

Dutch guideline for deaccessioning of museum objects

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Part of the ICN furniture collection.

INTRODUCTION

The Dutch museum world has had a guideline for deaccessioning of museum objects since 2000. This guideline is widely accepted as the professional norm for selecting and deaccessioning objects from museum collections. This is the case not only for museums – which have accepted the guideline as a practical extension of the ICOM Code of Professional Ethics– but also for many other proprietors of museum collections, such as the government.

In recent years, numerous dutch museums have gained experience in selecting and deaccessioning objects from their collections. The guideline has proven to be a useful frame of reference. In this relatively new field of museum management, almost every case leads to new insights. This has led many museum professionals to demand a review of the guideline from 2000. The new guideline was drawn up under the supervision of the Institute for Cultural Heritage (ICN) and carefully fine-tuned with representatives from the museum world.

The most important principles of the new guideline are:

- ⌘ The decision to deaccession objects should be made solely on grounds regarding content.
- ⌘ Deaccessioning museum objects should always be intended to improve the quality or composition of the collection and/or to place the objects where they can function better.
- ⌘ A deaccessioning operation should satisfy the following criteria: careful, transparent and responsible.
- ⌘ Objects should only be deaccessioned when it is certain that the museum is the owner or that the owner has given his/her permission.
- ⌘ Objects being considered for deaccessioning should always be offered to other museums first.
- ⌘ Sale of objects between museums is not recommended, and is forbidden between national collections.
- ⌘ When relocating an object, the museum must determine its own criteria for allocating objects to other museums.
- ⌘ Deaccessioning of important objects should be documented at the object level. Less important objects are subject to more flexible rules
- ⌘ If no museums are interested in the superfluous objects, then the museum may proceed with sale of the objects, preferably via an auction.
- ⌘ Proceeds from sales should be used exclusively for improving the quality of the collection by means of acquisition or through active conservation and/or restoration of objects.
- ⌘ The deaccessioning operation should be carefully documented.

The ICN is determined to become the authority in the field of selection and deaccessioning in the near future. If you wish to reply to this text, please contact: arjen.kok@icn.nl.

THE GUIDELINE IN BRIEF

IN ADVANCE

- ⌘ The owner and the museum alike can take the initiative towards deaccessioning. Each plays a separate role and has a specific responsibility in the process. It goes without saying that the museum selects the objects that qualify for deaccessioning.
- ⌘ A decision to deaccession objects is made solely on grounds regarding content.
- ⌘ Proceeds from sales will be used exclusively for improving the quality of the collection by means of acquisition or through active conservation and/or restoration of objects

PREPARATIONS

- ⌘ Use the Code of Professional Ethics for Museums in conjunction with this guideline as the points of departure for deaccessioning.
- ⌘ Draw up a collection plan.
- ⌘ Ask the owner/subsidizer of the collection to approve the collection plan.
- ⌘ Determine whether the museum director has received authorization from the owner/proper authorities with regard to selection or deaccessioning and if so, establish what kind of authorization the director has received.
- ⌘ Set up larger deaccessioning operations in the form of projects.

SELECTION

- ⌘ Describe the reason why objects are being deaccessioned.
- ⌘ Establish criteria in order to be able to determine which objects qualify for deaccessioning and determine the context in which the criteria will be applied.
- ⌘ Consider bringing the selected objects together.
- ⌘ Make sure that the following matters are verified after the first selection round: the cultural historical value, the completeness of the registration and (photographic) documentation, the provenance and ownership, and any possible subsidy conditions. Do this for objects in the Delta Plan's A and B categories at the object level. Follow a simplified procedure for less important objects. Supplement the registration details as necessary and photograph the selected objects.
- ⌘ Determine whether external experts need to be consulted.
- ⌘ Make sure that it is clear how objects became part of the collection and who the legal owner is.
- ⌘ Return loans to the loaning authority or his or her heir or legal successor.
- ⌘ Determine whether deposit is involved.
- ⌘ Determine whether there are limiting conditions attached to selected objects that were once obtained through a donation, legacy or testamentary disposition.
- ⌘ Determine whether a subsidy was used to acquire or restore the selected objects.
- ⌘ Following verification, draw up a shortlist of the objects/partial collections to be deaccessioned and submit this to the proper authorities, along with an explanation, in order to reach a decision.
- ⌘ Consider marking objects on the shortlist in such a way that it is clear they have been removed from the museum's collection.

RELOCATION

- ⌘ Always offer surplus objects to other museums first.
- ⌘ Preferably do not sell to other museums. The sale of surplus objects between administrators of state collections is out of the question.
- ⌘ Inform other museums about the deaccessioning decision, indicate which objects qualify for relocation and clearly indicate the applicable allocation criteria. Determine the deciding criteria for relocation should different museums express interest in the same object.
- ⌘ Observe a reasonable term in order to allow museums to respond to the offer.
- ⌘ Design a procedure for processing the responses.
- ⌘ Conclude the transfer of objects by signing a transfer statement, transferring the object documentation, organizing the transport and, if applicable, collecting the handling fee or proceeds of the sale.
- ⌘ Try to arrange relocation outside the museum sector if no museums are interested in the selected objects. Options include donation, exchange and sale.
- ⌘ Consider the following aspects when deciding to transfer objects to a location other than a museum: the interest of the object, the attention and care the object will receive after being donated, and the visibility of the object.
- ⌘ Conduct sales only with a certified dealer/auction house.

CONCLUSION

- ⌘ In the event of destruction, secure reasonable guarantees that objects are actually destroyed. Take (overview) photographs of the objects prior to destruction.
- ⌘ In the event of destruction, contact the artist in order to avoid violating his or her moral rights.
- ⌘ Indicate in the (automated) collection registration that the objects have been removed from the collection.
- ⌘ Keep careful records of the deaccessioning operation and conduct matters with as much transparency as possible.

THE ROLE AND RESPONSIBILITY OF THE OWNERS OF MUSEUM OBJECTS

Museum objects are often the property of governments, clubs or associations, or foundations. The owner must provide permission for deaccessioning. The owner and the museum alike can take the initiative towards deaccessioning. Each plays a separate role and has a specific responsibility in the process:

- ⚡ The museum possesses the specialist knowledge and experience regarding collection management. It is therefore the museum which should select the objects which are to be deaccessioned, and not the owner.
- ⚡ The selection and deaccessioning should be conducted carefully. The decision to deaccession an object should be made based on reasons of content. The owner should ensure that the correct procedure is followed. This guideline describes the necessary procedure.
- ⚡ The owner must ensure that any income from the sale of the objects should be used exclusively for improving the quality of the collection through purchase or active conservation/restoration of other objects.

GLOSSARY

Deaccessioning: Donation, exchange, sale or destruction of objects from the collection. Long-term loans of objects are emphatically not an aspect of deaccessioning.

Museum objects: All objects which are registered in the collection registration system, as well as those objects currently in the museum waiting to be registered as part of the collection.

Surplus objects: Objects which (can) no longer function as part of the collection and which may therefore be considered for deaccessioning.

Relocation: Donation, exchange or sale of objects to another registered or accredited museum.

1. PREPARATION

PRECONDITIONS

Ensure that the preconditions listed below are satisfied before starting the selection and deaccessioning of objects. These preconditions guarantee the correctness and transparency of the operation.

THE CODE OF PROFESSIONAL ETHICS FOR MUSEUMS

The Code of Professional Ethics for Museums is composed of a number of principles and guidelines for professional museum management. Utilize the code in conjunction with this guideline as the basis for deaccessioning operations.

COLLECTION PLAN

Draw up a collection plan. The collection plan is a document which provides insight into the mission and goals of the museum, the composition and quality of the collection (the collection profile) and the policy regarding the collection.

The history and mission of the museum determine the manner in which the collection is composed. The characteristic composition of the collection is known as the collection profile, which is described in the collection plan. Pay attention to the context within which the profile is defined (international, national, regional, local collections or the own collection). Based on the profile, determine which objects fit in the collection and which do not. Objects which do not fit in the profile may be considered for deaccessioning.

Include a statement in the collection plan about selection and deaccessioning. Make it clear that the entire collection should be considered in the process of deaccessioning, and that deaccessioning is a logical consequence of collection policy and that the choices should be made based on the conditions set for the quality of the collection. The collection plan should be made for a period of four or five years (a policy period) and should be reconsidered or replaced at the end of the period. It is advisable to ask the owner and/or the subsidizing authority to consent to the collection plan, in order to legitimize any deaccessioning operations.

LEGAL AUTHORIZATION TO ACT

Determine whether the museum director has received authorization regarding selection and deaccessioning from the owner/legal authority, and the specific conditions of this authorization. Authorization is the transfer of administrative authority. The administration of a collection may be transferred to a museum by such authorization.

Relevant documents which may determine authorization are:

- ⌘ By-laws
- ⌘ Job assignment?
- ⌘ Organization and authorization agreements
- ⌘ Administrative contracts
- ⌘ Management contracts

- ⋮ Regulations
- ⋮ Administrative provisions

Museum directors usually receive a job assignment from the government which includes permission to acquire and deaccession objects. These job assignments usually include powers of attorney as this enables the museum to act as a legal person – for instance by acquisitions. If no agreements have been made regarding selection and deaccessioning, then it is advisable to do so. The owner always retains formal responsibility; therefore the museum must ensure that its position is very clear regarding deaccessioning rights.

MANAGEMENT ASPECTS

Plan larger deaccessioning operations as projects, with attention to the classic management aspects of working on projects.

Deaccessioning operations are sometimes a serious burden for the organization. In order to make a deaccessioning operation successful, it is important that the efforts are well-budgeted, planned and organized. By drawing up a plan for the project, the museum can estimate which resources may eventually be necessary, and may also gain insight into the extra (work) burden such an operation may place on the regular tasks of the museum staff.

The classic management aspects of working on a project are: organization, time, funding, quality, information and communication. Describe these elements in a project plan.

NB: It is of course not necessary to draw up a complete project plan in order to deaccession only a single or a few objects. This is the same for a situation wherein deaccessioning is already part of the museum's regular collection policy.

PROJECT TEAM

The project team is responsible for the execution of the deaccessioning operation. It is advisable to clearly describe the responsibilities and tasks required from the team members beforehand.

Keep the responsibilities for object selection and for execution of the deaccessioning as separate as possible. This will prevent continuing discussion about the selection through the execution process. Even smaller organizations will profit from keeping these responsibilities separate.

TIME

Deaccessioning operations usually take longer than anticipated, and may easily last longer than a year. When planning and scheduling time for the operation, keep the following factors in consideration:

- ⋮ Obtaining permission from the owner
- ⋮ Drawing up selection criteria, determining the desired deaccessioning method, and formulating the criteria for the relocation of the objects

- ⌘ Recruiting external project workers
- ⌘ Designing administrative procedures and forms
- ⌘ Selection and the logistic arrangements for that process
- ⌘ Completing the registration and (photographic) documentation of the surplus objects
- ⌘ Researching the provenance, ownership status and the donation conditions of the surplus objects
- ⌘ Forming an external review committee
- ⌘ Transportation and packing of the surplus objects to be relocated, exchanged or sold
- ⌘ During relocation: sounding out any interested parties and organizing a manner for them to express their interest in the surplus objects

BUDGET

Deaccessioning operations usually take longer than anticipated, so the cost of wages and salaries are an important factor. Seek a balance between the costs of a conscientious procedure and the funds the museum may reasonably expend on objects it wishes to deaccession. Other costs are the material and packing costs, and the costs of destruction or disposal. Keep in mind that deaccessioning operations also require extra depot space, both to separate selected objects and to be able to pack them.

Supplementary income may be generated by charging a handling fee for relocation. Some foundations may also be willing to subsidize a deaccessioning operation, if the objects involved are (again) made accessible to the public.

QUALITY

Ensure that the deaccessioning operation fulfils the criteria for accuracy, transparency and accountability. These factors, together with the available time and budget, determine the quality of the deaccessioning procedure.

INFORMATION

Ensure that the project is well-documented. This is not only important for monitoring the project, but also to provide accountability afterwards.

COMMUNICATION

Draw up a communication plan and provide an unambiguous message. Selection and deaccessioning are items of public interest; the press and the public wish to be informed. Good communication may provide the museum and other parties with insight into the selection and deaccessioning processes and create a feeling of solidarity.

In a paragraph on strategy, describe which organizational goals can be realized through communication. This communication plan should answer the following questions:

- ⌘ Who should the communication reach? Describe the target group as accurately as possible and track them down if necessary.
- ⌘ What must be accomplished with each target group? Communication processes often consist of various phases. Consider which aspects will be important during which phases of the operation.
- ⌘ Which 'ambassadors' will best represent the project? Appoint someone with enough credibility for the target group, for in-

stance: the chairman of an organization, the Mayor or a leading figure in the field.

- ⚡ Which message should be conveyed? What are the important facts, what will each target group be asked to do and how will it be presented?
- ⚡ Which medium should be used? Choose media with specific characteristics applicable to the communication goal. Assess what the influence and the costs will be for each media type.
- ⚡ Who is responsible for which actions and when should these be completed? Appoint someone to be responsible for each action planned and set a deadline. Decide who is to act as the spokesperson.

In general, the internal communication (and organization) should be in order first, so that the personnel will be informed and involved before communicating with external parties.

2. SELECTION

GOAL OF THE DEACCESSIONING OPERATION

Describe why objects are to be deaccessioned.

The primary goal of a deaccessioning operation is usually to improve the quality and/or usage of the collection and to narrow the collection profile. The goal may also be to find the objects to be deaccessioned a more fitting location, such as a museum where they fit better into the collection profile, or – if this is not possible – a public institution or private collection.

SELECTION CRITERIA

Draw up criteria to help decide which objects may be considered for deaccessioning and decide in which context(s) these criteria can be applied (international, national, regional, local collections or the own collection).

There are numerous arguments for and against deaccessioning of an object. Decide which arguments are most applicable to the position of the museum regarding collection formation. Certainty regarding the mission and goals of the museum, insight into the nature and size of the collection and the position in relation to fellow institutions are important in making this decision. Appendix 2 lists a number of arguments for and against deaccessioning. The Delta Plan criteria in Appendix 3 can also be used to evaluate the arguments for deaccessioning.

Another option is to work in reverse and to use the collection criteria as the basis for selection. Objects which do not meet the collection criteria could be deaccessioned. Application of the collection and selection criteria will provide a preliminary rough selection of objects which may qualify for deaccessioning.

PLACING OBJECTS TOGETHER

Consider physically placing the selected objects together.

Placing the objects together may lead to a clearer vision of the collection(s) to be deaccessioned, and prevents deaccessioning from becoming an administrative act performed from in front of the computer. Bringing the objects together also speeds up the process and allows immediate verification of the presence of the objects. It may also be helpful to place the objects together for an view day in the course of the relocation process (see Chapter 3).

VERIFICATION

After the preliminary general selection, ensure that the following items are verified: the cultural-historical value, the completeness of the registration and (photographic) documentation, the provenance and the ownership, and the application of any subsidy conditions.

CULTURAL-HISTORICAL VALUE

Determine the cultural-historical value of the objects by consulting the Delta Plan system or a similar evaluation framework. Cultural-historical may also be interpreted as: natural-historical, academic, maritime, industrial or archaeological-historical.

Determine the context within which the value criteria are to be compared.

Some objects are more important than others. Each museum may make this decision for itself. The cultural-historical value determines a large part of the efforts which must be applied when deaccessioning an object. If the value has not yet been determined, then the museum is probably not yet ready for selection and deaccessioning. Deaccessioning of important objects, such as those in the categories A and B of the Delta Plan, must be done according to procedure 1:

PROCEDURE 1

- ⌘ Establish the motivation and the decision-making moments for deaccessioning at the object level.
- ⌘ Register and photograph the objects in detail and complete the object documentation.
- ⌘ Research the authenticity, provenance, and donation conditions of the objects in order to determine whether they may be deaccessioned.
- ⌘ Submit the proposition for deaccessioning to external specialists and record their opinion in writing.
- ⌘ Have the objects appraised.
- ⌘ Offer the objects first to other museums for relocation before exploring other deaccessioning options.
- ⌘ Register who the new owner is after relocation.

Deaccessioning of less important objects, such as those in the Delta Plan categories C and D or objects which are so damaged that they may be written off, may be performed following a simpler procedure. This also applies to sub-collections which are composed of large quantities of more or less comparable objects (bulk collections) of low quality and of which the ownership and donation conditions are well-known. Such collections may follow procedure 2:

PROCEDURE 2

- ⌘ Formulate the motivation for deaccessioning (for the entire sub-collection at once).
- ⌘ Describe the objects and photograph or describe the sub-collection in general or with random samples. Make overview photographs.
- ⌘ Offer the objects to other museums for relocation before selling them outside the museum sector or destroying them.

COLLECTION REGISTRATION AND PHOTOGRAPHY

In order to relocate the objects well, the collection registration and the photographic documentation must be up-to-date. If this is not (yet) the case, it must be done for objects from the A and B categories. Less important sub-collections from the C and D categories may be described in general terms and using overview photographs. If this is impossible before relocation, arrange for the new owners to register and photograph the objects, or have the auction house do so during the sale of the objects. In all cases, ensure proper documentation.

Many museums possess unregistered or unlabelled objects of little value, which the museum may wish to deaccession. Before doing so, answer the question why the objects have not yet been registered or labelled. Possible reasons are:

- ⌘ Work backlog
- ⌘ Low priority
- ⌘ Low quality
- ⌘ Broken
- ⌘ Originally accepted as temporary storage for another party, which has continually been renewed
- ⌘ Labels/stickers have been lost. These objects may be registered in the computer, card catalogue or the inventory book.

When it is clear why the objects have not been registered, then determine the cultural-historical value of the objects.

CONSULT EXTERNAL SPECIALISTS

Consider consulting external specialists before deaccessioning in order to weigh other interests besides the museum's interest in the process.

When considering deaccessioning of objects from the categories A and B of the Delta Plan, consult external specialists or heritage authorities. The Netherlands Institute for Cultural Heritage can be consulted for objects in national collections. A provincial museum consultant may be considered for other situations.

PROVENANCE RESEARCH

In the selection phase of a deaccessioning operation, conduct a careful research into the provenance of the selected objects. Pay attention to the following points:

- ⌘ Ownership
- ⌘ Deposits
- ⌘ Loans
- ⌘ Donations
- ⌘ Gifts
- ⌘ Testamentary disposition and legacies
- ⌘ Subsidies

In this guideline the various aspects of a provenance research are handled as comprehensively as possible. In practice, a museum may have to deal with unique circumstances for which this guideline has no appropriate solution. It is therefore advisable in such a situation to obtain legal counsel.

OWNERSHIP

The question of ownership is very important during deaccessioning. Know how the objects came into the collection and who the legal owner is.

A museum is only authorized to transfer ownership of an object if it is the owner of the object or if it has permission from the owner to do so. No matter how complex the museum organizational structure is, there are only two applicable situations:

1. The museum is the owner of the object.
2. The museum is not the owner, but the holder of the object. The concept 'holder' means that the museum holds the objects for another party and acts as its administrator.

Ad 1.

If the museum is the owner of the objects, then it is in principle authorized to deaccession the objects. There may be some restrictions, however, regarding donations and/or subsidised purchases. These restrictions are discussed below.

Ad 2.

If the museum is the holder of the objects, it requires permission from the owner to deaccession them. The museum is considered to be the holder in the following situations:

- ⋮ The museum is the borrower.
- ⋮ The museum is the depositary.
- ⋮ In all other circumstances in which the museum is not the owner, another party possesses the rights to the object, which are held for that party by the museum. In these circumstances there may be some claim to possession. A possessor with good intent gains ownership after a period of three years, if the possessor came into possession of the object with good intent.

A museum may not unilaterally declare itself to be the owner of objects it holds for another party, even if the museum does not know who the owner is. A holder also cannot become the owner of an object simply through the duration of possession.

See Book 3, Art. 107-125 of the Dutch Civil Code.

DEPOSIT

Determine whether the objects are held in deposit. A deposit is an agreement through which an object is given by a depositor to a depositary (the museum) in deposit.

The main obligations of the depositary are to hold and eventually return the object(s). This also implies that the depositary will care for the deposited object.

We can speak of deposit in the following circumstances:

- ⋮ Objects which were offered by the maker for appraisal with the intention to sell them. They were not sold, but have been left in storage in the depot.
- ⋮ Objects which have been left in the museum under questionable circumstances in wartime.
- ⋮ Objects which were placed in the museum for temporary storage and have not (yet) been collected.
- ⋮ Objects which have been placed in the museum for appraisal and have not (yet) been collected.

⚡ Objects which by mistake have been placed among loan items which have been returned to the Museum.

As a deposit agreement can be considered binding by assent, it is often so that the agreement is not recorded in writing. It is possible that the custody fee has been put into writing in a separate agreement. Professional storage workers, those who in the course of their profession or industry have made a storage agreement, have rights to a custody or storage fee. See Book 7, Art. 600-605 of the Dutch Civil Code.

The museum should be advised to do everything possible to determine an object's provenance during the initial installation. If this is not done, then the object cannot in principle be deaccessioned.

LOAN

Return loans to the lender or their heirs or successors.

Strictly speaking, loans do not fall under this guideline. Nothing changes in the ownership situation when the loaned items are returned to their owner. The objects are property of the lender and this remains so until the objects are returned to their owner. Still, there is good reason to add long-term loans to this guideline.

In the first place, in practice in many museums long-term loans are often seen as part of the collection. Long-term loans are normally also registered in the collection registration system. When a long-term loan term is up, the ownership situation does not change, but the objects are removed from the collection register. In so doing, long-term loans sometimes resemble deaccessioning, although this is not the case. In some situations, the loan cannot be reversed. Therefore, loans are also discussed in this guideline.

Two problems may occur with loan objects:

1. The lender is no longer traceable
2. The lender refuses to take the objects back.

Ad 1.

When the lender is no longer traceable, then the borrower may not continue with the deaccessioning process. The lender still remains the owner of the loan. The borrower is only the holder and can therefore not claim ownership with good intent. A unilateral cancellation of the loan agreement is not permitted. In this case, maintenance of the status quo or intervention from the courts are the only two options. It is therefore advisable to regularly bring any loan agreements up to date.

Ad 2.

The lender may refuse to accept the objects. Although the borrower is at all times required to return the loans, there is no requirement for the lender to take the loans back. Therefore, if the borrower wishes to return the objects but the lender refuses to accept them, a stalemate occurs. Some possibilities to solve this situation are:

- The lender donates the objects to the borrower, who is then free to deaccession the objects.
- The borrower requests the judge to require the lender to take the objects back if he is not prepared to renounce ownership of the

property.

- The borrower looks for a third party who is willing to take the objects in loan.

See Book 7A, Art. 1777-1790 of the Dutch Civil Code.

DONATION

Donation is an agreement in which one party (the donor) at the cost of his/her own property enriches another party (the beneficiary). Objects which are donated may be deaccessioned by the receiver unless certain conditions are placed on the donation. Ethical considerations may also lead to caution in deaccessioning donations.

Donation is not a unilateral legal transaction, as a testamentary legacy is, but a reciprocal agreement which originates in the offer and acceptance of the attached conditions.

In case of an unconditional donation, there is no restriction against deaccessioning of the object. It is advisable, however, to inform the donor or his/her heirs of the consideration to deaccession the object. If the donor or heirs object to such an action, the museum may consider giving the object back, or may decide to make another agreement with the donor or heirs.

The conditions placed on the donation form a contractual obligation for the beneficiary. If the beneficiary acts in conflict with the conditions placed on the donation, then the beneficiary defaults on the donation. In that case, the donor may sue the beneficiary. The judge may then declare the agreement invalid due to non-compliance of the beneficiary. The donation then reverts to the ownership of the donor, and the judge may decide who must pay the costs of the legal proceedings.

The beneficiary may request a change of conditions from the court, a so-called cancellation.

GIFT

A gift is a monetary exchange which does not cover the true value of an object. A gift is any action which implies that the acting party enriches another party at his/her own expense.

The difference between a donation and a gift is important because a gift does not imply an agreement, as a donation does. A gift therefore does not allow legally binding conditions. This lack of reciprocity implicit in a gift is lacking in a donation. An example of a gift is the purchase of an object for a symbolic price or a price below market value.

See Book 7, Art. 175-188 of the Dutch Civil Code.

TESTAMENTARY DISPOSITION AND LEGACIES

Determine whether there are restrictive conditions attached to the selected objects which may have been acquired through a legacy or testamentary disposition.

There is a difference between a testamentary disposition and a legacy. A testamentary disposition is when a testator leaves his or her entire estate to one or more individuals, including all rights and obligations. A legacy is a last will and testament in which the testator assigns a right of claim for specifically delineated goods to one or more persons.

Testamentary dispositions and legacies are 'bequests'. A bequest differs juridically from a donation in that a bequest does not imply an agreement. This means that a legacy or a testamentary disposition may be acquired without explicit acceptance. As with a donation, a legacy or testamentary disposition may be restricted by conditions or obligations. Such a condition or obligation may be burdensome for the museum. In this case it may consider requesting an adjustment or cancellation of the conditions or obligations from the courts.

Always contact the legatee's heirs when deaccessioning an object obtained in a legacy or testamentary disposition.

See Book 4, Art. 42- 54 and Art. 115-134 of the Dutch Civil Code.

SUBSIDIES

Determine whether the selected objects were acquired or restored with subsidies. Were there restrictions or conditions placed on the subsidy approval?

Granters of subsidies may place conditions on the subsidies they award, for instance requiring the museum to request permission when deaccessioning objects from the collection. If the museum fails to do so, the subsidizer may reclaim the funds granted. If the subsidizer grants permission for deaccessioning, it is permitted to demand payment of (a part of) the proceeds if the deaccessioning of the object results in an increase in the museum's equity.

See Chapter 4, Title 4.2 of the General Administrative Law Act and the Cultural Policy (Special-Purpose Funding) Act.

SHORTLIST OF SURPLUS OBJECTS AND REACHING A DECISION

After verification of the objects, draw up a shortlist of surplus objects/sub-collections and submit it with motivations for deaccessioning to the authority qualified to make the decision. Try to develop a graduated decision-making process where objects of little value may be deaccessioned after a simple decision-making process, but objects of greater cultural-historical value must be submitted to one or more higher levels of authority, such as: the management team, the supervisory board, the administration, the alderman and the municipal council.

MARKING OBJECTS

Consider marking the objects on the shortlist in such a way that it is clear that they are to be removed from the museum collection. This is especially advisable once the decision is made to relocate them and they are to be sold or given to other parties or museums. Markings can prevent uncertainty regarding the provenance of the object, and may be done by engraving, stamping, or branding.

3. RELOCATION

ALLOCATION CRITERIA

Allocation criteria are the criteria that determine which museums will receive the objects to be relocated.

Always offer surplus objects to other museums first. Try not to sell objects to other museums; sale transactions of surplus objects between curators of national collections are not permitted. Draw up conditions for accepting surplus objects. Some suggestions for allocation criteria are:

The grantee should:

- ⌘ administer a collection with similar content
 - ⌘ administer a collection with a similar ownership status (municipality-municipality, for example)
 - ⌘ clearly explain their interest in the objects and the arguments for deaccessioning the objects should be reflected in the motivation of the receiving museum
 - ⌘ be an important partner for collaboration
 - ⌘ be located in the same city, region or province
 - ⌘ be registered in the Dutch Museum Register
 - ⌘ be prepared to restore the objects
 - ⌘ be prepared to register the objects and to make this registration available
 - ⌘ be prepared to pay a handling fee
 - ⌘ be prepared to sign a transfer declaration
-
- ⌘ The objects to be deaccessioned should form a good addition to the receiving museum's collection.
 - ⌘ First come, first served.
 - ⌘ Object clusters should be kept together.
 - ⌘ Transportation and insurance costs (if any) should be paid by the receiving museum. Transport should take place within a reasonable time frame.

Determine which of the criteria should be decisive in allocating the objects if multiple museums are interested in the same objects.

HANDLING FEE

The handling fee (partially) covers the costs of supervision, administration and packing made by the museum to make the surplus objects ready for transfer. The handling fee is not related to the value of the objects, but is related to the number of objects. The fee should be the same for all objects. Choose a reasonable amount that is in proportion to the real costs for handling, but does not constitute a barrier to relocation in another museum.

INFORM MUSEUMS

Inform other museums of the intention to deaccession the objects, as well as which objects are being considered for relocation and explain the allocation criteria.

Provide a reasonable time frame for the museums to react to the offer. They must be able to become acquainted with the objects and make a decision. This is partially dependent on the form of communication.

The following methods can be used to inform other museums:

1. Inform as many museums as possible (simultaneously or in phases) about the objects available for transfer.
2. Make direct contact with museums that might be interested in the objects, especially fellow museums with similar collections.

The first option is preferable because it is more transparent.

Communication methods may include telephone, e-mail, letters, websites, museum consultants, exhibitions, trade journals, newspapers, or via a Relocation database

Indicate how museums should reply and set a deadline. Announce the allocation criteria in an early phase of the communication process.

EXHIBITION

Consider making an exhibition of the surplus objects. The exhibition can serve as an excellent platform for receiving reactions and measuring interest.

In 2006, a number of museums experimented with making an exhibition of objects they wished to relocate. These exhibitions received many reactions and contributed to the transparency and accountability of the deaccessioning operations.

RELOCATION DATABASE

The relocation database is an Internet platform where museums may offer objects which are being considered for relocation.

The website is accessible to everyone, but only museums with a log-in code may react to the offers of surplus objects. By placing surplus objects in the database, they become visible for other museums and each museum has the same information at the same time. Each museum sets its own allocation criteria. The Dutch relocation website can be found at: www.herplaatsingsdatabase.nl.

HANDLING AND HONOURING REQUESTS

Reactions can be expected after museums have been informed about the objects to be relocated. Deal with the reactions as follows:

- ⌘ Register and acknowledge the reactions.
- ⌘ Consider organizing a display of the objects. The interested parties will usually wish to see them before making a decision. A

display day is especially useful if there are many objects or a large number of interested parties.

- ☿ List which allocation criteria were decisive in the allocation of the objects in the deaccessioning documentation.

When planning a display day, consider the following items:

- ☿ In which space (depot?) will the interested parties be welcomed?
- ☿ Must the objects be made ready?
- ☿ Are the interested parties allowed to handle the objects?
- ☿ How may the interested parties consult the registration data and/or the object documentation available?

TRANSFER

Finalise the transfer of objects administratively by signing a transfer declaration, handing over the object documentation, organizing transport and collecting any handling fees or proceeds from the sale.

The museum may decide to relocate the objects via donation, gift, exchange or sale.

See Book 3, Art. 83-92 of the Dutch Civil Code.

DONATION

Donation was already discussed in the chapter regarding provenance research. The donation process is reversed during relocation. The museum is no longer the beneficiary but the donor and therefore has a different role.

Consider placing conditions on the donation. A museum acting in the spirit of the Netherlands Institute for Cultural Heritage can set conditions which may guarantee that the donated objects remain in the public domain. Conditions may also prevent the objects from being traded for profit.

Some possible conditions are:

- ☿ The beneficiary must inform the donor when considering deaccessioning the donated objects.
- ☿ The beneficiary must return the objects if they are being considered for deaccessioning. A time limit can also be added to this condition, within five or ten years for example.
- ☿ The objects may only be deaccessioned if they are relocated to another museum.

Not all conditions are allowed; it is not permitted to forbid a museum to ever deaccession a donated object.

GIFT

The museum can also decide to transfer the objects in the form of a gift, for which the receiving museum pays only a symbolic amount. Unlike a donation, no conditions may be placed on a gift.

EXCHANGE

Exchange is an agreement in which the parties oblige each other to give something in order to receive something. Exchange may be an option when deaccessioning a limited number of objects.

The regulations for exchange are the same as those for sale, with the understanding that each party is considered to be the seller of the good or service they provide, and as the buyer of the good or service they receive.

Before exchanging an object, have it appraised by an independent specialist. The estimated value then provides a basis for determining the value of the trade and prevents disagreement over the fairness of the exchange.

To guarantee an objective appraisal, contact an accredited auction house or a Federation of Appraisers/Valuers, Brokers and Auctioneers in Movable Goods.

See Book 7, Art. 49 and 50 of the Dutch Civil Code.

NO INTEREST FROM OTHER MUSEUMS

If no museums are interested in the objects, proceed with deaccessioning outside the museum sector. This can be done through donation, exchange or sale.

DONATION

When planning for deaccessioning the objects outside the museum sector, consider the following factors:

- ⌘ The object's best interests
- ⌘ The attention and care the object will receive after donation
- ⌘ The object's visibility

Suggestions for donation:

- ⌘ The maker of the object, or his/her heirs, if it is a copyright object
- ⌘ The original donor or his/her heirs, if it had been donated to the museum
- ⌘ Collector's clubs or associations
- ⌘ Education institutions
- ⌘ Other public institutions
- ⌘ Visitors to the museum (a practice sometimes chosen by technical or natural history museums)

Not:

- ⌘ Museum staff or their families and acquaintances

Place conditions on the donation to promote the correct handling of the objects.

EXCHANGE

See above.

SALE

There are two forms of sale: private sale and public sale through an auction. Only deal with accredited brokers/auction houses.

PRIVATE SALE

Private sales are less transparent than public sales, and are therefore less advisable. There are some reasons to choose to sell privately, however, such as:

- ⌘ Investing in the relationship with the buyer
- ⌘ The broker works through a network
- ⌘ The museum knows a buyer willing to pay the asking price
- ⌘ It is more efficient for selling a single object or small numbers of objects
- ⌘ Time is not an issue

PUBLIC SALE

A public sale at auction is preferable due to the transparency of the process. Sell the objects at an auction if:

- ⌘ the museum wishes to maintain maximum transparency.
- ⌘ the sale concerns a large number of objects.
- ⌘ the objects must be sold within a limited time frame.

Make contractual agreements with the auction house regarding:

- ⌘ Supply of object data
- ⌘ Appraisal
- ⌘ Sales commission
- ⌘ Marketing, publicity and catalogue, mailings
- ⌘ Photography for the catalogue
- ⌘ Transport and insurance
- ⌘ Auction location
- ⌘ Display days
- ⌘ Composition of lots
- ⌘ Limits
- ⌘ Unsold objects
- ⌘ Storage
- ⌘ Payment of the proceeds

See Book 7, Art. 1-44 of the Dutch Civil Code.

SALE AND RESALE RIGHTS

Resale right is the inalienable right of the maker of an original art work to share in the increase in value of his/her work by receiving a percentage of the receipts of any subsequent sale of that art work. This is an integral part of the Copyright Act of 1912.

Resale right is due if the buyer, seller, or intermediaries are involved in the professional art trade, such as auction houses, brokers or galleries. Resale right is not applicable for the first sale of the art work by (or for) the maker.

It is not completely clear whether resale right is applicable to museums if they sell a modern art work directly to an interested party. A museum is not considered to be a professional art trader (as it is a non-profit organization), but it is not eligible for the exceptions available to a natural person. Therefore, always sell modern art works through a professional intermediary: a broker or auction house. In such a case, resale rights must be paid; the auction house must arrange the payment of the proceeds to the maker.

See Art. 43-43g of the Copyright Act.

4. CONCLUSION

PROCEEDS

Invest the proceeds from the sale of objects exclusively on improving the quality of the collection (purchases, restoration or active conservation). Discuss investments from proceeds with the owner at an early stage in the process.

REGISTRATION

Update the (automated) collection registration with the data that the objects have been removed from the collection.

Include the new location for category A and B objects. It is important that data for deaccessioned objects remain recorded in the collection registration, so that any uncertainty regarding the provenance of the objects can be easily solved.

DESTRUCTION

Destruction of an object is irreversible. It is therefore advisable to take a moment between selection and the actual destruction of the object to reflect on the decision to destroy the object. Sometimes new insights form based on information that was not available at the moment of selection, or the opinions of external parties. Ensure that objects to be destroyed are actually destroyed and do not inadvertently appear on the market. Make (overview) photographs of the objects before destruction.

COPYRIGHT LAW AND DESTRUCTION OF MODERN ART

If the museum decides to destroy an art work, then it must take into account the artist's personal rights based on the Copyright Act.

Contact the artist or his/her heirs to obtain permission for destruction in order to prevent actions violating the personal rights of the artist.

Infringement on copyright law usually implies illegal publication or multiplication, but harming or mutilating a work can also be considered infringement on the personal rights of the maker.

The maker has not only a material interest in the exploitation of his/her work, but also an ideal interest connected to being the creator: his/her personal rights. This means that the artist's personal rights must always be taken into consideration.

An artist may not claim that destruction of an object is an infringement on his/her copyright. Case law indicates that destruction is not considered to be harm as defined in the Copyright Act, and that the personal rights of the creator are not in conflict with the destruction of (a physical specimen of) the art work. When destroying a unique specimen, the owner is expected to have a well-founded reason to do so. If there is no such reason, that would be considered abuse of property rights towards the creator of the object. When destroying an art work, it is therefore vitally important to discuss the intention with the artist or his/her heirs.

DEACCESSIONING DOCUMENTATION

Document the deaccessioning operation carefully and provide as much openness as possible.

A thorough documentation provides accountability and makes future reconstruction of the process possible. Make agreements regarding storage location and duration of the deaccessioning documentation. Due to the public nature of the collections, deaccessioning documentation must also be made accessible for third parties. Describe the deaccessioning operation in the annual report.

APPENDIX 1

ARGUMENTS FOR AND AGAINST DEACCESSIONING

The following is a list of many common arguments for and against deaccessioning, without regard as to the validity of the statements.

FOR DEACCESSIONING:

- ⌘ Improving the quality of the collection
The deaccessioning of objects leads to improvements in the quality of the collection and provides a more defined collection profile. The objects could be replaced by qualitatively better or comparable examples.
- ⌘ Not museum quality
The objects have insufficient inherent or aesthetic quality in comparison to similar objects, or they are insufficiently representative.
- ⌘ Change in collection policy
The objects no longer fit in the collection due to a redefinition or change in the collection policy.
- ⌘ Usage
The objects are no longer used.
- ⌘ Isolation
The objects are isolated within the collection, and have no inherent relation to the rest of the collection.
- ⌘ Lack of interest
Public and scientific interest in or emotional connection with the objects is lacking.
- ⌘ Decreasing administrative burdens
Deaccessioning the objects would lighten the administrative burden of the collection. This argument is especially used for large or numerous objects.
- ⌘ Duplicate objects
The collection possesses objects that are (exactly) the same.
- ⌘ Overrepresentation
The work of one artist is overrepresented, which makes the collection imbalanced.
- ⌘ Broken
The objects are irreparably broken.
- ⌘ Health risks/environmental risks
The objects are a threat to the health and safety of museum staff or visitors (example: radioactive material), or they have a negative effect on the conservation of other parts of the collection.
- ⌘ Collection mobility and visibility
Objects fit better into other collections or would be more fitting in a public institution.
- ⌘ Nation of origin/original context
Objects belong in the country of origin (colonial heritage or war trophies, for instance). Dispersed parts can be re-united or be

placed back into their original context.

- ⌘ Treatment is finished

The treatment and handling (analysis, documentation, publication) of the objects – which are present in large numbers in the collection – are now finished and they can now be deaccessioned (expedition material, samples, etcetera).

- ⌘ Substitution

The information on or from the objects can be completely substituted (example: newspapers on microfilm).

- ⌘ Knowledge is incomplete

Knowledge about the objects is incomplete or totally lacking and can no longer – or only with much effort – be restored.

- ⌘ Replaceability

The objects are easily replaceable based on documentary evidence (conceptual art).

AGAINST DEACCESSIONING:

- ⌘ Coherence

A collection is more than the sum of its parts. It is an exciting whole with its own history which must be respected.

- ⌘ Collection history

The manner in which the collection came into being reflects the ideas and opinions of our predecessors regarding collecting and conservation. The collection history must be respected.

- ⌘ Reputation

Deaccessioning damages the museum's reputation as a collection management institution, breaks the confidence that people have in the museum and can lead potential donors to be less eager to let go of their objects.

- ⌘ Unknown aspects

Too much is still unknown about the objects, and therefore no well-founded decision can be made about deaccessioning.

- ⌘ Memory loss

Museums are responsible for our collective memory. Deaccessioning leads to memory loss.

- ⌘ Archive function

Collections have an archive function. The measure of the object's value is not exclusively that of its 'utility value'.

- ⌘ Long-term thinking

Decisions regarding deaccessioning are very dependent on current fads, dominant opinions or the state of technology and science. Today's depot item may well be tomorrow's masterpiece (cautionary principle).

- ⌘ Public property

Museum objects are public property, usually obtained with community funds. Decisions regarding deaccessioning should be left to a higher authority than an individual museum.

- ⌘ Market forces

Deaccessioning a large number of objects can lower the market value of similar objects. Conversely, deaccessioning can also create a demand, while it is in the museum's and society's interest to keep the market as limited and uninteresting as possible (example: endangered species).

- ⌘ Good for the network
The objects provide admission to the club of important museums and contacts. The objects contribute to the status of the institution as an important source of loan material.
- ⌘ Intrinsic value
The objects have a high intrinsic value.
- ⌘ Verification
The objects continue to confirm research results, and must therefore be kept.

APPENDIX 2

DELTA PLAN CATEGORIES FOR THE PRESERVATION OF CULTURAL HERITAGE

CATEGORY A

Category A objects or sub-collections are those which are irreplaceable and indispensable in the context of the museum's goals and the country's cultural heritage. These objects are generally found in permanent exhibits.

1. <<Verification value>> The object is a unique specimen, holotype, paratype or prototype: (a dated and signed object for example). Scientific texts have been written based on this object; it was used as an example in the description of a species. When utilizing this criterion one should be conservative with the use of the word "unique", as this is not a very specific term in art history texts.
2. <<Linkage value>> The object illustrates an essential phase/revolution in the work of the artist, of a school or of a development in science. This may be the first work in which the artist explores a new direction, art works which can be accurately placed in time or location because the details of the commission are known, or an art work with a new iconography.
3. <<Symbolic value>> The object has a relation with an important historical event, it is a clear reminder of individuals or occurrences which are important for the country's or international history. External appearance or aesthetic appreciation is completely irrelevant for evaluating this criterion.

These criteria conform to the criteria described in the Cultural Heritage Protection Act. This accurate description of category A defines individual objects considered to be the high points of Dutch cultural heritage, and therefore of national importance. Utilization of these criteria is easier for individual objects than for sub-collections, which regularly contain objects which do not comply with category A criteria (See item 6 below).

It is possible that the value of the sub-collection may be considered as category A, despite the presence of category B or even C objects. The value of the collection as a whole can exceed that of the sum of its parts.). In many, or even most cases, the objects in the sub-collection should be appraised individually and divided by percentages into A, B, C, or even D categories.

CATEGORY B

4. <<Presentation value>> The object is often displayed in temporary exhibitions. This also applies to objects which may not have a significant art value or cultural-historical value, but do have a high <<attraction value>>.
5. <<Genealogic value>> The provenance of the object is important or implies certain obligations. Some examples may be acquisitions made by previous directors, often based on a contrasting vision of the museum's purpose, such as the colonial origins of the various ethnological museums

6. <<Ensemble value>> The object is part of an ensemble, which meets certain criteria, either in whole or in part, but which the object itself does not meet.

7. <<Documentation value>> The object holds important data which do not meet the criteria listed above. Some examples are atlases or archaeological collections.

The interpretation or utilization of certain criteria may vary among the different types of museums. Cultural history museums often own collections with a high genealogic value, but also may consider presentation value to be important.

Natural history museums place more emphasis on the verification criteria: scientific publications often require verification and evaluation. Verification and documentation are also important for archaeological collections. The criterion for documentation value is in itself insufficient to place an object in category B; to do so, the object or sub-collection must also meet another category B criterion.

CATEGORY C

Category C objects do not meet one or more of the criteria for category A or B (see B7). Category C objects always fit into the museum's mission statement. These objects should generally be stored in the depot under good circumstances for preventive conservation. However, they may be loaned to third parties or deaccessioned (relocated, destroyed).

When considering deaccessioning, evaluate to which degree documentation, such as descriptions, photographs or other images, can replace the object. Only a few (art) objects will provide significant proceeds when sold. An illegitimate criterion for the lowest category would be that the restoration of the object would be disproportionately expensive (flag collections, for example). These objects must be placed 'in mothballs', but should remain in categories A or B.

CATEGORY D

This category contains those objects best described as 'rarities' or 'props'. These are objects which should never have been inventoried as a museum object, because they have little to no cultural value. Such objects may sometimes fill a role as support for the presentation, but if this is not the case, the collection should be purified of these objects through deaccessioning or destruction. Objects or collections which do not fit the museum's mission statement, but are of (significant) cultural value may also be placed in category D. They should be considered for exchange, loan, or (as a final option) deaccessioning.