standards.

13. If "national interest" were to be the determining factor regarding Federal coverage, who would determine this and what would be the criteria?

13/ As provided in the bill presently under consideration, the Secretary of State or his designee would make such a determination based on traditional State Department criteria, and on criteria developed in consultation with museum professionals and other scholars.

14. How many nations currently charge admission to their museums and what are the charges?

14/ This information is not currently available. Many museums in the United States, however, have required or suggested admission fees presently in force. These include the Metropolitan Museum of Art, Museum of Modern Art, the Whitney Museum, the Guggenheim, New York Cultural Center, the American Museum of Natural History, the Boston Museum of Fine Arts, Detroit Institute of Art, Art Institute of Chicago, and the Los Angeles County Museum of Art. Of course, these fees could in no way begin to provide the financial assets necessary to meet insurance costs on international exhibitions.

15. How would the value of art objects be determined under an indemnification program?

15/ The museum itself would have a primary responsibility for valuation of art objects to be covered by an indemnity certificate. This valuation, of course, would be reviewed by a panel of museum experts employed by the implementing agency. Such evaluation would have to be agreed upon prior to the issue of any certificate of indemnity. In the event of less than total loss or destruction, an assessor's determination as to loss in value would, by prior agreement, be final and binding on both parties.

16. Would Federal indemnification be available to:

- Non-Federal public agencies
- Non-profit private agencies
- Federally funded agencies
- Non-Federally funded agencies

16/ Under S. 1800 the indemnification would be available to non-Federal public agencies, non-profit private agencies, and Federal agencies.

17. What is a reasonable estimate of how many times this authority would be granted each year?

17/ It is difficult to estimate how many times this authority would be granted each year. Initially, because of a backlog of international exhibit ideas that have not been implemented because of high insurance costs, there would be a great many applications for coverage. This could be expected to level out at perhaps 5-10 large exhibitions and perhaps 10 smaller ones a year. It may be reasonably assumed that eventually indemnities would be granted each year to the full extent that the law allows.

18. Because of the large value of these exhibits should they not be handled on a case by case basis by specific legislation geared to the unique facts of each situation?

18/ No. Under a general authorization law each exhibition would be judged on a case by case basis. Indemnities would not be issued automatically. There would appear to be nothing to be gained by requiring Congressional and general Executive branch approval on each exhibition for which coverage is requested. In such a case, the Congress and the Administration

would, as in the past, have to rely on the recommendations of the agencies most involved in museum exhibition activities, i.e., the Department of State, the National Foundation on the Arts and the Humanities, the National Gallery of Art, and the Smithsonian Institution. The legislation in question would simply place the authority to issue indemnity certificates directly into the hands of those agencies (as members of the Federal Council) who presently make executive branch recommendations on ad hoc legislation to cover specific exhibitions.