

Ann Elzinga

THE NEW MUSEUM REGISTRATION METHODS

Edited by Rebecca A. Buck and Jean Allman Gilmore

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1575 Eye St. N.W., Suite 400
Washington, DC 20005

COLLECTIONS MANAGEMENT ■ *Condition Reporting*

Marie Demeroukas

OVERVIEW

A good condition report is an accurate and informative account of an object's state of preservation at a moment in time. It provides a verbal and/or visual description of the nature, location, and extent of each defect in a clear, consistent manner. A condition report written by a registrar, curator, or collections manager (as discussed in this chapter) is not the same as a condition report written by a conservator; the former aids collections management whereas the latter is a tool for planning and performing object treatment.

A condition report can:

- Establish the exact condition of an object at the time of a loan or upon its return
- Benchmark the type and/or rate of deterioration
- Differentiate identical objects from one another
- Document an object's condition history, providing past evidence for future problems
- Set priorities for conservation care and treatment
- Suggest a default monetary value on an object in lieu of an actual value for insurance purposes
- Make future handlers aware of seen and unseen problems

TOOLS

A variety of tools are helpful in conducting object examinations.

Documentation

- Soft lead pencils (pens can leave a permanent mark)
- Writing paper
- Examination forms

- Computer

- Camera

Measurement

- Cloth tape measure, without metal caps (caution: some tapes can stretch)
- Calipers
- Clear plastic flexible ruler

Handling/Support

- Clean white cotton gloves
- Nitrile gloves
- Acid-free, lignin-free board
- Buffered and unbuffered acid-free, lignin-free tissue paper
- Padded muslin rolls
- Padded blocks
- Flat-bed dolly

Illumination

- Flashlight
- Pen or crevice light
- Portable incandescent lights, such as a mechanic's drop light
- Ultraviolet light

Magnification

- 10x hand lens
- Jeweler's loupe
- 55x microscope
- Head-mounted magnifier

Miscellaneous

- Hand mirror
- Dental mirror
- Magnet (to identify ferrous metals)

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- Natural hair brushes in a variety of shapes and stiffness
- Probes (dentist's tools)
- Tweezers
- Forceps
- Blow-ball

EXAMINATION

Examine objects in a clean, secure, well-lit work area where eating, drinking, and smoking are prohibited. For small and medium-sized objects, pad a sturdy table or desk with polyethylene foam. For large objects, a padded flat-bed dolly may be useful. Cover the examination surface with clean, white, acid-free paper to help detect signs of flaking, infestation, etc.

Use cotton or nitrile gloves to handle objects. Nitrile gloves are especially important when handling ethnographic and natural history specimens, since many of them were treated with fumigants and chemicals in the past. Nitrile gloves are also smoother and less likely to disrupt loosely adhered paints. Follow all appropriate handling guidelines, making sure each part is properly supported; large, awkward, or fragile objects may require several handlers. Be aware of an object's visible faults, such as cracks or tears, and potential weaknesses, such as weak handles or brittle veneer. (See chapter on Handling.)

Make sure lighting is adequate to the task. **General lighting**, which illuminates the object overall, **raking light**, which illuminates at an angle, and **transmitted light**, which illuminates from the reverse, can reveal a variety of surface and subsurface irregularities. Other types of light, which should be used judiciously, include ultraviolet (UV), for detecting adhesive residues, paints, resins, etc., and x-radiography (X-ray), for detecting subsurface cracks, losses, etc. Avoid light damage by reducing long-term exposure, filtering UV from general lighting, minimizing intense exposure, and reducing heat buildup. (See chapter on Preventive Care.)

To understand and identify an object's defects and weaknesses, it is important to determine

its composition. Objects can be made of organic materials (e.g., bone, cotton, hair) and/or inorganic materials (e.g., gold, clay, flint). These materials may be in their original form, such as marble, or may have been modified, such as brass (an alloy of copper and zinc). Objects made from a combination of materials may suffer from a variety of problems, such as weak joints, dissimilar rates of expansion and contraction, or chemical incompatibility.

Inherent faults or other types of damage also affect an object's condition. An **inherent fault**, also known as an inherent vice, is a weakness in the construction of an object or an incompatibility of the materials that constitute it, such as a thin handle on a heavy teapot or metallic salts added to 19th-century silks. Pests and mold, which feed on organic materials or deposits, cause **biological damage** as they weaken an object's structure or create problems such as riddled wood or discoloration. **Physical damage**, caused by mechanical stress, includes abrasions, losses, tearing, etc. **Chemical damage** is the result of a reaction between a material and an energy source (heat, light) or a chemical (water). It is evidenced by corrosion, tarnish, fading, etc.

Always distinguish between historic and "modern" damage or repair. Other condition-related factors to keep in mind:

- One type of damage may encourage another (e.g., brittleness can lead to tearing).
- Some objects have important evidence of a past function (e.g., stains on a ritual blade, dried residue in a medicine bottle).
- Burial may affect an object's condition (e.g., salts efflorescing on pottery).

Whenever possible, examine objects by category (e.g., hats, bird mounts, paintings) and/or by types of materials (e.g., stone, paper, wool); grouping will promote consistency, thoughtful observations, and accuracy. Determine an appropriate examination pattern and follow it each time (e.g., top to bottom, proper left to proper right, front to back, exterior to interior).

DOCUMENTATION

An object's condition can be documented by text (physical description), sketch (rough representation), and/or video, photographic, or computer image (exact representation). A combination of these methods provides a complete account of an object's condition at a moment in time. Textual documentation can take the form of a narrative or a checklist.

A condition report should include:

- Identifying numbers (accession, loan, field, catalog)
- Object composition
- Types of damage
- Extent of damage
- Location of damage
- Previous repairs (historic and modern)
- Dates of and/or reason for damage (if known)
- Examiner's name
- Date of examination

A photograph should include:

- Identifying numbers
- Scale
- Date of photograph

Whether an object's condition is recorded on paper, computer database, or film, make sure that documentary materials are archivally sound and that the completed documentation is stored in a physically secure and environmentally stable area. Black-and-white film is more stable than color, although modern color film is more stable than its predecessors. Process film according to American National Standards Guidelines. Always duplicate and archive data in a separate, secure location.

When writing a condition report, consider the nature, location, and extent of damage. To ensure accuracy and minimize handling, completely discuss one type of damage on one portion of the object before moving on. Keep all reference materials (e.g., glossaries, locational nomenclature) on file for future reference; use terms consistently.

TL	TC	TR
CL	C	CR
BL	BC	BR

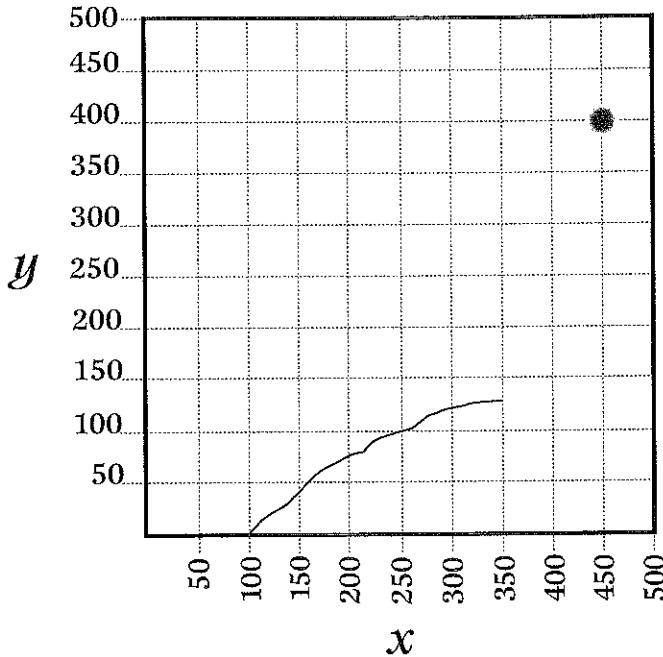
A zone system provides a generalized method for locating damage on two-dimensional objects.

Type of Damage

What is the nature of the damage? If the examiner is trained in conservation, it may be possible to determine whether it is biological, physical, or chemical in nature or the result of an inherent fault; if cause is not apparent, leave etiological statements to the conservator. Describe damage in terms of texture, color, shape, odor, and/or other physical properties, as appropriate. A glossary, whether established or constructed, can be used to assign a descriptive term to a specific condition. Speculative assessments should be indicated with a question mark.

Location

Where is the damage located? Whenever possible, use a recognized nomenclature to indicate the exact position of damage (e.g., proper left, viewer's right) or describe the damaged part of the object (e.g., hammer: face, neck, handle, grip, cheek). Sources include museum nomenclatures, collectors organizations and publications, product manufacturers, and reference texts. (See chapter on Data Management.) The object itself may suggest locational names (e.g., the "shirt" or "face" areas on a figure in a painting, or "to the right of the handle at the base").



stain: center at (450,400mm)
 tear: from (100,0mm) to (350,125mm)

The matrix system is a more precise system for plotting damage on two-dimensional objects.

A **zone** system provides a generalized method for locating damage on two-dimensional objects. Each zone or square is labeled, such as TR (top right) or C (center), and the damage is placed within a zone. The **matrix** system, also for two-dimensional objects, is more precise, as the damage is plotted in millimeters on the *x* and *y* coordinates. The *x* coordinate represents the bottom edge of the object; the *y* coordinate represents the left edge. A stain near the top right corner of a document might be plotted as 450mm along the *x* (bottom) axis and 400 mm along the *y* (left) axis; this is represented as (450,400mm). Sketches, photos, or Mylar® overlays on photos offer locational guidance for three-dimensional objects.

Indicate whether measurements are taken metrically or in inches. Whenever possible, lay the measuring device alongside the object to avoid touching it. Other ways to describe location include:

- Direction (horizontal, vertical, diagonal)
- Object side (obverse/reverse, interior/exterior, proper left/proper right, verso/recto)
- Range (scattered, overall)

Extent

What is the extent of the damage? Proceed from the general to the specific (e.g., object yellowed overall, especially in BR corner). Some damage can be readily measured, such as a tear or a loss. Damage that cannot be conventionally measured, such as foxing or yellowing, can be described in the following standardized degrees of severity: "negligible," "slight," "moderate," "marked," and "extreme." Recognized condition standards have been established for a variety of objects (e.g., coins, stamps).

CONDITION REPORTING GLOSSARY

The following are some of the many terms used to describe conditions.

GENERAL TERMS

Abrasion: A wearing away of the surface caused by scraping, rubbing, grinding, or friction; often superficial.

Accretion: Any external material deposited on a surface, most often from burial conditions on objects or accidental deposits on paintings (splashes, drips, flyspecks, etc.) (cf. **inclusion**).

Adhesive residue: May be from glue, paste, pressure-sensitive tapes.

Bleeding: The suffusion of a color into adjacent materials, often caused by water or other solvents.

Bubbly areas: A type of deterioration found in cellulose nitrate and acetate.

Chip: A defect in the surface caused by material that has been broken away.

Corrosion: The chemical alteration of a metal surface caused by agents in the environment or by reagents applied purposely. Corrosion may affect an object's color and texture without altering the form (bronze disease) or it may add to the form, producing hard nodules or crusts (rust). Bimetallic (or galvanic) corrosion results from incompatible metal contact.

Crack: A surface fracture or fissure across or through a material, either straight-line or branching in form; no loss is implied. A crack may be described as **blind** when it stops part way; as **hairline** when it is a tiny fissure; and as **open** when it is a large fissure.

Crease: A line of crushed or broken fibers, generally made by folding. A **dog-ear** is a diagonal crease across the corner of a paper, parchment, etc.

Crocking: Rubbing off of color, resulting in the loss of dyestuff but not loss of fiber.

Delamination: A separation of layers; splitting.

Dent: A defect in the surface caused by a blow; a simple concavity.

Discoloration: A partial or overall change in color caused by aging, light, and/or chemical agents. **Yellowing** and **darkening** can occur, along with **bleaching**, the lightening of color, and **fading**, a loss of color and/or a change in hue.

Disjoin: A partial or complete separation of a join between two members of an object, as distinguished from a crack, tear, check, or split.

Distortion: A warping or misshaping of the original shape; **shrinkage** may occur.

Dry rot: Decay of seasoned timber caused by fungi that consume the cellulose of wood, leaving a soft skeleton that is readily reduced to powder.

Efflorescence: Powdery or crystalline crusts on the surface of stone, plaster, ceramics, etc., formed when transmigrating water reacts with an object's chemical makeup or extraneous deposits from burial.

Embrittlement: A loss of flexibility causing the material (e.g., paper, parchment, leather) to break or disintegrate when bent or curled.

Gouge: A defect in the surface where material has been scooped out.

Fraying: Raveled or worn spot indicated by the separation of threads, especially on the edge of a fabric.

Inclusion: Particle accidentally bonded to the surface of an object during manufacture (e.g., ceramic, plastic, cast metal, paper).

Iridescence: Color effect in glass due to the partial decomposition of the surface and the formation of innumerable thin scales, resulting in an uneven, flaky surface.

Loss: Missing area or hole.

Mildew: See **mold**

Missing element: Loss of an integral component of, or an addition to, the material or appendage (e.g., handle, tassel).

Mold: Biological in nature, mold or mildew can be in the form of **foxing**; of colored, furry, or web-like surface excrescences; and/or of musty odor.

Odor: Smell of sulfur, camphor, vinegar, etc.; produced by the degradation of cellulose nitrate or acetate products. Strong odor indicates severe degradation.

Oozing: See **sweating**

Patina: A colored surface layer, either applied or naturally occurring.

Pest damage: Surface loss, tunneling, holes, fly specks, etc., obviously caused by insects or other pests.

Pitting: Small, irregular, shallow pinhole-size losses scattered over the surface of metal caused by acid conditions or resulting from the casting process.

Powdering: Stone surface that is crumbling or pulverized.

Red rot: Powdery red substance found upon vegetable-tanned objects resulting from a chemical reaction with pollutants in the air.

Scratch: Linear surface loss due to abrasion with a sharp point.

Sheen: A polish produced by handling, often occurring on frequently touched locations.

Silvering: Shiny or mirror-like discoloration in the shadow areas of a photographic image caused by the aging of excessive residual silver compounds.

Spalling: Shallow losses or flaking from the surface of stone or ceramic.

Soil: A general term denoting any material that dirties, sullies, or smirches an object. **Dust** is loose soil generally distributed on surfaces; **grime** is soil tenaciously held on surfaces; a **smear** and a **fingerprint** are types of local grime. A **spatter** or **run** is the result of dried droplets or splashes of foreign material.

Stain: A color change as a result of soiling, adhesives, pest residue, food, oils, etc. A **diffuse** stain is without a distinct boundary; a **discrete** stain has a distinct boundary; a **liquid** stain has a discrete boundary or **tide-line** that is darker than the general area of the stain; a **centered** stain has

a darker or more intensely colored center within its general area. In **metallic staining**, adjacent materials are discolored as a result of metal corrosion.

Sugaring: Erosion of the surface of marble creating a very granulated or "sugary" surface appearance.

Sweating: A clear or yellow oily liquid found on the surface of a deteriorated cellulose nitrate or acetate object.

Tarnish: A dullness or blackening of a bright metal surface.

Tear: A break in fabric, paper, or other sheet material as a result of tension or torsion.

Wear: Surface erosion, usually at edges, due to repeated handling.

Weeping: On glass, a reaction between water and formic acid.

P A I N T I N G T E R M S

Painting Layers

Ground: Layer(s) of material applied to prepare a surface for painting; usually a pigment in a binding medium.

Paint layer: Layer(s) of colored pigment and binder used to make the design.

Varnish: A clear resinous film applied over the paint layer for protection and to saturate the colors.

Painting Supports: Panel, Fabric, Board

Cradle: On a panel, a system of wood or metal ribs fastened parallel to the grain, with perpendicular sliding members; used in an attempt to prevent warping.

Lining: The addition of a new layer of material to the reverse of the original, using one of a number of adhesives such as wax-resin, glue, paste, or synthetic resins.

Strainer: A fixed-joint, non-expandable, wooden frame auxiliary support for fabric.

Stretcher: An auxiliary wooden-frame support for fabric that has one of several types of expandable joints to permit dimensional enlargement.

Stretcher keys: Wooden wedges used in the slots of the joints of some stretchers to expand them mechanically.

Tacking edge: The edge of a fabric painting support that is turned over and attached to the stretcher or strainer, usually with tacks or staples.

Problems with Paintings

Blanching: Irregular, obtrusive, pale or milky areas in paint or varnish; not a superficial defect like **bloom** but a scattering of light from microporosities or granulation in aged films.

Blister: A separation between layers appearing as an enclosed, bubbled area.

Bloom: A whitish, cloudy appearance in the varnish layer caused by exposure to moisture or resulting from wax-based media. Sometimes called **efflorescence**.

Buckling: Waves or large bulges in a canvas from non-uniform tension around the stretcher or strainer.

Chalking: Loss of a paint or emulsion layer by powdering off.

Check: Splitting of wood along the grain, from the edge of a board or panel for a part of its length. Checking is usually in response to repeated dimensional change brought on by fluctuations of temperature and humidity (cf. **split**).

Cleavage: A separation between the paint layers and the support producing **tenting** (gable-like ridges) or **cupping** (concave flakes); caused by the contraction of the support, forcing the paint layer up off the surface.

Crackle: A network of fine cracks found in a variety of objects including paintings, lacquers, inlays, and ceramics. The **crevice** has a narrow aperture and often penetrates more than one layer; the **rift** has a relatively wide aperture and penetrates only a single layer. A **traction crackle** has an "alligatorized" pattern of complex branching, with wide, disfiguring apertures. **Mechanical cracks** resulting from a blow can cause a radiating crackle pattern (bulls-eye or spider web) or the bending or creasing of a canvas (e.g., along the inner edges of stretcher bars).

Crazing: A fine system of crackling in a varnish layer, usually found in aged films in their final stages of drying and embrittlement.

Cupping: See **cleavage**

Dishing: A defect in the stretcher caused by the torque of a drawn fabric. If the stretcher members are twisted out of a common plane, a shallow dihedral angle is formed at the corners. **Dishing** is a common cause of corner wrinkles in stretched canvases (cf. **draw**).

Draw: A local distortion at the corner of a painting, marked by diagonal **cockling** from the corner toward the center of the mount (cf. **dishing**).

Fill: The material used to replace areas of loss; fill is then inpainted.

Flaking: Lifting and sometimes loss of flat areas of the surface layer.

Impasto: Thickly applied paint, often with pronounced brushwork; generally a trouble spot because of cleavage or flattening during lining.

Inpainting: New areas of paint to restore design or color continuity; restricted to areas of loss.

Overpainting: Areas of repainting over existing original surface.

Split: A rupture running along the grain of a piece of wood from end to end, usually caused by exterior mechanical stress (cf. **check**).

Stretcher crease: A crease or line of **cracks** in the ground and paint layers of a painting on fabric, following the inside edges of stretcher members or the edges of cross-members; caused by the flexing of the fabric against the edges of these members.

Tenting: See **cleavage**

Warp: In a panel, the planar deformation of the support caused by changes in relative humidity.

Wrinkling: Small ridges and furrows of crawling paint or varnish caused by improper methods or materials

PAPER TERMS

Buckling: A soft, concave/convex random distortion.

Cockling: A soft, concave/convex distortion characterized by parallel, repeated ripples, usually either horizontal or vertical.

Crease: A line of crushed or broken paper fibers, the residue of a fold.

Dimpling: A local distortion, usually in the corner, marked by a distinctly concave area; usually caused by local adhesion of the support to the secondary support.

Draw: A local distortion at the corner, marked by diagonal cockling from the corner toward the center of the mount.

Drumming: A type of matting where the support is adhered on all edges to the window mat, causing problems if the relative humidity becomes too low.

Fold: A turning over of the support so that the front or back surface is in contact with itself; the line of flexing may or may not be creased.

Foxing: Small yellow, brown, or reddish-brown spots on paper; caused by mold or oxidation of iron particles in the paper.

Wrinkling: An angular, crushed distortion.

PHOTOGRAPHY TERMS

Ferrotyping: Glossy patches found on the surface of photos; resulting from lengthy contact with a smooth-surfaced storage enclosure, such as polyester or glass.

Frilling: Separation and lifting of the photographic emulsion from the edges of the support.

THE SAMPLER MUSEUM
CONDITION REPORT FOR COLLECTION PAINTINGS/DRAWINGS/PRINTS

Acc.# _____

Examiner _____ Date _____

Title _____

Artist _____

Medium _____ Date _____

Stretcher/panel Size H _____ W _____ in.

Sheet Size H _____ W _____ in.

Image Size H _____ W _____ in.

Frame/mat Size H _____ W _____ in.

Sig./Date(where) _____

Marks/Labels(where) _____

Conservation Priority 1 2 3 4 5

Curatorial Priority 1 2 3 4 5

Priority Key

Conservation Priority

- 1 = Object in jeopardy
- 2 = Not exhibitable as is
- 3 = Needs minor repair or cleaning
- 4 = Needs further evaluation
- 5 = Needs no work

Curatorial Priority

- 1 = Needed immediately for exhibit or loan
- 2 = Needed in future for exhibit or loan
- 3 = May have some need at some time
- 4 = Minimal use
- 5 = Potential deaccession

<i>Description</i>	<i>Defects</i>	<i>Remarks</i>
Frame	Broken _____ Disjoins _____ Glazing touches _____ artwork _____ Paint loss _____ Hanging devices _____ insecure _____ Accretions _____ Abrasions _____ Other _____	
Auxiliary Support	Keys missing _____ Checks _____ Infestation _____ Adhered to backing _____ Acidic materials _____	
Support	Brittle _____ Tear _____ Hole _____ Dent _____ Bulge _____ Sagging _____ Draws _____ Infestation _____ Fungi _____	

Sample condition report, side 1.

<i>Description</i>	<i>Defects</i>	<i>Remarks</i>
Framed	Crackle	
Oil	Cleavage	
Watercolor	Cracking	
Tempera	Buckling	
Pastel	Flaking	
Gouache	Powdering	
Charcoal	Loss	
Pencil	Blistering	
Ink	Accretions	
Mixed media	Abrasions	
Other	Soiled	
Varnish		
Varnished	Crackle	
Unvarnished	Bloom	
	Scratched	
	Cracking	
	Crazing	
	Grime	
	Accretions	

Action Taken upon Receipt:

Is further work needed? yes no

Describe: new mat new frame repair frame other (itemize)

Is professional attention indicated? yes no

Conservation Record

Date	Conservator	Treatment Given

Marks and Inscriptions:

Face

Reverse

Suzanne Cowan

Why inventory? One of the primary responsibilities of a museum is the preservation and care of objects in its collections. Accountability for objects is a large part of that care. Inability to locate an object is at best embarrassing and may be more serious, threatening the reputation of a museum and creating legal problems. In addition, if a theft goes unnoticed and unreported, a museum may be hindered in claiming the object if eventually it is found. Basically, museums perform an inventory so they will know where objects are located and ensure records are accurate. Inventory also provides:

- an opportunity to update location information
- a way to identify objects that need conservation
- a method to establish control of poorly documented collections
- a basis for planning and budgeting any collection-related project
- a means by which the museum can fulfill its legal and ethical obligations to its governing authority and the public
- a way to retrieve information after a catastrophic loss
- an aid to security
- help for collections development or deaccessioning
- an aid to research

TYPES OF INVENTORY

There are several types of inventory; all involve checking the physical location of a particular object against the location record.

- A complete wall-to-wall inventory of the entire museum collection is the most thorough inventory. The inventory crew views every object and records its location or status.
- A section-by-section inventory is thorough, but its scope is limited by some logical unit, such as one area, one collection, or high-value objects. This inventory is very useful when done on a

scheduled basis, rotating areas or collections for inventory.

- A spot inventory is very limited in scope and checks the accuracy of records and the location of a small percentage of the collection.

Generally a complete wall-to-wall inventory is done first, and then the other two inventories are performed on a regular schedule to ensure that record keeping and storage locations are current.

How often an institution inventories the collection will depend on many factors such as size and type of collections, staff size and availability of personnel, the types of records, percentage of the collection cataloged, and computerization. Ideally the collection should be inventoried annually, but this may not be practical if there are many thousands of objects. Establishing a rotation schedule for the inventory of specific areas and doing spot checks of other areas may be more realistic.

Objects on loan to other institutions and objects lent to your institution should be inventoried and their records reviewed at least annually to avoid losing contact with a lender. Losing contact with a lender causes many problems. (See chapter on Old Loans.) These "old loans" have been created in our collections by procedures used in the past, but the objects still need to be accounted for during inventory. It is important to determine whether your state has any statutes that offer guidance regarding unclaimed loans or undocumented objects. Some states have statutes that specifically address these problems in museums.

ESSENTIALS OF INVENTORY

Decide on the goals of your inventory. If there has never been a complete inventory or if it has been many years since a complete inventory, the goal should be to locate every object in your collection. A section-by-section or spot inventory may be your

Inventory

goal if you simply want to update your records, correct cataloging mistakes, or locate objects for conservation, or if you do a complete inventory frequently.

The first step is to know exactly what information you need and can obtain in the time allowed. Plan your inventory carefully; a well-planned outline for inventory will save time. Develop a schedule and determine the number of staff members needed for the project. The best way to determine the schedule is to do a trial run with a limited but representative portion of the collection. Then, using a breakdown of the appropriate inventory time needed per object, estimate your final schedule, allowing for time taken by other work tasks. Closing your collections during the inventory can be very helpful; be sure to let other museum departments know ahead of time that collections will be closed for inventory and for how long.

A well-organized storage area helps the inventory go more quickly and smoothly. Assign identifying numbers or names to all shelves and storage spaces before beginning the inventory.

Objects on exhibit should be inventoried as well. It is important to check objects on exhibit, especially in "permanent" exhibits, against collection records and to record any damage or change in the objects. Consider closing the gallery or inventorying either on days when you are closed to the public or after hours.

Develop your inventory paperwork, keeping your goals in mind. One method is to develop data sheets to record each object found in the location you are physically inventorying, and then to cross check each object against its catalog or accession record. You should make a note of objects for which you have a record but no matching object. A second method is to use your catalog records and check off objects as they are located. This method is quicker, but you risk missing objects that are out of place or not cataloged.

Developing a code system for taking notes about problems may be helpful. Such a system allows information to be recorded quickly and the problems to be dealt with at a later date. The types of prob-

lems to note include double numbers, missing objects, objects not described properly, conservation needed, missing numbers, missing records, and unclaimed property.

Forming inventory teams of staff and trained volunteers is important. Ideally teams should have one handler, one recorder, and one reader who refers to the current catalog record for the object description and other information. All team members should be trained specifically for the inventory, including handling techniques, forms, problem areas, and amount and kind of information to record.

Many objects have multiple components, so understanding the cataloging procedure is necessary. Objects such as a pair of shoes or a teapot and lid will probably have a single catalog number with a lettered extension and should be counted, therefore, as one item in the inventory. Specimens such as a dinosaur skeleton may have more than 100 bones; all bones should have the same catalog number, but they may be stored in several locations. In such a case, a more detailed description may be needed. It is important that you record all of the components for each object.

One of the best arguments for computerization may be its use in inventory. A computer-generated list of all cataloged objects and locations sorted by the most useful field (e.g., location, catalog number, artist) can greatly speed the process of inventory. A computer can also randomly pick a percentage of objects from your collection to allow a spot inventory.

During inventory it is important to record the catalog number of each object, along with its name and description. Using the catalog number as the unique identifier may avoid problems of nomenclature, especially if object names have changed.

Reconciliation between inventory results and museum records is an important step in the inventory process. Accession records, donor files, photographs, and any original paperwork about the acquisition are examples of records to check during reconciliation. Slides and measurements of objects can be valuable in determining the identity of an object in question. Keeping records, whether com-

puterized or manual, updated as to location and other information is extremely useful. Recording historic location information for every object indicates what has happened to the object since it came into the collection (e.g., loan, exhibit, restoration/conservation, name change, loss of a component). This information is useful in reconciling current records with the original records.

BACKLOGS OF UNCATALOGED MATERIAL

Most museums have uncataloged objects that must be accounted for during inventory. Assigning these objects some type of inventory control number is important; an accession number, a field number, or a locality number may be used. The inventory control number should be marked on all containers or storage locations for the object.

INVENTORY IN DIFFERENT INSTITUTIONS

Art and History Museums

Many art, history, and other museums have existed for many years, some more than a century. Accounting for all objects has proven challenging as old records are usually incomplete, if present at all. There may be many storage areas throughout the museum and in off-site locations. Regularly scheduling inventories can be useful for these museums: comprehensive inventories every five to seven years, annual inventories for objects on loan and objects of high value, and frequent spot checks.

Natural History Museums

Natural history museums often have large numbers of objects in their collections separated by scientific field: vertebrate and invertebrate paleontology, vertebrate and invertebrate zoology, botany, petrology, mineralogy, and anthropology. Even separated into these disciplines, objects may number in the thousands, and some objects may be large and have many components, such as dinosaur skeletons. Many specimens, such as those collected from the same site at the same time, can be cataloged as a single lot (e.g., shark teeth from one locale). Wall-to-wall invent-

tories are often difficult because of the size of the collection, but section-by-section inventories and spot checks have proven useful. Careful cataloging and updating are critical to inventory control.

Living History Museums

Many objects in the collections of living history museums are used in demonstrations for the public, so these museums must deal constantly with replacement of objects. Periodic inventory of collections can identify problems, such as objects losing their numbers due to handling. Living history museums may have several additional goals for inventory, such as distinguishing between original and replica objects, identifying cycles of use and maintenance requirements, and scheduling replacements of objects.

Archives

Inventory by collection is one way to keep up with inventory control in archives. Section-by-section inventory allows a discrete unit to be inventoried and accompanying records to be updated. One problem that archives face is the continuing alteration of storage configurations, which may change with the addition of new cabinets or shelving. Maintaining a log of collection movement as the archives grow can help with inventory control.

Zoos

Inventories in zoos present unique problems. Inventory may need to be done frequently, in some sections as often as every two weeks. Recording of large animals may be easy but others, such as reptiles and birds, are more complicated. For example, many zoos have open exhibition areas for birds that are visited by migratory birds; in this case the zoo birds must be inventoried and not mistaken for visiting birds. Banding zoo birds is one way to deal with this problem. Burrowing animals are not easily found, and individuals sometimes are presumed dead, only to reappear months later. Consulting with curatorial staff on species habits may help with this problem. Poisonous animals must be closely inventoried. Another problem for inventory in zoos is the frequent lending of animals for exhibit and breeding; these must be closely tracked.

Clarisse Carnell and Rebecca Buck

PERMANENT COLLECTION

INTRODUCTION

The acquisitions section of a collections management policy carefully defines the types of collections that a museum holds: art, history, archival, science, anthropology, archaeology, etc. It should mention all permanent collections and should acknowledge special collections, such as those for educational use or special loan. The policy should also stipulate the means by which decisions are made for accepting objects to the permanent collections, who is responsible for the decisions, and the legal and ethical framework that is followed by the museum. The acquisitions policy should be augmented by a set of procedures that allow objects destined for the permanent collection to be accessioned, and objects for secondary collections, research, or sale to be accounted for.

All accessioned objects are acquired, but not all acquisitions are meant to be accessioned. An acquisition is made by a museum when title of an object is transferred and the museum becomes the owner. Acquisitions made for the museum's permanent collection are accessioned into that collection. The word accession may be used to denote (1) an object acquired by a museum for its permanent collection or (2) the act of recording/processing an addition to the permanent collection. It is the act of recording an addition to the permanent collection by means of assigning a unique number that allows the museum to connect an object to its documentation. (See chapter on Numbering.)

It is not necessary for a museum to accession every object that it acquires. However, the process of deciding what to accession must be very clear. If the object is a gift, the donor should be informed

of the museum's intended purpose for the gift before it comes to the museum. How the museum intends to use the object could affect the tax consequences of the gift for the donor. (See chapter on Tax Issues Related to Gifts of Collections.) Objects acquired by the museum may go, as noted above, to an educational project or hands-on loan collection, or they may be destined for the library or archives. They may be accepted for research (which may mean the eventual destruction of the object) or to be sold at a later date.

Acquisitions may be made by:

- Gift title passes during the life of the donor
- Bequest title passes under a will
- Purchase direct, auction, bargain sale, exchange
- Field collection
- Conversion the unauthorized assumption of ownership of property belonging to another. See chapter on Old Loans.

GIFTS

Gifts can be outright, fractional, or promised. They may be unrestricted or made with some restrictions.

UNRESTRICTED GIFTS AND GIFTS WITH RESTRICTIONS

An outright and unrestricted gift is always preferred, although there will be some circumstances in which the object is such an important addition to a collection that some restrictions are acceptable. Depending on the donor and the nature of the restrictions requested, it is often possible

for appropriate museum personnel to discuss the potential restrictions with the donor, discover the reasoning behind the restrictions, and negotiate a more acceptable gift agreement.

Requests to exhibit permanently or to keep a collection together are the most common restrictions requested by donors. Neither is practical, and this type of request should be discouraged. A reasonable restriction might be one that keeps an important album of photographs together in their original binding rather than unbinding and matting each one separately; the museum must weigh its current desire to have the album with the possibility that future generations will be hampered by the restriction. All restrictions, if accepted, must be carefully considered and documented in the object records.

FRACTIONAL GIFTS

Fractional gifts are generally made for tax reasons, because a taxpayer's deduction in any one year is limited. (See chapter on Tax Issues Related to Collections.) Upon advice from his or her tax advisor, the donor offers the museum a percentage interest in an object amounting to the allowable deduction. If the museum accepts the offer, a deed of gift detailing the arrangement is produced by the museum in consultation with its legal counsel or by the donor's lawyer. The deed may convey one portion only, or it may transfer title automatically to further portions of the work through several years. (See chapter on Creating Documentation.) The museum should not accept a fractional gift unless the donor agrees to give the remaining portion to the museum within a set time period or to leave the remaining portion of the object in a will. The museum does not want to find itself in a position where only a forced sale of the object can resolve who actually controls it.

A fractional gift should go through the same acquisition process as an outright gift. As a rule, a fractional gift must be in the museum's possession for the part of the year that reflects the percentage of ownership in the work. A fractional gift of 50%, for instance, must be in the possession of the donee

(museum) for six months of each calendar year. A donor can leave the object at the museum on "loan" for the donor's portion of the year but it should be recorded and insured as a loan for that time. (See chapter on Loans.)

PROMISED GIFTS

Promised gifts may be made by a donor in the form of a letter expressing the donor's intent to give a specific object to the museum at some future time. Although many museums have a draft format for promised gifts to act as a guide for donors, it is preferable to have the donor initiate the promised gift letter on the donor's letterhead. The museum may wish to encourage the donor to include the gift to the museum in his or her will to ensure that the donor's promise is carried out if the donor is unable to make the gift during his or her lifetime.

A promised gift may be in the custody of the museum; if it is, it should be treated as a loan. (See chapter on Loans.)

BEQUESTS

A bequest is the transfer of property to the museum under the terms of a deceased person's will. It is important to have on record, as evidence of the transfer of title, a copy of the provision of the will that concerns the bequest to the museum and a copy of the final receipt the museum signs accepting the bequest. A deed of gift is not appropriate documentation for a bequest. If objects come to the museum not under the terms of a will but as gifts by heirs of objects included in the estate—that is, if title passes first to the heirs and they, in turn, make a gift to the museum—the appropriate evidence of transfer is a deed of gift.

A museum may or may not know of a bequest in advance. Museums are usually notified of a bequest by the executor (legal representative) of the estate or the law firm representing the executor. It is important to deal with the official representative of an estate. The museum should ask for a copy of the will that concerns the bequest to the museum. The museum should then decide whether it

wishes to accept the bequest, accept only part of the bequest, or refuse the bequest. It should then communicate its wishes to the legal representative of the estate. If a museum accepts objects, it will be asked to sign a receipt for them. The museum should be aware that the transfer to the museum is not final until the administration of the estate is finally approved by the court.

P U R C H A S E S

Purchases for museum collections can be made in a variety of ways: at auction, from or through dealers, or directly from individuals. If an object is purchased, it is important that the museum have a bill of sale and proof of payment, and such documentation should be part of the acquisition file.

A hybrid form of purchase is a "bargain sale." In this instance the donor offers an object to a museum at substantially lower than fair market value with the intention of benefiting the museum by virtue of the reduced price. Properly done, there are tax benefits for the donor. The method of transfer of title is a bill of sale, but the museum acknowledges in correspondence to the donor that the price of the object has been reduced to favor the museum. It is up to the donor to establish his/her tax benefits with the IRS. The museum, for its part, wants to be secure in its opinion that the sale price is substantially reduced. An independent appraisal is advisable to document the discount. The bill of sale and all related correspondence should be part of the acquisition file.

Exchanges are in fact a form of purchase. In this case the payment is in kind, not in currency. The terms of an exchange should be set forth in writing and a museum, for its records, should establish the fairness of the exchange by means of appraisals and other expert opinions. The written agreement concerning the exchange and all relevant documents concerning the justifications for the exchange and the execution for the exchange should be part of the acquisition file. (See chapters on Appraisals and Managing Files and Records.)

F I E L D C O L L E C T I O N S

Field collections are made more frequently by science, anthropology, history, and archaeology museums than by art museums. They may be a series of purchases acquired during an expedition, or they may be collections of scientific or archaeological specimens that are collected in a field research project or archaeological excavation. Purchases are generally made from persons who made or used the objects, and the recording of provenance, materials, techniques, and use are vital to the purchase record. Archaeological material should also be accompanied by complete field notes.

Field collections are increasingly subjected to legal restrictions, particularly regulations on export from the country of origin and laws dealing with repatriation to Native American or Native Hawaiian groups and endangered species. (See chapter on NAGPRA.) The museum must be aware of all potential restrictions and obtain applicable permits and customs releases before bringing material from the field to the museum. The registrar should, with help of legal counsel, research the legal title to the collections returned to the museum before they go through the acquisitions process and are accessioned into the permanent collection.

C O N V E R S I O N

Most museums have objects on loan that remain unclaimed by the owners. Several states have adopted legislation to enable a museum to acquire title to these objects if the owners cannot be located and if specified procedures are followed and waiting periods met. (See chapter on Old Loans.)

T H E A C Q U I S I T I O N P R O C E S S F O R P E R M A N E N T C O L L E C T I O N O B J E C T S

A cogent collecting policy that takes into account current collection strengths and weaknesses must be put in place for each collecting area if the museum is to acquire collection objects intelligently. A typical museum policy sets forth the practical and legal considerations that precede an acquisition.

THE SAMPLER MUSEUM
123 Any Street, Any Town, USA 00000
Telephone 000-000-0000 FAX 000-000-0001

DEED OF GIFT

Description of object(s)

Donor hereby transfers and assigns without condition or restriction all right, title and interest free of restrictions or encumbrances in the tangible personal property listed above (the "Object"), and all rights (including trade marks and copyrights) associated with it (the "Rights") to The Sampler Museum Association, a corporation existing under the laws of the State of disposition by The Sampler Museum, Any State, for use and Donor warrants and represents that Donor has the full power and authority to transfer the Object to The Sampler Museum Association.

Donor certifies that to the best of the Donor's knowledge, the Object has not been exported from its country of origin in violation of the Laws of that country in effect at the time of the export, nor imported into the United States in violation of United States laws and treaties.

Donor _____ Date: _____
Donor _____ Date _____
Accepted for The Sampler Museum

Director

This deed of gift represents an agreement between The Sampler Museum and the donor(s) named on the face hereof. Any variation in the terms noted must be in writing on the face of this form and approved in writing by both parties.

Gifts to The Sampler Museum are deductible from taxable income in accordance with the provisions of Federal income tax law. However, Museum employees cannot, in their official capacity, give appraisals for the purpose of establishing the tax deductible value of donated items. Evaluations must be secured by the donor at his/her/their expense.

The donor received no goods or services in consideration of this gift.

Limited gallery space and the policy of changing exhibitions do not allow the Museum to promise the permanent exhibition of any object.

Practical considerations:

- Is the object consistent with the collection goals of the museum and the specific goals of the curatorial department?
- Will the object be useful for exhibition and educational purposes, and for research and scholarship?
- Is the object in a reasonably good state of preservation?
- Can the museum properly exhibit and/or store the object?
- Is the price asked for purchased objects reasonable?
- Will the acquisition of the object result in major expenses for the museum for conservation or maintenance or because it opens a new area of collecting?
- Can the acquisition of the object be construed as a commercial endorsement?

Legal and ethical considerations:

- Can valid title to the object be passed to the museum? Does the possessor of the object appear to be the sole owner or the legal agent of the owner?
- Is the object authentic?
- Can all rights in the object be conveyed to the museum?
- Does the acquisition of the object violate applicable state, national, or international laws or conventions that protect the rights of artists, or the rights of countries to their cultural history, or an endangered species?
- Is the object subject to repatriation to a Native American or Native Hawaiian group?
- Is the object free of donor restrictions or qualifications that inhibit prudent use of the object by the museum?

Acquiring objects for the permanent collection is a complicated process for most museums. It must be thoughtful and undertaken with care. It usually begins with curators who seek gifts by developing donor relationships and seek objects for purchase by becoming familiar with the market in

their area of specialization. Gift offers and purchase opportunities also come unsolicited to most museums. In science, anthropology, history, and archaeology museums, field collecting has been important in the past and is still a possibility in some collecting areas.

Between the time an object becomes available to the museum and the time it is actually acquired, a number of things take place (the order differs among museums):

- The object is transported to the museum.
- Curatorial proposal for acquisitions and/or worksheet is done.
- Consultation among curator, director, conservators, registrars, outside specialists, or board members takes place.
- Legal concerns (permits for endangered species, copyright licenses, title issues) are reviewed.
- If the object is a gift, intent to give is established, usually by the issue of a deed of gift that is sent to the donor for signature.
- If the object is a purchase, warranty of title is developed.
- An agenda for the acquisitions committee is developed.

The curator usually consults with the director after an initial gift offer is received or purchase possibility is determined. Museums have many variations of the acquisition process that follows after the director and curator decide to pursue an acquisition, but the registrar is always central to that process.

The registrar is generally charged with coordinating objects and their documentation, bringing objects to the museum, and making recommendations, in conjunction with a conservator when possible, about the feasibility of caring for and properly storing new objects; it is also the responsibility of the registrar to make certain that title to the object is transferred and needed licenses and permits are acquired.

If the object offered for gift or purchase is not already in the museum's custody for loan or examination, the registrar must arrange to bring it

THE SAMPLER MUSEUM

123 Any Street, Any Town, Any State 00000
000-000-0000

DEED OF GIFT OF FRACTIONAL INTEREST

I hereby give and deliver to The Sampler Museum ("the Museum"), an undivided _____ percent (_____ %) interest in the work of art or object described below, as an unrestricted gift.:

< artist/maker >

< title >

< description of object >

As owner of an undivided _____ percent (_____ %) interest in the work of art or object, the Museum shall be entitled to possession, dominion, and control of the property for that number of days during any twelve-month period after the date hereof which in sum are equal to the percentage of the Museum's ownership in the work of art or object. The Museum shall have sole discretion to decide the days during which it shall have possession of the work of art or object. (The period of initial possession of the property by the Museum shall commence upon the acceptance of this gift by the Museum.)

I give further fractional interests in the work of art or object in the following fractions, said gifts to be effective on the date(s) specified below:

Fraction	Date
_____ percent (_____ %)	beginning January 1, 19____ and continuing each _____ of succeeding years.

In the event of my death, then all of the remaining fractions of interest in this work of art or object shall pass to the Museum at the time of my death.

I understand that it is the purpose of the Museum to promote by all appropriate means a wide public knowledge of and appreciation of fine arts, and I further understand that the management, use, display, or disposition of my donation shall be in accordance with the professional judgment of the trustees and director of the Museum.

This deed of gift of fractional interest shall be binding upon my executors, administrators, heirs, and assigns.

Signed and sealed this _____ day of _____, 19 _____

By: _____ Witness: _____

< donor signature > _____ < witness signature > _____
< donor name > _____ < witness name >
< donor address >

State of _____

County of _____

On _____, 19____, < donor name > _____ personally appeared before me and acknowledged the foregoing instrument to be her free act and deed.

< notary signature > _____
Notary Public

The Museum hereby accepts the foregoing gift and delivery. The donor has not received and shall not in the future receive goods or services in consideration of this gift.

The Sampler Museum

By < museum official signature >
< museum official name >
< museum official title >

to the museum. The curator writes a proposal for acquisition that should explain in detail the reasons the object is desirable for the collection. The registrar begins an acquisition file and makes certain that a temporary number is assigned to the object, that proper receipts have been issued, condition reports completed, and the location of the object noted. It is also wise to have a Polaroid or 35 mm photograph made at this point. (See chapters on Managing Files and Records, Numbering, and Condition Reporting.)

The deed of gift, a document that is developed with help of legal counsel, is generated by the registrar. It can serve as evidence of both an intent to donate and an acceptance by the proper museum authority.

Three elements are normally needed to complete a gift.

- Intent to donate, preferably in writing. A deed of gift is the preferred instrument to demonstrate this intent.
- Proof of physical receipt of the object by the museum.
- Written acceptance of the gift by the proper museum authority.

At least two original copies of the deed of gift are sent to the donor with a letter requesting that the donor sign and return both copies to the museum. The signed copies are held until the acquisitions committee meets and approves the gift. After the committee meets, the designated officer for the museum, usually the director, countersigns the deed of gift and sends one copy to the donor with a letter of appreciation. The other signed copy goes to the registrar for inclusion in the acquisition file. In some museums, three originals are made and the third is sent off-site for security purposes. (See chapter on Creating Documentation.)

Many museums do not include copyright releases in the deed of gift. Often, too, the donor is not the holder of copyright. If copyright in the object is an issue, and it is not covered in a deed of gift, a separate non-exclusive use agreement should be sent to the copyright holder. The donor of an object,

unless that donor is the artist, is usually unaware of whether he or she holds copyright to a work. (See chapter on Copyright.)

Depending on the acquisition policy of the museum, gifts, purchases, bequests, or exchanges proposed for accession will be reviewed and/or approved by a collections or acquisitions committee. That committee may meet monthly, quarterly, semi-annually, or as needed and may consist of board members, staff members, collectors, specialists in the field, friends of the museum, and, in a university museum, faculty members. This committee may have the authority to approve or reject acquisitions or the authority to recommend objects to the board of trustees for final approval. In any case, acquisitions are formally recorded in the minutes of the board meeting.

The agenda for the acquisitions committee is usually prepared by the registrar. It should be a clear listing of all objects to be considered for acquisition. The listing should include complete descriptions of the objects, donor and vendor names and addresses, credit lines for gifts, and, as appropriate, the price and funds to be used for purchases. The recording secretary for these meetings may be the registrar, deputy director, chief curator, or other member of the staff appointed by the director. Regardless of the recorder, the registrar should be officially notified as soon as possible after the meeting of works accepted or rejected for acquisition. Rejected objects should be returned to the donor or vendor. Accepted gifts should be acknowledged with a letter of appreciation from the director (and in some cases the curators) and a countersigned deed of gift or other official form that describes the gift(s).

ACCESIONING

Once the object(s) have been approved for acquisition into the permanent collection and the deed of gift signed or the sale completed, title passes to the museum and the registrar begins the process of accessioning. Accessioning is the act of recording or processing an addition to the permanent col-

THE SAMPLER MUSEUM
Confirmation of Gift

The Sampler Museum
123 Any Street
Any Town, USA 00000

Gentlemen:

I hereby confirm my agreement to give to The Sampler Museum ("Museum"), at or before my death, the work or works of art listed below or on the attachment hereto:

You have informed me that other collectors, Trustees and friends of the Museum have indicated their intention of giving to the Museum works of art which they own in order to enhance the Museum's collection. As I believe that definite commitments to make such gifts or bequests will be of great value to the Museum, I have agreed to give the above described work of art to the Museum on the understanding (i) that you will do your best to obtain similar commitments from others and may refer to this agreement in inducing others to make such commitments; (ii) that this agreement shall be governed by the laws of Any State.

I may, according to my own convenience, give this work of art to you during my lifetime. Should this gift not be completed during my lifetime, it is understood that this agreement shall be binding on my heirs, executors, and administrators, and that omission from my Will of a specific bequest of this work of art to the Museum shall not release them from delivering the aforementioned work of art to the Museum in accordance herewith, or otherwise impair the force and effect of this agreement.

Neither the Museum nor I shall be under any obligation to insure this work of art during my lifetime. In the event I do not own this work of art at my death because of loss by casualty, the Museum shall have no claim against my heirs, executors or administrators with respect to this undertaking on my part.

I have entered into this agreement on the date indicated below with the full intention that I will be legally bound hereby pursuant to the applicable provisions of the law relating to written obligations and that this agreement shall be binding as well on my heirs, executors, administrators and assigns.

Dated: _____

Very truly yours,

_____ (Seal)

We confirm the above correctly states the agreement between us.

The Sampler Museum

By: _____

Date: _____

Statement of promised gift.

lection. An accession number is assigned, and the file that has been made to track the potential acquisition becomes the accession file. (See chapters on Numbering and Creating Documentation). The file is checked for supporting documentation, and the accessioning process begins. The process includes:

- Gathering all gift or purchase documents, noting the accession number(s) on each.
- Creating a curatorial worksheet. If one has not been done, the registrar completes the basic worksheet and sends it to the curator for approval and additions, if any.
- Numbering the object. (See chapter on Marking.)
- Photographing the object.
- Entering information into the manual system. This may include:
 - source card (vendor or donor)
 - fund card (for purchase)
 - cross-reference cards, as used by the museum
 - biography card or artist card, as used by the museum
 - location card (or new card changed from the temporary to the permanent number)
 - accession or catalog card, as used by the museum.
- Entering information into the computerized system and printing out the cards outlined above. Some museums decide to keep none, all, or some manual files, generated by computer.
- Developing accession and/or object and/or source vertical files as necessary.

The accession number associates the object with its file and all its documentation. It is vital to have unique accession numbers that will take the staff member, curator, or researcher directly to the documentation. (See chapter on Numbering.) An accession folder may be developed and stored by consecutive number; if a volume of documentation exists for a single object within the accession, an object file may be broken out from the accession

file to hold that information. Some museums have files for every object; others have accession files; still others keep both accession and source files so that all information about an accession can be retrieved or all transactions with a single donor or vendor can be traced. (See chapter on Managing Files and Records.)

After the accessioning is complete, the registrar must review the file for compliance with the collections management policy. The accession file becomes the repository of all information that comes to the museum regarding the group of objects in it, and object files become filled as research, photography, condition reports, loans, conservation work, and publication take place.

Policies and procedures should be developed to govern access to permanent collection records. Confidential information such as shipping and insurance histories, appraisals, tax documents, purchase orders, donor addresses, and telephone numbers may be available only to certain members of the professional staff. Condition notes, conservation treatment reports, and some provenance information may also have limited access. The general public should have access (usually in the form of the accession card) to descriptive information about the object, the accession number, credit line, reference notations, and the exhibition and publication histories of an object. In developing policy about access to records, legal advice should be sought concerning the existence of any applicable freedom of information or privacy laws.

by Freitag and Cherie Summers

Loans are made between museums or from private individuals to museums for several reasons.

- Loans for exhibition are the most common type of loans. Objects are borrowed for specific periods of time for a specific purpose.
- Loans for traveling exhibitions are similar to one-exhibition loans, but the issues are multiplied by the number of venues.
- Exchange loans are made for two reasons. They may be for the mutual benefit of the museums, or a lending institution may request a loan to fill the resulting gap in its permanent exhibition from a museum borrowing an important work.
- Study loans are made between museums or between museums and individuals. The latter type of study loan is more common in science and archaeology museums than in art or history museums.
- Promised gifts in the museum's custody are loans until title has passed to the museum.
- The donor's remaining interest in a partial gift (also called fractional interest gift) should be treated as a loan whenever the object is in the museum's custody.
- Long-term loans from individuals to a museum or from one museum to another are common. The former was standard fare for many museums in the early and middle decades of the 20th century but is less common today.
- Unsolicited objects are often received for loan or acquisition. The sender should be notified immediately that the unsolicited parcel will be returned at the sender's expense in the same manner that it was packed and shipped. The sender also should be notified that he/she will be required to carry and pay for any insurance desired.

- Property with unidentified sources in the museum's custody should be treated as a loan until it has been identified. (See chapter on Old Loans.)

Loans should be requested and made with great care. A written loan policy should include sections on both incoming and outgoing loans. It should be supplemented by written procedures that are implemented as thoroughly as possible.

A P P R O V A L P R O C E S S : I N C O M I N G L O A N S

Museums differ in their administrative policies regarding internal approvals needed to request a loan. If the borrowed object is to be exhibited, the director, curator, and/or project manager must normally approve. Long-term loans or loans of promised gifts may require the approval of a committee within the museum or may follow the acquisitions procedure. The department that controls the budget required to pay for the loan arrangements must be consulted.

Customary protocol for requesting loans calls for the director, curator, or project manager of the borrowing institution to send the prospective lender a detailed letter describing the purpose of the exhibition and the objects desired. This "loan request" should contain the following key information:

- Title of the exhibition and/or purpose of the loan
- Length of the loan period
- Location(s) of the exhibition with dates

The borrower's responsibility to pay for all expenses incurred in preparing a loan (e.g., packing, shipping, insurance) should be acknowledged at this time. The deadline for the lender's response should be noted to allow sufficient time for the loan approval. A copy of this letter, which

is normally addressed to the director or curator if the lender is an institution, must be forwarded to the registrar as soon as possible so he or she can begin processing the loan and respond to the lender's queries.

APPROVAL PROCESS: OUTGOING LOANS

When a request for a loan is received, the lending institution's approval procedure for outgoing loans should involve the following "key players":

- The curator should approve the project in general and indicate the availability of the loan based on any unannounced projects he or she may know about.
- The conservator or registrar examines the condition of the object(s) to be loaned.
- The registrar also checks for other commitments during the period in question and checks for any other legal restrictions, such as donor's restrictions or possible U.S. Customs or Fish and Wildlife restrictions.
- Final approval by the director and/or the board of trustees is required in many institutions after the various departments have submitted their input.

In general, there should be good communication within the lending institution from the time a loan is requested until it is returned. It is critical that the curator, registrar, conservator, and director all keep one another apprised of any pertinent information. It is up to the registrar to coordinate the process and to make certain that the object and the borrowing institution are evaluated.

In evaluating the object's condition, the following questions should be considered:

- Is the object able to withstand the rigors of travel and additional handling?
- Is the object too fragile to be displayed safely?
- Should special restrictions be placed on light levels or general environmental exposure?
- Has the object recently traveled extensively or been subjected to long periods of light exposure?

Many objects, such as works on paper, photographs, or latex materials, may require limitation of the length of time they can be exposed to light and adverse climate conditions during packing, display, and shipping. If your museum does not have an in-house conservator, it is advisable to seek professional advice from a freelance conservator in deciding whether the object can travel safely.

The borrower's current facility report must be considered when evaluating a loan request. The standard facility report developed by the Registrars Committee of the American Association of Museums (RC-AAM) is often used by American museums; some institutions, especially foreign museums, may submit their own forms. The RC-AAM form is extremely thorough in the questions contained and is recommended as a standard. Accuracy and honesty are essential in filling out the facility report, and information on the form should be updated on a regular basis or as changes occur. The borrower must be prepared to meet certain minimum museum standards to secure loans. The lender wants assurance that the borrower has a history of professional and responsible care of museum artifacts. Because information could be checked by the lender, false answers may jeopardize the loan or future exchanges. When reviewing the borrower's facility report, the lender should question any unclear answers and work with the borrower to improve unacceptable conditions if at all possible. Although not applicable to foreign institutions, AAM Accreditation can indicate that a borrowing institution has met certain minimum standards.

Shortly after the loan request has been received, the borrower should be given preliminary notification of all standard loan terms and fees normally required by the lending museum. Standard protocol between museums and collectors normally calls for the borrower to pay all expenses relating to temporary and long-term loans, incoming gifts, study or research loans, or any other loans of primary benefit to the museum. The lender may be asked to pay costs associated

with loans of benefit to the lender, such as loans deposited for private conservation, photography, consideration for purchase, or exchange. Responsibility for costs should be discussed prior to the loan or prior to any charges being incurred. Museum collections management policies or manuals should clearly designate which museum personnel have authority to approve these costs.

Loan costs include the cost (materials and labor) of any crate, preparation, display case, base or mount, conservation, shipping, courier, and loan fee. Prior to the actual loan contract or loan agreement, the lender may ask the borrower to sign a preliminary form acknowledging unusual loan conditions such as special environmental requirements. The borrower can, after reviewing the costs and special conditions, decide if it is in a position to proceed with the loan request. Some museums have preprinted forms stating their general conditions of loan, including care of the loan, insurance, courier costs, publications, publicity, conservation, rights and reproduction of items being requested, etc. The borrower is normally responsible for all costs incurred in the loan arrangements unless otherwise discussed and agreed. Some institutions have reciprocal agreements with other museums to waive certain costs, such as loan fees. In cases where the loan fee makes the loan impossible for the borrower, the lender may be willing to try to negotiate a fee reduction.

The delicate condition or high value of some objects may dictate special loan conditions. It is important that these conditions be justified and essential in protecting the object. All costs or requirements must be clearly stated with as much notice given as possible so that the borrower can budget adequately. These costs can include a special frame, base, mount or environment, a courier or supervisor, or an insurance premium.

The lender may stipulate that a courier must accompany his or her loan during all transits. The lender may accept another museum professional to act on his or her behalf as a courier in consolidated shipments or may agree to his or her own courier in transit to the first venue and its return from

the last venue in the case of exhibition tours. It is normally the responsibility of the borrower to arrange and pay for costs related to the courier, including transportation, lodging, and per diem. The loan agreement may stipulate the amount of per diem to be allotted. If not, the amount should be negotiated in advance. The courier may receive the per diem in cash upon arrival, or the lender may bill the borrower later for reimbursement of expenses. Arrangements should be clear and in writing. (See chapter on Couriering and the Statement of Courier Practice.)

Final approval or denial of a loan should be communicated in writing in a timely fashion once all in-house and board of trustees approvals have been received. Should a loan be denied, the reason(s) should be clearly stated so the borrower can address any aspects of his or her facility or methods needing improvement. If the loan is approved, the approval letters and the completed loan agreement forms are then signed and returned to the borrower. Special conditions of the loan are restated on the loan form. In-house records should be "flagged" or "coded" to indicate the object is reserved.

LOAN DOCUMENTATION

Either the borrower or lender can issue the final loan agreement; it is usually done by the borrower. If the lender and borrower both have loan contracts, they can sign each other's forms. In the event of a controversy over which form to use, the lender's form normally controls; however, it should be clearly stated which form overrides the other in the case of conflicting loan terms. All special requirements or charges must be approved by the borrower before the lender begins to prepare the loan. The borrower must decide if the lender's special requirements can be met, both physically and financially. Further negotiations between museums may be necessary.

The loan contract or loan agreement is a legal agreement between the lending and borrowing institutions. This document protects both parties by specifying all conditions to be agreed upon. The signed loan agreement overrides all other

THE SAMPLER MUSEUM
123 Any Street, Any Town, USA 00000
Telephone 000-000-0000 FAX 000-000-0001

OUTGOING LOAN AGREEMENT

AGREEMENT The Sampler Museum hereby lends to the borrower identified below the object(s) described herein for the purposes and subject to the terms and conditions set forth.

BORROWER Borrower:
Address:
Telephone:
Contact: FAX:
Title:

OBJECT Accession Number:
Artist/Maker:
Object/Title:
Medium:
Date of Work:
Dimensions of actual object: with frame or mount:
Weight (if applicable):
Credit Line (for use in exhibit label and catalog):

EXHIBITION Period of Loan:
Exhibition Title:
Venue(s) and Date(s):

INSURANCE Insurance value (in U.S. dollars):
 To be carried by borrower
 To be carried by The Sampler Museum, premium billed to borrower

SHIPPING/ Unless otherwise specified, all objects will be released from and returned to:
PACKING The Sampler Museum, Receiving Entrance, 123 Any Street, Any Town, USA

DISPLAY Temperature range: Humidity range: Light levels:
Special display requirements:

SIGNATURE The borrower acknowledges that he/she has full authority and power to enter into this agreement, that he/she has read the conditions above and on the back of this form and that he/she agrees to be bound by them.

Signature: _____ Date: _____
The Sampler Museum

Signature: _____ Date: _____
Borrower

Please sign white original and return to The Sampler Museum Registrar. The copy is for your files.

documents and understandings, whether written or verbal. The loan contract is completed by the registrar and is signed before any preparation of the objects begins or costs are incurred. Institutions differ on who signs this form—director, curator, or registrar. Should someone other than the registrar sign the contract, the registrar should review it first. Most museums have a general loan contract containing certain standard clauses. To this, an addendum can be made addressing any special clauses desirable for individual loans.

Many museums have a standard contract for outgoing loans in addition to a separate contract for incoming loans. Occasionally, museums will tailor a unique loan contract for a particular exhibition. When developing a standard or special loan contract, it should be reviewed by legal counsel as well as by the museum's insurance broker.

The borrower should never commit itself to conditions that it cannot uphold or that cannot be supported under the terms of its insurance policy. Approving special requirements placed by the lender may require various internal approvals. Unanticipated loan fees and unexpected requests may have such an impact on the budget that the loan must be withdrawn.

The lender signs and returns the loan contract with an accompanying letter calling special attention to any changes, which should then be countersigned by the borrower.

INSURANCE

It is standard loan protocol for the borrower to accept responsibility for insuring loans. A few museums have administrative policies stipulating that they, as lender, must continue their own coverage in effect when making outgoing loans. The borrower is normally billed for the cost of the insurance premium, which should be agreed upon in the early stages of the loan negotiation.

In accepting the borrower's coverage, lenders are advised to review a copy of the borrower's current insurance policy to ensure the coverage is indeed adequate. Key areas to look for are:

- Limits of coverage
- Deductibles
- Exclusions
- Property insured
- Policy terms
- Terms of cancellation

Coverage should be "all risk," not based on "named perils" that are less inclusive. Coverage should be "wall-to-wall" or "nail-to-nail," meaning that the loan object is insured from the moment it is picked up to the moment it is examined upon return to the lender.

A certificate of insurance from another institution acts as evidence of coverage only. Even with this certificate in hand, the borrower has no real assurances that the policy has not been amended or canceled. The certificate should name the lender as "additional insured" and must be issued to the lender before the object is released for shipment. If the lender prefers to maintain his or her own coverage, the borrower should request an insurance certificate or waiver of subrogation from the lender. (See chapter on Insurance.)

Insurance values for each object are determined by the lender. The assigned values should reflect the "fair market value"—the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts; auction values are commonly used as the basis for insurance values. The borrower should question an exceptionally high value or value that seems out of line with other similar objects. All values should be confirmed internally by the curator. It is the lender's responsibility to keep the value of the loan updated.

If a lender should insist on a specific situation the borrowing institution believes may be hazardous to the loan object, e.g., installing the object without a barrier, using push pins to mount the work, displaying an artwork in harsh light, or allowing the general public to touch the object, the lender should be asked to sign a "hold harmless" agreement.

OUTGOING LOAN CONDITIONS

CARE AND PRESERVATION

Objects borrowed shall be given proper care to insure against loss, damage or deterioration. The borrower agrees to meet any special requirements for installation and handling. The Sampler Museum (the "Museum") certifies that the objects lent are in condition to withstand ordinary strains of packing, transportation and handling. The Museum is to be notified immediately, followed by a full written and photographic report, if damage or loss is discovered. If damage occurred in transit, the borrower will also notify the carrier and will save all packing materials for inspection. No object may be altered, cleaned, repaired or fumigated without the written permission of the Museum, nor may framing, matting, mounting or glazing be changed without written permission; nor may objects be examined by scientific methods without written permission. Objects must be maintained in a fireproof building under 24-hour physical and/or electronic security and protected from unusual temperatures and humidity, excessive light and from insects, vermin, dirt or other environmental hazards. Objects will be handled only by experienced personnel.

PACKING AND TRANSPORTATION

Packing and transportation arrangements for the loan must be approved by the Museum. The borrower agrees to meet any special requirements for packing and shipping. Unpacking and repacking must be performed by experienced personnel. Repacking must be done with either original or similar materials and boxes and by the same methods as the object was received.

INSURANCE

Objects shall be insured at the borrower's expense for the value stated on the face of this agreement under an all-risk wall-to-wall policy subject to the following standard exclusions: wear and tear, insects, vermin, gradual deterioration or inherent vice; repairing, restoration or retouching processes; hostile or warlike action, insurrection, or rebellion; nuclear reaction, nuclear radiation or radioactive contamination. The Museum shall determine whether the borrower insures the objects or whether the Museum insures them and bills the borrower for the premium. If the borrower is insuring the objects, the Museum must be furnished with a certificate of insurance or a copy of the policy made out in favor of the Museum prior to shipment of the loan. The Museum must be notified in writing at least 30 days prior to any cancellation or meaningful change in the borrower's policy. Any lapses in coverage, any failure to secure insurance and/or inaction by the Museum will not release the borrower from liability for loss or damage.

REPRODUCTION AND CREDIT

The Museum will make available, through an outside service, photographs of objects lent, which may be used for catalog, routine non-commercial educational uses, publicity and registrarial purposes. No further use of such photographs can be made and no other reproduction of objects lent can be made without the written permission from the Museum. Each object will be labeled and credited to the Museum in the exact format provided on the face of this contract, both for display labels and publication credits.

COSTS

The borrower will assume responsibility for all expenses incurred by the Museum in work by conservators to prepare the object for loan, in packing, crating, transportation, couriers, insurance, photography and any and all other related costs. The Museum will make every effort to provide the borrower with estimates in advance of all applicable costs.

CANCELLATION/RETURN/EXTENSION

The loan is made with the understanding that the object will be on view during the entire exhibition period for which it has been requested. Any intention by the borrower to withdraw the loan from the exhibition at any time must be communicated to the Museum immediately. The Museum reserves the right to recall the loan or cancel the loan for good cause at any time, and will make effort to give reasonable notice thereof. Objects lent must be returned to the Museum by the stated return date. Any extension of the loan period must be approved in writing by the Museum Director or his designate and covered by written parallel extension of the insurance coverage.

INTERPRETATION

In the event of any conflict between this agreement and any forms of the borrower, the terms of this agreement shall be controlling. For loans to borrowers within the United States, this agreement shall be construed in accordance with the laws of the State of Any State.

ADDITIONAL CONDITIONS FOR INTERNATIONAL LOANS

Government regulations will be adhered to in international shipments. Unless otherwise stated in writing, the borrower is responsible for adhering to its country's import/export requirements. The borrower will protect objects from possible damage during its customs inspections and will make every effort to ensure that customs examinations are made only on the borrower's premises. If the nature of the material to be exported falls within the types addressed by the UNESCO Convention, its status in the importing country should be verified before this loan agreement is signed by the borrower. The Museum requires a declaration of immunity from seizure if available. The provisions of this loan agreement are subject to the doctrine of *force majeure*. If U.S. Government Indemnity is secured, the amount payable by indemnity is the sole recovery available to the Museum in event of loss or damage, and objects will be insured in U.S. dollars at their value as of the application date. Current fluctuations affecting value of claims at a later date are not recognized under indemnity.

PACKING AND SHIPPING ARRANGEMENTS

Packing and shipping arrangements must be mutually agreed upon between the lending and borrowing registrars. The borrowing registrar normally contacts the lender to discuss considerations for packing, shipping methods and scheduling, and courier needs. The borrowing registrar may wish to consolidate the loan with other loans. The lending registrar must clearly convey specific requirements such as object fragility, special needs, courier schedule, and preferred mode of transportation, stating them in the loan agreement. Frequently, the borrowing registrar will contact the lending registrar many months in advance to obtain an estimate for packing and any preparation, insurance, or courier costs in order to prepare a budget for the loan.

The packing method to be utilized is determined by many factors, including the travel distance, route, type of conveyance, size, media, fragility, and value. Whether soft-packing for short trips or crating for longer trips or for extra safeguards, the same packing principles apply, that is, the need to protect the object from shock, vibration, and rapid changes in temperature or humidity. The packing technique should be simple enough for the average borrower to understand easily.

Instructions for unpacking and repacking should accompany the shipment, in the form of diagrams, photographs, or video tape. Appropriate packing materials should be used. (See chapter on Packing and Crating.)

If the lender has the facility, staff, and time to do their own packing, they will do so and normally bill the borrower for expenses. Packing charges can be based either upon an exact record of the hours worked and the actual cost of materials used, or upon a system of flat rates to cover different sizes of boxes or special packing jobs. If a crate or packing material already exists for the loan object, the lender may pro-rate the cost of this existing material or may not charge the borrower at all. If the lender does not have a suitable crate or the capa-

bility to produce one, a commercial packer must be engaged, either by the lender or the borrower; it should be approved by both registrars. Any special packing, handling, or shipping instructions that the lender might have must be communicated to the commercial packer. The commercial packer might bill the borrower directly, or occasionally the lender will pay and expect reimbursement from the borrower.

The borrowing museum generally makes arrangements for transporting the loans, again subject to the lender's approval; it is responsible for all shipping costs. The registrar discusses such factors as preferred routing, mode of transportation, special rigging needed, consolidations, and possible additional security required. The shipping schedules will determine the deadline for packing and must be negotiated with the lender to make sure both can be met as planned. In general, depending on the nature of the object and the cost to the borrower, the lender should request the most direct route for the shortest amount of time. Consolidated shipments can be the most cost-efficient option for the borrower if the safety of the object is not jeopardized in the process. (See chapter on Shipping.)

Couriers may be required to accompany shipments for a variety of reasons, such as to oversee the transit, to install the object, or to hand-carry the object. The Registrars Committee of the American Association of Museums has established courier guidelines that define and discuss acceptable reasons for requiring a courier. Courier per diem should cover the courier's travel and living costs for the period he or she is attending to the loan. (See chapter on Couriers.)

International loans are generally handled through shipping or forwarding agents in the countries from which the loans are being borrowed. The borrower's registrar or agent contacts the foreign shipping agent for a bid on packing, shipping, and export/import documentation. An agent is selected and approved by the lender. The agent prepares

all necessary documentation for the export; he or she can also arrange packing, delivery to the airport, and airport supervision. Qualified agents can be recommended by the lending institution, by forwarding agents in the U.S., or by other U.S. museums that have negotiated loans with other countries. Some export documentation and licenses take several weeks to prepare; international loans should be arranged far in advance. (See chapter on Import and Export.)

Confirm all packing and shipping arrangements, as well as cost estimates, in writing. Specific deadlines, special requirements, and names and phone numbers of contact persons should be given to vendors and agents.

PROCESSING THE LOAN OUT

The outgoing object must be prepared adequately for travel. A conservator may need to make minor repairs, reattach loose fragments, or touch up small losses. Major conservation treatments required prior to loan should be negotiated with the borrower first, if the borrower will be expected to take responsibility for any of the cost. Generally, the borrower is expected to pay for all preparation expenses, but conservation treatment needed despite the loan is open for negotiation.

The registrar should check the framing, glazing, mounts, hardware, and accompanying vitrines or bases to ensure they are fit to travel. The object must be secured in the frame with mending plates and spacers. Glass should be replaced by UV-filtered Plexiglas for works on paper, textiles, or other light-sensitive media. If glass is not removed, it must be taped with low-tack tape to prevent damage if the glass breaks in transit. Any loose elements must be removed and wrapped separately. Two-dimensional framed objects must be protected with backing boards. Finally, all mounting hardware should be checked to ensure it is adequate for display and has not become "fatigued" from wear. (See chapter on Preparation.)

If a documenting photograph does not already exist in the object file, one should be taken for identification, condition, and insurance purposes.

An outgoing condition report is prepared to document any obvious blemishes, instabilities, old repairs, or pre-existing conditions. A condition report is made for the frames, bases, or any accompanying elements as well. Annotating a photograph, in addition to the written notes, is an effective way of describing the object's condition. A space should be provided on the form for the borrower to add comments or to note any changes. All condition reports should be dated and signed by the person who wrote them. (See chapter on Condition Reporting.)

The lending museum sends a receipt to the borrower, along with a copy of the outgoing condition reports. The receipt, signed by the registrar of the borrowing institution, serves as formal notification of the loan's arrival and provides the lender with the borrower's official acknowledgment of the loan. It is standard for two copies of an outgoing loan receipt to be sent on the same date that the loan is shipped. One copy is returned with the borrower's signature and date the loan arrived. The other copy is retained by the borrower. The outgoing loan receipt should reiterate the conditions under which the loan has been granted. These conditions should be identical to those detailed in the loan agreement form.

Once the loan has been shipped to the borrower, the lending registrar updates internal files and computer systems to indicate the new location of the object. Pertinent departments are notified of the absence of the object and estimated date of its return, e.g., curator, education, information office.

TRACKING OBJECTS ON LOAN

The registrar must establish a system to track the object while it is out of the museum; the estimated return date of the loan or the date it is anticipated to move to the next venue should be included. Loans are occasionally made for extended periods (e.g.,

over a year). It is important that the registrar have an effective system for remembering or "calling up" all loans out. Tracking systems can be manual (e.g., tickler file) or on a computer database. Some museum auditors require annual confirmation of loans that are out and will send letters to borrowing museums to verify the location of objects.

WHEN THE LOAN OBJECT ARRIVES

Upon receipt of the loan object, the registrar of the borrowing institution should carefully check the exterior of the packing case or soft-pack material for signs of damage. The registrar should document any damage in case the contents are affected. A photograph should be taken of any exterior damage to the crate; all packing material should be kept.

When unpacking the loan, the registrar should carefully note how the object was packed so that it can be returned to the lender in the same manner. A photograph of how the object is situated within the case may be helpful in documenting the packing method. The borrowing museum should save the packing materials for reuse; if that is not possible, replacement material should duplicate the original materials. It is generally agreed that an object should be repacked in the same manner in which it arrived. If problems are experienced or if packing materials are inadequate, packing may be changed with lender approval.

The original case or packaging material should be stored in a clean, dry area, preferably in a climate-controlled environment. If an off-site storage facility of non-climate controlled space is used, the case should be brought back into the museum environment in adequate time to acclimatize it prior to repacking.

As soon as the objects are unpacked, they must be inventoried; condition reports should be done promptly. It is important that the contents be assessed to verify that all objects have been received. A written notation and/or photograph should be taken of all removable parts, elements, or

accessories. Each element should be tagged or labeled until the object is installed or returned to the lender.

This condition report prepared by the lender becomes the basis for comparison upon receipt of an incoming object. Condition reports often become key documentation in the event of an insurance claim, and it is important that they be thorough and understandable. The condition report is also referred to at the end of the loan period to check for any changes. Condition report formats vary from museum to museum and according to type of material examined. They should be brief but accurate, and should clearly describe the nature, location, and extent of the object's condition. A photograph of the object's condition upon arrival is a highly recommended addition to the written report. (See chapter on Condition Reporting.)

The lender should be notified immediately if objects or parts of objects have not been received or if the registrar believes an object has been damaged or has experienced a change in condition. If the registrar thinks the damage may warrant an insurance claim or if the lender requests a claim, the museum's insurance agent should be notified immediately. (See chapters on Condition Reporting, Creating Documentation, and Insurance.)

Each loan and each object within that loan must be assigned a unique number and be promptly tagged or labeled. The number may be a "temporary deposit" number or a catalog number in the case of a special exhibition. A temporary label can be used until the final disposition is determined for the object. All labeling or marking methods that are utilized for loans must be reversible. (See chapters on Numbering and Marking.)

Handling and installing the loan must be done in a fashion consistent with the lender's requirements and based on high standards of museum care. Care should be taken to pad and protect each object during movement until it is installed or stored. The borrower must also seek the lender's approval before modifying the loan object in any fashion or before employing the object for a purpose other than that

originally agreed upon. Adding hanging devices or a mount, displaying the object in an outdoor atmosphere, etc., must be discussed in advance. Any hardware that is removed should be saved and returned to the lender with the loan object. Any issues that might arise concerning the safety of the object should also be discussed with the lender. All modifications to the loan, its accessories, or packing should be documented for the file to facilitate their replacement at the end of the loan. (See chapter on Handling.)

Entry records and receipts must be prepared to document the loan transaction properly. If the lending institution sends a receipt, it should be completed and returned by the borrower. If it does not, the borrower should produce a receipt and send it to the lender. Receipts may be done by both institutions. Information should include:

- Name and full address of lender, preferably with telephone and fax numbers
- Purpose of loan, e.g., long-term loan, special exhibition
- Exhibition title
- Pertinent curatorial department responsible for loan
- Arrival date and method of shipment
- Loan numbers assigned to objects
- Name of artist/maker
- Exact title of work or name of object
- Medium or materials
- Dimensions
- Insurance value or name of insurer, if lender is to insure
- Condition
- Location

Receipts must be issued promptly and accurately. The wording on the loan receipt should agree with the conditions stated on the loan agreement form regarding purpose, duration, insurance coverage, and value. Only the registrar should issue receipts and record loan information; this guarantees consistency and proper loan management. (See chapter on Creating Documentation.)

ONGOING LOAN MANAGEMENT

Loans must be tracked and updated by the borrowing museum on a regular basis; an annual inventory can identify expired loans and help the museum avoid problems that could develop. Loan expiration dates should be carefully monitored so that loans are returned to the lender on time. If the object is to remain on loan, the loan contract must be updated and the insurance coverage extended. Insurance values should be reviewed periodically by the lender. If contact has been lost and the lender cannot be found, the loan is regarded as an "old loan." Many states in the U.S. have established laws regarding the disposition of old loans. The registrar should seek legal advice for disposition of unclaimed or old loans within his or her jurisdiction. (See chapter on Old Loans.)

WHEN THE LOAN IS RETURNED

Requests for the return of a loan must agree with the terms of the original loan agreement. All objects should be returned to the lender at the same place from which they were collected unless otherwise stipulated in writing by the lender and agreed to by the museum. In the event of a possible dispute between lenders, such as a divorce or dissolved partnership, the registrar should seek legal advice. A loan should not be returned to one partner without the written consent of the other. If the loan is to be returned to a different location or address, the change of return site should be documented in writing. If the loan is to be returned to a location farther away than the original point of collection, any additional cost associated with the new location can be negotiated, unless this change was a condition of the loan. If someone else imported the object, the registrar should seek proper import documentation. (See chapter on Import and Export.)

When the loan period has expired, the registrar contacts the lender to arrange the return. The return shipment date and method of transit are discussed

with the lender in advance. The object is prepared for the return by inventorying all elements and accessories. If the object was framed or reframed, or if the original hardware was removed, these elements will normally be replaced unless otherwise agreed upon with the lender. An outgoing condition report that refers to the incoming report or any interim reports is made. The registrar must ensure that the object returns in the same condition as it was received. The object is repacked in the same fashion as received unless packing modifications have been approved. Finally, an outgoing receipt is issued; the lender is asked to sign and return a copy after verifying that all objects have been returned in satisfactory condition.

The loan file is closed by noting the destination, date, and method of return. Internal departments should be apprised of the loan return as necessary. All bills for packing, shipping, agents, insurance premiums, and courier costs must be received and processed for payment. In the event that some costs are to be shared by the lender or other museums for a touring exhibition, invoices must be prepared for such costs as shipping, photography, or insurance premiums. If the loan object happens to be acquired by the museum, the registrar accessions and catalogs the object, changing the incoming loan numbers to permanent accessions numbers. (See chapter on Acquisitions and Accessioning.)

PROCESSING LOANS BEING RETURNED

Upon return of the object, the lending registrar unpacks the object as promptly as possible after acclimatization and compares it against the outgoing condition report for any significant changes. If new conditions or damage is apparent or suspected, the borrowing registrar is contacted immediately. The lending registrar ultimately decides whether an insurance claim should be filed. Incoming photographs should be taken if any changes have occurred. If the damage could have occurred during transit, all packing material must be saved and photographed, too. The lending registrar checks

to see that all loan objects as well as all parts or accessories and any installation hardware have returned.

An "incoming receipt" is signed, evidencing the return of the loan in satisfactory condition. Either the borrower or lender can issue this receipt. The lending registrar then notifies all pertinent museum departments of the loan's return. Files and/or computer records are updated as to location of the object. A loan history for the loan object is maintained to document the object's exposure. (See chapter on Managing Files and Records.)

A history file on different borrowers should be kept to document problems or concerns for future reference. This file can include notes on agents or shippers used by the borrower that proved problematic. Loan histories can also be useful in negotiating later loans should the lending museum wish to borrow objects from the borrowing museum in the future.

Shortly after the conclusion of the loan, either the registrar or the museum's business office prepares a final invoice, billing the borrower for all agreed costs related to the loan, e.g., crating, conservation, courier costs not paid directly by the borrower, and any insurance premiums. Timely accounting of these costs is appreciated by both the borrowing and lending institution. Agent's bills should be directed to the borrower, or the lender should be reimbursed for agent's costs as appropriate. Loans can be shipped to borrowers "prepaid" with the borrower later invoiced or can be shipped "collect" to avoid billing.

LOAN ISSUES

Damage: If the object is damaged at any time, the lender must be contacted immediately. Any damage, however slight, must be documented. A conservator should be consulted as to possible remedies for the lender's information. If damage is serious, an insurance claim should be made.

Change of ownership: If the ownership of the object changes or if its status changes, e.g., if it is donated, promised, or placed on extended loan, the

change must be properly documented in writing. A new loan agreement must be signed by lender and borrower.

Change of information: If loan information simply needs to be updated, a new agreement is not required. However, the change in information should be confirmed in writing by the lender or his or her representative.

Loans to third parties: In the case of loans to third parties, (i.e., an object currently on loan to your museum sent for loan to another museum) the owner must provide written permission for the object to be released. The borrower is normally responsible for paying all charges in connection with a third-party loan. There should be a clear understanding of exactly when the borrower's insurance takes effect. If the loan is to return to your museum, its file and loan number can be continued. When the loan finally returns, it is prudent to ask the lender if any information needs to be changed.

Requests for loan extensions: Requests for loan extensions or date or venue changes are normally subject to the same review and approval process as the original loan request. Minor changes in dates can be handled by a simple letter from the borrower countersigned by the lender.

Loans to traveling exhibitions: Several concerns may be raised by loans to traveling exhibitions. Facilities reports for each venue should be reviewed by the lending institution. Large gaps may exist between venues, and it is the borrower's responsibility to inform lenders of the arrangements that will be made to accommodate such lapses: shipments to the next venue may be postponed, or the loans may be stored. No loans should ever be stored at sites other than the exhibition venues without the lender's advance permission. The organizing institution is usually responsible for insuring the tour, processing invoices, and relaying lender requirements to venues unless other arrangements have been separately made with each venue. Should an early release from the traveling

exhibition occur, all parties concerned should be informed in advance. (See chapter on Organizing Loan and Traveling Exhibitions.)

Exchange loans: Exchange loans may be reciprocal loans for long or short periods, or they may be used when an object requested for loan must be replaced at the lender's site for the duration of the loan. They are handled in the same fashion as other outgoing loans, with outgoing and incoming loan contracts to document the transaction. Shipments to and from the same lender can often be consolidated for a savings. Since both institutions benefit, it is important that there be a clear understanding regarding which museum is responsible for which costs.

GENERAL ISSUES OF RECIPROCITY BETWEEN MUSEUMS

In the mid-1990s, the Museum Loan Network (MLN) began as an organization to encourage loans between museums. Both borrowing and lending organizations benefit from participation. Lending museums are given grants to survey their collections, choose objects that might be available for long-term loan, and get estimates for conservation of objects. They prepare information for a database, the MLN directory, which potential borrowers can use for access to brief descriptions of artworks available for long-term loan. Grants to borrowing institutions for conservation help defray their loan costs.

In recent years, the cost of organizing exhibitions has mushroomed. It is incumbent upon museums to work cooperatively to find ways to control loan costs. Without risking the safety and long-term preservation of the object, costs can often be reduced by waiving or consolidating couriers, by waiving loan fees, by invoicing expenses "at cost" only, or by re-using recycled crates. Loans will remain a mainstay of museum exhibitions for the foreseeable future, and it is vital that the process be as efficient as possible.

William G. Tompkins, editor

INTRODUCTION

Consider the following scenarios:

- A donor offers your museum approximately 1,500 salvaged dead bird specimens, including whole carcasses, bones, and other parts.
- Your museum is borrowing a group of Kayapo headdresses for exhibition from a museum in Brazil.
- A staff ornithologist is importing scientific study skins from a museum in Peru.
- A private trophy hunter donates an imported jaguar hide and skin acquired by sport-hunting.
- You are receiving a shipment of unidentified herbarium specimens being sent from the People's Republic of China.
- An upcoming international traveling exhibition includes a contemporary sculpture containing trumpet corals.
- Your zoological park is shipping a live golden lion tamarin to a zoo in France as a breeding loan.
- A staff research scientist is importing frozen tissue samples collected in the field from an elephant in Nepal.

If any of these situations sound familiar, collection staff should know the applicable laws and permit requirements concerning fish, wildlife, and plants.

The purpose of this section is to outline federal laws and regulations concerning fish, wildlife, and plants and to assist registrars, collections managers, curators, and scientists in determining if, when, and how to apply for federal permits that allow an institution to engage in activities that are regulated under these laws. This is a general guide

and is not intended to be definitive; therefore, the specific laws and regulations should be reviewed prior to undertaking regulated transactions. In addition, wildlife laws and regulations are periodically amended. Collection staff should refer to the actual text of relevant laws and regulations as well as consult with the appropriate regulatory agency to ensure compliance with current rules. This section only addresses federal laws, including the Endangered Species Act, which implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). It is important to comply with all state and local laws as well. Check with state and local authorities to determine if there are any applicable laws.

BACKGROUND

Trade in endangered, threatened, and otherwise protected wildlife has had a destructive effect on the world's flora and fauna. In an effort to curtail activity harmful to the population of certain species, the United States and other nations have entered into international treaties and have passed domestic laws designed to preserve and conserve the world's species and their habitats. These laws limit and often ban specified activities involving protected species. Under certain conditions, exceptions to prohibited activities are allowed by regulation or permits for purposes such as scientific research, public display, enhancement of species propagation, or survival of the affected species.

Federal regulations concerning possession, disposition, and transportation of animals and plants are complex, and compliance can be daunting. Current regulations broadly govern commercial activities involving a relatively small number of the world's species. However, such regulations

significantly affect the museum community. Permits may be required when collecting, especially field collecting; lending or borrowing; arranging collection exchanges; acquiring collections through gift or purchase; and transporting objects across U.S. state boundaries, across any foreign borders, or on the high seas. It is vitally important that museum staff be aware of the various laws when museum activities involve protected species. Collection staff who have authority to collect, acquire, dispose of, loan, or transport objects and specimens bear the responsibility of complying with laws and regulations applicable to wildlife and plants. Lack of compliance with wildlife laws, whether unintentional or a knowing violation, may result in delays, seizure, and confiscation of specimens, personal liability for civil and criminal penalties including fines or imprisonment, and damage to personal, professional, and institutional reputations.

Collections management policies should establish an institution's standard of responsibility regarding compliance with all applicable laws, including wildlife laws and regulations. Internal procedures should provide guidance for staff conducting research and collection activities regarding the acquisition, importation, exportation, and transportation of wildlife and plants and the necessary accompanying documentation. The institution should also clearly address the delegation and responsibility of collecting authority regarding field research.

Frequently, museum staff do not realize that some items in their collections contain plant or animal parts or products protected by various federal laws. These laws prescribe that certain requirements be met in order to acquire, take, possess, dispose, transport, import, or export specimens or articles containing plant and animal parts or products. Under these laws, many of the routine practices of museum collection activity require a permit or compliance with other regulatory requirements. Most wildlife laws cover animals and plants, live or dead, and parts and products made of, or derived from, the protected species. No matter how small the arti-

cle or how very little of a specimen consists of wildlife parts, the wildlife laws may apply. A valid permit is required before commencing any prohibited activity concerning a protected species. Prior to such transactions, it is advisable to review the laws and regulations relating to each activity.

Many species are protected under more than one law. For example, the California condor (*Gymnogyps californianus*) is listed as endangered under the Endangered Species Act, is included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and is protected as a migratory bird under the Migratory Bird Treaty Act. Any transaction involving a California condor must comply with the requirements of each of these laws. In some cases, it is possible to file a single permit application that fulfills the requirements of the multiple laws affecting the species. Contact the appropriate regulatory agency for guidance.

Wildlife laws are written very broadly and authorize that specific regulations be promulgated. Federal statutes are cited as volume number, United States Code, and section number, e.g., 18 U.S.C. § 42. Government agencies publish regulations that implement laws in the Code of Federal Regulations (CFR). The Code of Federal Regulations is a codification of the general and permanent rules published in the *Federal Register* by the departments of the executive branch and agencies of the federal government. The code is divided into 50 titles that represent broad areas subject to federal regulation. The regulations are cited as title number, Code of Federal Regulations, part or section number. Title 50—Fish and Wildlife—contains most federal regulations regarding wildlife and plants. For example, migratory birds are listed in 50 CFR Part 10, endangered and threatened wildlife in 50 CFR Part 17, marine mammals in 50 CFR Part 18. Each volume of the CFR is revised at least once each calendar year. The code is kept up-to-date by the *Federal Register*, which is published daily. These two publications should be used together

to determine the latest version of any given regulation. The latest versions of these publications may be found on the Internet.

The Department of the Interior's U.S. Fish and Wildlife Service (USFWS) has the primary responsibility to enforce federal wildlife laws that protect most endangered species, including some marine mammals, migratory birds, fishes, and plants. The USFWS also carries out U.S. enforcement obligations of certain international agreements affecting protected wildlife and plants. For the most current information on species under the jurisdiction of USFWS, contact: U.S. Fish and Wildlife Service, Office of Management Authority. Other federal agencies have enforcement authority for certain laws and regulations discussed in this chapter, as described below.

The process of applying for and maintaining federal permits has often been surrounded by confusion and controversy. In recent years, the Association of Systematics Collections (ASC) has undertaken a dialogue with USFWS to help clarify regulations and to make them more workable for scientific and educational institutions. The ASC expressed particular concern over the regulations governing the importation and exportation of taxonomic or systematic collection specimens. In 1996, such discussion led to a Memorandum of Agreement (MOA) between ASC and USFWS that allows individuals and institutions to donate, under specified conditions, undocumented natural history collections to nonprofit research or educational institutions that maintain permanent collections of scientific specimens. The MOA was necessary because private individuals were hesitant to donate specimens, and institutions were hesitant to accept them, in cases where collecting and import permits were missing. Contact the U.S. Fish and Wildlife service for copies of the forms. The ASC is a helpful source of information and guidance on compliance with wildlife laws.

HELPFUL HINTS FOR OBTAINING PERMITS UNDER FEDERAL WILDLIFE LAWS

- A. Before Beginning the Permit Process
 - Identify knowledgeable staff and museum permit procedures.
 - Identify the species involved to the most accurate taxonomic classification reasonably practicable (be species specific, including the scientific name, common name, and country of origin); seek expert advice if necessary.
 - Determine which laws cover the species and the permit requirements under each applicable law.
 - Determine the provenance of the object or specimen (compile supporting documentation).
 - Determine the intended uses and purposes.
 - Know the type of transaction (e.g., purchase, gift, loan, etc.).
 - Know the location where the permitted activity is to occur.
 - Know the point of origin, destination, and all intermediary stops for any shipment of wildlife specimens.
 - When field research or collecting in a foreign country is involved, researchers must be aware of and comply with applicable wildlife laws and permit requirements of the foreign country.
 - Foreign collecting and exportation/importation permits should be obtained for research materials well in advance of a proposed research project.
 - Live materials may require additional permits through the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture.
- B. Permit Process
 - Begin the permit process as soon as possible.
 - When filing a permit application, be as complete and detailed as possible.

- To expedite the permit process, consider sending the complete permit application by express mail or certified mail for proof of delivery.
- If an item qualifies for an exception, contact the federal or state agency for the required application and assistance.
- Under some circumstances, import and export of museum collections may be facilitated by a customs broker. Brokers are often familiar with permit requirements and can ensure compliance with the necessary procedures and documentation. Remember that your institution remains ultimately responsible.
- Couriers and shippers must know the permit requirements of your shipment, and the institution should have a system for monitoring their compliance.
- Maintain all records documenting importation, exportation, transportation, and subsequent disposition. Retain copies of all materials relating to permit application. It may be helpful to have multiple copies of your application and required documentation during shipment and clearance.
- Keep informed of new regulations by checking the *Federal Register* and agency publications.
- If any questions arise as to whether a permit is required, the permit process, or other related questions, contact the appropriate federal or state agency. Build a cooperative relationship with your local USFWS special agent and/or regional office.

C. Reporting

- There are procedures for using the permit that may include reporting, recording, declaration, and/or notification requirements. These requirements and instructions are often on the face of the permit or attached to it. Pay close attention to these instructions and any attachments that accompany the permit.
- It is the responsibility of the institution to make sure that timely annual reports or renewal applications are submitted.

- Any person accepting and holding a federal permit consents to and allows the entry at any reasonable hour by agents or employees of the permitting agency upon the premises where the permit activity is conducted. Federal agents or employees may enter such premises to inspect the location of any plants or wildlife kept under the authority of the permit and to inspect, audit, or copy any books, records, or permits required to be kept.

SUMMARY OF FEDERAL LAWS PROMOTING CONSERVATION OF WILDLIFE AND PLANTS

I. Lacey Act

18 U.S.C. § 42; 16 U.S.C. § 3371, *et seq.*; 50 CFR Part 14

The Lacey Act is the oldest and most comprehensive wildlife law in the United States. First enacted in 1900, the Lacey Act has been amended several times and its application expanded greatly. The Lacey Act Amendments of 1981 extended the protection of the act to all species of fish and wildlife, whether or not they are considered endangered or threatened. The Lacey Act also applies to plants but only to species indigenous to the United States and its territories that have been listed on a CITES appendix or pursuant to any state law protecting species threatened with extinction. The act establishes a single, comprehensive basis for federal enforcement of state, foreign, Indian tribal, and federal wildlife laws. The Lacey Act provides the legal authority for detailed regulations that implement the statute.¹

A. Required Compliance with All Laws Applicable to Wildlife and Plants

The Lacey Act prohibits the importation, exportation, transportation, sale, receipt, acquisition, or purchase of any fish, wildlife, or plant that was taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or any Indian tribal law [16 U.S.C. § 3372(a)(1)]. When interstate commerce is

involved, the same prohibitions apply to fish or wildlife taken, possessed, transported, or sold in violation of any state law or regulation or any foreign law, and to plants taken, possessed, transported, or sold in violation of any state law or regulation [16 U.S.C. § 3372(a)(2)]. Under the Lacey Act, "taken" means captured, killed, or collected. Violations of the Lacey Act may result in criminal and civil penalties, including forfeiture of specimens or equipment used in connection with an unlawful act [16 U.S.C. §§ 3373-3374]. Criminal penalties require proof of a "knowing" violation of the act but civil penalties may be imposed for failure to exercise due care in compliance with the act and its implementing regulations.

B. Regulation of Importation, Exportation, and Interstate Transportation of Wildlife

The Lacey Act makes it an offense to import, export, or transport in interstate commerce any container or package containing any fish or wildlife, unless the container or package has previously been plainly marked, labeled, or tagged in accordance with regulations issued pursuant to the act [16 U.S.C. § 3372(b)]. Making or submitting false records, labels, or identifications of fish, wildlife, or plants may also violate the Lacey Act [16 U.S.C. § 3372(a)(4)].

The regulations implementing the Lacey Act requirements for importing, exporting, and transporting wildlife are found at 50 CFR Part 14. Following is a general summary of the major provisions of Part 14 that relate to importing, exporting, and transporting collection material. Of course, the actual text of the regulations should be consulted before a shipment takes place. It is important to be aware of these requirements for any wildlife shipment with which your institution may be involved. The importer or exporter of record may be held responsible for non-compliance of its agents, such as shippers, couriers, or brokers, if the importer or exporter has not provided adequate instructions or taken appropriate steps to ensure compliance by the agent.

1) Designated Ports

Except when otherwise provided by permit or specific regulation, all wildlife shipments must enter and leave this country through U.S. Customs ports designated by the U.S. Fish and Wildlife Service [50 CFR § 14.12]. Currently there are 13 designated ports: New York, N.Y.; Miami, Fla.; Baltimore, Md.; Boston, Mass.; New Orleans, La.; Dallas/Ft. Worth, Tex.; Los Angeles and San Francisco, Calif.; Chicago, Ill.; Portland, Oreg.; Seattle, Wash.; Honolulu, Hawaii; and Atlanta, Ga. Special ports have also been designated for certain shipments to or from Alaska, Puerto Rico, U.S. Virgin Islands, and Guam [50 CFR 14.19].

Dead, preserved, dried, or embedded scientific specimens imported or exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes may enter or exit through any U.S. Customs port or may be shipped through the international mail system. This exception does not apply to wildlife that requires a permit to be imported or exported (e.g., an endangered species), or to specimens taken as a result of sport hunting [50 CFR § 14.24].

Any article (other than scrimshaw) more than 100 years old that is composed in whole or in part of any endangered or threatened species and has not been repaired or modified with any part of an endangered or threatened species after Dec. 28, 1973, may be imported at any U.S. Customs port designated for such purpose [50 CFR § 14.22].

Marine mammals lawfully taken on the high seas and authorized to be imported under the Marine Mammals Protection Act may be imported at any port or place [50 CFR § 14.18].

Special port exception permits may be issued for scientific purposes, to minimize deterioration or loss, or for economic hardship [50 CFR §§ 14.31-14.33].

All plant shipments protected under the Endangered Species Act and CITES must be imported or exported through ports designated by the U.S. Department of Agriculture, which are listed at 50 CFR § 24.12.

2) Declaration of Wildlife Imports and Exports

At the time of importation or prior to exportation of wildlife, importers or exporters must file with the USFWS a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) [50 CFR Part 14, Subpart F]. Contact the U.S. Fish and Wildlife Service for forms.

For dead, preserved, dried, or embedded scientific specimens imported or exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes, the importer or exporter must file Form 3-177 within 180 days of the import or export. The declaration must identify the specimens to the most accurate taxonomic classification reasonably practicable, using the best available taxonomic information, and must declare the country of origin. This exception does not apply to wildlife that requires a permit to be imported or exported (e.g., an endangered species), or to specimens taken as a result of sport hunting [50 CFR § 14.62(d)].

For other scientific specimens not included in paragraph b (e.g., wildlife that requires a permit), imported for taxonomic or systematic research or faunal survey purposes, the importer may describe the specimens in general terms on the Form 3-177, which is filed at the time of import. Within 180 days, the importer must file an amended Form 3-177 to identify the specimens to the most accurate taxonomic classification reasonably practicable, using the best available taxonomic information [50 CFR § 14.62(c)].

3) Inspection and Clearance Requirements

Wildlife imported into the United States must be cleared by a USFWS agent before it can be released from customs. Wildlife to be exported

from the United States must be cleared by USFWS before it is packed in a container or loaded onto a vehicle for export. To obtain clearance, the importer or exporter must make available to the USFWS agent all shipping documents; all permits, licenses, or other documents required under the laws and regulations of the United States or of any foreign country; the wildlife being imported or exported; and any documents and permits required by the country of export or re-export of the wildlife [50 CFR § 14.52]. In certain circumstances, wildlife may be cleared by a U.S. Customs Service officer [50 C.F.R. § 14.54].

Dead, preserved, dried, or embedded scientific specimens imported or exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes do not require USFWS clearance. This exception does not apply to wildlife that requires a permit to be imported or exported (e.g., an endangered species), or to specimens taken as a result of sport hunting [50 CFR § 14.55 (d)].

Any article (other than scrimshaw) more than 100 years old that is composed in whole or part of any endangered or threatened species and has not been repaired or modified with any part of an endangered or threatened species after Dec. 28, 1973, does not require USFWS clearance if it has been properly declared to and released by customs [50 CFR § 14.55(c)].

Marine mammals lawfully taken on the high seas and imported directly into the United States do not require USFWS clearance [50 CFR § 14.55(b)].

USFWS and customs officers may detain and inspect any package containing wildlife, including all accompanying documentation, upon importation or exportation [50 CFR § 14.53].

A USFWS or customs officer may refuse clearance of imported or exported wildlife upon reasonable grounds to believe: a federal law or regulation has been violated; the correct identity and country of origin have not been established; any

permit, license, or other documentation required for clearance is not available, is not currently valid, has been suspended or revoked, or is not authentic; the importer or exporter has filed an incorrect or incomplete declaration form; or the importer or exporter has not paid any fees or penalties due [50 CFR. § 14.53].

Prior notice (72 hours recommended) to the USFWS of all wildlife imports and exports is advisable. USFWS requires 48 hours notice to be available for inspection of live and perishable wildlife [50 CFR § 14.64].

4) Marking Requirements

All wildlife imported, exported, or transported in interstate commerce must be marked on the outside of the container with the names and addresses of the consignor and the consignee. An accurate identification of the species and the number of each species in the container must accompany the shipment. Specific marking requirements and the contents of accompanying documentation are set forth in 50 CFR Part 14 Subpart G.

II. The Endangered Species Act

16 U.S.C. § 1531 *et seq.*; 50 CFR Part 17

The Endangered Species Act (ESA) of 1973 is the most comprehensive U.S. law for the preservation and protection of species that have been determined to be in danger of extinction. The Endangered Species Act was designed to prevent the extinction of native and foreign species of wild flora and fauna. The law also provides for protection of the "critical" habitats of protected species.

The act defines an "endangered" species as any animal or plant that is in danger of extinction. A "threatened" species is defined as any animal or plant that is likely to become endangered within the foreseeable future [16 U.S.C. § 1532]. A procedure has been established under the ESA by which the USFWS determines whether a species should be listed as endangered or threatened. The determination is published in the *Federal Register*,

and the lists of endangered and threatened species are compiled annually in the Code of Federal Regulations. The Endangered Species List is found at 50 CFR § 17.11. The Threatened Species List is found at 50 CFR § 17.12. For the most current information on a given species, contact the appropriate agency with jurisdiction over the protected wildlife or plant in question.

A. Prohibitions Under ESA

The act prohibits a wide range of activities and transactions with respect to endangered species [16 U.S.C. § 1538]. By regulation these prohibitions have also been extended to threatened species [50 CFR §§ 17.21 and 17.31]. The prohibitions apply equally to live or dead animals or plants, their progeny, and parts or products derived from them.

The act and implementing regulations prohibit:

Importation into or exportation from the U.S. of any endangered or threatened species

Taking any endangered or threatened species within the U.S. or on the high seas

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct.

Possessing, selling, or transporting any species taken in violation of the act or regulation

Delivering, receiving, or transporting any endangered or threatened species in connection with interstate or foreign commercial activity

Loans and Gifts: Lawfully taken and held endangered and threatened species may be shipped interstate as a bona fide gift or loan if there is no barter, credit, or other form of compensation or intent to profit or gain.

Selling or offering for sale endangered or threatened species in interstate commerce

Sales of legally acquired endangered or threatened species that take place entirely in one state are not prohibited by the ESA but may be regulated under applicable state laws.

B. Permits Under the ESA

Under certain conditions, scientific and educational activities may qualify for permits allowing activities that are otherwise prohibited. General permit application requirements and issuance criteria are set forth in 50 CFR Part 13. Special rules for certain species are set forth in 50 CFR §§ 17.40-17.48. Permits may authorize a single transaction, a series of transactions, or a number of activities over a specific time period.

Permits may be issued for prohibited activities for the following purposes:

Endangered species permits may be granted for scientific purposes or to enhance the propagation or survival of the affected species, and for "incidental takings" or economic hardship [50 CFR §§ 17.22 (wildlife), 17.62 (plants), and Part 222 (marine mammals)].

Threatened species permits may be granted for scientific purposes; the enhancement of propagation or survival of the affected species; zoological, horticultural, and botanical exhibition; educational purposes; or special purposes consistent with the act [50 CFR §§ 17.32 (wildlife), 17.72 (plants), and Part 227 (marine mammals)].

C. Exemptions

Certain situations may be exempt from the prohibitions of the act. In these exempt situations, a permit is not required. The burden of proof that the specimen or activity qualifies for an exemption lies with the person engaging in the relevant activity. All supporting and authenticating documentation must be maintained with the specimens, particularly when they are in transit.

Pre-act wildlife: The prohibitions applicable to ESA species do not apply in the case of wildlife, except for African elephant ivory, held in captivity or in a controlled environment on (a) Dec. 28, 1973, or (b) the date of publication in the *Federal Register* for final listing of the species as endangered or threatened, whichever is later, provided that the wildlife

has not been held in the course of a commercial activity. An affidavit and supporting documentary evidence of pre-act status is required [50 CFR § 17.4].

Antiques: Objects or specimens more than 100 years old, composed in whole or in part of any endangered or threatened species, that have not been repaired or modified since Dec. 28, 1973, with any part of a listed species, are exempt from the ESA prohibitions. The import and export of such antiques is allowed only through a designated port and must be accompanied by authenticating documentation [16 U.S.C. § 1539(h)].

Alaskan natives may take or import endangered or threatened species if such taking is primarily for subsistence purposes and is not done in a wasteful manner. Non-edible byproducts of lawfully taken species may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing [50 CFR § 17.5.]

Seeds from artificially propagated threatened plants: No permits are required for interstate or foreign commerce, including import or export, of seeds from artificially propagated specimens of threatened plants. The seeds must be accompanied by a label stating that they are of cultivated origin.

Captive-bred wildlife: USFWS registrations provide exceptions allowing the importing, exporting, taking, and interstate commercial transactions, including delivery, receipt, and sale of certain living endangered and threatened species, provided the purpose is to enhance the propagation or survival of the species. The regulation covers only living animals that are not native to the United States. The regulations prescribe detailed requirements for registration of captive breeding programs and other conditions that apply to captive breeding of protected species [50 CFR § 17.21(g)].

D. Enforcement

Both U.S. Fish and Wildlife Service (USFWS) in the Department of Interior and National Marine

Fisheries Service (NMFS) in the Department of Commerce enforce the Endangered Species Act. By agreement between the USFWS and NMFS, the jurisdiction of NMFS has been specifically defined to include certain species, while jurisdiction is shared in regard to certain other species. USFWS is the primary agency that administers the ESA and has jurisdiction over most wildlife and plants. For the most current information on species under the jurisdiction of USFWS, contact the U.S. Fish and Wildlife Service, Office of Management Authority. For information on species under the jurisdiction of NMFS, contact the NMFS Office of Protected Resources.

III. The Convention on International Trade in Endangered Species of Wild Fauna and Flora

16 U.S.C. § 1531 *et seq.*; 50 CFR Part 23

The Convention on International Trade in Endangered Species of Fauna and Flora (CITES) is an international wildlife treaty that regulates the import and export of endangered and threatened animal and plant species. The USFWS oversees CITES implementation in the United States, which became a party to the treaty in June 1975. The convention, with over 130 party nations, protects over 25,000 species by establishing import and export restrictions on wildlife threatened by international trade. The United States implements CITES through the U.S. Endangered Species Act.

The animals and plants protected by CITES are divided into three lists called appendices, which are published in 50 CFR § 23.23. Amendments to species listed in the CITES appendices are published in the *Federal Register*. Consult the USFWS Office of Scientific Authority for the most current information on listed species. A species may be listed in any one of the three appendices, depending on the degree of protection deemed necessary.

- Appendix I includes species threatened with extinction that are or may be affected by trade.
- Appendix II includes species which are not necessarily under present threat of extinction

but may become so unless strictly regulated.

- Appendix III includes species for which a country party to CITES has internal regulations to prevent or restrict exploitation and needs the cooperation of other parties in control of trade.

A. Prohibitions

The U.S. laws implementing CITES prohibit the import, export, or re-export of CITES-listed species without the required permits and also forbid the possession of any specimen imported, exported, or re-exported into or from the United States in contravention of the convention. All living and dead specimens and all readily recognizable parts and derivatives are subject to the prohibitions. Note that there are some exceptions for plant parts and derivatives.

Some species protected under CITES also are protected by other U.S. laws under which permit requirements may be more stringent, such as the U.S. Endangered Species Act, African Elephant Conservation Act, Marine Mammal Protection Act, Migratory Bird Act, Eagle Protection Act, and the Lacey Act. Permit applicants must satisfy the requirements of all laws under which a particular species is protected.

B. Permits Under CITES

Permits are required to import or export wildlife or plants listed in Appendix I, II, or III. Re-export certificates are required for the export of specimens that were previously imported, including items subsequently converted to manufactured goods. Permits are issued by the management authority of nations belonging to CITES. Similar documentation is required from designated authorities of countries that are not members of CITES. The USFWS Office of Management Authority can provide information regarding the relevant foreign authorities and documentation requirements. Permit application procedures and issuance criteria are found in 50 CFR Part 23.

There are different permit requirements for importing and exporting CITES-protected species,

depending on which CITES Appendix the species fall under:

Import into the United States

CITES Appendix I species:

U.S. import permit and valid foreign export permit issued by the country of origin or a valid foreign re-export certificate issued by the country of re-export

CITES Appendix II species:

Valid foreign export permit issued by the country of origin or a valid foreign re-export certificate issued by the country of re-export

CITES Appendix III species:

Valid foreign export permit issued by the country that listed the species, a valid foreign re-export certificate issued by the country of re-export, or a certificate of origin issued by countries of origin other than the listing country

Export or Re-export from the United States

CITES Appendix I species:

U.S. export permit or re-export certificate and a copy of foreign import permit issued prior to export permit

CITES Appendix II species:

U.S. export permit or re-export certificate

CITES Appendix III species:

U.S. re-export certificate or certificate of origin

C. Exceptions

Although CITES provides exceptions relating to some wildlife or plants listed in CITES Appendices, those species may also be subject to regulation under other U.S. laws. An exception provided under CITES does not necessarily allow activities that are prohibited under other U.S. laws.

CITES permits may not be required under the following circumstances:

Pre-convention specimens: Wildlife or plants held in captivity or a controlled environment prior to listing of the relevant species in a CITES appendix do not require import or export permits. Pre-Con-

vention Certificates are required to prove that a specimen comes within this exception [50 CFR § 23.13(c)].

Captive-bred certificate/certificate for artificially propagated plants: No CITES permit is required if the specimen is accompanied by a Captive-Bred Certificate or Certificate of Artificial Propagation from the country of origin, stating that the wildlife was bred in captivity [50 CFR § 23.13(f)].

Scientific exchange program: Scientific institutions may register with the CITES Secretariat to facilitate importation and exportation of accessioned specimens as non-commercial loans, donations, or exchanges between CITES-registered institutions [50 CFR § 23]. No permit is necessary for these activities, requiring only specific labeling, reporting; a copy of both scientific institutions' Certificate of Scientific Exchange must accompany the specimen. If only one institution has a certificate, then the regular permit process must be followed. The Scientific Exchange Certificate only authorizes activities for specimens maintained in a scientific or museum collection. The certificate is not a collecting permit. Newly collected, unaccessioned specimens of listed species require full CITES documentation and permit issuance. In addition, the Certificate for Scientific Exchange only authorizes activities regulated by CITES. If a species is protected by other laws (e.g., U.S. Endangered Species Act) additional permits and authorizations are required. The USFWS Office of Management Authority can provide information about participating in the Scientific Exchange Program.

In-transit shipments: When a shipment is merely transiting a country, no import or export permits issued by that country are required, as long as the wildlife remains in customs custody. 50 CFR § 23.13(b). This may vary from country to country. For example, specimens listed under the Endangered Species Act generally may not transit the United States.

IV. Marine Mammal Protection Act

16 U.S.C. § 1361 *et seq.*; 50 CFR Part 18 subchapter C

The Marine Mammal Protection Act (MMPA), enacted in 1972, protects all marine mammals, dead or alive, and their parts and products, including, but not limited to, any raw, dressed, or dyed fur or skin. The protected species include whales, walruses, dolphins, seals, sea lions, sea otters, dugongs, manatees, and polar bears. The taking, possession, and transportation of northern fur seals for scientific research and public display is regulated separately under the Fur Seal Act [16 U.S.C. § 1153; 50 CFR Part 215].

A. Prohibitions

The act prohibits the unauthorized taking, possession, sale, purchase, importation, exportation, or transportation of marine mammals and their parts and by-products. The MMPA also authorizes the establishment of moratoria and a quota system for determining how many individuals of a marine mammal species can be taken without harm to those species or population stocks.

B. Permits issued under MMPA

Permits are granted for purposes of scientific research, public display, incidental taking, commercial fishing, and enhancing the survival or recovery of the species or stock. Permit application procedures and issuance criteria are found at 50 CFR § 518.31 and 50 CFR Parts 220-222.

C. Exceptions

Pre-act specimens: The prohibitions of MMPA do not apply in the case of marine mammal specimens or articles consisting of, or composed in whole or in part of, any marine mammal taken on or before Dec. 21, 1972. To establish pre-act status, it is necessary to file an affidavit with the agency responsible for the management of the species in question [50 CFR §§ 18.14, 18.25, 216.14].

Alaskan natives may take marine mammals for subsistence purposes or for purposes of creating and sell-

ing authentic native handcrafts and clothing to be sold in interstate commerce [50 CFR §§ 18.23, 216.23(c)].

Marine mammal parts: Collection of certain dead marine mammal parts by beach collecting may be authorized, provided specific conditions are met. 50 CFR § 216.26.

Salvaging specimen material: Regulations allow the utilization of specimen material salvaged from stranded marine mammals by authorized persons. Such salvaging must be only for the purposes of scientific research or the maintenance of a properly curated, professionally accredited, scientific collection and must be reported to the appropriate regional office of the NMFS [50 CFR § 216.22].

D. Enforcement

By agreement, the MMPA is jointly administered by the USFWS and NMFS with jurisdiction specifically defined to include certain species. USFWS issues CITES permits for marine mammals under the jurisdiction of NMFS.

V. Migratory Bird Treaty Act

16 U.S.C. § 703-712; 50 CFR Parts 13 and 21

The Migratory Bird Treaty Act (MBTA), enacted in 1918, covers any migratory bird, any part, nest, egg, or product made from a migratory bird, part, nest, or egg. The act is administered by the U.S. Fish and Wildlife Service. Protected birds are listed at 50 CFR 10.13.

A. Prohibitions

The act prohibits the taking, possession, import, export, transport, sale, purchase, barter, or offer for sale of any migratory birds, and the nests or eggs of such birds, except as authorized by valid permit [50 CFR § 21.11].

B. Permits Under MBTA

Permits may be issued for banding and marking migratory birds [50 CFR § 21.22].

Permits may be issued to import and export migratory birds [50 CFR § 21.21].

A scientific collecting permit is required before any person may take, transport, or possess migratory birds, their parts, nests, or eggs for scientific research or educational purposes [50 CFR § 21.23].

Permits may be issued for other purposes, such as taxidermy, waterfowl sale and disposal, falconry, raptor propagation, and degradations control [50 CFR §§ 21.24-21.41].

C. Exceptions

Possession or transportation of specimens acquired on or before the effective date of protection of the species under the act does not require a permit [50 CFR § 21.2(a)]. Import, export, barter, purchase, or sale of pre-act specimens is prohibited without a permit.

The MBTA provides a general exception to permit requirements for public museums, public zoological parks, accredited institutions of the American Zoo and Aquarium Association (AZA), and public scientific or educational institutions to acquire by gift or purchase, possess, transport, and dispose of by gift or sale lawfully acquired migratory birds. The specimen must be acquired from or disposed of to a similar institution, federal, or state game authorities, or the holder of a valid possession or disposal permit [50 CFR § 21.12].

The MBTA regulations, except for banding and marking permits, do not apply to the bald eagle or golden eagle [50 CFR § 21.2(b)].

VI. Eagle Protection Act

16 U.S.C. § 668; 50 CFR Part 22

The Eagle Protection Act (EPA) protects bald (*Haliaeetus leucocephalus*) and golden (*Aquila chrysaetos*) eagles, alive or dead, their parts, nests, or eggs. It was first enacted in 1940, and amended in 1962 to include golden eagles. It is administered by the USFWS.

A. Prohibitions

The act prohibits taking, buying, selling, trading, transporting, possessing, importing, or exporting

eagles or their parts, nests, eggs, or products made from them.

B. Permits Under EPA

Permits may be issued for taking, possession, and transportation of bald or golden eagles, their parts, nests, or eggs, for scientific, exhibition, and Indian religious purposes. No permits are allowed for import or export, sale, purchase, or barter of bald or golden eagles. Permit application procedures and issuance criteria are found at 50 CFR Part 22 subpart C.

C. Exceptions

A permit is not required for possession or transportation of bald eagles lawfully acquired before June 8, 1940, or golden eagles lawfully acquired before Oct. 24, 1962. Pre-act specimens, however, may not be imported, exported, purchased, sold, traded, or bartered or offered for purchase, sale, trade, or barter.

VII. African Elephant Conservation Act

16 U.S.C. §§ 4201-4245

In an effort to assist in the conservation and protection of African elephant populations, the United States passed the African Elephant Conservation Act (AECA) in 1988. This act works in conjunction with the CITES Ivory Control System to protect the African elephant and eliminate any trade in illegal ivory. Currently, the African elephant is listed in Appendix I of CITES and as such any import or export for other than commercial purposes must be accompanied by valid CITES documents.

A. Prohibitions

The act prohibits:

The import of raw African elephant ivory from any country other than an ivory-producing country (any African country within which is located any part of the range of a population of African elephants)

The export from the United States of raw ivory from African elephants

The import of raw or worked ivory from African elephants that was exported from an ivory-producing country in violation of that country's laws or the CITES Ivory Control System

The import of worked ivory from any country unless that country has certified that such ivory was derived from a legal source

The import of raw or worked ivory from a country in which a moratorium is in effect

B. Exceptions

Worked ivory may be imported for non-commercial purposes, if the item was acquired prior to the date CITES applied to African elephants (Feb. 4, 1977) and is accompanied by a valid pre-CITES certificate.

Articles more than 100 years old may be imported or exported for non-commercial and commercial purposes under a pre-CITES certificate, provided they have not been repaired or modified with elephant ivory on or after Feb. 4, 1977. Proof of antiquity must be provided.

VIII. Wild Bird Conservation Act

16 U.S.C. § 4901; 50 CFR Part 15

The Wild Bird Conservation Act was enacted in 1992 to limit or prohibit the importation of exotic birds to ensure that their populations are not harmed by trade. The act assists wild bird conservation and management in the countries of origin by ensuring that trade in species is biologically sustainable and is not detrimental to the species. The WBCA is administered by the USFWS.

A. Prohibitions under WBCA

The act prohibits the importation of any exotic bird in violation of any prohibition, suspension, or quota on importation and the importation of any exotic bird listed in a CITES appendix that is not part of an approved list, if the bird was not bred at a qualified facility. The WBCA authorizes the establishment of moratoria or quotas for import of certain exotic birds.

B. Permits issued under WBCA

Permits to import protected species may be issued if the importation is not detrimental to the survival of the species, and is for scientific research, zoological breeding or display, or cooperative breeding programs designed to promote the conservation and maintenance of the species in the wild. Permit application procedures and issuance criteria are found at 50 CFR Part 15 subpart C.

SUMMARY OF LAWS

APPLICABLE TO INJURIOUS SPECIES AND PROTECTION OF LIVE ANIMALS

The laws discussed above are generally intended to promote the conservation of wildlife and plant species. Activities of museums, and especially zoos and aquaria, may also be affected by laws designed to protect against potential damage caused by injurious species or to protect live animals. These laws can be quite complex and are discussed very briefly here. Institutions that conduct activities with live animals or potentially injurious species should become familiar with these laws.

I. Lacey Act

18 U.S.C. § 42; 16 U.S.C. § 1378(d); 50 CFR Parts 14 and 16

A. Injurious Wildlife

The Lacey Act, other aspects of which are discussed above, prohibits the importation, transportation, or acquisition, without a permit, of any wildlife (or their eggs) designated as injurious to the health and welfare of humans; to the interests of forestry, agriculture, or horticulture; or to the welfare and survival of wildlife resources of the U.S [18 U.S.C. § 42]. The species listed as injurious wildlife are found at 50 CFR Part 16, subpart B. Permits are available for importation of such injurious wildlife for zoological, educational, medical, or scientific purposes. The permit requirements do not apply to the importation or transportation of dead scientific specimens for museum or scientific collection purposes [50 CFR § 16.33].

B. Humane and Healthful Treatment of Live Animals

The Lacey Act also prohibits the transport of wild mammals or birds to the U.S. under inhumane or unhealthy conditions [16 U.S.C. § 1378(d)]. Detailed rules for humane and healthful transport required under the Lacey Act are set forth at 50 CFR Part 14, subpart J.

II. Animal Welfare Act

7 U.S.C. § 2131; 9 CFR Parts 1-4

The Animal Welfare Act (AWA) was enacted in 1966 to regulate warm-blooded animals used for research, exhibition purposes, or as pets, ensuring that they are provided with humane care and treatment. The AWA regulates aspects of transportation, purchase, sale, housing, care, handling, and treatment. Regulations provide for the licensing or registration of animal dealers, exhibitors, operators of animal auctions, research facilities, carriers, and intermediate handlers. The Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture is the agency responsible for administering the act.

III. Public Health Service Act

42 U.S.C. §§ 216, 264-272; 42 CFR Parts 71-72; 21 CFR Parts 1240 and 1250

The Public Health Service Act (PHSA) was enacted in 1944. One of the purposes of the act is to prevent the introduction, transmission, or spread of communicable diseases from foreign countries to the United States or between states. It authorizes the surgeon general to promulgate regulations necessary to carry out this purpose. Under this authority, restrictions on importation and movement of turtles, rodents, bats, psittacine birds, and non-human primates have been implemented. Permits may be issued to engage in regulated activities for exhibition, educational, or scientific purposes. The Center for Disease Control (CDC) in Atlanta, Ga., is responsible for implementing the act.

IV. APHIS Authorization Act/Animal Quarantine Regulations

21 U.S.C. §§ 101-136; 9 CFR Parts 75, 82, 92, 93-94, 98, 130

The Animal and Plant Health Inspection Service (APHIS) Authorization Act provides authority to protect the U.S. livestock, poultry, and agricultural industries against infectious or contagious diseases. The act regulates the importation and exportation of certain animals and animal products into the U.S. that are or have been affected with or exposed to any communicable disease. Permits may be issued to import or export covered species and may impose quarantine requirements and other protective measures. The Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the act.

As these regulations are extremely detailed, it is important to refer to the specific sections of the regulations applicable to the species or products with which you are concerned. Permit applications and inquiries should be submitted to the APHIS Office of Import/Export.

CITES & INTERNATIONAL SHIPPING OF ART

At first glance, one might consider an art museum an unlikely place for U.S. Fish and Wildlife problems to occur. With the possible exception of ivory, many materials requiring special consideration when importing or exporting works of art might be overlooked by even a conscientious museum staff member. For example, a silver dagger with a skin-covered handle, a tortoise-shell hair ornament, or a hat adorned with colorful feathers could present potential problems if imported from a foreign country without proper documentation.

As in other endangered species situations, the time to begin asking questions is at the very beginning of any transaction involving importation or exportation. Since the export documents must originate with the foreign country, sometimes it is necessary to alert the appropriate museum officials

to the need to begin the application process. In the case of one exhibition coming to the Smithsonian's National Museum of African Art from Europe, it was necessary to go through the exhibition catalog and identify potential problems based on materials listed by each entry. A list of "problem objects" was then provided to the organizing institution, which initiated the paperwork while the exhibition was still on its premises. Many questions arose about the types of materials involved, requiring correspondence with lenders, curators, and CITES officials. When the time came to ship the exhibition to the United States, the requisite documents had been obtained and the importation proceeded smoothly.

Not so fortunate was the purchaser of a 1920s Érard piano in Paris. A concert pianist, the new owner arranged for air shipment of the instrument back to the United States, only to have it seized by U.S. Customs agents upon its arrival because it did not meet the requirements for exemption under the African Elephant Conservation Act. In spite of the owner's protests, the ivory was eventually stripped from the keys, a sad event for all concerned.

What other types of materials could be subject to CITES enforcement? For works of African art, the most common are skin and fur products, feathers, claws of mammals or raptors, primate parts (hands, feet, tails), tortoise shell, and other types of shells. Coral, which is often used in Asian works of art such as inlaid boxes and writing instruments, is another potential problem, as is rhinoceros horn, which is used in Chinese drinking vessels as well as in ceremonial dagger handles made in Yemen. Certain types of hardwood such as mahogany and rosewood could also require CITES permits.

After identification of potential problem materials, the next step is to determine specific identification, including both the common name and the scientific name of each material. This step can be very straightforward or may require consulting an expert or scientist. In one instance of a Kongo *nkisi* containing unidentified feathers, the assistance of a well-known British specialist was

needed to determine that the feathers in question were from a domestic fowl and, therefore, were not subject to CITES. In a similar situation, the crowned eagle feathers adorning a mask from the Democratic Republic of the Congo were easily identified as *Stephanoatus coronatus* by the foreign lending institution, which then applied for the required permit. If only the common name is known, one may consult the CITES Appendices for the scientific name.

Perhaps the most critical information in deciding whether one needs an export/import permit or a pre-convention certificate is the date when the object was made or collected. For many African works, the date of manufacture is unknown, although it may sometimes be assumed to date from the period of Western colonization. One solution to the dating problem is to request an examination of the lending institution's accession records. If the object has been recorded as being in the collections of a museum before 1973, then one can be assured that it is pre-convention. However, U.S. Fish and Wildlife may still require an "Expert's Affidavit." To qualify as an expert, the individual must be over 21 years of age, state his or her years of experience in the field, and swear before a witness that he or she has carefully examined the object(s) in question. The witness may be another museum staff member; the affidavit does not have to be notarized. A description of each object, including an approximate date of manufacture, must accompany the affidavit, e.g.,

Anthropomorphic face mask. Wood, pigment, animal hide, and hair (monkey, *Colobus abyssinicus uelensis*), Democratic Republic of the Congo, probably 20th century (collected between 1952-1956).

An exhibition date, if it is documented, or a publication date may also be used to prove pre-convention eligibility. Authenticating documentation must accompany the shipment. A statement by the affiant, such as the following, must also be included [50 CFR 17.4]:

To the best of my knowledge and belief, the

aforementioned objects were created before 1973 and have not been repaired or modified with any part of an endangered species on or after Dec. 28, 1973 [50 CFR 14.22]. They are therefore pre-convention and are exempt under the Endangered Species Act of 1973 [15 U.S.C. 1531-1543].

Another type of exemption that may be useful for shipping purposes is the "Exception to Designated Port." Such an exception may be made for a single shipment or for a series of shipments over a specified period of time. Unless there are special circumstances precluding their use, all wild-life shipments must enter and leave the United States through a designated customs port. Availability of direct flights, loan requirements of institutional lenders, the need for continuous supervision by museum professionals to prevent deterioration or loss, or undue economic hardship all may be grounds for an "Exception to Designated Port." In case of economic hardship, the applicant must provide a cost comparison for inland freight, customs clearance, bonding, trucking, associated fees, etc., between the designated port and the non-designated port. An exception may also be granted for scientific purposes, although this factor would not be applicable in an art museum.

In addition to federal endangered species law, some states have more restrictive laws. To determine whether a particular state has endangered species law(s), one should check with the appropriate state conservation agency prior to the transaction.

In summary, one must anticipate CITES issues well in advance of international shipping in order to allow sufficient time for research and obtaining the necessary permits. The advice of experts, including CITES officials in both exporting and importing countries, can be invaluable in preparing complete documentation. Determining the date of manufacture is of primary importance. Finally, one should consider obtaining a waiver of port, if

advantageous, and make sure all endangered species laws, both state and federal, have been reviewed for compliance.

NOTES

1. Lacey Act provisions requiring humane treatment of live animals and protection against injurious species are discussed separately.