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Office of the White House Press Secretary

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THE WHITE HOUSE

## STATEMENT BY THE PRESIDENT

I have today signed S. 1800, "The Arts and Artifacts Indemnity Act."

S. 1800 authorizes the Federal Government, under certain circumstances, to indemnify certain art, artifacts and other objects to be exhibited internationally. One of the conditions which the bill requires to be met is that the Secretary of State or his designee certify that the proposed exchange would be "in the national interest." In approving S. 1800, I note that the legislative history links the determination of national interest specifically to exhibits and exchanges which would be in the "foreign policy interests of the United States," and "in the interests of the people of the United States" so that the indemnification program does not become simply an insurance relief mechanism. I believe that such linkage is essential to justify involvement of the Federal Government in this kind of an indemnification program, and I am therefore directing the Secretary of State to establish appropriate criteria for his certifications to assure that the intent of the legislation in this regard is properly and carefully carried out.

Another concern about S. 1800 grows out of the provisions designating the Federal Council on the Arts and Humanities as an agency for the purpose of administering the indemnification program. Under existing law, the Council is essentially an advisory body. This bill, however, would assign executive functions to the Council. Thus, its members must be officers of the United States. In this regard, four of the current statutory members of the Council -- the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission on Art and Antiquities, and the member designated by the Speaker of the House -- are not appointed in the manner prescribed in the Constitution for appointment of officers of the United States. Furthermore, the conversion of the Council from an advisory body into an executive agency for the purpose of the Act would place the Congressional member of the Council in violation of the Constitutional prohibition against members of Congress holding civil offices of the United States.

However, I am approving S. 1800 since these surface Constitutional defects can be cured by Executive action. Under the authority vested in me by the National Foundation on the Arts and Humanities Act of 1965 to change the membership of the Council to meet changes in Federal programs or executive branch organization, I am today directing that, because of the Constitutional provisions noted above, the four Council members previously mentioned shall not serve as members of the Council when it acts as an agency in carrying out functions under this Act.

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