Collection of legislative texts concerning
the protection of movable cultural property

BRAZIL
The designations employed and the presentation of material in this document do not imply the expression of any opinion whatsoever on the part of UNESCO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.
Since its foundation UNESCO has been constantly engaged in an effort to protect cultural property against the dangers of damage and destruction which threaten it and, in particular, against dangers resulting from theft, clandestine excavations and illicit traffic. The work carried out in this field in recent years has shown that national laws and regulations governing the protection of movable cultural property are little known abroad. This has prompted UNESCO to embark on the collection and distribution of legislative texts for the information and use of national services for the protection of the cultural heritage, museum curators, art dealers, antique dealers, private collectors, customs and police services, and anyone else required to have a knowledge of the legal status of cultural property, with a view to fostering international co-operation in the prevention and repression of offences concerning movable cultural property.

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

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

. the definition of protected movable cultural property
. the system of ownership and use
. the extent of protection
  - inventory, registration, scheduling, declaration
  - rights and obligations of the owner, the person in possession or control and the authorities with respect to protected property
  - regulation of trade in antiquities
  - export regulations
  - import regulations
. fortuitous discoveries and archaeological excavations
. sanctions
. authorities responsible for protection
The legislative texts are preceded by a brief introduction which provides information on the international conventions concerning the protection of movable cultural property to which the State concerned is party and gives the list of the texts reproduced in the booklet. The introduction also contains an index of the main provisions of national laws and regulations which concern specifically the protection of movable cultural property arranged under the above headings.

An index of national laws and regulations concerning the protection of movable cultural property in force in the Member States of UNESCO will be issued at a later date.
INTERNATIONAL CONVENTIONS CONCERNING THE PROTECTION OF MOVABLE CULTURAL PROPERTY TO WHICH THE STATE IS PARTY


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

- Decree-Law n° 25 of 30 November 1937 concerning the protection of the national historical and artistic heritage
- Decree-Law n° 3866 of 29 November 1941 concerning deletion from the register of property forming part of the national historical and artistic heritage
- Law n° 3924 of 26 July 1961 concerning archaeological and prehistoric monuments
- Law n° 4845 of 19 November 1965 prohibiting the removal from the country of artistic works and handicrafts produced in the country up to the end of the monarchic period
- Law n° 6292 of 15 December 1975 on the registration of property at the National Historical and Artistic Heritage Institute

INDEX OF MAIN PROVISIONS BY SUBJECT-MATTER

| Definition of protected property | Articles 1, 2 and 3 of Decree-Law n° 25 |
| System of ownership              | Article 2 of Law n° 3924 |
| Extent of protection             | Articles 1, 2 and 3 of Law n° 4845 |
| - Declaration and registration   | Articles 4 to 10 of Decree-Law Law n° 25 |
| - Rights and obligations of the owner, the person having possession or control and the competent authorities | Decree-Law n° 3866 |
|                                  | Article 1 of Law n° 6292 |
|                                  | Articles 4 and 27 of Law n° 3924 |
|                                  | Articles 11, 12, 13, 16, 17, 19, 20 and 22 of Decree-Law n° 25 |
|                                  | Articles 3 and 4 of Law n° 3924 |
- Regulation of trade in antiquities
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**Fortuitous discoveries and archaeological excavations**

- Fortuitous discoveries
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DECREE LAW NO. 25 of 30 NOVEMBER 1937(*)

Concerning the protection of the national historical and artistic heritage

The President of the Republic of the United States of Brazil, exercising the powers vested in him under Article 180 of the Constitution, decrees:

CHAPTER I

THE NATIONAL HISTORICAL AND ARTISTIC HERITAGE

Article 1. The National historical and artistic heritage shall comprise all movable and immovable property existing in the country, the preservation of which is in the public interest either because of its connection with memorable events in the history of Brazil or because of its exceptional archaeological, ethnographic, bibliographic or artistic value.

Paragraph 1. The property referred to in this article shall only be regarded as an integral part of the national historical and artistic heritage when the items concerned have been entered, separately or in groups, in one of the four registers referred to in Article 4 of this law.

Paragraph 2. Both natural monuments and sites and landscapes worthy of preservation and protection by virtue of the outstanding qualities with which they have been endowed by nature or by human agency shall be classified with the property referred to in this article and must also be registered.

Article 2. This law shall apply to items belonging both to individuals and to corporate bodies under private law and domestic public law.

Article 3. The national historical and artistic heritage shall not include works of foreign origin:

(1) belonging to diplomatic or consular missions accredited to the country;

(2) decorating vehicles belonging to foreign companies operating in the country;

(3) included among the items of property referred to in Article 10 of the Introduction to the Civil Code and still subject to the personal law applicable to the owner;

(4) belonging to companies dealing in historical or artistic objects;

(5) brought into the country for commemorative, educational or trade exhibitions;

(6) imported by foreign companies for the express purpose of decorating their premises.

(*) Published in the Official Gazette of 6 December 1937 and republished in the Official Gazette of 11 December 1937.

(Unofficial translation prepared by Unesco).
Paragraph 1. The National Historical and Artistic Heritage Department shall provide authorization for the free movement of the works mentioned under (4) and (5) above.

CHAPTER II
REGISTRATION

Article 4. The National Historical and Artistic Heritage Department shall keep four registers in which the works referred to in Article 1 of this law shall be entered as follows:

(1) the Archaeological, Ethnographic and Landscape Register shall contain entries concerning property classified as archaeological, ethnographic, Amerindian or folk art as well as those mentioned in paragraph 2 of Article 1;

(2) the Historical Register shall contain entries concerning property of historical interest and works of art of an historical nature;

(3) the Fine Arts Register shall contain entries concerning national or foreign works of fine art;

(4) the Applied Arts Register shall contain entries concerning works classified as national or foreign works of applied art.

Paragraph 1. Each of the registers may consist of several volumes.

Paragraph 2. Property included in the categories listed under (1), (2), (3) and (4) of this article shall be defined and specified in the regulations for the execution of this law.

Article 5. Property belonging to the Union, States and Municipalities shall be registered as a matter of course by order of the Director of the National Historical and Artistic Heritage Department. However, the act of registration must be notified to the body to which the property belongs or which has the care thereof, with a view to producing the necessary effects.

Article 6. The registration of property belonging to individuals or corporate bodies under private law shall be effected on a voluntary or on a compulsory basis.

Article 7. Registration shall be effected on a voluntary basis whenever the owner so requests and, in the opinion of the Advisory Board of the National Historical and Artistic Heritage Department, the property meets the requirements for classification as an integral part of the national historical and artistic heritage or whenever the owner assents in writing to a notice requiring the property to be entered in one of the registers.

Article 8. Compulsory registration shall be effected when the owner refuses to agree to registration of the property.

Article 9. Compulsory registration shall be effected in accordance with the following procedure:
(1) The National Historical and Artistic Heritage Department shall, through its competent agency, serve upon the owner a notice requiring him to agree to the registration within 15 days of receipt of the notice or, if he objects thereto, to state within the same period the reasons for his objection;

(2) If no objection is received within the prescribed period, which may under no circumstances be extended, the Director of the National Historical and Artistic Heritage Department shall simply issue an order directing that the property be entered in the appropriate register;

(3) If the objection is lodged within the prescribed period, it shall be notified, within a further period of 15 days which may under no circumstances be extended, to the body that initiated the process of registration, with the request that the said body should furnish the grounds for its initiative. The case shall then be referred, regardless of costs, to the Advisory Board of the National Historical and Artistic Heritage Department, which shall take a decision thereon within 60 days of its receipt. This decision is irrevocable.

Article 10. The registration of the property referred to in Article 6 of this law shall be deemed provisional or definitive, depending on whether the procedure is initiated by notification or concluded by the entry of the said property in the appropriate register.

Paragraph 1. For all purposes, barring the provision under Article 13 of this law, provisional registration shall be deemed equivalent to definitive registration.

CHAPTER III
THE EFFECTS OF REGISTRATION

Article 11. Registered property belonging to the Union, States or Municipalities, being inalienable by nature, may be transferred only from one of the aforesaid entities to another.

Paragraph 1. Following transfer of the property, the party entering into possession shall report the transaction immediately to the National Historical and Artistic Heritage Department.

Article 12. The alienability of registered historical and artistic works owned by individuals or by corporate bodies under private law shall be restricted in accordance with the provisions of this law.

Article 13. The definitive registration of privately owned property shall, at the instance of the competent agency of the National Historical and Artistic Heritage Department, be entered for all due purposes in the register kept by the registrars of property and noted alongside the record of ownership.

Paragraph 1. In the event of transfer of ownership of the property referred to in this article, the new owner shall see to it that the transfer is registered within 30 days, subject to a fine equal to 10 per cent of the value of the property, even in the case of transfers by court order or causa mortis.
Paragraph 2. In the event of a change in the location of such property, the owner shall, within the same period and subject to the same fine, enter the property in the register of the place to which it has been moved.

Paragraph 3. Any transfer shall be notified by the recipient and any change of location shall be notified by the owner to the National Historical and Artistic Heritage Department, within the same period and subject to the same penalty.

Article 14. Registered property may not be removed from the country, save for a short period, without transfer of ownership and for cultural exchange purposes, at the discretion of the Advisory Board of the National Historical and Artistic Heritage Department.

Article 15. Any attempt to remove registered property from the country under circumstances other than those provided for in the preceding article shall be punishable by confiscation of the property by the Union or by the State in which it is located.

Paragraph 1. If the owner is found responsible, he shall incur a fine equal to 50 per cent of the value of the property, which shall be withheld, by way of surety, until such time as the fine is paid.

Paragraph 2. If the offence is repeated, the fine shall be doubled.

Paragraph 3. In addition to incurring the fine referred to in the previous paragraphs, any person attempting to remove registered property from the country shall be subject to the penalties prescribed in the Penal Code for the crime of smuggling.

Article 16. The owner shall report the loss or theft of any item of registered property to the National Historical and Artistic Heritage Department within five days. Failure to do so shall be punishable by a fine equal to 10 per cent of the value of the property.

Article 17. Under no circumstances may registered property be destroyed, demolished or disfigured nor may it be repaired, painted or restored, without the special prior authorization of the National Historical and Artistic Heritage Department. Offences shall be punishable by a fine equal to 50 per cent of the value of the damage caused.

Paragraph 1. In the case of property belonging to the Union, States or Municipalities, the authority responsible for infringement of the provisions of this article shall itself incur the fine.

Article 18. Without the prior authorization of the National Historical and Artistic Heritage Department, no construction that impedes or impairs the view of the registered property may be erected nor any advertisements or bills posted in the vicinity of the said property. Offences shall be punishable by destruction of the edifice or removal of the object and, in the latter case, by a fine equal to 50 per cent of the value of the said object.

Article 19. Any owner of registered property who is unable to undertake necessary preservation and repair works owing to a lack of funds shall notify the National Historical and Artistic Heritage Department of the need for such works. Failure to do so shall be punishable by a fine equal to twice the amount at which any deterioration in the said property is assessed.
Paragraph 1. Upon receipt of the notification and having verified that the works are necessary, the Director of the National Historical and Artistic Heritage Department shall have them carried out at the expense of the Union, a time-limit of six months being set for initiation of the works; or take steps to have the owner expropriated.

Paragraph 2. In the event of failure to comply with any of the measures referred to in the preceding paragraph, the owner may apply for deletion of the property from the register.

Paragraph 3. When it has been established that registered property is urgently in need of preservation or repair, the National Historical and Artistic Heritage Department may plan or execute the work on its own initiative and at the expense of the Union, without waiting for the notification by the owner referred to in this article.

Article 20. Registered property shall be subject to permanent supervision by the National Historical and Artistic Heritage Department, which may inspect the property whenever it considers fit. Owners or custodians of the property who seek to hinder the inspection shall incur a fine of 100 milreis, or double that amount if the offence is repeated.

Article 21. Offences against the property referred to in Article 1 of this law shall be regarded as offences against the national heritage.

CHAPTER IV

RIGHT OF PRE-EMPTION

Article 22. If registered property belonging to an individual or to a corporate body under private law is to be sold, the Union, the States and the Municipalities shall, in that order, have a right of pre-emption in respect of such property.

Paragraph 1. It shall not be permissible to dispose of such property until it has been offered, at the same price, to the Union, State and Municipality in which it is situated. The owner shall notify the holders of the right of pre-emption that they have 30 days in which to exercise the said right, following which it shall be forfeit.

Paragraph 2. Any form of disposal of registered property that fails to comply with the provisions of the preceding paragraph shall be null and void. Holders of a right of pre-emption may seize the property and impose a fine of 20 per cent of the value thereof on the seller and purchaser, who shall be severally liable for payment of the fine. The nullification shall be pronounced, in the legally required form, by the judge who grants the sequestration order, which shall be lifted only after payment of the fine, provided that none of the holders of the right of pre-emption has purchased the property within the prescribed period of 30 days.

Paragraph 3. The right of pre-emption shall not debar the owner from freely encumbering the registered property with a pledge, antichresis or mortgage.

Paragraph 4. Registered property may not be sold by court order unless the holders of the right of pre-emption have been notified of the sale by the court. Any public notices of sale issued before such notification has been given shall be null and void.
Paragraph 5. The holders of the right of pre-emption shall enjoy the right of remission, if it is not exercised by the persons in whom such power is legally vested, until such time as the instrument of public sale or the adjudication order has been signed.

Paragraph 6. The right of remission on the part of the Union, the State and the Municipality in which the property is situated may be exercised for up to five days following the signing of the instrument of public sale or the adjudication order. The deed may not be executed before expiry of this period, save where the party acquiring the property through public sale or pursuant to the adjudication order is one of the holders of the right of pre-emption.

CHAPTER V
GENERAL PROVISIONS

Article 23. The Executive shall make arrangements for the conclusion of agreements between the Union and the States, with a view to improved co-ordination and development of activities relating to the protection of the national historical and artistic heritage and the standardization of complementary State legislation in that field.

Article 24. In addition to the National History Museum and the National Museums of Fine Arts, the Union shall maintain as many other national museums as are necessary for the preservation and display of historical and artistic works in its possession. It shall furthermore take steps to promote the establishment of State and Municipal museums with similar aims.

Article 25. The National Historical and Artistic Heritage Department shall seek to reach agreement with the church authorities, scientific, historical or artistic institutions, individuals and corporate bodies with a view to obtaining their co-operation on behalf of the national historical and artistic heritage.

Article 26. Dealers in antiquities, works of art of any kind, manuscripts and old or rare books shall register on a special basis with the National Historical and Artistic Heritage Department. Furthermore, they shall provide that department with comprehensive lists of the historical and artistic property in their possession every six months.

Article 27. Auctioneers intending to sell items of the kind referred to in the preceding article must submit a list of the articles to the competent agency of the National Historical and Artistic Heritage Department, failing which they shall incur a fine of 50 per cent of the value of the articles sold.

Article 28. No article of the kind referred to in Article 26 of this law may be offered for sale by dealers or auctioneers, unless it has previously been authenticated by the National Historical and Artistic Heritage Department or by an expert approved by that department. Offences shall be punishable by a fine equal to 50 per cent of the value assigned to the object.

Paragraph 1. The aforementioned object shall be authenticated upon payment of a valuation fee equal to 5 per cent of the article's value, if the latter amount is less than or equal to 1,000 milreis, plus five milreis per thousand milreis or part thereof for values in excess of that amount.
Article 29. The holder of a right of pre-emption shall have a special claim over the proceeds of the public sale of registered property in connection with the payment of fines imposed for infringements of this law.

Paragraph 1. Only those claims entered in the appropriate register prior to the registration of the property by the National Historical and Artistic Heritage Department shall have priority over the claim referred to in this article.

Article 30. Any legislation contrary to the provisions of this law is hereby repealed.

Rio de Janeiro, 30 November 1937; 116th year of Independence and 49th year of the Republic.

GETULIO VARGAS
Gustavo Capanema
Concerning deletion from the register of property forming part of the national historical and artistic heritage

The President of the Republic of the United States of Brazil, exercising the powers vested in him under Article 180 of the Constitution, decrees:

Article 1. The President of the Republic, by virtue of his office or pursuant to an appeal lodged by a legitimately interested party, may, for reasons of public interest, order that property belonging to the Union, States or Municipalities, or to individuals or corporate bodies under private law, registered with the National Historical and Artistic Heritage Department in accordance with Decree Law No. 25 of 30 November 1937, be struck off that register.

Rio de Janeiro, 29 November 1941; 120th year of Independence and 53rd year of the Republic.

GETULIO VARGAS
Gustavo Capanema

(*) Published in the Official Gazette of 29 November 1941.
(Unofficial translation prepared by Unesco).
Concerning archaeological and prehistoric monuments

The President of the Republic hereby declares that the National Congress decrees and that he sanctions the following law:

Article 1. Responsibility for the maintenance and protection of all archaeological or prehistoric monuments in the national territory and all constituent elements of such monuments shall lie with the public authorities, in accordance with the provisions of Article 175 of the Federal Constitution.

Paragraph 1. Ownership of land under civil law shall not include ownership of archaeological or prehistoric deposits or of the objects contained therein, in accordance with the provisions of Article 152 of the said Constitution.

Article 2. By archaeological or prehistoric monuments are meant:

(a) deposits of any kind, origin or purpose containing records of the culture of the palaeo-Amerindians of Brazil, such as kitchen middens, mounds or embankments, burial pits, graves, earthworks, remains of palafittes, and any other deposits not specified herein which are of equal significance in the opinion of the competent authority;

(b) sites containing verifiable traces of palaeo-Amerindian occupation such as grottoes, caves and rock shelters;

(c) sites identified as burial grounds, tombs, places of long-term settlement, stopping-places or shelters containing human records of archaeological or palaeo-ethnographic interest;

(d) rock carvings, furrows created by the polishing of implements and other records of palaeo-Amerindian activity.

Article 3. Archaeological or prehistoric deposits such as kitchen middens, middens, shell heaps, shell mounds and other shell middens, and the sites, carvings and objects listed in items (b), (c) and (d) of the preceding article may not, in any part of the national territory, be used for financial gain, destroyed or defaced, for any purpose, before they are investigated, with due regard for any previous concessions that are still valid.

Article 4. Any individual or corporate body which, on the date of publication of this law, is already engaged in exploring archaeological or prehistoric deposits, for financial gain or for any other purpose, shall report this activity to the National Historical and Artistic Heritage Department within sixty (60) days for the purpose of examination, registration, inspection and protection of the interests of science. Failure to do so shall be punishable by a fine of between Cr $10,000.00 and Cr $50,000.00 (ten thousand and fifty thousand cruzeiros).

Article 5. Any act resulting in the destruction or defacement of the monuments referred to in Article 2 of this law shall be deemed a crime against the national heritage and, as such, shall be punishable in accordance with the provisions of the Penal Code.

(*) Published in the Official Gazette of 27 July 1961.
(UNOFFICIAL translation prepared by Unesco).
Article 6. In accordance with the Mining Code, priority shall be given to the study and possible utilization of deposits classified as kitchen middens reported to the Government of the Union through the agency of the National Historical and Artistic Heritage Department in accordance with Article 4 and registered in the manner prescribed in Article 27 of this law.

Article 7. Archaeological or prehistoric deposits of any kind that have not been reported and registered in accordance with the provisions of Articles 4 and 6 of this law shall be considered, for all due purposes, as the property of the Union.

CHAPTER II

ARCHAEOLOGICAL EXCAVATIONS CARRIED OUT BY PRIVATE INDIVIDUALS

Article 8. Permission to carry out archaeological excavations on land in the public and private domain shall be obtained from the Government of the Union through the National Historical and Artistic Heritage Department. This right must be respected by the owner or occupier of the land.

Article 9. Applications for permits shall be submitted to the National Historical and Artistic Heritage Department, accompanied by precise details regarding the location of the site and the scale and approximate duration of the works to be carried out, together with evidence of the technical and scientific competence and financial resources of the applicant and the name of the person in charge of the excavations.

Paragraph 1. If the area in which the deposit is located is jointly owned, permission may be sought only by the administrator or representative of the shareholders, who shall be elected in accordance with the provisions of the Civil Code.

Article 10. The permit shall take the form of an order issued by the Ministry of Education and Culture stipulating the conditions to be fulfilled in carrying out the excavations and studies. It shall be entered in the appropriate register of the National Historical and Artistic Heritage Department.

Article 11. If excavations and studies are to be carried out on land that does not belong to the applicant, the written consent of the owner of the land or of the party exercising the right of ownership shall be appended to the application.

Paragraph 1. The excavations must be carried out under the guidance of the holder of the permit, who shall be liable under civil, penal and administrative law for any damage caused to the national heritage or to third parties.

Paragraph 2. The excavations must be carried out in accordance with the conditions laid down in the permit. The director of the project may not, under any circumstances, prevent inspection of the works by a specially appointed agent of the National Historical and Artistic Heritage Department, when this is deemed appropriate.

Paragraph 3. The holder of the permit shall submit a quarterly report on the progress of the excavations to the National Historical and Artistic Heritage Department. In addition, any exceptional occurrence must be notified immediately so that appropriate action can be taken.
Article 12. The Minister of Education and Culture may withdraw the permit under the following circumstances:

(a) failure to comply with the provisions of this law or of the permit;

(b) suspension of the field-work for a period of more than twelve (12) months, save in a duly proven case of force majeure;

(c) failure to comply with the provisions of paragraph 3 of the preceding article.

Paragraph 1. In none of the cases listed above shall the holder of the permit be entitled to compensation for expenses incurred.

CHAPTER III

ARCHAEOLOGICAL EXCAVATIONS CARRIED OUT BY SPECIALIZED SCIENTIFIC INSTITUTIONS OF THE UNION, STATES AND MUNICIPALITIES

Article 13. The Union, and also the States and Municipalities subject to federal authorization, may carry out excavations and research in the interests of archaeology and prehistory on privately owned land, with the exception of areas enclosed by walls which contain residential buildings.

Paragraph 1. Failing amicable agreement with the owner of the area in which the deposit is located, the site shall be declared a place of public interest and occupation thereof shall be authorized for the period necessary for the execution of the studies, in accordance with Article 36 of Decree Law No. 3365 of 21 June 1941.

Article 14. In the case of temporary occupation of land for the purpose of carrying out excavations of deposits declared to be places of public interest, an official record of the precise state of the site shall be drawn up prior to the commencement of the studies.

Paragraph 1. After completion of the studies, the site shall, as far as possible, be restored to its original state.

Paragraph 2. In the event of excavations resulting in the destruction of any aspect of the site, the obligation in paragraph 1 above shall apply only if it is proven that the aspect in question offered the owner indisputable advantages.

Article 15. In special circumstances and in the case of deposits of exceptional archaeological significance, the property or a part thereof may be expropriated for reasons of public interest, pursuant to Article 5 (K) and (L) of Decree Law No. 3365 of 21 June 1941.

Article 16. No agency of the federal administration, States or municipalities, even in cases falling under Article 28 of this law, may carry out archaeological or prehistorical excavations without having first notified the National Historical and Artistic Heritage Department with a view to recording the excavations in the Register of Archaeological Deposits.

Paragraph 1. Such notification shall specify the location of the site, the type or designation of the deposit, the name of the specialist in charge
of the excavations and the data that led to the choice of that particular site. A summary of the results obtained and of plans for using the material collected shall subsequently be submitted.

CHAPTER IV

FORTUITOUS DISCOVERIES

Article 17. The possession and safeguarding of property of an archaeological or prehistorical nature shall, in principle, be an inherent right of the State.

Article 18. Fortuitous discoveries of items of archaeological, prehistorical, historical, artistic or numismatic interest shall immediately be reported by the finder or by the owner of the property on which the discovery was made to the National Historical and Artistic Heritage Department or any other authorized official agency.

Paragraph 1. The owner or occupier of property on which a discovery has been made shall be temporarily responsible for preservation of the find, pending a statement and decision by the National Historical and Artistic Heritage Department.

Article 19. Failure to comply with the obligation imposed in the preceding article shall result in the summary seizure of the find. The finder shall remain liable for any damage caused to the national heritage as a result of the omission.

CHAPTER V

REMOVAL FROM THE COUNTRY OF OBJECTS OF ARCHAEOLOGICAL, PREHISTORIC, HISTORICAL, NUMISMATIC OR ARTISTIC INTEREST

Article 20. No object of archaeological, prehistoric, numismatic or artistic interest may be transferred abroad without the express authorization of the National Historical and Artistic Heritage Department. Such authorization shall take the form of a 'clearance' permit duly specifying the objects to be transferred.

Article 21. Failure to comply with the provisions of the preceding article shall be punishable by summary seizure of the object to be transferred, the party responsible remaining liable to further legal penalties for any other offences.

Paragraph 1. Any object seized under the terms of this article shall be handed over to the National Historical and Artistic Heritage Department.

CHAPTER VI

GENERAL PROVISIONS

Article 22. On completion of the scientific exploration process, the deposits referred to in this law may be economically exploited in the manner and in accordance with the conditions specified in the Mining Code, provided
that a favourable opinion has been delivered by the National Historical and Artistic Heritage Department or an authorized official agency.

Paragraph 1. Wherever possible or appropriate, a significant portion of every deposit shall be preserved as a sample and protected by appropriate means.

Article 23. The Supervisory Board for Artistic and Scientific Expeditions shall forward to the National Historical and Artistic Heritage Department any application from a foreign scientist wishing to carry out archaeological or prehistoric excavations in the country.

Article 24. No authorization to investigate or mine deposits of conchitic limestone possessing the characteristics of archaeological or prehistoric monuments may be issued without a prior hearing on the matter by the National Historical and Artistic Heritage Department.

Article 25. The execution of archaeological or prehistoric excavations in contravention of any of the provisions of this law shall be punishable by a fine of between Cr $5,000.00 (five thousand cruzeiros) and Cr $50,000.00 (fifty thousand cruzeiros). The offender shall also be liable to summary seizure and consequent forfeiture to the national heritage of all the material and equipment found on the site.

Article 26. With a view to more effective enforcement of this law, the National Historical and Artistic Heritage Department may request the assistance of federal, State and municipal bodies and of institutions whose specific objectives include the study and protection of archaeological and prehistoric monuments.

Article 27. The National Historical and Artistic Heritage Department shall keep a Register of the Archaeological Monuments of Brazil, containing a record of all deposits reported in accordance with the provisions of this law or brought to light by other means.

Article 28. The powers vested in the Ministry of Education and Culture for the purpose of executing this law may be delegated to any constituent unit of the Federation that has technical and administrative services specially organized for the care, preservation and study of archaeological and prehistoric deposits and sufficient resources to ensure the financing and satisfactory progress of the works.

Paragraph 1. In the case of this article, the proceeds of any fines imposed and any material lawfully seized shall be used for the benefit of the State department responsible for the preservation and study of such monuments.

Article 29. Violations of this law shall be punishable by the penalties stipulated in Articles 163-167 of the Penal Code, depending on the circumstances of the offence and subject to such further penalties as may be imposed.

Article 30. Within 120 days of the entry into force of this law, the Executive shall issue such regulations as are considered necessary for the faithful execution thereof.

Article 31. This law shall enter into force on the date of publication thereof, whereupon any legislation contrary to the provisions thereof shall be repealed.
Brasilia, 26 July 1961; 140th year of Independence and 73rd year of the Republic.

JANIO QUADROS
Brígido Tinoco
Oscar Pedroso Horta
Clemente Mariani
João Agrípino
LAW NO. 4845 OF 19 NOVEMBER 1965(*)

Prohibiting the removal from the country of artistic works and handicrafts produced in the country up to the end of the monarchic period

The President of the Republic:

hereby declares that the National Congress decrees and that he sanctions the following law:

Article 1. It shall be an offence to remove from the country any works of art or traditional handicrafts produced in Brazil up to the end of the monarchic period, including not only paintings, drawings, sculpture, engravings and architectural works but also carvings, statuary, goldsmithery, furniture and other art and craft forms.

Article 2. It shall likewise be an offence to remove from the country comparable works of Portuguese origin, which became part of the national heritage during the periods of colonial or imperial rule.

Article 3. It shall furthermore be an offence to remove from the country paintings, sculpture and works of graphic art which, though produced abroad during the period mentioned in the preceding articles, represent persons of Brazilian origin or connected with the history of Brazil or Brazilian landscapes and customs.

Article 4. For the purposes of cultural exchange and provided that they are intended for temporary exhibitions, some of the works specified in Articles 1, 2 and 3 may, by way of exception, be removed from the country, subject to the express approval of the competent agency of the federal administration, which shall fix a time-limit for their return.

Article 5. In the event of an attempt to export any of the works and objects referred to in this law, such works and objects shall be confiscated by the Union, or by the State in which they are located, for the benefit of the respective museums.

Article 6. If any query arises regarding the identity of the works and objects referred to in this law, the process of authentication shall be carried out by experts appointed by the headquarters of the competent departments of the Union or of the States, if there are no representatives of the federal departments in the place where such a query arises.

Article 7. This law shall enter into force on the date of the publication thereof.

Article 8. Any legislation contrary to the provisions of this law is hereby repealed.

Brasilia, 19 November 1965; 144th year of Independence and 77th year of the Republic.

H. CASTELLO BRANCO
Octavio Bulhões

(*) Published in the Official Gazette of 22 November 1965.
(Unofficial translation prepared by Unesco).
Concerning the registration of property at the National Historical and Artistic Heritage Institute (IPHAN)

The President of the Republic:

hereby declares that the National Congress decrees and that he sanctions the following law:

Article 1. The registration of property at the National Historical and Artistic Heritage Institute (IPHAN), in accordance with the provisions of Decree Law No. 25 of 30 November 1937, shall be dependent on the approval of the Minister of State for Education and Culture, acting on the considered opinion of the respective Advisory Board.

Paragraph 1. The provisions of this article shall apply to the case of deletion from the register referred to in paragraph 2 of Article 19 of Decree Law No. 25 of 30 November 1937.

Article 2. This law shall enter into force on the date of the publication thereof, whereupon any legislation contrary to the provisions thereof shall be repealed.

Brasilia, 15 December 1975; 154th year of Independence and 87th year of the Republic.

Ernesto Geisel  
Ney Braga

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(1) Unofficial translation prepared by Unesco.