



EN

Working Group on Orphan Objects
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Summary Report

Item 1 of the agenda Opening of the session and welcome by the UNIDROIT Secretary-General

1. The Secretary General opened the third session of the Working Group, welcoming participants attending in person at the seat of UNIDROIT, as well as those joining remotely (see Annexe I). He expressed appreciation for the efforts made by all members, particularly those connecting from abroad, in contributing to discussions on the sensitive and important issues surrounding provenance of cultural objects.

Item 2 of the agenda Adoption of the draft agenda and organisation of the session (Study LXXB- W.G. 3- Doc. 1)

2. *The Secretary-General* indicated that a new item on the agenda had been added following the submission of a document entitled "Cultural Objects on Private Collections" which would be briefly introduced before moving on to substantive discussions. The Working Group adopted the revised draft agenda (see Annexe II).

Item 3 of the agenda Presentation of the document "Cultural Objects in Private Collections" (Study LXXB- W.G. 3- Doc. 3)

3. *The Secretary-General* introduced the document "Cultural Objects in Private Collections", intended to link the current project with the 1995 UNIDROIT Convention and ensure new proposals did not conflict with our existing legal instrument. The document was presented as a basis for further discussion in the project's early stages.

4. *An observer* recalled that the Working Group's purpose was to address cultural objects with insufficient provenance that could not be sold or purchased and felt the document did not provide a clear solution. He noted its apparent focus on archaeological material, which represented only a small share of the market, and suggested that if this was the intended scope, it should be explicitly stated.

5. *One of the authors* clarified that the document was not meant to facilitate trade in poorly documented objects, nor was it limited to archaeology. It also considered cultural items from Indigenous communities and other groups with limited market access. While archaeology remained sensitive, she stressed that other categories also required attention and that the Working Group should differentiate between categories.

6. The Working Group discussed terminology, with *a participant* proposing "public due diligence" instead of "clearing" to encourage transparency, in line with the 1970 UNESCO and 1995 UNIDROIT

Conventions. He argued that this shift would better serve the cultural heritage community and also benefit collectors and buyers. He further suggested defining “orphan cultural objects” as those with no provenance information at all.

7. Another participant highlighted the central role of provenance research, noting it was essential both for institutions and collectors, as affirmed by the Washington Conference principles. She cautioned against dividing public institutions from private market actors and concluded that due diligence today is inseparable from provenance research, both for acquisitions and ongoing collection reviews.

8. *The Secretary-General* clarified that the approach taken in this session would be to integrate its relevant aspects into the agenda’s structured discussions.

Item 4 of the agenda Discussion of the report of the Sub-groups on the preliminary draft Guidelines (Study LXXB- W.G. 3- Doc. 2)

A. Definition of an orphan cultural object

Text as it stood at the end of the second session of the Working Group –

For the purposes of the present Guidelines, an orphan cultural object is a movable cultural object of importance, as defined in Article 2 of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has incomplete provenance.

New text proposed by the Sub-group –

For the purposes of the present Guidelines, an orphan cultural object is a movable cultural object of importance, as defined in Article 2 of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has [no or] incomplete provenance.

9. The Working Group engaged in extensive debate over the term “orphan objects”. Several participants opposed its use, stressing that it lacked legal precedent, conflicted with established terminology in other fields (notably copyright), and risked creating confusion or offense for source communities. They preferred terms such as “unprovenanced” or “insufficiently provenanced”, which would align more closely with existing instruments like the 1995 UNIDROIT Convention and the ICOM Code of Ethics. Critics also warned that introducing a new concept could undermine UNIDROIT’s mandate of promoting uniform law.

10. Those supporting the use of “orphan objects” argued that the expression was clear, accessible, and effective in raising awareness, provided it was precisely defined. They saw it as more user-friendly than technical legal terms and better suited for non-specialists, including collectors and the general public. Some viewed alternatives such as “unprovenanced” as overly binary, while “insufficiently provenanced” captured nuance but risked vagueness.

11. Three main approaches emerged: retain “orphan objects”; adopt “unprovenanced/insufficiently provenanced objects”; or use a compromise definition, such as “movable cultural objects... with no or incomplete provenance,” without fixing a specific title. Across positions, participants emphasized that terminology must balance legal precision with clarity for wider audiences.

12. Beyond terminology, several participants called for greater transparency and a process of public due diligence to improve provenance research and information sharing. The need to respect the rights and sensitivities of source communities was also underlined.

13. The *Secretary-General* concluded that consensus had not been reached and that the Working Group agreed to prioritise defining the scope and provenance standards before finalising the term. The Secretariat proposed a dedicated meeting to resolve Guideline A and terminology.

B. Applicable Law

Text as it stood at the end of the second session of the Working Group –

The existence, legal status and acquisition of an orphan object are subject to the relevant conventions. If no convention is applicable, the existence and legal status of an orphan object are subject to the domestic law of its country of origin. The transfer of an orphan cultural object is subject to the law of the place of its location at the time of the transaction, provided the present Guidelines are respected.

New text proposed by the Sub-group on Applicable law / Evidence and burden of proof –

The existence, legal status and transfer of an orphan object are subject to the relevant conventions. If no convention is applicable,

- *the existence and legal status of an orphan cultural object are subject to the law of the place of its location;*
- *the transfer of an orphan cultural object is subject to the law of the place of its location at the time of the transfer.*

However, where circumstances so require, the domestic law of the object's place of origin or another applicable law may be considered, either ex officio or on request.

14. A *participant* enquired about the relevance of keeping this Guideline and proposed to delete it. Another *participant* reminded that these Guidelines aim to be a soft-law instrument and therefore they could not be set one general rule on applicable law.

15. Mr *Renold* pointed out that, in regard to *Guideline H (Dispute Resolution)*, there was a need to address resolving a dispute according to a certain legal system. He stressed that both Guidelines were connected. A *participant* proposed to address applicable law issues in the commentary to Guideline H.

16. A *participant* underlined that a guideline on applicable law would not bind a person when conducting alternative dispute resolution. Therefore, a guideline on the applicable law would be contrary to that concept. If a dispute were to go to court, the relevant applicable law would be identified. She agreed to address this issue in the commentary section of Guideline H.

17. The *Secretary-General* reflected on the addition of mediation and other modes of alternative dispute resolution, as a new alternative to approach cultural property disputes. He acknowledged the added value of this Guideline, as a complement to the text of the 1995 UNIDROIT Convention. Mr *Renold* emphasised that this instrument was based on the scope of the 1995 UNIDROIT Convention, so these Guidelines should not implicate a conflict.

18. Following numerous arguments presented by the participants and observers, a consensus was reached to delete this Guideline and to address this issue in the commentary section of Guideline H. The *Secretary General* acknowledged the Group's consensus to delete this Guideline.

C. Provenance Research

Text as it stood at the end of the second session of the Working Group –

Provenance research is the process by which the possessor or the acquirer of an orphan cultural object is to find out the place of origin and/or the history of circulation of the object. The extent of provenance research depends on the specific case at hand and the history of the object. Provenance research should be performed by [relevant experts in that field] [experienced researchers] [experts], and it can involve, among other actions, library research, consultation of archives (public or private), document analysis, scientific analysis and exchanges with witnesses.

New text proposed by the Sub-group –

1. *Provenance research is the process of searching information related to the history and circulation of an object, from its creation or discovery to its current location, in the aim of establishing its provenance / must be conducted on an object to thoroughly investigate its history and circulation. Provenance research also endeavours to ensure that the object has not been subject, in the past, to any illicit transfer or similar action.*
2. *Complete and unbroken records of provenance are rare. The provenance of some objects may not be able to be verified in its entirety since its creation or discovery to its current location. In such circumstances, provenance research should aim to collect all reasonably obtainable information in evaluating provenance gaps and undocumented transfers.*
3. *(Due diligence and) Provenance research require(s) extensive and comprehensive research that integrates various types of information. Conducting (due diligence) provenance research may confirm that the object is an orphan cultural object as defined in Guideline A.*
4. *Provenance research must be conducted under the circumstances specified by a provenance researcher or a recognized expert in the field.*
5. *The extent of provenance research depends on the specific case and the history of the object. It involves examining all available documentation and information at the time of the search. This may include, among other actions, library research, consultation of public or private archives, document and scientific analysis, and exchanges with witnesses. The results are only relevant at the moment / time / period when provenance research is conducted.*
6. *The results of the provenance research must be preserved and follow the object. They must be shared with any present or future possessor.*

19. *A member of the Sub-group presented the new draft and emphasised that the aim was to go beyond the transaction scope of the exercise of provenance research and due diligence, as seen in Article 4(4) of the 1995 UNIDROIT Convention. This Guideline encouraged the art world to conduct provenance research consistently, regardless of whether an object was being bought, sold, or inherited.*

20. *Beyond the proposal of the sub-group, she proposed merging the processes of provenance research and due diligence, rather than defining them separately. She argued that if an object's provenance was in question, collectors, dealers, and museums should be conducting both types of research simultaneously.*

21. *A participant raised concerns about the length of the proposed text and suggested that some of the detailed discussion could be moved to the commentary. She also expressed concerns about the phrasing, particularly the statement that provenance research "must be conducted on an object to thoroughly investigate its history". She argued that while this might be realistic for new collectors or for objects being acquired or sold, it was not practical for long-time collectors, especially elderly*

ones with large collections. She pointed out that it would be overwhelming and unrealistic for them to go through every item in their collection. She proposed to use “should”.

22. As to the length of the proposed Guideline, *the Secretariat* explained that the previous text, as presented at the end of the second session, only addressed three points: what provenance research was, its extent, and who should perform it. During several meetings on provenance research, the Sub-group decided to extend the Guideline and propose a new draft, highlighting a six-point framework corresponding in draft provisions, as follows:

- what provenance research is (paragraph 1),
- issues surrounding insufficiently provenanced or orphan cultural objects (paragraph 2),
- when provenance research should be conducted regarding its relationship with due diligence (paragraph 3),
- who should perform provenance research (paragraph 4),
- extent of provenance research (paragraph 5),
- what to do with the results of the provenance research (paragraph 6).

23. A *participant* suggested that the six points raised could be more appropriately addressed in the commentary. She expressed understanding of wanting to separate out or remove due diligence, but she emphasised that due diligence should not be ignored entirely, as it was an essential part of the process.

Definitions (paragraph 1)

24. Participants discussed clarifying the definition and scope of *provenance research*. Two drafting options were considered: one offering a detailed definition tracing an object’s history to the present, and another simply requiring that provenance research be conducted. Many preferred simplifying the wording (for example by deleting “in the aim of establishing its provenance”) but cautioned that the second option lacked clarity and depth.

25. Suggestions included replacing “location” with “current status” or “present circumstances” and adding “best efforts” to reflect that complete information may not always be available. As to the suggestion to add a “best efforts” clause, the *Secretariat* noted that it was already addressed in paragraph 2 (“provenance research should aim to collect all reasonably obtainable information”) and in paragraph 5 (“examining all available information”) and identified a potential contradiction between “reasonably obtainable information” and “all available documentation”, suggesting that these terms needed to be made compatible. He proposed that this could be clarified by merging the two ideas with a clearer rule within the Guideline.

26. The Working Group agreed to clarify the wording of paragraph 1 to remove redundant sentences, confirm the obligation to conduct provenance and draft a new guideline specifying who should carry it out.

27. A key point of debate was distinguishing *provenance research*—focused on an object’s history—from *due diligence*, which is a legal obligation. Patrimony laws were highlighted as crucial to restitution claims. The Secretary-General proposed a separate guideline specifying both the obligation to conduct provenance research and who should carry it out.

28. It was noted that the broad definition was intentional, as questions remain about how far back provenance research should extend, particularly for archaeological objects. Referencing patrimony laws was suggested as a possible solution. The definition was not intended to be exhaustive but to guide due diligence practices flexibly.

Paragraph 2

29. The *Secretary-General and participants* agreed that parts of paragraph 2 stating facts belonged in the commentary, while the prescription “Provenance research should aim to collect all reasonably obtainable information” should remain in the Guideline. *An observer* noted that starting with “complete and unbroken records of provenance are rare” contradicted the Guideline’s goal of encouraging full provenance documentation and suggested that, if Guidelines C and D were reversed, the obligation to conduct provenance research could be incorporated into the definition of due diligence.

30. *Mr Renold* recommended reframing paragraph 2 positively, for example: “provenance research also endeavours to identify if the object has been subject in the past to any illicit transfer or similar action”.

Relationship between provenance research and due diligence - When to conduct provenance research (paragraph 2)

31. Participants discussed how to structure the relationship between *provenance research* and *due diligence*. Some argued provenance research should logically come first, as the initial step when assessing an object’s status, while others preferred to place due diligence ahead, framing provenance research as one element within it. The possibility of merging the two Guidelines was raised, though concerns were expressed about creating overly complex provisions.

32. Several participants stressed that due diligence was a legal obligation under the 1995 UNIDROIT Convention, particularly in the context of compensation claims, while provenance research was a practical process focused on tracing an object’s history. Some argued they should remain distinct, while others considered them inseparable and suggested that provenance research should be integrated into everyday due diligence practices, not just at the moment of acquisition.

33. A proposal was made either to include a reference to provenance research in Guideline D (Due diligence), or a rule be established for those required to conduct due diligence even if no transaction was involved.

34. Examples such as the National Gallery of Australia’s Guidelines were cited, showing a pragmatic approach where provenance gaps were evaluated through risk assessment, considering the type of object, country of origin, and reputation of parties involved, before deciding on further research.

35. Concerns were also raised about limited resources: large institutions hold millions of objects, most undocumented, making comprehensive provenance research unrealistic. Participants therefore stressed the need for prioritisation and proportionality.

36. The Secretariat recalled a proposal to include in the Preamble that due diligence and provenance research apply in all situations, not only transactions. The *Secretary-General* and the Working Group acknowledged that due diligence could extend beyond acquisitions and transfers, while provenance research could remain a separate guideline.

37. By the close of discussion, there was broad support for inverting the order of the Guidelines, placing due diligence before provenance research, though some cautioned that in cases of incomplete provenance it might still be more logical to start with provenance.

Who should conduct provenance research / methodology (paragraph 4)

38. Participants discussed who should conduct provenance research and what standards should guide the process. Museums were highlighted as having a central role, both as custodians and proprietors of culture, with the Louvre cited as an example of large-scale provenance research. While

limited staff and budgets were acknowledged, an observer stated that museums should at least prioritise high-risk or culturally significant items, using digital tools where possible.

39. Debate arose over responsibility: some stressed that the possessor or acquirer should bear the obligation, while others argued it should fall more heavily on States, cultural institutions, and professional collectors. Several participants supported the idea that provenance research was an obligation of means rather than an obligation of result, with “best efforts” or “should” preferred to “must” to be understandable across different legal systems.

40. Questions also focused on who qualified as a researcher. Some favoured restricting the role to recognised experts, while others argued students, communities, or internal staff could also conduct research, provided their work followed recognised professional standards (need to take into account all possible future development in this field). *The Secretariat* highlighted that referring to existing standards of some countries would also be a good opportunity to encourage other countries to develop them. If not done by a qualified or certified researcher, the question of how to validate that the research had been done properly and by whom was to be discussed. A participant also highlighted the importance of specifying whether the possessor could delegate the research to another person or institution.

41. Concerns were raised about independence: while independence could add credibility in litigation, most provenance research was carried out by employees of museums, auction houses, or institutions, and requiring external experts could impose unnecessary burdens. A compromise view was to stress adequate knowledge, technical expertise, and methodological standards, rather than formal independence.

42. The Working Group suggested that the commentary could flesh out all the “circumstances” possible and define the notion of “possessor”.

43. Participants also highlighted models such as Germany’s funding of Holocaust-era provenance research, which supported museums and even private collections. This raised the broader question of proportionality—balancing obligations with available resources and the scale of collections.

44. Several contributions stressed the need for methodology: provenance research should follow a structured process, include risk assessment, and ensure consistent recording and sharing of results. The proposal was made to add to the commentary a reference to such methodology for conducting provenance research as in some countries standards existed and a system to properly record the elements searched and the elements obtained. Some suggested researchers should also understand evidentiary standards relevant to courts or dispute resolution, while ensuring that provenance information is shared broadly, not just between possessors.

45. The Secretary-General concluded that the Guideline should: (i) clarify that provenance research was the responsibility of possessors and institutions; (ii) emphasise methodology and professional standards; (iii) acknowledge the value of independence in certain contexts without making it mandatory; and (iv) encourage States to develop national implementation frameworks.

Extent of provenance research (paragraph 5)

Object categories and proportionality

46. *Participants* agreed that the scope of provenance research should be guided by proportionality—depending on available resources, urgency, the type of institution (public or private), and the risk associated with the object. While provenance research should always be undertaken, its depth should be calibrated through risk assessment, with priority given to high-risk or poorly documented objects.

47. The discussion highlighted tension between prescriptive and flexible wording. Several participants argued that “must” was too rigid and should be replaced with “should,” reflecting best practices rather than legal obligation. The *Secretary-General* noted that precise professional requirements (i.e., a regulatory analysis of the profession) were outside the Group’s mandate but general considerations or references could be included in the commentary.

48. *Observers* cautioned against contradictions between requiring research (“must”) and recognising that its extent “depends” on circumstances—particularly when full provenance was already known. They recommended sequencing the discussion more clearly around when provenance research was necessary and under what conditions.

49. An *observer* suggested a slight modification to the wording in paragraph 5: “it involves examining all documentation and information available at the time of the search”.

50. Another suggestion was to address proportionality in the commentary, given the significant costs of due diligence and professional research. Finally, one *participant* proposed clarifying the Guidelines’ structure: Guideline A to define concerned objects, Guideline B to identify relevant actors and their duties, and Guideline C to address the content of due diligence and provenance research.

How far back should provenance research go?

51. Participants debated the proper starting point for provenance research. Some suggested national patrimony laws as a reference, particularly for archaeological objects, while others noted practical and legal difficulties: national laws often predated the 1970 UNESCO Convention, sometimes requiring research as far back as 1909 (e.g., Italy), which was rarely feasible.

52. Several participants stressed that provenance research, as a scholarly discipline, should aim to trace an object’s entire history from its creation or discovery to the present, rather than beginning at legal thresholds like 1970. Limiting research to convention dates risked incomplete results. Others noted that the 1970 UNESCO date was not legally binding in itself but adopted as policy by many museums, particularly in the U.S. It was recalled that a Convention only carried legal weight once ratified and implemented by individual States. For archaeological objects, participants agreed that provenance should be traced back at least to the date of the relevant national ownership law, since courts in several jurisdictions (U.S., U.K., Germany, France) had recognised such laws as establishing theft when objects were removed without consent.

53. There was broad consensus that legal frameworks (patrimony laws, conventions, statutes of limitation) must be considered together, with final interpretation left to the courts. Risk assessment remained central: institutions had to decide whether they were comfortable acquiring objects that left their country of origin after patrimony laws were in force. Many agreed that, in practice, the most consistent approach was to trace provenance from creation or discovery onward, following the ICOM Code of Ethics, which required the fullest possible documentation.

54. Finally, participants distinguished between provenance research and due diligence. Provenance research should ideally reconstruct an object’s full history, while due diligence was transactional in nature, aimed at verifying lawful export and acquisition to ensure legal security and eligibility for compensation.

Access to and sharing of information (paragraph 6)

55. *Participants* discussed how provenance information should be transferred with objects and who should have access. Some suggested replacing the phrase “follow the object” with “accompany any transfer,” stressing that both future possessors and potential claimants must have access. Auction houses were singled out: while they often withheld information due to client confidentiality,

some argued that full disclosure should be obligatory. Others countered that auction houses already shared what they could, within contractual limits.

56. Concerns were raised about how widely the obligation to share should extend. A *participant* cautioned against imposing equal requirements on all possible “possessors” (e.g., shippers, conservators, restorers), while another noted that in contexts like Nazi-looted art, private collectors had been required to publish provenance research, though such obligations could not easily be extended to museums or public collections.

57. The debate also touched on privacy rights of former owners, the scope of information to be shared (ranging from bibliographic sources to records of public sales), and the need to balance market confidentiality with community rights. *Several participants* emphasised that indigenous and source communities were absent from the discussions, even though they were directly affected. One *member* opposed any “clearing procedure” that left decisions solely to current possessors, proposing instead that information should “accompany any transfer of the object” instead of “follow the object”.

58. Finally, participants noted that even soft-law guidelines could influence the interpretation of conventions. There was agreement that proportionality and legal constraints should be considered, but that provenance information should, as far as possible, be shared transparently and consistently to protect claimants’ and communities’ rights. The proposal was therefore made to substitute the term “must” by “should”.

D. Due Diligence

Text as it stood at the end of the second session of the Working Group –

When acquiring a potential orphan cultural object, attention must be paid to all the circumstances relevant to the acquisition. In this respect, the criteria of due diligence provided for in Article 4.4 of the 1995 UNIDROIT Convention are a point of reference.

Due diligence also applies to public and private institutions and collectors when reviewing their collections.

New text proposed by the Sub-group -

1. *Due diligence in relation to an object described/defined in Guideline A / an object from a category listed in Guideline A may include, but is not limited to, the criteria provided for in Article 4(4) of the 1995 UNIDROIT Convention.*
2. *Due diligence shall be performed on such an object in relation to a transfer of the object. For the purposes of this Guideline D [C], “transfer” shall mean a change in ownership, possession or physical location across international borders.*

Due diligence shall be performed in such circumstances by public and private institutions and collectors.

3. *If, after exercising due diligence, the object remains in the listed categories of Guideline A, further provenance research should be carried out.*
4. *All findings should be documented, kept and shared in the event of a future transfer.*

59. *A member of the drafting Sub-group* presented Guideline D. He explained that the main goal was to articulate how due diligence and provenance research were interlinked and what distinguished one from the other. Paragraph 1 addressed what due diligence was. A reference to the criteria already provided for in Article 4(4) of the 1995 UNIDROIT Convention was made, in a non-exhaustive way. Paragraph 2 addressed when due diligence ought to be performed. The concept of transfer was proposed, not only regarding sale or purchase transactions, but transactions of moving across

borders for non-profit purposes such as exhibitions, loans, etc. Therefore, the transfer could be in terms of ownership, possession, or location, and hence due diligence was not only an initial transfer-related requirement. Indeed, if after due diligence was performed, the object remained without complete provenance, more in-depth provenance research should be carried out. Paragraph 3 dealt with the extent of what should be documented, kept and shared. Confidentiality and data protection issues needed to be discussed.

Due diligence vs. provenance research (paragraph 1)

60. Participants discussed the relationship between provenance research and due diligence in Guideline C. It was suggested that “acquirers” be explicitly mentioned in paragraph 1, since acquirers play a central role in verifying provenance information as part of their due diligence. Several participants underlined that due diligence here should be defined more broadly than in Article 4(4) of the 1995 UNIDROIT Convention, covering both “subjective good faith” (Article 4(1)) and “objective good faith” (Article 4(4)). Some recommended explicitly stating that provenance research forms part of due diligence.

61. Other drafting proposals concerned terminology: replacing references to the “object defined in Guideline A” with “orphan cultural object” and avoiding cross-references to Guideline A, though the drafting Sub-group explained that these cross-references remain necessary until the outcome of Guideline A is settled. Mr. Renold proposed broadening paragraph 1 to specify that due diligence should be performed in any transfer—of either possession or ownership—with clarification provided in the commentary.

Due diligence – when and by who (paragraph 2)

62. *Participants* discussed the scope of paragraph 2, focusing on when due diligence should be exercised and by whom. It was agreed that due diligence should not be limited to transactions but also apply when reviewing collections, during exhibitions, or when new information or “red flags” arise. Suggestions included wording such as “when the circumstances require,” covering new evidence, publications, or changes raising questions about provenance or legal status. Examples cited included the Emil Bührle Collection at the Kunsthaus Zürich and situations where a name in provenance records appears on anti-money laundering lists. A *participant* expressed his concern when referring to money laundering issues and regulation issues as it was a new scope of due diligence.

63. There was debate on whether due diligence should extend beyond provenance to broader legal issues, such as title and regulatory compliance. The *Secretary-General* stressed the need for a general clause in the Guideline, leaving specific examples (e.g., exhibitions, publications, cross-border movement) for the commentary. Participants proposed aligning with the 1995 Unidroit Convention by providing a non-exhaustive list of relevant circumstances.

64. The *Working Group* agreed that due diligence should be performed (i) at transfer of possession or ownership and (ii) whenever new circumstances cast reasonable doubt on provenance or tenure. Draft wording was proposed: “Due diligence shall be performed on such an object in relation to its transfer, or when the circumstances related to the legal status and/or the title so require” with the explanation of “circumstances” in the commentary (red flags, looting areas, case law, traffickers’ archives or other relevant factors). The current reference to international borders was debated, with some proposing its removal from the text and others suggesting its retention in the commentary.

65. Finally, *participants* emphasized clarifying who should conduct due diligence. While the text already addressed institutions and collectors, several called for explicit inclusion of the art market and auction houses. It was also noted that claimants (e.g., Holocaust survivors, heirs, indigenous communities) often carry out provenance research, while due diligence obligations should apply broadly to all possessors. The *Secretary-General* concluded that the Guideline should impose a soft

duty on possessors, while recognizing that potential future claimants may also need to undertake due diligence.

Provenance research as an ongoing process after exercising due diligence (paragraph 3)

66. Paragraph 3 was discussed as a way to link due diligence with provenance research. It was agreed that if, after due diligence, documentation of an object remains incomplete or absent, provenance research should continue. While some questioned whether this paragraph was necessary or risked implying an indefinite obligation, most participants supported retaining it to emphasize the ongoing nature of provenance research until full documentation is achieved.

67. A drafting proposal suggested the wording: "If, after exercising due diligence, the provenance of the object remains incomplete, continued attention should be given to the object and provenance research should be considered ongoing." Participants agreed that the frequency and scope of such research would need to be balanced, but the principle of ongoing attention was important. The Secretary-General noted that provenance research could also arise independently of due diligence, and the Guideline on provenance research should clarify the contexts in which it applies.

Documentation and sharing (paragraph 4)

68. Paragraph 4 was discussed in relation to the documentation of provenance and the conditions under which information should be shared. Concerns were raised about legal restrictions on sharing, with some suggesting a caveat in the Guideline or commentary. While one proposal was to stop the text after "shared," others recommended clarifying that findings should be documented, retained with the object, and shared where legally permissible.

69. The Working Group debated whether to specify with whom information could be shared. Some argued for transparency and general access, while others preferred limiting sharing to those with a legitimate interest, noting that privacy, legitimate interest and other legal considerations should be addressed in the commentary. The Secretariat emphasised that documenting and retaining information was a duty, while sharing should balance openness with legitimacy.

70. Proposals varied between restricting sharing to cases where law required it, and a broader approach allowing disclosure to future acquirers or any interested party. Several participants favoured a middle ground: findings should always be documented and preserved, accompany the object upon transfer, and be shared with future possessors, while the commentary should clarify legitimate interest and applicable legal frameworks.

E. Evidence and burden of proof

Text as it stood at the end of the second session of the Working Group –

Keeping the proof of all elements surrounding the provenance research and the due diligence performed when acquiring or selling an orphan cultural object is of paramount importance. In case of a transaction, the burden of establishing that due diligence was performed will lie on the acquirer, the seller or the donor.

New text proposed by the Sub-group on Applicable law and Evidence and burden of proof

When transferring an orphan cultural object, all elements relating to the provenance and due diligence performed are to be retained and shared. They should follow the object in any transfer of it.

71. The drafting Sub-group introduced a revised text for Guideline E, beginning with "When transferring an orphan cultural object," to clearly underline the duty to retain and share all provenance and due diligence findings with each transfer. Some participants welcomed this but noted

the draft did not clarify who bore the burden of proof in establishing due diligence, and inclusion which would add value.

72. Proposals were made to merge parts of other Guidelines into Guideline E, so it would cover two key points: (i) in any transaction, the acquirer, seller, or donor must demonstrate due diligence, and (ii) all findings must be documented, kept, and shared. There was also debate about the title – whether to refer to “evidence” alone or explicitly include “burden of proof.” Some favoured “evidence and responsibilities,” while others stressed that retaining “burden of proof” was important, drawing on Article 4(4) of the 1995 UNIDROIT Convention, which placed the burden on the possessor seeking compensation.

73. The Working Group also discussed the nature of evidence: whether lack of provenance records could serve as proof, and whether conservation work or scientific testing should be included. The Secretariat noted that procedural law allowed judges to request disclosure when there were grounds to suspect illicit acts, but this needed not be detailed in the Guideline itself.

74. A strong consensus emerged that evidence must accompany an object throughout its life, not only at transfer. Several participants proposed redrafting Guideline E to require that every search and finding be documented, preserved, and passed on, with commentary addressing limitations and privacy considerations. It was agreed that parts of Guidelines C and D dealing with retention and transfer of findings could be consolidated into Guideline E for clarity. The Working Group clarified that the first part of the sentence “The results are only relevant at the time when provenance research is conducted” should remain in Guideline C, and the rest should be transferred into Guideline E (“should be preserved and accompany any transfer of the object. They should be shared with any present or future possessor”).

F. “Clearing” an orphan cultural object

Text as it stood at the end of the second session of the Working Group –

A person or institution possessing an orphan cultural object, regardless of how long ago it was acquired, can subject its possession to a “clearing” procedure. This will involve the physical and/or virtual presentation of the object on a platform specifically designed for this procedure.

New text proposed by the Sub-group –

F. “Publicization” [or publishing] an orphan cultural object

A person or institution possessing an orphan cultural object [...] can subject its possession to a “clearing” [or publishing] procedure. This will involve the physical and/or virtual presentation of the object on a platform specifically designed for this procedure.

75. The drafting Sub-group presented a proposal introducing the concept of “publicization,” defined as the physical or virtual presentation of an object on a dedicated platform. The aim was to enhance transparency, allow unprovenanced objects to be seen by the public, encourage additional provenance information, and make them visible to potential claimants. Publicization was described as a “public fact-finding process,” benefiting both possessors and broader stakeholders, including communities of origin. It could also demonstrate good provenance research and *prima facie* due diligence and potentially make purchasers more comfortable acquiring such objects.

76. *Participants* discussed practical and legal considerations. Issues raised included how objects should be vetted before publicization, the possible effect on statutes of limitation, and the degree of risk assumed by possessors or purchasers of incompletely documented objects. It was stressed that the Guideline should not grant legal legitimacy to unprovenanced objects but rather potentially reflect

that a possessor has acted reasonably to clarify provenance. The *Secretariat* suggested that an annex could define how the platform should operate, drawing on UNIDROIT's experience with electronic registries.

77. Concerns were raised about the sensitivity of certain objects. Some participants argued that sacred or culturally significant items, including sacred objects, human remains, should not be publicly displayed due to customary or religious beliefs. Alternatives such as non-visual forms of information sharing were proposed, with suggestions to add language respecting community sensitivities. The wording could also be softened to make clear that images were not always required and that publicization would be subject to applicable legal requirements.

78. Finally, the meaning of "physical presentation" was debated. Some viewed it as confusing in a primarily digital context, while others understood it as referring to the possibility of in-person viewing at the object's location. *Participants* agreed that clearer language would be needed to avoid misunderstanding.

G. "Clearing" procedure

Text as it stood at the end of the second session of the Working Group –

Issues connected with the provenance or due diligence of an orphan cultural object should be put before an international committee. The international committee has to be as inclusive as possible to allow for comprehensive just and fair solutions.

79. The Working Group discussed whether the process of publicizing an orphan cultural object should have legal effect and how a dedicated platform might be designed. *Mr Renold* recalled that the earlier idea of a "clearing" procedure had not gained consensus and asked whether publicizing should simply remain a transparency measure or be accompanied by mechanisms such as national committees to address claims. Several participants underlined that any legal consequences fell within national law and varied widely across jurisdictions. The platform should not be seen as legitimising title but rather as a voluntary tool to increase transparency.

80. Two registry models were described: (1) a notice-based system without vetting, which merely records entries, and (2) a formal registry with expert review and potentially stronger legal implications. A middle option would require certain documentation through structured templates without -or with limited- human verification. While some supported a vetting mechanism to assess documentation, others argued this would be costly, and could prove controversial and ultimately impractical. Instead, participants leaned towards a light-touch model combining identity verification, minimum submission standards, and ex-post controls to allow removal or correction of inaccurate information.

81. Concerns were raised about misuse, particularly the risk of using the platform as a sales catalogue. Some suggested minimum listing periods, mandatory updates on changes of ownership, or retaining entries after resolution to preserve transparency. Others stressed that prohibiting transfers was unnecessary, as registration itself would enhance visibility and create a record. Comparisons were drawn to existing tools such as LostArt.de, the Art Loss Register, and the Beazley Archive, which provided useful precedents but also showed the complexity of balancing openness, accuracy, and sustainability. It was agreed that the purpose of the platform should be expressed more clearly, potentially in the commentary.

82. *A participant* highlighted that many proposed databases were neither relevant nor sustainable, expressed reservations about the added value of creating a new platform and argued that some communities were excluded due to practical limitations. She expressed concerns about over-reliance on digital platforms. She advocated for directing efforts toward improving

documentation and inventories within cultural institutions, particularly museums, as a fundamental step for provenance research. She reminded that interest could be substantial, drawing from existing examples and recommended that the concept of an online platform be referenced in the commentary as one example of best practices.

83. Another issue concerned the possible legal impact of posting an object online. *Observers* warned that publication might be interpreted as triggering statutes of limitation or constructive notice in some jurisdictions, potentially undermining claimants' rights. Proposals included claimant alert systems, though practical implementation remained uncertain.

84. The *Working Group* also revisited the idea of an international advisory committee. While there was no support for a body that would resolve disputes or evaluate provenance, many participants agreed that a limited advisory role could enhance legitimacy, transparency, and trust in the platform. Questions of funding were also discussed, with options including modest user fees to ensure sustainability or subsidies from States as a public service.

85. *A participant* pointed out that the proposed committee, its composition, purpose, or function, required further discussion. She advocated for deleting the second sentence of the Guideline ("The international committee has to be as inclusive as possible to allow for comprehensive just and fair solutions"). *Another participant* supported the proposal stating that the "just and fair solution" reference introduced a substantive concept rooted in specific restitution practices in Europe. This terminology lacked neutrality and procedural focus. He proposed including a general reference to an "international advisory committee" as part of any future platform or process.

86. *Several participants* stressed that the platform should be seen as one among many ways of publicizing provenance and due diligence information. It could be particularly valuable for private collectors with limited avenues to share information, but efforts should also focus on improving institutional inventories and interoperability with existing databases (the Secretariat highlighted the *UNIDROIT's Foundation Guide on Best Practices for Electronic Registries*¹ which outlined methods for linking with existing registries to support cross-referencing and information sharing). The platform should not replace other mechanisms but could act as a central point of access and contribute to global transparency.

87. Academic concerns were also discussed. Some suggested that listing an object on a recognised public platform might allow it to be studied, but others reminded that restrictions on publishing unprovenanced objects serve to discourage looting and protect scholarly integrity. The platform would not alter academic policies but might nevertheless influence broader debates on access and transparency.

88. In conclusion, the Working Group agreed that Guideline G should be deleted, with its relevant content incorporated into Guideline F ("Publicizing an orphan cultural object"). The platform would remain voluntary and non-binding, intended to increase visibility and encourage due diligence. It was stressed that while the process was voluntary, following the Guidelines would still strengthen the possessor's position in the event of a transfer or a legal dispute. Engaging in thorough due diligence, especially through a structured and documented process, aligned with the requirements of the 1995 UNIDROIT Convention and could serve as important evidence of good faith if a claim arose. This solution, however, remains open for further discussion.

¹ Best Practices in the Field of Electronic Registry Design and Operation, August 2021, <https://ctcap.org/wp-content/uploads/2021/09/BPER-Guide-9-September-Web-Copy.pdf>

H. Dispute Resolution

Text as it stood at the end of the second session of the Working Group –

Any dispute relating to the provenance, due diligence or clearing of an orphan cultural object

89. *Mr Renold* noted that the Sub-group had not proposed redrafting but suggested removing references to “clearing.”

90. Several *participants* raised concerns about the draft clause on dispute resolution. One objected to the phrase “any dispute ... shall be resolved,” arguing that a non-binding instrument should not impose obligations. She proposed wording that encouraged ADR without precluding legal proceedings, while another stressed that courts should remain an option. The *Secretariat* emphasised that the intent was to offer constructive, cost-effective mechanisms without limiting access to formal remedies.

91. Suggestions were made to frame the clause around negotiation, mediation, and other consensual means, with reference to the 1995 UNIDROIT Convention. *Participants* underlined that ADR must remain voluntary, as claimants could not control whether an object was listed on the platform. *Mr Renold* gave examples of disputes likely to arise after publicising an object and distinguished these from broader provenance disputes.

92. Some *participants* expressed concern that discouraging acquisitions without full provenance could have negative consequences, given that most objects lack complete histories. They supported ADR as an option, not an obligation, and stressed that listing an object could expose possessors to claims, making ADR a useful alternative. Others preferred deleting the clause entirely, warning that even encouragement of ADR might conflict with the 1995 UNIDROIT Convention or extend the Guidelines too far. Questions were raised about the scope, including whether it should apply to recently acquired objects, and whether a sunset clause² might be needed.

93. The *Secretariat* proposed aligning the wording with Article 8(2) of the 1995 Convention (“the parties may agree”), which respected party autonomy. Several supported this neutral approach, though one participant suggested adding ADR as the “preferable” option. Another drew a parallel to the Washington Principles, framing this Guideline as a two-stage model centred on good faith disclosure and soft-law mechanisms: first, to promote transparency through publicising provenance information, and second, to encourage ADR as a path toward resolving ownership questions.

94. Concerns were raised about information asymmetry in ADR, as claimants might lack access to provenance documents or legal representation. Proposals included requiring disclosure of all relevant information, though some argued this belonged in commentary, since disclosure was already customary. Participants noted that ADR could create risks for under-resourced claimants (vulnerable parties) but also acknowledged its advantages of lower cost and accessibility.

95. The question of including courts explicitly divided the Working Group. Some argued courts should not be listed, since litigation was always available; others cautioned that omission could mislead parties into thinking it was excluded. Debate continued on whether to list courts first, last, or omit them if the clause were retitled “Alternative Dispute Resolution.” Some participants preferred prioritising negotiation and mediation while placing courts as a last resort. Others stressed that the Working Group should not dictate outcomes, since parties might include individuals, institutions, or communities with different needs.

² A sunset clause is defined as a “Part of a law or contract that states when it will end, or the conditions under which it will end”, Cambridge Business English Dictionary, <https://dictionary.cambridge.org/dictionary/english/sunset-clause>

96. The discussion also touched on structuring the clause to prioritise non-judicial mechanisms, clarifying disclosure obligations, and ensuring the terminology (“parties”) aligned with the rest of the Guidelines which consistently referred to possessors and institutions. Participants agreed ADR was often attractive where litigation was costly, time-barred, or otherwise impractical, though care was needed not to imply adjudicative powers for the platform itself.

97. The *Secretariat* concluded that consensus had been reached on revised wording that balanced autonomy, transparency, and flexibility, aligned with the 1995 UNIDROIT Convention, and presented ADR as a constructive option without excluding courts.

Item 5 of the agenda Procedure for future work and timetable

98. The Working Group agreed to reflect on some points before the next meeting, such as:

- Propose potential stakeholders, indigenous community representatives, and experienced provenance researchers;
- Complete a working version of the text of the Guidelines;
- Propose a more consistent approach to commentary drafting, including references and examples;
- Submit additional proposals;
- Organise consultative online workshops with newly-added members on specific aspects and Guidelines in order to advance the process.

99. It was decided that the fourth meeting of the Working Group would take place at the seat of UNIDROIT and online at the end of 2025 (potentially November, dates to be confirmed).

ANNEXE I**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****MEMBERS / MEMBRES**

M. Eric COTTIER <i>in-person</i>	Ancien Procureur Général du canton de Vaud Lausanne Suisse
Ms Patty GERSTENBLITH <i>remotely</i>	Distinguished Research Professor Director, Center for Art, Museum and Cultural Heritage Law DePaul University College of Law - USA
Ms Corinne HERSHKOVITCH <i>remotely</i>	Avocate à la Cour France
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Mr Jorge A. SÁNCHEZ CORDERO <i>in-person</i>	Mexican Center of Uniform Law Mexico City (Mexico) <i>Chairman / Président</i>
Mr Marcilio TOSCANO FRANCA FILHO <i>in-person</i>	Professor Federal University of Paraiba Brazil
Ms Joanna VAN DER LANDE <i>in-person</i>	Chairman Antiquities Dealers' Association United Kingdom
Mr Till VERE-HODGE <i>in-person</i>	Partner Payne Hicks Beach United Kingdom
Ms ZHANG Jianhong <i>in-person</i>	Professor of Archives the Palace Museum, Beijing China

INSTITUTIONAL OBSERVERS / OBSERVATEURS INSTITUTIONNELS

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Consultant, Former curator of the archaeological and ethnological collections of the Fondation Gandur pour l'Art Geneva, Switzerland

ANNEXE II**AGENDA**

1. Opening of the session and welcome by the UNIDROIT Secretary-General
2. Adoption of the draft agenda and organisation of the session (Study LXXB- W.G.3 - Doc. 1)
3. Presentation of the document on "Cultural Objects in Private Collections" (Study LXXB- W.G.3 - Doc. 3)
4. Discussion of the reports of the Sub-groups on the preliminary draft Guidelines (Study LXXB- W.G.3 - Doc. 2)
5. Future work and timetable
6. Other business

ANNEXE III

**TEXT AS IT STANDS AFTER THE THIRD SESSION OF THE WORKING GROUP
(DRAFT)**

<p style="text-align: center;">Reviewed draft Guidelines after the second session of the Working Group on Orphan Objects</p> <p>Guidelines B, F, G and H are in square brackets to indicate the lack of consensus on the principles</p>	<p style="text-align: center;">Draft Guidelines submitted by Sub-Groups to the third session of the Working Group on Orphan Objects</p> <p>Elements in square brackets indicate a lack of consensus on the proposition.</p>	<p style="text-align: center;">Partially reviewed version</p> <p style="color: red;">Elements in square brackets indicate a lack of consensus on the proposal</p>
<p>A. Definition of an orphan cultural object</p> <p>For the purposes of the present Guidelines, an orphan cultural object is a movable cultural object <u>of importance</u>, as defined in Article 2 of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which <u>has incomplete</u> totally or partially lacks documented and/or identifiable provenance (for example no available or reliable relevant archives or publications).</p>	<p>A. Definition of an orphan cultural object</p> <p>For the purposes of the present Guidelines, an orphan cultural object is a movable cultural object of importance, as defined in Article 2 of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has [no or] incomplete provenance.</p>	<p>A. Definition of an [orphan / insufficiently provenanced] cultural object</p> <p>For the purposes of The present Guidelines, an orphan cultural object is <u>apply to</u> movable cultural objects of importance, as defined in Article 2 of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has <u>has</u> [no or] incomplete provenance.</p>
<p>B. [Applicable Law</p> <p>The existence, legal status and acquisition of an orphan object are subject to the relevant conventions. If no convention is applicable, the existence and legal status of an orphan object are subject to the domestic law of its country of origin. The <u>acquisition transfer</u> of an orphan cultural object is subject to the law of the place of its location at the time of the transaction, provided</p>	<p>B. Applicable Law</p> <p>The existence, legal status and transfer of an orphan object are subject to the relevant conventions. If no convention is applicable,</p> <ul style="list-style-type: none"> - the existence and legal status of an orphan cultural object are subject to the law of the place of its location; - the transfer of an orphan cultural object is subject to the law of the place of its location at the time of the transfer. 	<p>B. Applicable Law</p> <p>The existence, legal status and transfer of an orphan object are subject to the relevant conventions. If no convention is applicable,</p> <p>the existence and legal status of an orphan cultural object are subject to the law of the place of its location;</p> <p>the transfer of an orphan cultural object is subject to the law of the place of its location at the time of the transfer.</p>

<p>the <u>present Guidelines principles of due diligence</u> (below D) are respected.]</p>	<p>However, where circumstances so require, the domestic law of the object's place of origin or another applicable law may be considered, either ex officio or on request.</p>	<p>However, where circumstances so require, the domestic law of the object's place of origin or another applicable law may be considered, either ex officio or on request.</p>
<p>C. Provenance Research</p> <p>Provenance research is the means <u>process</u> by which the owner <u>possessor</u> or the acquirer of an orphan cultural object is to find out the place of origin and/or the history of acquisition <u>circulation</u> of the object. No universal definition can be proposed, as <u>The extent of</u> provenance research will <u>depends</u> on the specific case at hand and its <u>the history of the object</u>. Provenance research should be performed by professionals <u>[relevant experts in that field]</u> <u>[experienced researchers]</u> <u>[experts]</u>, and it can involve, among other actions, library research, <u>consultation of</u> archives (public or private), <u>consultation</u>, <u>documentation</u> analysis, <u>scientific analysis</u> or <u>and</u> exchanges with witnesses.</p>	<p>C. Provenance Research</p> <ol style="list-style-type: none"> 1. Provenance research is the process of searching information related to the history and circulation of an object, from its creation or discovery to its current location, in the aim of establishing its provenance/must be conducted on an object to thoroughly investigate its history and circulation. Provenance research also endeavours to ensure that the object has not been subject, in the past, to any illicit transfer or similar action. 2. Complete and unbroken records of provenance are rare. The provenance of some objects may not be able to be verified in its entirety since its creation or discovery to its current location. In such circumstances, provenance research should aim to collect all reasonably obtainable information in evaluating provenance gaps and undocumented transfers. 3. [Due diligence and] Provenance_research require(s) extensive and comprehensive research that integrates various types of information. Conducting [due diligence] provenance research may confirm that the 	<p>D. Provenance Research</p> <ol style="list-style-type: none"> 1. Possessors of cultural objects should engage in provenance research <u>which is part of due diligence when...</u> (to be completed during the next Working Group) 2. Provenance research is the process of searching information related to the history and circulation of an object from its creation or discovery. Provenance research also endeavours to identify that if the object has been subject, in the past, to any illicit transfer or similar action. 3. Provenance research should be conducted by an independent person who, considering all circumstances, has adequate technical knowledge and expertise in the relevant field, <u>taking into consideration existing standards, if any.</u> 4. The extent of provenance research depends on the specific case and the history of the object. It should aim to collect all reasonably obtainable documentation and information at the time of the search in order to evaluate <u>their authenticity,</u>

	<p>object is an orphan cultural object as defined in Guideline A.</p> <p>4. Provenance research must be conducted under the circumstances specified by a provenance researcher or a recognized expert in the field.</p> <p>5. The extent of provenance research depends on the specific case and the history of the object. It involves examining all available documentation and information at the time of the search. This may include, among other actions, library research, consultation of public or private archives, document and scientific analysis, and exchanges with witnesses. The results are only relevant at the moment/time/period when provenance research is conducted.</p> <p>6. The results of the provenance research must be preserved and follow the object. They must be shared with any present or future possessor.</p>	<p>provenance gaps, <u>and</u> undocumented transfers.</p> <p>5. The results are only relevant at the time the provenance research is conducted and should be preserved and accompany any transfer of the object. They should be shared with any present or future possessor.</p>
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<p>D. Due diligence in acquiring an orphan cultural object</p> <p>When acquiring a potential orphan cultural object, attention must be paid to all the relevant circumstances relevant to the acquisition. In this respect the criteria of due diligence provided for in Article 4.4 of the 1995 UNIDROIT Convention are a good starting point of reference. Due diligence also applies to public and private museums institutions and collectors when reviewing their collections.</p>	<p>D. Due diligence</p> <ol style="list-style-type: none"> 1. Due diligence in relation to an object described / defined in Guideline A / an object from a category listed in Guideline A may include, but is not limited to, the criteria provided for in Article 4.4 of the 1995 UNIDROIT Convention. 2. Due diligence shall be performed on such an object in relation to a transfer of the object. For the purposes of this Guideline D [C], "transfer" shall mean a change in ownership, possession or physical location across international borders. <p>Due diligence shall be performed in such circumstances by public and private institutions and collectors.</p> <ol style="list-style-type: none"> 3. If, after exercising due diligence, the object remains in the listed categories of Guideline A, further provenance research should be carried out. 4. All findings should be documented, kept and shared in the event of a future transfer. 	<p>C. Due diligence</p> <ol style="list-style-type: none"> 1. Due diligence should be performed when the object is subject to a transfer or when the circumstances so require. Due diligence includes, but is not limited to, the criteria provided for in Article 4.4 of the 1995 UNIDROIT Convention. Provenance research is part of the due diligence process. 2. For the purposes of this Guideline, "transfer" shall mean a change in ownership, possession or physical location of the object across international borders. 3. Due diligence should be performed by public and private institutions, collectors and all actors dealing with cultural objects. 4. If, after exercising due diligence, the object remains [orphan], further provenance research should be carried out. If, after exercising due diligence, the provenance of the object remains unknown or incomplete, continued attention should be given to the object and the provenance research should be considered ongoing.
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<p>E. Evidence and burden of proof</p> <p>Keeping the proof of a <u>When transferring an orphan cultural object</u>, all elements <u>relating to</u> surrounding the provenance and the due diligence performed when acquiring or selling an orphan cultural object <u>are to be retained and shared.</u> They should follow the <u>object in any transfer relating to of it.</u> is of paramount importance. In case of a transaction, the burden of establishing that due diligence was performed will lie on the acquirer, the seller or the donor.</p>	<p>E. Evidence and burden of proof</p> <p>When transferring an orphan cultural object, all elements relating to the provenance and due diligence performed are to be retained and shared. They should follow the object in any transfer of it.</p>	<p>E. Evidence</p> <p>When transferring an orphan cultural object, All elements relating to the provenance and due diligence performed are to be retained and shared. They should accompany the object in <u>at any time and be shared in case of a transfer of it.</u></p>
<p>F. [Procedure for "Clearing" an orphan cultural object</p> <p>A person or institution possessing an orphan cultural object, regardless of how long ago it was acquired, can subject its possession to a "clearing" procedure. This will involve the physical and/or virtual presentation of the object on a platform specifically designed for this procedure. If, after a period of [XXXX] years, no claim has been made, the object can be subject to publication research and legal transfer, and a specific official mention ("Cleared orphan cultural object") will have to accompany the object at all times.]</p>	<p>F. "Clearing" [or publishing] an orphan cultural object</p> <p>A person or institution possessing an orphan cultural object [...] can subject its possession to a "clearing" [or publishing] procedure. This will involve the physical and/or virtual presentation of the object on a platform specifically designed for this procedure.</p>	<p>F. Publicizing an [orphan cultural object]</p> <ol style="list-style-type: none"> 1. A person or institution possessing an [orphan cultural object] can <u>may subject submit its possession</u> to a publicizing process. 2. This will <u>could</u> involve the physical and/or virtual presentation of the object on a platform specifically designed for this process. 3. <u>[Respect should be given to the sensitivity of certain cultures.]</u> 4. <u>Issues connected with the provenance or due diligence of an [orphan cultural object] should be put before an [international advisory body].</u>

<p>G. ["Clearing" procedure]</p> <p><u>Issues connected with the provenance or due diligence of an orphan cultural object should be put before an international committee. The international committee has to be as inclusive as possible in order to reach a to allow for comprehensive just and fair solutions.]</u></p>	<p>G. "Clearing" procedure</p> <p>Issues connected with the provenance or due diligence of an orphan cultural object should be put before an international committee. The international committee has to be as inclusive as possible to allow for comprehensive just and fair solutions.</p>	<p>G. Process</p> <p>Issues connected with the provenance or due diligence of an orphan cultural object should be put before an international committee. The international committee has to be as inclusive as possible to allow for comprehensive just and fair solutions.</p>
<p>H. [Dispute Resolution</p> <p>Any dispute relating to the <u>title</u>, provenance, due diligence or clearing of an orphan cultural object shall be resolved by negotiation, mediation, conciliation or international arbitration.]</p>	<p>H. Dispute Resolution</p> <p>Any dispute relating to the provenance, due diligence or clearing of an orphan cultural object shall be resolved by negotiation, mediation, conciliation or international arbitration.</p>	<p>H. Dispute resolution</p> <p><u>In addition to the procedures normally available under national law,</u> the parties may agree to submit a dispute relating to the provenance or due diligence of an [orphan cultural object] shall be resolved by <u>to</u> negotiation, mediation, conciliation or international arbitration. <u>When resorting to such an alternative dispute resolution mechanism,</u> the parties should agree to make all relevant information and documentation available.</p>