DIRECTIVE 96/100/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 February 1997

amending the Annex to Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189b of the Treaty (3),

Whereas according to different artistic traditions within the Community water-colour, gouache and pastel pictures are variously regarded as being either paintings or drawings; whereas Category 4 of the Annex to Directive No 93/7/EEC (4) includes drawings executed entirely by hand on any medium in any material, and Category 3 includes pictures and paintings executed entirely by hand on any medium in any material; whereas the financial thresholds which apply to these two categories are different; whereas in the internal market this could lead to serious differences of treatment for water-colour, gouache and pastel pictures depending upon the Member State in which they are situated; whereas it is necessary to decide for the purposes of the application of the Directive into which category they shall fall to ensure that the financial thresholds applied shall be the same throughout the Community;

Whereas experience shows that the prices realized by water-colour, gouache and pastel pictures tend to be rather higher than those realized by drawings and much lower than those fetched by paintings in oil or tempora; whereas accordingly it is expedient to place water-colour, gouache and pastel pictures into a new separate category with a threshold of ECU 30 000 which would ensure that works of major significance unlawfully removed from the territory of a Member State can be returned,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The Annex to Directive No 93/7/EEC shall be amended as follows:

1 in heading A:

(a) point 3 shall be replaced by:

'3. Pictures and paintings, other than those included in Category 3A or 4, executed entirely by hand on any material and in any medium (1)';

(b) the following point shall be inserted:

'3A. Water-colours, gouaches and pastels executed entirely by hand on any material (1)';

(c) point 4 shall be replaced by the following:

'4. Mosaics in any material executed entirely by hand, other than those falling in Categories 1 or 2, and drawings in any medium executed entirely by hand on any material (1)';

2 in heading B:

The following Category shall be inserted:

'30 000

— 3A. (Water colours, gouaches and pastels)'.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within six months of the date of its publication in the *Official Journal of the European Communities*. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

(1) OJ No C 6, 11. 1. 1996, p. 15.
(2) OJ No C 97, 1. 4. 1996, p. 28.
(3) Opinion of the European Parliament of 21 May 1996 (OJ No C 166, 10. 6. 1996, p. 38), Council Common Position of 8 July 1996 (OJ No C 264, 11. 9. 1996, p. 66) and Decision of the European Parliament of 13 November 1996 (OJ No C 362, 2. 12. 1996). Council Decision of 20 December 1996.
(4) OJ No L 74, 27. 3. 1993, p. 74.