

summarized under six general topics: (1) Scope of coverage of the proposed amendments, (2) organizing international exhibitions, (3) benefits to the museum community, (4) benefits to the public, (5) further guidance on eligibility, and (6) the role of the United States Information Agency.

(1) Scope of Coverage of Proposed Amendments

Two commenters requested that the Federal Council consider extending the proposed changes to the indemnity program to include indemnification of exhibitions even where there is no foreign loans, so-called "full domestic indemnity." The Federal Council decided against pursuing full domestic indemnity at this time for a number of reasons. The principal reason involves the availability of administrative resources. Under a full domestic indemnity program, the Federal Council anticipates a dramatic increase the number of eligible exhibitions and, thereby, the number of applicants. Such an increase could not be accommodated by the resources currently available for the administration of the indemnity program.

(2) Organizing International Exhibitions

A number of commenters noted that the "internationalization" of collecting and exhibiting works of art has greatly increased. This trend, in the words of one museum director, has greatly increased the likelihood that "major works by artists outside the United States will be owned by major museums and private collectors in the U.S." These commenters believed that indemnifying foreign works owned by American museums was consistent with the goals of the indemnity program to provide the public access to high quality international exhibitions. Further, some commenters suggested that it may be necessary to include items owned by U.S. institutions in order to organize a comprehensive international exhibition. Another commenter described how the proposed amendment might facilitate organizing international exhibitions: "[B]y securing fine domestic loans, potential foreign lenders are encouraged to lend their works of art."

(3) Benefits to U.S. Museums

Several commenters noted the proposed change would result in significant savings for American museums and galleries which are currently required to obtain private insurance for U.S. loans in connection with an indemnified international exhibition. At least two commenters stated that this benefit would come at

little or no cost to the taxpayers because technological advances are making the preservation and transportation of art safer, thereby further reducing the already extremely low risk of claims. According to some commenters, the proposed change would not impose new administrative burdens on applicants because, under current guidelines, all applicants already must submit detailed information on both foreign and domestic loans. Under the current system, many commenters noted, museums often must expend scarce resources to prepare the same documentation for the Federal Council and private insurers.

(4) Benefits to the Public

A few commenters anticipated that the change in the Regulations would improve the quality of the exhibitions available to the public. One commenter said that allowing the indemnification of limited domestic content would remove any incentive for curators to choose an inferior foreign-owned work over a superior U.S.-owned work in order to effect a savings in insurance premiums. Thus, according to this commenter, the proposed amendment would have the added benefit of helping to ensure that all items selected for exhibition were chosen solely on the basis of educational, cultural, historical or scientific significance. Another museum director pointed out that providing limited domestic content indemnification would bring the United States closer to conformity with a number of other countries, such as Great Britain, which provide full domestic indemnification.

(5) Further Guidance on Eligibility Criterion

While a number of commenters were able to identify examples of exhibitions which, in all likelihood, would have qualified for indemnification under the revised rules, two commenters suggested the need for providing further guidance to persons considering applying for the indemnification of an international exhibition under the new eligibility criterion. Specifically, one commenter felt that the Federal Council should clarify the amount and/or character of the domestic items in an international exhibition that would be appropriate for indemnification under the amended Regulations. Another commenter stated that, without any additional guidance, the only exhibitions that would appear to be ineligible for indemnification would be those that do not include a single foreign-owned work. While this commenter did not propose any specific

changes, another suggested specifying that only exhibitions which contain a "majority" of foreign-owned works would be eligible.

The Federal Council considered at length the question of whether to incorporate a strict percentage test within the new eligibility criterion. The Federal Council decided not to incorporate such a percentage test in the proposed rule. While the Federal Council acknowledges that a number of commenters believe that the proposed eligibility standard as published in the ANPR may be too nebulous, the Council felt strongly that adopting a rigid percentage test for domestic content in international exhibitions would prove to be too inflexible a tool to carry out the broad objectives of the statute.

At the same time, the Federal Council recognized that the proposed amendment, as published in the ANPR, may not provide sufficient guidance regarding the eligibility for indemnification of international exhibitions that incorporate U.S. loans. Accordingly, the eligibility criterion for such exhibitions published in this notice has been revised to provide that the foreign loans must be an integral or essential component of the exhibition as a whole. Put another way, the foreign loans must be necessary to accomplish the educational, cultural, historical or scientific objectives of the exhibition. A number of examples are included to clarify the application of this standard by the Federal Council. These examples are included solely for the purpose of providing general guidance, and applicants seeking advice with respect to specific exhibitions are encouraged to consult directly with the Administrator of the Indemnities Program early in the planning process.

(6) United States Information Agency

The United States Information Agency ("USIA") commented that it had no objection in principle to extending indemnification to eligible items from the United States while on exhibition in this country in connection with foreign items if indemnifying such objects would not adversely effect the ability of the Federal Council to indemnify the foreign works. However, USIA questioned whether the Arts and Artifacts Indemnity Act permitted the Federal Council to enter into indemnity agreements for such exhibitions and the USIA to issue national interest certifications in connection with such exhibitions. After extensive discussions between the USIA and the Federal Council, USIA ultimately concluded that there was a reasonable basis for the Federal Council's position and that it