LAW OF OWNERSHIP AND CONTROL OF METEORITES. D. G. Schmitt, McEwen, Schmitt & Co. Barristers and Solicitors, 1615 – 1055 W. Georgia St., Vancouver, B.C., Canada, V6E3R5, email: dgs@marinelawcanada.com

Introduction: Increased public awareness and commerce in meteorites raises questions about their ownership and control. This paper reviews the law in several countries, international law, and considers laws to bring finds to the research community quickly and not divert them to a black market. A survey was made of scientists involved in meteorite acquisition in over 20 countries, to determine how well various systems work.

Ownership is determined by the law of the place of the find. Legal regimes range from a free market, to deemed state ownership with no compensation to finders. A free market gives an incentive to searchers but allows ownership by private collectors who do not curate specimens scientifically. Confiscatory laws tempt searchers to conceal or sell finds illegally, or misrepresent strewn field data. Scientists expressed diverging views on an ideal system.

Historical Background: Meteorite ownership law is non-uniform. English common law, from which the law in former British colonies including the United States evolved, provides that meteorites are the landowner's property; buried meteorites might be part of the mineral rights. Find reporting is not mandatory. Most Western European countries, and former colonies, have civil codes providing that meteorites are owned by the landowner. Traditional legal systems with unique rules exist, such as the Islamic Sharia. In many countries legislation aimed at preserving archeological treasures modifies earlier meteorite law.

Federal nations may have different laws in each state. Lawyers qualified in the find jurisdiction should be consulted for ownership opinions.

Selected Examples:

Argentina. The Chaco Province constitution declares meteorites provincial property, imposing a duty to protect them.

Australia Some state legislation vests ownership in state museums, prohibits find movement except delivery to museums, and allows refunds of finder's expenses.

Canada. Meteorites are the property of the landowner and can be sold. Under the Cultural Property Export and Import Act a Canadian find cannot be exported without a permit from a federal Board which may impose a six-month delay of permanent export during which a Canadian institution may purchase it for a "fair" price, failing which export is allowed. Temporary export permits are granted forthwith.

Denmark. Finds are state property, and must be surrendered to a museum, which pays market value.

India. Meteorites are deemed owned by the Geological Survey of India, without compensation.

Japan. The finder is the owner under the civil code.

Switzerland. Finds are owned by the state but the finder is paid compensation not higher than the object's value.

United States of America. A find is owned by the landowner. A find on federal government property is owned by the Department of the Interior but may be acquired by the Smithsonian Institution.

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property: This Convention, ratified by over 90 states, provides for tracking and retrieving from reciprocating states, cultural property including meteorites. Ratifying states may create a permitting agency like Canada's.

Antarctic Meteorites: The Antarctic Treaty indefinitely defers national territorial claims and encourages cooperative scientific exploration. Article III (B) states, "scientific observations and results from Antarctica shall be exchanged and made freely available". The Treaty does not deal with samples exported. Meteorites are recovered only by government-sponsored expeditions, and curated by NASA in the United States, the National Institute of Polar Research in Japan, and by EUROMET. Applications for U.S. curated samples are reviewed by the Meteorite Working Group.

Conclusions: Meteorite ownership law varies widely. Generally survey respondents reported cooperation from finders, to whom some compensation was paid whether required or not; however there were incidents of important meteorites, or find data, being lost to science. The best system for each country depends on the relationship between each government and its citizens. Governments should be urged to enact workable laws appropriate to their jurisdiction to (1) encourage collection by providing reasonable incentives to finders, with mandatory find reporting, (2) create efficient export permitting systems allowing exchange of research samples, and (3) retrieve illegally exported meteorites under the UNESCO Convention.

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