

**The Torres Strait Islander Traditional Owners Submission to the  
Board of Trustees of the British Museum**

**Claim for the Repatriation of two  
Torres Strait Islander ancestral remains**

**31 May 2011**

## CONTENTS

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Overview.....	3
1. The Torres Strait – Background Information.....	4
2. Torres Strait Repatriation Working Group (TSRWG) community consultation process.....	6
3. Torres Strait Islander ancestral remains being requested for return in this submission.....	7
4. The status of those making the request and submitting the claim.....	7
5. Cultural, spiritual and religious significance of the ancestral remains and continuity with ancestral remains.....	7
6. The age of the ancestral remains.....	9
7. How the ancestral remains were collected.....	9
8. The potential public benefit of the ancestral remains.....	10
9. Future of ancestral remains if returned.....	10
10. Australian Government Policy on the management of overseas repatriation of Indigenous ancestral remains.....	10

### Attachment A: Summary of key findings of the TSRWG

## Overview

In late 2009 and early 2010, an extensive community consultation process was facilitated by the Australian Government in partnership with Torres Strait Islander Traditional Owners to seek the views of Torres Strait Islanders in the Torres Strait on the repatriation of Torres Strait Islander ancestral remains from overseas institutions. Torres Strait Island Traditional Owners were represented by their respective Registered Native Title Body Corporate (RNTBC) that endorsed the work as a collective. The Torres Strait Repatriation Working Group (TSRWG) was established as a group drawn from each traditional sub group in the region. A *Final Report of Community Consultation on the Repatriation of Torres Strait Ancestral Remains* was completed by the TSWRG on the outcomes of the community consultation process. An overwhelming finding of the *Report* was that the repatriation of ancestral remains was a cultural priority for Torres Strait Islanders and that these ancestral remains should be returned to their rightful place.

During the consultation the Traditional Owners of Nagir and Mer Islands discussed their ancestors' remains held at the British Museum. All forums with communities and elders, where advised, discussed each institution that held ancestral remains from the Torres Strait. A copy of the inventory which includes the remains at the British Museum was provided for community perusal during each discussion.

The consultation process also endorsed the TSWRG to carry out the expected advocacy to engage in direct dialogue with overseas holding institutions about the repatriation of all Torres Strait Islander ancestral remains. The first outcome of the team's advocacy work was the agreement for the return of 138 Torres Strait Islander ancestral remains from the Natural History Museum to the Torres Strait Islanders.

In September 2010 and May 2011, the Torres Strait Islander advocacy team commenced discussions with the British Museum on the repatriation of two (2) Torres Strait Islander ancestral remains provenance to the Mer (Murray) and Nagir (Mt Ernest) Island communities which are the subject of this claim. During these meetings all parties agreed to work in an open and transparent manner to move forward the claim for the return of these ancestral remains.

As raised at the meeting held in May 2011, we would welcome the opportunity to meet with members of the British Museum's Board of Trustees about the repatriation of these ancestral remains.

The criteria that have been addressed in this claim are in line with the UK Department of Culture, Media and Sport's *Guidance for the Care of Human remains in Museums (2005)* and *The British Museum's policy on human remains*.

Torres Strait Islander people are committed to the unconditional return of their ancestors' remains from overseas holding institutions. The Traditional Owners responsible for the ancestral remains provenance to Nagir (Mt Ernest Island) and Mer (Murray Island) are keen to secure the return of their ancestors' remains as soon as possible and where appropriate, would be happy to provide any further information required to assist in expediting their return.



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Mr Serako Stephen (Chair)



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Mr Lui Ned David (Deputy Chair)

## 1. The Torres Strait – Background Information

Torres Strait Islanders are one of the two Indigenous peoples of Australia. Although they had long-standing contact with mainland Aboriginal people in the south and Melanesians to the north, the Torres Strait Islanders are a distinct people with their own culture and identity.

The Torres Strait Islands lie in the waters between mainland Australia and Papua New Guinea. The region spreads over a geographic area of 48,000 square kilometres incorporating more than 100 islands, of which 17 are inhabited with populations ranging from 83 to 589.

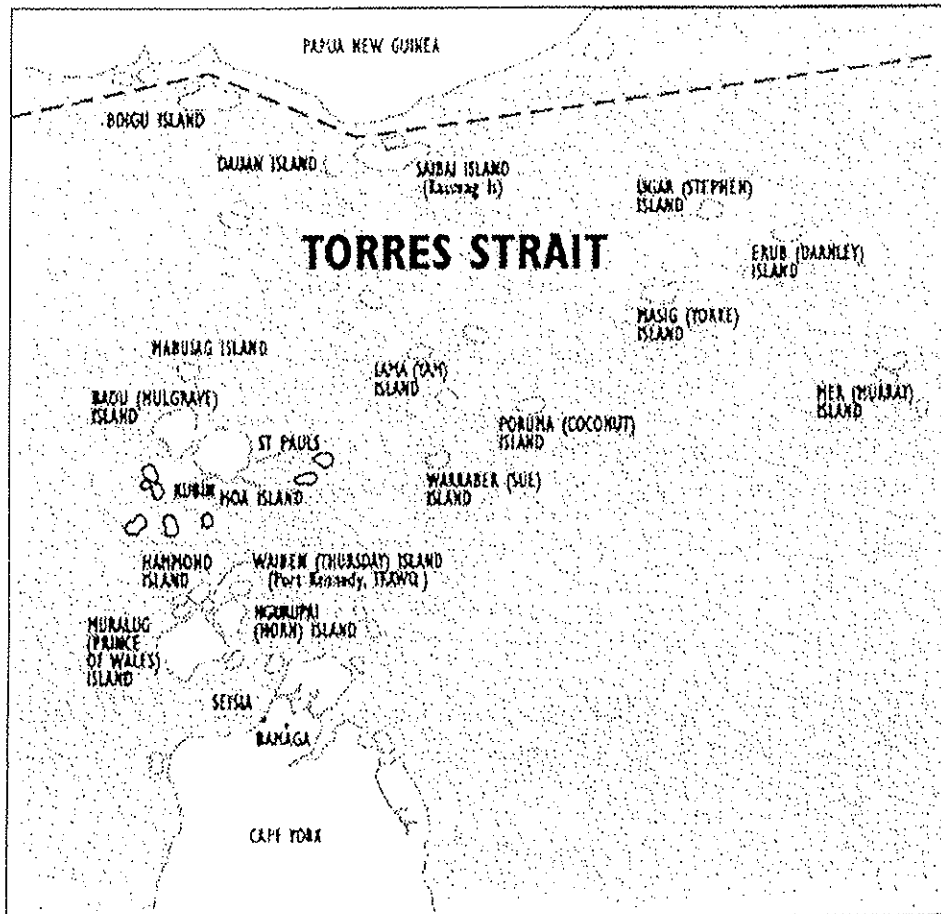
There are approximately 6,800 Torres Strait Islanders living in the Torres Strait region and another 42,000 outside the region who reside on mainland Australia. Torres Strait Islanders make up approximately 73 per cent of the population of the Torres Strait region.

The Torres Strait region includes 19 communities and is divided into five regions or clusters. These are *Guda Maluilgal* (top western islands), *Meriam* (eastern islands), *Kulkaigal* (central islands), *Maluilgal* (near western islands) and *Kaiwalagal* (inner islands).

The largest traditional social unit is the language group, which comprises men, women and children who are descendants of the same ancestors. The language group forms the primary basis of individual, as well as group, identity. The four traditional languages spoken in the region include *Meriam Mir* – language of the eastern Torres Strait; *Kala Kawa Ya* – language of the top western islands; *Kala Lagaw Ya* – language of the lower western islands; and *Kulkaigawya* language of the central islands; *Yumpla Tok* formerly known as *Torres Strait Creole* is the *Lingua Franca* – the language commonly used by all Torres Strait Islanders.

The following grouping of islands are often identified as:

- Top Western            Saibai, Boigu and Dauan.
- Near Western        Badu, Kubin, St Pauls and Mabuig.
- Inner Islands        Thursday, Hammond, Prince of Wales and Horn.
- Central                Yam, Coconut, Yorke and Warraber.
- Eastern                Murray, Darnley and Stephen.



Map 1: Torres Strait Regional Map

**Mer (Murray Island)** - is a small island of volcanic origin, populated by the Meriam people and situated in the eastern section of Torres Strait, near the Great Barrier Reef. The island has a population of around 480 people. There are eight Meriam tribes - Komet, Zagareb, Meuram, Magaram, Geuram, Peibre, Meriam-Samsep, Piadram and Dauer Meriam. The organisation of the island is based on the traditional laws. The establishment of the traditional ownership of Mer by the Meriam people was central to the 1992 High Court of Australia decision in the *Mabo* case, which established that, under Australian law, Indigenous people have rights to land – native title rights – that existed before colonisation and which still exist. Heralded as a landmark ruling, this case underpinned the introduction of the *Native Title Act 1993* and the legal recognition of traditional ownership of the land by Aboriginal and Torres Strait Islander peoples.

**Nagir (Mount Ernest Island)** – Nagir is no longer inhabited fulltime, though people have dwellings built on their respective lots and regularly return on visits. Descendents of the original people continue to have a strong connection to Nagir and are in the process of finalising their Native Title claim. This claim is currently before the Native Title Tribunal.

## Torres Strait Governance Information

The Torres Strait Regional Authority (TSRA) is an Australian Government Statutory Authority established on 1 July, 1994 under the *Aboriginal and Torres Strait Islander Commission Act 1989*, which is today known as the *Aboriginal and Torres Strait Islander (ATSI) Act 2005*. The TSRA Board consists of 20 Members who are all Torres Strait Islander or Aboriginal people living in the region. They are appointed by the Federal Minister charged with the responsibility of Aboriginal and Torres Strait Island affairs every four years. The Board determines TSRA's policies and budget allocations.

The Australian Government's legislative *Native Title Act 1993* provides for the establishment of Registered Native Title Body Corporate (RNTBC) for each native title determination in order to hold in trust, or manage, the determined native title on behalf of the native title holders. RNTBCs are currently regulated by the *Native Title Act 1993*, the *Native Title (Prescribed Bodies Corporate) Regulations 1999*, and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The role of the RNTBCs is to protect and manage native title, in accordance with the wishes of the Torres Strait community and within the requirements of legislation. There are 20 RNTBCs in the Torres Strait. The relevant RNTBCs for these ancestral remains held at the British Museum are Naga Corporation (Nagir) and Mer Gedkem Le (TSI) Corporation RNTBC (Mer, Murray Island). The RNTBCs are keepers of traditional lore, cultural practices and beliefs, full autonomy will reside with the relevant RNTBC on the care of those ancestral remains provenanced to their island.

From 2010 the TSRWG Chair and Deputy Chair continue to be the delegates of the RNTBCs in advocating the return of Torres Strait Islander ancestral remains home. They have the support and remit of the RNTBCs and work with all relevant stakeholders to deliver the outcomes of the Torres Strait Traditional Owners community.

## 2. Torres Strait Repatriation Working Group community consultation process

In late 2009 and early 2010, an extensive community consultation process was facilitated by the Australian Government in the Torres Straits and the TSRWG. The TSRWG was made up of five representatives of the RNTBC chairs and two representatives of the TSRA in their capacity as portfolio members for Native Title and Arts, Culture and Heritage.

The TSRWG sought community views on:

- The return of Torres Strait Islander ancestral remains to their community of origin;
- The long term care of Torres Strait Islander ancestral remains that are unable to be returned to their community of origin; and
- An appropriate and relevant delegation to advocate for and/or accompany the return of Torres Strait Islander ancestral remains held in overseas collections.

Consultations were conducted by hosting a two-day visit in each community over a period of six months. These series of meetings were held with community members, elders groups, elected officials and school visits in all 19 Torres Strait Islander communities.

A *Final Report of Community Consultation on the Repatriation of Torres Strait Ancestral Remains* was completed on the outcomes of the community consultation process. An overwhelming finding of the *Report* was that the repatriation of Torres Strait Islander ancestral remains was a cultural priority

for Torres Strait Islander people and that these ancestral remains should be returned to their rightful place. The current TSRWG representatives were tasked as the Torres Strait Islander advocacy team to undertake negotiations with overseas holding institutions on behalf of Torres Strait Islanders.

A summary of the key findings of the consultation process are at [Attachment A](#).

### **3. Torres Strait Islander ancestral remains being requested for return in this submission**

The Torres Strait Islander ancestral remains identified in the British Museum that are being requested for repatriation are as follows:

- Divining skull (found on Mer Island), (Oc,89+.97, PRN: EOC7071) donated by Professor Alfred Cort Haddon, on 1 November 1889. It has been suggested that these may be the remains of ██████ an old man who had died 25 years ago....; and
- Divining skull (pada kuik) of ██████ (Oc,89+.96, PRN: EOC7070), donated by Professor A.C. Haddon, on 1 November 1889. Haddon recorded that ██████ died at about the end of 1887. The account of ██████ funeral and the collection of his skull was provided by Professor Haddon<sup>1</sup>.

### **4. The status of those making the request and submitting the claim**

The claimants represented in this submission are the Traditional Owners of Nagir and Mer of the Torres Strait Islands. Both Nagir and Mer Traditional Owners have agreed for the Torres Strait Islander advocacy team to advocate for the return of these ancestral remains on their behalf. The Nagir and Mer Traditional Owners will be responsible for ensuring the return and long-term care of the ancestral remains is in accordance to their cultural practices.

### **5. Cultural, spiritual and religious significance of the ancestral remains and continuity with ancestral remains**

The cultural, spiritual and religious significance of ancestral remains to the Torres Strait Islander people and their wide application to nearly every aspect of traditional life as understood by its people is based upon particular customs, traditions, observances and beliefs that predate missionary influences.

#### **Cultural significance**

Torres Strait culture is essentially based on long standing customs, traditions, observances and beliefs known as *Ailan Kastom* ("island custom"). *Ailan Kastom* continues to be the source of strength, unity and social harmony in the Torres Strait today. In terms of customary law and protocols, it is recognised, maintained and revitalised. This includes the fundamental custom and tradition of respecting the rights of the dead and ensuring that they are not disturbed or mistreated.

Traditional mourning and grieving customs vary widely between language groups across the Torres Strait. However, all customs involve acts of ritual mourning, the singing of sacred funeral songs, and complex ceremonies. Mourning and burial rituals must be carried out properly, as

<sup>1</sup> Haddon, A.C. *et al.*, 1935, Reports of the Cambridge Anthropological Expedition to the Torres Strait, Vol. 5

they assist the spirit to return to its sacred place. Without proper ceremonies, the deceased's spirit cannot take its place in the afterlife but will become caught between death and future life.

The cycle of events surrounding death in Torres Strait culture is a major arena for expression of cultural identity and community ties. An annual ceremony with sacred dancing to commemorate the dead predates missionary influence. Underlying beliefs are still the basis for a secondary mortuary rite unique to the Torres Strait - the tombstone opening. *The Long Journey Home* (2010) DVD accompanying this submission features a tombstone opening.

The ceremony is the period of mourning and preparation by relatives. The tomb is not actually opened but a newly installed engraved headstone is unveiled. It is believed that if the spirit of the deceased cannot join other ancestors, it may return and take another member of the immediate family or community.

### **Spiritual significance**

Torres Strait Islander people believe that the spirit is not at rest until an appropriate ceremony has been performed. Respecting the dead with traditional rites is a vital element in their passing in a culturally appropriate manner. Of vital concern in Torres Strait Islander culture is the 'spirit' and what might become of it. Death is not seen as an end point but as a transition to another level of existence. Burials have significant yet different meanings for different genders, age groups, elders, and clans associated with different totemic connections.

The ceremonies around death are extremely important and take precedence over all other activities. Correct ceremonies should be held, with the correct people present, and the remains must be buried or disposed of (depending on individual communities). Torres Strait Islander spirituality insists that some ceremonies, items and places be kept secret and viewed only by appropriate people.

An important part of Torres Strait spirituality is the belief that every person has a totem. "Totemism" describes the relationship between an individual with a plant or animal species, or a condition or a situation. A totem serves as the symbol of, a companion or protector to, the relevant person or group. Torres Strait Islanders have a unique structure and these totemic associations guide them on how they deal with death.

### **Religious Significance**

Before missionary influences, religious life once revolved largely around male initiation cults of various creative and peregrinator heroes, fertility cults and ceremonies. Since the missionaries came to the Torres Strait such religious practices have been transformed but they still carry their significance for the well being of communities.

Christianity plays a significant role in the lives of contemporary Torres Strait Islander people. This is best demonstrated by the annual commemoration of the arrival of missionaries to the Torres Strait on 1 July 1871 also known as the "Coming of the Light" by Torres Strait Islanders throughout the country. As Christianity is widespread throughout the Torres Strait, it may influence the way in which ancestral remains are dealt with when they are returned to their islands.



It is important to note that Torres Strait Islanders today, continue to have cultural and/or familial relationships with the ancestral remains of their deceased, the responsibilities of which have not diminished with time. Where ancestral remains are provenanced only to an island, the communities have overwhelmingly agreed that the ancestral remains should be returned to country and that they would assume full responsibility for them.

### **Continuity with remains**

In Torres Strait culture, the continuity communities have with their ancestors' remains still exists in contemporary society.

In traditional Torres Strait culture death is viewed as the time when the deceased spirit is released from the physical body to rejoin the unseen world. Death signifies a return of the spirit to its source – its sacred totem site – to await rebirth. Death inside community is a serious matter which causes immense grief and sorrow to the bereaved relatives. Great care is taken not to increase the hurt by any direct reference to the deceased's death.

After death, the name of the deceased person becomes taboo. To speak or use the name of a deceased person indicates lack of respect for the deceased and for the bereaved, and inflicts great hurt and sorrow upon the latter.

Traditional beliefs held that the spirit of the deceased was capable of bringing harm to the community, and funerary ritual was intended to avert such danger to free the spirit to its final resting place.

### **6. The age of the ancestral remains**

The two Torres Strait Islander people subject to this claim died between the period 1880 and 1889. Therefore, these ancestral remains fall under the British Museum's criteria of less than 300 years old post-mortem and that a claim from the Nagl and Mer Traditional Owners (endorsed by the Australian Government demonstrates) would likely to be successful.

### **7. How the ancestral remains were collected**

These ancestral remains were brought from the Torres Strait in the late 19<sup>th</sup> century by Professor Haddon. Professor Haddon had collected Torres Strait human remains and ethnological items extensively during his two expeditions to the Torres Strait in 1888-1889 and 1898. Professor Haddon documented his expeditions, and how human remains were collected, in the six volume Reports of the Cambridge Anthropological Expedition to Torres Straits and his private papers, which includes documents the collection of the particular TSI remains held at the British Museum<sup>2</sup>. The TSI remains held at the British Museum, particularly Magau's skull, are exceptionally well provenanced.

The skulls are listed as 'divining skulls'. The practice of divination has been documented by Professor Haddon<sup>3</sup> and other authors and is not further explored in this submission, except that

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<sup>2</sup> Haddon, A.C. 1888-9, Haddon Journal, Cambridge University Library, unpublished journal

<sup>3</sup> Haddon, A.C. *et al.*, Reports of the Cambridge Anthropological Expedition to the Torres Strait, Vol. 5 & Vol. 6

the cultural understanding is that the skulls were only used temporarily for divining and were later placed in a 'resting place'.

#### **8. The potential public benefit of the ancestral remains**

Torres Strait Islander people appreciate the benefits of science but believe this should not be at the expense of our peoples' cultural and spiritual beliefs. When assessing the potential public benefits from the point of view of the retention of ancestral remains these views should be taken into consideration. This encapsulates the notion in the UK Department of Culture, Media and Sport's, *Guidance for the Care of Human Remains* of 'respect for diverse religious, spiritual and cultural beliefs and attitudes to remains, and tolerance'.

Torres Strait Islander people believe that science and human understanding should proceed on a basis of co-operation and consensus in relation to our ancestors' remains. Our ancestors' remains are a fundamental spiritual and cultural link to our past and that appropriating (including invasive and non-invasive research on) ancestral remains violates the sanctity of the dead. We consider that there will be no spiritual peace until the dead are returned "to country" and have received their last rights in accordance with their traditions.

#### **9. Future of ancestral remains if returned**

The Traditional Owners of Nagir and Mer Islands have advised during the consultation process that they intend to, in the first instance, temporarily store their ancestors' remains at the National Museum of Australia (NMA) in Canberra until arrangements can be made for the return to their islands.

During the consultation process the Meriam people said that reburial was an option due to the strong belief held by the community that "we come from dust, we must return to the dust". Both the Nagir and Mer Island communities agreed further discussions need to be undertaken when the ancestral remains have been returned to Australia about their long-term care.

#### **10. Australian Government Policy on the management of overseas repatriation of Indigenous ancestral remains**

The Office for the Arts, Department of the Prime Minister and Cabinet is the Australian Government's lead agency for the repatriation of Australian Indigenous ancestral remains from overseas holding institutions.

The Australian Government acknowledges that respect and responsibility towards the ancestral remains of the deceased is a universal norm. Many Indigenous Australians have been denied this responsibility with the removal of Indigenous ancestral remains without due consent. Indigenous Australians have campaigned for the return of their ancestors' remains for many years.

The Australian Government is committed to assisting communities to consult about, plan for and negotiate the repatriation of ancestral remains held in both Australia and overseas institutions. The Government believes that repatriation must be culturally appropriate, unconditional and inclusive of Australian Indigenous peoples' aspirations.

The Australian Government acknowledges and supports the desire of Indigenous Australians to achieve the return of their ancestors' remains through the provision of funding for domestic and

overseas repatriations. It aims to complement Australia's ongoing commitment toward addressing the injustices of our shared past, and to promote healing and reconciliation through the return of Indigenous ancestors to their families and communities of origin.

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### Summary of key findings of the TSRWG

The key findings of the Community Consultations have been presented throughout the report, and have been captured again here for ease of reference together with other findings and community concerns.

- Community members were aware that over 250 Torres Strait ancestral remains, including hair samples, are held in overseas collections, mainly in the United Kingdom.
- Community members viewed hair samples as a physical attachment to the remains of their ancestors and fully supported the return of hair samples in future claims. They were also made aware that the majority of named individuals in the inventory listing were associated with hair samples.
- Most community members understood the theory behind why remains were taken away from their homelands however they did not support that the remains were never intended to be returned.
- There was general public acceptance from community members as to how remains ended up in overseas collections.
- Torres Strait communities were aware of remains as early as the late sixties or early seventies. The earliest request for returns for human remains to the Torres Strait was first made by the Meriam (Murray Islanders) in the early eighties to the Glasgow Museum. These remains were repatriated in 2006.
- Community members advised that repatriation is a cultural priority from community as this issue reflects death inside community and until the spirit of their ancestors are laid to rest then this important and vital work must continue.
- Community members advised that due to the unique structure and diversity of each island community, each family/clan/tribe had their own cultural beliefs and practices when dealing with their dead. Within each family/clan/tribe, there are totemic associations that guide them on how to deal with death.
- Community members showed concern about the level of provenancing of the remains and advised of their past cultural practice of trophy skulls (collecting the skulls of their enemies).
- Community members showed concern that they would require further internal consultations to discuss the future management of remains when they are returned to island. For this very purpose a contact has been identified in each community, usually the PBC Chair, to conduct these consultations internally with their community.

- Community members understood that once the remains are returned to Australia, further provenancing research would be undertaken to ascertain provenance, but were made fully aware of the possibility of remains not being able to obtain provenancing.
- Most community members expressed a level of acceptance that the provenance of remains may never be established.
- Community members understood that no agreements to return Torres Strait ancestral remains were in place however fully understood the steps required in making claim for their return.
- A number of community members fully understood and supported the requirement for further lobbying of those institutions for the return was necessary and endorsed the TSRWG to undertake that role however on the basis that they were able to voice the community's views and wishes.
- Community members strongly agreed that cultural protocols around the handling of remains should be developed for those handling Torres Strait ancestral remains including museum figures, community representatives who view remains, handlers such as freight companies etc.
- Community members understood the arguments for and against the use of DNA testing to further identify remains to clan groups or families and that DNA testing is not definitive. They agreed that there must be a level of acceptance around the information already provided, e.g. names of individuals, provenance etc. However, further archival research should be conducted in any event to try to ascertain if there is any further information available.
- Community members understood that although the scope of the program does not extend to the return of material culture there is however a willingness to facilitate the return of objects, if requested, by an overseas holding institution.

## ATTACHMENT A

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