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**Taxidermy and the Law Seminar, 8 February 2010**  
**New Walk Museum, Leicester**

Angela Smith

Documentation Officer, Gloucester City Museum & Art Gallery  
Brunswick Road, Gloucester, GL1 1HP

Email: Angela.Smith@gloucester.gov.uk

It was on a crisp winter's morning that I found myself walking through Leicester to the New Walk Museum for the Taxidermy and the Law seminar. There are several laws that cover the possession and use of protected wildlife and plant specimens, and I've always found them quite confusing. I was therefore keen to attend this seminar and get a better understanding of the law and how it relates to us as museum professionals. The meeting was very well attended with 31 people from museums across the UK.

**Chris Auger: Licensing Quality Manager for Animal Health**

**CITES made simple**

CITES - the Convention on International Trade in Endangered Species (of Wild Fauna and Flora) - is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The first speaker was Chris Auger, Licensing Quality Manager for the UK CITES Management Authority (Animal Health, an executive agency of Defra, the Department for Environment, Food and Rural Affairs). She gave a very informative talk and made what is quite a complex issue much clearer, although there are some grey areas, particularly where museums are concerned. Chris produced a handout of the slides used for her presentation, but rather than reproduce these here, I will just cover the main points. More information can be found on the Animal Health website and Chris stressed that we are welcome to contact her office to discuss concerns.

Under EC Regulations there is an obligation on the UK for national enforcement of CITES. This is done through the Control of Trade in Endangered Species Regulations (1997) and amendments, also known as COTES. Chris explained under what circumstances we would need EC certificates, also sometimes referred to as licences, specifically Articles 10 and 60. Part of Chris's job is to advise customers whom think they may need a certificate or are unsure about the law.

**Why do we have CITES?**

Many species worldwide are becoming extinct and extinction rates are on the rise. While we cannot control many of the forces that are causing extinctions, one thing that can be controlled is trade. It is important not to ban wildlife trade completely as some communities in developing countries rely on it for their livelihoods.

For the purposes of CITES museums only need to be concerned with Annex A species (the most critically endangered). A list of these species can be found on the Animal Health website. The basic rule is that all commercial use of these specimens or their parts is prohibited unless covered by an EC certificate.

The questions we have to ask ourselves are:

1. Does the museum hold any Annex A specimens or parts e.g. carved ivory/bone/teeth, feathers, skin or wood?
2. Are they used commercially?
3. Are they covered by antiques derogation (see below)?
4. Do you have a certificate already (Article 10 or 60, or old Article 30 (now replaced by 60)? Some have an expiry date, but it is worth checking with Animal Health to see if you are already covered.

*The definition of commercial use is quite complicated, but in brief, commercial use does not have to make a profit and can include:*

- When on public display with an admission charge
- When on public display and free entry is accompanied by requests for donation where there is an element of coercion, for example where a donation box is placed in a prominent position and is accompanied by a sign suggesting an amount that should be donated, or where stewards approach incoming visitors and ask for a donation.
- In exchange for goods that have a value
- Any use that has a financial benefit
- On loan for a fee
- For sale and purchase, or keeping for future sale, e.g., in the freezer
- Offering for sale or transporting for sale
- In exhibitions and events that are charged for and that feature the Annex A specimen

Or when part of a paid tour of museum stores, and where the specimen is the main focus (if it is not the main focus, this is not deemed commercial use)

Commercial use does not apply if charges in the museum do not directly involve the Annex A specimen, e.g. if the museum has a shop, or if an event or exhibition is held where an entry charge is incurred, and this is in a separate part of the museum to where the specimen is kept. At present, the sale of images of the specimen is not commercial use unless the images are to be used commercially. Some situations can be open to interpretation and hence, you may need advice from Animal Health for these.

CITES is all about trade so the two important issues are: what are you gaining by having it, and is it a 'finished article' or is it unworked and therefore could be made into something worth trading. The question of what is worked or unworked includes several grey areas and again you may need advice on these.

#### **Antiques derogation**

Definition: - When a worked specimen was acquired before 1 June 1947 and has not been altered or restored since that date (cleaning or maintenance do not come under this definition). If it was acquired more recently than this, but is thought to be older than this date you need to prove that it has not been altered between 1947 and the acquisition date. You will need documentary evidence e.g. letter with date, receipt, photo (that can be dated), or transfer of title form. You do not need a certificate before doing restoration work unless you will subsequently be using it commercially.

#### **Worked specimens**

Again the definition is not too clear and even Chris and Kim disagreed on some of the finer points, but essentially an unworked specimen is one that can be made into something with commercial value. This will be discussed at the next EU Management Committee meeting and Chris will subsequently write guidance notes. Animal Health can advise on individual cases, but you should get independent legal advice if you are unsure.

Examples given of worked specimens include: antique furniture, rhino horn libation cup, ivory statuette, articulated tiger skeleton, tiger skin rug, mounted hunting trophy or a wall plaque, broom made from elephant hair or polished turtle shell.

Examples of unworked specimens include: uncarved elephant tusk, polished tusk, tiger bones in a box (drilled but not articulated), a trophy removed from wall plaque (or has fallen off) or a shell removed from a turtle.

#### **A brief summary of EC certificates**

Article 60 certificates:

- Are issued in name of the institution
- Covers commercial use (except sale) of all Annex A specimens held by that institution, which are being used to promote conservation (research or education)
- Cost £177
- Cover only scientific institutions (e.g. museums, zoos etc.)

- Replace Article 30 certificates
  - Need evidence of origin of all specimens to be covered (or if museum has not catalogued all the specimens, they will accept full evidence of a sample of at least five specimens)
- Can cover more than one museum on one certificate if the collection is owned by a joint service

Article 10 certificates:

- Are issued in the name of the trader
- Only covers one specimen per certificate
- May cover all commercial uses, including sale
- Cost £25

**Other points to note:**

**Individuals can be liable, not just organisations – bear in mind that it could be you!**

If a specimen cannot be identified, treat it as though it is not Annex A. You need to show that you have tried to find out what it is. If you have reasonable doubt that it may be Annex A, you must find out, as ignorance is no defence in law.

Imports and exports are covered by other permits. Crown Dependencies, such as the Isle of Man, and British Overseas Territories are not included in the EU but the Canary Islands are. For temporary display abroad there are two certificates: the Travelling Exhibition Certificate and the Sample Collections Certificate.

Non-commercial loans between registered scientific institutions can use labels provided by the UK Management Authority (Animal Health), the top part must be attached to the outside of the container and must have a five digit number. The bottom part must be returned to Animal Health and an annual report sent to them by 31 December each year.

Apart from a few grey areas, most of the CITES information is fairly clear and Chris's team are on hand to answer any questions. One point to remember is that if you think you need a certificate; contact Chris's office first before applying, because the fee is non-refundable if a certificate is not needed. Details are at the end of this article.

After a very good lunch we returned to the meeting room to hear what Kim MacDonald had to tell us about the remaining wildlife laws.

#### **Kim MacDonald: The Taxidermy Law Company**

The Taxidermy Law Company, run by Kim, specialises in advising auction houses, dealers, taxidermists and museums about wildlife laws governing natural history collections. Although Kim has not studied law, he has an impressive background that you can read about on the website ([www.taxidermylaw.co.uk](http://www.taxidermylaw.co.uk)) and is very knowledgeable about his subject. Taxidermy law is not a straight-forward issue and Kim did an excellent job of answering all our questions. To summarise his talk:

The laws that specifically relate to natural history collections are:

- Game Act 1831
- Protection of Birds Act 1954
- Wildlife and Countryside Act 1981
- The Wildlife (Northern Ireland) Order 1985, and amendment 1995
- Deer Act 1991
- Protection of Badgers Act 1992
- The Conservation (Natural Habitats, &c.) Regulations 1994
- CITES – EC regulations 338/97 and 407/2009
- Control of Trade in Endangered Species (Enforcement) Regulations 1997, and amendments 2005, 2007 and 2009
- Countryside and Rights of Way Act 2000

- Nature Conservation (Scotland) Act 2004
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, and amendments 2007 and 2008

Kim explained the finer points of some of these Acts and Regulations, but rather than risk giving information that may be misleading, anyone needing further information should contact Chris Auger, Kim MacDonald or one of the wildlife licensing authorities listed below.

### **Antiques Derogation**

Kim went through the antiques derogation section of the regulations in great detail giving examples of worked and unworked material. The main issue seems to be the definition of maintenance, and the distinction between worked and reworked material. For example, if a tiger tooth falls out and you glue it back in, this can be seen as maintenance, however if you replace it with a tooth from a different tiger, this is seen as reworking. If a specimen is unworked, and not reworked since 1947, you will need a licence, but not if it was worked before 1947 and has had no further work, or only maintenance carried out on it. With a cased specimen you can carry out whatever work needs doing on the case, but as long as the specimen has not been reworked you will not need a licence. This is an area of much confusion and needless to say, in law each case is judged on its own merits.

Kim also pointed out that species are continually being added to the CITES list, so it is important to keep checking the list. Provenance is all important ('Provenance, Provenance, Provenance!'), so keeping your documentation in order is essential.

### **General Licences**

A general licence (GLO2) will allow you to transport or be in possession of a dead specimen of wild plant and animal species listed on Annex IV and II(b) of the Habitats Directive, for purposes of science or education, that would otherwise be an offence. In England and Wales taxidermists and museums must keep separate records of all specimens, for example on an Excel spreadsheet or museum database. General licences are only issued for educational and research establishments, which museums automatically come under. For loan boxes, both the lender and the borrower must have a licence. This does not apply to Scotland, where Scottish Natural Heritage will grant you a licence if you are a taxidermist or museum.

### **Bird's eggs**

This seemed to be the real hot potato of the day. How many of our museums have collections of bird's eggs with no clear idea of the legal position? And how many of us have visitors turning up on the doorstep with a biscuit tin of bird's eggs that they have discovered while clearing out the attic?

It has been illegal to take bird's eggs from the wild since 1954 and after the Wildlife and Countryside Act 1981 it was illegal to possess them. The 2004 Amendment has changed this so that now it is illegal to possess any eggs acquired since 1954. However, you can be deemed in legal possession if the eggs are held by a museum for education or research. There is no licence available for the possession of eggs.

If you have genuine pre-1954 eggs you are not breaking the law if you can prove when they were acquired or can satisfy the 'balance of probability' of age. You also need to have proof that the eggs were legally acquired. Do not accept a verbal confirmation from a potential donor of the age of a collection - no matter how convincing they appear to be, you must have hard evidence! There is no onus on museums to advise people if they are breaking the law.

### **Summary**

This was an excellent day with a lot of information to absorb. The overall messages that came across were: keep good records and look for evidence of dates where you can (for example the name of a taxidermist could narrow down the date of a specimen), do not accept unprovenanced donations, and keep up-to-date with changes in the law. If in doubt, contact the experts and find out the latest information:

### **Further information and contacts**

Animal Health (Chris Auger):

0117 372 8294

[wildlife.licensing@animalhealth.gsi.gov.uk](mailto:wildlife.licensing@animalhealth.gsi.gov.uk)

[www.defra.gov.uk/animalhealth/CITES/](http://www.defra.gov.uk/animalhealth/CITES/)

Countryside Council for Wales (Licensing Team)  
0845 1306229  
Enquiries@ccw.gov.uk

NatSCA  
<http://natsca.info/content/natural-science-collections-and-law-0>

Natural England (Wildlife Management and Licensing Service)  
0845 6014523  
[wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk)

Northern Ireland Environment Agency (Wildlife Licensing Unit)  
028 9056 9605

Scottish Executive (Wildlife Management Team)  
0131 2446549  
[specieslicensing@scotland.gsi.gov.uk](mailto:specieslicensing@scotland.gsi.gov.uk)

Scottish Natural Heritage (Ben Ross)  
01463 725245  
[Ben.Ross@snh.gov.uk](mailto:Ben.Ross@snh.gov.uk)

Taxidermy Law Company (Kim MacDonald)  
[www.taxidermylaw.co.uk](http://www.taxidermylaw.co.uk)

**Disclaimer**

I have no background in law and the information in this article is from notes made at the Taxidermy Law seminar. It is not intended as a guide to wildlife or taxidermy legislation. Please direct any questions regarding the law and licensing to the above contacts.

**Acknowledgements**

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