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*Collection of legislative texts concerning
the protection of movable cultural property*

S P A I N

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The designations employed and the presentation of material in this document do not imply the expression of any opinion whatsoever on the part of Unesco concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

P R E F A C E

Since its foundation Unesco has been constantly engaged in an effort to protect cultural property against the dangers of damage and destruction which threaten it and, in particular, against dangers resulting from theft, clandestine excavations and illicit traffic. The work carried out in this field in recent years has shown that national laws and regulations governing the protection of movable cultural property are little known abroad. This has prompted Unesco to embark on the collection and distribution of legislative texts for the information and use of national services for the protection of the cultural heritage, museum curators, art dealers, antique dealers, private collectors, customs and police services, and anyone else required to have a knowledge of the legal status of cultural property, with a view to fostering international co-operation in the prevention and repression of offences concerning movable cultural property.

Unesco has already published two volumes of a compendium containing extracts from the legislation in force in forty-five Member States. These appeared in French in 1979 and 1981 under the title "La protection du patrimoine culturel mobilier - Recueil de textes législatifs" and in English in 1984 under the title "The Protection of Movable Cultural Property - Compendium of Legislative Texts".

The publication of legislative texts governing the protection of movable cultural property is being pursued in the form of a series of booklets, each presenting the laws and regulations of one country. The booklets will, as far as possible, contain the full texts of legislation dealing with:

- . the definition of protected movable cultural property
- . the system of ownership and use
- . the extent of protection
 - inventory, registration, scheduling, declaration
 - rights and obligations of the owner, the person in possession or control and the authorities with respect to protected property
 - regulation of trade in antiquities
 - export regulations
 - import regulations
- . fortuitous discoveries and archaeological excavations
- . sanctions
- . authorities responsible for protection

The legislative texts are preceded by a brief introduction which provides information on the international conventions concerning the protection of movable cultural property to which the State concerned is party and gives the list of the texts reproduced in the booklet. The introduction also contains an index of the main provisions of national laws and regulations which concern specifically the protection of movable cultural property arranged under the above headings.

An index of national laws and regulations concerning the protection of movable cultural property in force in the Member States of Unesco will be issued at a later date.

S P A I N

INTERNATIONAL CONVENTIONS CONCERNING THE PROTECTION OF
MOVABLE CULTURAL PROPERTY TO WHICH THE STATE IS PARTY

Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954)

Instrument of ratification of the Convention deposited on 7 July 1960. The Convention entered into force with respect to Spain on 7 October 1960.

Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (Paris, 1970)

Instrument of ratification of the Convention deposited on 10 January 1986. The Convention entered into force with respect to Spain on 10 April 1986.

NATIONAL LAWS AND REGULATIONS CONCERNING SPECIFICALLY THE
PROTECTION OF MOVABLE CULTURAL PROPERTY

Law 16/1985 of 25 June on the Spanish Historical Heritage

Royal Decree 111/1986 of 10 January partially interpreting Law 16/1985 on the Spanish Historical Heritage.

INDEX OF MAIN PROVISIONS BY SUBJECT-MATTER

<u>Definition of protected property</u>	Articles 1, 40, 46 of the Law of 1985
<u>System of ownership</u>	Article 44 of the Law of 1985
<u>Extent of protection</u>	
- Declaration, Registration Inventorying	Articles 9 to 13, 26, 27, 32 of the Law of 1985 Articles 11 to 32 of the Decree of 1986
- Transfer of property and Regulation of trade	Articles 28 and 38 of the Law of 1985 Articles 27, 40 to 44 of the Decree of 1986
- Rights and obligations of the owner, the person having possession or control and the competent authorities	Articles 13, 26, 28, 35 to 39 of the Law of 1985
- Export Regulations	Articles 5, 29 to 33 of the Law of 1985 Articles 45 to 57 of the Decree of 1986

Fortuitous discoveries and
archaeological excavations

- Fortuitous discoveries

Articles 41, 44 of the Law
of 1985

- Archaeological excavations

Articles 41 to 43 of the Law
of 1985

Penalties

Articles 75 to 79 of the Law
of 1985

Authorities responsible

Articles 6 and 7 of the Law
of 1985

Articles 1 to 9 of the Decree
of 1986

LAW 16/1985 of 25 June on the Spanish Historical Heritage (1)

JUAN CARLOS I
KING OF SPAIN

Let it be known to all those who may read or hear these presents that the Cortes have approved and I have endorsed the following law.

PREAMBLE

The Spanish Historical Heritage is the main testimony of the Spanish people's historical contribution to world civilization and of their creative powers today. The protection and enhancement of property that is part of the heritage constitute a fundamental duty that is incumbent on all public authorities in accordance with their mandate as expressed in Article 46 of the Constitution.

These requirements, which constituted a similar mandate for legislators for the first thirty years, approximately, of this century, were fulfilled in an exemplary manner by the defenders of our best intellectual, legal and democratic traditions, as is well borne out by the valuable legacy handed down in the form of the Law of 13 May 1933. Acknowledgement of this fact notwithstanding, our people's recovery of their freedom meant without a doubt that, once this welcome historical process was completed, the task would be undertaken of preparing a new and more comprehensive legal response to these demands, a true code for our historical heritage, whereby future projects could be planned on the basis of past experience.

The need was felt, firstly, because of the legislative fragmentation which, over the fifty years that have elapsed since the entry into force of the venerable law, has given rise within our legal system to a plethora of formulae in an attempt to cope with hitherto unforeseen or non-existent specific situations. The need also stems from growing concern in the international community and among its representative organizations, which has led to the adoption of new criteria for the protection and enhancement of historical and cultural property; these have found expression in conventions and recommendations which Spain has signed and by which it abides, but to which its domestic legislation has not been adapted. Lastly, this legal revision was required because of the new sharing of powers between the State and the Autonomous Communities which, where such property is concerned, is based on the Constitution and the Statutes of Autonomy. This law is consequently enacted in accordance with the provisions of paragraphs 1 and 2 of Article 149 of our Constitution, which imply both an injunction and a frame of reference for legislators and for the State Administration.

This law enshrines a new definition of the historical heritage and broadens its scope significantly to include the movable and immovable property comprising the archaeological and ethnographical heritage, museums, State-owned archives and libraries and the documentary and bibliographical heritage. In short, it seeks to protect and promote material culture produced by human

(1) Unofficial translation prepared by Unesco.

activity in the broadest sense of the term, and considers it to comprise a collection of goods which should be assessed without reference to restrictive criteria of ownership, use, age or economic value.

This does not mean that the protective and promotional measures will be applied uniformly to all the property considered under this law to be part of our historical heritage. The law establishes different levels of protection which correspond to different legal categories. The most generic of these, after which the law itself is named, is that of the Spanish Historical Heritage, which consists of all property of historic, artistic, scientific or cultural value that constitutes Spain's contribution to world culture. This concept is central to the structuring of the law's essential provisions and to determining the intervention techniques that the State Administration will be entitled to use, particularly in order to protect it from illicit export and spoliation.

In order to provide for greater protection and control, special value will be attached within the Spanish Historical Heritage to the category of property of cultural interest, which will include those movable and immovable objects that most obviously need such protection. Such a category calls for special measures, which the law lays down according to the type of property concerned.

The law also lays down the necessary rules whereby such value may be assessed, for the historical heritage of a people must not be protected exclusively by laws prohibiting specific actions or restricting certain uses, but by provisions that encourage its preservation and, consequently, permit its enjoyment and facilitate its growth.

The law therefore contains a set of stipulations concerning taxation and opens up certain new channels of procedure that place Spain in a position similar to that currently envisaged by countries close to it in their history and culture and, consequently, in their heritage. It thus gives impetus to an adequate policy for the effective management of the Spanish Historical Heritage: a policy which combines vigilant action with educational, technical and financial incentives, in the firm belief that the national heritage is better developed and protected when it is held in higher esteem by the people who live with it, but also when it receives more aid for its maintenance, with the logical benefits that are in turn reaped by society when that aid is provided by the public authorities.

The Spanish Historical Heritage is the wealth of the community, containing the most noteworthy forms of expression of the historical contribution made by the Spanish people to world culture. Its value stems from the esteem in which, as a component of cultural identity, it is rightly held by our people. For the property that it comprises has become our heritage solely by virtue of the social function that it fulfils, as a direct outcome of the Spanish people's growing appreciation of it.

Consequently, and as its ultimate aim, the law seeks essentially to establish access to the property that constitutes our historical heritage. All the protective and promotional measures for which the law provides will be meaningful only if, in the final analysis, they make it possible for increasingly large numbers of citizens to see and enjoy the works that are the legacy of the collective genius of a people. For in a democratic state, this property must be made properly available to the community in the light of the conviction that its enjoyment facilitates access to culture and that culture, finally, is a sure path to the liberty of peoples.

PRELIMINARY SECTION

General Provisions

Article one

1. The purpose of this law is to guarantee the protection, growth and transmission to future generations of the Spanish Historical Heritage.
2. The Spanish Historical Heritage is made up of immovable and movable property of artistic, historical, palaeontological, archaeological, ethnographical, scientific or technical interest. It also includes the documentary and bibliographical heritage, archaeological remains and sites, together with natural areas, gardens and parks which have artistic, historical or anthropological value.
3. The most outstanding property in the Spanish Historical Heritage shall be inventoried and declared to be of cultural interest in accordance with the provisions of this law.

Article two

1. Without prejudice to the responsibilities vested in the other public authorities, it shall be the duty and essential function of the State Administration, in accordance with the stipulations of Articles 46 and 44, 149.1.1 and 149.2 of the Constitution, to guarantee the preservation of the Spanish Historical Heritage, to promote its growth and to encourage and protect the access of all citizens to the property that it comprises. Likewise, in accordance with the provisions of Article 149.1, 28 of the Constitution, the State Administration shall protect that property from illicit export and spoliation.
2. In respect of the Spanish Historical Heritage, the State Administration shall adopt the necessary measures to facilitate collaboration with the other public authorities and collaboration of the latter among themselves, and shall also collect and provide as much information as may be needed for the purposes mentioned in the foregoing paragraph.
3. The State Administration shall also be responsible for the international dissemination of knowledge about the property that is part of the Spanish Historical Heritage, for the recovery of such property when it has been illegally exported and for exchanges concerning it of cultural, technical and scientific information with other States and with international organizations in accordance with the provisions of Article 149.1, subparagraph 3, of the Constitution. The other competent government departments shall co-operate to that end with the State Administration.

Article three

1. The communication and exchange of operational programmes and information concerning the Spanish Historical Heritage shall be facilitated by the Historical Heritage Council, which shall be made up of a representative of each Autonomous Community, appointed by the Governing Council, and the corresponding Director-General of the State Administration, who shall act as Chairman.
2. Without prejudice to the responsibilities assigned to the Historical Heritage Council, for the purposes of this law, the following shall be

consultative institutions of the State Administration: the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, the Royal Academies, the Spanish Universities, the Supreme Council for Scientific Research and any Higher Councils that the State Administration may appoint under the regulations, and, where an Autonomous Community is concerned, the institutions recognized by it. All consultations of these bodies shall be independent of any advice that may be sought from other professional organizations and cultural bodies.

Article four

For the purposes of this law, 'spoliation' means any action or omission that entails the risk of loss or destruction of all or part of the value of the property belonging to the Spanish Historical Heritage or interferes with the fulfilment of its social role. In such cases, the State Administration, irrespective of the authority vested in the Autonomous Communities, may at any time call upon the competent department of the Governing Council of the Autonomous Community in question to adopt urgent measures to prevent spoliation. If that request is disregarded, the State Administration shall take action as necessary for the recovery and protection, both legal and technical, of the property spoliated.

Article five

1. For the purposes of this law, 'export' means the removal from the Spanish territory of any of the property forming part of the Spanish Historical Heritage.
2. The owners or de facto possessors of any such property which is more than one hundred years old and, in any case, of property recorded in the General Inventory for which Article 26 of this law makes provision, shall require for the export thereof the express and prior authorization of the State Administration in due form and in accordance with official procedures.
3. The provision in the foregoing paragraph notwithstanding, and without prejudice to the stipulations of Articles 31 and 34 of this law, the export of property declared to be of cultural interest and of any other property which, by virtue of its belonging to the Spanish Historical Heritage, the State Administration declares non-exportable, shall be prohibited as a precautionary measure until the procedure for the inclusion of the property in any of the special protected categories envisaged in this law has been initiated.

Article six

For the purposes of this law, the bodies authorized to implement it shall be:

- (a) the bodies in each Autonomous Community which are responsible for the protection of the historical heritage;
- (b) those of the State Administration when it is thus expressly stated or when they must intervene to protect property that forms part of the Spanish Historical Heritage from illicit export and spoliation. Those bodies shall also have authority regarding Spanish Historical Heritage property appertaining to public services which are managed by the State Administration or which form part of the national heritage.

Article seven

The Town Councils shall co-operate with the bodies authorized to implement this law in the preservation and safeguarding of the Spanish Historical Heritage in municipal matters, by adopting suitable measures to prevent the deterioration, loss or destruction thereof. They shall inform the competent government department of any threat, damage or interference with social function suffered by such property, and of any difficulties and needs arising in the safeguarding thereof. They shall also discharge the other functions expressly assigned to them by this law.

Article eight

1. Any person who observes that property belonging to the Spanish Historical Heritage is in danger of destruction or deterioration shall as quickly as possible bring that fact to the notice of the competent government department, which shall check the facts alleged and act in accordance with the provisions of this law.

2. All representations to administrative bodies and to the Administrative Courts to demand enforcement of the provisions of this law for the protection of property belonging to the Spanish Historical Heritage shall be public.

SECTION I

Declaration of Property of Cultural Interest

Article nine

1. Special protection and safeguarding shall be provided for property belonging to the Spanish Historical Heritage that is declared to be of cultural interest under this law or individually by Royal Decree.

2. For a declaration by Royal Decree, the authorized body shall be required to initiate and carry through administrative procedures beforehand in accordance with the provisions of Article 6 of this law. The procedures shall include obtaining a favourable opinion from any of the Consultative Institutions listed in Article 3, paragraph 2, or any that is recognized to be of identical status in an Autonomous Community. If, three months after the submission of the request for the opinion, that opinion has not been issued, it shall be understood that the opinion requested is favourable to the declaration of cultural interest. When the procedure concerns immovable property, the commencement of a period of public information shall also be required, and the Town Council concerned shall be given a hearing.

3. The procedure shall be completed not more than twenty months from the date on which it was initiated, and shall become null and void once that deadline is passed if delay has been notified and if no decision is reached during the four months following that notification. Once the procedure has lapsed it may not be reopened until three years have elapsed, except at the request of the holder.

4. The work of a living author may not be declared property of cultural interest except with the express authorization of its owner or through its acquisition by the Administration.

5. The competent body may, through the official channels or at the request of the holder of a legitimate and direct interest, handle an administrative procedure, which must include a favourable reasoned report by any of the Consultative Institutions, in order to have the declaration of cultural interest in respect of a given item of property nullified by Royal Decree.

Article ten

Anyone may request the initiation of a procedure for property to be declared of cultural interest. The competent body shall decide whether to initiate it. That decision and, where appropriate, the consequences and the final decision shall be brought to the notice of the person making the request.

Article eleven

1. The initiation of a procedure to declare property of cultural interest shall entail, in respect of the property concerned, the provisional application of the same system of protection envisaged for property declared of cultural interest.

2. The final decision whereby property is declared of cultural interest shall give a clear description of that property. In the case of immovable property, the exact area concerned by the declaration shall be delimited and, where appropriate, the component parts, appurtenances and accessories covered by the declaration shall be defined and listed.

Article twelve

1. Property declared of cultural interest shall be entered in a General Register held by the State Administration, the organization and functioning of which shall be determined in accordance with official procedures. The initiation of procedures shall be recorded in that Register, which will have the effect of a provisional entry until such time as a final decision has been taken.

2. In the case of immovable property, the record shall be entered under one of the headings mentioned in Article 14.2.

3. With regard to Historical Monuments and Gardens, the competent government department shall, through the official channels, enter the declaration in the Property Register free of charge.

Article thirteen

1. An official certificate shall be issued by the General Register concerning property declared of cultural interest, which shall identify it and give an account of all legal acts and all acts for artistic purposes concerning it. All transfers of ownership or removals of such property shall be entered in the Register. The form and nature of that certificate shall be laid down in accordance with official procedures.

2. Similarly, owners and, where appropriate, holders of rights of possession on such property, or those who possess said property in any capacity whatsoever, shall permit and facilitate the inspection thereof by the authorized bodies, the study thereof by researchers after submission of a reasoned request, and the visit thereof by the public free of charge as determined in accordance with official procedures, on at least four days in every month, on

days and at times to be pre-established. Compliance with this latter obligation shall be waived totally or in part by the competent government department when there is a valid reason for so doing. In the case of movable property, as an alternative obligation, the property may be deposited in a place where the conditions of safety and exhibition for a maximum period of five months every two years are adequately met.

SECTION II

Immovable Property

Article fourteen

1. For the purposes of this law, all items in addition to those listed in Article 334 of the Civil Code that may be considered to be consubstantial with the buildings and to form part of them or of their ornamentation, or to have formed part of them in the past, since although they may be separate from them, they constitute a perfect whole that lends itself easily to other constructions or to uses that differ from the original use, whatever the material of which they are made and although their separation does not visibly impair the historical or artistic merit of the building to which they are attached, shall be considered to be immovable property.

2. Immovable property forming part of the Spanish Historical Heritage may be declared Monuments, Gardens, Historical Complexes and Sites and Archaeological Areas, all of which constitute property of cultural interest.

Article fifteen

1. Monuments are immovable items that are architectural or engineering masterpieces or large-scale works of sculpture, provided that they are of historical, artistic, scientific or social interest.

2. A Historical Garden is a circumscribed area, created by human agency out of natural components, in some cases supplemented by manufactured structures and deemed to be of interest by virtue of its origin or history or its aesthetic, sensory or botanical qualities.

3. A Historical Complex is a group of immovable items which form a continuous or scattered settlement unit characterized by a physical structure that represents the development of a human community as it bears witness to its culture or constitutes an asset to be used and enjoyed by the community. A Historical Complex is also any distinctive group of buildings, embodied in a larger population unit and having those same characteristics, and which can be clearly delimited.

4. A Historical Site is a natural place or site connected with past events or memories, popular traditions, cultural or natural events or man-made works of historical, ethnological, palaeontological and anthropological significance.

5. An Archaeological Area is a natural place or site containing movable or immovable items, which lend themselves to study by archaeological methods, whether or not they have been excavated and whether they are on the earth's surface, under the earth or in Spanish territorial waters.

Article sixteen

1. The initiation of procedures for an item of immovable property to be declared of cultural interest shall entail the suspension of municipal licences for division into lots, for building or for demolition in the areas concerned, and of the validity of those already granted. Work whose implementation cannot, for reasons of force majeure, be deferred in these areas shall in any case require permission from the bodies authorized to implement this law.
2. The suspension referred to in the foregoing paragraph shall be contingent on the completion or lapsing of the procedure initiated.

Article seventeen

When the procedure is under way for a Historical Complex to be declared of cultural interest, consideration shall be given to its relations to the part of the country to which it belongs and to the safeguarding of the geographical features and natural sites which constitute its surroundings.

Article eighteen

An immovable item declared Property of Cultural Interest is inseparable from its surroundings. It shall not be removed or displaced unless this is made indispensable in a case of force majeure or unless such removal or displacement is in the public interest, and, in any event, such action shall be in conformity with the provisions of Article 9, paragraph 2 of this law.

Article nineteen

1. No internal or external work that directly affects the immovable property or any of its integral parts or appurtenances shall be carried out on monuments declared Property of Cultural Interest without the express permission of the bodies authorized to implement this law. Such permission shall be required for the posting of any bills, signs or symbols on the façades or roofs, and for the execution of any work in the surrounding area covered by the declaration.
2. Any work in Historical Gardens declared of cultural interest and in their surroundings, and likewise the posting therein of any kind of bill, sign or symbol, shall require the express permission of the bodies authorized to implement this law.
3. It shall not be lawful to display any commercial advertisement or to instal any type of visible cable, aerial or pipe in Historical Gardens or on the façades or roofs of monuments declared of cultural interest, nor shall it be lawful to erect any construction which distorts the nature of the immovable property referred to in this article or which interferes with the view thereof.

Article twenty

1. The declaration of a Historical Complex, a Historical Site or an Archaeological Area to be a Property of Cultural Interest shall require the municipality or municipalities where any of these is located to draft a special protection plan for the area concerned by the declaration or any other planning instrument provided for in town-planning legislation, which, in any case, shall meet the requirements laid down in this law. The approval of this plan shall be contingent on a favourable report by the government department

with authority for the protection of the cultural property concerned. It shall be deemed that a favourable report has been issued when three months have elapsed after the submission of the plan. That plan shall be mandatory notwithstanding the pre-existence of any other plan that does not provide for protection and notwithstanding the lack hitherto of any overall planning.

2. The plan to which the foregoing paragraph refers shall establish for all public purposes the order of priority of its implementation in the buildings and areas suitable therefor. It shall also consider possible areas for complete rehabilitation, whereby residential areas may be restored and suitable economic activities resumed. It shall also contain guidelines for the preservation of façades and roofs and of any installations thereon.

3. Until the said plan has been finally approved, for the purposes of granting licences or acting under licences granted before the opening of procedures for the declaration of the Historical Complex, Historical Site or Archaeological Area, a favourable opinion shall be required from the government department responsible for the protection of the property concerned, and in no case shall any new alignments or alterations be permitted for buildings, division into lots or additions.

4. Following the final approval of the plan to which this article refers, the Town Councils concerned shall be empowered to grant direct permission for the work outlined in the approved plan in respect of those immovable items which are not Monuments or Historical Gardens or are not included in their surroundings, and shall report, to the government department authorized to implement this law, the issue of any authorizations or licences not more than ten days after they have been granted. Any work carried out under licences contrary to the approved plan shall be unlawful and the competent government department may order its reconstruction or demolition at the expense of the organization issuing the licence in question, without prejudice to the provisions of town-planning legislation in respect of liability for infringements.

Article twenty-one

1. Planning instruments concerning Historical Complexes shall list, in accordance with the provisions of town-planning legislation, the separate parts of the Complex, including buildings and external or internal open spaces or any other significant structures, together with the features of their natural surroundings, and shall specify which types of intervention are possible. Unique items shall be given total protection. An adequate level of protection shall be determined on a case-by-case basis for other items.

2. In exceptional circumstances, the plan for the protection of a Historical Complex may permit urban alterations, but only if these entail improvements to its relations with the surrounding land or urban environment and prevent uses that are degrading to the Complex itself.

3. Preservation of Historical Complexes declared to be Property of Cultural Interest entails maintenance of urban and architectural structures and of the general features of their surroundings. The replacement of immovable items, even in part, shall be considered an exception, and shall be carried out only if such replacement helps generally to preserve the character of the Complex. The existing urban alignments shall in any case be maintained.

Article twenty-two

1. Any earth removal or earth work planned in a Historical Site or Archaeological Area declared of cultural interest shall be authorized by the government department responsible for the protection of such property, which may, before granting authorization, order exploratory work and, where appropriate, archaeological excavations, to be carried out in accordance with the provisions of Section V of this law.
2. It shall not be lawful to put up any type of commercial advertisement or to instal visible cables, aeriels or pipes in Archaeological Areas.

Article twenty-three

1. Licences may not be issued for any work which, under the provisions of this law, requires any form of administrative authorization until said authorization has been granted.
2. Any work carried out in breach of the provisions of the foregoing paragraph shall be unlawful, and the Town Councils or, where appropriate, the government department responsible for the protection of the Spanish Historical Heritage, may order its reconstruction or demolition at the expense of the person or persons responsible for the breach under the terms of town-planning legislation.

Article twenty-four

1. In the event that, despite the provisions of Article 36, a demolition order is served on any immovable property that has been declared to be Property of Cultural Interest, the government department authorized to implement this law shall be empowered to intervene as an interested party in that order, and shall be informed of its serving and of the decisions taken.
2. Under no circumstances shall an immovable item be demolished without the prior confirmation of the demolition order and without permission from the competent government department, which shall not grant it in the absence of a favourable report by at least two of the consultative institutions to which Article 3 refers.
3. In the event of emergency or imminent danger, the body initiating the demolition order procedure shall order the necessary measures to prevent human injury. Any work carried out for reasons of force majeure shall not give rise to any acts of demolition except those that may be strictly necessary for the preservation of the immovable item and shall in any case require the prior authorization for which Article 16.1 makes provision; furthermore, where appropriate, arrangements shall be made for any parts removed.

Article twenty-five

The authorized body may order the suspension of all or part of any demolition work or work to change the function of immovable items which belong to the Spanish Historical Heritage but which have not been declared of cultural interest. That suspension shall be valid for a maximum of six months, within which period the government department responsible for town and country planning shall decide whether it is appropriate to grant initial approval of a special plan or of any other protective measures laid down in the town-planning legislation. That decision, which shall be brought to the notice of the body ordering the suspension, shall not impede the exercise of power for which Article 37.2 makes provision.

SECTION III

Movable Property

Article twenty-six

1. The State Administration, in collaboration with the other competent government departments, shall compile a General Inventory of those movable items of the Spanish Historical Heritage that have not been declared of cultural interest and are of special importance.
2. For the purposes set forth in the foregoing paragraph, the competent government departments may order the owners of movable items that form part of the Spanish Historical Heritage to permit examination of those items, together with any information that is relevant to their possible inclusion in the inventory.
3. Owners and other holders of rights of possession on movable property of outstanding historic, artistic, archaeological, scientific, technical or cultural value may submit a duly documented application to the competent government department in order to initiate the procedure for the inclusion of that property in the General Inventory. Such an application shall be accepted or rejected within a period of four months.
4. Owners or de facto possessors of movable property which has the value and characteristics indicated in accordance with official procedures shall be required to inform the competent government department of the existence of such items before selling or conveying them to third parties. Individuals or bodies habitually dealing in movable items belonging to the Spanish Historical Heritage shall be equally bound, and in addition shall formally submit to that government department a record of their transactions concerning such items.
5. The organization and functioning of the General Inventory shall be determined in accordance with official procedures.
6. The following rules shall apply to movable items which belong to the Spanish Historical Heritage and which are included in the General Inventory:
 - (a) the competent government department may at any time inspect such an item to determine its state of preservation;
 - (b) owners and, where applicable, other holders of rights of possession shall be required to allow these to be examined by researchers following the submission of a reasoned application, and to lend them, under guaranteed safeguards, to seasonal exhibitions organized by the bodies to which Article 6 of this law refers ; it shall not be mandatory to concede such loans for a period of more than one month per year;
 - (c) conveyance by deed inter vivos or mortis causa, together with any other change in the status of the property, shall be brought to the notice of the competent government department and recorded in the General Inventory.

Article twenty-seven

Movable property belonging to the Spanish Historical Heritage may be declared of cultural interest. Such status shall be granted in any case to movable items contained in an immovable property that has been the subject of such a declaration, provided that the latter recognizes them as an essential part of the history of that immovable property.

Article twenty-eight

1. Movable items declared of cultural interest and those included in the General Inventory which are in the possession of ecclesiastical institutions, in any of their establishments or branches, may not be sold for payment or given free of charge, nor conveyed by deed, to any private individuals or dealers. Such property may be alienated or conveyed only to the State, to public bodies or to other ecclesiastical institutions.

2. Movable items that form part of the Spanish Historical Heritage may not be alienated by government departments except by transmissions among themselves and as stipulated in Articles 29 and 34 of this law.

3. The property to which this article refers shall be imprescriptible. The provisions of Article 1.955 of the Civil Code shall under no circumstances apply to it.

Article twenty-nine

1. Any movable items belonging to the Spanish Historical Heritage that are exported without the authorization required under Article 5 of this law shall be the property of the State. Said property shall be inalienable and imprescriptible.

2. It shall be the duty of the State Administration to take action to secure the full recovery of property illegally exported.

3. When the former owner claims that the property has been stolen or lost before being illegally exported, it may request its restitution from the State, with an undertaking to pay the sum total of the expenses related to the recovery of the property, and, where appropriate, to pay the price that may have been paid to the State by the bona fide purchaser. The illegally exported property shall be presumed lost or stolen when the former owner was a public corporation.

4. Any property that has been recovered and not restituted shall be sent to a public centre, on the advice of the Historical Heritage Council.

Article thirty

An authorization for the export of any movable property that forms part of the Spanish Historical Heritage shall be subject to a levy, the amount of which shall be determined in accordance with the following rules:

(A) Taxable transaction: the granting of a licence for the export of said property shall be a taxable transaction.

(B) Exemptions: the following shall be exempt from taxation:

1. The export of movable property during the ten years following the import thereof, provided that said import was legal and properly documented and that the property has not been declared of cultural interest under Article 32 of this law.

2. The temporary and legally authorized export of movable property that forms part of the Spanish Historical Heritage.

3. The export of movable items created by living persons.

(C) Liability to taxation: those persons or bodies, whether national or foreign in character, to which export licences are granted shall be required to pay the appropriate levy.

(D) Basis of assessment: the basis of assessment shall be determined by the real value of the property for which an export licence is requested. The real value of the property shall be considered to be that declared by the applicant, without prejudice to administrative verification by the appropriate organ of the State Administration, whose assessment shall prevail when the value determined by it is higher than the declared value.

(E) Rates of taxation: the levy shall be payable at the following rates:

Up to 1,000,000 pesetas:	5 per cent
1,000,001 to 10,000,000 pesetas:	10 per cent
10,000,001 to 100,000,000 pesetas:	20 per cent
100,000,001 and above pesetas:	30 per cent

(F) Amount due: the levy shall be paid when the export licence is issued.

(G) Demand and payment: the government shall regulate procedures for the assessment, demand and payment of the levy.

(H) Management: this levy shall be placed under the administration of the Ministry of Culture.

(I) Utilization: the proceeds from this levy shall be deposited in the Exchequer, thus automatically providing funds on behalf of the appropriate body of the State Administration, and shall be used exclusively for the acquisition of property of interest for the Spanish Historical Heritage.

Article thirty-one

1. The State Administration may authorize the temporary removal from Spain, in the form and under the conditions determined in accordance with official procedures, of movable property covered by the provisions of Article 5 of this law. In any event, the licence shall stipulate the duration of said export and the safeguards surrounding it. The right of preferential acquisition may not be exercised in respect of property so exported.

2. Non-compliance with the conditions governing the return to Spain of property thus exported shall be regarded as constituting its unlawful export.

Article thirty-two

1. Movable items that have been legally imported and are duly documented so that the imported property may be fully identified may not be declared of cultural interest until a period of ten years has elapsed following the date of import.
2. Such property may be exported under a licence from the State Administration which shall be granted provided that the application complies with requirements of current legislation, and no right of preferential acquisition in respect thereof may be exercised. After a period of ten years, such property shall remain subject to the general provisions of this law.
3. The provisions of the foregoing paragraphs notwithstanding, movable items that possess any of the characteristics mentioned in Article 1 of this law may be declared of cultural interest before the ten years have elapsed, if their owners apply for said declaration and if the State Administration decides that the property in question enhances the Spanish Historical Heritage.

Article thirty-three

Excepting the provisions in Article 32, provided that an application for export is submitted, the declaration of value made by the applicant shall be considered to be an irrevocable offer of sale to the State Administration, which, if it does not authorize said export, shall have a period of six months within which to accept the offer and subsequently a period of one year within which to make the appropriate payment. Refusal of an export application shall not imply acceptance of the offer; such acceptance must in all cases be explicit.

Article thirty-four

The government may agree with other States on the transfer of State-owned movable items belonging to the Spanish Historical Heritage in exchange for others having at least equal historical value and significance. Approval shall require a favourable opinion from the Royal Academies of History and of Fine Arts of San Fernando and from the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage.

SECTION IV

The Protection of Movable and Immovable Property

Article thirty-five

1. National Information Plans on the Spanish Historical Heritage shall be periodically drawn up for the protection of property belonging to the Spanish Historical Heritage and for the purpose of facilitating public access thereto, encouraging communication between different departments and promoting the information required for the development of scientific and technical research.
2. The Spanish Historical Heritage Council shall draw up and approve the National Information Plans referred to in the foregoing paragraph.

3. The various public services and the owners of property belonging to the Spanish Historical Heritage shall co-operate in the implementation of the National Information Plans.

Article thirty-six

1. Property belonging to the Spanish Historical Heritage shall be preserved, maintained and protected by its owners or, where appropriate, by the holders of rights of possession on that property or by its de facto possessors.

2. Property declared of cultural interest and movable items included in the General Inventory may be utilized, subject to the provision that their valuable characteristics which require preservation are not endangered. Any change in utilization must receive prior permission from the bodies authorized to implement this law.

3. Should owners or holders of rights of possession on property declared of cultural interest or property included in the General Inventory fail to take the requisite action to comply with the obligation stipulated in paragraph 1 of this article, the competent government department, having given formal notice to the parties involved, may order the subsidiary execution of such action. Similarly, it may grant aid in the form of a repayable advance which, in the case of immovable property, shall be recorded in the Property Register. The competent government department may also carry out the necessary work directly if this is necessary for the most effective preservation of the property. The competent government department may, in exceptional circumstances, order movable property to be deposited in public centres for as long as the exceptional circumstances persist which make such arrangements necessary.

4. Non-compliance with the obligations set forth in this article shall constitute grounds in the public interest for the forced expropriation by the competent government department of the property declared of cultural interest.

Article thirty-seven

1. The competent government department may prevent the demolition and suspend any type of work or intervention on property declared of cultural interest.

2. It may also take such action, even when no such declaration has been made, provided that it is aware of the existence of any of the valuable characteristics mentioned in Article 1 of this law. In such an event, either the department shall grant permission within thirty working days for the work or intervention begun to continue, or it shall initiate procedures for the property to be declared of cultural interest.

3. Exposure of property to the risk of destruction or deterioration, or utilization thereof which is incompatible with its valuable characteristics, shall be deemed to constitute sufficient grounds in the public interest for the competent government department to expropriate property covered by a declaration of cultural interest. Any buildings which block or disrupt the view of property covered by a declaration of cultural interest or pose a threat thereto may likewise be expropriated. Local authorities may also expropriate such property after giving notice of their intention to that effect to the competent Government department, which shall have priority in the exercise of that power.

Article thirty-eight

1. Any person attempting to sell property that has been declared of cultural interest or is included in the General Inventory referred to in Article 26 shall inform the organizations mentioned in Article 6 and disclose the price and conditions proposed for the sale. Auctioneers shall also give due advance notification of public auctions at which any property that forms part of the Spanish Historical Heritage is to be sold.
2. Within two months from the notification referred to in the preceding paragraph, the State Administration may exercise the right to carry out a valuation for its own purposes, for a charitable body or for any public corporation, and undertake to pay the agreed price or, where appropriate, the price of the auction, within a period of not more than two financial years, unless another form of payment is agreed upon with the party concerned.
3. When due notification of the sale envisaged has not been given, the State Administration, under the same conditions as those governing the right of valuation, may exercise the prior right of purchase within six months from the date on which it obtains authentic knowledge of the sale.
4. The provisions in the foregoing paragraphs do not exclude the exercise of the right of valuation and of the prior right of purchase of said property exercised under similar conditions by the other bodies authorized to implement this law. None the less, the State Administration shall have priority in the exercise of such rights, provided that the purpose is to acquire movable property for a State-owned museum, archive or library.
5. Property and trade registrars shall not register any document whatsoever that transfers ownership or any other right of possession on the property referred to in this article without first verifying that all the requirements stipulated therein have been met.

Article thirty-nine

1. The public authorities shall take all technical measures necessary to preserve, consolidate and improve property declared of cultural interest and movable items included in the General Inventory to which Article 26 of this law refers. Property declared of cultural interest may not be given any treatment whatsoever without express permission from the bodies authorized to implement the law.
2. With regard to immovable items, the actions to which the foregoing paragraph refers shall be undertaken for their conservation, consolidation and rehabilitation and shall exclude all attempts at reconstruction, unless original parts that can be proved to be authentic are used. If materials or parts that are indispensable for stability or maintenance are added, the additions shall be recognizable and imitations shall be avoided.
3. Restoration work on the property to which this article refers shall preserve existing contributions from all periods. The elimination of any one such contribution shall be authorized in exceptional circumstances only if the features to be removed entail obvious deterioration of the property and if their removal is necessary to permit a better historical interpretation thereof. The parts removed shall be duly documented.

SECTION V

Archaeological Heritage

Article forty

1. In accordance with the provisions of Article 1 of this law, movable or immovable items of a historical nature that lend themselves to archaeological study, whether they have been excavated or not or whether they be found above ground or below ground, in territorial waters or on the continental shelf, shall constitute the Spanish Historical Heritage. Similarly, geological and palaeontological features that are related to the history of humanity, its origins and its ancestry shall be a part of that heritage.
2. Caves, shelters and sites containing examples of rock art are declared property of cultural interest by virtue of this law.

Article forty-one

1. For the purposes of this law, archaeological excavations are earthworks above ground, underground or underwater, carried out with a view to discovering and investigating all kinds of historical or palaeontological remains and the geological components related thereto.
2. Archaeological prospections are explorations carried out above ground or underwater, without earthworks, with a view to the study, investigation or examination of data concerning any of the features to which the foregoing paragraph refers.
3. Any discoveries of objects or material remains which possess valuable features specific to the Spanish Historical Heritage but which have occurred by chance or as a result of any other type of earthwork, demolition or work of any nature whatsoever, shall be considered fortuitous finds.

Article forty-two

1. All excavations or archaeological prospections shall be expressly authorized by the competent government department, which, by means of appropriate inspection and verification procedures shall ascertain that the work is organized and executed in accordance with a detailed and coherent programme that meets the requirements of suitability, professionalism and scientific interest.
2. Licences for excavations or archaeological prospections shall require the beneficiaries to surrender any objects found, duly inventoried, catalogued and accompanied by a report, to the museum or centre chosen by the competent government department by the established deadline, taking into account its proximity to the place of the find and the conditions under which the latter can both be adequately preserved and best fulfil its cultural and scientific function. In no event shall the provisions of Article 44.3 of this law apply to such objects.
3. Excavations or archaeological prospections which are carried out without the appropriate authorization or which do not comply with the terms under which they were authorized, including earthworks, demolition or any other work subsequently carried out on the site where there has been a fortuitous find of archaeological objects which has not been brought immediately to the notice of

the competent government department, shall be unlawful, and those responsible shall be punished in accordance with the provisions of this law.

Article forty-three

The competent government department may order excavations or archaeological prospections to be carried out on any public or private land on Spanish national territory where archaeological or palaeontological hoards or remains or geological components related thereto are presumed to exist. A corresponding amount in compensation shall be payable in accordance with the provisions of existing legislation on forced expropriation.

Article forty-four

1. Property in the public domain shall include all objects and physical remains which possess valuable characteristics specific to the Spanish Historical Heritage and which are discovered as a result of excavations, earthworks or work of any nature whatsoever or fortuitously. The finder shall inform the competent government department of his discovery within thirty days and immediately in the case of a fortuitous find. Under no circumstances shall the provisions of Article 351 of the Civil Code apply to such objects.
2. Once the find has been notified, and pending the surrender of the objects to the competent government department, the finder shall be governed by copy-right laws unless he surrenders the objects to a public museum.
3. The finder and the owner of the site where the object has been found shall be entitled, as cash compensation, to half the value at which the find has been legally assessed, to be divided equally between them. If they are two or more in number, the finders or owners shall have equal shares.
4. Non-compliance with the obligations laid down in paragraphs 1 and 2 of this article shall deprive the finder and, where applicable the owner, of entitlement to the compensation indicated, and the object shall be immediately surrendered to the competent government department, without prejudice to the liabilities incurred and the penalties arising therefrom.
5. Finds of integral parts of the architectural structure of an immovable property entered in the Property of Cultural Interest Register shall be exempt from the provisions of this article. Nevertheless, such finds shall be brought to notice of the competent government department within thirty days of their discovery.

Article forty-five

Archaeological objects acquired by public bodies in any capacity whatsoever shall be deposited in the museums or the centres chosen by the government department acquiring them, under the conditions stipulated in Article 42, paragraph 2 of this law.

SECTION VI

Ethnographical Heritage

Article forty-six

All movable items, immovable items, lore and activities that are or have been an important form of expression of the traditional culture of the Spanish people, whether materially, socially or spiritually, form part of the Spanish Historical Heritage.

Article forty-seven

1. Those buildings and installations whose shape and form are an expression of skills acquired, rooted in and transmitted by custom and whose style is in keeping, either wholly or in part, with an architectural category, type or form traditionally used by communities or human groups, are ethnographical immovable property and shall be governed by the provisions laid down in Sections II and IV of this law.

2. All those objects which represent or are the outcome of activities pertaining to the work, aesthetics or play of any human group, and which are established and transmitted by custom, constitute ethnographical movable property and shall be governed by the provisions laid down in Sections III and IV of this law.

3. Those skills or activities which are derived from traditional models or techniques used by a specific community are considered to have ethnographical value and shall be given government protection. With regard to endangered skills or activities whose disappearance is foreseeable, the competent government department shall adopt appropriate measures so that such property may be studied and documented scientifically.

SECTION VII

The Documentary, Bibliographical and Archival Heritage,
Libraries and Museums

CHAPTER I

Documentary and Bibliographical Heritage

Article forty-eight

1. For the purposes of this law, the Documentary and Bibliographical Heritage shall be considered part of the Spanish Historical Heritage inasmuch as it comprises items, whether or not they are collected together in archives or in libraries, that are declared in this chapter to form part thereof.

2. The Documentary and Bibliographical Heritage shall be governed by specific rules contained in this section. In cases for which these rules make no provision, the general provisions of this law in respect of movable property shall apply.

Article forty-nine

1. For the purposes of this law, 'document' means any expression in natural or conventional language and any other graphic, phonic or pictorial expression recorded on any type of material medium including computerized media. This definition shall not include copies of publications that are not originals.
2. Documents of any period produced, preserved or collected in the discharge of their duties by any public organization or body, by bodies corporate in which a majority of shares is held by the State or by other public bodies, or by private individuals or bodies corporate responsible for the management of public services, and within the scope of the management of those services, shall form part of the Documentary Heritage.
3. Documents more than forty years old produced, preserved or collected in the performance of their activities by bodies and associations that are political, or religious, or trade unions, and by private cultural and educational bodies, foundations and associations, shall also form part of the Documentary Heritage.
4. Documents more than one-hundred years old produced, preserved or collected by any other private body or private individual shall also form part of the Documentary Heritage.
5. The State Administration may declare part of the Documentary Heritage those documents which, while not being as old as those indicated in the foregoing paragraphs, deserve to be considered part of that heritage.

Article fifty

1. Publicly owned libraries, bibliographical collections and handwritten or printed literary, historical, scientific or artistic works of which there are not at least three copies in public libraries and services shall form part of the Bibliographical Heritage. It shall be presumed that there are at least three such copies in existence in the case of works published in or after 1958.
2. Copies produced from editions of cinematographic films, records, photographs, audio-visual materials and the like, whatever their material medium, of which there are not at least three copies in the public services or one copy in the case of cinematographic films shall likewise form part of the Spanish Historical Heritage and shall be governed by the provisions pertaining to the Bibliographical Heritage.

Article fifty-one

1. The State Administration, in collaboration with the other competent government departments, shall compile an Official Register of property that forms part of the Documentary Heritage and a union catalogue of property that forms part of the Bibliographical Heritage, in accordance with official procedures.
2. For the purposes of the preceding paragraph, the competent government department may request permission from the holders of rights to property belonging to the Documentary and Bibliographical Heritage to examine that property and the relevant information for its inclusion in the Official Register and in the catalogue, as appropriate.

Article fifty-two

1. All de facto possessors of property belonging to the Documentary and Bibliographical Heritage shall preserve and protect it, use it for purposes that do not impede its preservation and keep it in a suitable place.

2. Should any person under this obligation fail to comply with the provisions of the foregoing paragraph, the competent government department shall take the appropriate measures in accordance with Article 36.3 of this law. Non-compliance with these obligations, when, in addition, the demands of the government department are disregarded, may provide grounds in the public interest for the forced expropriation of the property concerned.

3. All persons under the obligation to preserve property forming part of the Documentary and Bibliographical Heritage shall facilitate inspections by the authorized bodies in order to verify the circumstances or state of the property, and shall allow said property to be studied by researchers following submission by the latter of a reasoned request. Private individuals may be excused from compliance with this latter obligation in the event that it constitutes a breach of their right to personal and family privacy and their personal image, under the conditions set forth in the relevant legislation.

4. The obligation to permit study by researchers may be waived by the competent government department, in exchange for the temporary deposit of the property in an archive, library or similar centre of a public nature which meets the appropriate requirements for the safety of the property and for research thereon.

Article fifty-three

Property of special importance belonging to the Documentary and Bibliographical Heritage shall be recorded in a special section of the General Inventory of movable property belonging to the Spanish Historical Heritage, in accordance with the procedure set forth in Article 26 of this law.

Article fifty-four

1. Those who by virtue of their office are responsible for the documents referred to in Article 49.2 of this law shall be required, on completing their term of office, to surrender them to their successors or to transfer them to the appropriate archives.

2. Unlawful retention of the documents referred to in the preceding paragraph by private individuals or institutions shall give rise to an order by the government department that has preserved, produced or collected them for such property to be transferred to a public archive, without prejudice to any liabilities that may be incurred.

Article fifty-five

1. Any exclusion or elimination of property from the Documentary and Bibliographical Heritage to which Article 49.2 refers and of other publicly owned property must be authorized by the competent government department.

2. In no circumstances may such documents be destroyed as long as they constitute proof of the rights and the obligations of individuals, corporations or public bodies.

3. In other cases, any exclusion or elimination must be authorized by the competent government department at the request of the owners or de facto possessors, in accordance with the official procedures.

Article fifty-six

1. The disposal, export and import of property forming part of the Documentary and Bibliographical Heritage shall be subject to the relevant provisions contained in Article 5 and in Sections III and IV of this law.

2. In any case, when such property is publicly owned, it shall be unexportable, excepting the provisions of Article 31 and 34 of this law.

Article fifty-seven

1. Consultation of documents forming part of the Spanish Heritage as defined in Article 49.2 shall proceed in accordance with the following rules:

(a) In general, such documents, once they have been processed, deposited and recorded in the Central Archives of the appropriate public corporations in accordance with the official procedures may be freely consulted except in the case of material classified under the Official Secrets Act or not to be publicly released under the express provisions of the law, or if its disclosure would jeopardize the security and defence of the State or the investigation of crime.

(b) The provisions of the preceding subparagraph notwithstanding, administrative authorization shall be requested for access to documents withheld from public consultation. That authorization may be granted, in the case of secret or restricted documents, by the authority which made the relevant declaration, and, in other cases, by the Head of the Administrative Division responsible for their safekeeping.

(c) Documents containing personal data from police, judicial or clinical records or of any other nature that may affect a person's safety, honour, privacy in personal matters or family life and personal image may not be publicly consulted without the express consent of the party or parties concerned or until twenty-five years have elapsed since the death thereof, if the date of death is known, or, if it is not, until fifty years have elapsed since the date borne by the documents.

2. The conditions under which the documents to which this article refers may be consulted and reproduced shall be established in accordance with official procedures.

Article fifty-eight

The examination of and final decision concerning questions of classification and utilization of documents belonging to the State Administration and the public sector, and their inclusion in archives, and the rules on the access to and on the administrative obsolescence of such documents, shall rest with a Supreme Commission for the Classification of Administrative Documents, whose membership, functioning and specific powers shall be defined in accordance with official procedures. Classification Commissions may likewise be formed in any public organizations that so decide.

CHAPTER II

Archives, Libraries and Museums

Article fifty-nine

1. Archives are homogenous sets of documents or a collection of several sets collected by public or private bodies corporate, in the course of their official activities, for purposes of research, culture, information and administrative management. Similarly, the term 'Archives' shall designate cultural institutions where such sets of documents are collected, conserved, organized and disseminated for the purposes mentioned above.

2. Libraries are cultural institutions where sets or collections of books, manuscripts and other bibliographical materials or materials reproduced by any method whatsoever, for reading in public reading rooms or on temporary loan for the furtherance of education, research, culture and information, are preserved, collected, selected, inventoried, catalogued, classified and disseminated.

3. Museums are institutions of a permanent nature where sets and collections of historical, artistic, scientific and technical value or of any other cultural nature are acquired, preserved, studied, communicated and exhibited for purposes of study and education and for public viewing.

Article sixty

1. Immovable property designated to house State-owned archives, libraries and museums together with the movable property forming part of the Spanish Historical Heritage that is kept therein shall be subject to the provisions of this law concerning property of cultural interest.

2. At the suggestion of the competent government departments, the government may extend the system provided for in the foregoing paragraph to other archives, libraries and museums.

3. The bodies authorized to implement this law shall monitor the compilation and updating of the catalogues, official registers and records of the collections of the institutions to which this article refers.

Article sixty-one

1. The State Administration may set up, after consultation of the relevant Autonomous Community, as many archives, libraries and museums as it considers useful in the light of cultural and social needs and without prejudice to the initiatives of other organizations, institutions or private individuals.

2. State-owned national archives, libraries and museums shall be established by Royal Decree.

3. The State Administration shall encourage communication and co-ordination among all State-owned archives, libraries and museums on Spanish soil. To that end, it may request from them all information that it deems necessary, inspect their operations and take measures to improve the attainment of their goals, under the terms of the relevant provisions of the management agreements with the Autonomous Communities.

Article sixty-two

The State Administration shall guarantee access by all Spanish citizens to State-owned archives, libraries and museums, without prejudice to any restrictions which, for purposes of preserving the property kept there or in view of the role of the institution itself, may be established.

Article sixty-three

1. State-owned archives, libraries and museums may accept the deposit in trust of privately owned property or property owned by other government departments in accordance with the official procedure to be established.
2. Property of cultural interest and property belonging to the Documentary and Bibliographical Heritage kept in State-owned archives and museums may not be removed without prior authorization, which must be granted by ministerial order. With regard to objects held in trust, the agreement concluded when the objects were deposited shall apply.
3. The same system for which the foregoing paragraph provides shall apply to property of cultural interest kept in State-owned libraries, without prejudice to any provisions concerning public loan services.

Article sixty-four

Any buildings which house State-owned archives, libraries and museums, and likewise any buildings or land on which they are to be established, may be declared of public utility for the purpose of their expropriation. Such a declaration may extend to adjacent buildings or land as required for reasons of safety, so that the buildings or the property which they contain may be adequately preserved.

Article sixty-five

1. Each Ministerial Department shall be responsible for the co-ordinated functioning of all the archives of the Ministry and of its subsidiary bodies with a view to the optimal fulfilment of the stipulations contained in this law and in the regulations for its application.
2. Documentation shall be regularly transferred from the subsidiary bodies of the State Administration to the State Archives in accordance with official procedures.

Article sixty-six

The archives, libraries and museums, and the teaching or technical services directly attached thereto, established in accordance with official procedures, shall constitute the Spanish System of Archives, the Spanish System of Libraries and the Spanish System of Museums, respectively.

SECTION VIII

Promotional Measures

Article sixty-seven

The government shall take the necessary steps to ensure that work of preservation, maintenance and restoration and archaeological prospections and excavations carried out on property declared of cultural interest shall have preferential access to public funds, made available in the established form in accordance with the official regulations governing such funds. For that purpose, the State Administration may specify the conditions, by means of agreements with individuals and public and private bodies, for the enjoyment of such entitlements to funds.

Article sixty-eight

1. The budget for public works financed wholly or in part by the State shall include a portion equivalent to at least 1 per cent of its funds which shall constitute an allocation payable by the State as a contribution to the financing of work to preserve or enhance the Spanish Historical Heritage or to encourage artistic creativity, preferably in respect of the work itself or its immediate surroundings.

2. In the event that public works are constructed and operated by private individuals under a government licence or without the financial participation of the State, the 1 per cent payable shall be calculated according to the total budget for the execution of the work.

3. The provisions of the foregoing paragraphs shall not apply to the following public works:

- (a) works whose total budget does not exceed one hundred million pesetas;
- (b) works undertaken for the security and defence of the State or for the security of public services.

4. The system for the practical use of funds accruing from the 1 per cent allocation mentioned in this article shall be established in accordance with official procedures.

Article sixty-nine

1. The tax benefits described in the following articles shall be established as an encouragement to the fulfilment of responsibilities and as compensation for the obligations imposed by this law on the owners or de facto possessors of property belonging to the Spanish Historical Heritage, in addition to the tax exemptions provided for in the regulations governing Urban Land Taxation and the Special Tax on Private Wealth.

2. In order to be entitled to such benefits, excepting the provisions of Article 72.1, the property concerned must be registered beforehand in the General Register instituted by Article 12 in the case of property of cultural interest, and in the General Inventory to which Articles 26 and 53 refer in the case of movable property. In the case of Historical Complexes, Historical Sites or Archaeological Areas, only the immovable property included therein which complies with the established regulations shall be regarded as registered.

3. Under the terms established by the bye-laws, immovable property declared of cultural interest shall be exempted from the payment of the other local taxes levied on property or required for enjoyment or transmission thereof, in the event that the owners or holders of rights of possession have undertaken or carried out, at their own expense, work of conservation, improvement or restoration on that immovable property.

4. The compensation shall under no circumstances be payable from the General State Budget to the Town Councils concerned.

Article seventy

1. Individual income tax payers shall be entitled to a deduction from their taxable quota equivalent to 20 per cent of any investments made in the acquisition, preservation, repair, restoration, dissemination and exhibition of property declared of cultural interest, in accordance with official procedures. The total amount deducted may not under any circumstances exceed 30 per cent of the basis of assessment.

2. Likewise, such income tax payers shall be entitled to deduct from their taxable quota 20 per cent of any direct gifts made in the form of property belonging to the Spanish Historical Heritage, provided that they are made to the State and to other public bodies, and likewise of gifts made to establishments, institutions, foundations or associations, and even de facto gifts of a temporary nature, with a view to the release of funds, which are classified or declared to be beneficial or in the public interest by the competent State bodies, when the owners, legal representatives and managers of such associations are in fact volunteer workers and are accountable to the appropriate protective body. The basis, for this deduction may not exceed 30 per cent of the basis of assessment.

Article seventy-one

1. Those liable to corporate tax shall be entitled to deduct from the net taxable quota, after deduction from the gross amount of the sum total of deductions for double taxation, and, where appropriate, of the deductions referred to in Article 25 of the Corporate Tax Law, a percentage of the sum total of the amounts earmarked for the acquisition, preservation, repair, restoration, dissemination and exhibition of property declared of cultural interest in accordance with official procedures.

2. For the purposes of corporate taxation, direct gifts of property that forms part of the Spanish Historical Heritage made under the conditions set out in Article 70.2 shall be regarded as deductible from gross profits in calculating the bases of assessment. The total deduction may not exceed 30 per cent of the basis of assessment.

Article seventy-two

1. Works of art shall be exempt from luxury tax and from business tax, provided that their authors are living at the time of the transfer of property.

2. The import of movable items that are included in the Inventory or declared of cultural interest, in accordance with Articles 26.3 and 32.3 respectively, shall be exempt from all taxation. The submission of an application for such exemption by the owners of the items in question at the time of import shall have the effect of suspending all tax debts.

Article seventy-three

Payment of tax debts in respect of inheritance tax, tax on wealth and individual income tax may be made by surrendering property that forms part of the Spanish Historical Heritage, in accordance with the official procedures.

Article seventy-four

The valuations required for the application of the promotional measures established under this section shall be carried out in all cases by the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, under the terms of and in accordance with the official procedure established. Having regard to the foregoing article, such valuations shall not be binding on the party concerned, who may opt for payment in cash.

SECTION IX

Administrative Infringements and Punishment thereof

Article seventy-five

1. The export of movable property belonging to the Spanish Historical Heritage in the absence of the authorization for which Article 5 of this law provides shall be an offence or, where applicable, an infringement of regulations on contraband, in accordance with legislation on the subject. All those persons involved in the export of the property and those who, by their fraudulent or negligent actions or omissions, have facilitated it or made it possible, shall be held jointly responsible for the infringement or offence committed.

2. Determination of the value of property unlawfully exported shall be effected by the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, under the authority of the State Administration, whose members and duties shall be established in accordance with official procedures.

Article seventy-six

1. Except in cases where the acts listed below constitute an offence, such acts shall constitute administrative infringements and shall be punishable in accordance with the provisions of this article:

- (a) non-compliance by the owners or holders of rights of possession or de facto possessors of property with the provisions contained in Articles 13, 26.2, 4 and 6, 28, 35.3, 36.1 and 2, 38.1, 39, 44, 51.2 and 52.1 and 3;
- (b) illicit retention or unwarranted surrender of documents as defined in the provisions of Article 54.1;
- (c) the granting of licences for the execution of work that does not comply with the provisions of Article 23;
- (d) the execution of work on Historical Sites or Archaeological Areas without the authorization required by Article 22;

- (e) the execution of any type of work or intervention that contravenes the provisions of Articles 16, 19, 20, 21, 25, 37 or 39;
- (f) the execution of archaeological excavations or any other illicit work as defined in Article 42.3;
- (g) the demolition, displacement or illegal removal of any immovable property concerning which a procedure has been initiated for said property to be declared of cultural interest;
- (h) the unlawful export of property to which Articles 5 and 56.1 of this law refer;
- (i) non-compliance with the conditions governing return laid down with regard to temporary and lawfully authorized export;
- (j) the exclusion or elimination of property from the Documentary and Bibliographical Heritage in breach of the provisions of Article 55.

2. When the injury to the Spanish Historical Heritage caused by the infringements to which the foregoing paragraph refers can be evaluated in financial terms, the infringement shall be punished by a fine four times the equivalent of the value of the damage caused.

3. The following penalties shall be imposed in all remaining cases:

- (A) A fine not exceeding 10,000,000 pesetas in cases (a) and (b) of paragraph 1.
- (B) A fine not exceeding 25,000,000 pesetas in cases (c), (d), (e) and (f) of paragraph 1.
- (C) A fine not exceeding 100,000,000 pesetas in cases (g), (h), (i) and (j) of paragraph 1.

Article seventy-seven

1. Administrative penalties shall require the initiation of proceedings during which the party concerned shall be heard in order to determine the facts of the case, and such penalties shall be proportionate to the seriousness of those facts, to the personal circumstances of the party penalized and to the prejudice which was caused or which could have been caused to the Spanish Historical Heritage.

2. Fines to which different persons are liable as a result of the same infringement shall be independent of one another.

Article seventy-eight

Fines not exceeding 25,000,000 pesetas shall be levied by the bodies authorized to implement this law. Amounts in excess of 25,000,000 pesetas shall be levied by the Council of Ministers or by the Governing Councils of the Autonomous Communities.

Article seventy-nine

1. Administrative infringements of the provisions of this law shall remain punishable for a period of five years following the date of their commission, except for those mentioned in paragraphs (g), (h), (i) and (j) of Article 76.1, which shall remain punishable for a period of ten years following the date of their commission.
2. Chapter II of Section VI of the Administrative Procedures Law shall apply to all matters not covered in this section.

ADDITIONAL PROVISIONS

First. Items of property which have previously been declared artistic and historical or are included in the Inventory of the Artistic and Archaeological Heritage of Spain shall henceforward be considered and known as Property of Cultural Interest; movable items which have been declared part of the national treasury or which have been included in the Inventory of the Historical and Artistic Heritage shall henceforward have the status of property inventoried in accordance with Article 26 of this law, without prejudice to the possibility of their being declared Property of Cultural Interest. All such items shall be subject to the system of rules established by this law with regard to such property.

Second. Property covered by the Decrees of 22 April 1949, and by Decrees 571/1963 and 499/1973, shall likewise be considered of cultural interest and shall be subject to the same system.

Third. 1. The documents contained in the Inventory of the Artistic and Archaeological Heritage of Spain shall be included in the General Register to which Article 12 of this law refers.

2. The documents contained in the Inventory of National Art Treasures shall be included in the General Inventory of movable property provided for in Article 26.

3. Likewise, the documents in the Register-Guide of Archives shall be included in the Register of the Documentary Heritage and those in the General Catalogue of Bibliographic Treasures shall be recorded in the Union Catalogue.

4. The documents to which the foregoing paragraphs refer shall be registered by the General Directorate of Fine Arts and Archives not more than one year following the entry into force of this law.

Fourth. The requirement to which Article 69.2 of this law refers shall also be binding on the holders of the property mentioned in Article 6 (j) of Law 50/1977 of 14 November 1977 on Urgent Tax Reform, in order that they may benefit from the exemptions for which that article makes provision. That requirement is included among those laid down in Royal Decree 1382/1978 of 2 June 1978 and the reference to the inventory contained in Article 2 of that Decree is henceforth null and void.

Fifth. Movable and immovable items that form part of the national heritage shall be subject to the provisions of this law and may be covered by Article 1, without prejudice to their utilization and to the specific legal system governing them.

Sixth. The government shall negotiate under the appropriate international agreements, conventions and treaties, clauses for the return to Spanish soil of cultural property that has been unlawfully exported.

Seventh. Without prejudice to the provisions of this law, the government departments responsible for its implementation shall also be subject to international agreements duly signed by Spain. The activities of these government departments shall likewise be directed towards compliance with the resolutions and recommendations for the protection of the historical heritage adopted by international bodies of which Spain is a member.

Eighth. The acceptance of gifts, bequests or legacies to the State, even when the beneficiary named is another administrative body, which comprise any type of property that is an expression or manifestation of human creativity and is of cultural value, be it historic, artistic, scientific or technical, shall be the responsibility of the Ministry of Culture, on the understanding that the inherited property once accepted, shall be entered in the inventory.

That Ministry shall also be responsible for the acceptance of gifts in cash made with the specific and concrete purpose of acquiring, restoring or improving any such property. The sum total of the gift shall be deposited in the Exchequer and the funds shall be included in the budget of the Ministry of Culture under the appropriate heading.

The Ministry of the Economy and Finance shall be informed by the Ministry of Culture of all gifts, bequests or legacies accepted in accordance with the provisions of the foregoing paragraphs.

TRANSITIONAL PROVISIONS

First. While precise rules for the operation and application of this law are being prepared, the regulations governing the Spanish Artistic and Historical Heritage, documentary and bibliographical treasures, archives, libraries and museums shall be deemed applicable in all matters that do not contravene the provisions of this law.

Second. Within one year from the entry into force of this law, the government, on the proposal of the Ministry of Culture, shall issue the Regulations on the organization, operations and staff of State-owned archives, libraries and museums, and on the technical or teaching units attached thereto or connected with activities pertaining to the State Administration in matters of the safeguarding of the Spanish Historical Heritage.

Third. All those who, when this law comes into force, are owners, de facto possessors or holders of any of the property to which Articles 26 and 53 of this law refer, shall have one year within which to inform the relevant government department of the existence of said property, in which case the communication shall entail exemption, in respect of such property, from any previously unpaid taxes or levies and from any liability in respect of the Public Finance Department or other government bodies incurred through non-compliance, or payable in the form of penalties, surcharges or interest on arrears.

Fourth. The government, on the proposal of the Ministries of the Economy, Finance and Culture, shall set forth in accordance with the official procedure the conditions for the exemption to which the foregoing transitional provision refers, and shall also regulate the scope and budget of the process of re-evaluation of works for taxation purposes.

Fifth. During the ten years following the entry into force of this law, the provisions of Article 28.1 thereof shall apply to movable items forming part of the Spanish Historical Heritage which are in the possession of ecclesiastical institutions.

Sixth. 1. The formalities and effects of procedures for the declaration of immovable property of historical and artistic value initiated before the entry into force of this law shall be governed by the laws under which they have been initiated, but in any case a final decision thereon shall be announced by Royal Decree in accordance with the categories specified in Article 14.2 of this law.

2. In Historical Complexes which have already been declared and for which there is a special protection plan or any other planning instrument for the area concerned by the declaration that has been approved before the entry into force of this law, the authorization of work shall be governed by the provisions of Article 20.3, pending receipt of the favourable opinion on the planning instrument in question from the competent government department. For these purposes, the opinion shall be deemed to be favourable when not less than one year has elapsed after the plan has been submitted in the event that no express decision thereon has been announced.

Seventh. Not later than five years after the entry into force of this law, all commercial advertising and all cables and pipes to which Article 19.3 refers shall be removed by those responsible for placing them in position.

Eighth. The beauty spots to which the transitional provisions of Law 15/1975 of 2 May 1975 on Protected Natural Sites refer, pending their reclassification in accordance with its final provisions, shall maintain their status as property of cultural interest.

FINAL PROVISION

1. The government is authorized to issue, in addition to the regulations for which this law makes express provision, any regulations that may be needed for its implementation.

2. The government is likewise authorized to take steps, in accordance with the official procedure, to update the amounts of the fines laid down in Article 76 of this law, provided that the percentages of the increases thereby established are in no case greater than the official cost of living index.

3. The Law on the General State Budgets may, each year, establish the criteria for updating the basis of assessment and the rates of the export levies to which Article 30 refers.

4. The Government is also authorized to issue instructions, on the initiative of the Ministry of Culture and at the suggestion of the Ministry of the Interior, to set up within the national Armed Forces a research group composed of personnel specializing in areas covered by the present law and appointed to prosecute for any infringements thereof.

SCHEDULE

1. The following are hereby abrogated: the Law of 7 July 1911 on Archaeological Excavations; the Royal Decree-Law of 9 August 1926 on the Safeguarding, Conservation and Augmentation of Art Treasures; the Law of 10 December 1931 on the Sale of Artistic, Archaeological and Historical Property More than One Hundred Years Old; the Law of 13 May 1933 on the Protection, Conservation and Augmentation of the Historical Art Heritage; the Law of 22 December 1955 on the Conservation of the Historical Art Heritage, Decree 1641/1959 of 23 September 1959 on the Export of Objects of Archaeological or Artistic Value and Interest and Imitations or Copies Thereof; and Law 26/1972 of 21 June 1972 on the Protection of National Documentary and Bibliographical Treasures, excluding the provisions concerning the National Centre for Documentary and Bibliographical Treasures, which shall none the less have the force of regulations; and Royal Decree 2832/1978 of 28 October 1978 on the cultural allocation of 1 per cent.

2. All provisions that conflict with the provisions of this law are likewise hereby repealed.

Wherefore,

I order all Spanish people, both private individuals and authorities, to keep and to enforce compliance with this law.

Zarzuela Palace, Madrid, 25 June 1985.

JUAN CARLOS R.

The President of the Government,
FELIPE GONZALEZ MARQUEZ

ROYAL DECREE 111/1986 OF 10 JANUARY PARTIALLY INTERPRETING
LAW 16/1985 of 25 June on the Spanish Historical Heritage⁽¹⁾

Law 16/1985 establishes the new legal framework for the protection, augmentation and transmission to future generations of the Spanish Historical Heritage.

The Law contains precise regulations on the substantive elements but defers for later elaboration the rules on procedural and organizational matters; accordingly, a body of rules and regulations is required to complete and clarify these matters so that the Law may take effect immediately.

This Royal Decree, which regulates in Section I the organization and operation of the collegial bodies mentioned in Article 3 of the Law, meets this requirement, since the latter have a crucial role to play in enforcing the regulations and in planning and co-ordinating activities to protect and enrich the Spanish Historical Heritage.

Section II deals with the basic administrative instruments required to give effect to the categories of special protection for which the Law provides and to permit property so protected to be monitored and controlled by the appropriate bodies.

Of relevance to the above-mentioned instruments are the rules governing the transfer and export of property of special cultural interest, contained in Section III, which endeavours to reconcile the requirements of speed and promptness peculiar to commercial transactions with the need to safeguard and protect this Heritage.

The taxation measures for which the Law provides as an incentive to its enforcement are covered in Section IV of this Royal Decree. In these regulations, emphasis has been laid on the criteria of the objectiveness and transparency specific to rules of this type, and on the advisability of promoting compliance with the obligations imposed by the Law on the owners and holders of property belonging to the Spanish Historical Heritage.

Lastly, this Royal Decree, which does not exhaust the provisions of Law 16/1985, endeavours not to repeat the provisions contained therein, except where this is necessary for the sake of clarity.

Consequently, pursuant to the authorization granted to the government in Final Provision 1 of Law 16/1985, at the suggestion of the Ministry of Culture, which works jointly with the Ministry of the Economy and Finance in respect of Section IV, the Second and Third Additional Provisions and the First and Third Transitional Provisions, and on the initiative of the Ministry of Culture and at the suggestion of the Ministry of the Interior in respect of the First Additional Provision, with the approval of the Presidency of the Government, having heard the Council of State and after deliberations by the Council of Ministers at its meeting on 10 January 1986,

(1) Unofficial translation prepared by Unesco.

I HEREBY PROVIDE:

SECTION I

Collegial Bodies

Article 1

The Historical Heritage Council, the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage and the other collegial bodies specified in this Section shall contribute to the enforcement of the Law on the Spanish Historical Heritage by discharging the functions assigned to them in that Law and in this Royal Decree.

CHAPTER I

Historical Heritage Council

Article 2

The essential purpose of the Historical Heritage Council shall be to facilitate communication and the exchange of programmes of action and information relating to the Spanish Historical Heritage between the State Administration and the Autonomous Communities.

Article 3

In particular, it shall be the duty of the Historical Heritage Council to:

- (a) Be familiar with the programmes of action, both national and regional, relating to the Spanish Historical Heritage, and with the results of these.
- (b) Prepare and approve the National Information Plans on the Spanish Historical Heritage to which Article 35.1 of Law 16/1985 refers.
- (c) Prepare and propose training and information campaigns on the Spanish Historical Heritage.
- (d) Communicate the measures to be adopted to ensure that there is the necessary collaboration in fulfilling international commitments entered into by Spain which affect the Spanish Historical Heritage.
- (e) Report on the destination of items recovered from illegal export to which Article 29 of Law 16/1985 refers.
- (f) Issue reports on any subjects related to the Spanish Historical Heritage submitted to it by the Chairman of the Council for consultation.
- (g) Discharge any other duties assigned to it by any legal or regulatory provision within the framework of the Council's jurisdiction.

Article 4

The Historical Heritage Council, which will be attached to the Ministry of Culture, and have its Headquarters in Madrid, shall comprise the following:

- (a) Chairman: The Director General for Fine Arts and Archives of the Ministry of Culture, except in the case of monographic meetings on the Bibliographical Heritage which shall be chaired by the Director-General of Books and Libraries.
- (b) Members: One to represent each Autonomous Community, appointed by its Governing Council.

Article 5

Council members may attend meetings accompanied by an Adviser with the right to speak but not to vote.

Article 6

1. The Council shall hold both plenary and commission meetings.
2. The Council shall hold a plenary meeting at least once every six months in ordinary session and in extraordinary session, following a decision by the Chairman or a request by half its members plus one.
3. The commissions shall have a preparatory function with regard to the matters submitted to the plenary meeting for decision which the latter entrusts to them.
4. The Council may also call on experts and set up committees of experts as it sees fit for the optimum discharge of its duties.
5. The Historical Heritage Council shall have a Secretary to provide administrative assistance who shall attend its meetings with the right to speak but not to vote, and who shall:
 - (a) prepare, under the guidance of the Chairman, the agendas of Council meetings and send out invitations to those meetings;
 - (b) write the minutes of Council meetings and dispatch certified copies.

The Chairman of the Council shall appoint the secretary from among the Assistant Directors-General of the Ministry of Culture.

6. The Council shall operate and make decisions in accordance with the stipulations of Section I, Chapter Two, of the Law on Administrative Procedures.

None the less, decisions on matters covered by Article 3, subparagraphs (b), (d), and (e) and Article 58 (i) of this Royal Decree, shall be deemed to have been duly adopted only if the Chairman of the council votes with the majority.

CHAPTER II

Board for the Classification, Assessment and Export of
Property belonging to the Spanish Historical Heritage

Article 7

1. The Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, attached to the General Directorate of Fine Arts and Archives of the Ministry of Culture, shall be composed of:
 - (a) eighteen members appointed by the Minister of Culture, fifteen of whom shall be proposed by the Director-General of Fine Arts and Archives and three by the Director-General of Books and Libraries, among persons of recognized authority in the Board's various fields of action;
 - (b) four members appointed by the Minister of Finance and Economic Affairs, one at the suggestion of the Director-General of Customs and Excise, and three at the suggestion of the Director-General of Inland Revenue.
2. The Minister of Culture shall freely appoint a Chairman and Vice-Chairman from the members of the Board proposed by the Director-General of Fine Arts and Archives.
3. The term of office of a member of the Board shall be two years and members shall be eligible for reappointment.
4. The incumbent representing the unit attached to the Office of the Assistant Director General for the Protection of the Historical Heritage designated by the Director-General of Fine Arts and Archives shall act as Secretary of the Board with the right to speak but not to vote.

Article 8

The Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage shall, in respect of such property:

- (a) Grant or reject applications for export licences to which Article 5.2 of Law 16/1985 refers.
- (b) Investigate applications for licences for temporary removal from Spain, pursuant to Article 31 of Law 16/1985, of items which have not been declared of cultural interest or non-exportable.
- (c) Investigate any transfer of State-owned movable items that the Government may plan to organize with other States, to which Article 34 of Law 16/1985 refers.
- (d) Establish the value of items exported illegally for the purpose of determining the appropriate penalty.

- (e) Assess property that is to be surrendered to the State in payment of tax debts and make any other assessments that may be required in order to implement the promotional measures set forth in Section VIII of Law 16/1985.

To that end, it may request reports from experts and from the consultative institutions to which Article 3.2 of Law 16/1985 refers. In making the assessment, the members of the Board and the experts that it appoints shall have access to the property in order to examine it. In the case of movable property the Board may agree to its being deposited in an official establishment.

- (f) Assess property that the Ministry of Culture plans to acquire for State-owned libraries, archives and museums when the latter do not have their own valuation units, and report on the exercise of the rights of pre-emptive bidding and purchase by the State Administration under the terms of this Royal Decree.
- (g) Perform any other duties assigned to it by any legal provision, or regulation.

Article 9

1. The Board shall hold an ordinary plenary meeting once a month and an extraordinary plenary meeting following a decision by the Chairman or a request by half its members plus one.
2. The Board may form internal committees composed of a minimum of three of its members, to which it may delegate the exercise of the following powers:
 - To grant or reject applications for export licences, in accordance with Article 5.2 of Law 16/1985, for items whose financial value does not exceed five million pesetas.
 - To report on applications for temporary export licences in accordance with Article 31 of Law 16/1985, for items that have not been declared of cultural interest or non-exportable.
 - To make assessments and report on the exercise of the rights of pre-emptive bidding and purchase in accordance with paragraph (f) of the foregoing article. When the estimated value is greater than five million pesetas, the file shall be transferred to the plenary meeting for decision.
3. The Board may also set up committees which shall prepare any matters to be submitted for decision to the plenary meeting that the latter may entrust to them.
4. An Assessment Commission shall be formed, comprising four members appointed by the Minister of Culture at the suggestion of the Director-General of Fine Arts and Archives from among those mentioned in subparagraph (a) of Article 7 and the four members mentioned in subparagraph (b) of the same article.

The Minister of Finance and Economic Affairs, at the suggestion of the Director-General of Inland Revenue, shall appoint the Chairman of the Commission from among its members.

This Commission shall assess items to which subparagraph (e) of Article 8 and the First and Second Transitional Provisions of this Royal Decree refer.

The methods of operation and decision-making of the Commission shall comply with the provisions laid down in Chapter II of Section I of the Law on Administrative Procedures.

5. The Board may request reports or studies from specialists or institutions on any aspects that it deems necessary for the performance of its duties.
6. The functioning of the Board and the abstention or recusation of its members shall be in keeping with the provisions laid down in Section I, Chapters II and IV, respectively, of the Law on Administrative Procedures.
7. Members of the Board shall be entitled to service indemnities, where appropriate, and corresponding remuneration for their advisory work with due regard to the provisions of current legislation on incompatibility.

CHAPTER III

Consultative Institutions

Article 10

For the purposes of Article 3.2 of Law 16/1985, the consultative institutions of the State Administration shall be:

- (a) The Higher Council for Monuments and Historical Complexes
- (b) The Higher Council for Archives
- (c) The Higher Council for Libraries
- (d) The Higher Council for Rock Art
- (e) The Higher Council for Museums
- (f) The Higher Council for Archeological Excavations and Explorations
- (g) The Higher Council for Ethnology.

SECTION II

Administrative Instruments

CHAPTER I

Declaration of Property of Cultural Interest

Article 11

1. It shall be incumbent on each Autonomous Community to initiate, ex officio or at the request of any person whatsoever, procedures to declare of cultural interest any publicly or privately-owned property located within its territorial jurisdiction, notwithstanding the provisions of the following paragraph.
2. It shall be the responsibility of the Ministry of Culture to institute, ex officio or at the request of any person whatsoever proceedings to declare of cultural interest any property belonging to the Spanish Historical Heritage registered with government offices managed by the State Administration or forming part of the National Heritage.

The Ministry of Culture shall also institute such proceedings in respect of publicly or privately-owned property if the appropriate Autonomous Community has been requested to institute proceedings for the purposes of Article 4 of Law 16/1985 and if that request has been disregarded.

The request shall be deemed to have been disregarded if, one month after it has been made, the Autonomous Community has not instituted proceedings or has not taken any other adequate protective steps to obviate the danger of loss or destruction of all or part of the value of the items covered by the request or disruption of the social function thereof.

Article 12

1. The document instituting the proceedings shall, for identification purposes, describe the property concerned. In the case of immovable items, the instituting document shall also circumscribe the area affected, giving reasons therefor. In the case of a building which contains movable items belonging to the Spanish Historical Heritage which should be covered by the Declaration of Property of Cultural Interest because of their links with the history of that building, such items shall be adequately described in the instituting document so as to permit their identification, without precluding the addition of further comments in the course of the proceedings.
2. The parties concerned shall be notified of the institution of proceedings when movable items, historical monuments and gardens are concerned and, in any event, the Town Council in whose municipal district they are located shall be notified thereof when immovable items are concerned.

The institution of proceedings shall also be published in the 'Official State Gazette', without prejudice to its entry into effect as from the time

of notification, and shall be communicated to the General Register of property of cultural interest for provisional registration.

3. The institution of proceedings shall determine, in respect of the item concerned, the provisional application of the system of protection envisaged for property of cultural interest.

Article 13

1. The State Administration instituting the proceedings shall be responsible for making the inquiries pertaining thereto and may request the owners or holders of rights of possession to have the property inspected and to provide any information concerning it that it deems necessary.
2. The collection of all relevant documents shall be carried out in accordance with the provisions of Article 9 of Law 16/1985 and in compliance with the general rules and regulations governing administrative procedures. In the case of immovable property a period of public information shall be opened and the Town Council concerned shall be given a hearing.
3. If the body handling the proceedings requests the standard report from a consultative institution and the latter, on account of its specialized function, does not consider itself qualified to issue the report, it shall decline the request within fifteen days of receiving it.

Article 14

1. Once all the documents in the case have been collected by the appropriate Autonomous Community, its competent body shall adopt a decision on the source of the declaration which shall be brought to the notice of the interested parties.
2. When the Autonomous Community considers it appropriate to declare a given property of cultural interest because it meets the necessary requirements to enjoy such protection, it shall urge the Government to adopt that declaration. To that end, it shall inform the Ministry of Culture that the mandatory formalities for instituting the proceedings and collecting the relevant documents have been completed and shall attach an abstract of the file showing the data required for the declaration and the written documents listed in Annex 1.
3. The above-mentioned documents shall be submitted within fifteen months of the institution of proceedings.
4. If the proceedings have been instituted by the Autonomous Community at the request of the Ministry of Culture and if the documents have not been submitted within the time-limit set in the foregoing subparagraph, the said Ministry may request the said Community to submit same within one month, and in the event of failure to do so, shall replace it for the purpose of completing the proceedings.

Article 15

The Declaration of Property of Cultural Interest shall be made by Royal Decree on the initiative, where appropriate, of the relevant Autonomous Community and at the suggestion of the Ministry of Culture.

The Royal Decree in which property is declared to be of cultural interest shall describe it clearly for identification purposes and where appropriate shall contain the specifications to which Articles 11.2 and 27 of Law 16/1985 refer.

Article 16

1. Once the Royal Decree on the Declaration of Property of Cultural Interest has been published, the declaration shall be officially entered in the General Register to which Article 12 of Law 16/1985 and Article 21 of this Royal Decree refer.
2. With regard to Historical Monuments and Gardens, the Government department which collected the documents shall officially enter the declaration in the Property Register free of charge.

The administrative certificate, issued by the Authority responsible for the protection of the immovable property concerned, declaring it to be a Historical Monument or Garden, shall be a sufficient warrant for its entry in the Register.

Article 17

1. It shall be the responsibility of the Autonomous Community in which the property declared to be of cultural interest is located to institute, either spontaneously or at the instigation of the holder of a legitimate and direct interest, any proceedings to nullify the declaration, except in the case for which the following paragraph provides.
2. It shall be the duty of the Ministry of Culture to institute, either spontaneously or at the instigation of the holder of a legitimate and direct interest, such proceedings in respect of property of cultural interest which is assigned to government departments under the orders of the State Administration or which forms part of the National Heritage.

Article 18

The institution of the proceedings shall be announced and published under the terms of Article 12.2 of this Royal Decree and the procedure shall take place in accordance with the provisions of Article 13 thereof.

Article 19

1. Once the relevant documents have been collected by the appropriate Autonomous Community, the competent body thereof shall adopt a decision on the desirability or otherwise of nullifying the declaration, which shall be brought to the notice of the interested parties.
2. In the event that the Autonomous Community deems it appropriate to nullify the declaration of an item as Property of Cultural Interest, it shall submit a request to the Government to that effect. For that purpose it shall transmit its reasoned decision to the Ministry of Culture in which it shall state that the formalities laid down for handling the proceedings have been accomplished and shall attach a copy of the favourable reasoned report in accordance with Article 9.5 of Law 16/1985.

Article 20

1. It shall be the responsibility of the Ministry of Culture to submit to the government on the initiative, where appropriate, of the relevant Autonomous Community, the Royal Decree nullifying the declaration of a given item as being of cultural interest.
2. The said resolution shall nullify the registration of the property in the General Register of Property of Cultural Interest.
3. The Royal Decree nullifying the declaration in respect of Historical Monuments or Gardens shall annul the corresponding entry in the Property Register. The administrative certificate issued by the authority responsible for the protection of the immovable property covered by the resolution nullifying said declaration shall suffice for this annulment.

CHAPTER II

General Register of Property of Cultural Interest

Article 21

1. The purpose of the General Register of Property of Cultural Interest is to register and record deeds with a bearing on the identification and location of property belonging to the Spanish Historical Heritage declared of cultural interest. It shall be held by the General Directorate of Fine Arts and Archives of the Ministry of Culture, which, through the Office of the Assistant Director-General for the Protection of the Historical Heritage, shall be responsible for compiling and updating said Register.
2. Each item entered in the General Register shall be given a serial number.
3. In addition to the data contained in the procedural extract of the declaration, the following information shall be entered in the Register:
 - (a) Date of the Declaration of Cultural Interest and its publication in the 'Official State Gazette'.
 - (b) Agreed arrangements for inspection or, where appropriate, deposits for the exhibition of the property in accordance with Article 13.2 of Law 16/1985 which, for this purpose, the competent Government department shall communicate to the Register.
 - (c) Conveyances by deed inter vivos or mortis causa and transfers. For this purpose, owners and de facto possessors shall communicate such deeds to the General Register providing where appropriate notarial copies, or registration or administrative certificates of the documents recording such deeds.
 - (d) Repayable advances paid in accordance with Article 36.3 of Law 16/1985, granted by the State Administration, which shall be officially recorded.
 - (e) Any restoration work reported by the authorizing body.

4. Any official entering of an item shall be brought to the notice of the holder of that item.
5. The General Register shall attest only to information recorded in it for the purposes specified in Law 16/1985.

Article 22

1. The express consent of the holder shall be required for public consultation of the information contained in the General Register on:
 - (a) The legal status and value of the property registered.
 - (b) Its location, in the case of movable items, when the obligation of granting public access under Article 13.2 of Law 16/1985 has been totally waived by the competent Government department.
2. Failing the holder's consent to release information on the location of the item, if there is a reasoned request to study it for duly authenticated research purposes, the Office of the Assistant Director-General for the Protection of the Historical Heritage shall transmit it to the body responsible for the protection of the item so that the latter may decide on appropriate measures to permit access thereto without, however, revealing the information mentioned in subparagraph 1.
3. In the case of Archaeological Areas where the excavations are not open to the public, the body responsible for the protection of the property shall be required to authorize investigation of the location of the Area.

Article 23

1. At the request of the owner or holder of rights of possession in regard to property of cultural interest, or, where appropriate, the Town Council concerned, the Registry shall deliver an official title deed, a model of which is contained in Annex 2 to this Royal Decree, which shall record all legal or artistic transactions affecting the property registered.
2. The Office of the Assistant Director-General for the Protection of the Historical Heritage shall take whatever steps may be necessary to update the title deed at the request of the interested party, who shall substantiate the legal or artistic transaction that is to be recorded.

CHAPTER III

General Inventory of Movable Property

Article 24

1. The General Inventory shall include movable items belonging to the Spanish Historical Heritage not declared to be of cultural interest that are of particular importance because of their outstanding historical, archaeological, artistic, scientific, technical or cultural value. It shall be kept by the General Directorate of Fine Arts and Archives of the Ministry of Culture which, through the Office of the Assistant Director-General for the Protection of the Historical Heritage shall be responsible for the compilation and updating of the said General Inventory.

2. Each item recorded in the General Inventory shall have a serial number.
3. In addition to the information contained in the registration certificate mentioned in Article 30, the following particulars shall be entered in the General Inventory in respect of items recorded therein:
 - (a) Date of registration of the item in the General Inventory.
 - (b) Conveyances by deed inter vivos or mortis causa and transfers of those items.
 - (c) The repayable advances, for which Article 36.3 of Law 16/1985 makes provision, granted by the State Administration.
4. The above-mentioned registrations and communications shall be made in accordance with the provisions of subparagraphs 3(c), 3(d) and 4 of Article 21 of this Royal Decree.
5. The General Inventory shall attest only to acts recorded for the purposes specified in Law 16/1985.

Article 25

1. Public consultation of data concerning the legal status, location and financial assessment of items shall not be permitted without the express consent of the owner, in accordance with Article 57.1(c) of Law 16/1985.
2. Failing the owner's consent to release information on the location of the item, if there is a reasoned request to study it for duly authenticated research purposes, the Office of the Assistant Director-General for the Protection of the Historical Heritage shall inform the body responsible for the protection of the item so that it may take appropriate steps to grant access thereto, without, however, disclosing the information specified in the preceding subparagraph.

Article 26

1. For the sole purpose of facilitating the compilation of the General Inventory, the obligation to submit information imposed by Law 16/1985 in Article 26.4 on owners or de facto possessors and persons or bodies habitually dealing in movable items belonging to the Spanish Historical Heritage shall be confined to the following items:
 - (a) items for which proceedings have been instituted for their inclusion in the General Inventory as long as those proceedings have not been completed;
 - (b) items forming part of the Spanish Historical Heritage, whose economic value is equal to or higher than the amounts indicated below:
 - seven million pesetas in the case of pictorial works and sculptures less than one hundred years old;
 - five million pesetas in the case of pictorial works more than one hundred years old;
 - four million pesetas in the case of sculptural works, reliefs or bas reliefs more than one hundred years old;

- three million pesetas in the case of tapestries, carpets or historical fabrics, engravings, collections of documents in whatever medium, printed books and historical musical instruments;
 - two million pesetas in the case of furniture;
 - one million pesetas in the case of ceramics, porcelain or old crystal, single documents in whatever medium and handwritten books;
 - five hundred thousand pesetas in the case of archaeological objects;
 - one hundred thousand pesetas in the case of ethnographical objects;
- (c) Items specified by the government in a Royal Decree in response to a proposal by the Ministry of Culture.
2. The persons or bodies mentioned in the preceding paragraph shall, in writing, inform the body responsible for the protection of the Spanish Historical Heritage of the Autonomous Community under whose territorial jurisdiction the item is located of its existence before transferring it to third parties, and, where applicable shall indicate the agreed price.

Article 27

1. Persons or bodies habitually dealing in movable property belonging to the Historical Heritage shall compile, for the body responsible for the protection of that heritage in the appropriate Autonomous Community, a registration book of transactions made regarding the items listed in the preceding article.
2. Data shall be noted in the registration book concerning the parties involved in the transfer of the item, which shall be described in summary form, specifying the price.
3. Without prejudice to the jurisdiction of the respective Autonomous Communities and that legally pertaining to other bodies, the Ministry of Culture shall also have access to these registration books for purposes of knowledge and evaluation of the Spanish Historical Heritage.

CHAPTER IV

Inclusion of Items in the General Inventory

Article 28

1. The Ministry of Culture, in collaboration with the bodies of the Autonomous Communities responsible for the protection of the Spanish Historical Heritage, shall compile the General Inventory of Movable Property.

2. Authority to initiate as a matter of course or at the request of the interested parties procedures for inclusion in the General Inventory shall be governed by the provisions contained in Article 11 of this Royal Decree.
3. When the owner or other holder of rights of possession on an item submits a duly documented application for the initiation of the procedure for said item to be included in the General Inventory, the competent body of the relevant Autonomous Community shall within four months complete the proceedings in accordance with the provisions of Article 26.3 of Law 16/1985.

Article 29

1. The institution of proceedings shall be notified, where appropriate, to the interested parties and shall be communicated to the General Inventory for provisional registration. That communication shall contain a description of the item that shall suffice for its identification.
2. The proceedings shall be handled in accordance with the general rules of administrative procedure.
3. The institution of the proceedings shall, for export purposes, entail the provisional application of the statutory system of protection for property included in the General Inventory.

Article 30

1. It shall be the responsibility of the Ministry of Culture to decide on the inclusion or otherwise of movable items in the General Inventory.
2. When all the documents in the file have been collected by an Autonomous Community and when its competent body agrees to the inclusion of items in the General Inventory, it shall inform the interested parties of that decision, which it shall communicate to the Ministry of Culture, indicating that the required procedural formalities have been accomplished and shall attach a registration certificate showing the particulars and the graphic documents described briefly in Annex 1.
3. Three months after the documents specified in the foregoing paragraph have been received by the Ministry of Culture, in the absence of any express decision, the property shall be presumed to have been included in the General Inventory.
4. The provisions of this Article notwithstanding, one year after the date of the provisional registration in the General Inventory to which Article 29.1 of this Royal Decree refers, the Ministry of Culture may request information from the Autonomous Communities on the completion of the proceedings instituted. If the said proceedings have not been completed, the Department may request the appropriate Autonomous Community to complete

them within one month, and in the event of non-compliance or when the proceedings cannot be completed because the item has been removed from its territorial precincts, the Ministry of Culture may supersede it in handling the proceedings.

5. The administrative body which has collected the documents in the file shall inform the interested parties of the inclusion of the movable property in the General Inventory.

CHAPTER V

Exclusion of Property from the General Inventory

Article 31

Administrative measures may be taken, spontaneously or at the instigation of the holder of a legitimate and direct interest, in order that a given item may be excluded from the General Inventory.

Authority for the institution and handling of the proceedings shall be determined by the provisions contained in Article 17 of this Royal Decree.

Notification of the proceedings and their implementation shall be governed by the provisions of Article 29.

Article 32

1. It shall be the responsibility of the Ministry of Culture to decide on the exclusion of movable property from the General Inventory.
2. When the documents in the file have been collected by an Autonomous Community, its competent body shall submit to the Ministry of Culture the reasoned proposal for exclusion, in which it shall state that the procedural requirements have been fulfilled.
3. The administrative body which has collected the documents shall inform the interested parties of the exclusion of the movable property from the General Inventory.
4. The exclusion of an item from the General Inventory shall constitute an annulment of its registration therein.

CHAPTER VI

Record of Property belonging to the Documentary Heritage and
Union Catalogue of Property belonging to the Bibliographical
Heritage

SUBSECTION 1

Inclusion and Exclusion of Privately-Owned Collections of the
Bibliographical and Documentary Heritage

Article 33

The Ministry of Culture may, spontaneously or on the proposal of the competent body of the Autonomous Community where the item is located, declare the documents mentioned in Article 49.5 of Law 16/1985 to form part of the Documentary Heritage.

The declaration shall require the prior institution and completion of administrative proceedings which shall include a favourable report from one of the consultative institutions listed in Article 3.2 of said Law. The declaration shall be made by Ministerial Order published in the Official State Gazette.

Article 34

To authorize the exclusion of privately-owned items from the Documentary and Bibliographical Heritage to which Article 55.3 of Law 16/1985 refers, the prior institution and completion of the administrative proceedings, which shall include favourable reports by one of the consultative institutions mentioned in the foregoing article and by the Ministry of Culture, shall be required.

When the body responsible for authorizing said exclusion instructs the applicant to preserve specimens of the collection that shall be exempt from exclusion, before the authorization is granted, the holder shall be required to submit the corresponding evidence in accordance with the instructions given.

SUBSECTION 2

Preparation of the Record and the Union Catalogue

Article 35

The Ministry of Culture, in collaboration with the Administrative Bodies of the Autonomous Communities, shall prepare the Record of Property belonging to the Documentary Heritage and the Union Catalogue of Property belonging to the Bibliographical Heritage.

Article 36

The Record shall contain basic information on archives, collections and holdings of documents, documents taken here to mean any expression in natural or conventional language and any other graphic, phonic or pictorial expression recorded in any type of material medium, including computerized media, in accordance with Article 49 of Law 16/1985. It shall be held by the General Directorate of Fine Arts and Archives.

The Union Catalogue shall contain basic information on libraries, collections and copies of bibliographical materials, either single items or series, in handwritten or printed form, and on copies produced from editions of cinematographic films, gramophone records, photographs, audio-visual materials and the like, whatever their material medium, which form part of the Bibliographical Heritage to which Article 50 of Law 16/1985 refers, and shall be held by the General Directorate of Books and Libraries.

Article 37

1. Authority to collect data in order to prepare the Record and the Union Catalogue shall be determined by the provisions contained in Article 11 of this Royal Decree.
2. However, the request mentioned in that article shall be deemed to have been ignored if, one month after it has been made, the Autonomous Community has not initiated the action requested and if there is a danger of loss or destruction of all or part of the value of the items covered by the request or of disruption of their social function.
3. For the purposes of facilitating the compilation of the Record and the Union Catalogue, the Ministry of Culture may enter into collaboration agreements with the Autonomous Communities.

Article 38

The Ministry of Culture, having heard the Historical Heritage Council, shall prepare standard description forms and issue technical instructions for the collection, processing and submission of information by the competent Government department for inclusion by the Ministry in the data bases of the Record and the Union Catalogue. However, both Government departments may agree to total or partial computer processing by the appropriate Autonomous Community so as to ensure technical inclusion in the appropriate data bases.

Article 39

The provisions of Article 25 shall apply to public consultation of data concerning the legal status, location and financial assessment of property registered in the Record and in the Union Catalogue. However, as regards the reasoned application to study an item for duly authenticated research purposes, to which subparagraph 2 of Article 25 refers, the restrictions entailed by the provisions of Articles 52.3 and 57.1(c) of Law 16/1985 shall apply.

SECTION III

The Transfer and Export of Property belonging to the
Spanish Historical Heritage

CHAPTER I

Alienation

Article 40

1. Any person attempting to alienate an item which has been declared to be of cultural interest, or for which the procedure with a view to such declaration has been initiated, or which is included in the General Inventory, shall duly notify the body of the Autonomous Community responsible for the protection of the Spanish Historical Heritage and the Ministry of Culture, disclosing the price and conditions under which the alienation is to take place. The serial number of the item or, where appropriate, the provisional registration number shall be indicated in the notification.
2. Within a period of no more than six weeks and no less than four weeks beforehand, auctioneers shall inform the bodies mentioned of the public auctions at which any property belonging to the Spanish Historical Heritage is to be auctioned, by communicating to them the particulars in the corresponding catalogues.
3. The Autonomous Community which, for the purposes of this Chapter, must be notified, shall be determined in accordance with the following criteria:
 - (a) In the case of property of cultural interest or property included in the General Inventory, it shall be the Autonomous Community in which the property recorded in the General Register or in the General Inventory, mentioned in Articles 21 and 24, is located.
 - (b) In the case of property for which proceedings have been instituted to declare it of cultural interest or to include it in the General Inventory, it shall be the Autonomous Community which instituted those proceedings.
 - (c) With regard to other property belonging to the Spanish Historical Heritage, it shall be the Autonomous Community in which the property is located at the time of the auction.
4. The competent Autonomous Community may exercise the rights of pre-emptive bidding and purchase on such property under the terms of Article 38.4 of Law 16/1985.

Article 41

1. Within two months of the notification for which the foregoing article provides, the State Administration, through the Ministry of Culture, may exercise the right of pre-emption for itself, for a charity or for any other body under public law, subject to an inquiry by the Board for the

Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, by undertaking to pay the agreed price or, where appropriate, the adjudicated price, within a period not exceeding two financial years, unless agreement is reached with the interested party on another form of payment. The seller shall be informed of the exercise of this right within the specified two months.

2. In the case of public auctions, the approval of the Board for the Classification, Assessment and Export shall not be required and the State Administration may exercise the right of pre-emptive bidding through the attendance of a representative of the Ministry of Culture at the auction, who, when the adjudicated price of the item auctioned is determined, shall declare the intention to exercise that right, thus suspending bids for the item. Within seven working days after the holding of the auction, the auctioneer shall be notified of the exercise of the right of pre-emption.
3. In any event, the ministerial order granting consent to the exercise of the right of pre-emption shall be published in the Official State Gazette without prejudice to its effectiveness as from the date of the notification.

Article 42

When the intention of alienation has not been properly brought to the notice of the State Administration, through the Ministry of Culture, the right of pre-emptive purchase may be exercised, under the same terms as those stipulated for the right of pre-emptive bidding, within six months from the date on which reliable knowledge of the alienation was acquired.

The ministerial order granting consent to the exercise of the right of pre-emptive purchase shall be brought to the notice of the seller and buyer within the aforementioned time-limits and shall furthermore be published in the Official State Gazette.

Article 43

After publication of the above-mentioned ministerial orders, the property on which the rights of pre-emptive bidding or purchase have been exercised shall remain in the custody of the Ministry of Culture in the place that it shall designate; the Ministry may also grant permission for it to remain in the custody of its owners as a deposit, with the securities that it shall determine for the purpose.

Article 44

Alienation of any immovable property forming part of the Spanish Historical Heritage in breach of the provisions of Article 28 and of the Fifth Transitional Provision of Law 16/1985 shall be null and void and the Ministry of Inland Revenue shall, in defence of the law and the interests of the public and society, bring civil actions for avoidance of contract.

CHAPTER II

Export

Article 45

1. For the purposes of the present Royal Decree, export means the removal from Spanish soil of any property belonging to the Spanish Historical Heritage.
2. A special licence issued in advance by the Ministry of Culture shall be required for the export, albeit temporary, of property belonging to the Spanish Historical Heritage that is 100 years old or more, or property that is included in the General Inventory or concerning which proceedings for such inclusion have been instituted.
3. A licence shall likewise be required for the temporary export of property declared to be of cultural interest or concerning which proceedings for such declaration have been instituted, together with any other property which, as belonging to the Spanish Historical Heritage, has been expressly declared by the Ministry of Culture to be unexportable as a precautionary measure until steps have been taken to include the property in one of the special protection categories specified in Law 16/1985.
4. The issue by the Ministry of Culture of such export licences shall not entail exemption from compliance with the formalities and requirements governing foreign trade generally.

SUBSECTION 1

Export licences

Article 46

1. Any application for a licence to export property as described in subparagraph 2 of the foregoing article shall include the following minimum particulars:
 - (a) The applicant's legal status and undertaking to allow the item to be inspected or deposited.
 - (b) The item's serial number where applicable, or, failing that a declaration stating whether proceedings have been instituted for its inclusion in the General Inventory and the whereabouts of the item.
 - (c) Declaration by the applicant of the value of the item, except in the case of items imported under the terms of Article 32 of Law 16/1985.
2. When the item is not included in the General Inventory, the following documents shall be appended to the application:

- two colour photographs of the object, measuring not less than 8 cm x 12 cm, or reproductions in a medium appropriate to the nature of the item, one showing the item in its entirety and another showing a detail if this is required in order to identify the object, or, where appropriate, showing the obverse and reverse;
 - a technical description of the object specifying the material, production procedure and size, together with the period, school or author, if known or bibliographical description. In the case of objects made of precious stones or metals, the weight shall also be specified;
 - a photocopy of the declaration to which the following paragraph refers, in the case of items imported under the conditions specified in Article 32 of Law 16/1985.
3. For purposes of identification of imported property, and for the purposes of Article 32 of Law 16/1985, the holder thereof shall at the time of import submit to the Customs Authorities a declaration in duplicate, on the model contained in Annex 3, for stamping and authentication. That declaration shall be submitted to the General Directorate of Fine Arts and Archives within three months following import, and when its contents have been verified the Directorate shall return one copy to the holder.

Article 47

1. The application for the export licence shall be submitted to the Ministry of Culture, except in the Autonomous Communities which have official responsibility for handling such applications.
2. In the Autonomous Communities with due authority over the export of property belonging to the Spanish Historical Heritage, the application concerning property located within the territorial jurisdiction of such an Autonomous Community shall be handled by its competent bodies. Refusal of the application shall terminate the proceedings, and the Ministry of Culture shall be notified thereof for the purposes specified in Article 50.2. If the application is not refused, the file shall be transmitted to the Ministry of Culture for a final decision.
3. The Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage shall give an opinion on such applications. To that end, it may, when circumstances so indicate, decide that items for which an export licence is requested shall be deposited in an establishment for inspection.

The Board may require the applicant to provide documentary proof of ownership of the object or proof that he is authorized by its owner to sell or export it.

Article 48

1. The General Directorate of Fine Arts and Archives shall, on the basis of the opinion of the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage, give a ruling on applications for export licences.

2. The resolution refusing to grant an export licence for an item that is not included in any of the special protection categories laid down in Law 16/1985 shall contain the decision to request the Autonomous Community under whose jurisdiction the item is located to institute proceedings for its inclusion in one of these protection categories.
3. The General Directorate of Fine Arts and Archives shall issue an authenticated copy of the resolution granting the export licence for the item, which shall accompany same.
4. The export licence for an item included in the General Inventory shall constitute an annulment of its registration therein.

Article 49

1. The resolution on the application for the export licence shall be adopted within two months of the date of submission, and the interested party may denounce the deadline and reapply to the General Directorate of Fine Arts and Archives of the Ministry of Culture, which may take a decision even if the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage has not given its opinion. One month after submission of the denunciation of the deadline accompanied by a reapplication, if no express resolution has been adopted, the licence shall be deemed to have been refused.
2. Tacit refusal shall not constitute exemption from adopting an express resolution and, where appropriate, from making the request for which Article 48.2 provides.

Article 50

1. The declaration of the value of the item covered by the application for the export licence submitted by the applicant shall be considered to be an irrevocable offer of sale to the State Administration, the price being the indicated value.
2. When the export licence is not granted, the State Administration, through the Ministry of Culture, shall have a period of six months from the date of the resolution, in which to accept the offer of sale, and of one year, after its acceptance, in which to make the appropriate payments.
3. Acceptance of the offer of sale by the State Administration shall be made by Order of the Ministry of Culture and the party concerned shall be duly notified. Following that notification, the item shall remain in the custody of the Ministry and in the place that it shall designate, and the Ministry may consent to its remaining in the custody of its owners as a deposit, with the securities that it shall determine for the purpose.
4. Failure by the State Administration to abide by the time limits established in this article shall entail the caducity of its right of acquisition, and the owner shall recover the right freely to dispose of the item.

Article 51

The Ministry of Culture may, when circumstances so warrant, declare a given item belonging to the Historical Heritage to be unexportable as a precautionary measure until such time as proceedings are instituted to include the item in one of the special protection categories for which Law 16/1985 provides. The

Ministerial Order making this declaration shall include a decision to request the Autonomous Community under whose territorial jurisdiction the item is to be found to institute the relevant proceedings.

SUBSECTION 2

Temporary Export Licence

Article 52

1. An application for a temporary export licence concerning property mentioned in subparagraphs 2 and 3 of Article 45 shall include the following data:
 - (a) With respect to the applicant, legal status and an undertaking to allow the item to be inspected or deposited.
 - (b) With regard to the item to be exported temporarily, its serial number if it has one or, failing that, a statement to the effect that proceedings either have, or have not, been instituted for its inclusion in any of the special protection categories for which Law 16/1985 provides; the place where the item is to be found.
 - (c) Purpose and duration of the export for which permission is requested.
2. When the item is neither declared to be of cultural interest nor included in the General Inventory, the documents required under Article 46.2 shall be appended to the application.

Article 53

The handling of applications for temporary export licences shall be governed by the provisions of Article 47, but the Board for the Classification, Assessment and Export of Property shall propose conditions for the return of the property and any other securities that it considers appropriate for its preservation.

Article 54

The decision on these applications shall be governed by the provisions of Articles 48 and 49, with the following exceptions:

1. The decision to authorize temporary export shall specify the conditions for the return of the property to be exported and all other securities established for its preservation.
2. Items of cultural interest or items declared to be unexportable shall in all cases require an express decision and shall require the prior opinion of the Board for the Classification, Assessment and Export of Property.
3. The temporary export licence shall, where appropriate, be recorded in the Register or in the Inventory mentioned in Articles 21 and 24 respectively.

Article 55

Failure to comply with the conditions for the return to Spain of property whose temporary export has been authorized shall entail the consequences of illicit export.

Article 56

1. The maximum uninterrupted period of stay abroad permissible shall be five years, renewable for periods of shorter or equal duration up to ten years in the case of items covered by subparagraph 3 of Article 45 and up to twenty years in other cases.
2. Once the maximum period authorized has elapsed, the property shall be returned to Spain for inspection. Once it has been returned, a fresh application for a temporary export licence may be submitted.
3. In exceptional circumstances, the General Directorate of Fine Arts and Archives may decide, when circumstances so warrant, that inspections of the property by the diplomatic service may be substituted for its return to Spain.

Article 57

Licences for the temporary export of items belonging to the Bibliographical Heritage held in the libraries to which Article 60 of Law 16/1985 refers, when such items have been neither the subject of a specific Declaration of Property of Cultural Interest nor included in any particular form in the General Inventory, and when said export complies with the rules and customs applicable to international loans, shall be governed by the following rules:

1. The application for the licence shall be submitted to the Director-General of Books and Libraries and shall contain enough information to permit identification of the item, its location and the purpose and duration of the temporary export requested.
2. Priority shall be given to the opinion issued in response to that application by the section of the Board for the Classification, Assessment and Export generally designated by the plenary meeting.
3. In an emergency, and at the reasoned request of the body applying, the Director-General of Books and Libraries may take a decision without the prior opinion of the Board. The decision authorizing the temporary export shall specify conditions for the return of the exported property and any other securities that may be established for its preservation.

SECTION IV

Promotional Measures

Article 58

1. The budget for public works financed wholly or in part by the State shall include a portion equivalent to at least 1 per cent of its funds which shall constitute an allocation payable by the State as a contribution to the financing of work to preserve or enhance the Spanish Historical Heritage or to encourage artistic creativity, preferably in respect of the work itself or its immediate surroundings. That requirement shall be deemed

- to have been met when the purpose of the public works is the repair or preservation of immovable property belonging to the Spanish Historical Heritage.
2. The following public works shall be exempt from the provisions of the foregoing subparagraphs:
 - (a) works with a total budget not exceeding five million pesetas;
 - (b) works undertaken for the security and defence of the State or for the security of government offices.
 3. The public body responsible for the work shall indicate, in the outline plan submitted to the Public Investments Committee for the Preparation of the Triennial Public Investments Plan, or to the Ministry of Culture when the outline plan concerning the work has not been submitted to said committee, on which of the following alternatives it chooses to spend the funds amounting to the said one per cent:
 - (a) Financing of action to preserve or enrich the Spanish Historical Heritage or to promote artistic creativity, as specified in the Plans mentioned in subparagraph 4 of this Article. To that end, the appropriate transfer of funds shall be made to the Ministry of Culture under the conditions laid down in this article.
 - (b) Carrying out of action to preserve or enrich the Spanish Historical Heritage, preferably on the work itself or on its immediate surroundings, or on any property of cultural interest connected with the activities of the body in question. In order to draw up the programmes and outline plans mentioned in the previous paragraph, a request shall be submitted for the collaboration of the Ministry of Culture through the General Directorate of Fine Arts and Archives which shall discharge the functions of the State Administration in respect of the Spanish Historical Heritage, or of the Ministry of Public Works and Town Planning, as regards its responsibility for work on the architectural and civil engineering heritage falling within the purview of the State, without prejudice, notwithstanding, to the authorizations required in accordance with the provisions of Law 16/1985. In any event, a report shall be submitted to the Ministry of Culture on the outline plans for such action and its implementation, either under annual programmes or for each individual undertaking.
 4. The Ministry of Culture, having heard the Historical Heritage Council, shall draw up Annual Preservation and Enrichment Plans for that heritage and Plans for the Promotion of Artistic Creativity which shall be financed with the funds transferred.
 5. When the alternative chosen is to transfer funds to the Ministry of Culture, the public body responsible for the public works shall submit to the Ministry of the Economy and Finance the relevant documents for amendment of appropriations within two months following the approval of the budget for the work.
 6. The General Accounting Office of the State Administration shall not endorse any proposal for expenditure unless specific allocations have been made for the action to which paragraph 1 of this article refers, when legally required.

7. State departments, bodies and corporations that cannot make appropriation transfers shall deposit the mandatory one per cent in the Exchequer within two months following the approval of the investment budget. These deposits shall yield the requisite allocations for the Ministry of Culture for the funding of the action mentioned in paragraph 4 of this article, for which purpose those bodies shall submit the complementary certificate authorizing the funds to be paid to the Ministry.

Article 59

1. In public works that are constructed and operated by private individuals by virtue of an administrative concession by the State and without its financial participation, one per cent of the total budget shall be set aside to finance the action for which the foregoing article provides with the same exceptions.
2. The public works contract shall indicate which of the following alternatives is chosen by the concessionaire:
 - (a) Financing of action to preserve or enrich the Spanish Historical Heritage or to promote artistic creativity described in the Plans to which subparagraph 4 of the foregoing article refers.

To that end, the concessionaire shall deposit in the Exchequer an amount corresponding to one per cent which shall yield the appropriate funds for such use by the Ministry of Culture. To conclude the public works contract it will be necessary to furnish proof of that deposit by submitting the complementary certificate of deposit which will be used to endorse the allocation.

- (b) Performance of action to preserve or enrich the Spanish Historical Heritage, preferably on the work itself or on its immediate surroundings, under the terms for which subparagraph 3(b) of the foregoing article provides.

The concessionaire shall submit proof to the awarding body, on completion of the public work in question, that such action has been carried out. In the event that no proof of execution is furnished, when the time comes to release the deposits, the awarding body shall, spontaneously or at the instigation of the Ministry of Culture, order the payment into the Exchequer of the one per cent to which this article refers, and the dispatch of the complementary certificate endorsing payment to the Ministry of Culture for the purposes of the ensuing proceedings for the raising of funds.

3. When the contract contains none of the foregoing alternatives, it shall be understood that the alternative chosen is that of the deposit of one per cent in the Exchequer, under the terms of paragraph 2(a) of this article.

Article 60

The Ministry of Culture shall each year submit to the Government a report on the extent of compliance with the provisions of the foregoing articles on the deposit and use of that one per cent in which an account shall also be given of the use made of funds transferred to the Ministry under this head.

Article 61

1. Immovable items in an Archaeological Area and included as specially protected in the town planning instrument to which Article 20 of Law 16/1985 refers shall be considered to be recorded in the Register of Property of Cultural Interest for the taxation purposes mentioned in Articles 70, 71 and 73 of said Law.
2. Immovable items in a Historical Site or Historical Complex shall be likewise considered and shall entail the same consequences if they are:
 - (a) fifty years old or more;
 - (b) included in the Catalogue mentioned in Article 86 of the Town Planning Regulations as fully protected under the terms of Article 21 of Law 16/1985.

Article 62

1. Individual income taxpayers shall be entitled to a deduction from their taxable income equivalent to 20 per cent of any investments made in the acquisition of property included in the General Register of Property of Cultural Interest, provided that the property remains in the holder's possession for a period not less than three years and provided that the obligation to record the transfer in the General Register of Property of Cultural Interest is fulfilled in accordance with Article 21 of this Royal Decree.
2. Likewise, any expenditure incurred for the preservation, repair, restoration, circulation and exhibition of property which meets the requirements laid down in the foregoing paragraph shall entail the right to deduct 20 per cent of the total of that expenditure from taxable income, provided that it has not been deducted as fiscally acceptable expenditure for the purposes of determining net capital gains.
3. Individual income taxpayers shall be entitled to deduct from their taxable income 20 per cent of any direct gifts made in the form of property belonging to the Spanish Historical Heritage that is recorded in the General Register of Property of Cultural Interest or included in the General Inventory, provided that such gifts are made to the State and to other public bodies, and likewise gifts made to establishments, institutions, foundations or associations, and even to bodies of a temporary nature established for the purpose of raising funds, provided that they are registered or declared as charities or in the public interest by the competent State bodies, when their proprietors, legal representatives and de facto managers discharge their duties free of charge and are accountable to the appropriate protective body.
4. The validity of the deductions mentioned in the foregoing paragraphs shall require compliance with the restrictions and requirements laid down under Article 29(F) of Law 44/1978, of 8 September, on Individual Income Tax.

Article 63

1. Those liable to corporate tax shall be entitled to deduct from the net taxable quota, after deduction from the gross amount of the sum total of deductions for double taxation, and where appropriate, of the deductions mentioned in Article 25 of the Corporate Tax Law, 15 per cent of the

amounts earmarked for the acquisition, preservation, repair, circulation and exhibition of property included in the General Register of Property of Cultural Interest, under the conditions laid down in subparagraph 1 of the foregoing article.

The deduction of such investments shall be adjusted to the requirements and restrictions for which the Corporate Tax Law provides.

2. For purposes of corporate tax, direct gifts of property that forms part of the Spanish Historical Heritage and is included in the General Register of Property of Cultural Interest or in the General Inventory shall be regarded as deductible from gross profits for the purpose of determining the tax base, provided that the following requirements are met:

- (a) The recipient shall be the State and any other public bodies or establishments, institutions, foundations or associations, including those of a temporary nature set up for the purpose of raising funds, which are classified or declared as charities or in the public interest by the competent State bodies, when their proprietors, legal representatives or de facto managers discharge their duties free of charge and are accountable to the appropriate protective body.
- (b) The sum total of the gift deductible may not exceed 30 per cent of the tax base of the taxable donor.
- (c) In respect of this gift, the recipient shall not have had recourse to the deduction mentioned in Article 123 of the Corporate Tax Regulations.

Any case not expressly covered by this subparagraph shall be governed by the provisions of Articles 123 et seq of the Corporate Regulations.

3. For the purposes of the provisions in the foregoing paragraphs and in paragraph 3 of Article 62, the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage shall assess items at the request of the donor and under the terms of Article 8(e) of this Royal Decree.

Article 64

1. The import of movable items that are included in the General Inventory or declared to be of cultural interest on the basis of an application for the institution of the appropriate proceedings submitted by the owners or holders of rights of possession thereon shall be exempt from taxation.
2. The provisions of the foregoing subparagraph notwithstanding, for the purposes of value-added tax, only the import exemptions mentioned in Article 21 of Law 30/1985 of 2 August shall apply.

With regard to customs duties, the Community scheme of customs exemptions shall apply.

3. The application to which the foregoing paragraph refers, which shall have the effect of suspending the tax debt, shall be submitted to either of the following bodies:
 - (a) The Department responsible for the Protection of the Spanish Historical Heritage of the Autonomous Community of the applicant's place of residence.

- (b) The Embassy or Consulate of Spain in the country where the property to be imported is located.
4. As a rule, at the time when the items are presented for shipment, the Customs Authorities, at the request of the interested party and subject to proof that the institution of above-mentioned proceedings has been requested, may authorize provisional shipments for a period of six months that may be extended for similar periods against securities for any import duties that may be payable, subject to the relevant decision.

Article 65

1. The taxpayer who wishes to pay tax debts in respect of death duty, tax on private wealth or individual income tax by surrendering property belonging to the Spanish Historical Heritage that is recorded in the General Register of Property of Cultural Interest or in the General Inventory may apply in writing to the Board for the Classification, Assessment and Export of Property belonging to the Spanish Historical Heritage for the property to be assessed, stating its serial number. Likewise, he shall state his intentions in writing when submitting the appropriate tax return.

In the case of income tax and tax on personal wealth, that statement shall have the effect of suspending the collection procedure without prejudice to the payment of any interest due on arrears.

2. The valuation of the property shall consist of its assessment by the Board for the Classification, Assessment and Export of Property under the terms of Article 8(e). That valuation shall be valid for two years and shall not be binding on the interested party who may pay the tax debt in cash.
3. The taxpayer may, on the basis of the value declared by the Board for the Classification, Assessment and Export of Property, request that this form of payment be accepted by the Ministry of the Economy and Finance, which shall take a decision, following consultation with the Ministry of Culture.
4. Once the surrender of a given item is accepted in payment of the tax debt, the destination thereof shall be determined by the provisions of the Laws on the Heritage of the State and of the Spanish Historical Heritage.
5. For the purposes of calculating revenue from the tax debts mentioned in this article which are paid by surrendering property belonging to the Spanish Historical Heritage, the budgetary allocations required to cover procedural expenses and to cancel the relevant debts shall be authorized by the Ministry of the Economy and Finance, through its Heritage Directorate.
6. References in this Article to the Ministries of the Economy and Finance and of Culture shall be deemed to apply to the corresponding bodies of the Autonomous Communities in the case of taxes that have been transferred to them.

Article 66

In order to give rise to the exemption from the Special Tax on Private Wealth mentioned in Article 6(j) of Law 50/1977 on Emergency Fiscal Reform Measures for specific items belonging to the Spanish Historical Heritage, those items must be recorded in the General Register of Property of Cultural Interest or in the General Inventory of Movable Property.

ADDITIONAL PROVISIONS

FIRST

1. The competent authorities for the protection of the Spanish Historical Heritage shall in writing request Civil Governors to intervene at such time as they shall require the assistance of the armed forces and security corps of the State to ensure enforcement of the provisions of Law 16/1985, and in particular for the execution of the acts envisaged in Articles 25 and 37 thereof, without prejudice to the police powers vested where appropriate in the competent authorities of the Autonomous Community or to the specific co-ordination procedures laid down therefor.
2. Within the General Directorate of the Police, the Investigation Squad for the Protection of the Spanish Historical Heritage shall be set up, which, as a special brigade, shall be attached to the Criminal Investigation Department.

That Investigation Squad shall act in direct collaboration with the Ministry of Culture and with the bodies designated by the Autonomous Communities to enforce the Law on the Spanish Historical Heritage in investigating and prosecuting infringements thereof.

The Ministry of Culture, in collaboration with the Ministry of the Interior, shall arrange for the adequate scientific training of staff belonging to the Investigation Squad for the performance of the duties assigned to them.

Likewise, the Ministry of Culture shall participate in the basic and further training courses that the General Police Academy organizes to that end, so that government employees enrolled on courses relating to the speciality of investigative police work may without difficulty acquire the specific knowledge needed for the protection of the Spanish Historical Heritage.

SECOND

1. The General Directorate of Fine Arts and Archives of the Ministry of Culture shall have responsibility for the management of the levy on export licences for items belonging to the Spanish Historical Heritage as laid down in Article 30 of Law 16/1985.
2. In applying the rates to which paragraph (E) of the above-mentioned Article 30 refers, the value of the item cleared for export shall be determined on the basis of the value declared in the application for the export licence set against the value estimated by the Board for the Classification, Assessment and Export of Property and, where appropriate, the report of any of the consultative institutions to which Article 3.2 of Law 16/1985 refers, if the General Directorate of Fine Arts and Archives considers it desirable to have the latter's valuation. The value estimated by the Board shall prevail whenever it is higher than that declared by the applicant.
3. Payment of this rate shall be made to the General Directorate of Fine Arts and Archives which shall receive it against an invoice delivered to the debtor when payment is due.

4. Pursuant to Article 9 of the Treaty establishing the European Economic Community signed in Rome on 25 March 1957, as of the entry into force of Spain's Act of Accession, that levy shall cease to apply in respect of exports to the Member States of said Community.

THIRD

Corporate taxpayers holding items declared to be of cultural interest or included in the General Inventory of Movable Property may reassess their value within the limits of the market value, adjusting their tax liability in accordance with Article 15.1 of Law 61/1978 of 27 December on Corporate Taxation.

For the purposes of updating balance sheets as authorized by express taxation regulations, the value of such items is open to reassessment with exemption from taxation on the increase in assets thereby disclosed.

The possibility of tax-free reassessment shall not extend to reassessment of items or property that form part of the holders' circulating assets.

FOURTH

1. Owners and, where appropriate, holders of rights of possession on items of cultural interest shall permit persons of proven Spanish nationality to visit them publicly and free of charge.
2. Such visiting shall include viewing of the items, with the exception, in the case of immovable property, of premises and appurtenances thereof which have no bearing on the item's status as Property of Cultural Interest. With regard to the photographic reproduction or sketching thereof, the decisions of the body responsible for the protection of the property shall apply except where intellectual property rights are involved.
3. The visits to which this provision refers shall be permitted on at least four days a month and for a period of four hours each day, and advance notice shall be given of visiting days and times.

Those days and times shall be approved by the body responsible for the protection of the property and, in the case of immovable property, shall be posted in a visible place in keeping with the aesthetic qualities of the property.

4. The provisions of the foregoing paragraphs may be waived in accordance with Article 13.2 of Law 16/1985.

FIFTH

Subject to the agreement of the Government departments concerned, the Historical Heritage Council may co-operate in the preservation and restoration of property belonging to the Spanish Historical Heritage covered by subparagraph (c) of paragraph (D) of Annex I to the following Royal Decrees: 3031/83; 3039/83; 3040/83, 3065/83; 3066/83; 3149/83; 3296/83; 3355/83; 3547/83; subparagraph (b) of paragraph (D) of Annex I to Royal Decrees 3019/83 and 864/84; and subparagraph (e) of paragraph (D) of Annex I to Royal Decrees 3023/83 and 680/85.

TRANSITIONAL PROVISIONS

FIRST

1. To be eligible for the exemption for which the Third Transitional Provision of Law 16/1985 provides, the owners, possessors or holders of movable items belonging to the Spanish Historical Heritage shall, in writing, bring the existence of such items to the knowledge of the body responsible for the protection of the Spanish Historical Heritage designated by the Autonomous Community under whose territorial jurisdiction the item is located, not later than 19 July 1986.
2. The above-mentioned written communication shall contain, at least, the documents specified in Article 46.2 of this Royal Decree, indicating the whereabouts of the object and any known historical and artistic data relating to it.
3. That communication shall determine the item's exemption from any tax or levy not previously paid, and from any liabilities in respect of the Exchequer or other bodies of the State Administration for non-compliance, penalties, surcharges or interest on arrears.
4. Without prejudice to the provisions of the foregoing paragraph, the holder may declare the value of the movable item in the course of the proceedings for the declaration of Property of Cultural Interest or for inclusion in the General Inventory and the declared value shall be considered to be the real value thereof for tax purposes until subsequently verified by the Board for the Classification, Assessment and Export of Property, which shall announce the value of the item, taking the purchase price into account, unless it differs from the current market price, and in accordance with the provisions of Article 52 of the General Taxation Law.

Any differences coming to light after the above-mentioned verification shall not be construed as tax infringements, notwithstanding any debts to the Exchequer that may arise and notwithstanding the payment of the appropriate interest on arrears.

5. The value finally established shall be considered to be the purchase price for the purposes of Article 20 of Law 44/1978, of 8 September, governing individual income tax, and of Article 15 of Law 61/1978, of 27 December, governing Corporate Tax. In the latter case, the taxpayer shall, as a compensatory measure, open a Reserve Account which shall be entitled 'Implementation of Law 16/1985 of 25 June on the Spanish Historical Heritage'. That account shall be used only for the purposes and requirements laid down in Article 32 of Law 9/1983, of 13 July, of the General State Budget for 1983 and the regulations for its application.

SECOND

The declaration submitted by holders within one year of the entry into force of Law 16/1985 to the General Directorate of Fine Arts and Archives on the value of movable items that have been included in the General Inventory in pursuance of the First Additional Provision of the Law, shall be considered to represent the real value for tax purposes until subsequently verified by the Board for the Classification, Assessment and Export of Property which shall give a final ruling on the real value of such items.

The provisions of paragraphs 4 and 5 of the First Transitional Provision shall apply for the verification and final establishment of the item's value.

THIRD

The public bodies and State departments and corporations required to deposit the one per cent to which Article 58 of this Royal Decree refers shall submit the communication mentioned in paragraph 3 thereof to the Public Investments Committee or, where appropriate, to the Ministry of Culture, during the first two months of the year 1986, in respect of public works included in the General State Budgets for that year.

FOURTH

1. Until such time as the appropriate serial number has been allocated to the items registered by the General Register of Property of Cultural Interest or by the General Inventory, all applications for export licences concerning such items shall indicate the special protection category in which they are included and shall append the documents listed in Article 46 of this Royal Decree.
2. The provisions of the foregoing paragraph shall also apply to notifications of intent to alienate such items, as stipulated in Article 40 of this Royal Decree.

FINAL PROVISIONS

FIRST

The Minister of Culture is authorized by Ministerial order to:

1. Modify the composition and functions of the collegial bodies listed in Article 10 of this Royal Decree; in the absence of such modification, the regulations in force shall apply to them.
2. Amend the procedural extracts contained in Annex 1 and complete the models thereof according to requirements, organization and operation of the General Register of Property of Cultural Interest and of the General Inventory, and modify the data contained in Annex 3.
3. Issue precise instructions for the compilation of the technical information sheets of the General Register of Property of Cultural Interest and of the General Inventory for computerized processing, which may replace the procedural extracts to which Articles 14 and 30 of this Royal Decree refer.
4. Issue precise instructions for the compilation of technical information sheets relating to the Union Catalogue and the Record of the Documentary Heritage.
5. Update the amounts laid down in Article 9 of this Royal Decree.

SECOND

The collegial bodies to which Article 10 refers are the following:

- (a) The Advisory Council for Monuments and Historical and Artistic Complexes, Higher Board for Monuments and Historical Complexes.
- (b) The Advisory Board for Archives, Higher Board for Archives.
- (c) The Advisory Board for Libraries, Higher Board for Libraries.
- (d) The National Commission for the conservation of Rock Art, Higher Board for Rock Art.

THIRD

The Ministry of Culture, the Ministry of the Interior and the Ministry of the Economy and Finance may issue the necessary instructions for the execution of this Royal Decree in their respective fields of competence.

FOURTH

This Royal Decree shall enter into force on the day following its publication in the Official State Gazette.

DEROGATORY CLAUSE

All provisions that conflict with the provisions of this Royal Decree, and expressly the following, are hereby repealed:

- Royal Decree 1 of March 1912 approving the provisional regulations for the application of the Law of 7 July 1911.
- Decree of 16 April 1936, as amended by Decree 1545/1972, of 15 June, approving the Regulations for the application of the Law on National Art Treasures.
- Decree of 9 March 1940 and of 19 April 1941 on the Catalogue of Spanish Monuments.
- Decree of 12 June 1953 setting out provisions for the formalization of the Inventory of National Art Treasures.
- Decree of 12 June 1953, as amended by the Decrees of 27 January 1956 and 164/1969 of 6 February on the transfer of antiquities and works of art within and beyond national frontiers.
- Decree of 22 July 1958 establishing the category of Provincial and Local Monuments, as amended by Decree 1864/1963, of 11 July.
- Decree 287/1960, of 18 February, on the regional reorganization of the Department for the Defence of the National Art Heritage.

- Provisions relating to the National Centre of Documentary and Bibliographical Treasures contained in Law 26/1972, of 21 June, extant under the terms of Article 6 of Royal Decree 565/1985, of 24 April, establishing the basic organizational structure of the Ministry of Culture and its autonomous bodies.
- Decree 1116/1969, of 2 June, on the export of works of historical or artistic value as amended by Royal Decree 2101/1979 of 13 July.
- Royal Decree 3030/1979 of 29 December, reorganizing the Board for the Classification, Assessment and Export of Works of Historical or Artistic Importance.
- Order of 15 February 1980 on free visits to historical and artistic monuments.

Done at Madrid on 10 January 1986.

JUAN CARLOS R.

(The Minister of the Presidency)

JAVIER MOSCOSO DEL PRADO Y MUÑOZ