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OVERSIGHT HEARINGS ON CITES MEETINGS

OVERSIGHT HEARINGS

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

The Upcoming CITES Meeting; The Results of Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES]

JUNE 3 AND JULY 17, 1997—WASHINGTON, DC

Serial No. 105–29

Printed for the use of the Committee on Resources

U.S. GOVERNMENT PRINTING OFFICE
44–107CC ⇆ WASHINGTON : 1997

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OVERSIGHT HEARING OF THE UPCOMING CITES MEETING

TUESDAY, JUNE 3, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES, *Washington, DC.*

The subcommittee met, pursuant to notice, at 2 p.m. in room 1334, Longworth House Office Building, Hon. Jim Saxton (Chairman of the Subcommittee) presiding.

STATEMENT OF THE HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY; AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

Mr. SAXTON. Good afternoon. The purpose of today's hearing is to discuss the proposed U.S. negotiating positions on agenda items and resolutions for the tenth regular meeting of the parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, commonly known as CITES. The convention this year will be held from June 9th through the 22nd in Zimbabwe.

By way of background, CITES entered into force on July 1, 1975. Currently 136 countries, including the United States, are parties to the convention. CITES is the only global treaty whose focus is the protection of plant and animal species from unregulated international trade.

I look forward to hearing from our witnesses about how the United States develops its positions on proposal for negotiations with CITES; what interagency review is necessary for these proposals; and what role Congress plays in developing these proposals or positions.

[The prepared statement of Mr. Saxton follows:]

STATEMENT OF HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

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[The information referred to follows:]

Mr. SAXTON. Before we go to our first witness, I would like to turn to our fine Ranking Member from the State of Hawaii.

STATEMENT OF THE HON. NEIL ABERCROMBIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Mr. ABERCROMBIE. Thank you, Mr. Chairman. I would like to submit a statement for the record so that you can move the hearing along, and I would like to move that we have any statements for the record that may be submitted to the Committee be entered appropriately.

Mr. SAXTON. Without objection.

Mr. SAXTON. We have one request that I am aware of: Mr. Jones, from North Carolina.

STATEMENT OF THE HON. WALTER B. JONES, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. JONES. Yes, sir, Mr. Chairman, I would ask unanimous consent that a statement by Congressman Charles Taylor be submitted for the record, please.

Mr. SAXTON. Without objection.

[The prepared statement of Mr. Taylor follows:]

STATEMENT OF HON. CHARLES H. TAYLOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I want to thank the Committee for this opportunity to provide my thoughts on the upcoming meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As you are aware, the Clinton Administration has petitioned CITES to list the commercially valuable *S. macrophylla* (Big-Leaf Mahogany) as potentially endangered under Appendix II of the treaty. My interest and experience in this area is two-fold. As you may be aware, I am the only registered forester in Congress, and it is important to me that the policy of the United States on timber issues be informed by sound science and proven principles of forest management.

My concern in this area also derives from the importance of wood products to the economy of North Carolina and the nation. Mahogany has always been prized by consumers for its beauty, functionality, and weather resistance. The production of furniture, decking, and decorative arts represent the highest valued uses of this resource. This translates into good jobs in North Carolina, Virginia, Kentucky, Pennsylvania, Michigan, New York, Indiana, and many other U.S. states—as well as in range states such as Brazil and Bolivia where economic opportunities are not as abundant. By lending economic value to the forest ecosystems in that region, Mahogany production provides incentives to keep these ecosystems intact. Clearly, all of us should be striving for a sustainable utilization of the Mahogany resources with which this hemisphere has been generously endowed.

I have a number of concerns with the proposal to list Big-Leaf Mahogany under CITES Appendix II, and the leading role of the U.S. delegation in that effort. Most fundamentally, the weight of scientific evidence does not show the species in decline. Unfortunately, for some time now the debate over Mahogany has been guided more by emotion and ideology than facts. Based on what has been presented in the media and by advocacy groups, many Americans would be surprised to learn that the range of Mahogany is very large, extending from Mexico to Bolivia. Jack Ward Thomas, who until recently headed the U.S. Forest Service, concluded after a comprehensive review of the evidence that Big-Leaf Mahogany is abundant, with an extensive range, and not threatened with extinction.

In all parts of the range, the tree occurs in relatively small quantities in comparison to the total standing timber in the forest, a growth pattern characteristic of many of the species in Latin America. This creates opportunities for selective harvesting in which the majority of trees in a forest are left healthy and standing. Range states are increasingly relying upon such practices, and many U.S. importers

of Mahogany insist on shipments from properly managed forests. South American governments are also more aggressively combating illegal clearing, tightening allowable harvests, and repealing tax incentives that had contributed to deforestation. Brazil recently suspended logging permits for two years, and my understanding is that Peru is in the process of implementing a similar restriction.

These facts are acknowledged by the U.S. Forest Service—the recognized tree experts in the U.S. Government. The Forest Service's leading Mahogany expert, Dr. Ariel Lugo has published a detailed critique of the Appendix II listing proposal, and concluded that it is a "poor proposal and a bad example of how science is used by the U.S. Government to guide the management of natural resources." Dr. Lugo notes more specifically that the

> . . . proposal does not measure up to the standards of science and fairness required to solve complex and contentious issues, does not reflect the current understanding of the ecology and biology of Big-Leaf Mahogany, it is strongly biased, contains inaccurate statements, and ignores available information that would provide decision-makers with a more accurate understanding of the Mahogany issue. For this reason, the proposal is not a useful policy-making document and should be abandoned.

In November 20, 1996 comments to the U.S. Fish and Wildlife Service (USFWS), then Chief of the U.S. Forest Service Jack Ward Thomas reached the same conclusions, noting succinctly that "none of the criteria for listing a species on Appendix II are met."

Unfortunately, it appears that the Administration has neglected the informed input of its own experts in favor of a more political approach. The process of formulating a U.S. position has been characterized by haste and the exclusion of divergent views. The USFWS participated in three different gatherings of forestry, timber-trade, and plant and Mahogany experts this fall, but engaged in no substantial discussions of the Mahogany proposal. During these meetings, USFWS had an excellent opportunity to inform the groups that an Appendix II listing proposal for Mahogany was being considered, and to solicit their expertise. This was not done, resulting in a foregone opportunity for informed input and discussion.

Even the scheduling of CITES action on Mahogany appears to reflect political dynamics more than sound fact gathering. Acting on the proposal in June would moot the efforts of the specially-formed CITES Timber Working Group (TWO) which has completed its work and has submitted its report and recommendations to the CITES Standing Committee. It is premature to forward a listing proposal until this group's report and recommendations are received and considered by the Conference of Parties in Zimbabwe in June.

The listing proposal is also premature with respect to the report of an internal study on the Convention's effectiveness which was commissioned by the CITES Standing Committee. The results of this study also will be presented in June. The consultants found (among other things) that certain governments and advocacy groups are disproportionately represented in the work of CITES, and that CITES pays a disproportionate amount of time and effort dealing with the issues surrounding a relatively small number of popular species, such as mahogany.

I am also concerned with the characteristic positions of the range states on restricting trade in mahogany. USFWS claims that the majority of the range states support the listing of *S. macrophylla.* It is notable that only one nation (Costa Rica) has placed unilateral restrictions on mahogany exports. This is explicitly allowed under Appendix III of CITES. Additionally, it has been reported that only Ecuador expressed support for the Appendix II proposal during the USFWS consultation process, and that Peru and Brazil have registered their strong opposition. The whole CITES proves on mahogany reflects an all too familiar pattern of northern hemisphere advocacy groups dictating resource policy to their southern neighbors.

The handling of the listing petition for Big-Leaf Mahogany could set an unfortunate precedent. The recently revised listing criteria for CITES are being interpreted by advocacy groups very broadly and in a fashion which would allow almost any commercial tree species to have a CITES Appendix I or II listing. There is a widely-held belief that CITES is not a suitable forum for the regulation of widely traded tree species. CITES was never intended for this purpose. If S. macrophylla is listed on Appendix II, we expect that many additional species will soon be proposed for listing as well.

Many other species are prime candidates for listing proposals at subsequent CITES meetings. We call attention to the report of the first phase of a study commissioned by the Netherlands CITES Authorities and conducted by the World Conservation Monitoring Center (WCMC) that evaluated numerous timber species vis-a-vis the new listing criteria adopted in Fort Lauderdale. Phase one of the study examined 58 species, primarily from Africa and Asia. Of the 58, **41 species** overall

(29 from Africa alone) were found to qualify for listing in either Appendix I (*a complete BAN on trade*) or Appendix II (trade allowed but heavily regulated).

Proponents of listing have argued that Appendix II listing is not equivalent to an export ban. However, Appendix II listing would require certification of Mahogany exports as obtained from sustainable forests, and require routing of shipments through CITES-approved ports. This could create additional bureaucratic and logistical burdens, as well as opportunities for corruption in the allocation of permits.

Finally, it is highly questionable that trade restrictions will improve the protection of Mahogany forests, and in fact, they could have the opposite effect. History has shown that people in developing nations will not resign themselves to economic stagnation, but will choose between competing development options. In fact, it is generally recognized that the greatest threat to tropical ecosystems is clearing and burning related to housing, ranching and agriculture. By providing an economic incentive to maintain hardwood forests, responsible timber production forestalls less attractive development options. As Dr. Thomas Lovejoy of the Smithsonian Institution has said, "the key component in preserving and maintaining the tropical forests is to ensure these resources maintain their economic value."

It is for these reasons that I draw the Committee's attention to the Mahogany listing proposal. Appendix II listing by CITES would directly impact the future of the U.S. furniture workers and other American industries that rely on this resource to meet consumers' preferences. Also at stake are the emerging economies of South American nations, with whom the United States hopes to build stronger trading relations in coming years.

I encourage the Administration to reconsider their support for this proposal and to withdraw it from consideration at the upcoming CITES Conference of Parties in Zimbabwe.

[The prepared statement of Mr. Young follows:]

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. Chairman, this is a timely hearing since the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will convene in Harare, Zimbabwe next week. This is the tenth time that this organization has met to discuss various international trade issues.

As our lead CITES agency, the U.S. Fish and Wildlife Service is required to notify the public of proposals that both our government and others will introduce at the Convention. This notification occurs through the Federal Register and allows interested parties to comment on each of the proposals and to recommend how the U.S. should vote on these resolutions. This process is very important because it keeps the Service from making its decisions in a vacuum without the benefit of public input.

During the past several months, I have met with individuals from the U.S. and from other countries regarding different agenda items for this upcoming CITES Convention and found their comments to be informative. In fact, several individuals have suggested that the U.S. delegation and its positions, seem, at times, to be out-of-sync with the views of the American public, specifically on the issue of protectionism versus sustainable use.

Now I realize CITES was established to protect species from becoming extinct due to poaching and the illegal trade of its products. Nevertheless, we must keep in mind that for many species listed there is, in all likelihood, a group of stakeholders who depend on the proper utilization of that resource. We must not forget these people as we strive to protect the species. If we try to force conservation practices without getting input and cooperation from the people dependent on the species, we will not succeed.

We must also rely on science and not philosophy or emotions when it comes time to list or delist animals. I have noticed that some species, specifically the African elephant, had all of its populations listed in Appendix I even though some of the populations in Southern Africa did not meet the listing criteria. This was done with the understanding that a CITES Panel of Experts would review specific populations and management efforts and make recommendation on whether to downlist certain populations. We must not punish those countries who are doing a superb job of conservation.

Botswana, Namibia and Zimbabwe have proposals to downlist their elephant populations and this has become controversial. The Panel of Experts has reviewed the populations and has recommended the populations be downlisted. The 1997 Panel

of Experts report stated that these three populations meet the criteria for downlisting to Appendix II. However, the Panel did note that both Zimbabwe and Japan needed to improve their trade controls for better identification of illegally obtained ivory. If Zimbabwe and Japan need to improve their trade controls they should take the appropriate actions to correct any flaws in their respective systems.

However, and I must stress, the U.S. should not support positions or proposals that require additional measures to be met after science has supported a downlisting. CITES should be used to help rebuild a species, it should not be used to permanently prohibit trading of a species if it can be done sustainably.

I hope the Service will keep this in mind when they are over in Harare, Zimbabwe. Thank you, Mr. Chairman and I would like included in the record a copy of a letter I wrote with Congressman Richard Pombo to Chairman Livingston on the CAMPFIRE Program, a letter from several Ambassadors from Southern Africa to Secretary Babbitt and the Panel of Experts Report on the downlisting of the African Elephant.

[The prepared statement of Mr. Coble may be found at end of hearing.]

Mr. SAXTON. We will now move to our first and obviously very important witness because he is our only witness, Don Barry, Acting Assistant Secretary of Fish and Wildlife and Parks of our Department of Interior. I understand that Mr. Barry will be leaving very soon for the convention in Zimbabwe.

And so, Don, you may proceed.

STATEMENT OF DONALD J. BARRY, ACTING ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY WILLIAM FOX, NATIONAL MARINE FISHERIES SERVICE, U.S. DEPARTMENT OF COMMERCE; MARSHALL HOWE, U.S. FISH AND WILDLIFE SERVICE, U.S. DEPARTMENT OF THE INTERIOR; AND SUSAN LIEBERMAN, U.S. FISH AND WILDLIFE SERVICE, U.S DEPARTMENT OF THE INTERIOR

Mr. BARRY. Thank you very much, Mr. Chairman. I would like to ask that my written statement be placed in the record as if read, and I would just like to make some personal comments and remarks about the CITES conference coming up, and CITES in general.

I have been involved the last 21 years in matters involving the endangered species convention. I attended the very first CITES meeting in 1976 in Switzerland, and this will be the eighth conference of parties I have attended. I will be the head of the American delegation so this is a convention that I have more than a passing interest in.

I would like to offer my own personal perspective on CITES and what I have observed in the past 21 years since the convention first came into effect. I believe that CITES is critically important. One of the statistics that I found impressive a couple of days ago was that the level of illegal trade in wildlife in the world is staggering, and this present illegal trade in wildlife accounts for the third largest volume of illegal trafficking, second only to guns and drugs. So the costs and the amount of revenue and moneys involved in illegal trafficking is staggering, and I think CITES is a critically important vehicle for trying to regulate the volume of illegal trade and trying to keep commercial trade sustainable for all of the species involved.

I believe that CITES has had a demonstrable and very positive effect on the conservation needs of endangered species like spotted

cats, crocodiles, and so on. There are a number of people who question the effectiveness of CITES, but I think if you look at the overall record over the past 21 years, you would have to conclude that it has had an important positive effect in both highlighting the importance of sustainable trade in wildlife, and also imposing restrictions when necessary to protect highly endangered species of wildlife which are currently threatened by trade.

I think one of the things that I personally have come to appreciate the most about CITES is that the process is very democratic and very open, and I particularly like the way the United States approaches the preparation of its positions for CITES meetings. The U.S. Fish and Wildlife Service, which is responsible for the implementation of CITES, begins a series of public hearings and public notices that stretch well over a year. There are a series of **Federal Register** notices. There are monthly meetings. We go probably to a greater extent with the CITES conference in developing the U.S. position than any other treaty I can think of, and our process continues even up through the conference itself.

One of things I have always liked the best about the CITES conference is that the American delegation meets every evening with all the American NGO's, whether they agree with us or not. We meet to explain our positions, talk about our strategies and get input. I can't think of another convention that is that open to American citizens that are over at one of the conferences and provide them an opportunity to tell us what we should be thinking, and to explain to them why we are voting the way we are, and to get input to influence our decisions at the conference.

Things at the CITES conference are very fluid, so even when we may start with an initial position, when we get over there, we try to listen to the other delegations, and our positions will change based on what you learn. The process we have established of meeting every evening with the American NGO's regardless of their views has been one of the hallmarks of CITES conference at least with regards to the way the American government has approached it.

Now, having said that I think that CITES has been historically very effective, I have to tell you I see various challenges in front of it. First of all, I think there are increasingly demanding expectations on CITES. It has become a very complex treaty, and for many countries it has become difficult for them to implement. That puts a burden on countries like the U.S. for continuing to assist with training. I think one of the things I have found the most troubling has been the increasing polarization of the debate about CITES. Things and positions and issues are increasingly determined in shades of black and white. The regulation of trade is either all good or all evil, and much less meaningful debate and analysis seems to be taking place at the conferences, and that is a tragedy.

I think another thing I have noticed is that increasingly there is an erosion of the civility of the debate. People increasingly have a tendency to view participants at CITES as either saints or sinners, and you are either totally good or totally bad, and the viewpoints of your opponents are fairly bankrupt. You are left with the impression that if you don't agree with me, you are either incompetent, corrupt, or an ignoramus.

And I think one of the tragedies is as we have developed our positions, our ability to listen to and work with each other seems to have eroded, and I would like to suggest that one of things I will try to accomplish at this coming conference is to be able to have a debate with people we may disagree with, but to be able to do it in a nondisagreeable way. And I think it is important for us all to try to not lose sight of the fact that all of our overall goals are the same, we just may reach different conclusions. And I would hope that at the conference and at this hearing, and as we continue our debate and discussions on CITES, we can continue to look for ways where we can emphasize our areas of disagreement, and when we disagree with people, we do it in a nondisagreeable way.

That concludes the sort of general remarks I would like to make. I would like to ask your permission at this point to have a couple of members of our staff who are sort of the technical experts on individual issues come up to accompany me at the table in case you would have specific questions regarding particular species, in particular Marshall Howe, Sue Lieberman and Bill Fox. The first two people are in the U.S. Fish and Wildlife Service, and Bill Fox is with the National Marine Fisheries Service.

[The prepared statement of Mr. Barry may be found at end of hearing.]

Mr. SAXTON. That would be great. At the same time I would like to ask unanimous consent that Rich Pombo be able to sit on the dais and ask questions.

Without objection. Please come forward.

Mr. Barry, I would like to talk for just a minute about the Asian elephant, so I am glad you had your folks join you. Tomorrow at 10:30 a.m., Mr. Abercrombie and I are hosting an event in front of the Main Capitol, which will include as its main attraction an Asian elephant, and we are doing so to announce the introduction of a bill which will create a program much like the African Elephant Conservation Act, where our government, pursuant to this bill, would make available $5 million to be used over 5 years to promote conservation efforts that have to do directly with the Asian elephant.

Can you or one or two of your associates comment on the effect that this would have in terms of coordinating with CITES? I understand the Asian elephant is listed under Appendix I, which is, I believe, the most seriously endangered species, and I am just curious to know if you endorse this concept and how it might work in conjunction with the convention and the general concept embraced by CITES.

Mr. BARRY. Let me first mention that we, of course, don't have an official bill that we would be asked to review at this point, so I would not have any formal, official comment from the administration. I think it is safe to say that the Asian elephant is even more critically endangered than the African elephant. We are very concerned by the adequacy of conservation measures for the Asian elephant.

As a general matter, efforts to promote the conservation of the Asian elephant and to assist its conservation would have to be viewed as a positive, good thing, and I certainly wouldn't see anything inconsistent with the goals of CITES if alternative means of

providing additional assistance for Asian elephant conservation would be provided. We would have to wait until the bill were introduced before we would have an official position on that matter.

Mr. SAXTON. I appreciate that. What is the role of the convention, and how are decisions or recommendations that are arrived at by the convention put into force in the countries that are parties to CITES?

Mr. BARRY. The Conference of the Parties takes place about every 2 years. The various different parties have an opportunity to offer suggested changes to the appendices. You can add species to the list, take species off the list. You also have an opportunity to offer resolutions interpreting the convention. And you will end up during the conference itself having these two different activities undertaken simultaneously, debates on species status and debates on interpretations of the convention.

Once the convention or the Conference of the Parties is over, the parties will then have 90 days in which to file a reservation if we disagree with one of the activities taken with regards to a particular species. They will have an opportunity to go back to their countries, ideally to begin the implementation of the resolutions that have been adopted.

One of things that is interesting about the CITES conference is the vast majority of resolutions that are adopted interpreting the convention are done by consensus. There is a very high premium on being able to work things out at the convention, so frequently working groups are set up. If somebody starts out with a proposal, somebody disagrees, they frequently set up working groups to go off and work their differences out. You rarely have votes to see what the final nose count is, and there is an emphasis on trying to reach a consensus so the resolution would be implemented.

Each country is tasked then with the responsibility of beginning to apply the requirements of the convention for species which may have been added to the list. They are expected to try their best to begin to implement any of the new resolutions which may have been adopted, and through this manner you will move forward and continue the implementation process of the convention until the next Conference of the Parties.

So there is this continual process of trying to reform, refine, make the convention more efficient, to review the way that it is working. There was just recently a major study conducted on the role of the convention and the future of the convention, in which all of the parties had a chance to testify on it and submit comments. So there is a continual process of looking for ways to make the convention better.

Mr. SAXTON. How would you characterize the activities of the 136 member countries in terms of on a scale of 1 to 10, 10 being the most cooperative and the most compliant, and 1 being the least? Do we get a lot of compliance with regard to the member countries or a little on a scale of 1 to 10?

Mr. BARRY. I am going to suggest that Sue Lieberman answer that because she works in the Wildlife Permit Office and deals with other countries on a more day-to-day basis.

Ms. LIEBERMAN. Thank you.

In reality there are many countries I would give a 10 to, but unfortunately there are countries we would give a 1 or 0 to. Many countries do not even have effective CITES implementing legislation. In many countries, that is due to a lack of infrastructure or lack of resources. In other countries it is unfortunately due to a lack of will or lack of interest. So there is a broad spectrum.

We have done a great deal of CITES training since the last conference, and we hope to be doing that as well, both compliance and enforcement training. So there is a lot of improvement that is needed.

Mr. SAXTON. And is there anything that our country can do to increase the levels of compliance by those who are not—that you referred to as 0s or 1s?

Ms. LIEBERMAN. Well, there is a lot that can be done. We are working with some countries, but there are other countries that we are looking at whether or not we should be accepting shipments from those countries. We have bilateral discussions with some countries which have resulted in improvements.

Mr. SAXTON. Shipments being commerce, trade?

Ms. LIEBERMAN. Exactly. Wildlife shipments, plant shipments. We are also working with the Agency for International Development Partnership for Biodiversity in funding some training programs, bringing some enforcement agents next February from throughout Asia to improve our wildlife CITES law enforcement in a number of countries. So there is a lot to be done, and sometimes it is the heavy hand and sometimes the light hand of training.

Mr. BARRY. Let me say something along those lines. The United States probably has the most sophisticated wildlife conservation programs in the world. We certainly have the most resources we can apply. We think it is our obligation to try to help other countries where we can; and to the extent you have a country which is trying very hard to improve its infrastructure to train people, where we have the resources, we would like to help them wherever we can.

Mr. SAXTON. Thank you very much.

Mr. Abercrombie.

Mr. ABERCROMBIE. Thank you very much, Mr. Chairman.

Ms. Lieberman, I am going to work backward a little bit, back to Mr. Barry. When you talk about improvement is needed, what precisely can we do, and can you comment on that in the context of China? What is the current situation with regard to either importing or exporting of illegal—in illegal trade or unwise trade under the criteria established by CITES?

Ms. LIEBERMAN. In fact, there has been significant improvement of late in China. The administration certified China under the Pelly amendment for undermining CITES just a few years ago. But there have been significant improvements in China. A delegation from Fish and Wildlife Service provided CITES implementation and enforcement training in China just last October. China has established regional CITES management authorities and has made a much stronger commitment to training.

There is a lot of work to be done. A delegation from China under our U.S. PRC Nature Conservation Protocol will be visiting here in October for CITES training, visiting our port in Los Angeles, and

we will be sending a delegation from our forensics laboratory in Oregon to China next April. We think the government in Beijing is committed to making improvements, but there is more work needed to make that a reality.

Mr. ABERCROMBIE. Well, that is a nice statement, but I would like to know what the situation is. What constitutes "significant improvement"? Exchange of delegations doesn't mean much to me.

Ms. LIEBERMAN. China is beginning to make wildlife seizures. They have passed and adopted new CITES legislation that actually creates penalties, significant penalties and fines for noncompliance with CITES. They are beginning to make some enforcement cases, and our agents are working with their agents. They are participating with Interpol in making some seizures, actual seizures and actual convictions.

Mr. ABERCROMBIE. Thank you very much.

Mr. Barry, in both areas, for example, in whaling or where the African elephant is concerned, there are proposals for downlisting from 1 to 2, at least in some areas. And I am presuming that such scientific methodology and information, such information as might be examined in a scientific way is utilized under what is called a special criteria, right? There are special criteria and a board of experts that help to establish a rationale for whether the proposals will be accepted or not, right?

Mr. BARRY. That is correct with regard to the African elephant.

Mr. ABERCROMBIE. OK. Yeah, the International Whaling Commission, I guess, has sort of a precedence with what CITES may take up where whales are concerned.

Mr. BARRY. Many years ago, the International Whaling Commission asked CITES to basically support its overall method to be consistent, and I believe it was in 1983, the parties responded to that request and agreed to put on Appendix I all specimens of whales that were subject to a moratorium under the IWC. So we have tried to implement the convention in a manner consistent with the IWC.

Mr. ABERCROMBIE. My question is given that background, is there common agreement as to what scientific information and methodology needs to be implemented or utilized in those two areas, the whaling or where the African elephant is concerned?

Mr. BARRY. I will turn to Marshall Howe on that matter. Let me just offer one general thought. With regard to the panel of experts for the African elephant, one of the things that they are supposed to consider is the biological status of a particular elephant population. And so the Conference of the Parties thought it would be useful to get experts on elephant conservation and elephant biology to offer advice on that particular matter. There are other organizations around the world that comment on the scientific credibility of a given proposal.

Mr. ABERCROMBIE. Well, that takes me where I need to go. Excuse me for interrupting, but my time is going to slip by.

My point is if there is common agreement or general agreement as to what scientific methodologies should be used and what kind of information should be gathered, and if there is agreement that the people involved are, in fact, capable and competent, then what is the basis for the disagreement cited? The information I have, in

both of these areas, the downlisting of the African elephant and the whales—the mink whale, et cetera, why are some groups then saying that they shouldn't be downlisted, and others, presumably looking at the same criteria, and assuming that people are not being bribed or acting in some surreptitious way, why is there a disagreement; why is this happening?

The reason I ask the question, if you will let me finish up, Mr. Chairman, if we get into what you cited in your testimony, name-calling, so on, people disagreeing, it is not that I believe that science is the beginning and ending of wisdom, it is a methodology after all. I believe the scientific method really is a philosophical—we could discuss that at some point. It is almost an ideological point of view. But if you have the common basis then, the whole idea of establishing it was to get rid of this accusation, confrontation kind of approach to it.

Mr. BARRY. I think in the case of the African elephant, for instance, the debate goes way beyond the biology and the science. This is a convention that regulates trade, and so the panel of experts is asked to not only consider the biological status of the populations, but also, in addition to that, the management capabilities of the given country and the effects of trade on the particular population. And so frequently what you will find is the focus on the impacts of trade as sort of spurring the debate and generating the greatest amount of disagreement among experts as opposed to the underlying science itself.

Mr. ABERCROMBIE. So is the—is it really an argument about whether trade should take place at all. It is difficult for me to think at this stage that the effect of trade could be all that much in disputation.

Mr. BARRY. Well, in the case of elephants, again, if you allow a regulated trade to resume in one area, will that stimulate poaching in other areas for populations that aren't as stable.

Mr. ABERCROMBIE. OK, thank you, Mr. Chairman.

Mr. SAXTON. Mr. Barry, I have to lead the—the bill we worked on is on the floor, or will be, momentarily. So I am going to rush over and take part in that discussion. And so I would like to ask unanimous consent that Mr. Pombo be named as Chair in my absence. Without objection.

Mr. POMBO. [presiding.] Thank you.

To start off, Ms. Lieberman, a couple of weeks ago when we talked, we talked briefly about the sturgeon issue. I was wondering, I guess, what kind of an update you can give me on that issue in terms of the difference between aquaculture and wild stock and what impact that is going to have if the proposed listing were to proceed.

Ms. LIEBERMAN. I can give you a little bit of an update, and then if Marshall Howe has anything more to add, that would be fine.

We continue to support aquaculture; particularly that that we have already visited in California is very well regulated; it is excellent, and we believe it is something that is going to be growing significantly in the future, particularly the white sturgeon.

In terms of the impacts of the list, CITES listing, of all of the sturgeon species in Appendix II, that is being proposed for similarities of appearance because of the difficulty in identifying

whether or not it is caviar from the white sturgeon here or the really endangered populations in the Caspian Sea. We believe we will be able to work closely with our counterparts in Canada, where the majority, if not all, of the white sturgeon meat and caviar coming from the U.S. is being exported, to be able to expedite trade, to particularly be able to expedite permits issuance so nothing holds up issuance of the permits, particularly of the caviar, which is very fragile and very perishable. We think we will be able to be flexible in that regard. We are also working closely with our Canadian counterparts as well and have had additional dialog with them and hope to be able to discuss at the CITES meeting how things can be expedited for trading in both caviar and meat.

Mr. POMBO. Mr. Howe, do you have anything you want to add to that?

Mr. HOWE. I think what Sue said pretty much covers the issue. I just reiterate the need to list both this species and all other nonendangered species of sturgeons because of the similarity of appearance problem. It is a problem in the international trade arena, and all the steps Sue has pointed out are steps we are planning to take, and we are still exploring other ways to minimize impacts on the industry.

Mr. POMBO. What assurances—before we leave to go to the convention, what assurances can we give the aquaculture industry here that the listing will do no harm to what I think they are doing the right thing, and they should be encouraged? And one of the things that concerns me is that we put the incentive or the disincentive in the wrong place here, and I am concerned that it is going to have an adverse impact on people that are really doing the right thing in terms of cultivation of this particular species.

Go ahead, Ms. Lieberman.

Ms. LIEBERMAN. Let me say I think you bring up an important point in that there is also a misconception that when a species is listed in Appendix II, which regulates trade to prevent it from becoming endangered, that that is some scarlet letter E. But it isn't at all. We are trying to get the word out here in the United States, because the largest market for caviar in the world is right here in the United States. There is no CITES impact. The aquaculture industry in California and other States that are doing the right thing should not be negatively impacted. In fact, we are very committed to working to have that impact be a positive one, to get the word out on why it is good to buy California caviar.

Mr. POMBO. How would you do that?

Ms. LIEBERMAN. We would be delighted to work through public education through our public outreach, our public affairs office, media outlets when we get back from the CITES meeting, as well as the media with the CITES meeting; there are a lot of those opportunities. We will be sure to get that word out.

Mr. BARRY. Congressman, let me just mention that I share the concerns of the regulated community who are concerned about the effects of a CITES listing upon them and upon their operations. I was only shown a copy of your letter to Secretary Babbitt this afternoon. I would just assure you that should the conference decide to list all sturgeon on Appendix II, it would be one of my goals and my intentions to work closely with the Fish and Wildlife folks

and folks in the aquaculture industry to look for every possible opportunity for expediting and streamlining the permit process with the goal of dramatically reducing its effect on anything that they do.

Mr. POMBO. I was going to go to my next question, but recently I had the opportunity to speak with agricultural ministers from two countries in the Far East, and they made the point to me that they felt that species that are listed under Appendix II, that there would be a disincentive for them to continue with their aquaculture programs in producing them, because there would be some stigma attached with those particular species. They are trying to develop export markets, and they felt this would end their ability or the financial incentive would no longer be there for them to continue with this as an export market.

I found it interesting that they had that perception of this. And they felt that it would be a huge disincentive to them in developing an aquaculture industry for export because of it.

Mr. BARRY. Actually, I would have reached a different conclusion, with all due respect, in this particular situation. If you have an Appendix II export permit from, say, the United States, it clearly indicates that this is not illegal caviar coming from the Caspian Sea. And, increasingly, countries around the world are concerned about the effect of smuggling caviar, and the Appendix II requirement merely requires that the country of origin makes some finding and issue a permit that it is from their country and the continued trade will have no detriment on the stock coming from their country. So it identifies the source which eliminates any conclusion or doubt as to whether or not the particular product might be coming from an illegal source. So I would think actually the presence of that certificate would help clarify that this is not an illegal source, this is not a product in illegal trade, and would help facilitate its movement throughout the country and the world.

Mr. POMBO. Well, I asked both of them to give me more information on exactly what their problem was so that we could pursue that.

I appreciate your commitment to working with me on trying to deal with this issue, because it has caused some concern, particularly the permit issue, the $80 fee on the permit issue, and what impact that would have economically on the industry to be able to do that. And I appreciate your assurances to work with me to get through this so it will have as little impact as possible.

In terms of process on the way this works, now, one of the examples that I was given was with the Bigleaf mahogany and the proposal to list that. Now, I know that Fish and Wildlife Service was the lead agency with CITES, but I am told that the U.S. Forest Service believes that the proposal to list the Bigleaf mahogany is bad science, or bad policy ignoring the standard of science. And in the United States, they would be the lead agency, but in this particular agreement, they are not.

How do we work through a problem like that where you may have one U.S. agency that feels one way and you feel a different way and how do we work out the differences there?

Mr. BARRY. Let me give you a quick general answer and then let Sue give you a more specific set of examples of how this works in practice.

The U.S. Fish and Wildlife Service does have the lead under CITES, but going back to the beginning in 1976, they have always had an interagency cooperative effort and worked very, very closely with the other agencies that have major roles to play. It includes APHIS regarding the importation-exportation of plants; it includes increasingly the Justice Department because of their enforcement responsibilities; it includes AID; it includes the State Department. We have a large number of agencies that we will work together with; and as we head into a CITES conference and begin to identify the types of issues that are out there, we will begin an interagency discussion and process to begin to finalize and reach consensus on our points of view.

In the case of the mahogany, it is true there were some people in the Forest Service who were initially concerned and opposed to the listing. Over time, though, as we began to work on this together cooperatively, and went to interagency and international meetings on mahogany, our positions began to merge and blend to the point where today the Forest Service supports listing.

This is common with a number of issues. We will frequently start off with different points of view, and as we work together we will explore each other's assumptions and exchange information. Our goal is to reach a consensus point on a position, and on this particular issue, mahogany, we did that.

There were a series of meetings, that is all I can suggest, a series of meetings back and forth with a number of parties, including the State Department international experts, and others, and we eventually reached agreement on the position that we have.

Mr. POMBO. So, did the proposal change or did the U.S. Forest Service acquiesce to your positions?

Mr. BARRY. The proposal did not change, and eventually the Forest Service acquiesced and reached agreement with the position that we had. I think a lot had to do with the difference of one's assumptions as to whether or not CITES was intended to take into account the Act in a particular area that a particular specimen may play, the role in the ecosystem that it may play, and eventually as the scientists talked this through, agreement was reached on the proposal.

Mr. POMBO. One of the things that concerns me is that that is not consensus, because—or a compromise, because the position, the proposal, didn't change at all. And—go ahead.

Mr. BARRY. I was just going to say, again, frequently in these matters, what you will discover is that as the different agencies continue to discuss these matters, everybody is sort of bringing different perspectives to the table. Even within the Forest Service there was a difference of opinion. There were people in the Forest Service who even right from the beginning strongly supported the proposal. I think a lot has to do with understanding CITES, understanding what an Appendix II listing means that it is not intended nor should be interpreted as a ban in trade on a particular product.

As we continued to pursue that, and, I might add, communicate and talk to some of the range states to find out what their views

were, the countries that actually possess the mahogany stand. As we all began to sort of incorporate all of the information that we acquired, a consensus emerged among the different agencies that this was a correct proposal.

Mr. POMBO. In the countries that are directly impacted by this, did they support this?

Mr. BARRY. One of the changes in position that was very important in this discussion was Bolivia. Bolivia had strongly opposed the listing of mahogany at the prior Conference of the Parties. At this point, Bolivia supports the U.S. proposal, and that is a significant change of position.

Brazil still disagrees. So I think most, if not all, of the countries in Central America who have mahogany populations support the proposal. I think what you would find is that the significant majority of the range states with mahogany support this proposal, but not all of them.

Mr. POMBO. I know we are going to have an opportunity to discuss a lot of these different issues in great detail over the next few weeks, but you have not taken an official position yet on the African elephant issue; is that correct?

Mr. BARRY. Well, let's put it this way. That issue was one of the most difficult ones for us to reach a final judgment on. One of the problems is that the range states, the African elephant range states, are meeting tomorrow I believe, or at least heading into this weekend, in the next day or two, before the conference, to sort of reach a final position among themselves as to what they feel about these proposals. The administration does have a point of view on this matter, and I anticipated being asked the question along those lines, so I would be more than willing to read to you the statement that the administration has on the African elephant if you——

Mr. POMBO. Yes, go for it.

Mr. BARRY. OK. The administration recognizes the professional efforts of Zimbabwe, Botswana, and Namibia in managing healthy wild elephant herds. Nevertheless, the administration remains firmly opposed to a resumption of commercial trade in ivory and cannot support any downlisting proposals for African elephants at the upcoming CITES Conference of the Parties. The administration is concerned that an airtight system of export and import controls for ivory does not exist, therefore increasing the possibility that illegal shipments of ivory might be blended in with lawful shipments from Namibia, Botswana, or Zimbabwe.

At previous CITES conferences, a number of African elephant range states have expressed concerns that downlisting of any elephant population could undermine existing enforcement and increase poaching and illegal trade. The administration recognizes that the three downlisting proposals contain restrictive annotations limiting the scope of commercial trade. However, significant uncertainty exists within CITES regarding the legal effect of such annotations and the procedure by which they may be altered.

In addition, the downlisting would appear to limit or eliminate the role of the CITES panel of experts which has been highly valuable in evaluating management efforts, both in range states and in the potential consuming nations. The administration finds itself unable to support any downlisting proposal based on restrictions

which may be altered or lifted without approval of two-thirds of the CITES parties or without examination and evaluation by the CITES panel of experts.

For the above reasons, the administration believes these proposals would pose unacceptable risks to elephant populations and cannot support their adoption at the upcoming conference.

Mr. POMBO. Not to put words in your mouth, but that means you oppose?

Mr. BARRY. We oppose.

Mr. POMBO. OK. I know you have got an official statement there.

Getting back to a point that I had raised earlier, wouldn't it be better to work with the countries that are doing the right thing in managing in a sustainable effort and reward them for doing that than it is to take the position of opposing and no longer giving them an incentive to do what they are doing?

Mr. BARRY. I don't think there is any question that a country like Namibia, for instance, has managed their elephant populations in a highly professional and competent manner. They have a healthy population of elephants, they had developed an excellent proposal for how they wanted to use the ivory money from the sale to Japan, but I think ultimately at the end of the day the concerns that we had were that because the trade in ivory is still going on illegally, that there could be no adequate assurances that allowing a limited sale from Namibia would stimulate poaching in other countries.

One of the things I read over the weekend was a fairly lengthy document prepared by TRAFFIC analyzing the ivory trade today. It is probably one of the best documents or analyses on the effects of the ban, the 1989 ban in ivory trade, and it was basically focusing on Asian markets, looked extensively at Japan, and tried to assess effects of the ban on trade.

One of the things they concluded is Japan is still consuming large quantities of ivory but their stockpiles don't seem to be going down. In Japan, there is a very buoyant market still for the little signature blocks carved out of ivory, and when you take a look at the huge quantities of ivory being consumed in Japan for that hanko market, there is a disconnect somewhere. There is obviously more ivory in Japan than their stockpiles would suggest, and the only conclusion you can reach is either the stockpiles are inaccurate or illegal ivory is being blended into Japan.

One of the things the TRAFFIC study also noted is in Africa today there is an expanding market, or at least an expanded cottage industry for taking elephant ivory and semi-processing it, cutting it down into smaller blocks. This, the TRAFFIC study notes, makes it easier for smugglers to get smaller quantities of semi-worked ivory pieces out of the country, and they believe that a fair amount of the ivory which is going out of the country seems to be destined for Japan for this hanko or signature job market.

So I think one of the concerns is that even when you have a very well drafted proposal, as the Namibia proposal, it could still result in the stimulation of poaching in other countries and we have yet to have an airtight system that has precluded illegal ivory from reaching markets like Japan.

Mr. POMBO. Taking what you just said, if the current system still allows poaching, still allows illegal quantities of ivory, it seems to

me that what we ought to be doing then is going to the next step, which is to reward the countries that are managing their populations correctly and trying to do the right thing. Even though it is not perfect, we all know that, but we are trying to do it right. And by rewarding them and not those that are allowing poaching to continue, it seems like we would be going to the next step in terms of sustainable development of the wildlife in those particular areas. That seems like a more positive thing to do than to continue with the ban that by your own admission is not working either. It may have reduced the numbers of animals that are poached, but it is still occurring under the current system.

So if we put the incentives in the right place to reward the countries for operating, for good behavior, we would then be encouraging the other countries who have not yet joined that new management technique, encouraging them to develop the same kind of management techniques, therefore bringing the whole region along.

Mr. BARRY. I think while there is some initial logic to the argument you just made, the fact that in the past the clear, clear majority view in Africa of other African range states has been in opposition to downlist elephant populations, even from states who are well managed. What that suggests is that the other range countries are concerned about the effects of rewarding, as you said, a well-managed herd. They are concerned about the spillover effects on their own populations, either through increased poaching, and so on. And I think it does, it puts a country like Namibia in a difficult position where we are managing their herds well and they feel they have a need for getting economic benefit from their efforts, but I think the fact that we have yet to be able to develop an airtight system of international trade in ivory suggests that it is not worth the risk.

One of the things that the TRAFFIC report did was it traced the history, going back over a series of the conferences of the parties, going all the way back to the early 1980's and how at each Conference of the Parties the parties struggled to try to regulate the trade in ivory and adopted a series of resolutions. And by the time they wait, 2 years later, they find they still have a problem and adopt another set of resolutions. In 1981 this happened, in 1983, 1985, and 1987. And what you see is that the CITES parties continually tried to figure out how to establish a mechanism to regulate the trade in ivory and avoid the hemorrhaging and poaching that was occurring.

I think what happened in 1989 is that they just gave up. We realized after four succeeding conferences and the adoption of well over a dozen different resolutions on ivory that nothing seemed to matter, and it was important to try to stem the tide, and at that time it was time to prohibit all international trade in ivory.

Mr. POMBO. Mr. Peterson, did you have a question?

Mr. PETERSON. No, not at this time.

Mr. POMBO. Well, I think that at some point someone is going to have to step ahead and look at a new management tool, a new way of regulating this as a whole, and I have not had the chance to read the report that you reference, but if you look at this and say what we are currently doing has not worked, has not been successful, maybe it is time to look at a different approach.

I see a lot of good things, and again, I know it is not perfect, but I see a lot of good things that these countries are doing right now.

Mr. BARRY. Those are some of the best managed herds in Africa.

Mr. POMBO. When you compare it to what is happening to other countries that are not managing in that way, what is currently happening with the Asian elephant that is not being managed in that way, I think that you can see what these three particular countries have done has been very positive for their elephant populations. And I think that the United States should be in the forefront of stepping out and saying maybe this is a new way to do it, maybe this is a positive thing that we should be on the side of.

Mr. BARRY. Perhaps maybe one thing that is worth exploring are opportunities to provide some form of compensation for the noncommercial acquisition of stockpiles. One of the functions that will take place at the conference is what to do with existing stockpiles.

I think our concern is when you reengage, even in a limited way, a commercial sale of ivory to put it back in trade in Japan where there is so much ivory in Japan today that seems to be unregulated, that increases significant concerns about enhanced poaching. Clearly those stockpiles are growing.

One thing that has been suggested by some people, we have not really had an opportunity to explore it in-depth, is the idea of some type of alternative form of compensation, a noncommercial way. Some people have suggested a debt for nature swap, where countries would give up debt to an African range state in exchange for their agreement to set aside some of their stockpiles of elephants that clearly were identified as coming from their countries.

Other people have suggested alternative ways of compensating them for the noncommercial acquisition of the ivory, setting it aside, not using it for commercial purposes. Some of these ideas if explored more fully, if they ultimately seem to have promise, might provide opportunities for providing compensation to those countries that are managing their herds well in a way that doesn't further stimulate the commercialization of ivory.

Mr. POMBO. Well, that is an interesting proposal. The one problem that I see right off the bat with it is that it does not decrease the demand for ivory in a commercial sense. Therefore, the poaching will continue in the other countries even if you do get someone to sign on to that idea.

The illegal trade in ivory will continue. You will not satisfy the demand for the commercial side of it, so you may be setting aside that one particular population, but it may have a negative impact, a much greater negative impact on the other countries than the proposal that was put forth.

Mr. BARRY. Again, these are ideas that are being floated at this point. We haven't had an opportunity to explore them in any great detail, but I do think they have some promise and at least are worth looking at.

Mr. POMBO. Just to switch gears a little bit here, and I know that this is probably one of the more controversial issues that will be dealt with. I know it is already generating a fair amount of media, is the issue with the whales. And I know that Mr. Abercrombie touched on this earlier.

How do we balance the U.S. position of sustainable yield, sustainable development on species and the positions that we take on the whales?

Mr. BARRY. I am going to ask Bill Fox to respond to that. Bill has spent many, many more years working on this.

Mr. FOX. You ask a very interesting question, Mr. Chairman, as to how we balance our position with regard to sustainable use and our position on whales. I think our position with regard to sustainable use and with regard to our position on whales is actually fairly consistent. While the United States has made it clear that it does not foresee in the near future being able to support the resumption of commercial whaling, it has worked very hard within the auspices of the International Whale Commission and with its own scientific resources to develop sound information on the status of whales and to develop a management procedure which, if implemented, would be safe for the whale populations. And so we have invested quite heavily in providing the tools for the International Whaling Commission to approach the position at some time in the future of sustainable use of whales.

It has been virtually every administration's position that I can remember to not support the resumption of commercial whaling and that still exists. We still haven't gone through all the steps that would allow us to conclude that that could occur.

Mr. POMBO. The CITES Secretariat has found that downlisting of these whale stocks conforms with CITES rules' influence. How will that influence the U.S. position?

Mr. FOX. Well, we were actually quite astounded at the conclusions drawn by the Secretariat in their analysis of proposals. The U.S. position on the downlistings is, first, that we believe very strongly in cooperative and collaborative relationships between international conservation and management organizations, and the International Whaling Commission has requested, as Mr. Barry pointed out in his earlier remarks, that CITES support the IWC moratorium on commercial whaling through a listing on Appendix I of all species that are subject to that moratorium. In fact, CITES adopted a resolution, resolution 2.9, asking all the members to do that. And so until such time as the International Whaling Commission rescinds that request or the Conference of the Parties rescinds resolution 2.9, and I believe there is also another resolution that is relevant our position is to go with that collaboration and continue to support the requests of the International Whaling Commission.

Mr. POMBO. So it is not CITES but the International Whaling Commission.

Mr. FOX. Well, it is also CITES. Our first objective is to ensure that we have this proper collaboration on it, and if you look at it in complete isolation, there are criteria that have to be looked at from the standpoint of downlisting from Appendix I to Appendix II, that transcends simply the scientific basis of the listing of the whales.

In answer to Mr. Abercrombie's earlier point, there is substantial agreement on the status of the world's whale stocks in the ocean, but among scientists, being what they are, you can also find critics

on that, but there is substantial agreement on the status of whales. So that is not a principal issue.

There is an issue with regard to management, that if you downlist our whale stocks you will run afoul of the look-alike problems in being able to determine the species and location of where the whale meat and other products would come from that would have to be resolved as well. So there are a series of things other than just the scientific status of whales that relate to what appendix animals are listed on and whether they are moved from one appendix to the other.

Mr. POMBO. You said that it transcends science and there are other issues that we take into account. That seems like that is a dangerous position for us to take, because we have always taken the position that our decisions are based upon good science, that that is the basis for all of our decisions that we make is sound science.

It is my understanding from what I have read that the science does not necessarily support the position that we have taken, so therefore we look at other issues that transcend the science.

Unfortunately, that sounds like some of the things we accuse other countries of doing, is that when the science doesn't support what they want to do, they look at other issues. And I think that that is kind of a dangerous position for us to take.

Mr. FOX. Maybe I gave a misimpression with the words "transcend science," Mr. Chairman, and if so, let me explain a little bit further. What I meant is the status of the populations is fairly generally accepted in the scientific community. However, the human institutions that have to deal with the harvesting and trade and control and regulation are also important in determining whether or not a sustainable use of a resource can be made, and those are the other elements of the equation that have to be considered in terms of taking a position on an issue.

Ms. LIEBERMAN. Let me just add to that, in addition, particularly when we were at the last CITES conference, the U.S. worked very closely with other countries in developing new CITES listing criteria, which includes science, but also includes information on illegal trade and enforcement controls. And particularly in our evaluation of the listing proposals and in review of the status of the whales, in addition to the population status information and in addition to the International Whaling Commission recommendation, there were a large number of issues pertaining to illegal trade in whale meat that we have evaluated. While that is not science in the sense of evaluating peer reviewed literature of the status of the species, this information is very important.

There is also a report that has been released by World Wildlife Fund, TRAFFIC, as well as some U.S. Government information that this is a continuing problem that would put other whale species at risk if any commercial trade were opened in whale meat.

So that is just an example of other types of issues we really have to take into consideration, because CITES is dealing not just with looking at population status but with trade issues as well.

Mr. POMBO. Well, thank you. I have a few more questions that I would like to submit to you, and I will do that in writing with the promise that I will get an answer back fairly soon.

Mr. BARRY. The only point I would make is that a large number of folks who would be the logical people to immediately respond to your request are going to be in Zimbabwe with you, in which case we can perhaps give you an informal answer over in Zimbabwe and then followup on it with a formal response when people return from the conference.

Mr. POMBO. As long as I can get my letter answered with some of the questions that have been raised, it would help a great deal.

Mr. BARRY. We will make every effort to respond as quickly as we can, and we may be able to give you a very, very prompt response with the people remaining behind who won't be at the conference. But I just wanted to point out that some of the people with the key response would be over at the CITES conference in Zimbabwe.

[The information referred to follows:]

Mr. POMBO. Well, thank you very much. I appreciate you coming in, the testimony, the answers to the questions. This is an extremely important issue that I know consumes a huge amount of all of your time, and is very complex at times. And I appreciate you coming down and trying to fill us in as much as you can at this point as to what some of the outstanding issues are.

I do know that there are some very deep concerns that people have about what direction we are going and what message we should be sending to the rest of the world, and the United States plays a very important role in all of that. So I look forward to working with you over the next few months and hopefully will have some positive steps. Thank you very much for coming in.

The hearing is adjourned.

[The information referred to may be found at end of hearing.]

[Whereupon, at 3:08 p.m., the Subcommittee was adjourned.]

OVERSIGHT HEARING ON RESULTS OF CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA [CITES]

THURSDAY, JULY 17, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES, *Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:10 a.m., in Room 1334, Longworth House Office Building, Washington, DC, Hon. Richard Pombo, [member of the Subcommittee] presiding.

Mr. MILLER. We are going to begin. I ask unanimous consent that Mr. Pombo of California sit with the Subcommittee and also be allowed to chair the Subcommittee. Hearing no objection, so ordered.

STATEMENT OF HON. RICHARD POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. POMBO. Thank you, Mr. Miller. This one will go down in history, I am sure.

I would like to start off this morning by thanking the Chairman of the Subcommittee, Chairman Saxton, for scheduling this hearing. I felt it was important, and I am sure that Mr. Miller felt that it was important that we have a followup hearing on the CITES convention, also to thank Chairman Young and Chairman Smith for their role in raising the visibility of CITES in establishing the importance of that within the congressional delegation within the committees that they chair, the importance of us participating in that event.

I would also like to thank Don Barry of the Fish and Wildlife Service for the job that he did in Harare. I felt that he did an excellent job. He fulfilled his responsibilities the best under the circumstances I think the best that he could.

I think that there were a lot of issues that were on the table, a lot of things that we had to deal with. He was extremely easy for me to work with even though we did disagree at times on issues, but I felt that he kept us informed and he did a fantastic job of representing the United States.

Also, the embassy officials in Harare, I believe, did a fantastic job under the circumstances with such a large delegation coming from the United States in fulfilling their commitments and their responsibilities.

This was the first international convention that I had the opportunity to attend, and I found it in many ways educational. I found it exciting. I found it very informative and in some ways, I found it disturbing.

I found it exciting to see the different nations trying to work together, trying to work out what I believe was an extremely important agreement in representing their nations and trying to protect their endangered species. I went with the idea that we would learn something about endangered species in other countries and learn how they are managing their wildlife in other countries. That part of it was very educational. I believe that there was a lot for us to learn from some of these other countries about sustainable use. There was a lot for us to learn about the value of wildlife and how once you place a value on that wildlife to the people, how they treat it very differently than if there is no value.

I found that very interesting. I know that I personally learned quite a bit from that, but I also did find it disappointing in some aspects because I was disappointed to see the U.S. not in the position of taking a lead role in developing new ideas, in developing, I guess, the new era of how we care for wildlife, how we care for endangered species, and in the future, I look forward to working with the Fish and Wildlife Service and working with the Administration in beginning to start that dialog and beginning to look toward the future.

We have done a few things in this country in recent years that I believe are a step in the right direction that are a positive direction for us to go, and I think we need to expand upon that. In looking at the way that some of the other countries are beginning to deal with their wildlife management, I think that is a very positive direction to go, and i think that we really do need to look at that in terms of how we are going to deal with some of our internal problems and domestic problems as well.

I am looking forward to the hearing. I appreciate you being here. At this time, I would like to turn to Mr. Miller.

[The statement of Mr. Pombo follows:]

STATEMENT OF HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

First let me thank Chairman Saxton for scheduling this hearing, and for his ongoing interest in CITES, which has increased Congressional awareness of this important international agreement. I would like to thank also Resources Committee Chairman Young and Agriculture Committee Chairman Smith, who recommended to Speaker Gingrich that I join the United States delegation as an observer.

The United States should work with the clear majority of world opinion by supporting the range states in sustainable use of their indigenous natural resources. We should support wildlife management based on good science, and allow self-determination within the guidelines of proper resource management.

The Convention on International Trade in Endangered Species (CITES) Tenth Conference of the Parties (COP 10) has endorsed an important first step toward recognition of sustainable utilization in management of the African elephant population.

The bright light of international scrutiny will now be on Zimbabwe, Botswana and Namibia. If they continue to carry out wildlife management in a responsible manner, then the new CITES policy will be a success for both people and the animal population.

This is the second oversight hearing we have held on CITES. The Resources Committee will continue to work with the Fish and Wildlife Service to ensure American cooperation with the new policies endorsed by CITES.

I would like to include as an addendum to my statement the opening address to the CITES convention, which was delivered by Zimbabwean President Robert Mugabe. It is a thorough review of the wildlife conservation measures underway there.

Mr. MILLER. Thank you and I want to join Mr. Pombo in commending our delegation. Don, I think you did a great job in leading our delegation and to Marshall and to Sue, the hours you people spent trying to hold this thing together and to negotiate and to gain support for many of our positions, I was quite amazed at the amount of time you spent helping other nations in formulating some of their concerns and their positions, and I think it was impressive that you were doing that—very, very long hours, over—Richard and I were there a few days. You were there a couple of weeks and we saw you at the end of the process and I was amazed that you were all vertical, but you were, and I think you did a wonderful job in representing our position. I think it is also fair to say that our position wasn't easy to do that.

One, we have become the voice in some cases, it appeared to me, for nations that were uncomfortable putting forth positions and yet new positions should be put forth. We were in some cases the organizing principle around which other nations could gather and try to give rise to concerns. We also brought with us a very strong conservation ethic from this Congress, from the people of our country, and it is pretty clear after attending this conference that in a number of regions of the world, that that is a clash, and that is a flashpoint, but I also think you handled the diplomatic part of that very, very well in the sense that there were nations which we oppose their positions or they opposed ours, but I don't think we ended up being enemies at the end of the conference, and that is important, because I think one of the things that Congressman Pombo and I learned is that this conference has real consequences. This is not an abstract conference, as we will now see with the considerations around the elephants.

There are a lot of consequences that will flow from the prevailing position of the downlisting in the three countries. Some of those consequences will be a surprise to all of us. Hopefully, most of them will be all beneficial, but there is also great potential for negative consequences to that, and I think given our agenda, you did an exemplary job.

I would just like to say on the elephant question that I think that it was clear at the conference in talking to representatives of other nations and to you, to our delegation, that clearly Zimbabwe, Namibia, and Botswana have done a tremendous job in rebuilding the herds of the elephant populations that they have. Our own tours into the countryside brought home many of the issues that that raises for those nations. I think many issues that most people in America have never given thought to in terms of trying to live in a country with an expanding elephant population, but I was also interested to know that there was unanimity within Africa about how to handle this, and clearly, many African nations voted against the downlisting, as did other nations in other parts of the world with elephant populations because of this concern over—as legitimate as these proposals were for downlisting, do they spur other activities in terms of black market, illegal trade, and not so

much what happens in these three nations that have a fairly decent infrastructure in dealing with elephant populations and with poachers and with illegal trade, but I think also clearly what happens in the other nations that really don't have that infrastructure, have very small populations, and it is not a question of winning a prolonged war with poachers. It is a question of whether they can survive a very short intensive poaching incident, and I think that that became clear when you listened to a number of the speeches on the proposal by other African nations and other nations with elephant populations, that their concern that there is a spillover factor in endangering their elephant populations.

I was stuck with the sense that this proposal for downlisting, while certainly understandable, was a little bit of the cart before the horse here, and one of the things that maybe we can discuss this morning is really, now what do we do about our efforts to help these other nations and the three nations in the anti-poaching area.

We do spend some money in that region, but clearly, this downlisting is going to be scrutinized now for many years, and hopefully, it will go right. It will have the positive consequences that the proponents have argued for, but I think that will only come about with diligence on our part and other developed nations who have some resources to share with these nations to try to develop the infrastructure against illegal trade and against poaching. It simply will not be enough for us to condemn elephant trade, to condemn trophy hunting, to condemn poaching. There will be enough condemnations of that to go around. What is going to be needed is some resource and expertise, some technical assistance for many of these nations that became very clear to us don't have those resources, and I am not sure it takes a lot. I am sure we are talking about massive amounts of resources, but clearly within the developed world, we should have a period to do that.

I would hope we would also explore some alternatives in terms of Debt-for-Ivory that we have had under discussion, along the lines of the Debt-for-Nature.

Some of these nations do have significant stockpiles, some have relatively small stockpiles, some of them have debt, and whether or not there is an arrangement either for us or for multilateral institutions to work out some kind of swap there so that we can transition into this delisting and the ramifications in terms of that market so that we don't explode onto the market such massive amounts of ivory, and then that is the expectation, and failure to meet that drives value in poaching beyond what the downlisting and the conservation plans of those nations would allow for.

Those are a couple of concerns that I have and observations that I have. It was a fantastic experience to watch this conference work. I must say at times, in a parliamentary sense from rules of order, it made the Congress look like a well oiled machine.

There were some rulings from time to time that just baffled me, but I found out later I wasn't the only one baffled. Actually, I found that sometimes the majority was baffled which then baffled me why a majority would put up with such a ruling, but in any case, it was, I think, a difficult conference in terms of sorting out these issues, but I again think that we can be very proud of our delega-

tion and the manner in which you handled it and the results that were derived overall from the conference. There may be some things that we disagree with, but there are also some things that you also say maybe require some very close observation to see whether or not they work or they don't work, so thank you again for your service and your expertise and the talent that you were able to assemble across all of these agencies to provide support for our position.

[Statement of Hon. George Miller follows:]

STATEMENT OF HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

The 10th Conference of the Parties to CITES held in Zimbabwe last month was, for many, about elephants and elephant conservation. Those of us who attended the meeting know that the debate was about much more than whether to allow legal trade in elephant ivory for the first time in almost a decade.

This debate was about land use and expanding populations. It was resource use and rural development in very poor countries. It was about methods for wildlife management and protection and whether, as President Robert Mugabe of Zimbabwe put it, "Wildlife must pay its way to survive."

There was little question that Zimbabwe, Namibia, and Bostwana have managed their elephant populations well. But we cannot ignore the very critical issue of the fate of the African elephant across the continent, and the potential impacts of downlisting and resumption in trade.

History tells us that, in the case of any wildlife trade, it is the *illegal* trade that can quickly overwhelm conservation efforts. Blackmarket sales—regardless of whether the product is a traditional medicine made from tiger bone in Asia or a ceremonial dagger of rhino horn in the Middle East are the real threats. Ivory is a case in point.

Contrary to some perceptions, African nations—including some very poor nations that perhaps could profit by allowing expanded trade in elephants—did *not* support the southern African proposal to downlist their elephants and allow limited trade with Japan. Central and western African nations, whose elephant herds were most severely decimated by the illegal ivory trade prior to the 1989 ban, expressed great concern because of their lack of funds for conservation and anti-poaching efforts. Opening the legal trade again, control efforts aside, may well open the door to a renewal of the blackmarket trade that caused the slaughter of the 1980's, and many of these countries would be all but powerless to prevent it.

Niger, with only a few hundred elephants remaining, opposed the southern African nations' proposal, as did Ivory Coast, and Chad, with a similar number of elephants. So did Cameroon, with about 5,000 elephants remaining inside its borders, and Tanzania, whose number of elephants dropped from 109,000 in 1977 to 29,700 in 1989. The delegate from Ghana, where fewer than 500 elephants escaped the last round of ivory wars, begged for more time, noting that "all our poachers know the downlisting is coming." His plea went unheeded.

The crucial question for the next few years will not be, "How are the southern African elephant populations faring under the resumption of trade in elephant parts?", but rather, "How are the *rest* of Africa's elephants holding up?" Is Ghana facing another ivory war over its remaining few hundred elephants? What about Congo, and Chad? Can they hold their own under the potential onslaught?

The parties to CITES recognized this problem, and overwhelmingly approved a resolution establishing strict conditions for the non-commercial sale and disposal of the ivory stockpiles in warehouses across the continent, in countries where the ivory wars were lost or continue to be fought. Revenues from those sales must be deposited into conservation trust funds and used by the nations to fund conservation and community-based organizations and development programs.

These nations will need our support and our assistance to prevent the downlisting decision from becoming a license for the resumption of elephant slaughter. It is not enough for Americans and others to condemn the elephant trade or trophy hunting, and then offer nothing in its place that offers some possibility of economic development in rural Africa. I have begun discussions with international conservation organizations, the Administration, and others to develop an amendment to the African Elephant Conservation Act to provide desperately needed funds for those conservation and enforcement programs in those countries where they are most urgently needed.

We have already begun discussions on a Debt-for-Ivory program. Based on the successful Debt-for-Nature model, this approach could provide much needed conservation funds for countries like Tanzania, which holds more than $5 billion in international debt, and has an estimated ivory stockpile of more than 50 tons. Tanzania is just beginning to develop its wildlife conservation programs, and financial support of this type could mean the difference between success and failure in their efforts. Even nations with relatively small ivory stockpiles, like Zambia's 4 tons, could benefit from this program. Since the United States holds a small portion of the overall bilateral African debt, a U.S. program would have to be coordinated with those European nations that also hold African debt, and we've spoken with international conservation organizations about a multinational effort along these lines.

We are also investigating other funding sources, such as the World Bank, that will work with the governments, the NGO's and the rural people of these nations to promote policies that do not require the permanent sacrifice of wildlife for short term economic benefit.

Finally, I want to commend Mr. Barry and the other members of the U.S. delegation to the CITES conference for their hard work and diligence under less-than-ideal conditions. Elephants were not the only issue—and certainly not the only controversial issue—of this convention. Marine fish, whales, sea turtles, mahogany—all were important concerns for our delegation and many other nations attending the CITES conference. The U.S. team at CITES was universally respected for its working knowledge of the convention and its expertise in the species under discussion. I'd like to take this opportunity to thank the members of our delegation on behalf of this Committee and the Congress.

STATEMENT OF HIS EXCELLENCY THE PRESIDENT: CDE R.G. MUGABE

Honourable Vice Presidents Cdes J. Nkomo and S. Muzenda.

Honourable Minister of Environment and Tourism, Cde C.C. Chimutengwende and other Parties to CITES, Honourable Ministers of Zimbabwe, The Chairman of the Standing Committee of CITES, Ambassador Ahao of Japan, The Secretary General of CITES, Ambassador Topkov, The Executive Director of UNEP, Ms. Bodswell, Excellencies, Members of the Diplomatic Corps, Distinguished Delegates and observers, Invited Guests, Ladies and Gentlemen.

On behalf of the Government, the people of Zimbabwe and indeed on my own behalf, it is my pleasure to welcome you to Harare. The people of Zimbabwe are honoured and delighted to be hosts to this your Tenth Meeting of the Conference of the Parties to CITES being held for the second time in Africa. Our sister country Botswana hosted the conference in 1983.

Ladies and Gentlemen, this meeting is being held at a time when environmental issues have taken centre stage in all international meetings. We are all aware that the World Trade Organisation meeting in Singapore grappled with the issue of trade and the environment and, in two weeks' time, world leaders will be gathered in New York to assess the achievements gained since Rio five years ago. Of significance, since Rio, has been the coming into effect of Conventions that have direct relevance to CITES, such as the Convention in Biological Diversity.

Ladies and Gentlemen, some of the world's plant and animal species are threatened with extinction due to absolute poverty within third world populations which lead to over-reliance on natural resources for survival, especially in the rural areas. Other causes are loss of habitat through deforestation, and human and animal population pressure; the need to service the debt burden in the developing states where natural resources are a significant contributor to the Gross Domestic Product; and illegal international trade which is now a multi-million dollar industry.

We in Zimbabwe have since established a commitment to natural resource conservation as evidenced by the fact that 15 percent of the country is under reserved forest and National Parks and, when one includes the CAMPFIRE areas, about 30 percent of our mass is under wildlife management. In addition, in the last five years, large tracts of farmland have been turned into wildlife management areas called conservancies.

A number of Acts have been put in place to ensure the sustainable use and conservation of our biological heritage. These include the Parks and Wildlife Act, the Forest Act, the Communal Lands Forest Produce Act and the Natural Resources Act. Currently, my Government is working on a Biodiversity Inventory, Strategy and Action Plan which is funded under the Global Environmental Facility arrangement. This will enable Government to implement comprehensive programmes for sustainable utilization and conservation of our natural resources. Zimbabwe is an

active participant in environmental issues and, since Rio, we have defined our participation by adhering to principles that many are familiar with.

The principles of sustainability and inter-generational equity are the cornerstones to our environmental management. I am conscious that Conventions such as CITES have been brought about in order to protect certain species from extinction. In Zimbabwe, the management of our environment and natural resources is fashioned to meet the development interests of the present generation without jeopardizing those of future ones. I am glad to announce that future generations will definitely inherit the black Rhino in this country as we are achieving positive growth rates in this area.

The principle of anticipating and preventing negative environmental impacts is less costly and more effective than correcting such problems. Countries in Southern Africa continue to suffer from a colonial legacy of land apportionment between the races that has devastatingly caused land degradation, deforestation, soil erosion and almost eradicated hitherto common species of animals, birds, reptiles and fish. To safeguard the future generation's right to resources, we believe in environmental impact assessments.

For the last few years, no development has been allowed to take place without environmental impact assessments. In the protected areas, where most of our wildlife of fauna and flora are found, any development must be preceded by impact assessments. In our resort town of Victoria Falls, we have joined with our neighbours in order to look at the environmental impacts on present and future development in that area.

My Government is working with agencies such as the World Bank and other donors to re-plan all our parks and CAMPFIRE areas. A cornerstone of the new plans is the accompanying environmental impact assessment of the areas. It is this assessment that becomes our compass in the management of different species.

In terms of species, we are producing specific management plans on a periodic basis. During your stay, I invite you to look at management plans related to the crocodile, ostrich, black rhino, elephant and other species. In addition, I hope you can visit some of the areas where these species are found. I am sure you will give sympathy to our struggle to produce better predictive environmental impact assessments once you see the different qualities of natural resources found in communal areas, commercial farming areas, CAMPFIRE areas, parks and forestry areas and conservancies.

It is well known that public participation is an essential element of an effective environmental management process. We know that where the public at large has vested interest in preventing environmental harm, the results are vastly improved.

My Government has introduced the CAMPFIRE concept—the Communal Areas Management Programme for Indigenous Resources. Our people, through their representative and democratically elected councils are now able to participate in wildlife management. They now understand the value which they derive from better environmental management principles since they associate wildlife and other natural resources with their own socio-economic development.

Sustainable utilisation of resources in this country is not new. It is not strange that our people and the Government have to relearn their past in order to catch up with the modern world. Conservation of natural resources is closely linked to family totems. Where a family's totem relates to an elephant, and many totems in Zimbabwe are, the elephant becomes a sacred animal for that family. Thus totems are linked to fish, birds, crocodiles, animals, and other natural resources. However, in all cases, there was never a denial to derive an economic, social and cultural value from the species.

The CAMPFIRE concept is a philosophy by my Government that allows communities to derive benefits from good management of natural resources. It is a philosophy which is rooted in our strategy to uplift the standard of living of the rural poor. Natural Resources provide the economic base for these communities. Land, soil, water, wildlife, fisheries, forests and other resources are better managed by communities that have embraced the philosophy of CAMPFIRE. I, personally was heartened by the petitions of support we received from all over the world when some among us here threatened the programmes run under CAMPFIRE which are funded by many donors. I salute the members of the U.S. Congress who constitute the Black Congressional Caucus who have signed petitions of support for the CAMPFIRE programmes. The basic philosophy is about humans sustainably utilising their natural resources for present and future generations.

My Government continues to ensure that our domestic law must recognise and respect international laws captured in the environmental conventions to which we are party. CITES is not an exception. In many respects, because of our concern for intergenerational equity, we have listed species on our own endangered list while

they are not considered so by CITES. We believe that CITES needs to update its philosophy in line with the post Rio Conventions concepts.

My Government is supportive of maintaining the stance that the Organisation of African Unity has taken recently on the issue of sustainable development and sustained economic growth in the post-Rio era. Any convention that militates against this is depriving parties, especially the developing countries, of the right, access ownership and utilisation of the resources.

May I, however, hasten to say that we are undertaking the task of protecting our natural resources especially of wildlife at great expense and sacrifice. The mobilisation of the army, police, national parks scouts/rangers to guard against poachers is costly. In Southern Africa, wildlife is found in arid and semi desert regions. Water for these animals is pumped at great cost from underground sources. Elephants, especially because of their huge bodies, consume large amounts of this underground water and, we believe, every species must pay its way to survival. We believe that the management strategies we have devised, if given a chance, will enable most species to survive.

We have benefited from contributions given by donor counties, Non-Governmental Organisations (NGOs) from here and abroad, and more especially from our neighbouring countries which have equally contributed money to protect wildlife. Our Department of Wildlife Management has been strengthened by the creation of a fund that is dedicated to financing the conservation and protection of wildlife. All proceeds from wildlife activities in Parks Estates go to this fund. In addition, some funds are voted by Parliament to boost the conservation effort of the Department. I am confident that these structural changes have assured a sustainable funding mechanism for the conservation and protection of wildlife in Zimbabwe.

We believe that a well monitored, evaluated and ecosystem-managed habitat can support our philosophy of sustainable utilisation. And we invite the international community to cooperate with us and give assistance where possible so that our people can become beneficiaries of their natural resources.

There must be encouragement of sustainable utilisation and development for those whose policies and actions uphold scientifically accepted standards, while penalising those that abuse the environment. To refuse to accept the principle of differentiated responsibilities will mean doom for the international environmental movement and certainly disaster to natural resources covered by CITES Convention.

As the world becomes a truly global village, the division between the developed and the non developed countries is sharpening. The environment and trade issues are indeed at the centre stage. This CITES meeting is significant because it is tackling the issue of the environment as it relates to trade. For us in developing countries, our natural resources provide hope for our great leap forward. Impoverished communities depend on the sustainable utilisation of their resources.

Ladies and Gentlemen, participants to this Conference will be very busy looking at over 80 proposals and over 60 resolutions. However, as you are talking about fauna and flora which we have in abundance in all corners of the country, I invite you to visit our wildlife areas, as well as Victoria Falls for relief joy and relaxation.

Ladies and Gentlemen, I wish you fruitful deliberations and a pleasant and enjoyable stay in Zimbabwe. It now gives me great pleasure to declare this, the Tenth Meeting of the Conference of the Parties of the Convention in the International Trade of Endangered Species of Fauna and Flora officially open.

I thank you.

Mr. POMBO. Mr. Farr.

Mr. FARR. Thank you, Mr. Chairman. I think I am the only one in this discussion that didn't attend the conference, but I am intrigued by it, and I am intrigued by sort of the directions of the questions, and that is, why did America, the United States proposals all fail, and why did we always vote on the losing side.

That doesn't bother me as much as how do you change it, and unfortunately, I have to leave this meeting to go to a discussion on sustainable development, but what I am concerned about is the fact that if we are going to have global security, and I really think this is in the big picture of things, the whole balance between the environment and the natural animals in the environment and essentially the need to sort of harvest natural resources for local economy, then how do you change that?

I am a former Peace Corps volunteer, so it is sort of that economic conversion from the culture of poverty to what I like to think as you turn the hunting of animals into the photography of animals, hunt them with a camera and not with something that destroys them and develop markets there.

What I am getting at and I would like perhaps Mr. Barry to talk about that is, it seems to me that in the NAFTA discussions and everything else, that it always comes back to that these countries just don't have the infrastructure for enforcement, don't have the capability of doing the kind of educational opportunity to show that there is a value added for watching wildlife rather than marketing wildlife, and that we have that capacity in this country, and we have learned it.

In fact, I am often quoted as saying, and I didn't make it up; Megatrends wrote it, that there are more people watching wildlife in America than all of the professional sports in this country, that it is the biggest attraction. How do you convert that into countries that have exotic wildlife into understanding that there is more money to be made by appreciating them rather than selling parts of them or the animal as a whole.

So perhaps what we need to focus on domestically is how we assess what our educational opportunities are in this country. I think that is the biggest undersold asset that America has, and the ability to bring emerging managers, mid-level managers in governments from all over the world, and in entities of community-based organizations that might be interested to this country to really utilize what we have already existing here, but we have not focused on making that available to the international community.

We have done that in the military. We have the International Military Education Training Program, and we bring all of the top military officials. The only requirement is that they have to speak English, but they are going to the Naval post-graduate school in Monterey, they are going to Annapolis, they are in our best military training schools to learn essentially management, assessment and management issues, and why did we do that? Because these are our allies, and if we are going to try to do a problem-solving, we need everybody to be on the same page and same team.

Now, if we can do that about war, why can't we do that about environment? I think that that is what we need to develop in this country, which will lead then back into when you have these conferences, the parties to the treaty which, by the way, I think these treaties are—we ought to spend much more time in knowing about them. I think the law of the seas, the Montreal Protocols on Global Warming, this treaty is a kind of thing that we ought to, as this country, be more active in utilizing our educational opportunities here to essentially ratchet up the understanding and, I think, the economic that comes therefrom, so that it doesn't become so much of an enforcement problem which can be violated so easily.

That is sort of my thinking, and I hope that as you focus on this that we can begin to think where we go from here. Thank you, Mr. Chairman.

Mr. POMBO. Thank you. At this point, I would like to ask unanimous consent that all members' statements be included in the record at this point.

[Statement of Hon. Jim Saxton follows:]

STATEMENT OF HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Good morning. The purpose of today's hearing is to discuss the outcome of the Tenth Regular Meeting of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, commonly known as CITES. The Convention this year was held from June 9 through the 22nd in Zimbabwe.

By way of background, CITES entered into force on July 1, 1975. Currently 136 countries, including the United States, are parties to the Convention. CITES is the only global treaty whose focus is the protection of plant and animal species from unregulated international trade.

I know that our witnesses have firsthand knowledge about how the United States developed its positions on CITES; what interagency review is necessary for these CITES proposals; and what role Congress should play in developing future proposals. I am looking forward to hearing the outcome of the Convention.

[Statement of Hon. Don Young follows:]

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. Chairman, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was held in Harare, Zimbabwe, one month ago.

At this Tenth Meeting of the Conference of the Parties, and the past two CITES Conferences, African elephant populations were the focus of much debate. At this Conference of the Parties, Botswana, Namibia, and Zimbabwe offered proposals to downlist their elephant populations to Appendix II. These countries have done an outstanding job of managing and conserving their growing populations of African elephants. Regrettably, their efforts are expensive and these three countries sought an opportunity to finance future conservation by selling ivory obtained from confiscated, culled or naturally dying elephants.

What made this Conference different from any previous CITES Conference was the overwhelming support of nations to vote to downlist these three populations to Appendix II. While I view this as a positive step, I am interested in knowing why the U.S. Delegation voted against all of the elephant downlisting efforts. I also want to hear what position the Department of Interior will take now that the proposals have been adopted by CITES.

This historic downlisting did not come without stipulations. Parties to CITES had concerns with enforcement controls used in Botswana, Namibia, Zimbabwe, and Japan, as the only importer. Prior to any trade in ivory, these three African countries and Japan must resolve their enforcement problems and submit to independent verification of trade controls. The CITES Secretariat, along with TRAFFIC International, will monitor legal and illegal trade through an international monitoring and reporting system.

There were many other proposals offered at this CITES meeting that are also of interest. Norway and Japan proposed to downlist various whale species, all of which failed. Cuba wanted to downlist its population of Hawksbill turtles, which also failed.

The U.S. proposed a Marine Fish Species Working Group, which failed to get CITES support. Bolivia and the U.S. cosponsored a proposal to list bigleaf mahogany on Appendix II, which also failed. Instead of the Appendix II listing, the Range States agreed to list their respective populations in Appendix III.

What is clear from this Conference is that the majority of CITES Members support the sustainable use of plants and animals and that the U.S. Delegation was on the losing side of most of the major decisions made in Harare. I am hopeful that we can learn today how the U.S. positions were formulated and how the U.S. can regain its international leadership role prior to the Eleventh Meeting of the Conference of Parties in Indonesia.

Finally, I want to express my sincere appreciation to Congressman Richard Pombo. Richard was our Republican Congressional delegate to CITES and he did a superb job of representing our Committee and our Nation at that Conference. It is not an easy task to travel thousands of miles to attend one of these international conferences, and I want to thank him for all of his personal sacrifices.

I am anxious to hear his assessment of the outcome of this meeting and look forward to also hearing the testimony of Mr. Don Barry of the Department of the Interior who was the head of the U.S. Delegation to the CITES Conference.

Mr. POMBO. The first panel, our only panel, Mr. Donald Barry, who is the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, who is accompanied by Mr. Marshall Jones, who is the Assistant Director for International Affairs. They are also accompanied by Dr. Susan Lieberman, Dr. Peter Thomas, and Dr. William Fox.

Mr. Barry, you can give your statement. Because you are the only panel, I will be generous with the time, but I would give you the floor.

STATEMENT OF DONALD J. BARRY, ACTING ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. BARRY. Thank you, Mr. Chairman. I would just like to ask permission to have my entire written statement entered into the record. I would prefer to just offer some general observations as an alternative statement at this time.

Mr. POMBO. Without objection, it will be included.

Mr. BARRY. Let me first thank both you and Congressman Miller for your very kind remarks. I find myself sort of wishing this could be a permanent Kodak moment. It is likely to be the only time in my career when I am likely to be complimented by both sides of the aisle, so I appreciated the opening remarks from both of you.

Let me first say that I have had a pretty long and fortunate career in government. I have had the good fortune of being in many places and having a chance to work on many things, but as sort of small-town and schmaltzy as this sounds, I don't think I have ever experienced something as awesome as representing the United States at a major international conference.

The feeling of responsibility that comes down on top of your shoulders when you are representing your country in an international forum like that was, I won't say crushing but you certainly felt like the person who carries the flag in the Olympics and you don't want to trip on behalf of your country. For me, it was probably what I would consider the privilege of my lifetime to represent the U.S. at CITES.

I also would like to just offer my personal thanks and the thanks of the members of the American delegation for the courtesy that both you and Congressman Miller and the Committee staff folks accorded us. Having worked for the old Merchant Marine and Fisheries Committee staff, having gone on a number of CITES conferences as a congressional staff observer, in all honesty, I was concerned about how we would be able to balance both the demands at the conference and also be able to provide the support that we wanted to provide to you folks.

The entire group that came to the conference from the U.S. Congress were incredibly low maintenance, and you folks were exceptionally easy to work with. We appreciate your interest, quite frankly. One of the problems that we have is getting people to care and having an opportunity to talk to people in Congress and to make them aware of the complexities of these issues, so we appreciate congressional interest.

We were delighted to have you on board and found it a really easy fit, which was sort of the best of all worlds. I just wanted to thank you all for being as accommodating as you were.

Let me just offer one general observation. I think it is too easy to fall into sort of a scorecard mentality when you come out of a conference like this and say, well, the U.S. won or lost this many, so it must have been a bad conference or a good conference.

I think that is a way too simplistic way of looking at it, and I would say that overall, we won some votes that we desperately wanted to win, we lost some votes that we were very disappointed to lose, but overall, I probably would have given this particular CITES about a B rating, maybe a B-plus, somewhere in there in terms of the overall level of issues that were on the table.

The U.S. actually did very well overall on a lot of the smaller issues that don't capture the attention necessarily or the headlines, but are critically important for helping to make the CITES treaty work more effectively. The U.S. had, I think, nine different resolutions or papers on interpretation of the convention which were adopted. There were two new working groups that we proposed which were rejected, and then two other proposals that we had on the implementation side of things which were sort of deferred or referred back to one of the committees, but we did have nine resolutions that we set forward that were adopted.

Two out of our three plant proposals were adopted. We didn't win on mahogany, which was a very important one, but quite frankly, that would be an example of where I would say that we ended up in as good a position if not a better position as a result of the conference, even though we didn't get it on an Appendix II listing, which we originally started out to get.

I think the eventual outcome, the resolution that was worked out on mahogany with Brazil, with Bolivia, is actually from the perspective of the people who took the lead on that issue a better deal, a more long-term enhancing deal for mahogany than we could have gotten with an Appendix II listing.

I don't think we would have gotten to that point if we hadn't pushed it, so are we disappointed we didn't get Appendix II listing for mahogany? Well, we would have preferred to have played that ball down the fairway a little bit further, but on balance, I think we have a new opportunity here which long term may be even better from the perspective of mahogany, so I think on a lot of these issues, we have to look beyond just the scorecard keeping of whether we got something on an appendix or not, and not lose sight of the fact that the reason we are interested in these issues is to promote the conservation of the species. If we can get there some alternative way, we ought to be strongly supportive of that and not care on how we get there.

On some of the animal proposals, we were pleased with the outcome of the question involving the white rhino. We believe that the right decisions were made in rejecting the whaling proposals.

There was an excellent paper, probably the real sleeper of the conference, and this is something that I would just respectfully urge the Members of the Congress to give some additional thought to.

The real sleeper of the conference, I think, of all the things that we worked on was a paper the Fish and Wildlife Service had prepared somewhat in obscurity on invasive species, alien species, and what amazed us was the unbelievable response we got worldwide with countries saying, we have this problem, too. This is a serious, serious problem, and the support that we received ranged from Cuba to any number of countries around the globe.

I think what it points out is that there is a growing recognition of the problem of alien species, and I am not talking about the men in black kind of alien species. I am talking about zebra mussels and things like this, species that get established through trade and then have horrific local environmental problems and what it suggests is that this is an issue that is still out there. It is growing, it is worldwide, and the response that was generated to this one paper suggests that there is a lot more work for us all to do.

On sea turtles, I think we had the right decision, the right outcome. There was a major debate, and I think it was a very fair and open debate primarily for commercial purposes, which is the key standard under the convention, whether you should allow trade in Appendix I species if it is primarily for commercial purposes. We were very pleased with the outcome of that issue. I know that it was a very tough matter for the folks to resolve. I thought Namibia did an excellent job in raising the issue, but we felt that it was one of the most significant issues addressed in the conference. We were very pleased at how that came out.

I think we also made good progress with regard to international trade in bear parts. We did not get everything that we had wanted or other people had wanted perhaps, but I think we ended up coming out of the conference with an excellent foundation for doing more in keeping this issue alive, and more importantly, coming back at the next conference and saying, OK, we tried an alternative approach to work with the countries that have been responsible for the consumption of bear parts, illegal trade; if it still is a significant problem at the next conference, then I think it is fairly clear that we have to prepared to take more drastic action, so I think the whole bear parts issue is not going to go away, but I think there is an opportunity for us to make some real progress, especially with the traditional medicine communities, to try to begin to turn the illegal trade around.

The toughest issue probably clearly for the delegation was on elephants. We did not succeed in preventing the downlisting, but even on that one, I think that if there was going to be a resumption or at least a green light for resumption in trade, the types of conditions and qualifiers that were placed on the ultimate approval were the right ones.

I think they were the right issues to ask and the right type of conditions to have, and most importantly, one of those conditions was that the countries that would take advantage of the one-time sale would end up having to withdraw their reservation on elephants which they have maintained since the original listing, and long-term, that is a very significant step forward.

I think the elephant outcome would be viewed as a loss for the United States, but we tried to approach it in a way that left us actually coming out of the conference with a stronger position and a

working relationship with these countries than we had going into it.

I have to tell you, in particular, I felt that we developed some new opportunities that had not previously existed for working cooperatively with Zimbabwe. I think the host country did an excellent job in trying to manage a conference of this size. I think, and it is too bad that Congressman Farr has now left, because one of the things that I wanted to respond to with regard to his observations on how do we try to work more cooperatively with other countries of this sort.

I explored the possibility right after the vote, coincidentally, of looking for an opportunity of expanding a cooperative partnership with Zimbabwe and the National Park Service and the U.S. Fish and Wildlife Service, but particularly focusing on things like park management, and the response from the folks in Zimbabwe was exceptionally positive and exceptionally high.

It is one of the things I have talked to the Secretary about. I intend to talk to the State Department about it. I see a real opportunity here for us to come out of this conference and to build some new partnerships that have not existed in the past between the United States, the Department of the Interior, and Zimbabwe Ministry of the Environment and Tourism. I think there is a lot that we can do to assist them with their national park program which gets back to Congressman Farr's idea of how do we look for ways of assisting some of these countries in having a sustainable opportunity for encouraging a diverse use of wildlife, including photography and ecotourism and all of those things.

I felt that on balance, even though we ended up having to oppose Zimbabwe and Namibia and Botswana on their elephant proposals, we have an opportunity now to play a constructive role and to work with them cooperatively to see that this new experiment with elephant ivory turns out as best it can under the circumstances.

Finally, in the loss column, I would probably put some of the marine issues. We did not get the marine fisheries working group that we wanted. We did not get sawfish on. We had a working group on law enforcement that was rejected, and we also ended up withdrawing some proposals regarding turtles and rattlesnakes.

On balance, it was sort of a mixed track record with some wins and some losses, but I think that is the one thing that we have come to expect with CITES conferences, that it is a kaleidoscope of changes. You go in with certain positions and you have to sort of read the tea leaves as best you can and position yourself to not only influence the outcome of the decisions even when you are losing, but also then to be in a constructive position to help make things work once the CITES conference had made a decision. I think we have to be respectful of the decisions that are made at CITES.

Actually, the only other remaining observation I will make and then I will stop, if I had to say there is one thing that I really focused on and appreciated in CITES, it is that two-thirds is a tough vote. These decisions are not made by majority vote. It is a two-thirds vote, and I think two-thirds was tough for everybody.

Two-thirds is a very tough vote for Japan and Norway on whaling. Two-thirds was a very tough vote for us on mahogany, and so

what it does, it acts as a bit of a buffer, similar to the U.S. Congress with veto overrides and things like this.

It is a tough vote and you have to have a very good position, a very good proposal, and you have to be able to communicate your reasons for wanting to do things. Probably in retrospect, two-thirds is just about the right standard to have, because it makes sure that what you get has a strong enough consensus worldwide to make it very clear that this is what people want to do with wildlife conservation.

I will just stop at this point.

[Statement of Donald Barry may be found at end of hearing.]

[Summary Report on CITES Conference may be found at end of hearing.]

Mr. POMBO. Thank you. I would agree with one of your initial assessments that what is important from this conference is not necessarily the scorecard. I think that the United States would be making a huge mistake if we looked at it as wins and losses.

I do think that what is important is what we learned from it, and if we go into the next conference, that will determine how successful this one was, I believe. It is how we go into the next one with what we are doing, and how we deal with the different issues.

I think that is probably a more important determination of how successful the conference is ultimately will be how we deal with what we learned while we were there, and how we deal with the results of the particular votes. I think that is probably a key to it.

One of the things that concerns me is how we deal with the state representatives, and we had a group of fish and game managers, fish and wildlife managers from the different states who were in attendance, and they all obviously have a high degree of expertise in managing wildlife in their particular states in dealing with those problems.

How do you foresee in the future dealing with the states in terms of coming up with positions? I guess I would like to see them more included in how we come up with the decision.

Mr. BARRY. Actually, I am resisting the temptation to read you a letter I coincidentally got from Steve Wilson, who is the president of the international complimenting us on the way that we worked at the conference with the state representatives who were there.

Let me just say that one of the things that we did at the conference was begin a dialog with the international about ways of integrating state involvement in CITES matters much earlier than we have in the past.

Actually, there is a fairly high level of early involvement, many months before the CITES conference takes place with the state fish and wildlife folks, but I am not persuaded personally that we have still perfected the process.

What we would find ourselves doing at the CITES conference is having the type of hurried discussion regarding alternative conservation strategies that the states may adopt or might be willing to consider in order to avoid having to press something to a final vote, and those are the type of discussions that we should have been having months before, and not having had at the CITES conference.

I talked to Steve about this, and the International Association of Fish and Wildlife Agencies is having their next meeting, I think, in September. They had a large number of people at the conference, and I think to the same extent that both of you found it very educational and informative for going to a conference, I think the reaction of the regional representatives from the international was pretty much the same.

What we have agreed to do is at their next meeting in September, try to have sort of a focus discussion and dialog with the international about CITES, about the role that the state fish and wildlife agencies can and should play, and to look for ways of reducing the need on our part to have to offer proposals to list U.S. species. We don't consider that a victory. We consider that if we were at that type of an endpoint that it was somehow a failure on our part.

What we need to do is do a better job working with the states in advance so that we can identify any particular problems and not feel that a CITES listing is the best solution. I think home-grown solutions are the best solutions, and I think that was one of the reasons that we had trouble with some of our proposals. People felt that what we really had was a domestic problem, not an international trade problem, and the proposals that we ended up withdrawing were subject to that criticism, and I think we need to do a better job looking for ways of avoiding those types of critical assessments.

Mr. POMBO. I seemed to get the feeling or the impression while I was there that there really was a shift within the international community to pulling in the community or the country where the species exist into begin a bigger part of the solution. I think at times in the past, we have tended to think that we had to solve that problem for them, and I think that we are beginning to see a shift within the international community that these countries really do have to come up with their own solutions.

In dealing with our states, I think it is kind of the same problem. We need to bring them into being part of the solution, if it is going to work, because they are the ones that have to implement it.

Mr. BARRY. I would agree with you completely on that, and I think one of the hallmarks of Jamie Clark's efforts under the Endangered Species Act, Jamie, yesterday, had her confirmation hearing to be the next director of the Fish and Wildlife Service.

Jamie has taken the lead in looking for ways of working with state fish and wildlife agencies and other state officials to develop proactive conservation agreements as an alternative to having to list endangered or threatened species.

I know Jamie supports this idea very strongly that it is the best solution, that a preventive solution is the best solution, and I think that it is a real opportunity for us to do a much better job in working with the international. We look forward to that.

They are the people on the ground that control what is going on with many of these species, and if we can collectively work together to develop better data bases, to do a better job in tracking what is going on, especially with the captive breeding operations, to have a better sense of whether or not there is still any take from the wild going on. I think all of that will ultimately help us tremendously in having better developed proposals going into CITES.

Mr. POMBO. One of the issues that was on the table and we are beginning to see more of is this whole idea of sustainable use, and I think that what the bottom line is, in this country, we have talked a lot about an incentive-based system, going to an incentive-based system so that if you are habitat for wildlife, it is a positive and not a negative.

We see that in Zimbabwe that they have used trophy hunting as a way of making a value to the wildlife to the local people, therefore, they protect it. That does not necessarily have to be the only value, but there is that whole idea of an incentive-based system.

In the future, do you see the U.S. looking at that more as an alternative and more as a solution to some of the problems internationally that are out there, is to make that a positive versus being a negative?

Mr. BARRY. I think as a general concept, we are very much interested in looking for ways of relying on incentives to promote conservation. That clearly has been the hallmark of what we have been trying to do here in the U.S. with some of the ESA reforms that we have been promoting.

I think we see that there is a potential for application overseas. The one tricky thing is that CITES is somewhat of a limited tool in that it is a convention that focuses on international trade. So your opportunities under CITES are somewhat limited to activities that are involving trade, and that is why with regard to Congressman Farr's question, the things that he was talking about, ecotourism and so on, is really beyond the scope of CITES. It is not that the opportunity isn't there, but it is that we may need to look for alternative ways of promoting it, maybe through a ministry to ministry cooperative agreement of some sort with our National Park Service and their Ministry of Wildlife and Tourism.

I think even under CITES, there are ideas which have evolved over time which look for ways of trying to provide incentives for conservation onsite. The whole ranching proposal, the concept of ranching, for instance, where they will take some species out of the wild, they will raise them in captivity, release a number back to the wild, and help sustain populations in that manner, I think as a general matter, when they have had well developed, thoughtful proposals, have been very effective in restoring populations like the Nile crocodile and others.

The opportunities are there. We are generally supportive of the concept. We recognize that we may not be able to do as much as we might prefer under CITES alone, and ultimately, it may end up being a matter of limited resources that will limit our interest in this area, but it is something that we are very supportive of where we can find the right opportunity.

Mr. POMBO. Thank you. Mr. Miller.

Mr. MILLER. Thank you. Let me ask you if you could be a little bit more expansive where you think we are on mahogany and where you think this is going to go in the future.

There was obviously extended debate and a lot of discussions between countries about this that are involved either as a producer or consumer.

What do you think is going to happen in the future here, given the results of the conference?

Mr. BARRY. My first day back in Washington, DC, I opened up the Washington Post and saw In The Loop sort of the ten or twelve rules of life in Washington, one of which is if you have to answer a question directly, mumble decisively.

Let me mumble decisively on the mahogany question, and the reason I am being somewhat facetious about that, Brooks Yeager was the person on the delegation who spent most of the time handling mahogany for us, and Brooks is out of DC right now, so I am sort of a standby on the mahogany issue for you.

I think mahogany turned out to be a very tough issue virtually for all sides. I heard reports that in Brazil, the position that the government took has not been going down well in some of the press accounts, and that there is a fair amount of internal debate within Brazil as to whether or not the delegation perhaps should not have been as aggressive in opposing our Appendix II listing.

But in terms of where we are today, we have an opportunity now to work with all the range states for mahogany in developing and conducting a study on sustainable utilization of mahogany. There is, I think, a commitment now on the part of Brazil and Bolivia and some of the other major range states to work with us on mahogany conservation.

Brazil agreed to or offered to and has followed through with an Appendix III listing of mahogany. They called on the other major range states to do the same thing.

This is important, because now mahogany coming out of Brazil will need to have a certificate of origin, so we are beginning to develop a data base which will be more helpful for us in assessing the level of trade that is going on.

Some of the other major range states, I think Bolivia also put their mahogany on Appendix III, so I think what they have in mind over the next 18 months, I believe, is the development of a sustainable use study and analysis with the major range states and the importing countries. I think what we have is a window of opportunity between now and the next CITES conference to see if we can make real progress on the whole question of sustainability of trade with mahogany.

If we fail, then this issue will be back at the next conference. I have no doubt about that, but I think we at least came out of it with an opportunity to work with Brazil because Brazil has to be the major source of the solution to this whole issue.

Mr. MILLER. It seems to me to be one of those issues that you sort of touched upon in your remarks, and that is that there is an opportunity, I think, because of the awareness that our proposal brought to the issue that there is really sort of an opportunity to start on a real solution, sort of outside of CITES and maybe avoid engaging CITES next time.

It seems to me there is sort of two issues. There is that one, mahogany, which you sort of get to look ahead and the various countries decide how they want to handle it. Then if you take the downlisting of the elephant, the very decisive action taken at the convention and this, what is it, 20 months or whatever time period for these conditions to be met, the test there is whether or not CITES can take that kind of action and then can you sustain and maintain that action because conditions are in fact being met and

protocols are in place to allow that action to work, for lack of a better word.

Those seem to me to be kind of two tests of this convention. One, can you avoid a future clash, because everybody is now on notice, the mahogany and this issue; and two, can you maintain and demonstrate a success in a pretty rough atmosphere in terms of poaching illegal trade and the rest of that?

Where do you see the United States' involvement in the latter in terms of making sure that these conditions weren't just window dressing so you could get a two-thirds vote, but in fact, they really do—that they really are realized so that we can determine whether or not conditions like that in fact even work for some other downlistings that may be proposed?

Mr. BARRY. Let me ask Marshall to talk a little bit about what we think our opportunities are at this point with regard to the elephant vote. We have already had some discussions about what role we can play that would be most constructive, how do we try to best address the issues of concern to us.

Our opposition was primarily based on the concern about poaching in other countries. It was not intended to be a reflection of our assessment of the management proposals from Zimbabwe, Botswana, and Namibia in and of themselves.

Marshall, why don't you address that issue?

Mr. JONES. Thank you, Don. Congressman, the conditions that were adopted obviously are pretty complex, and it is not a sure thing that 18 months from now or 18 months actually from this September, so March 1999 would be the first opportunity for these countries to be able to sell stockpiles to Japan, and then only if the standing committee of CITES, which is now chaired by the United Kingdom, determines that the conditions have been successfully met.

We have had discussions with David Brackett, who was the chairman of the scientific committee there in Harare, but who is sort of continuing to track this issue in his role as chairman of the IUCN Species Survival Commission about what we might do to assist in the process, to help the standing committee make the best decisions, to help establish the kind of monitoring system for poaching and illegal trade that is required by the conditions that were adopted.

We think that the IUCN African elephant specialist group probably has some good ideas about what that could be and so some discussions have gone on with Holly Dublin, who is the chairman of that group. We are about to be in contact with the chairman of the standing committee in the United Kingdom to see how we could match, perhaps, funding that the European Union is willing to provide for a consultant who might oversee this whole process, to help the CITES secretariat make sure that things happen the way they are specified in the resolution, or else the standing committee will have to make the decision that the conditions haven't been met.

Mr. MILLER. What are our expectations of consuming nations, I guess in this particular case, Japan, in terms of their contribution and their responsibility, their driving practices now? In this one instances in the range state, what is the sense of their responsibility

in terms of putting in place systems for more control of illegal trade?

Mr. JONES. I think Japan has an enormous responsibility here. The panel of experts' evaluation of Japan's system done prior to the conference showed that their system has weaknesses in it, both in terms of how they deal with worked ivory and how they prevent re-export, which is part of the whole system, to keep it from leaking out of Japan and showing up elsewhere.

I think there is a pretty high burden on Japan to go through the things that were identified in the panel of experts' report, and then to work with the CITES standing committee to show that these things have been improved and that the system is much better than it is today.

Mr. MILLER. I don't pretend to understand all of the subtleties of how you put together a two-thirds vote, but it seems to me that clearly in this case, the one-time sale to Japan was a driving force and much of the discussions and comments on what was taking place at the convention, and not only do I believe they have a very strong responsibility to have in place a fail-safe system, if you will, but I would think from their point of view, it is also a question of whether they can develop a model system, because they are right back at the next CITES convention or the International Whaling Commission dealing with sea turtles and whale meat and a lot of other activities, mahogany, that their consumption is driving much of the considerations of whether or not to downlist this or whatever actions one way or the other, more stringent or less stringent.

This is again an opportunity to see whether or not when CITES takes this kind of action, can we develop those fail-safe protocols against illegal trade, because I don't think it takes a lot of smarts to figure out that if you just kind of do it on the status quo, illegal activity can just swamp legal activity, and by the time you catch your breath and catch up to it, the herds are back at risk, the turtles are at risk, or something else is at risk, because illegal activity moves very quickly.

That is why drug trade is very successful. They are very adaptable and very agile, and they don't respond to a lot of red tape.

Legal activity is very hard to put in place, and monitoring and controlling that, so when you think of the resources that are available from the EU, who was divided in supporting—well, they were confused, but anyway, they are there, and now we are willing to put up some money to talk about poaching and management to make this a successful decision to downlist.

Hopefully, our contributions as one who raised these as our concerns, it wasn't really the management that built the herds; it was now whether or not these protocols were in place, and then the resources of the Japanese is in this case the primary consumer, this ought to be a model of success.

I mean, there is very, very big stakes at this for future decisions by CITES, and I think responsibility has got to be doled out here. It can't just be on the nations that happen to have the resource, because in many instances, they simply don't have the wherewithal to do it.

Mr. BARRY. Congressman, I think we completely agree with that assessment and the question then is what can we do that would be the most helpful for the long term conservation of the elephant.

As you know, Congress, I think in 1989, passed the African Elephant Conservation Act. There is a small grant program under that Act. Marshall is the person who sort of is in charge of that small grant program, and one of the questions that we are assessing right now is to what extent we can help target some of the grant money under the African Elephant Conservation Act grant program in support of some of these activities.

I personally was surprised to learn that in recent years, there has been no comprehensive data base that has been maintained on poaching, for instance. We were all sort of grappling and sort of stumbling looking for answers that didn't exist on recent levels of poaching across Africa.

That is useful information. That is very important information, and it is one of the things that was recognized in the resolution, that we need to work with the range states to assist them in the development of a comprehensive data base on both trade, on poaching, on all those issues, and that probably is a good place for us to look to providing financial support in response to the resolutions that were adopted.

Mr. MILLER. I appreciate that response, and obviously, I think if we can help either in bilateral discussions with the Japanese or with the EU, we would be more than willing, I think, to do that.

I think this really is an opportunity, and I think we are in somewhat of a unique position because of the way in the end we frame the issue, in the sense of how your delegation dealt with this in the sense that it wasn't a slam at these three nations, that it really strained to rebuild these populations, but it was a very legitimate concern about whether the rest of the world in a sense was in a position to accept this trade, should it take place. I think to pursue that line could reap rather substantial rewards in terms of future considerations at CITES, whether or not people have confidence if other decisions are going to be made in the years down the road here.

Mr. BARRY. I think also, there is just an overall sense of wanting to look like—heading into the conference, there was a lot of chatter back and forth about well, the United States is going to break arms and rip off kneecaps if they don't get what they want.

I think our overall standing in the conference and our standing and our ability to be constructive at CITES is directly related to the way that people not only watch our behavior going into CITES, but also our behavior coming out of a CITES meeting, and we need to show that we can be respectful of the decisions that have been made. We try to be constructive wherever we can be, and I think we have an obligation to be as supportive of elephant conservation as we can be, and we will look for ways of working with the decision that was made to be helpful where we can be with an eye toward elephant conservation ultimately, and to help all the countries have better information so they can make these decisions more easily.

That was the real problem. Most of us were sort of grappling, trying to figure out really what the consequences would be, and we don't really know.

I think to the extent that we can all help together to get better information, to assist the range states in their efforts, it would be a real tragedy if we failed.

Mr. MILLER. Thank you, and again, thank you and your entire operation for your representation of our positions and our country.

Mr BARRY. Thank you.

Mr. MILLER. Thank you, Mr. Chairman.

Mr. POMBO. I guess just to followup on what George was just asking, one of the concerns that I had about the way everything was working was immediately, they went into the secret ballots, and I picked up that that was because they were afraid there was going to be retribution if everybody knew how they voted.

Can you give me your assessment on that as well as your opinion of how that impacted the outcome?

Mr. BARRY. Secret ballots have always been a very controversial issue at CITES conferences in the past, and at the last conference in Fort Lauderdale, new rules of procedure were adopted which made it exceptionally easy to get a secret ballot, even though the expectation was that it would only be used in very unusual, rare circumstances.

This conference had the highest number of secret ballot votes ever. The United States is not a big fan of secret ballots. We, as I mentioned at the hearing 6 weeks ago or so, always act in a very transparent way. We always announce what our vote was, even in a secret ballot, so we are not fans of it and we will never ask for a secret ballot.

It is always interesting, too, to sort of try to assess how it works or how it actually plays out. I think there have been some real surprises in some past secret ballots where the assumption was that a secret ballot would help the proponent, and I think ultimately, it actually went in the other direction.

My overall assessment is that secret ballots can generally be a real toss ball. It can boomerang, it can backfire, it can produce some real surprises.

I think as a tool, it is overrated. I think the operating assumption that you need to somehow protect yourself in order to be free from retribution, I can understand perhaps maybe why there is that impression, but for the life of me, I can't see how it actually would work in practice. It is beyond my personal belief that we would ever come back from a CITES conference and say, well, these three countries voted against us, so by God, we are going to just rip off their aid programs or something like that.

That is the fear that people have. It is not the way the United States is ever going to conduct itself, I would hope, certainly not during our watch.

Mr. POMBO. I would hope that doesn't happen.

Mr. BARRY. I would hope that the secret ballot process has sort of seen its high watermark and we go back to having these types of honest debates as a group and not be afraid of them taking positions and assuming that people can't live with it.

Mr. POMBO. One of the things you mentioned was the responsibility that the U.S. has to be part of the implementing of a lot of these different decisions.

One of the things I noticed was that the EU was or has rewritten their rules regarding the importation of elephant products. Is the United States looking at that now? Should we expect a proposal coming from the Administration on that or how are you going to deal with that?

Mr. BARRY. Let me ask Marshall to describe what the status quo will be once the downlistings go into effect in September. Marshall.

Mr. JONES. Congressman, we have imports of elephant products regulated right now under an Endangered Species Act 4[d] rule; elephants are listed as a threatened species, so there is a special rule.

That rule regulates ivory very strictly. It regulates trophies in sort of an immediate way. Other elephant parts and products such as leather or hides just yields to CITES. Whatever is required to satisfy CITES is enough to satisfy that.

The effect will be that as a result of the decision, elephant hides which now can be legally commercialized out of Zimbabwe, those hides can come into the United States, all they need is the right export permit from Zimbabwe; they would be available to enter into whatever commercial uses anybody wants to put them to in this country.

Mr. POMBO. Let me stop you right there. As long as they have the export permit, in other words, as long as they came from some legal source within one of those three countries——

Mr. JONES. Just Zimbabwe.

Mr. POMBO. Just Zimbabwe.

Mr. JONES. The other two countries didn't ask for and didn't get a downlisting of hides, so the hides only come from Zimbabwe.

Mr. POMBO. So as long as they have the export permit from Zimbabwe showing that it came from a legal source, then that would be something that could be imported into this country?

Mr. JONES. Yes, sir.

Mr. BARRY. If I could just add one thing. I think Congress in 1989 when they passed the African Elephant Conservation Act focused logically on the one product that was resulting in the slaughter of elephants throughout all of Africa, and that was ivory.

Our regulations basically reflect that focus and the assumption that if elephants are going to disappear on this planet, it will be because of ivory, not because people wanted to go into the hide poaching business.

I think what you have then is a regulatory program that reflects Congress' view in 1989 as to what the real threats were. That is what we have regulated most significantly, and it was President George Bush who made the decision to shut down the flow of ivory into the United States, so ivory has always been the battleground regarding trade in elephant products.

Mr. POMBO. Dealing with the sturgeon, I have had a lot of people that were concerned about this and discussed this issue with me.

I was wondering, have you had any discussions with the industry, the domestic industry, since you returned?

Mr. BARRY. I have not yet, but we have already had a followup meeting or at least a post-CITES conference meeting at the Interior Department with the Fish and Wildlife Service folks. It was just a couple of days ago that I met with them.

As it turned out, when you have a meeting on this issue, you don't get one or two people. I walked into the room and it was sort of overwhelming, about 20 people from so many different parts of the Fish and Wildlife Service, I lost count, but we have already begun a discussion of this matter.

I have asked the Fish and Wildlife Service to put together some background papers for me describing the current process to begin to sort of line out what ideas there may be for trying to streamline some things.

We have some time. The sturgeon proposal doesn't kick into effect for a full year, and I think we ought to take full advantage of that year.

One of the things we clearly need to do is to be able to have a better sense of who the players are within the aquaculture sturgeon industry. We would look forward to any assistance that you might be able to provide us in that regard. We are very much interested in making this as user-friendly and painless a process as we can, and we have begun that process inside the department.

Mr. POMBO. I would be very interested in being kept up to date on that and being part of that.

As you know, I do have an aquaculture industry within California, within my district, that is very concerned about what the ultimate outcome of that would be.

Another issue I did want to touch on with you is that as part of this system that Zimbabwe has in place, the trophy hunting does play a major role in that, and one of the things that I noticed when I was over there was that the areas that were established for hunting were relatively low impact on the surrounding area, whereas the areas that were set up for ecotourism, the photographic safaris were much more elaborate and require considerably more money to set those up. I think that that does play on the impact of what decisions they are going to make.

As we start looking at how we are going to implement this and what we are going to do to be cooperative and helpful in terms of this final decision on the elephants or the current decision on the elephants, I know one of the things that has been suggested is that we try to put more effort into one side versus the other and that we get into that entire debate.

At some point in the future after you guys have a chance to really sit down and look at this, I would like to get some ideas from you as to what you are going to do, I guess more on the ground in terms of helping in some of these situations.

Mr. BARRY. I don't want to drive too far beyond my headlights here. There are two different ways that I can see the U.S. continuing to be helpful. I think clearly it is the ultimate decision of the host country, Zimbabwe, Namibia, as to what they really want to do with their own resources on the ground, so we can only provide some opportunities and then see if there is any interest and see what type of partnerships you can develop.

AID provides a significant amount of aid and resource money to Zimbabwe and Namibia right now, so it is really more of a matter for AID to sort of decide what opportunities may be present in working with the host country for some of these opportunities.

In the case of what the Department of the Interior might be able to do, I spent some time with a number of Canadians. Canada has had a very active assistance program in Zimbabwe for many years. Right now, they are just finishing up, I think it is the fifth year of a 6-year assistance program with the Ministry of the Environment and Tourism in Zimbabwe, and one of the things that the Canadians were focusing on in particular was to assist Zimbabwe in developing a planning process, land management planning process for their park system and so on.

That was one of the areas that we were encouraged to sort of step in and help out, and as the Canadians are phasing out, maybe we could help phase in with assistance with some of our park planning expertise.

It was interesting. One night, I was introduced to a gentleman from Zimbabwe from the Parks and Wildlife Department, and he had just come back from our North Cascades National Park, and he was very excited about everything that he had experienced and learned working with our National Park Service folks in North Cascades.

He is now in charge of planning for the Department of Parks and Wildlife for Zimbabwe, and that was one of the things that first got me thinking about the opportunities that we have.

We take for granted so easily what we have in this country and how it doesn't take much at all to really have a positive impact and to provide really low-budget assistance to other people. This person's experience was highly positive, and he was delighted at what he had learned, and it just reminded me that there are some real opportunities out there to pick up on what other people have done, like the Canadians, to look for ways of being helpful, to provide some of the assistance that we just take for granted, things that we do that we just take for granted in this country which could be very useful and very helpful if it fits within Zimbabwe or Namibia's overall land use management programs.

Mr. POMBO. I have a number of questions that I will submit to you in writing, and if you would answer those in a timely manner, I would greatly appreciate it, because there are some that deal with different concerns that people have.

The final question that I would like to put to you and I imagine that you may probably have to answer this for the record, is that in our debate of reauthorizing the Endangered Species Act, one of the issues that we have dealt with is the handling of international species.

I really would appreciate having some feedback from the department as to how we deal with some of the problems that we currently have with the language dealing with international species, how we handle that, I guess in a different manner that more accurately represents what is going on right now in the world.

I think that there are some changes that need to be made. I would be happy to share with you some of the ideas that we came up with in the past couple years, but I would like to get a response

from you as to how you think we could change this to deal with some of the problems that we have in listing international species on our endangered species list and what problems that causes.

Mr. BARRY. I will be honest about it and lay my cards on the table. I think the Endangered Species Act has played an important role, at least in influencing the U.S. market for some endangered species products. I think the days of Hollywood movie stars wanting to buy tigerskin coats are over, and I think they probably should be over.

I do think that we have to be honest enough to recognize the limitations on what we can accomplish overseas in promoting conservation overseas, given the fact that it is not our wildlife, it is not our countryside. I think what that requires us to do is to conduct an honest appraisal of how we can help provide the best incentives for forcing species conservation.

I think it is an honest appraisal we need to conduct. Is there ways that we can do things better in encouraging conservation overseas, I think we need to be willing to consider that.

I do think, though, that having an Endangered Species Act which under CITES would be viewed as a stricter domestic measure is the correct thing for us to do. I think we would be strongly opposed to diminishing the role of the Endangered Species Act in dealing with foreign species as a general matter, but I think we need to be honest enough to ask the question repeatedly, are we really accomplishing conservation or is there a way that we can be more effective.

I think if people can point out ways that we can be more effective under a strong Endangered Species Act internationally, we would consider it in a heartbeat. I think there is real room for dialog here, and I would look forward to it.

Mr. POMBO. Thank you. I appreciate a great deal your coming in for the hearing. I appreciate your bringing your staff and cohorts with you this morning, even though we didn't make them answer any questions. I was trying to be nice, and contrary to what many people believe, both George and I did come back, and neither one of us took care of each other while we were over there.

I know there was a lot of concern about that, but I think that for me at least personally it was a very enlightening experience. I learned a lot going over there, and I look forward to working with all of you in the future. Thank you very much. The hearing is adjourned.

[Whereupon, at 11:28 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

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U.S. House of Representatives
Committee on Resources
Washington, DC 20515

May 29, 1997

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MEMORANDUM

TO: Members, Subcommittee on Fisheries Conservation, Wildlife and Oceans

FROM: Subcommittee Staff

SUBJECT: Hearing on the proposed U.S. negotiating positions on agenda items and resolutions for the tenth regular meeting of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

At 2:00 p.m. on Tuesday, June 3, 1997, in Room 1334 Longworth House Office Building, the Subcommittee on Fisheries Conservation, Wildlife and Oceans will meet to hold an oversight hearing on the proposed U.S. negotiating positions on agenda items and resolutions for the tenth regular meeting of the Parties (COP 10) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Convention will be held June 9-22, 1997 in Harare, Zimbabwe. Witnesses invited to testify include Members of Congress with interests in U.S. proposals to CITES and U.S. positions on other countries' proposals; and the Honorable Bruce Babbitt, Secretary, Department of the Interior.

BACKGROUND

The Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) entered into force on July 1, 1975. Currently 136 countries, including the United States, are Parties to the Convention. CITES is the only global treaty whose focus is the protection of plant and animal species from unregulated international trade.

Protected species are listed in Appendices I, II, and III of CITES. Appendix I includes 700 species threatened with extinction due to international trade. CITES bans all commercial trade in Appendix I species but does allow noncommercial trade, if such trade does not jeopardize the species' chances for survival. Permits are required for the exportation and importation of Appendix I species.

Species listed in Appendix II are not currently threatened with extinction, but may become so if trade is not regulated to avoid uses incompatible with their survival. Other species of similar appearance must also be regulated so that trade in species at risk can be effectively controlled. Export permits are necessary for Appendix II species.

Appendix III includes species domestically regulated to prevent or restrict exploitation. Member nations identify Appendix III species as needing international cooperation to control trade.

CITES regulates the trade of listed species that are taken from the wild as well as those born or bred in captivity. Wildlife and wildlife products imported to or exported from the United States generally must pass through one of several ports designated by the U.S. Fish and Wildlife Service for clearance by a FWS inspector. The list of species regulated under CITES and regulations applicable to these listed animals are presented in 50 CFR Part 23.

Actions taken under CITES affect the trade in wildlife across international boundaries, but do not necessarily affect domestic trade within any individual country. Internal trade is regulated by domestic laws. The U.S. has the Endangered Species Act of 1972 (ESA) as its domestic legislation. The listing of any species as "endangered" under the ESA, would bar the interstate sale of that species. The ESA establishes the Department of the Interior's Fish and Wildlife Service (FWS) as the lead agency for protecting wildlife under the jurisdiction of the United States. As the lead agency, the FWS functions as the U.S. Management Authority for CITES. The FWS coordinates with the Department of Commerce's National Marine Fisheries Service (NMFS) when marine species are involved in listings under the ESA and CITES.

CITES calls for biennial meetings of the Conference of the Parties to review its implementation, make provisions enabling the CITES Secretariat (in Switzerland) to carry out its functions, consider amending the lists of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention. Member Parties were required to submit their proposals to amend Appendices I and II and resolutions for consideration at COP10 by January 10, 1997.

The FWS published the list of proposals being offered by the U.S. in the Federal Register on Thursday, March 27, 1997, pages 14689 to 14697. The FWS has submitted proposals for these species to be included in Appendix II: Bigleaf mahogany; Goldenseal; Tweedy's bitterroot; map turtles; Alligator snapping turtle; sturgeons; and timber rattlesnake. The FWS has co-sponsored a proposal by Germany to list sawfishes in Appendix I. The FWS has also submitted a number of resolutions dealing with permits and certificates, establishment of Committees, inspections of wildlife shipments, coral reporting and identification, among others. Discussion papers on trade in alien (invasive) species, illegal trade in whale meat, and a marine fish species working group have also been submitted, as well as a document on flora, fauna, and the traditional medicine community.

Other Member country proposals to CITES were listed the Federal Register on April 17, 1997, pages 18731 to 18737. There are a total of 63 proposals to amend CITES, of which 12 relate to plants and 51 relate to animals. Nine of these proposals were submitted based on the "Periodic Review" concept. This concept was first adopted at the 1981 Conference of the Parties in New Delhi, India and seeks to correct or clarify the inclusion of species listed at the Plenipotentiary and COP1, before listing criteria were adopted.

1997 Member country proposals that have given rise to some controversy include: Botswana, Zimbabwe and Namibia proposals to down list their African elephant populations; and Norway's

proposal to down list Minke whales (Atlantic) and Japan's proposals to down list Minke whales (Pacific/Southern), Gray whales and Bryde's whales.

Botswana, Namibia, and Zimbabwe proposals:

The African elephant was listed in Appendix I of CITES in 1989. However, the ban on international commercial trade in elephant ivory and other products did not take effect until 1990. At the time of listing, some African elephant populations were not threatened with extinction and therefore did not meet the biological criteria for listing in Appendix I. Nonetheless, CITES Parties listed all African elephant populations because previous efforts to control ivory trade were not stopping the decline of African elephants caused by illegal hunting for ivory.

Only the elephant populations within these three countries are proposed for down listing to Appendix II. These countries collectively hold 175,000 of Africa's estimated 580,000 elephants. These elephant populations are said to be large and increasing, while losses to poaching are minimal. In most cases, a down listing to Appendix II would allow a species to be traded internationally for commercial purposes with the appropriate CITES permits. In this case, these proposals would allow single annual shipments of specified quantities of ivory to Japan only. No other countries would be involved. In all three cases, any ivory traded would be of known origin from management-related elephant mortalities. Zimbabwe is also proposing export of elephant hide, and all three countries are proposing to export live animals to "appropriate and acceptable" destinations," and hunting trophies.

When the CITES Parties listed all African elephant populations, they also developed special criteria for proposals to move African elephants to Appendix II and agreed that a Panel of Experts should use these criteria to evaluate any such proposal put forth. The criteria include an evaluation of the status and management of the populations in the proponent countries and the ability of the affected range States to control trade. This Panel is appointed by the Standing Committee on the recommendation of United Nations Environment Programme (UNEP), International Union for Conservation of Nature and Natural Resources (IUCN), and Trade Records Analysis of Flora and Fauna in Commerce (TRAFFIC is the wildlife trade monitoring program of World Wildlife Fund (WWF) and the IUCN). The Standing Committee has also mandated that the Panel of Experts consider trade in non-ivory African elephant products and ivory trade controls in specified importing countries.

The 1997 Panel of Experts report stated that these three populations meet the criteria for down listing to Appendix II. However, the Panel noted that both Zimbabwe and Japan needed to improve their trade controls. The Panel stated that Japan's ivory trade controls were adequate for whole tusks but less so for cut pieces and at the retail level, making identification of products made from illegally obtained ivory difficult.

The CITES Secretariat is supportive of the proposals, as are the International Wildlife Management Consortium/World Conservation Trust (IWMC) and Safari Club International (SCI). The TRAFFIC Network position on the proposals is to accept them with an annotation providing for trade in live animals and sport hunting trophies, and trade in ivory (and hides for Zimbabwe) with a

zero quota. A number of animal rights groups are against the down listing proposals. The U.S. Fish and Wildlife Service's position on these proposals is still under review.

Japan and Norway proposals:

In 1978, the International Whaling Commission (IWC) passed a resolution requesting that CITES "take all possible measures to support the IWC ban on commercial whaling for certain species and stocks of whales as provided in the Schedule to the International Convention on the Regulation of Whaling (ICRW)." The CITES Parties responded, at the Second COP in 1979, by adopting Resolution Conf. 2.9, which recommends that "the Parties agree not to issue any import or export permit or certificate" under CITES for primarily commercial purposes "for any specimen of a species or stock protected from commercial whaling by the ICRW."

At the fourth COP in 1983, CITES decided that "All cetaceans for which the catches are regulated by the IWC and for which the Commission has set catch limits for commercial whaling (except for the West Greenland population of minke whales) and not already on Appendix I would be transferred to that Appendix in 1986, when the IWC decision to implement a pause in commercial whaling comes in to effect." This action by COP4 established the strong relationship between the two organizations whereby CITES has agreed to reflect IWC decisions in its Appendices.

Norway and Japan have proposed the down listing of three species of whales from Appendix I to Appendix II. If adopted, the proposal would normally allow for a monitored commercial trade. However, the IWC is the international management authority and it has not allowed commercial whaling since 1986. The down listing of Minke whales, Gray whales and Bryde's whales is supported by the CITES Secretariat and IWMC, while a number of animal rights groups do not support the down listing. The U.S. Fish and Wildlife Service's position on these proposals is still under review.

ISSUES

- How does the FWS develop the U.S. position on proposals for consideration at CITES?
- How are U.S. proposals to CITES developed? What interagency review is necessary for these proposals?
- What role should Congress play in developing these proposals or positions?
- What role does science play in decisions to uplist or downlist a species?
- What is the Service's position on the Botswana, Namibia, Zimbabwe proposals? If the Service doesn't support the proposal, what alternative does the Service recommend to help these countries?

- Did the Service consult with the Forest Service on the listing of Bigleaf mahogany (S. Macrophylla)? What did the Forest Service recommend? Do any Range states support the proposal?

- Do any of the whale populations included in the Norway and Japan proposals merit downlisting to Appendix II based on the abundance estimates done by the International Whaling Commission?

- What does the Service want to accomplish with the U.S. illegal trade in whale meat discussion paper? Have there been documented cases of illegal trade in whale meat?

- How will the listing of all sturgeon species in Appendix II affect the U.S. aquaculture industry?

- What is the Marine Fish Species Working Group? Aren't there other International Organizations that have jurisdiction over marine fish species?

June 3, 1997

Prepared Statement of

Howard Coble
U.S. Representative (NC - 6th District)

before the
Fisheries Conservation, Wildlife and Oceans Subcommittee

Oversight Hearing
on the upcoming Tenth Regular Meeting of the Parties (COP 10)
to the Convention on International Trade
in Endangered Species of Wild Fauna and Flora (CITES)

Mr. Chairman and Members of the Subcommittee,

I would like to take this opportunity to state my opposition to any attempts to place big-leaf mahogany (swietenia macrophylla) on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendix II list at the upcoming meeting of the Conference of the Parties. I am especially concerned that the United States is taking the lead in this effort to have mahogany listed as a species that should be regulated in world trade.

I strongly opposed similar moves to list this economically important and nonendangered species during a 1992 CITES meeting in Japan, and also during a 1994 CITES meeting in Fort Lauderdale, Florida. I realize that such a move would severely harm our domestic furniture and lumber industries while doing little to preserve mahogany forests which are located in foreign countries. As you may know, High Point, North Carolina, located in my congressional district, is the furniture capital of the world, and thousands of my constituents are employed by the furniture and lumber industries.

Nationwide, mahogany is extremely important to the furniture industry which has offices or facilities in most of the 50 states and employs more than 500,000 people. I, along with numerous scientific experts in this field, believe that mahogany's listing is unwarranted since there is little scientific data which shows that mahogany is in fact endangered. For instance, Jack Ward Thomas, who until very recently headed the U.S. Forest Service, reviewed the evidence and determined that big-leaf mahogany is abundant, with an extensive range, and not threatened with extinction. Giving the impression that mahogany is endangered, which seems far from certain, could destroy the sales of many companies that manufacture mahogany furniture and would put many of my constituents out of work.

I also believe that a listing of this species may actually result in greatly reducing the incentives for protecting this valuable and important resource. If restrictions on trade are imposed, people in developing nations will be forced to look toward other development options which would include clearing and burning related to housing, ranching and agriculture. The current economic incentives of trade will lead to a greater reliance on selective harvesting and modern forest management practices which will

maintain sustainable hardwood forests for the future benefit of all.

I strongly believe that the listing of mahogany on CITES Appendix II has no scientific basis and will almost certainly result in reducing the protection our resources. There is certainly no need to inflict grave damage on several American industries until there is sufficient evidence to show that export restraints would provide better protection for our planet's forests.

TESTIMONY OF DONALD BARRY, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON RESOURCES, SUBCOMMITTEE AND FISHERIES, WILDLIFE, AND OCEANS, REGARDING U.S. POSITIONS FOR THE TENTH CONFERENCE OF THE PARTIES OF THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

June 3, 1997

I appreciate this opportunity to testify before you today regarding U.S. preparations for the Tenth Conference of the Parties (COP10) of the Convention on International Trade in Endangered Species (CITES), which will take place in Harare, Zimbabwe, from June 9th through June 20th. I should note that CITES is a convention in which I have more than a passing interest, having worked on matters involving this treaty for more than twenty-one years.

The United States is one of 136 party countries under CITES, the only international treaty designed specifically to monitor and regulate international trade in animal and plant species which are, or which may become, threatened with extinction. CITES is also one of the most effective forces in the world today for conservation of fauna and flora, both in halting the trade in species which are threatened with extinction and in fostering sustainable trade in other vulnerable species. For example, thanks to CITES, the world has drastically curtailed the trade in skins of endangered cats and in elephant ivory. Thanks in part to CITES, we have been able to delist the American alligator under the U.S. Endangered Species Act and downlist other species of crocodilians while encouraging controlled, sustainable commercial trade. CITES is a treaty that works -- and I am proud of the leadership role the United States has taken in making it work.

CITES also has a special meaning for the United States. The treaty was negotiated here in Washington in 1973, and in many countries around the world is still known as the "Washington Convention". The United States was proud to host a meeting of the CITES Standing (or Executive) Committee in 1993, with ceremonies marking the twentieth anniversary of CITES, and the subsequent Conference of the Parties in Fort Lauderdale in 1994.

One sign of the vitality of CITES is the continuing expansion in the number of party countries. Twelve new countries have joined CITES since the United States hosted the Ninth Conference of the Parties in Fort Lauderdale. This expansion of the treaty's membership reflects the growing international consensus on the need to make sure that all trade in flora and fauna is done legally and sustainably, without detriment to wild populations.

The lead responsibility within the United States for implementation of CITES rests with the Secretary of Interior, acting through the Fish and Wildlife Service. Section 8A of the Endangered Species Act names the Secretary of Interior as the U.S. Management Authority and the Scientific Authority for CITES. We also have many strong partners within the Executive Branch working together to fulfill our CITES responsibilities. We collaborate closely with the Department of State in all of our dealings with other countries. Many other departments and agencies play a key role in technical, policy or enforcement issues, including the Departments of Agriculture, Commerce, and Justice, the Agency for International Development, and the U.S. Trade Representative's Office. Many of these agencies will be represented on the U.S. delegation to COP10, and we are also pleased to have two members of this committee and your

staffs joining us as Congressional observers.

The States, non-governmental organizations, and the public also play a key role in our implementation of CITES in the United States. The FWS works closely with individual State wildlife and plant management agencies and the International Association of Fish and Wildlife Agencies (IAFWA) in carrying out CITES functions. A representative of the IAFWA will be the public sector representative on our delegation to COP10. Non-governmental organizations are also allowed to participate in CITES COPs, provided they are certified as technically competent in CITES issues by their home country's Management Authority. The FWS has certified 49 U.S. organizations to participate in COP10.

Our efforts to work with the interagency group, the States, and non-governmental organizations supplement and build on the extensive daily communications which the FWS and other agencies maintain with the CITES Secretariat in Switzerland and with their CITES management and scientific counterparts in all 135 other CITES parties, as well as with wildlife management authorities in non-party countries as well.

CITES operates through the listing of species in two major Appendices, or lists: CITES Appendix I, for species threatened with extinction, and CITES Appendix II, for species vulnerable to harm unless trade is regulated and monitored. In addition, Appendix II also includes "look-alike" species whose trade is controlled because they look similar to other regulated species. Commercial trade i.e., imports and exports are banned for species listed in

Appendix I, but are allowed for Appendix II species, provided the exporting country first makes a finding that trade is legal and not "detrimental" to the species. Importing countries become partners in this effort. They are obligated to refuse to allow imports of Appendix I species for commercial or detrimental purposes, and they must ensure that imports of Appendix II species are accompanied by the required permits from exporting countries certifying legal, non-detrimental trade. Appendix I and II listings are decided by a two-thirds vote of the countries in attendance at a Conference of the Parties. The listings are then implemented using the criteria and conditions specified in the treaty itself and in a series of interpretive resolutions adopted by the Conference of the Parties which provide further guidance and set international norms for different kinds of trade.

As a result of CITES listings and policies, the U.S. CITES community and other CITES countries have achieved many notable successes during the past 24 years. Some examples:

- The listing of the American alligator in CITES Appendix II -- which allows trade, provided it is legal and not detrimental to the species -- brought with it the requirement that no country accept alligator imports unless they are accompanied by a CITES permit from the FWS. The entire process was done with the full cooperation and support of key States in the Southeastern U.S., which now enjoy major economic revenues from a legal and sustainable trade in American alligator hides, meat, and products, assured that poached alligator hides have no significant value in the international marketplace because of effective CITES controls.

- Crocodilian species around the world have benefitted from innovative ranching programs in their native countries and the protections from illegal trade provided by CITES listing. As a result, populations of the Nile and saltwater crocodiles from Africa and Asia, respectively, have also recovered, allowing CITES parties to reopen international trade and eventually enabling the FWS to relax protections for them under the Endangered Species Act.

- CITES protections have virtually eliminated the trade in the skins of endangered spotted cats, removing illegal skins from such species as tigers, jaguars, and snow leopards from the international marketplace of most countries. CITES listing has also been very effective in driving down the trade in poached African and Asian elephant ivory.

- Primates, parrots, falcons, cacti, and orchids are among the many large groups of species whose trade is controlled by CITES listing -- not necessarily to stop trade, but rather to ensure that all trade is legal and sustainable.

While we have made significant progress, we still have a long way to go in our efforts to stop trade in endangered species, and to ensure that all trade in other, vulnerable species is legal and sustainable. The text of CITES, recognizing that continual discussion and new decision-making by the party countries is essential for ensuring the vitality of the treaty, calls for a meetings of the Conference of the Parties every two years. At these conferences, CITES parties have the

opportunity to review implementation of the treaty, make provisions for the CITES Secretariat to carry out its functions, consider amending the lists of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention.

At COP9 in Fort Lauderdale, the parties made a number of significant strides in CITES implementation, most notably the adoption of a new set of criteria to guide future decisions about proposed amendments to the CITES Appendices. Since then, the United States has been involved in a number of major international efforts to implement the decisions made in Fort Lauderdale and improve the effectiveness of CITES Conservation efforts, including:

- representation of the U.S. at meetings of the CITES Standing Committee, the CITES executive body which meets periodically between COPs to oversee the Secretariat and the implementation of the decisions made at each conference;

- participation in meetings of the CITES Animals Committee, and representation of North America at meetings of the Plants Committee, which address major technical issues for CITES implementation;

- participation in the CITES Timber Working Group, a body established under the Standing Committee to make recommendations on ways of improving the effectiveness of CITES implementation of listings of commercial timber species;

- participation as designated technical advisors to the consultants undertaking a review of the effectiveness of CITES, accompanying a major financial contribution to the study; and

- development of a study of the world trade in sharks for consideration by the COP10.

In addition, at the end of COP9, the last official act of the parties was to select the venue for the next COP, and the United States was pleased to be able to support the proposal made by Zimbabwe to be the next host. The choice of Zimbabwe was particularly important because it has been more than a decade since a CITES Conference was held in a developing country -- the last time was in Gaborone, Botswana, in 1983.

In a very real sense, U.S. preparations for the next conference began the day that COP9 ended. That evening, the late Director of the FWS, Mollie Beattie, met with the representatives of Zimbabwe to congratulate them on their selection and to pledge U.S. support in assisting Zimbabwe in its preparation for the conference.

Since then, the U.S. has followed through in its promise. Representatives of the FWS have made three trips to Zimbabwe in the past year to consult with the U.S. Embassy in Harare and to provide technical advice and assistance to the organizers of COP10 in Zimbabwe's Department of National Parks and Wildlife Management. As part of this effort, the FWS compiled detailed

plans, photographs, and specifications for the layout and organization of the conference in Fort Lauderdale and provided them to our Zimbabwe counterparts. The FWS has also made all arrangements to acquire, set up, and manage the system of networked computers which will be used by the CITES Secretariat and their staff of translators to prepare, update, and translate into CITES' three working languages all of the thousands of pages of documents generated during the conference.

Here at home, the process of preparing U.S. positions for COP10 also began soon after the close of COP9, with an internal review of what was accomplished and what our next priorities should be for CITES. In addition, FWS regulations require an extensive public consultation process, with every step of the development of U.S. positions subject to public review and comment. In March 1996, the FWS published the first *Federal Register* notice requesting comments on which species should be considered for listing, delisting, or transfer between the CITES Appendices. In the fifteen months since that initial notice, there have been five additional *Federal Register* notices, two public meetings, and countless other informal conversations and meetings with interested groups representing every conceivable wildlife conservation point of view. Thousands of pages of CITES documents, proposals, and public comments have been reviewed, analyzed, and debated.

All of these efforts were designed for one purpose -- to develop a set of U.S. positions for COP10 focused on meeting the twin goals of CITES: prohibiting commercial trade in species threatened with extinction, and fostering legal and sustainable trade in species vulnerable to detrimental

effects from unrestricted trade.

Attached to my testimony are two *Federal Register* notices which summarize the final U.S. positions on all of these issues, one dealing with our position on resolutions and agenda items, the other on proposals involving listing of species in the CITES Appendices. These two notices together address the more than 90 specific issues on the agenda, and the many changes proposed for species listing on the CITES Appendices. A few issues have no final position noted because either we did not receive the relevant documents in time or because interagency discussions were still ongoing on the day the notice was signed. These positions are published with the understanding that new information that becomes available during discussions prior to and during the COP10 may lead to modifications of these positions. The U.S. delegation will fully discuss the progress of negotiations during daily public briefings for American observers and non-governmental organizations at COP10.

I would be pleased to answer any questions you may have about CITES implementation and our preparations for COP10 in Harare.

→ OSA
Rec'd in OMA
2/19

REVIEW OF THE PROPOSALS SUBMITTED BY BOTSWANA, NAMIBIA AND ZIMBABWE TO TRANSFER THEIR NATIONAL POPULATIONS OF *LOXODONTA AFRICANA* FROM CITES APPENDIX I TO APPENDIX II

REPORT OF THE CITES PANEL OF EXPERTS ON THE AFRICAN ELEPHANT

7 February 1997

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LIST OF ACRONYMS

APU	Anti-Poaching Unit
BDF	Botswana Defence Force
CAMPFIRE	Communal Areas Management Programme for Indigenous Resources (Zimbabwe)
CID	Criminal Investigation Department
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DNPWLM	Department of National Parks & Wild Life Management (Zimbabwe)
DWNP	Department of Wildlife & National Parks (Botswana)
EA	Environment Agency (Japan)
ELESMAP	Southern African Elephant Survey & Monitoring Programme
ESPU	Endangered Species Protection Unit (South Africa)
EU	European Union
JFIACA	Japan Federation of Ivory Arts & Crafts Association
JWRC	Japan Wildlife Research Centre
MET	Ministry of Environment & Tourism (Namibia)
MITI	Ministry of International Trade & Industry
NDF	Namibia Defence Force
NGO	Non-Governmental Organisation
NP	National Park
ODA	Overseas Development Agency (UK)
PAC	Problem Animal Control
PRU	Protected Resources Unit (Namibia)
RDC	Rural District Council
SADC	Southern African Development Community
ZRP	Zimbabwe Republic Police

1. TERMS OF REFERENCE OF THE PANEL

The task of the Panel of Experts, as laid out in Resolution Conf. 7.9, is to evaluate the proposals to transfer the populations of *Loxodonta africana* of Botswana, Namibia and Zimbabwe from CITES Appendix I to II, taking into account the following:

1.1 With respect to the status and management of the elephant populations concerned:

i) the viability and sustainability of the populations and potential risks;

ii) the affected range states' demonstrated ability to monitor those populations;

iii) the effectiveness of current anti-poaching measures; and

1.2 With respect to the ability of the countries concerned to control trade in ivory from African elephants:

i) whether total levels of offtake from both legal and illegal killing are sustainable;

ii) whether control of ivory stocks is adequate to prevent the mixing of legal and illegal ivory;

iii) whether law enforcement is effective; and

iv) whether enforcement and controls are sufficient to ensure that no significant amounts of ivory taken or traded illegally from other countries are traded within or through the territory of the affected range state.

In addition the Standing Committee of CITES has requested the Panel of Experts to consider the following issues:

1.3) when appropriate, consider:

i) the trade in products from the African elephant other than ivory, and the controls on such trade; and

ii) the controls on ivory trade in specified importing countries; and

1.4) evaluate whether implementation of the proposal is likely to have a positive or negative impact on the conservation status of the elephant population and its environment in the range State.

2. COMPOSITION OF THE PANEL

The Standing Committee of CITES appointed the following Panel members:

- Mr. Tony Conway, Natal Parks Board;
- Mr. Jean-Paul Luquet, Direction Nationale du Renseignement et des Enquetes Douanieres, France;
- Dr. Richard Luxmoore, World Conservation Monitoring Centre, Cambridge, UK;
- Dr. Chris Thouless, working at Botswana Department of Wildlife & National Parks, under contract to Environment & Development Group, Oxford, UK, funded by the European Commission.

The governments of the countries appointed:

- Dr. Richard Bell, Department of Wildlife and National Parks, Botswana;
- Dr. Malan Lindeque, Ministry of Environment and Tourism, Namibia;
- Mr. Edson Chidziya, Department of National Parks and Wildlife, Zimbabwe.

The Panel was chaired by Dr. Thouless, who took leave of absence for this purpose.

3. SUMMARY REPORT ON THE PANEL'S ACTIVITIES

The Panel convened in Gaborone, Botswana, on October 2, 1996, and met government officials and NGO representatives in Gaborone from October 2 to 4. Mr. Luquet visited the ivory store, wildlife office, and customs post at Kasane in northern Botswana on October 3 and 4. Telephone conferences were held with representatives of NGOs based outside Gaborone on October 5. Richard Luxmoore did not come to Botswana, and joined the Panel on October 8 in Namibia. Jonathan Barzdo, of the CITES Secretariat, assisted the Panel during their time in Botswana.

The Panel moved to Namibia on October 6, and meetings were held there from October 7 to 11. On October 10, the Ministry of Environment and Tourism arranged a field trip to Etosha National Park, to investigate the procedures for dealing with ivory coming in to field stations, and to see other aspects of elephant management. While in Namibia, the Panel was given a presentation on Japan's internal ivory controls by Mr Kenichi Hosoda, from the Japanese Ministry of International Trade & Industry.

The Panel arrived in Zimbabwe on 11 October, and held meetings with NGOs on 12 October. On 13 October, there was a short field trip to the Zambezi Valley, where the Panel investigated ivory registration procedures at a field station, and interviewed members of a Department of National Parks and Wild Life Management (DNPWLM) anti-poaching foot patrol. The Panel left Zimbabwe on 16 October.

The Terms of Reference for the Panel of Experts on the African Elephant demand an assessment of the effectiveness of the control of the trade in ivory in importing countries to evaluate the positive or negative effects of resuming trade in elephant produces. The proposals all designate Japan as the sole country authorised to import ivory and consequently the Panel of Experts assigned one of its members, Mr. Luquet, to visit Japan from 2 to 15 December 1996. His schedule was the following: 3rd December, meetings with the Scientific Authority (Environment Agency), and the Management Authority (Ministry of International Trade and Industry); 4th and 5th December, with the administration in charge of the registration procedures (Japan Wildlife Research Centre), MITI and the Customs; 6th December, with various non-governmental organisations. On 7th December, visit to retailers of ivory seals (hankos), 9th December, to wholesalers and manufacturers, 10th December to the Customs office at Tokyo-Narita airport. On 11th December, move to Osaka to meet wholesalers-carvers. On 12th December, meeting with various NGOs and visit to the Customs office of Tokyo port. On 13th December, visit of shops selling hankos and meeting at JWRC; 14th December, final meeting with MITI before leaving Japan on 15th December.

4. GENERAL PREAMBLE

The supporting statements for the proposals presented by Botswana, Namibia and Zimbabwe for the transfer of their elephant populations from Appendix I to Appendix II of CITES contain some important conditions, which affect the significance of some of the Panel's terms of reference.

a) Direct export of raw ivory to a single trading partner (Japan) that will not re-export.

b) Only export of ivory with documentation proving its origin in the exporting country.

c) Only ivory registered by the government on 9 January 1997 (Namibia), 30 June 1996 (Zimbabwe).

d) Trade only until the following CITES meeting, and the CITES Depository Government (Switzerland) will immediately put forward a proposal for re-transfer to Appendix 1 by postal vote in the event of abuse.

e) Independent inspection during process of sale, packing and export.

f) Export restricted to one shipment per year.

4.1 DEFINITION OF 'VIABILITY AND SUSTAINABILITY'

In assessing the viability and sustainability of the affected populations, the Panel has decided to use the Criteria for Amendment of Appendices I and II that were adopted at the Ninth Conference of the Parties (Conf. 9.24). Thus, a national elephant population is considered viable and sustainable if it fails to meet the criteria set for inclusion in Appendix I, which are as follows:

- the wild population is small (<5,000);
- or the wild population has a restricted area of distribution (<10,000 sq. km.);
- or there has been a reduction in the number of individuals or the range, which is either observed or predicted;
- or the status of the species is such that it is likely to satisfy one or more of the above criteria within five years if not included on Appendix I.

4.2 DEFINITION OF 'LEGAL AND ILLEGAL IVORY'

CITES uses the phrase 'legal ivory' to indicate ivory that has been properly registered by the range state. This means that poached and/or confiscated ivory is considered to be legal once it has been registered. Under the proposed marketing arrangement, preventing the mixing of legal and illegal ivory is a fairly trivial procedure, provided that independent observers can check tusks against the government ivory registers.

However, the proposals only relate to the elephant populations within Botswana, Namibia and Zimbabwe and, if these populations are successfully transferred to Appendix II, confiscated ivory originating in other countries will still fall under Appendix I. Furthermore, all of the proponents have stated that they will only trade in ivory from their national populations of elephants.

Because of these considerations, the Panel has adopted an operational definition of 'illegal ivory' which includes ivory that has been properly registered, but may be of foreign origin. This includes confiscated ivory which may have originated from other countries, in addition to ivory of unknown provenance from the existing stockpiles.

4.3 IMPACT ON CONSERVATION STATUS

The Panel has, for the first time, been asked to evaluate the impact that the proposals may have on the conservation status of elephants and their habitats.

4.3.1 Possible benefits

Since the immediate benefit will be revenue from the sale of ivory, it is important to establish to what extent this money will be used towards elephant conservation. We have requested information from the range states on the following issues:

- how do they plan to use the revenue from the sale of ivory?
- what mechanisms are proposed to ensure transparency in the allocation of these revenues?

4.3.2 Possible negative impacts

The main negative impact that may result from the sale of ivory is an increase in the level of elephant poaching. While the Panel of Experts' Terms of Reference are concerned with negative and positive impacts within the country submitting the proposal, it seems appropriate also to consider possible increases in poaching in other countries.

Poaching might increase as a result of this proposal for the following reasons.

a) Inclusion of poached ivory within existing stockpiles.

- This can be avoided if the use of revenue from ivory sales is transparent, so that poachers are unable to benefit.
- Restriction of sale to ivory registered before the submission of the proposal will also prevent the inclusion of newly poached ivory.

b) Inclusion of poached ivory in the planned shipments.

- This can be prevented by international supervision of the shipment.

c) Reopening of legal trade may stimulate demand for ivory, because people feel that it is no longer morally wrong, and this will increase the incentive for illegal trade.

- This argument is chiefly applicable to Europe and North America, where public perceptions were important in closing down the trade. However, if ivory is only exported to Japan, and no re-export of worked products is allowed, the European and North American markets will still be closed and free of ivory. It may, therefore, be possible to maintain public sentiment outside Japan in opposition to the trade.
- There is no evidence that demand for ivory has substantially declined in Japan, where domestic ivory prices continue to be high in relation to world prices. It has been argued that in Japan there is a greater risk of illegal trade if demand is not satisfied by legal trade, once existing stockpiles are finished.

d) Legalising import of ivory to Japan will make it easier to trade illegally.

- There is a possibility that reopening a legal trade in ivory will make it easier for illegal ivory to be traded. This may occur because customs officers are more likely to accept forged or misused documents if they are aware that some trade is legal.

e) Poachers and dealers may increase activities in anticipation of a future expansion in ivory trade.

- Although the proposals are limited to a period of approximately two years, it will be widely believed that they are precursors to a planned expansion and liberalisation of ivory trade. In this case, middle-men may start to pay more for poached ivory, in the expectation that at some time in the future, it may be possible to export it legally or illegally.

f) There may be a decline in anti-poaching effort and morale amongst law enforcement staff, because of confusion about why legal trade in ivory is acceptable.

While the Panel does not believe that points (a)-(c) are likely to present serious problems under the existing proposals, it is unable to rule out the points (d), (e) and (f). **It is recommended that if the proposals are accepted, that mechanisms are put in place to suspend trade if levels of poaching increase substantially as a result of the transfer to Appendix I.** If this recommendation is adopted, it is essential to determine in advance what measures of poaching should be used and what are the limits of acceptable change in levels of poaching before action should be taken.

5. COUNTRY REVIEW - BOTSWANA

5.1 VIABILITY OF THE POPULATION AND POTENTIAL RISKS

5.1.1 Viability

The Panel is confident of the viability of the Botswana elephant population. Botswana has one of the largest elephant populations of any range state. Recent aerial survey data indicates a national population of 79,305 ± 21%, covering a range of about 73,000 sq. km.

The Botswana elephant population is increasing both in numbers and range, especially in the Okavango Delta area. In the past, some of this increase may have been caused by immigration, especially through the Caprivi Strip from Angola. However, Namibian officials assured us that no major movements of elephants through the Caprivi Strip from Angola had occurred in the past ten years, and supporting evidence comes from a recent study of elephant movements in the Caprivi area (Rodwell, 1995). It is believed that the net movement of elephant between Botswana and Zimbabwe has been towards Zimbabwe.

5.1.2 Potential risks

No major potential risks to the Botswana elephant population have been identified. The population is increasing, poaching levels are extremely low, and there is general confidence in anti-poaching capability. Some minor potential risks have been considered.

- The elephant population density is extremely high in some areas, especially along the Chobe river front, and significant changes in vegetation, including the loss of mature trees, have been observed. These are generally thought to be caused by elephant feeding (although fire may also be a contributory factor). If food availability for elephants is being reduced, there is a possibility of a population crash as a result of starvation, particularly during drought periods. Several research projects are being carried out by the Department of Wildlife and National Parks (DWNP) and independent workers to investigate these issues more fully. It is generally felt, however, that there is little chance of an imminent population crash, partly because of the recent creation of new artificial water sources, which are expected to draw elephants away from the most severely affected areas in the dry season. Unfortunately, there is no information on age structure and recruitment rate, which would provide an indication of whether there are density-dependent reductions in recruitment rate, which would tend to stabilise the population.
- There is some circumstantial evidence suggesting that anthrax may be present in the Botswana elephant population, and it was thought that about 40 elephants may have died from anthrax in 1993. In Etosha National Park in Namibia, anthrax has been a significant cause of mortality in elephants, and it is possible that its incidence could increase with the increase in artificial water sources in the Botswana elephant range. Too little is known about its epidemiology in elephants to predict under what circumstances it might become a problem.
- Fencing and agricultural developments may reduce elephant range. At the present there are no plans to erect any elephant-proof veterinary quarantine fences, except around small quarantine areas. Development of arable farming and commercial ranching, especially in the area close to the Namibian border, to the east of the Okavango Panhandle may lead to an increase in conflict between elephants and

people, and a loss of elephant range. There are differing opinions about the extent of movement between Botswana and Namibia in this area, but the fact that one satellite-collared elephant from the Caprivi Strip was shot as a problem animal in this area indicats that it does take place (Rodwell, 1995).

- Concern has been expressed about the possible loss of elephant habitat that may result from the extraction of water from the Okavango River by Namibia. Although the extraction is initially planned to involve a small proportion of the total flow (<1%), it is believed that this will have an exponential impact on the annual flooding of the Okavango Delta. These problems will be exacerbated by local irrigation schemes in Namibia, a planned pipeline to take water from the Okavango Panhandle to Maun, and Angolan plans to extract water further upstream.
- Increased human-elephant conflict is considered to be a major threat to elephant populations in the long term. In Botswana it appears that this is mostly caused by elephants moving into farming areas, rather than expansion of farming in areas already occupied by elephants. There have been an increasing number of cases of human death and crop damage caused by elephants, and the issue is becoming a major political concern, as affected constituents demand that their Members of Parliament take action. It is not inconceivable that culling operations may be implemented to reduce elephant densities in conflict areas. DWNP feels that its ability to manage the human-elephant conflict issue is adversely affected by lack of finance.

5.2 SUSTAINABILITY OF TOTAL LEVELS OF OFFTAKE

Total levels of current and projected offtake from the Botswana elephant population are sustainable. A relatively small number of elephants are being killed from a large and increasing population. Types of offtake are as follows.

- Problem animal control. Over the last five years, between 23 and 49 problem elephants have been killed annually.
- Illegal hunting. As a result of the recent increase in law enforcement effort, current poaching levels are negligible. Despite increasing patrol effort the number of elephants found poached annually has declined from more than 100 in 1989 to less than 10 during the past three years. During a recent helicopter survey of concessions in the Okavango area, only two elephant carcasses were seen, both of which still had their ivory in place (D. Lawson, pers. comm.). Numbers of carcasses observed during aerial surveys are low, with 72 new carcasses, and 259 old carcasses, estimated for the 1995 dry season.
- Culling (proposed). Although it is DWNP's policy to cull elephants to remove the annual increment, thus stabilizing the population, no culling has been carried out, due to a lack of capability within DWNP, and a shortage of funds to employ outside contractors. Even if it does take place, concern has been expressed about the ability to remove the annual increase, let alone to reduce the population to the desired levels for management purposes.
- Sport hunting. A quota of 80 sport-hunted elephant bulls has been approved for 1996. The season has just finished, and 34 elephants have been shot, of which one ran away. The main reason for this difference is that local communities in some areas have not negotiated concessions with hunting operators. The figure of 80 is

still well below the standard conservative figure of 0.65% offtake used in Zimbabwe.

5.3 BOTSWANA'S ABILITY TO MONITOR ITS ELEPHANT POPULATION

DWNP has a effective long-term programme of aerial surveys. There are two aircraft (Cessna 206), which are fully equipped for survey work, and a programme of developing aerial survey capacity within DWNP was funded by the EU between 1989 and 1995.

Aerial surveys of the elephant range have been carried twice-yearly, in the wet and dry seasons, although a decision has been taken to only carry out annual dry-season surveys in the future, with wet-season surveys being conducted every third year, or when there is a special requirement. Initially the surveys consisted of unstratified systematic reconnaissance flights, using the techniques described by Norton-Griffiths (1978), carried out at an intensity of about 4%. More recent surveys have been stratified, with a higher intensity (8%) over most of the elephant range.

Previously, concern has been raised about the accuracy of aerial surveys, because of the possibility of double-counting elephants that may move between Botswana and adjoining countries. This possibility has been eliminated by conducting surveys simultaneously in Botswana and Zimbabwe, under the coordination of the EU-funded ELESMAP project, and by the inclusion of the Namibian Caprivi Strip in the Botswana censuses. It is believed that movements between the Caprivi Strip and Angola are now virtually impossible, and are very limited between the Caprivi Strip and Zambia (see Namibia section of this report).

5.4 EFFECTIVENESS OF CURRENT ANTI-POACHING MEASURES

Current anti-poaching measures appear to be very effective, with few recent reports of poaching. Elephants have recently moved back into areas from which they were previously eliminated by disturbance from poachers, including the west bank of the Kwando River. This satisfactory situation is confirmed by the low carcass ratios reported from aerial surveys, and information from NGOs.

A considerable improvement in anti-poaching capability has been noted in the past few years. This is widely attributed to the increased involvement of the Botswana Defence Force (BDF), and the strong personal commitment to wildlife conservation by its commander, Lt. Gen. Ian Khama. In addition, it has been suggested that because of the concession system operating in the elephant range, the level of surveillance by private operators, on the ground and from aircraft, has greatly increased.

DWNP has a specialist anti-poaching unit (APU) of 85 men deployed in the elephant range (73,000 sq. km), with stations at Tuli, Maun and Kasane. There are an additional 223 wildlife officers who are responsible for law enforcement as well as other management duties. An intelligence network is in operation, consisting of 16 personnel in under-cover operations, which has apparently proved very effective, although the Panel has not received detailed information on its successes.

The complement of vehicles (24) for anti-poaching work and intelligence is considered adequate. The APU is adequately trained and well equipped, with modern night vision equipment and optical sights for rifles. There are no aircraft dedicated to anti-poaching operations, although BDF support compensates for this.

The BDF has been involved in anti-poaching operations since 1987, concentrating on parts of the elephant range close to the border with Namibia and Zimbabwe. Up to 600 troops are permanently deployed on these duties, with logistical support including 5 aircraft, 2 helicopters, vehicles and boats, and there are full-time anti-poaching officers appointed to coordinate their activities. Their presence is generally considered to constitute a major deterrent for illegal activities, including elephant poaching. BDF patrols are mainly conducted on foot, but also by horse, boat and aircraft.

The DWNP field staff in the elephant range equates to a patrolling density of one game scout per 237 km^2. When BDF personnel are included, the patrol densities are increased to one per 80 km^2.

The DWNP operational budget for law enforcement is approximately P10.4 M (US$3M), which is equivalent to US$41 per km^2 (see Appendix III for details of calculations). Making the extremely conservative assumption that BDF expenditure per member of staff is the same, then this suggests that overall operational budgets are equivalent to approximately US$120 per km^2, which is substantially higher than for any of the African countries reviewed by Dublin et al. (1995). According to National Development Plan VIII this figure will be increased, and there will be an additional development budget.

5.5 CONTROL OF IVORY STOCKS

5.5.1 Marking of fresh ivory

Fresh ivory from the field is handed over to one of the four district DWNP offices authorised to hold ivory, Kasane, Francistown, Machaneng and Maun. The following description is based on a visit by one of the members of the Panel to the Kasane office. Different procedures may be used in other districts.

The tusks are marked with a felt-tip pen with the weight of the tusk, the district initial, K, F, MC or J, and a serial number. These details are also written on a COMBINED ISSUE AND RECEIPT VOUCHER (ALLOCATED STORES) FORM GEN 12, a copy of which is retained at the District Office. The serial numbers are issued consecutively by each district office. The same number can therefore be issued by each office, but the district code letter is unique.

Some tusks are also handed in and marked at Gaborone. In this case, the tusks are sometimes marked with the district code "G", but occasionally the code letter is omitted. **It may not be possible to separate these tusks from those from other district offices on which the code letter has either been omitted or erased.**

5.5.2 Ivory sourcing

The central stockpile in Gaborone holds about 30 tonnes of ivory. **Confiscated (and thus possibly non-Botswana) ivory, has not been separated from the rest of the stocks.** With the information available, it should be possible to source a reasonable proportion of the ivory, but cross-referencing this information will require a lot of work.

No information is currently available in the ivory register in Gaborone on the origin of tusks. This information is generally available from GEN 12 forms issued at the district offices. For example, the majority of GEN 12 forms issued at Kasane say 'Collected from Chobe National Park', and it is reasonable to presume that this is legal ivory of Botswana origin. Ivory collected by the BDF usually, but not always, includes an indication of the origin. Even if no location is given, it may be possible to

deduce the origin of the ivory from the name of the person who handed it in. For example, in Kasane in 1995, 3 GEN12s were filled out under the name of the local chief of police and, in 1993, 13 GEN12s were made out to personnel from the Customs post at Kazungulu, at the border with Zambia. On some forms, the cause of death (e.g. problem animal control, natural, poached), is also given.

There is no obligation to retain GEN 12s for more than 5 years. Fortunately, the Kasane station, from where a large proportion of the ivory was dispatched, has kept its old GEN12 books, and it should be possible to source most of the Kasane ivory. This will, however, be a very laborious process for pre-1991 ivory, because the Gaborone ivory register does not include the voucher numbers for ivory entered prior to this time, and the ivory is not entered into the register in any logical sequence. Therefore the entire pre-1991 register will have to be searched to locate tusks with a particular serial number.

It may not be possible to source ivory from the other districts, because complete sets of GEN 12 books are not available. Police and customs dockets will allow some confiscated ivory of possible non-Botswana origin to be identified, but it appears that it will not be possible to find original documentation for a significant proportion of the stockpile.

5.5.3 Keeping of records by the Management Authority

When ivory arrives at the district office, a GEN 12 form is issued to the person delivering the ivory, and a blue copy is retained at the district office. These forms contain full details of the tusk serial numbers and weights. Because they are used for other store keeping purposes, ivory GEN 12s are not consecutively numbered.

In the Kasane district office, the entry and removal of tusks since 1975 have been recorded on a SUPPLIES LEDGER FOR IVORY, which is made of loose cardboard sheets. On these sheets, which are not consecutively numbered for ivory, are recorded the quantity of tusk brought to and removed from the store on a daily basis, and the balance of tusks . No physical description of the tusks is given.

When enough stocks of ivory have accumulated in the district, they are transported to the ivory store in Gaborone. Another GEN12 form is used for this transaction, with the original signed by the storekeeper in Gaborone being returned to the district, and a copy kept with the registry. This document indicates the serial number and weight of each tusk, but the total number of tusks and total weight are not calculated.

In Gaborone tusks are entered into the Ivory Register, which is a book of stapled, numbered sheets, with a line for each tusk. After ivory arrives from the district offices, the following information is recorded: arrival date, district of origin, serial number, weight, receiving officer's name and signature, and voucher (GEN 12) number. In addition, the ivory is marked with a new number, given in sequence at Gaborone, preceded by the letter X.

The original Ivory Registers prior to 1991 have been lost. Information on pre-1991 ivory comes from an inventory taken between 29 December 1990 and 5 January 1991. A further inventory was carried out in June 1996 when responsibility for the ivory store was being transferred from the Ministry of Supplies to DWNP. This indicated that 11 tusks appeared to be missing, 11 tusks had no identification marks, and 54 tusks/pieces of ivory had confusing or incomplete marks. The majority of these were small fragments weighing less than 1 kg. This level of discrepancy is not surprising, given the length of time over which ivory stocks have been accumulated, and the clumsy method of recording ivory.

While doubts have been raised about the security of the Botswana ivory stockpile prior to 1991, it appears that no significant amounts of ivory have gone missing since this time. One of the members of the Panel checked a sample of 30 tusks brought into the store between 1990 and 1995, and was able to trace all of them in incoming and outgoing GEN 12 forms and in the Gaborone ivory register. They were not physically located in the store, but it is considered that the 1996 audit was satisfactory.

However, the system used for recording ivory movements is far from ideal, and a new set of procedures, based on the Zimbabwean model, is being introduced. New regulations and prescribed forms, are with the Attorney-General's office for ratification. In addition, Botswana has requested assistance from TRAFFIC to put in place a new computerized ivory management system.

Up to 1990, certain amounts of ivory (around 150 tusks) were transferred from the district offices to the Land Boards (local authorities), which were authorised to sell the ivory to local carvers. The Chobe Land Board currently holds a stock of 24 tusks, weighing 204 kg, and bearing a mark referring to 1989, while the Tawana Land Board has 24 tusks, weighing 144 kg.

5.5.4 Registration of private or commercial ivory

There is currently little control over ivory in private hands or owned by commercial enterprises. However, in view of the fact that no ivory has been sold from the stockpile since 1989, and domestic sales of worked ivory are extremely low, the lack of enforcement does not seem to be causing serious problems.

There are believed to be four companies in Botswana registered for carving ivory. Each has to keep records of the number of animal products purchased. Although at least one of the companies (Botswana Game Industries) keeps its own records of the weight of ivory carved and the amount of carvings produced, there is currently no requirement that these should be inspected by the DWNP. The Panel judged that DWNP cannot currently assure itself that the carvers are using only legally acquired ivory and DWNP keeps no central record of the amount of ivory bought by the carvers, nor the amount carved.

Section 67 (2) of the Wildlife Conservation and National Parks Act 1992, specifies a certificate of ownership "in the prescribed form" for ivory in private hands. However, no regulations specifying the form of the certificate of ownership have been gazetted, so it would not be possible to issue such a certificate.

The Panel spoke to a representative from Botswana Game Industries (Engen), who informed us that no carving has been carried out since 1990, and no ivory is currently for sale. Current stocks are held in a strong room, and consist of 24 tusks, weighing 299 kg, all with Botswana marks. DWNP carries out an inspection of stocks on an annual basis. BGI Tanning holds 16 kg of raw ivory and 151 kg of carved ivory.

5.6 LEGAL PROVISIONS REGULATING INTERNATIONAL AND DOMESTIC TRADE IN IVORY

5.6.1 Reservation

Botswana holds a reservation on the transfer of *Loxodonta africana* from Appendix II to Appendix I.

5.6.2 Moratorium

Botswana has no formal moratorium but, since the adoption of the Appendix I listing, no ivory from the government store has been auctioned, and no auctions by the Land Boards have been sanctioned by the DWNP.

5.6.3 Nature conservation legislation

The Wildlife Conservation and National Parks Act was brought into effect in 1992. The Fifth Schedule to the Act consists of the text of CITES, together with a version of the Appendices. The African elephant is given under Appendix 1, with the exception of populations from Botswana, Malawi, South Africa, Zambia and Zimbabwe. These are not included under Appendix 2. It is therefore uncertain whether trade in elephant products without CITES documentation would be illegal or not. This depends on the definition of CITES used by the Act. In the preliminary section of the Act, this is given as:

> 'the Convention on International Trade in Endangered Species of Wild Fauna and Flora to which Botswana is a Party as set out in the Fifth Schedule to this Act, and includes any Appendices thereto and any Resolutions of the Conferences of the Parties'.

It is not clear from this whether CITES resolutions made after the Act was enacted take precedence over the Fifth Schedule. If so, elephant products would treated as if they were in Appendix II, but if not, trade in elephant products would not be subject to CITES restrictions. However, DWNP has informed the Panel that in practice they would not issue export certification without following CITES procedures.

Penalties under the new Act are adequate and provide for a penalty of up to P50,000 (equivalent to about US$16,000) and imprisonment for 10 years for poaching an elephant or for illegal possession of ivory. The highest sentence actually imposed so far has been 2 years in prison and a fine of P15,000.

5.6.4 Veterinary legislation

The import and transit of raw wildlife products, including ivory, requires a veterinary permit. The competence to issue such permits is delegated to the district veterinary officers. Upon request, health certificates are issued for the export of ivory products.

The is no legal provision stipulating a formal liaison between the import licensing procedures of the nature conservation authorities and the veterinary services. In practice, such liaison exists to a certain extent, based on goodwill and on informal agreements between the officials concerned, but this procedure should be made routine, to improve enforcement.

5.6.5 Customs legislation

Botswana does not have its own Consolidated List of Restricted and Prohibited Goods, but Customs officers have access to copies of the 1992 Wildlife Conservation and National Parks Act, which includes a (slightly out-of-date) CITES species lists.

5.6.6 Customs Union

Although Botswana is a member of the Southern Africa Common Customs Area, there are Customs offices on the common border with South Africa, e.g. for controlling all the by-laws and for purposes of the common revenue pool.

5.6.7 Transit

Depending on the interpretation of the Wildlife Conservation and National Parks Act, discussed in section 5.6.3, Botswana may or may not have complied with the

recommendations of Resolution Conf. 9.7 on Control of Transit. The Act states that transit of animals listed under the CITES Appendices shall only be permitted in accordance with the provisions of CITES. Resolution Conf. 9.7 is not a provision of CITES, but if the definition of CITES used in the Act includes resolutions of the Parties, as well as the provisions of the Treaty, then transit would be controlled.

5.7 EFFECTIVENESS OF LAW ENFORCEMENT

5.7.1 External trade

5.7.1.1 Customs services

Customs inspect CITES and veterinary permits on import and export of wildlife products, and normally physically inspect the goods. The CITES forms are returned to DWNP for authentication.

Contrary to the suggestion in the previous Panel of Expert Report, the Panel was informed that there is no value tolerance on export of restricted goods.

The Customs Department has an Investigations Unit, but there is little evidence of major activity involving ivory. The last recorded confiscation consisted of 13 tusks in 1993. The TRAFFIC Bad Ivory Database System has no records of seizures of Botswana-origin ivory since 1991, with the exception of two small seizures of worked ivory in the US in 1993 and 1994 (BIDS, TRAFFIC East/Southern Africa, in litt.)

5.7.1.2 Nature conservation services

The import/export and transit permits are adequately catered for by the DWNP who liaise closely with the Department of Customs and Excise.

5.7.1.3 Veterinary services

Veterinary import/export and transit permits are only issued with the explicit approval and a permit issued by the DWNP. It is therefore considered adequately controlled, even to the extent of personal jewelry of elephant/ivory origin. The enforcement of such requirements was however not tested given the time constraints on the Panel.

5.7.2 Internal trade

5.7.2.1 Police

The Diamond and Narcotics Squad of the CID play an important role in the DWNP law enforcement and investigate all cases related to the ivory trade due to: -

- the recognised importance and value of ivory;
- their potential international implications;
- the extended duration of such cases.

Investigations of poaching incidents are carried out by other CID officers.

The police unit has formal relations with enforcement agencies in neighbouring countries, especially the Endangered Species Protection Unit in RSA. There appears to be adequate liaison between DWNP and the Police on all internal trade issues, with appropriate training given, for example for road-block personnel to look for and identify ivory in its various forms and disguises.

Police have made 10-30 arrests per year on ivory-related cases over the last five years, down from 92 arrests in 1989. Approximately half of these are for poaching, and half for illegal possession of ivory. Most of these appear to involve single tusks or pairs of tusks, and only one major confiscation of ivory (consisting of 13 tusks) has been made since 1990.

5.7.2.2 Botswana Defence Forces

BDF anti-poaching personnel are also involved in investigations of illegal ivory trade, and under some circumstances may take a lead role. They also maintain independent relations with the ESPU.

5.7.2.3 Directorate on Corruption and Economic Crime

The Directorate on Corruption and Economic Crime was formed in 1993 under the former head of the anti-corruption unit of the Hong Kong Police, who answers directly to the President. There are a number of expatriate staff, and local staff are being trained. The Directorate informed the Panel that in general they consider that there are few problems with the Police or with Customs and Excise, and they have not received any complaints regarding the anti-poaching wing of DWNP. They have expressed willingness to assist in establishing transparent systems for accounting for ivory revenue, if requested to do so.

5.8 EVIDENCE OF ILLEGAL TRADE THROUGH BOTSWANA

Enforcement staff believe that there is little illegal trade in ivory through Botswana. However, other sources (including the ESPU in South Africa, and Mr. P. Carr-Hartley, of the Chobe Wildlife Trust) believe that there is still a substantial trade in raw and semi-worked ivory through Botswana. This is mostly in transit between Zambia and South Africa, though not necessarily of Zambian origin, and passes through Botswana in sealed containers. ESPU has informed the Panel that 30% of illegal ivory in South Africa has passed through Botswana (Lategan, in litt.).

5.9 TRADE IN OTHER ELEPHANT PRODUCTS

The Botswana government currently holds no stocks of elephant products other than ivory. Therefore this is not a consideration at present.

5.10 IMPACT OF THE PROPOSAL ON CONSERVATION STATUS OF ELEPHANTS AND ENVIRONMENT

The Panel has been told much of the increasing levels of conflict between humans and elephants - in particular damage to crops, and injury and loss of life sustained by people. It is strongly felt by the Botswana government that allowing the sale of ivory stockpiles will be a major step towards alleviating this conflict. It has also been suggested to the Panel that the sale will assist in other aspects of implementing the country's elephant management plans.

There are no detailed plans for the use of revenue raised from the sale of ivory, beyond a general agreement between SADC Environment Ministers that it will be used for elephant conservation and community development within the elephant range. It is not specifically stated (and this should be clarified) that this will be additional funding for conservation, rather than being used to reduce the current government subvention to the wildlife sector.

In the 1991 policy paper "The Conservation and Management of Elephants in Botswana" DWNP stated that it was a policy to cull sufficient elephants to remove the annual increment, and maintain elephant populations at the 1990 level. It has further been stated in the 1996 proposal for the transfer of Botswana's elephant populations to Appendix II of CITES that the reason why this culling was not carried out was because elephants were on Appendix I. It would, therefore, be reasonable to suppose that a consequence of an Appendix II listing would be the start of a culling

programme. However, DWNP has stated that there will not be an automatic resumption of culling if ivory is sold under this proposal. For this reason, the conservation benefits of a culling programme cannot be considered in this Report.

No mechanisms have been suggested for the transfer of the funds from the sale of ivory. Unless new regulations are put in place, the current procedures direct that funds should go in the first instance into Treasury. This does not guarantee transparency in its use. However, it should be possible for the Directorate on Corruption and Economic Crime to put in place satisfactory procedures to monitor the use of revenue generated from ivory sales.

6. COUNTRY REVIEW - NAMIBIA

6.1 VIABILITY OF THE POPULATION AND POTENTIAL RISKS

6.1.1 Viability

The current estimate for the Namibian elephant population, which is based on detailed aerial surveys carried out in 1995, is 7,684 +/- 18%, occupying a range of up to 100,000 sq. km during the wet season dispersal.

The Namibian elephant population occurs in four main areas—Etosha, Kunene ('desert elephants'), Kaudom/Tsumkwe, and Caprivi. It is believed that the Etosha and Kunene populations are closely related, with some interchange of elephants between them. The Kaudom/Tsumkwe population appears to have increased prior to 1990, and since then has remained stable. The Etosha/Kunene population increased until 1983, when a cull was carried out in Etosha, and has been more or less stable since then. The Caprivi population fluctuates in numbers as a result of movements between Namibia and adjoining countries, primarily Botswana. It is therefore best considered as part of an increasing international population, which predominantly lives in Botswana and Zimbabwe.

In conclusion, there is no evidence of significant population declines in any part of the Namibian elephant population, although the populations confined to Namibia appear not to have increased significantly in the last five years, probably as a result of the drought conditions of the last few years.

6.1.2 Potential risks

There are no major immediate risks facing the Namibian elephant population, although the Etosha/Kunene population, which lives under extreme physical conditions, may be vulnerable to changing environmental conditions.

- Illegal killing does not appear to be a threat to elephant populations anywhere in Namibia.
- Anthrax kills elephants in Etosha NP, but even in peak years, the total mortality attributable to anthrax is low.
- A continued drought or longer-term climate change might lead to a decline in food availability for the Etosha/Kunene populations.
- Competition for water with human is a major potential problem for the Kunene population. MET argues that the best way to reduce this conflict is to maximize financial benefits to local people from the presence of elephants.

6.2 SUSTAINABILITY OF TOTAL LEVELS OF OFFTAKE

Levels of offtake from the Namibian elephant population appear to be very low.

- There is a sport-hunting quota of 28 bulls (<0.4% of the population).
- There are no immediate plans to carry out culling operations.
- Levels of illegal killing and PAC are low (see Appendix II)

6.3 NAMIBIA'S ABILITY TO MONITOR ITS ELEPHANT POPULATION

Namibia's ability to monitor its elephant populations is now satisfactory. MET has sufficient aircraft and expertise to carry out aerial surveys, using more or less standard procedures. These are carried out at times of year when elephants are settled in one

place, and are synchronized with Botswana's surveys under the ELESMAP programme, to ensure that double-counting does not occur.

Prior to 1995, Namibia's aerial surveys were carried out using non-standard techniques, and this makes it difficult to compare recent survey data with past information. However, the Panel does not believe that these uncertainties affect the major conclusions drawn from the aerial survey results: that elephant populations have probably been stable or increasing over the last five years.

6.4 EFFECTIVENESS OF CURRENT ANTI-POACHING MEASURES

Namibia's anti-poaching measures are considered adequate to deal with the current scale of illegal hunting.

Staffing levels and operational budgets vary considerably according to the area. In national parks manning levels vary between 131 and 1,261 km^2/man, while in parts of the elephant range outside protected areas, manning levels are as low as 3 km^2/man. Operational budgets vary from N$40.8 (US$9) per km^2 in the north-west region to N$233.7 (US$51) in Etosha National Park. Although these figures are rather low, they must be set in the context of a vigorous community-based natural resource protection and management programme, and the arid, open nature of much of the country, which will make law-enforcement efforts easier.

In addition to general patrol scouts, MET has four specialized anti-poaching units with a total of 90 members. Four aircraft based at Etosha are available for aerial surveillance and follow-up operations, and additional aircraft/helicopter are available from the Namibian Defence Force (NDF) or by private charter.

The creation of a special police unit, Protected Resources Unit (PRU) which is mandated to investigate all serious wildlife crime, has further improved the country's anti-poaching efforts. MET and PRU are represented on the Southern African Rhino Management Group Security Committee.

The Namibian Defence Force (NDF) does not play a significant role in enforcing the nature conservation regulations, but provide aircraft support when required. Their surveillance along the border with Angola may also act as a deterrent to poachers.

The Namibian Government has established joint permanent (bilateral) commissions with the governments of Angola, Botswana and Zambia, which serve as fora for high level discussions on border issues and law enforcement, including illegal hunting and trade in wildlife products.

An area of concern which will require intensive monitoring and surveillance is the northern border with Angola, where large numbers of UNITA troops are based. When food supplies from Luanda have been interrupted they have crossed the border into Namibia to poach for meat (and ivory).

6.5 CONTROL OF IVORY STOCKS

6.5.1 Marking of fresh ivory

Tusks arriving at the MET headquarters in Windhoek are marked in felt-tip pen and accompanied by the original possession permit issued by the local district offices of MET. The marks correspond to the serial number of the permit (x) followed by the sequential count of tusks of each permit. There may be up to 27 tusks on each permit, numbered from x/1 to x/27. The permits also include spaces to fill in measurements such as weight, length inside curve, length outside curve, girth at base, girth at centre,

length lip mark to base, and weight. The weight is generally filled in, but the other details are not given in all cases.

Five district offices are authorised to collect ivory and issue possession permits: Etosha, Far North (Ondangwa), North West (Outjo), Kavango (Rundu) and Caprivi (Katima Mulilo). The Panel was able to inspect the process at Etosha and interview the Chief Warden. When tusks are brought to the office, usually by patrols, they are normally marked in felt-tip pen with the date and place at which they were found. They are disinfected and transferred to a store room, and are only marked with permit numbers immediately prior to shipment to Windhoek, which may be several months after they were found.

Tusks from other district offices were marked with a similar system, but appeared to have been marked in smaller batches, so that their origin could be recorded on the front of the possession permit.

On arrival in Windhoek, the tusks are engraved with a CITES serial number, of the form NA00001/W, where W is the weight. Both this number and the permit number are recorded on the database, the latter being necessary as all of the source documentation is on the copies of the possession permits which are filed in numerical order.

6.5.2 Ivory sourcing

The four main sources of ivory in Namibia are: natural mortality, culling in Etosha in 1983 and 1985, problem animal control, and seizures by the police or Customs. At the time of the Panel visit to Namibia, stock was recorded on the database as "legal" (the first three categories of source) or "confiscated" and these two categories are stored in separate rooms. The legal stock included 1547 tusks (41% of the legal stock) weighing 6,938 kg (37%) for which no permit number was given, representing stock marked during a major inventory in 1991. In reality, this should therefore have been recorded as "source unknown" unless additional information could have been provided. The verification programme conducted by MET after the Panel visit showed that all except 180 of the tusks in this group could be reclassified on the basis of source documentation found in Windhoek as well as at the regional offices. The majority of these tusks represented seizures prior to 1991 that had been declared forfeit to the State through court proceedings.

The "confiscated" stock included 3713 tusks (22,875 kg) at the time of the Panel visit to Namibia. This stock is technically composed of "seized" and "confiscated" specimens, and further verification of court records will be needed to distinguish between confiscation and seizures. MET renamed this category "Seized" (defined as all ivory seized and/or confiscated) after the Panel visit, and reclassified stocks accordingly. On 22 November 1996, "seized" stock included 4656 whole tusks (28,037 kg).

"Legal" was renamed "natural/management" defined as stock originating from natural mortality, culling, problem animal control and other management activities (excluding all seizures), and on 22 November 1996, the "natural/management" stock included 2403 whole tusks (11,640 kg).

A further category of "unknown" was established for specimens with insufficient documentation, with 180 specimens (1,022 kg) in this category on 22 November 1996. All fragments and ivory chips (amounting to 751 kg) were furthermore excluded from the database of whole tusks.

Although the Panel has not been able to verify the reclassified stocks, a printout of the new database has been provided to the Panel, and MET has undertaken to have the reclassification audited independently.

6.5.3 Keeping of records by the Management Authority

MET began to computerise the management of the ivory stockpile in 1992 and has continued to do so ever since. Paper copies of permits relating to the tusks are stored at Windhoek and these have been used to fill in details on the databases of the tusks received prior to that date. All tusks were marked in an inventory carried out in 1989.

It is important to note that although Namibia only joined CITES in 1991, the current ivory marking system was started in 1989, and records of at least some of the tusks date back to the early 1980s.

The primary record of each tusk is the "Application to Possess Controlled Game Products" commonly and incorrectly known as the Possession Permit. This was introduced in 1992 and superseded Form 0/208, the "Application to have Controlled Game Products in Possession". Both are of the same general form and contain details of the date, source and holder on the front, with details of the tusks on the rear (see section 6.5.1). Both forms should be filled out in duplicate, one copy being kept at the registering station (usually a district office) and the other at Windhoek. The need to fill out both sides of the form, with a duplicate copy made using carbon paper, has resulted in several omissions. In many cases the copies of the forms at Etosha had the reverse correctly completed but were blank on the front, which is where details of the date, source and owner should be filled in.

It was not possible for the Panel to examine the complete set of documentation at Etosha, as the officer responsible was not present, and the Warden in charge did not have access to either the strong room or the documentation.

There appeared to have been no independent or systematic audit of the whole ivory control system, other than the periodic inventories of the stockpile at Windhoek.

The Panel did not locate any irreconcilable errors in the documentation but highlighted a number of ways in which it could be improved, in particular to facilitate comprehensive auditing of the system from Windhoek. Improvements recommended by the Panel are now being implemented by MET and will be independently verified before COP10.

6.5.4 Registration of private or commercial ivory

6.5.4.1 Marking of privately held ivory

Privately held ivory must also be recorded in possession permits. It is marked with the permit number in felt-tip pen. The tusks are weighed and measured and the details are written on the permits, copies of which are kept at the MET in files relating to each owner. These are currently not computerised and it is therefore not possible to determine with any ease how much ivory is in private hands. Ivory may be sold privately only within Namibia. A permit to possess is issued to the new owner while the old permit is canceled or endorsed accordingly.

6.5.4.2 Worked ivory

Curio shops dealing in game products are required to be licensed, which is not the case for retailers in worked ivory in small quantities. The curio shops are required (by Proclamation No. AG 42) to keep registers of their stocks of raw ivory. These may be inspected by MET staff. Legislation does not require permits to be issued for worked

ivory, but they may be issued for large carved items if requested by the owner. Worked ivory is not strictly defined by law, but for practical purposes the Department uses a definition of 80 per cent carved. Trophy manufacturers have to mark any offcuts or carvings with their name or a mark approved for that purpose.

6.6 LEGAL PROVISIONS REGULATING INTERNATIONAL AND DOMESTIC TRADE IN IVORY

6.6.1 Reservation

Namibia holds a reservation with respect to the inclusion of *Loxodonta africana* in Appendix I.

6.6.2 Moratorium

Namibia has no formal moratorium, but since the adoption of the Appendix I listing, no export permits for commercial shipments of raw or worked ivory have been issued. Export permits have been issued for hunting trophies. Small quantities of raw ivory (5 tusks) were sold to local carvers in 1996.

6.6.3 Nature conservation legislation

The Nature Conservation Ordinance 4 of 1975 and Proclamation 42 of 1980 (Control of Game Products) provide adequate provisions for import, export and re-export, including the prescriptions for marking ivory and maintenance of registers. The penalties relating to possession of trade in illegal ivory are considered adequate, with a recommended fine of up to N$ 200,000 or imprisonment for a period not exceeding twenty (20) years or both for illegal hunting, possession or trade of/in elephants or elephant products. The Nature Conservation Amendment Act 5 of 1996 provides for an economically based system of sustainable management and utilisation of game in communal areas. The establishment of a game products trust fund for communal conservancies is currently being prepared for tabling in Parliament, after having been approved by the Namibian Cabinet.

6.6.4 Veterinary legislation

On the basis of the Animal Diseases and Parasites Act (1956), the import and transit of raw wildlife products, including ivory, are subject to permits issued by the Veterinary Department. There is a veterinary cordon fence running across northern Namibia at approximately 20 degrees of latitude south, as well as veterinary fences on the national borders.. Veterinary permits are also required to transport raw wildlife products across these fences and even with permits, they may only be transported to secure quarantine stores. Veterinary permits are issued on demand for the export of wildlife products. In the case of ivory, the Veterinary Services would first consult MET to ensure that CITES permits had been issued.

6.6.5 Customs legislation

Namibia does not yet have its own consolidated list of restricted and prohibited goods, and still uses the South African list. However, a draft list has been drawn up, and a list for imports is expected to be ready by the end of 1996.

6.6.6 Customs Union

Namibia is a member of the Southern Africa Common Customs Area. Nevertheless, all trade routes are covered by Customs.

6.6.7. Transit

Namibia has not complied with the recommendations of CITES Resolution 9.7 on the Control of Transit. There is no legal provision which explicitly requires that CITES goods in transit be accompanied by valid CITES Documentation. However, the Customs Department informed the Panel that in practice permission is not granted for the transit of controlled game products. The Panel was informed by MET that ivory in transit through Namibia will remain subject to all permit requirements of the Nature Conservation Ordinance 4 of 1975, but no such transit shipments have occurred since 1990.

6.7 EFFECTIVENESS OF LAW ENFORCEMENT

6.7.1 External trade

6.7.1.1 Customs services

The situation with respect to enforcement of Customs regulations appears to have greatly improved since the previous Panel of Experts report. Namibia now has its own Customs service, with officers stationed on all the borders. There is a four week basic training course, which includes a session with the Protected Species Unit of the Namibian Police (PRU), at which identification of wildlife products, including ivory, is described. PRU commanders have also visited all the customs posts on the northern boundary.

Approximately 10% of trucks are searched at border posts, and dogs are being trained to detect ivory and rhino horn.

Controls on the northern boundary appear to have been tightened, although illegal traffic does still take place.

6.7.1.2 Nature conservation services

The issuance of permits for hunting and controlled game products (including ivory) is centralised (and computerised) at the MET headquarters.

MET is working to devolve responsibility for law enforcement activities to other agencies. The lead role in investigating the illegal trade in ivory is taken by the PRU.

6.7.1.3 Veterinary services

The Veterinary Services Directorate appear to have strict controls, with border patrols (126 men) deployed on the Angolan border to maintain the fence and react to veterinary infringements.

There is a good working relationship between MET and veterinary services, who only issue permits for wildlife products (including ivory) after consultation and approval from MET.

Border veterinary controls have been established between Namibia and South Africa, and appropriate enforcement is effected at Walvis Bay Port, points of road entry and airports under close liaison and cooperation from customs services.

Great emphasis is placed on the control of movement of live animals and products from Angola and Zambia. All border crossings have veterinary staff, as do the crossing points on the cordon fence, and there are 126 Veterinary staff patrolling the area in between the two. Permanent staff are also maintained at Walvis Bay, and arrangements are made on request to ensure that staff meet incoming or outgoing flights at Windhoek International airport.

6.7.1.4 Police

The Namibian police have formed a Protected Species Unit (PRU), which are responsible for investigations of illegal transactions involving diamonds, precious metals, meteorites, protected game and game products (including ivory). They are based in Windhoek, with 9 sub-units posted at main centres throughout Namibia. They currently control and investigate all cases relating to protected game products under the Controlled Game Products Proclamation (42 of 1980) and Ordinance 4 of 1975 - Protected and Specially Protected Game.

A very good relationship has been developed between the PRU and MET at all levels, and there are formal contacts with neighbouring countries, including the ESPU in RSA. They liaise closely with the Customs Service, especially in respect to seizures at border control posts.

The police force has also deployed a special field force of 400 men on the northern border with Angola who concentrate on cattle rustling, car theft and cross-border incursions. They are armed with semi-automatic firearms and play a complementary role to the anti-poaching operations. The force will be increased by a further 300 men in January 1997 following a training phase which is currently taking place.

6.7.2 Internal trade

The control of stocks and trading at local commercial outlets (curio shops) is minimal but adequate, and it was felt that any illegal trade to or from these outlets would be detected by the PRU's substantial informer network.

The PRU has been very active in the investigation of illegal trade in ivory. In 1995, 59 cases concerned with ivory were initiated, and 446 tusks, weighing over 2 tonnes, were confiscated. There was an increase in confiscations from 1990 to 1993, with a high level maintained since then. Over the past 2 3/4 years the conviction rate has been 25% with 47% of cases pending, 28% found not guilty, withdrawn or unrecorded, and sentences for illegal possession of ivory have ranged from N$ 200 or 2 years, to 5 years imprisonment without the option of a fine.

6.8 EVIDENCE OF ILLEGAL TRADE THROUGH NAMIBIA

64.3% of the ivory (4,656 tusks) held on stock in the government stockpile in Namibia has been seized by law enforcement agencies. This is considerably more than natural mortality and recorded poaching within Namibia, and this and other information indicate that the seizures involve ivory originating outside Namibia. In addition, an NGO informed the Panel that ivory is readily available for purchase from Angola.

Given that relatively large amounts of ivory are moving into Namibia, and there are no known end-users in the country, it might be reasonable to suppose that at least some of this ivory is in transit through Namibia. However, MET and PRU maintain that law enforcement in Namibia is so effective that very little ivory slips through the net. If this is the case, then illegal traders must be unaware of the certainty of detection and arrest.

While the Panel is aware of the high standards of law enforcement within Namibia, the majority of its members believe that the above information provides circumstantial evidence that some ivory is passing through Namibia. This view is corroborated by the ESPU, which has informed the Panel that approximately 15% of illegal ivory in South Africa has passed through Namibia (P. Lategan, in litt.).

Namibia customs border controls have been reestablished on the Angolan border, and combined with other improved border security force controls it is envisaged that the likelihood of future illegal import from Angola will be considerably reduced.

6.9 TRADE IN OTHER ELEPHANT PRODUCTS

At the time of the Panel's visit, Namibia did not propose to trade in elephant products other than ivory.

6.10 IMPACT OF THE PROPOSAL ON CONSERVATION STATUS OF ELEPHANTS AND ENVIRONMENT

Namibia is in the process of establishing what appears to be an exemplary procedure for ensuring that revenue from ivory sales is used for elephant conservation and community development in the elephant range.

A Game Products Trust Fund will be used to disburse the revenue from sales of ivory. Cabinet has approved this proposal, and a Bill is being prepared for presentation to Parliament. The purpose of the fund will be to distribute revenues to wildlife management bodies, including conservancies, wildlife councils and protected areas. It is anticipated that these revenues will be largely derived from the sale of ivory, but they may come from other controlled game products which are owned by the State. As far as possible, revenue will be returned to the areas from which the products originated. The main purposes for which money will be used will be to provide start-up capital for new conservancies and wildlife councils, to support improvements in the monitoring, management, protection and sustainable use of natural resources in rural areas and supporting measures to prevent and ameliorate conflicts between people and wildlife. The fund will be controlled by a Board of Trustees, comprising representatives from Government and from non-governmental community-based conservation organisations.

In conclusion, it is very probable that the proposal will have a beneficial impact on elephant conservation and community conservation and development programmes in Namibia.

7. COUNTRY REVIEW - ZIMBABWE

7.1 VIABILITY OF THE POPULATION AND POTENTIAL RISKS

The most recent estimate of Zimbabwe's elephant population, from surveys conducted in 1995, was 66,631 +/- 10% (DNPWLM, 1996a) in an area of 74,750 sq. km (Price Waterhouse, 1996).

There has been a significant increase in the estimated national population from 46,426 to 63,780 (excluding some minor populations included in the figure above) between 1980 and 1995. This indicates an intrinsic average rate of increase of 2.1% over this period (Price Waterhouse, 1996). The increase has not been consistent across all sub-populations; there has been no significant increase in the Sebungwe and Gonarezhou populations, which have been affected by increased human populations, and by drought combined with high levels of poaching and management offtakes in the late 1980s, respectively. Most of the increase has occurred in the Zambezi Valley and north-west Matabeleland. In the case of the Zambezi Valley, this may have partly been a result of immigration from Zambia, and, in the case of north-west Matabeleland, from Botswana. However, the level of increase makes it inconceivable that this immigration could be concealing a decline in resident populations, and it appears that at present there is more movement from Zimbabwe to Zambia than vice versa (E. Chidziya, in litt.).

No major risks to the Zimbabwean elephant population have been identified. Levels of illegal offtake appear to be decreasing after a peak in the late 1980s and early 1990s. Even during this period, however, there was no indication that poaching was greater than the rate of increase, except locally in Gonarezhou in the late 1980s.

An improvement in the current poor state of finances and general organisation of DNPWLM is essential to maintain the current low level of poaching. DNPWLM has assured the Panel that these have improved since the Panel's visit as a result of its change in status to a Fund (see Section 7.10).

It has been suggested that a population crash may result from reduced food availability caused by the impact of elephants on their own habitat. However, there is no evidence to indicate how serious this threat may be.

7.2 SUSTAINABILITY OF TOTAL LEVELS OF OFFTAKE

Current levels of offtake appear to be sustainable. Forms of offtake are as follows.

7.2.1. Illegal offtake

DNPWLM has presented records of 38 animals poached in 1995, down from 58 in 1993 and 66 in 1991 (although the figures for poaching in Gonarhezhou from 1989-1991 are much lower in the final version of Zimbabwe's Proposal than in the draft dated 20 September 1996). The suggested decrease in poaching since 1991 is not confirmed by a decrease in carcass ratios from aerial surveys, but the generally low carcass ratios show that illegal killing is low compared to the overall population.

7.2.2. Trophy hunting

Zimbabwe has a CITES approved export quota of 300 elephants for 1996, and a total of 293 bulls have been allocated. In addition there are a total of 16 bull and 10 cow elephants on quota for citizen hunters. DNPWLM records indicate that 121 elephants were actually taken in 1995.

7.2.3. Problem animal control

DNPWLM records indicate that 25 elephants were killed in problem animal control in 1995.

7.2.4. Culling

No large-scale elephant culls have been carried out since 1988. Approximately 300 elephants were killed in 'disturbance culls' in Gonarezhou during 1991-2. Further 'disturbance culls' were carried out in Omay, Guruve and Binga Districts in 1993, 1994 and 1995. No figures are available for the first two years, but 182 elephants were killed in 1995. No 'disturbance culls' have been carried out in 1996 to date. DNPWLM figures indicate that 36 elephants were culled in 1995. It appears that 'disturbance culling' figures may not have been included in the mortality tables provided in the final Proposal to CITES.

7.2.5. Other sources of mortality

Other sources of mortality include natural mortality, 'proficiency test' and tsetse control. Proficiency tests apparently account for 6 bulls and up to 9 cows per year. There was a reported natural mortality of 107 in 1995.

7.3 ZIMBABWE'S ABILITY TO MONITOR ITS ELEPHANT POPULATION

Zimbabwe has carried out a regular series of aerial surveys of its elephant population since 1980 using standard sample count techniques. Zimbabwe has one of the best sets of elephant population data in Africa. At the time of the Panel's visit there was adequate donor funding to ensure that the survey programme will continue for the next two years at least. However, the recent loss of DNPWLM's survey aircraft may have an adverse effect on the programme.

A number of doubts have been raised in the past about the results from the surveys, but the Panel feels that these have all been adequately addressed.

a) The general techniques used have been questioned, especially by people who do not understand sampling theory. An independent count of the elephants around Gonarezhou carried out by Dr. I Douglas-Hamilton, gave similar estimates to the DNPWLM count, and confirmed that Zimbabwe's survey techniques were satisfactory, and similar to the sample counts used throughout Africa (Douglas-Hamilton, 1995).

b) There have been differing estimates of the elephant populations, which have caused confusion in the past. It appears that the main reasons for this are that not all surveys covered the same areas, and with sampling error, some fluctuations in estimated numbers are to be expected. These issues have been addressed in a recent review of Zimbabwe's elephant population estimates (Price Waterhouse, 1996).

c) Immigration of elephants from other countries, including Zambia, Mozambique, Botswana, may have contributed to the observed population increase, and seasonal movements may have led to double-counting of the same elephants in different countries. However, under the EU-funded ELESMAP project, aerial surveys have been coordinated across the region to ensure that they are synchronized in different countries. There is adequate coordination between Botswana, Namibia and Zimbabwe. It is felt that movements between these countries and Zambia, Mozambique and Angola is not a serious concern, because of the low elephant populations in the relevant border areas of these countries (Said et al., 1995), and barriers to movement such as minefields. It appears that immigration from Botswana

to the Hwange region has occurred, and may be continuing, but despite this, the Botswana elephant population is still increasing.

7.4 EFFECTIVENESS OF CURRENT ANTI-POACHING MEASURES

7.4.1 Current levels of poaching

Levels of poaching appear to have reduced since 1993-4. This is indicated by fewer reports of incursions, and fewer freshly-poached carcasses seen from the ground. However, some poaching is still taking place, especially in the parks estate in Zambezi Valley and Hwange. In 1996 20 bull elephants were killed near Sinamatella Intensive Protection Zone. Little poaching has occurred in the communal areas

7.4.2 Changes in poaching

It is not entirely clear why the level of poaching is low at present, given the reduction in resources available for anti-poaching. However, DNPWLM believes that the benefits of "Operation Safeguard Heritage" which started in November 1993, in which large numbers of army personnel were deployed in the elephant and rhino range, and Air Force support, has taken some time to reach full effectiveness. In the early stages more troops were deployed than at present, but it is believed that this is more than compensated for by the improvement in lines of communication between different law enforcement agencies.

7.4.3 Other agencies

Elephant in the communal lands fall under the protection of the CAMPFIRE programme. No information has been provided on current manpower levels.

The Investigations Branch of the DNPWLM plays an important role in the anti-poaching effort and currently has 9 officers and 7 game scouts on its establishment based in Harare, Bulawayo, Mutare, Kariba, Hwange and Beitbridge.

The Zimbabwe Republic Police (ZRP) support unit assist anti-poaching programmes in the districts of Makuti, Mashumbi Pools, Binga and Hwange with a total contingent of 112 men.

7.4.4 Anti-poaching successes

No information has been provided by DNPWLM on the effectiveness of their anti-poaching efforts, but DNPWLM considers that it is adequate.

7.4.5 Manpower levels

Overall anti-poaching manpower densities in the protected areas stand at one game scout per 76 km^2. However, in a part of the Zambezi Valley, considered a high risk area, the figure is one game scout per 240 km^2, which the Panel considered to be too low, given the current threat in this area.

The Management Authority is severely underfunded, with the current expenditure at $ US 49 per km^2 - significantly lower than the figure of US$ 100-125 quoted by Dublin & Jachmann (1992).

The mean area covered per vehicle is currently 702 km^2, although in the Zambezi valley there are some large areas with no vehicle support.

7.4.6 Future projections

In January 1997 the Panel was informed by DNPWLM that the financial situation had considerably improved since the time of their visit, with an increase in revenues as a result of the new 'Fund' status.

The panel were advised that 164 posts previously "frozen" through attrition have been "unfrozen", although in real terms it was unclear as to whether there were sufficient funds to effect immediate appointments. It was emphasised by DNPWLM, however, that the field based posts would receive priority, and in January 1997 the Panel was informed by DNPWLM that 28 of these posts had been filled, and the rest were being finalised by the Public Service Commission.

It was also noted that a delivery of 72 Land Rovers supplied by an ODA grant/donation was imminent. The effectiveness of this fleet of vehicles will be dependent on adequate operating budgets.

Field staff met by the Panel in the Zambezi Valley were well turned-out and appeared to be well trained and motivated. However, staff had not received overnight allowances for up to 12 months, and had not been issued with new kit for two and a half years. This is an area of serious concern, and current levels of effectiveness will only be maintained if there is a significant improvement in the flow of funds to cover operational costs.

7.5 CONTROL OF IVORY STOCKS

7.5.1 Marking of fresh ivory

All raw ivory is required by law to be stamped with the approved CITES marks within 14 days of acquisition. Marking is carried out at any one of ten DNPWLM offices. Where ivory is accumulated at one of the field offices prior to dispatch to Harare, the tusks are marked in felt tip pen with a temporary number. Twenty six field stations are authorised to mark tusks. On arrival in Harare, the final tusk number is assigned and stamped on the tusk with punch dies.

7.5.2 Ivory sourcing

Ivory comes from three main sources:

- DNPWLM stations (from cull, natural mortality and problem animal control)
- District councils (mainly problem animal control, usually via DNPWLM field stations)
- Ivory seized by police and customs officials.

By checking all of the paperwork available in Harare, it is possible to determine the source of all the ivory stored. However, this is currently a cumbersome process, it being necessary to refer to up to four documents to achieve this. The information is currently being computerised and, once completed, this will enable the source to be determined more readily.

Ivory identified as 'poached' in the register originates either from elephants that are found dead as a result of being poached or recovered from poachers after contacts with DNPWLM staff. Ivory recovered from Customs, Police and the Investigations Branch of DNPWLM is usually identified as 'confiscated' since it did not originate from known illegal activity within the country.

7.5.3 Keeping of records by the Management Authority

The recording system for ivory appears to be both well designed and correctly implemented. The panel was satisfied that the system could be audited to ensure that all ivory owned by the state is correctly stored and accounted for. Privately held raw ivory is also fully documented and no significant errors were located. The records of

ivory stocks are audited approximately annually by the internal auditors and biennially by external auditors.

On 14 October 1996, the store was said to contain 2,886 tusks with a total weight of 28,194 tonnes.

7.5.4 Ivory carving and the control of worked ivory

Zimbabwe has one of the largest domestic ivory carving industries in Africa and DNPWLM has, for several years, pursued a policy designed to encourage this but maintain strict control. Ivory is sold by DNPWLM to registered dealers on a sliding price scale, depending on tusk weight.

7.5.4.1 Ivory sales

Sales of raw ivory from DNPWLM have been averaging about 3-6 tonnes per year between 1992 and 1995, but increased to 8,668 kg in the first nine months of 1996. Some 4,257 kg was sold to a single dealer. This dealer, and another who is a Chinese citizen, have been using the ivory to carve products, including name seal blanks, designed for the oriental market.

7.5.4.2 Dealer's registers

Ivory carvers must be licensed and are required to keep registers of the amount of ivory carved and the weight of waste and dust produced. Monthly returns must be submitted to DNPWLM, specifying the products produced from each tusk. Failure to observe the regulations carries the risk of a fine or suspension of the licence.

The Panel visited one of the larger carvers and was informed that this system was impractical as, when dealing with a variety of products, from beads to large figures, sections of partially carved tusks are often stored for several months. It is not possible to record accurately which products are made from each tusk. As a result, the carver informed the Panel that he only submitted details of the tusks carved, making no attempt to record the products or the waste produced.

In order to simplify the process of issuing CITES export permits for personal possessions, a Certificate of Sale has been designed which may be issued by licensed dealers in wildlife products (NP/CITES FORM 1) to indicate that the goods were obtained from a legal source. This certificate is made out in triplicate, one copy remaining with the dealer, one being retained by the purchaser and the third being surrendered to Customs on export. The Certificate of Sale is not valid for export unless the Short Export Permit on the reverse side of the certificate has been completed by the Customs Service. The export permit is eventually returned to DNPWLM for compilation of the CITES Annual Report.

The Certificates of Sale are not supposed to be used for commercial transactions and should not be accepted by Customs to support commercial exports. There is both a monetary and numerical limit on the total value ($500) and number (five) of items on each permit.

Since the transfer of *Loxodonta africana* to Appendix I, it is doubtful whether these short export permits would be accepted by importing countries. DNPWLM has distributed notices to warn customers that they may require import permits before taking ivory to their home countries.

7.6 LEGAL PROVISIONS REGULATING INTERNATIONAL AND DOMESTIC TRADE IN IVORY

7.6.1 Reservation

Zimbabwe holds a reservation against the transfer of *Loxodonta africana* from Appendix II to Appendix I. Zimbabwe's CITES annual reports for exports of trophies show the species as being on Appendix I. However, certificates for personal possessions written out by ivory dealers show ivory products and elephant hide products as being on Appendix I or II. These have apparently not been included in the CITES annual reports.

7.6.2 Moratorium

Zimbabwe has no formal moratorium on ivory exports but has not permitted the export of any raw ivory since 1989, except for hunting trophies..

7.6.3 Nature conservation legislation

The Parks and Wild Life Act of 1975, as amended 1 August 1991, and the Control of Goods (Import and Export) (Wildlife) Regulations of 1982 make provision for control of international and domestic trade in wildlife products, including ivory.

The sale and purchase of any live animal or trophy are subject to a permit. Export permits for ivory are issued by the DNPWLM headquarters at Harare. Export permits for hunting trophies may be issued by the regional offices but, during 1996, all permits for ivory trophies have been issued by headquarters.

No permits are issued for the commercial import of raw ivory. There is no legal permit requirement for the transit of ivory. Export provisions apply to re-exports.

Any person who is guilty of an offence involving the unlawful possession of, or trading in, ivory shall be liable, on the first conviction, to imprisonment for a period of five to fifteen years or, on a subsequent conviction, to imprisonment for a period of seven to fifteen years.

7.6.4 Veterinary controls

Under the control of Goods (Import and Export) (Wildlife) Regulations 1982, the import and export of raw and worked ivory is subject to a permit. On application for import permits, reference to veterinary permit requirements is made, and wildlife and veterinary authorities issue common circular letters.

Veterinary import and transit permits are required for infectious material and portions of carcasses. Elephant meat, unprocessed ivory, bones and hide are therefore included.

Export certificates are issued if required by the import regulations. When issuing health certificates for raw ivory, the Department of Veterinary Services requests prior presentation of a CITES permit.

7.6.5 Customs Legislation

Zimbabwe Customs work with a consolidated list of restricted goods on which CITES species are shown as being controlled.

Customs indicated that they have a general policy of not strictly implementing trade controls on manufactured products as personal possessions even if they are made of ivory. The panel was shown Instructions to Customs Officers on the implementation of these regulations which state that "Permits will not be required for articles of a strictly personal nature which are designed to be carried by or worn on a

person.....irrespective of whether or not the species involved is listed on the regulations". This contravenes CITES regulations in respect of Appendix I species (but not for the African elephant, for which Zimbabwe holds a reservation).

7.6.6 Customs Union

Zimbabwe is not a member of the Southern African Customs Union.

7.6.7 Transit

Zimbabwe has not complied with the recommendations of Resolution Conf. 7.4 on Control of Transit. There is no legal provision that CITES goods in transit be accompanied by a CITES permit, but the Panel was informed that this would be regarded as import and export, export permits would not be issued, and no permissions for transit of ivory have been given since 1989.

A permit is required for the introduction of goods into bonded warehouses, including duty free shops. This does not appear to have happened in the case of ivory entering the duty free shop at Harare Airport.

7.7 EFFECTIVENESS OF LAW ENFORCEMENT

7.7.1 External trade

The Panel was informed that Zimbabwe has maintained a moratorium on the export of ivory, but two types of evidence were found to demonstrate that considerable quantities of worked ivory have been exported:

(a) Personal possessions exported by tourists. The Panel was informed by an ivory dealer that the domestic market for carvings is now very low, but that over 90% of all ivory carvings are bought by foreign tourists. It must therefore be assumed that majority of the products carved from ivory sold by DNPWLM is bought by foreign tourists and eventually imported into their home countries. While the export from Zimbabwe may be legal because the items could be regarded as falling under Appendix II within Zimbabwe, the importing countries should treat them as Appendix I and demand import permits before allowing import.

(b) Commercial exports of worked ivory. Although ivory dealers are allowed to issue Certificates of Sale for personal possessions, they are not allowed to do so for commercial exports. There is evidence that two dealers, at least, have abused this privilege and issued Certificates for large commercial quantities of worked ivory destined for export to a variety of countries, including Japan, China, Thailand, Hong Kong, the Philippines, Indonesia, USA and South Africa. Some of these shipments were very large, including a single sale of seals valued at Z$ 919,113 (approximately US$ 90,000) to a Japanese customer, and one destined for Thailand valued at Z$ 600,006. The ivory registers of the dealer involved indicated that, during the month of April 1996 alone, he had sold ivory seals to Japanese customers carved from 182 tusks, totalling 1.6 tonnes. Between 28 June and 5 July 1996 stamps valued at Z$ 189,946 were purchased by customers from P.R. China, Thailand and Hong Kong. This is a matter of serious concern for the following reasons:

- Dealers issued NP/CITES FORM I, despite the fact that the forms may not be issued for commercial shipments, and despite exceeding the financial and numerical limit for the quantity of items on each form.

- Assuming that the exports suggested by the Certificates of Sale (NP/CITES FORM 1) took place, Customs officers failed to detect or prevent them. It is not clear whether Customs officers completed the Short Export Permit, whether they permitted the export without an export permit, or whether they simply failed to detect it altogether.
- DNPWLM officials failed to prevent the abuse of NP/CITES FORM 1 by ivory dealers despite the fact that they had ample documentary evidence of this since October 1995, in the form of the monthly returns from the dealers.
- Importing countries, notably Japan, Thailand and China, appear to have failed to intercept these illegal imports of worked ivory.

Following the visit of the Panel of Experts to Zimbabwe, and the production of its draft report, DNPWLM requested that the following statement should be inserted into the report.

DNPWLM acknowledges the inadequacies of domestic controls and have taken the following ivory control measures:

- *Licences of the two dealers have been suspended (but they have contested the decision by appealing to the Courts) and the Department has recommended that their permits not be renewed when they expire on 31/12/96;*
- *A fully fledged investigation is being undertaken with the help of all relevant law enforcement agencies and Interpol;*
- *DNPWLM is seriously considering withdrawal of the abused forms (NP/CITES Form I);*
- *Customs are currently putting in place tight control measures to ensure that there is no recurrence of such events;*
- *DNPWLM officials are under instructions to report of any suspicious circumstances as far as ivory sales and the local carving industry is concerned.*

7.7.1.1 Customs Services

Customs informed the Panel that their chief concern was the control of imports, and that there was a general policy to leave the control of exports up to the importing countries. The exception to this rule appears to be the control of postal packages; the Customs department claims to inspect 90% of small packages.

Few cases of illegal export of ivory have been detected in recent years with the exception of a single case involving a substantial quantity of worked ivory crossing to South Africa at Beitbridge.

The Natural Economic Crime Inspectorate also supports Customs, particularly in respect of excise evasion. They informed the Panel that they had never detected a case involving ivory.

The fact that many NP/CITES FORM 1s have been issued for the export of commercial quantities of semi-worked ivory provides circumstantial evidence that Customs have failed to control the export of ivory.

DNPWLM informed the Panel in January 1997 that the Department of Customs is taking steps to improve this situation.

7.7.1.2 Nature Conservation Services

Permits for exporting wildlife products are issued principally by DNPWLM headquarters in Harare. In the case of ivory, details of tusk ownership (the tusk registration card) are checked before issuing the permit, and the card is cancelled and retained. Certain of the DNPWLM field offices, Matesi and Marongora, are also authorised to issue export permits for sport trophies where they have also registered the ivory.

7.7.1.3 Veterinary services

There are no veterinary staff stationed at Harare international airport but staff are present at two of the land border points. The establishment of a Port Health Authority at the airport which would include veterinary staff has been proposed but is lacking funding. Responsibility for implementing veterinary controls on import is currently delegated to Customs.

7.7.2 Internal trade

7.7.2.1 Nature Conservation Services

DNPWLM runs its own Investigation Branch whose primary role is to contain internal illegal trafficking in wildlife products. Under the Parks and Wildlife Act 1975, as amended 1 August 1991, every purchase or sale of wildlife products requires a permit. The Investigation Branch is also responsible for monitoring the operation of licensed ivory dealers or carvers. Between September 1995 and October 1996 DNPWLM's control over the carving industry appeared to have broken down (Section 7.7.1).

During their visit (11-16 October 1996) the Panel was informed that one ivory carver, in whose stock records of ivory dealings irregularities had been detected, had had his licence rescinded, though no further charges had been brought. DNPWLM subsequently informed the Panel (in litt. 8 November 1996) that the licence was still valid but would expire at the end of 1996.

The Investigations Branch did not volunteer any information to the Panel on abuses by ivory dealers. This information was discovered by members of the Panel during the course of routine examination of ivory dealers' records. However, when the Panel presented evidence of these matters to DNPWLM on the final day of their visit to Zimbabwe, the Investigations Branch stated that:

- no infringements of the regulations had occurred;
- but that the dealers concerned had had their licences suspended in the week preceding the arrival of the Panel.

The Panel was not provided with any additional information which would have allowed these statements to be reconciled, nor an explanation why it had taken so long to take action, given that evidence of these abuses had been available since October 1995.

Further information has been provided to the CITES Secretariat by the Investigations Branch, following the visit of the Panel of Experts, and the distribution of the first draft of this report to DNPWLM. It was stated that manufactured pieces of ivory were illegally shipped from Zimbabwe, concealed under tobacco bales. It was further stated that two ivory traders were charged and fined the maximum penalty and their trading licences were withdrawn (Ndhlovu in litt. 8 November 1996). Copies of charge sheets dated 4 November 1996, have been provided to the CITES Secretariat, indicating that

two ivory traders were charged with failure to observe the conditions of their licences by omitting the names and addresses of ivory purchasers from their returns. The traders admitted guilt and were fined Z$500 (US$ 50).

7.7.2.2 Police

In cases where illegal possession of raw ivory is detected by either Customs or DNPWLM staff, the Police are called in. Many of the cases of poached ivory recorded in the ivory registers indicated that the ivory had been handed in by the Police.

There is close co-operation between the ZRP and the DNPWLM Investigations Branch on matters relating to illegal trafficking of specially protected wildlife products, which includes ivory.

The ZRP handle and prosecute all cases contravening the Parks and Wildlife Act of 1975, as amended 1 August 1991. Familiarity with aspects of the Law and Regulations relating to wildlife is to be addressed by convening training courses for Magistrates to ensure appropriate sentences are handed down for all wildlife contraventions, especially with respect to specially protected game such as rhino and elephant.

7.7.2.3 Office of the President

Personnel from the Office of the President are based in the field close to protected areas, carrying out undercover duties, including the collection of anti-poaching intelligence.

7.8 EVIDENCE OF ILLEGAL TRADE INVOLVING ZIMBABWE

Enforcement staff believe that there is little illegal traffic in ivory through Zimbabwe. However, the ESPU has informed the Panel that they believe that 45% of illegal ivory in South Africa has passed through Zimbabwe (P. Lategan, in litt.).

7.9 TRADE IN OTHER ELEPHANT PRODUCTS

There appear to be few controls over elephant products other than ivory. During their visit to Zimbabwe, the Panel were informed by DNPWLM officials that trade in hides would not be included in the final proposal. The final version of the Zimbabwean proposal does in fact include a proposal to trade in hides, but in view of the position taken by DNPWLM at the time of their visit, the Panel did not investigate the controls in depth. There are a number of tanneries which process elephant hides and products are widely available in curio shops. The Panel was informed that the tanneries are not registered and their stock is not controlled by DNPWLM. A curio dealer indicated that there were no controls on the retail of elephant hide products and that he did not under normal circumstances issues Certificates of Sale (NP/CITES FORM 1) to customers who purchased them.

7.10 IMPACT OF THE PROPOSAL ON CONSERVATION STATUS OF ELEPHANTS AND ENVIRONMENT

The majority of the ivory stockpile held by the DNPWLM belongs to the government, but 26% by weight belongs to Rural District Councils (RDCs), which have been granted Appropriate Authority status under the CAMPFIRE programme. If ivory is sold, the revenue will be allocated to DNPWLM and the various RDCs on a tusk-by-tusk basis. It is believed that this will be fairly straight forward once the ivory database management system being designed by TRAFFIC is fully operational.

Revenue generated through the CAMPFIRE scheme is spent according to decisions taken by RDCs and their constituent communities, although DNPWLM lays down guidelines on the preferred division between general administrative costs, costs of wildlife management, and returns to communities in wildlife areas. Some of the funds may be used for activities which directly benefit elephant conservation, such as employment of game guards, provision of water supplies for wildlife, or erection of crop-protection fences (which will reduce levels of human-elephant conflict), although this is not a requirement.

The CAMPFIRE Association has indicated that they will recommend to their members that revenues from the proposed sale of ivory should be treated differently from general CAMPFIRE revenues, and used specifically for elephant conservation projects.

Distribution of CAMPFIRE revenue is meant to be done in a transparent and participatory manner. Although there have been some problems in the past, with excessive retention of funds by district councils, the situation is said to be improving. The CAMPFIRE Association presented evidence on revenue distribution for five districts from 1991 to 1995. In Chipenge and Hurungwe RDCs, revenue retention by the council remained at 20% or less, in Binga it was reduced from 50% to 20%, in Bulilimamangwe it has remained at 50%, and in Gokwe North it has reduced from 80% to 53%.

Money derived from the sale of government-owned ivory will be paid to DNPWLM. The Department has not determined what these revenues will be used for. Various suggestions were put forward by the Directorate, including contributions to day-to-day operational costs, rhino management, implementation of park management plans, and provision of supplementary water supplies for wildlife in Hwange NP. The Zimbabwean proposal states that the reason why culling of elephants no longer occurs is that the Appendix I status of elephants prevents DNPWLM from recouping the costs of these operations. However, the Panel was informed that it is no longer Zimbabwe's policy to cull elephants, because existing management policies have been abandoned. In January 1997. DNPWLM informed the Panel that culling is in fact a management option for Zimbabwe.

The status of DNPWLM changed on 1 July 1996 to become a statutory 'Fund', responsible for financing operations directly from wildlife revenue. The Panel was provided with a 'Systems Study' on the Fund from the Accountant General's Department, dated June 1996, which describes some of the implications of this change of status. The Fund is managed by the Director on behalf of the Accounting Officer for the Ministry of Environment and Tourism, who is in turn accountable to Parliament. It is recommended that decision making should be decentralised to regional cost centres. There will be a change from appropriation accounting systems to commercial accounting. There are some outstanding uncertainties about the operation of the Fund, and it is not clear how profits should be divided between DNPWLM and the Treasury. Concern was expressed that 'the entity has a weak financial base, poor managerial skills, inadequate and old equipment and poor infrastructure'. DNPWLM has informed that Panel that the situation has improved since this report was written.

There are problems with accounting and cost control. Although accounts will be audited by the Ministry and Auditor-General and presented to Parliament as before, there are currently no plans to make the use of ivory revenue more transparent by accounting for them separately from other departmental revenues.

Serious doubts have been raised about the current financial situation of DNPWLM and its management capabilities. These are confirmed by the decline in funding for anti-poaching operations, the recent high level of senior staff turnover, the confusion over the Panel of Experts' visit, the lack of clear policies and financial planning presented to the Panel, and that major illegal ivory dealing was allowed to proceed unchecked for a period of a least a year. This presents a dilemma—that while DNPWLM is clearly in need of every source of additional revenue available, including the sale of ivory, the majority of the Panel believes that its lack of management capability raises doubts as to whether the money will be used effectively.

In conclusion, while it appears that the revenue from RDC ivory will benefit conservation through CAMPFIRE, this cannot be guaranteed for government-owned ivory, unless the overall situation in DNPWLM improves, or an independent, transparent system of dealing with ivory revenues is put in place.

8. COUNTRY REVIEW - JAPAN

8.1. CONTROL OF IVORY STOCKS

8.1.1. Ivory sourcing

The ivory circulating in Japan has been classified in one of the following categories:

- whole tusks, raw, polished or carved,
- big and small cut pieces not yet in a finished state,
- finished products.

The implementation of CITES rules further requires differentiation between ivory which is :

- pre-Convention (acquired before February 1976)
- imported or acquired before 18 January 1990, date of the transfer of the species *Loxodonta africana* to Appendix I,
- of unknown origin, (either legal or not).

The entry into force, on 28 June 1995, of the amendment to the Law on Endangered Species leads to a need to differentiate:

- big and small cut pieces obtained before that date from those produced after that date through the cutting and manufacturing of whole tusks,
- finished products obtained before and after that date, as previously.

8.1.2. Registration of private or commercial ivory

8.1.2.1 Raw ivory and carved ivory

a) Whole tusks

Following the amendment of the Law on the Conservation of Endangered Species entered into force on 28 June 1995, all whole tusks, either raw, polished or carved, that retain their initial form of whole tusks, must be registered by the Environment Agency. Only those whole tusks acquired or imported before the inclusion of the African elephant in Appendix I to CITES, i.e. before 18 January 1990, were accepted for registration.

The EA (Environment Agency) designated for this task the Japan Wildlife Research Centre (JWRC), a body of general interest under the control of the EA.

The registration was compulsory for to all companies and individuals who wanted to trade in or dispose of whole elephant tusks.

By 14 October 1996, JWRC had granted 5,969 registration cards for a total of 91,481 kg of ivory, i.e. an average weight of 15.32 kg per tusk. Each registration card is numbered and indicates the specifications of the whole tusk: length from the base to the tip, weight and mark appearing on the tusk. Tusks without marks were marked at this stage (ISO code, year and weight) to indicate Japan as country of origin. All these data are recorded in the JWRC's database.

Registration cards were granted on presentation of a file comprising a photograph of the whole tusk on which the mark is easily readable, as well as a document certifying that the tusk was in Japan before 18 January 1990. The documents accepted for this purpose were import documents or invoices and delivery bills, as well as affidavits (sworn declarations) in cases where import or transfer documents could not be

produced by the applicant. In spite of the fact that all tusks traded under CITES rules since 1986 should have been individually marked, adequate documentation could not be found for about three quarters of the tusks, and registration cards were granted for these on the basis of affidavits. The traders were required to register all of their tusks at once. The chairmen of the professional associations of importers and wholesalers of ivory were required to take responsibility for their members who applied for registration, on pain of cancellation of the registration cards. Each issue of a card was subject to the payment to JWRC of a administration fee of about US $ 10. The traders were only allowed to register their tusks from 28/06/1995 to 27/12/1995, i.e. for a period of six months. Private individuals were not obliged to register their whole tusks but must register them before any transfer either for sale or as a gift.

b) Cut pieces

Anyone engaged in trade in cut pieces of raw ivory (large parts of tusks and small cut pieces) must register with the EA and MITI, declaring the total quantity of ivory held in stock. EA and MITI informed JWRC of these data in order to check the weight of cut pieces owned by each trader. Cut pieces were declared by batch up to a maximum weight of 30 kg per batch. Each piece within the batch was attributed an internal serial number by the trader. Each declared batch was therefore entitled to the issuance of a management card indicating: the number and date of approval of the trader, the number of the batch of cut pieces, the date, the name and address of the holder and the total net weight of the pieces. Thus, 98,293 kg of cut pieces, of an unknown number, were owned by approved traders on 31 July 1996. From this total amount, the authorities evaluate that big pieces represent 20% and small ones 80%.

c) Worked ivory

From October 1995 onwards, only worked ivory made from tusks or tusk parts with a registration card will be eligible for an approval seal when sold in retail trade. Because many traders had worked ivory already in stock at the time of registration, a transitional procedure was whereby they could apply for approval seals to go with worked products provided that they could prove they had been produced from legally acquired ivory. Up until the end of September 1995 (three months after the law came into force) traders were allowed to declare finished ivory products to JWRC in order to enable the granting of CITES approval seals for retail sale. The declarations had to be accompanied by a photograph of the items. JWRC then sent to the traders approval seals for each declared item, specifying to which item each seal was attributed. Identical items were issued with groups of seals, from which any of the labels of a series could be fixed to any of the finished items of same form and weight.

8.1.3. Keeping of records by JWRC

JWRC keeps a computer database for scientific use which contains information on individual registered whole tusks, number of the registration card, number of the owner, date of issuance, length, weight and marks on the tusk. Thus, from the number of a registration card, it is possible to retrieve the specifications of each of the 5,969 registered whole tusks. Data on cut pieces are not held on the database

The following data are only accessible by physical consultation of the documents in archives at JWRC, the EA or MITI:

- total weight of the stockpile of registered tusks for the whole country or for each of the traders,
- returns of the registration cards after whole tusks have been cut,

- sales of whole tusks between traders,
- big and small cut pieces, as well as their management cards,
- issuance of approval seals

8.2 LEGAL PROVISIONS REGULATING INTERNATIONAL AND DOMESTIC TRADE IN IVORY

8.2.1. Reservation

Japan has not entered a reservation with regard to the inclusion of Loxodonta africana in Appendix I.

8.2.2. Moratorium

Japan prohibits any import and re-export of ivory for commercial purposes, except for pre-Convention specimens.

8.2.3. Nature conservation legislation

8.2.3.1 Compulsory provisions

- Trader approval: All those conducting commercial transactions in ivory were obliged to make a declaration of activity to be agreed upon by MITI and EA. During this operation, the traders were also in a position to declare the stockpiles of tusk parts in their possession. 200 traders were so approved.
- Record keeping: the ivory traders must keep a register including, for each movement, the name and address of the supplier or of the customer, the date and numbers of the management cards and, if any, registration cards. The acquisitions (purchases) and disposals (sales or manufacturing) must be indicated in ivory weight, and the balance in weight of the total stock held between each transaction must be calculated. This register must be completed for each transaction and must be kept for a period of five years. It may be controlled through inspections conducted by MITI and EA. The ivory held before 28 June 1995 as cut pieces must be recorded. Concerning accounting, the traders must also keep a book of purchases and sales, which must be presented in case of inspection.
- Compulsory declarations: no trade in a whole tusk may be made unless the tusk is accompanied by its registration card. The traders must notify the EA within 30 days of:
    - change of owner of a whole tusk, this being compulsory for the buyer also,
    - cutting, destruction or disappearance of a whole tusk through the return of the registration card to JWRC: so far, 532 registration cards have been returned, i.e. an equivalent number of cut tusks with a total weight of 11,250 kg (21.14 kg on average).

The non-compliance with these rules may be sanctioned, depending of the seriousness of the case, by fines between US $ 2,000 and 5,000 per category of infraction, suspension of trading for up to three months and a prison sentence up to six months (in case of lack of recording or false recording or of trade without the approval of the authorities).

8.2.3.2 Optional provisions

The traders may adopt the optional system of management cards, which allows the sale of the finished product with the CITES approval seal granted by the authorities. MITI and the Japan Federation of Ivory Arts and Crafts Association (JFIACA)

strongly recommend the use of this procedure, which has its own rules. Because of the paperwork imposed by the system, the authority did not consider it possible to make it compulsory.

A management card may be filled out when:

- a tusk with a registration card is cut. The management card must in such cases refer to the registration card returned to JWRC,
- a registered tusk is cut into parts and this is declared to JWRC,
- tusk parts are cut by a trader who acquired them as pieces. The management card must in this case refer to the former management card and to the registration card of the original tusk.

The following information must appear on the management card:

the number of the card and that of the initial registration card, the date of establishment of the management card, the name and address of the holder and those of the supplier, as well as the nature and the weight of the tusk parts concerned.

8.2.4. Customs legislation

The relevant texts (Customs and Tariff Law, Export-Import Foreign Exchange and Foreign Trade Control Law) provide for the compulsory passing of the shipments through one of the 43 CITES competent Customs offices.

When ivory is declared, the Japanese Customs require the presentation of the CITES document granted by the exporting country and asks MITI to confirm its validity before clearance. It then proceeds to the physical inspection of the goods and checks that the document actually refers to them in terms of nature, number and weight.

Irregularities and frauds detected may be sanctioned with fines and, for the most serious cases, prison penalties. Customs require the surrender of contested goods, and those subject to import quota, including CITES Appendix I specimens, can be confiscated.

8.2.5. Customs Union

Japan is not party to any Customs Union.

8.2.6. Transit

Japan does not have specific provisions for the implementation of Resolution Conf. 7.4 and does not require prior verification of CITES documents CITES goods in transit.

8.3. EFFECTIVENESS OF LAW ENFORCEMENT

8.3.1. External trade

8.3.1.1 Customs services

Japan, because of its island status, has about 200 Customs offices established in ports (118) and airports. The clearance procedures for goods are computerised at a rate of more than 90%. Forty-three offices only are allowed to clear shipments subject to CITES regulations. Training has been provided to 57 officers in charge of handling shipments declared as containing CITES specimens.

At Tokyo port, 6-7% of the total commercial freight is inspected; this is comparable with usual practice in other countries with a comparable flow of goods. At Tokyo-Narita airport, where about ten million passengers pass through annually, the passenger control also corresponds to the norm implemented in large international

airports. A not negligible percentage of inspections of the marine and aerial freight is conducted through X-ray detectors. The movement of people is subject to verification for about 5% of them. At export, the commercial freight and the traveller luggage are subject to more limited checking. Accompanied luggage and the hand-carried luggage are systematically controlled by the security forces through X-rays.

In general, shipments from China and Hong Kong are subject to stricter controls than usual. The products classified in chapter 96 of the Customs Tariff (worked ivory and ivory items) are considered as sensitive and better checked.

The commercial flows of raw or worked ivory were not subject to specific surveys to allow the targeting of possible frauds. Monitoring measures are however in place when fraudulent activities are suspected. Between 1989 and 1995, 46 cases of illegal imports of ivory have been established. They concerned:

- 60 raw tusks from the Philippines
- 36,000 inzais (hanko blanks) from Hong Kong and China (estimated to be about 1,200 kg),
- 1,400 carved items from Hong Kong and China.

Seven cases were brought to court and in four cases prison sentences of more than one year were passed. The other cases were sanctioned by administrative fines. The surrendered goods have been destroyed or will soon be destroyed by the authorities.

A recent case (17 January 1997) involved the import of 13,800 hankos (352 kg) imported to Kansai Airport.

8.3.1.2 Nature conservation services

Import and export permits and re-export certificates are issued by MITI after a documentary check has been undertaken by its import and export divisions. The officers responsible for this work remain in their position for two to four years and permits in archives are in general not kept beyond two to three years. For the period prior to 1994, the annual reports submitted to the Secretariat only are available, as well as some partial data. The issued permits do not indicate either the weight of ivory or the geographic origin of the specimens but only their nature and number. They may only be issued on the basis of vouchers for pre-Convention specimens except for whole tusks. Only specimens acquired before 1 July 1975 are considered as pre-Convention. The responsible officers have stated that no permit has been issued since 18 January 1990 under the exemption concerning personal and household effects, either for import or for export.

The Customs statistics mention ivory imports as follows:

- raw: 99 kg in 1993 (from the United States of America) and 12 kg in 1994 (from the Russian Federation)
- worked: 4,691 kg from 1990 to 1994.

All of this ivory was considered to be pre-Convention.

The CITES annual reports mention 87 tusks (in 1991) and 168 tusks and 11 sets of piano keys (in 1992) imported from the United States as "wild-taken Appendix-II specimens". MITI stated that they were not real tusks but various carved pre-Convention items, which were wrongly recorded as tusks in the annual report. The CITES documents concerning these items were not available for examination because they were imported too long ago. The countries of origin of the pre-Convention specimens remain unknown in most cases.

The Customs statistics do not mention any export of raw or worked ivory since 1989.

8.3.1.3 Veterinary services

Raw ivory is not subject to inspection by the Veterinary Services.

8.3.1.4 Police

At airports, the police forces conduct security checks on departing passengers and all their luggage passed through X-rays and hand checking in some cases. When a significant fraud is discovered, they may be required to undertake investigations.

8.3.2 Internal trade

8.3.2.1 Nature conservation services

a) Whole tusks

The registration procedures appear reliable and would be applicable to cover tusks which might be newly imported if the ivory trade were to be resumed. The JWRC database tracks the exact status of each tusk (in stock, sold or cut). It does not readily track the movements of whole tusks between traders or their usage by each of them. It is not possible to follow the growth of the stockpiles of whole tusks from the database. To do so, it is necessary to consult the documents forwarded by the traders and to make the calculation manually.

b) Cut pieces

Statistical data on the cut pieces are not recorded in the database but are only maintained at JWRC as hand-written records. Their total weight represents more than half the total stock of declared ivory in Japan. About 80% of them are small pieces of less than 1 kg. These therefore represent 40% of the ivory stockpile, i.e. 80 tonnes. Their nature and number are not known, as only their weight, batch by batch, has been declared by the traders. They may consist of pieces of very different weights, sometimes very small, of scraps as well as seem-finished products ready for polishing. The actual control of this considerable volume of cut pieces depends on the management-card system, which is optional, and on the inspection of the traders. It appears from the sample reviews made that the vast majority of the traders have adopted the principle of the system but that not all of them, and not always, implement it fully, in particular for the small cut pieces. In such cases, the administration and paperwork is lengthy and tedious. The traders tend to reckon in terms of total weights entering and leaving their stocks, without distinguishing between the pieces. Thus, they neither connect the pieces used with the management cards, nor do they take into account the scraps generated by the manufacturing process. When carving work is sub-contracted, (as is frequent with jewellery), reconciliation by weight is the rule as the carver is not an ivory trader and is therefore not subject to the regulations.

The waste generated by the manufacturing process is significant. Two to three millimetres of the outside and inside surfaces of the tusks cannot be used because the ivory is of poor quality. This represents about 20% of the weight, and is lost when a whole tusk is polished. Many tusks show breaks, clefts, cracks and other defects, which render parts of them unusable for manufacturing finished products. Finally, the process of successive cutting, carving and final polishing also generates waste. The total volume of waste generated during manufacture of finished products from a whole tusk can be estimated to be half and two thirds of the initial weight. The quantity of waste is bigger if the finished products are smaller (hankos and jewels).

The majority of traders keep the scraps, even small ones, generated by the manufacturing. These can be used to make small finished items (beads, plectra, cuff-links, tooth-picks). The potential for using such scraps is limited and is at present not economically viable.

Although the use of the management cards is optional, non-compliance with the rules or fraudulent use may be sanctioned by a fine of up to US $ 5,000 and imprisonment of up to three months.

c) Worked ivory

When finished products are manufactured from parts of tusks accompanied by management cards, the manufacturer may apply for an approval seal for each of them. JWRC considers the applications, which must be accompanied by documents establishing that the finished products actually originate from legal ivory, i.e. registered as whole tusks or declared to be from pieces, in accordance with the amended law. When the application is accepted, and against payment of US $ 0.5 per seal, JWRC issues the number of seals corresponding to that of the finished products and indicates the seal number for each of the products. The seals are presented in sheets of 24 pre-cut adhesive units. The seal itself is a square of 4 cm by 4 cm of chequered paper on which is printed a round seal of 3 cm diameter, bearing in the centre the official CITES logo and a serial number. On 30 November 1996, JWRC had issued 963,969 approval seals. When the seal is photocopied, the indication "copy" in Japanese appears as an overprinting on the photocopy. This means of detection of fraudulent copies has also been used for the development of the registration cards.

Surveys carried out by TRAFFIC show that retailers of finished products are generally unfamiliar with the functioning of the approval-seal system and that few of them implement it in compliance with the rules. There is a clear tendency for the traders to provide a seal for an item without ensuring that the seal number is actually that given for the relevant item. Correct implementation of this system would require significant work and organisation, especially for the very small items. The approval seal cannot be affixed to small items, either because of their size or because they are destined to be worn (jewels) or frequently used (hankos). The seal can only be affixed to items destined for static use and with a smooth surface of at least 4 cm by 4 cm. A survey found that the majority of traders in finished products do not provide seals unless the customers ask for them. On the other hand, if the customer does request a seal, some traders are ready to affix an approval seal to a finished item that is not actually entitled to get one. The sale of finished ivory products without seals is legal. With the system as currently implemented by the traders, the presence of a seal on a product does not guarantee that it is of legal origin.

Although the use of the approval seal for the trade in finished products is optional, non-compliance with the implementation rules may be sanctioned by a fine of up to US $ 2,000.

d) Controls

When considering applications for seals, JWRC only has available to it information on the weights of ivory acquired and disposed of. The official services do not have information on:

- the approximate number (order of magnitude) of pieces constituting a batch of small cut pieces,

- a description (scraps, seem-finished products, hard or soft ivory) of the ivory, the weight of which appears on the management cards.

There are no established rules to take into account the significant volume of waste generated during manufacture.

When the declarations of ivory stocks and applications for registration cards were deposited, no inspections were made due to lack of time. Since then, 60 inspections of traders have been conducted by a team consisting of a MITI officer and an EA officer. These inspections were based on a predetermined scheme, designed to compare the purchase and sale books with the register of ivory acquisitions and disposals. Their limited duration, not more than one hour, did not allow sample comparisons of the stock with the stock declarations, the registers, the registration cards, the management cards and the approval seals.

The risk of fraud by laundering illegal ivory through the stocks of small cut pieces has been recognised by MITI and steps have been taken to strengthen the inspections and increase their number.

8.3.2.2 Police

When a fraud or serious irregularity is discovered, MITI and EA may call upon the police to undertake in-depth investigations.

8.3.3 Evidence of illegal trade through Japan

There is evidence of illegal imports of whole ivory tusks in significant quantities in 1989, shortly before the import ban. From other sources, inzais (hanko blanks) appear to have been imported illegally and offered for sale to hanko retailers. No proof of such trade has been provided although a limited number of shipments apparently destined to Japan have been intercepted in other countries. There is no proof of illegal export of ivory.

9. CONCLUSIONS

In accordance with its terms of reference, the Panel has addressed the following questions with respect to each range State covered by the proposals:

a) Is the population viable and sustainable, and are there potential risks to the population?

b) Has the range state demonstrated its ability to monitor its populations of African elephant?

c) Are the current anti-poaching measures effective?

d) Is the total level of offtake from both legal and illegal killing sustainable?

e) Is the control of ivory stocks adequate to prevent the mixing of legal and illegal ivory?

f) Is enforcement of trade controls effective?

g) Are enforcement and controls sufficient to ensure that no significant amounts of ivory taken or traded illegally from other countries are traded within or through the territory of the affected range States?

h) Are the controls on trade in other products from the African elephant apart from ivory sufficient and effective?

i) Is implementation of the proposal likely to have a positive or negative impact on the conservation status of the elephant population and its environment in the range State?

For the remaining question,

j) Are the controls on ivory trade in the specified importing country (Japan) effective?

the range States have been considered together, since all their proposals concern the same trading partner.

BOTSWANA

a) The elephant population is large, increasing, and viable and no major risks have been identified.

b) Botswana has a capable, well-funded aerial survey team which covers the elephant range at least once per year.

c) Current levels of poaching are low, and anti-poaching forces are effective.

d) Evidence from DWNP elephant mortality figures and carcass ratios determined during aerial surveys indicate that current offtake levels are sustainable.

e) Controls over ivory stocks in Botswana are inadequate. It may not be possible to determine the origin of much of the ivory within the stockpile.

f) Law enforcement appears to be adequate. There is now good coordination between DWNP and police and customs.

g) According to information from the South African ESPU and other sources, there continues to be some movement of ivory through Botswana.

h) Botswana does not propose to trade in other products other than ivory.

i) Implementation of the proposal is unlikely to have negative impacts on the conservation status of the elephant population and its environment, although

the Panel is unable to predict what its psychological effect on poachers and illegal traders in ivory will be. It may have positive impacts if the revenue generated is used for purposes related to elephant conservation, or alleviation of the negative impacts of human-elephant conflict, but the Botswana government does not have a clear policy on how to use the money, or mechanisms for ensuring transparency in the way that it is used.

NAMIBIA

a) The elephant population is viable and no major risks have been identified.

b) Namibia has the capability to carry out aerial surveys and the last one which took place in 1995 is considered to have provided acceptably accurate results.

c) Current levels of poaching are low, and anti-poaching forces are effective.

d) Evidence of elephant mortality reported by MET and carcass ratios determined during aerial surveys indicate that current levels of offtake are sustainable.

e) Controls over ivory stocks in Namibia are adequate, although some improvements are needed to allow auditing, and to ensure that documentation procedures are rigorously adhered to. Ivory of known Namibian origin can be separated from ivory of non-Namibian or unknown origin at least since 1989 and, for a significant proportion of the stockpile, before that date.

f) Law enforcement appears to be very effective, and there is good coordination between MET and police and customs. The Protected Resources Unit of the Namibian Police has been very effective at intercepting illegal ivory.

g) There no evidence for major movement of ivory through Namibia, and Customs and Police enforcement is good. However, the majority of Panel members believe that the large number of confiscations of ivory of Angolan origin provides circumstantial evidence that some ivory is moving through Namibia and this view is supported by the ESPU of South Africa.

h) Namibia does not propose to trade in elephant products other than ivory.

i) Implementation of the proposal is unlikely to have negative impacts on the conservation status of the elephant population and its environment, although the Panel is unable to predict what its psychological effect on poachers and illegal traders in ivory will be. The Namibian government is establishing a trust fund for the dispersal of ivory revenue, which will ensure transparency, and that it is used for elephant conservation and community development in wildlife areas. It is very probable that the proposal will have a beneficial impact on elephant conservation and community conservation and development programmes in Namibia.

ZIMBABWE

a) The elephant population is large, increasing, and viable, and no serious risks have been identified.

b) Zimbabwe has a competent, well-trained aerial survey team which covers the elephant range at least once every three years. Donor funding should ensure that this commitment will continue for the next three years, although the programme may be affected by the recent loss of a survey aircraft.

c) Current levels of poaching are low, and anti-poaching forces are effective. However, the decrease in funding for DNPWLM is a matter for concern, and anti-poaching effectiveness can only be maintained if current financial and management problems are resolved.

d) Evidence on elephant mortality and carcass ratios determined during aerial surveys indicates that current levels of offtake are sustainable.

e) Controls over ivory stocks in Zimbabwe are good, with an efficient system for recording movements of ivory. A programme to provide a computerised data management system should further improve access to data on the source of the stockpile.

f) Law enforcement with respect to the ivory trade has been grossly inadequate. DNPWLM has permitted the establishment of large-scale ivory carving operations, which are selling commercial quantities of semi-worked ivory intended for export to Asian countries, including Japan, People's Republic of China and Thailand. Officials from the Customs Department declared that they had no interest in controlling ivory exports.

g) Information from ESPU indicates that a large proportion of illegal ivory arriving in South Africa has passed through Zimbabwe.

h) Zimbabwe has poor control over trade in elephant products other than ivory.

i) Implementation of the proposal is unlikely to have negative impacts on the conservation status of the elephant population and its environment, although the Panel is unable to predict what its psychological effect on poachers and illegal traders in ivory will be. Revenue from the ivory belonging to the rural district councils is intended to go into the CAMPFIRE scheme, and will thus benefit conservation. The Zimbabwean government does not have a clear policy on how to use the money from sale of government-owned ivory, or mechanisms for ensuring transparency in the way that it is used.

TRADE CONTROLS IN JAPAN

The control of ivory stocks in Japan is good for whole tusks but needs improvements for parts of tusks. Rules must be defined for the control of small cut pieces and that of scraps. The software of the JWRC database must be improved to allow monitoring of the stocks.

The control of the external trade is good, both for commercial freight as well as for passengers. Customs could easily extend the targeting of problem shipments to ivory.

The control of retail trade is not adequate to differentiate the products of legally acquired ivory from those of illegal sources. With the system as currently implemented, it is unlikely that the import of partially worked ivory (e.g. inzais) could be reliably detected. More inspections are needed, including physical checking of the stockpiles. A method needs to be devised to allow the verification of scraps and wastes produced.

APPENDIX I: INDIVIDUALS CONSULTED

BOTSWANA

Government officials

Lt.-Gen. Ian Khama, Commander of Botswana Defence Forces
Mr. Sedia Modise, Director, DWNP
Mr. Joe Mathlare, Deputy Director, DWNP
Dr. David Lawson, Principal Warden, Management & Utilisation Division, DWNP
Ms. Rapelang Masogo, Principal Biologist, DWNP
Mr. Stockwell, Anti-Corruption Directorate
Supt. Kebonyimodisa, Dpty. O/C Diamond & Narcotics Squad of CID
Hon. K G Kgoroba, Minister of Trade & Industry
Mr. Buhalo M Mudongo, Principal Customs Administrator
Mr. M. Manotoko, Game Scout, Ivory Stores, DWNP
Ms. P. Monyatsi, Principal Game Warden, Licensing, DWNP
Mr. N Winer, Natural Resources Management Programme, DWNP
Mr. M. Othomile, Head of APU, DWNP

NGO representatives

Dr. Karen Ross, Conservation International, Maun
Mr. Modisa Mothoagae, Director, Hotel & Tourism Association of Botswana
Mr. P. Carr-Hartley, Chobe Wildlife Trust
Ms. Joanne Addy, Kalahari Conservation Society
Mr. Simon Fitt, Kalahari Conservation Society
Ms. Janis Laurentz, Kalahari Conservation Society (Maun)
Mr. Mark Kyriacou, Botswana Professional Hunters Association
Mr. Jonathon Gibson, Chobe Wildlife Trust

NAMIBIA

Government Officials

Hon. G J Hanekom, Minister of Environment and Tourism
Hon. N Ithete, Deputy Minister of Environment and Tourism
Ms. Ulitala Hiveluah, Permanent Secretary, Ministry of Environment and Tourism
Mr. Chris van Niekerk, Control Warden, Directorate of Resource Management, MET
Mr. Ben Betrell, Chief Control Warden, Directorate of Resource Management, MET
Mr. Leon van Rooyen, Deputy Director, Directorate of Resource Management, MET
Mr. Danie Grobler, Acting Director, Directorate of Resource Management, MET
Ms. Lusia Hamumokola, Deputy Director, Customs & Excise
Mr. Nico Smith, Protected Resources Unit, Namibian Police
Mr. Dieter Morsbach, Conservation Scientist, Specialist Support Services, MET
Dr. Pauline Lindeque, Conservation Scientist, Specialist Support Services, MET
Mr. N Imasku, Warden, Specialist Support Services, MET
Mr. K. Wenzke, Warden, Etosha National Park
Inspector C Mackay, Protected Resources Unit, Namibian Police
Mr. G J Jankowitz, Senior Customs Officer (Preventive Measures)

Mr. Edwin van Rooi, Senior Customs Officer (Preventive Measures)

NGO representatives

Mr. Peter W. Tyldesley, Chief Executive Officer, Namibian Nature Foundation

Dr. Jonathon Barnes, WWF

ZIMBABWE

Government Officials

Dr. Cecil Machena, Acting Deputy Director (Research), DNPWLM

Mr. Don Heath, DNPWLM

Ms. C. Davies, DNPLWM

Mr. T. Chimuti, DNPWLM

Mr. H. Sibanda, DNPWLM

Mrs. M. Rigava, DNPWLM

Mr. D. Dongo, DNPWLM

Mr. Austin Ndhlovu, Investigations Branch, DNPWLM

Mr. Glen Tatham, Chief Warden, DNPWLM

Mr. R. Manzini, Principal Executive Officer,

Dr. M. Z. Mtsambiwa, Senior Ecologist/Projects Manager,

Mr. M. Choto, Acting Deputy Director (Administration),

Mr. E. Kawadza, Acting Chief Ecologist, DNPWLM

Mr. Raoul du Toit, DNPWLM

Supt. A. Chirinda, Zimbabwe Republic Police

Mr. I. Mada, Central Intelligence Organisation, President's Office

Mr. Maliwa, Customs Officer

Mr. Mukwena, NECI

Mr. Mhiribidi, Assistant Director, Department of Customs

Mrs. Kategat, DNPWLM

Dr. Hargreaves, Director, Veterinary Services (telephone)

NGO representatives

Mr. Jason Cambitzis, Zimbabwe Ivory Manufacturers Association

Mr. B. Evans, Wildlife Society of Zimbabwe

Mr. J. White, Wildlife Producers Association

Mr. D. Pitman, Zambezi Society

Mr. Kasire, CAMPFIRE Association

Dr. R. Taylor, WWF

Dr. D. Cumming, WWF

Mr. C. Grobelaar, Zimbabwe Professional Hunters & Guides Association

Mr. E. Nyakunu, Zimbabwe Association of Tours & Operators

Mr. Bodasing, TRAFFIC

Mr. Vipenyu Dzingirai, Centre for Applied Social Studies

JAPAN

Government Agencies

T Fukuda, Direction of Customs
N Hamazaki, Narita Customs
Y Hosaka, Deputy Director, Import Division, MITI
K Hoshino, Deputy Director, EA
K Hosoda, Deputy Director, MITI
Y Ibaragi, Chief Co-ordinator, JWRC
M Ikeda, Narita Customs
I Ikenoue, Deputy Director, Customs and Tariff Bureau, Tokyo Customs
T Ino-Oka, EA
K Ishikawa, Narita Customs
I Kamijo, Tokyo Customs
F Kasuya, Senior Investigator, Enforcement Division, Tokyo Customs
H Kobayashi , Director Protection Division, EA
S Maruya Ma, JWRC
S Mizukura, Narita Customs
K Nakanura, Supervisory Inspector, Tokyo Customs
H Nakanishi, Director for Import Administration, MITI
T Ono, Deputy Director, EA
Y Ooba, Supervisory Inspector, Narita Customs
K Tagi, EA
T Takashasi, MITI
T Takeuchi, Narita Customs
K Tanaka, MITI
M Tanaka, Supervisory Inspector, Tokyo Customs
S Toyoshima, MITI
S Urai, Deputy Director, Enforcement Div. Tokyo Customs
S Urakawa, Senior Co-ordinator, Tokyo Customs
M Watanabe, Narita Customs
F Yoshida, Director of Customs Clearance Division, Tokyo Customs

Non-Governmental Organisations

A Ishihara, Programme Officer, TRAFFIC
Y Kaneko, Director, Global Guardian Trust
I Kanemaki, Vice-President, International Wildlife Management Consortium
H Kiyono, Programme Officer, TRAFFIC
Y Murata, Director, WWF
M Sakamoto, Chairman, JWCS

Commercial Traders

T Ikeushi, Wholesaler, Osaka
T Ishibashi, Wholesaler, Tokyo
Y Ishida, Wholesaler, Tokyo
M Marayama, Retailer, Tokyo
I Mita, Retailer, Tokyo
H Nakata, Freight Container Depot, Port of Tokyo
T Nishio, Wholesaler, Osaka
Okada, Wholesaler, Tokyo
Interpreters
S Kobayashi, Tokyo
M Nohara, Tokyo

APPENDIX II: ELEPHANT MORTALITY FIGURES

Table 1: Elephant mortality figures for Botswana. Data provided by DWNP. '% of total population' uses aerial survey population estimates for each year, except for 1996, where 1995 estimate is used.

Year	Natural death	Problem animal control	Sport hunting	Poached	Total	% of total popn.
1989	81	8	0	116	205	0.4
1990	58	61	0	48	127	0.2
1991	54	12	0	38	104	0.2
1992	140	48	0	30	218	0.3
1993	102	23	0	20	145	0.2
1994	104	49	0	10	163	0.2
1995	69	27	0	10	106	0.1
1996	50	27	33	5	115	0.1

Table 2: Elephant mortality figures for Namibia. Data provided by MET. '% of total population' uses 1995 aerial survey results.

Year	Natural death	Problem animal control	Sport hunting (of which X were problem animals	Poached	Total	% of total popn.
1990	60	0	13	6	127	1.7
1991	24	5	13	1	104	1.3
1992	45	3	13	6	218	2.8
1993	76	4	14 (1)	10	145	1.9
1994	85	5	25 (7)	7	163	2.1
1995	48	2	28 (3)	6	106	1.3
1996	29	10	19 (10)	11	115	

APPENDIX III: CALCULATION OF OPERATIONAL BUDGETS FOR BOTSWANA

1. Vehicle running costs	P2,880,000
P1/km x 30,000 km/yr x 96 vehicles	
2. Communications equipment	P56,376
Capital cost P313,200 - maintenance/depreciation @ 18%	
3. Boats	P36,000
Capital cost P200,000 - maintenance/depreciation @ 18%	
4. Salaries for 308 staff	P3,962,328
5. Commuted allowances for APU staff	P872,000
P855/month x 12 months x 85 staff	
6. Allowances for other staff	P1,026,000
P57/day x 60 days/year x 300 officers	
7. Maintenance of offices and housing	P800,000
Capital costs P10M - maintenance/depreciation @ 8%	
8. Field equipment	P720,000
Capital cost P4M - maintenance/depreciation @ 8%	
9. Aircraft/helicopter use	P24,000
P1,200 per hour for 20 hours/year	
Total	**P10,376,704**

4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service, Interior

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Tenth Regular Meeting

Agency: Fish and Wildlife Service, Interior.

Action: Notice.

SUMMARY: This notice sets forth summaries of the United States negotiating positions on agenda items and resolutions submitted by other countries for the tenth regular meeting of the Conference of the Parties (COP10) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Comments have been solicited and a public meeting has been held to discuss these negotiating positions.

DATES: This notice shall go into effect on the date of publication.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Management Authority; 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Fax number 703-358-2280.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stansell or Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service: telephone 703/358-2093; fax: 703/358-2280; E-mail: r9oma_cites@mail.fws.gov.

SUPPLEMENTARY INFORMATION:

Background:

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to monitor and regulate international trade in certain animal and plant species which are or may become threatened with extinction, and are listed in Appendices to the treaty. Currently 136 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties (COP) which review its implementation, make provisions enabling the CITES Secretariat (in Switzerland) to carry out its functions, consider amending the lists of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention. The tenth regular meeting of the Conference of the Parties to CITES (COP10) will be held in Harare, Zimbabwe, June 9-20, 1997.

A series of **Federal Register** notices and two public meetings already held, have provided the public with an opportunity to participate in the development of U.S. positions for COP10. A **Federal Register** notice concerning possible U.S. submissions of species amendments and resolutions for consideration at COP10 (with a request for public comments) was published on March 1, 1996 (61 FR

8019). A **Federal Register** notice announcing a public meeting to discuss an international study of the effectiveness of CITES was published on June 14, 1996 (61 FR 30255). A **Federal Register** notice requesting information on the Service's consideration of amendments to the Appendices was published on August 28, 1996 (61 FR 44324). A **Federal Register** notice concerning the provisional agenda of COP10 as well as proposed resolutions and agenda items being considered was also published on August 28, 1996 (61 FR 44332). A **Federal Register** notice concerning proposed U.S. negotiating positions for agenda items and resolutions submitted by other countries was published on April 17, 1997 (62 FR 18777). A public meeting held October 3, 1996 solicited comments on proposed U.S. submissions of species amendments, resolutions, and agenda items for consideration at COP10, and a public meeting held on April 25, 1997 allowed for discussion of U.S. positions on species amendments and resolutions submitted by other CITES Parties, and agenda items leading up to COP10.

Negotiating Positions:

In this notice, the Service summarizes the United States positions on agenda items and resolutions for COP10 (other than proposals to amend the Appendices, which will be published in a separate notice), which have been submitted by other countries and the CITES Secretariat. A **Federal Register** notice was published on March 27, 1997 (62 FR 14689) outlining rationales for resolutions and discussion documents submitted by the United States; those issues will not be discussed in detail here. Interested members of the public should refer to those notices for discussion of relevant issues. Numerals next to each agenda item or resolution correspond to the numbers used in the provisional agenda [COP10 Doc. 10.1 (Rev.)] received from the CITES Secretariat.

Some documents have not yet been received from the CITES Secretariat and may not be received until the meeting of the COP itself. Other documents were received only days before this notice was finalized, and therefore insufficient time was available to develop a U.S. negotiating position. A list of documents received by the Service to date is available on request (see ADDRESSES, above).

In the discussion that follows, the description of each proposed resolution is followed by a brief rationale explaining the basis of the United States position. The Service outlines these final negotiating positions on agenda items and resolutions submitted by foreign countries for COP10 with the understanding that new information that becomes available during discussions prior to and at COP10 can often lead to modifications of these positions. The U.S. delegation will fully disclose any and all position changes and the rationale(s) explaining them through daily public briefings at COP10.

Negotiating Positions: Summaries

I. Opening Ceremony by the Authorities of Zimbabwe

Comments: No comments received on this issue.

U.S. Negotiating Position: No document will be prepared by the Secretariat on this item. It is traditional that the host country conduct an opening ceremony at a CITES COP.

II. Welcoming Addresses

Comments: No comments received on this issue.

U.S. Negotiating Position: No document will be prepared by the Secretariat on this item. It is traditional that the host country make welcoming remarks at the opening of a CITES COP.

III. Adoption of the Rules of Procedure (this item consists of two subitems)

1. Voting before credentials have been accepted [Doc. 10.4]

Comments: No comments received on this subitem issue.

U.S. Negotiating Position: No document has yet been received from the Secretariat on this issue. The United States believes that delegations to international treaty conferences should be able to obtain credentials from their government prior to attending the meeting, and as such should not be entitled to vote until their credentials are approved. However, some flexibility is acceptable in certain circumstances. The United States does not believe that delegates whose credentials are pending should be denied access to meetings or the ability to speak, but decisions on such issues should go through the Credentials Committee at the COP.

2. Adoption of the Rules of Procedure [Doc. 10.3]

Comments: One comment received on this issue. The commenter expressed support for the U.S. government's proposed negotiating position.

U.S. Negotiating Position: A provisional version of the Rules of Procedure, which describe the manner in which a COP is conducted, are distributed prior to all CITES COPs by the Secretariat. The United States supports the provisional version of the Rules of Procedure as received. The United States is not aware of any changes from previously adopted Rules of Procedure that will be proposed. The United States notes that the Rules of Procedure were modified at COP9 to allow for a simplified procedure for approving secret ballots. Those changes were handled smoothly, and the United States does not believe that this provision should be altered. However, at COP9 many country delegates had problems with the procedure by which the Secretariat issued secret ballots. The United States will work through the Bureau at the COP to simplify this process (which would not involve any modification of the Rules of Procedure), in order to be prepared for any secret ballot vote(s).

IV. Election of Chairman and Vice-Chairman of the meeting and of Chairman of Committees I and II and of the Budget Committee

Comments: No comments received on this issue.

U.S. Negotiating Position: No document will be prepared for this item by the Secretariat. The United States will support the election of a Conference Chair from Zimbabwe, and a highly qualified Vice-Chair of the Conference and Committee Chairs representing the geographic diversity of CITES.

The Chair of the CITES Standing Committee (Japan) will serve as temporary Chair of the COP until a permanent Conference Chair is elected. It is traditional for the host country to provide the Conference Chair. The Conference Chair will serve as Presiding Officer of the Conference and also of the

Conference Bureau, the executive body which manages the business of the Conference: other members of the Conference Bureau include the Committee Chairs (discussed below), the members of the Standing Committee, and the Secretary General.

The major technical work of the CITES is done in the two contemporaneous Committees, and thus Committee Chairs must have great technical knowledge and skill. In addition, CITES benefits from active participation and leadership of representatives of every region of the world. The United States will support the election of Committee Chairs and a Vice-Chair of the Conference having requisite technical knowledge and skills and also reflecting the geographic and cultural diversity of CITES Parties.

V. Adoption of the Agenda and Working Programme [Doc. 10.1 (Rev.); Doc. 10.2; Doc. 10.2.1; Doc. 10.2.2]

Comments: No comments received on this issue.

U.S. Negotiating Position: Provisional versions of the Agenda and the Working Programme for COP10 have been received from the Secretariat. The United States supports those documents, but continues to review whether some issues currently allocated to Committee I (scientific issues) should be moved to Committee II (management and other technical issues), due to subject matter, workload and time. The U.S. believes that similar agenda items dealing with similar issues should be discussed one after the other on the agenda. For example, the issues of illegal trade in whale meat and the relationship between CITES and the International Whaling Commission should be moved on the agenda to be sequential.

VI. Establishment of the Credentials Committee

Comments: No comments received on this issue.

U.S. Negotiating Committee: No document will be prepared by the CITES Secretariat on this agenda item. The United States supports the establishment of the Credentials Committee.

The establishment of the Credentials Committee is a *pro forma* matter. The Credentials Committee approves the credentials of delegates to the COP by confirming that they are official representatives of their governments, thereby affording them the right to vote in Committee and Plenary sessions. The United States was a member of the Credentials Committee at COP9.

VII. Report of the Credentials Committee

Comments: No comments received on this issue.

U.S. Negotiating Position: No document will be prepared by the Secretariat on this agenda item. The United States supports adoption of the report of the Credentials Committee if it does not recommend the exclusion of legitimate representatives of countries that are Parties to CITES. The United States will encourage timely production of Credentials Committee reports at the COP.

Adoption of the report is generally a *pro forma* exercise. Representatives whose credentials are not in order should be afforded observer status as provided for under Article XI of the Convention. If

there is evidence that credentials are forthcoming but have been delayed, representatives can be allowed to vote on a provisional basis. A liberal interpretation of the Rules of Procedure on credentials should be adhered to in order to permit clearly legitimate representatives to participate. Exclusion of Party representatives whose credentials are not in order could undermine essential cooperation among Parties. Greater vigilance is necessary however in cases of close votes, or decisions to be made by secret ballot.

VIII. Admission of observers [Doc. 10.5]

Comments: No comments received on this issue.

U.S. Negotiating Position: Support admission to the meeting of all technically qualified non-governmental organizations and oppose unreasonable limitations on their full participation at COP10.

Non-governmental organizations representing a broad range of viewpoints and perspectives play a vital and important role in CITES activities and have much to offer to the debates and negotiations at a COP. Their participation is specifically provided by Article XI of the Convention. The United States supports the opportunity for all technically qualified observers to fully participate at COPs, as is standard CITES practice. The United States has approved 49 organizations as observers to COP10, and will fully support their accreditation and active participation in the meeting. The United States also supports flexibility and openness in approval of documents produced by non-governmental organizations, and the dissemination of these documents to delegates; such information sharing is vital to decision-making and scientific and technical understanding at a CITES meeting.

IX. Matters Related to the Standing Committee (this item consists of three subitems)

Comments: No comments received on this issue.

U.S. Negotiating Positions:

1. Report of the Chairman [Doc. 10.6]

No document has yet been received. The United States will fully support the presentation of a report by the Chairman of the Standing Committee (Japan) regarding the execution of the Committee's responsibilities and its activities that accurately reflects the discussions and decisions of the Committee. A U.S. negotiating position on the Chair's report is pending receipt of the document.

2. Regional representation [Doc. 10.7]

At COP9 membership in the Standing Committee was increased for those CITES regions with a large number of Parties. Current membership on the Standing Committee is as follows: Chair (Japan), two representatives for Asia (Japan and Thailand), three representatives for Africa (Namibia, Senegal, and Sudan), two representatives for Europe (Russian Federation and United Kingdom), one representative for North America (Mexico), one representative for Oceania (Papua New Guinea), two representatives for Central, South America, and the Caribbean (Argentina and Trinidad and Tobago), Depositary Government (Switzerland), Previous Host Country (United States), and Next Host Country (Zimbabwe). Doc. 10.7 was not received in time from the Secretariat to be considered in this notice.

There have been further discussions in the Standing Committee since COP9 on the division of responsibilities among regional representatives. Discussions focused on the question of which subregions and topical areas each Regional representative would speak on and officially represent. The issue of clarifying the responsibilities of the Regional representatives has also been discussed at meetings of the Animals and Plants Committees. The United States will support a division of responsibilities as decided independently by each Region.

3. Election of new regional and alternate regional members

The United States encourages membership which will continue the active role of the Standing Committee. The Regional Representative for North America from COP9 until the present has been Mexico. Discussions will take place at the beginning of COP10 among the three North American CITES Parties (United States, Mexico, and Canada) on which country should be the regional representative between COP10 and COP11.

X. Reports of the Secretariat (this item consists of three subitems)

Comments: No comments received on this issue.

U.S. Negotiating Positions: The United States considers the issues which the documents cover essential and important matters. However, either documents have not yet been received for any of the three subitems or were not received in time from the Secretariat to be considered in this notice.

1. Secretariat report [Doc. 10.8]

2. Strategic plan [Doc. 10.9]

The United States notes that the strategic plan of the Secretariat adopted at COP9 was a beginning, but was in need of much improvement. In order to improve the effectiveness of strategic planning for CITES, the United States supports the recommendation of the "Study of the Effectiveness of the Convention" (see item . XIII.1., below) that the Secretariat should develop a strategic plan to guide its work. As stated in the Study of the Effectiveness of the Convention, produced by Environmental Resources Management (ERM), the "...plan should include programme and policy requirements with a priority set of actions to be undertaken by the Parties, Standing Committee and Secretariat." The United States believes that a strategic plan must be developed in consultation with the Standing Committee and the Parties, and as such anything submitted by the Secretariat for consideration at COP10 will need close scrutiny by the Parties. The United States has no objection in principle to the Secretariat seeking or contracting with outside organizations or persons for assistance in drafting this plan, but any action by the Secretariat, including candidates and the final selection should be openly and completely discussed in the Standing Committee, and final approval of any outside entities to perform work in this regard should rest with the Standing Committee.

3. Working plan [Doc. 10.10]

The United States looks forward to a detailed analysis of the working plan of the Secretariat. The Secretariat must be guided by the COP in its work plan for the period between COP10 and COP11, and as such it is up to the COP to review the draft working plan and decide on the work and structure of the

Secretariat that it deems most appropriate, in line with the priorities of the Parties. The United States believes that discussion of the working plan and strategic plan must be in concert with discussions in the Budget Committee, and in full recognition of any budgetary implications. The U.S. has received this document, but has not yet completed its review. There are serious concerns about some of the budgetary implications in the document, however.

XI. Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties (this item consists of four subitems)

Comments: Two comments were received on this issue. One commenter referred to this issue in general terms, noting that the U.S. should closely scrutinize the Secretariat's rationale for increasing COP attendance fees, and questioned whether the Secretariat was commingling funds remaining from COP9 (and any future excess funds from COP10) with "general operating funds" between the COPs. Another commenter stated that the United States "should not shirk its obligation to provide promised funds so that CITES may continue to ensure that this [wildlife] trade does not cause a detriment to wildlife populations everywhere." This organization urged the Service to impress upon the Department of State the importance of CITES and suggested that CITES' core budget "be reduced if some items in the budget could become 'projects' subject to external funding."

U.S. Negotiating Position: The United States advocates fiscal responsibility and accountability on the part of the Secretariat and the COP. The United States plans to be an active participant in discussions in the Budget Committee at COP10. The United States will endeavor to explore whether any funds are being commingled. The United States has fulfilled its 1997 pledge to the CITES Trust Fund. Relevant documents were not received in time from the Secretariat to be considered in this notice.

1. Financial report for 1994, 1995 and 1996 [Doc. 10.11]

U.S. Negotiating Position: Issues associated with the financial report of the Secretariat will be fully discussed at COP10 and the United States will closely scrutinize and analyze the relevant documents.

2. Anticipated expenditures for 1997 [Doc. 10.12]

U.S. Negotiating Position: Issues associated with anticipated 1997 expenditures of the Secretariat will be fully discussed at COP10 and the United States will closely scrutinize and analyze the relevant documents.

3. Budget for 1998-2000 and Medium-term Plan for 1998-2002 [Doc. 10.13]

U.S. Negotiating Position: The United States will closely scrutinize and analyze the document(s) when received. The United States believes that it is important to coordinate Budget Committee discussions with discussions in Committees I and II that may have budgetary implications. For example, when a resolution with budgetary implications is approved by Committee I or II (and then sent to Plenary for adoption), it should be conveyed to the Budget Committee in time for it to be factored into the budget. There have been cases at previous meetings of the COP where the Budget is already approved, and the Committees are taking decisions that may have financial implications. The United States will work through the Bureau at the COP to deal with this issue.

4. External funding [Doc. 10.14]

U.S. Negotiating Position: External funding refers to the financial support by Party governments and non-governmental organizations for projects that have been approved as priorities for CITES by the Standing Committee under a previously established procedure. This procedure is designed to avoid any conflicts of interest or even the appearance of a conflict when approving projects and channeling funds between the provider and recipient. These externally funded projects are outside of the CITES Trust Fund. It has been decided by the Standing Committee that under no circumstances are any UNEP overhead costs to be assessed on these projects.

The United States continues to contribute external funding to Standing Committee-approved projects including delegate travel to the COP, support for committee meetings, CITES enforcement and implementation training, and biological studies of significantly traded species, when funds are available.

XII. Committee reports and recommendations (this item consists of four subitems)

Comments: One comment was received on sub-item #3; see below.

1. Animals Committee

a) Report of the Chairman [Doc. 10.15]

U.S. Negotiating Position: The United States fully supports the presentation of a report by the Chairman of the Animals Committee regarding the execution of the Committee's responsibilities and its activities that accurately reflect the discussions and decisions of the Committee. A position on that report is pending receipt of the document.

b) Regional representation [Doc. 10.17]

U.S. Negotiating Position: The United States supports the active role of the Animals Committee in scientific and management issues pertaining to animal species listed in the CITES Appendices. We encourage membership which will continue the active role of the Animals Committee, and selection of a Chair with a strong commitment to a proactive Animals Committee committed to conservation. The United States has always participated actively in the work of the Animals Committee, and will continue to be an active participant in all Committee functions.

At COP9 membership on the Animals Committee was increased for those regions with a larger number of Parties. Current membership includes: Africa (two representatives), Asia (two representatives), Europe (one representative), North America (one representative), Oceania (one representative), Central, South America, and the Caribbean (two representatives). The Regional representatives are selected by their respective regional caucuses at the COP. The Chair and Vice-Chair will be selected by the new Animals Committee, during a meeting to be held at the close of COP10.

During recent discussions in the Animals Committee the issue of increased representation for the European Region was discussed, since the Region now has 31 countries and was not given additional representation at COP9. Consequently, at COP10, there may be a recommendation to increase the number of representatives for the European Region to two. The United States supports an increase of one

additional representative for the European Region.

The United States has submitted a resolution "Establishment of Committees" (Doc. 10.27) for the purpose of amending Res. Conf. 9.1, Annexes 2 and 3. This resolution discusses the designation of members of the Animals and Plants Committees. It recommends that the official members should be Party governments, not individuals. The United States strongly believes that Party countries, not individuals, are members of CITES, and therefore proposed this change to be consistent with standard international practices, and to avoid potential, perceived, or real conflicts of interest. Individual countries would be asked to name qualified individuals as contact points for committee matters, but the members themselves would be the governments.

c) Election of new regional and alternate regional members

U.S. Negotiating Position: No document will be prepared by the Secretariat on this issue. Currently, Dr. Charles Dauphine of Canada is the North American regional representative on the Animals Committee. The United States anticipates adoption of our proposed resolution that will change the regional representative to a country rather than an individual (as discussed above). At COP10, the United States, Canada, and Mexico will meet to decide which country should be the regional Animals Committee representative between COP10 and COP11. At that time, the country will nominate an individual to serve as contact point. If that individual cannot continue serving for any reason, the country selected will nominate another individual.

The other CITES geographic regions will also meet and decide on their Animals Committee representatives. Those decisions are made by the individual regions. The United States position will be to encourage regions to nominate countries that are committed to full participation in the work of the committees. Doc. 10.15 was not received in time to be considered for this notice.

2. Plants Committee

a) Report of the Chair [Doc. 10.16]

U.S. Negotiating Position: The United States welcomes the presentation of a report by the Chair of the Plants Committee regarding the execution of the Committee's responsibilities and its activities, that accurately reflects the discussions and decisions of the Committee. A position on that report is pending evaluation of the document. Doc. 10.16 was not received in time to be considered for this notice.

b) Regional representation [Doc. 10.7]

U.S. Negotiating Position: At COP9, as with the Animals Committee, membership on the Plants Committee was increased for those regions with a larger number of Parties. Current membership includes: Africa (two representatives), Asia (two representatives), Europe (one representative), North America (one representative), Oceania (one representative), and Central, South America, and the Caribbean (two representatives). The Regional representatives are selected by their respective Regional caucuses at COP10, and a Chair and Vice-Chair will be selected by the new Plants Committee, during a meeting to be held at the close of COP10. Doc. 10.7 was not received in time from the Secretariat to be considered in this notice.

c) Election of new regional and alternate members

U.S. Negotiating Position: No document will be prepared by the Secretariat on this issue. Currently, Dr. Bruce MacBryde of the Service's Office of Scientific Authority is the North American Regional representative to the Plants Committee. The United States anticipates adoption of our proposed resolution that will change the regional representative to a country rather than an individual (as discussed above under Animals Committee). At COP10, the United States, Canada, and Mexico will meet to decide which country should be the regional Plants Committee representative between COP10 and COP11. At that time, the selected country will nominate an individual to serve as its contact point. If that individual cannot continue serving for any reason, the country selected will nominate another individual.

The other CITES geographic regions will also meet and decide on their Plants Committee representatives. Those decisions are made by the individual regions. The United States position will be to encourage regions to nominate countries that are committed to full participation in the work of the committees.

3. Identification Manual Committee [Doc. 10.17]

Comments: One comment received on this issue expressed strong support for the "continuing development of animal and plant identification manuals for use by port and border enforcement authorities." This commenter encouraged the Service "to sponsor, or seek private funding for, the production of identification manuals for CITES-listed herptiles in trade..."

U.S. Negotiating Position: No document has yet been received. The United States will continue to support the continuing development of animal and plant identification manuals for use by port and border enforcement authorities, in providing a standard of reference for the identification of CITES species, within available resources and priorities. The United States particularly applauds the United Kingdom's efforts in developing the general CITES guide to plants in trade. The United States plans to assess alternatives presented by the Secretariat for updating animal sections of the Identification Manual, and encourages and will consider all comments from other Parties as to the value of the Identification Manual. The United States also believes that the posting of the Identification Manual on the Internet to facilitate access by all CITES Parties should be explored and discussed, considering all the costs and benefits of so doing.

The United States believes that enforcement officers of the Parties must be equipped with guides which are accurate, realistic, and helpful in the identification of the many CITES species and products found in trade throughout the world. Toward this end, the United States supported the efforts of the Canadian government in producing a series of extremely useful and highly professional identification manuals for certain CITES species in international trade.

4. Nomenclature Committee

U.S. Negotiating Position: Doc. 10.18 and Doc. 10.19 was not received in time from the Secretariat to be considered in this notice.

a) Report of the Chairman [Doc. 10.18]
b) Recommendations of the Committee [Doc. 10.19]

XIII. Evolution of the Convention (this item consists of two subitems)

1. How to improve the effectiveness of the Convention

Comments: Comments were received from four organizations on this general issue, some of which were directly related to the points raised in the ERM Study, while others were not. One commenter agreed with the draft U.S. position that the ERM study demonstrated that the majority of CITES Parties believe that the actual text of the Convention should not be changed. This commenter also called for greater cooperation between CITES and the Convention on Biological Diversity, as discussed in the ERM findings, and stated that such cooperation or "consultation" include other "relevant organizations such as the SSN [Species Survival Network]." This commenter also urged the U.S. to approach ERM recommendation 5C on stricter domestic measures "with trepidation," and urged the U.S. to "promote steadfastly the primacy of CITES over other international trade regimes." Another commenter, in discussing findings in the ERM study, stated that the U.S. should promote "meaningful discussion" of CITES' "failure to accommodate sustainable use, and the abuse of stricter domestic measures to prevent trade," and called on the U.S. to advocate that stricter domestic measures only be applied by Parties in consultation with range states when such measures affect "a species beyond the borders of the country imposing the measures." This commenter also stated that the U.S. "should support a continued self-evaluation of the functions and effectiveness of CITES." Another commenter stated that the ERM Study should "continue in the appropriate form," but added that the Parties should defer development of a resolution on sustainable use. One commenter supported the "continuation and expansion of the review process" subject "to the condition that the contractor be afforded adequate time and funds to complete the process in a systematic and orderly fashion."

a) Comments from the Parties and organizations on the study [Doc. 10.20]

U.S. Negotiating Position: At the Ninth Meeting of the COP to CITES in Fort Lauderdale, Florida, November 1994 (COP9), the COP decided to assign the CITES Standing Committee the task of conducting a review of the effectiveness of the provisions and implementation of the Convention, and to report its findings to the next meeting of the COP.

The CITES Standing Committee appointed a team to undertake the review including an independent consultant and two individuals chosen by the Committee for the information gathering portion of the project. On December 21, 1994, the CITES Secretariat published Notification to the Parties No. 831, which contained a call for proposals from prospective consultants to conduct the study on the effectiveness and implementation of the Convention. The firm of Environmental Resources Management (ERM), based in London, United Kingdom, was ultimately selected for the task. That selection was made by a Monitoring Committee of CITES Parties, including several representatives to the CITES Standing Committee. The Monitoring Committee, which was selected by the Standing Committee, was made up of representatives of the following governments: Argentina, Canada, Japan, Namibia, New Zealand, and the United Kingdom. The study itself and the report that was produced were reviewed by the same Monitoring Committee, and the report was presented to the December 1996 meeting of the CITES Standing Committee. The CITES Standing Committee selected Jaques Berney (retired Deputy Secretary General of CITES) and Marshall Jones (Assistant Director for International Affairs, U.S. Fish and Wildlife Service) or Dr. Susan Lieberman (Chief, CITES Operations Branch, Office of Management Authority, U.S. Fish and Wildlife Service), as the technical advisors on the project.

The initial phase of this review was designed to collate information including but not necessarily limited to the following: the stated and implied objectives of the Convention and their continued relevance

to the conservation of wild fauna and flora; the degree of effectiveness of conservation for representative species listed in the three Appendices of CITES and the extent of this degree of conservation that can be attributed to the implementation of the Convention; the relationship of the Convention to other global or regional conservation treaties or agreements and how the objectives of the Convention may be enhanced or hindered by the existence and implementation of these treaties or agreements; the ease and effectiveness of implementation, including enforcement, of the Convention in Party states; and the anticipated and actual roles of various participants in the implementation of the Convention, including Party states, non-Party states, national and international conservation organizations, and national and international trade and development organizations.

ERM, the contractor on the study, transmitted a questionnaire to all CITES Parties (132 countries at the time), as well as international non-governmental organizations. In addition, representatives of ERM met in person with several governments, in order to obtain more detailed responses to the questionnaire and in order to assist ERM in preparing its report on the effectiveness of the Convention. ERM was not able to meet with all Parties to the Convention while preparing their report, due primarily to time constraints inherent in the project. Therefore, ERM invited other countries in the region of the Party it was visiting to attend the meetings in question for group as well as private consultations (discussed in greater detail, below).

Each country that was visited was asked by ERM to independently decide how to consult with neighboring countries, as well as with non-governmental organizations; the questionnaire sent to the Parties recommends broad consultation. The United States supported an exceedingly broad, transparent, and consultative process, with active input from all non-governmental organizations interested in the effectiveness of CITES and the conservation of species subject to international trade. ERM stated that it was limited in the countries it planed to visit, based on time and funding constraints.

The Monitoring Committee mentioned above worked with ERM to plan the country visits. As outlined in the ERM Study, national consultations, headed by either "core team members" of the ERM Study or ERM regional office staff, were held in the following regions and countries (the consultations in question were variable in levels of contact and depth as indicated in the ERM Study): Africa (Egypt, Kenya, Namibia, Senegal, South Africa and Zimbabwe); Asia (India, Japan and Thailand); Europe (separate consultations with members of the European CITES Committee and the Russian Federation); North America (Canada, Mexico and the United States); Oceania (Australia); and South America, Central America and the Caribbean (Argentina, Brazil, Chile, Colombia, Costa Rica and Trinidad and Tobago).

In addition to these consultations, ERM held meetings with CITES Secretariat staff and international non-governmental organizations (the World Conservation Union-IUCN, the World Wide Fund For Nature/World Wildlife Fund-WWF, Trade Records Analysis of Fauna and Flora In Commerce-TRAFFIC, and the World Conservation Monitoring Centre-WCMC). ERM also indicated that they consulted with the Secretariats of the International Tropical Timber Organization, Convention on Biological Diversity (CBD), Ramsar Convention on Wetlands of International Importance, Convention on the Law of the Sea, International Convention on the Regulation of Whaling (IWC), and the Convention on Migratory Species of Wild Animals.

The United States appreciates that ERM produced a final report within the allotted time constraints, and met and consulted with many governments, non-governmental organizations, and other bodies during preparation of the study. Although the views of countries were obtained from questionnaire

responses and the in-country meetings arranged by ERM, the United States regrets that the time constraints placed on ERM in conducting this study precluded substantive, detailed discussions with the majority of the Parties. In addition, the United States is concerned that the ERM questionnaire did not specifically pose questions which directly addressed issues related to enforcement issues of the Convention. Nevertheless, ERM has produced a highly professional report despite these problems.

b) Consideration of the recommendations arising from the study [Doc. 10.21]

U.S. Negotiating Position: The United States believes that the ERM study has produced a great quantity of meaningful recommendations and findings, but concurrently believes that some of these could prove controversial. Nevertheless, some of the recommendations of the ERM study could be implemented either directly by the Secretariat or Standing Committee, or adopted by the COP with little controversy. Therefore, we believe that the Parties must take direct but cautious steps to properly review the recommendations and findings of the report, and act deliberately to advance the interests of the Convention.

The United States recommends that the Parties adopt the report and use it as a valuable reference in future decision-making. The ERM report provides a useful perspective on the views of the Parties on a number of issues. The report is to be commended for focusing on majority versus minority viewpoints, which should be used by the Parties in assessing priorities for action that could result from the study.

The United States notes that the findings of the ERM report demonstrated quite conclusively that the majority of the Parties of the Convention believe that the text of the Convention should not be amended. This perspective is complemented by ERM highlighting the high monetary costs and logistical requirements which would be incurred in attempting to conduct any such textual amendments. The United States strongly concurs with this view, and hopes that this will discourage efforts to amend the treaty or alter its fundamental objectives.

The United States notes that according to the report, the majority of the Parties (including the United States) and international organizations believe there is no reason why the application of CITES should exclude any taxonomic group. The study goes on to say that a minority of the Parties oppose inclusion of commercial fish in the CITES Appendices on the grounds that it is premature to consider such listing until consultations have been held with the relevant inter-governmental bodies charged with managing these species and that there is often insufficient information available to allow adequate listing proposals to be developed.

While the United States supports many of the ERM recommendations, we disagree with others and find some unclear for a variety of reasons. For example, the United States supports the consolidation of resolutions, provided their original text and preamble are maintained to preserve their original intent. The Secretariat has submitted a document evaluating some of the recommendations. The U.S. supports most of the Secretariat's suggestions, including the development of a financial and strategic plan. The U.S. opposes the Secretariat's suggestion to simplify resolutions; the U.S. strongly opposes the suggestion that the Secretariat should play a role in determining resolution language. This is a responsibility given to the Parties by the Convention. The Secretariat's role should be advisory only, and not unilateral for action. The U.S. supports the drafting of explanatory memorandums by the Parties and a simple guide to implementation of the Convention however. The U.S. does not support the linkage of the simplification of CITES resolutions with the consolidation of resolutions. In its document, the Secretariat suggests a role

for it in editing documents submitted by Parties; while recognizing the need for minor editing by the Secretariat for uniformity, the U.S. is concerned that political pressures could impact the editing of working documents.

Other recommendations could be acted on by the Secretariat, Standing Committee, or the meeting of the COP. Many of the recommendations in the ERM report could be acted on without the introduction of resolutions. In response to a request from the CITES Standing Committee and a Notification to the Parties, the United States submitted detailed comments on the ERM report on March 14, 1997, including comments on all recommendations in the report; those comments are available by contacting the Service's Office of Management Authority (see ADDRESSES, above).

c) Co-operation/synergy with other conservation conventions and agencies

U.S. Negotiating Position: The United States supports the concept and practice of cooperation between CITES and other conservation entities, and supports cooperation with the Convention on Biological Diversity (CBD) as being potentially useful and relevant to CITES. Representatives of other conservation conventions and agencies should be invited to attend CITES COPs as observers, including; the CBD, Convention on Migratory Species, Ramsar, World Heritage Convention, Convention on Desertification and Drought, Convention on the Law of the Sea and regional agreements as appropriate.

The United States agrees that cooperation with the CBD is potentially useful and relevant to the purposes of CITES. It is not clear however that it is necessary to negotiate a comprehensive agreement between the Secretariats. Cooperation between Conventions will be most effective if it evolves out of recognition of the contribution each can make to the other. It may be best to let the relationship between the two conventions evolve as the CBD matures, rather than to mandate cooperation. Mandated cooperation without a clear sense of how each Convention will benefit may result in more work for each Secretariat and less focus on the goals central to the interests of the Parties to each Convention. It is up to governments to consider the integration of their obligations under respective Conventions.

2. Relationship between CITES and UNEP [Doc. 10.23]

Comments: No comments were received on this issue.

U.S. Negotiating Position: No document has yet been received. The United States believes that the current state of the relationship between the United Nations Environment Programme (UNEP) and CITES is not only unclear, but potentially quite damaging to the Convention. The United States strongly supports the examination of this relationship, and the renegotiation of the 1992 Agreement between the CITES Standing Committee and UNEP. The thirty-sixth meeting of the CITES Standing Committee established a Working Group to evaluate the relationship between CITES and UNEP. The United States is actively involved as a member of that Working Group. The thirty-seventh meeting of the Standing Committee charged the same Working Group with producing a revision of the Agreement between CITES and the United Nations Environment Programme (UNEP). The existing Agreement was signed on 26 June 1992 by the Chairman of the Standing Committee (Murray Hosking, New Zealand), and on 28 June 1992 by the Executive Director of UNEP (Dr. Mostafa Tolba). The decision to revise that existing Agreement between the CITES Standing Committee (on behalf of the CITES Parties) and UNEP was made by the Standing Committee, in response to the report submitted to it by the Working Group. That report, adopted by the Standing Committee, has been circulated to the CITES Parties in Notification to the

Parties Number 961. Reports of the Working Group will be presented to the Parties at COP10. The Working Group negotiated a revised Agreement between CITES and UNEP, at a meeting held in Washington, DC in March, 1997. That meeting was attended by members of the Working Group and UNEP. UNEP has since provided additional changes to the negotiated revised Agreement, some of which are acceptable and some are not. The United States looks forward to a productive dialogue on these issues, and to reaching consensus on a revised Agreement at COP10.

XIV. Interpretation and implementation of the Convention (this item consists of forty-eight subitems)

1. Review of the Resolutions of the Conference of the Parties
   a) Consolidation of valid resolutions [Doc. 10.24]

Comments: Comments were received from two organizations on this issue. One commenter supported the resolution consolidation process, provided that "the content of individual measures is not lost or weakened" by such action. Another commenter, whose comments were jointly endorsed by two organizations, urged the Service to "ensure that this [consolidation] process is carried out with extreme caution, so as not to delete relevant measures..."

U.S. Negotiating Position: The United States has been supportive of the process of consolidation of valid resolutions, since its inception after COP8 as a Standing Committee project. At the 36th meeting of the Standing Committee the United States provided comments on proposed consolidations of resolutions regarding cetaceans. At the 37th meeting of the Standing Committee the United States supported the Secretariat's efforts to consolidate the resolutions pertaining to cetaceans. The United States recognizes all of these extant resolutions as current and valid. The Standing Committee agreed to this consolidation. The Committee was presented a draft consolidation on ranching resolutions by the Secretariat. The United States supported the consolidation, with the exception of the Secretariat's proposal to include marine turtle ranching (Resolution Conf. 9.20) in the consolidation. The Standing Committee agreed with the United States, and it is the U.S. position for COP10 that the consolidated ranching resolution should not include the marine turtle ranching resolution from COP9 (Conf. 9.20).

At the 37th meeting of the Standing Committee the Secretariat noted that it would produce additional draft resolutions consolidating previous resolutions for COP10. These drafts have not yet been received from the Secretariat. The United States expressed support for the consolidation process, and continues to do so. These consolidations are procedural, and do not involve renegotiation of any previously adopted text. The United States would not support any renegotiation of previously-adopted text under the guise of a consolidation; that would require a new draft resolution to be submitted by a Party.

The position of the United States is to fully support the continuing effort to consolidate existing resolutions of the COP provided that the consolidation process provides a more "user-friendly" product and does not create consolidated resolutions which impinge on the validity of resolutions which are still sound. Doc. 10.24 was not received in time to be included in this notice.

b) Index of Resolutions of the Conference of the Parties [Doc. 10.25]

Comments: One comment was received on this issue, of which the text was jointly endorsed by the commenter and one additional organization. These commenters supported the creation of an index of

resolutions without any further detail.

U.S. Negotiating Position: This resolution, submitted by Australia, recommends and proposes an alphabetical index of resolutions of the COP from Res. Conf. 1.1 to Res. Conf. 9.26 (all resolutions adopted from the first CITES COP, through COP9 held in Ft. Lauderdale, Florida).

The United States considers the Index of Resolutions to be a very good idea that could be an effective tool to assist Parties in executing their responsibilities under the Convention. The index could serve as a guide to all resolutions and a historical record of resolutions in force, repealed, and amended. However, the United States does not support the document as drafted. Considerable work needs to be done on the index and input from the Parties gained during its development. The index needs to be revised to reference all resolutions that pertain to a subject and reviewed to ensure that the information is accurate. In addition, the index would be more useful with some format changes, such as alphabetizing categories under each major heading and converting lengthy phrases to key words. The United States is contacting Australia to discuss this document and suggest we would work with them and other interested Parties between this COP and the next to complete the document. If the Parties agree to this approach at COP10, the document once completed could be forwarded to the Standing Committee for review and, if accepted, to the Secretariat for distribution to the Parties and interested non-governmental organizations (prior to COP11).

2. Report on national reports under Article VIII, paragraph 7, of the Convention [Doc. 10.26]

Comments: One commenter suggested that the "Service propose measure for improving the timeliness of the submission of annual reports."

U.S. Negotiating Position: The United States supports efforts to encourage all Parties to submit annual reports, for all species of fauna and flora, consistent with their domestic legislation. Each Party is required by the Convention to submit an annual report containing a summary of the permits it has granted, and the types and numbers of specimens of species in the CITES Appendices that it has imported and exported. Accurate report data are essential to measure the impact of international trade on species, and can be a useful enforcement tool, particularly when comparing imports into a given country, contrasted with exports from other countries. The United States is current in its Annual Report obligations. Doc. 10.26 was not received in time to be included in this notice. One aspect of that document has been reviewed however, and the U.S. supports the Secretariat's recommendation that the Parties should take measures to develop a standard format for permit numbers. The U.S. will propose modifications to the Secretariat's recommended format for permit numbers, however.

3. Amendment to Resolution Conf. 9.1 on Establishment of Committees [Doc. 10.27]

Comments: Six organizations commented on this resolution, two of which jointly endorsed one submission. One commenter stated that regions should "be afforded the flexibility to appoint anyone of their choice" to CITES committees, calling the proposal an infringement on national sovereignty and that the U.S. should withdraw this resolution, instead substituting a resolution that "representatives should be selected upon their credentials and their ability to contribute to the process." One set of comments, which was jointly endorsed by two organizations, supported this resolution noting that the appointment of countries, rather than persons to all CITES committees is the standard practice of the CITES Standing Committee. Another commenter called on the U.S. to withdraw the resolution and stated that Regions

and countries should "be able to put anyone of their choice in the seat, whether or not that person works for a government." One commenter, in opposing this resolution, stated that restricting committee representatives only to CITES Parties would "stymie the open exchange or information and expertise and could have the similarly detrimental effect of creating a parallel conference comprised solely of NGOs." This commenter called for continued NGO participation and increased participation by CITES Parties. Another commenter opposed this resolution stating that the "status quo is preferable" and stated that the "designation of Parties [as representatives to committees] will introduce a politic element in the Committees..." This commenter called for greater NGO participation in the work of the Animals and Plants Committees.

U.S. Negotiating Position: This is a U.S.-sponsored resolution. See **Federal Register** notice of March 27, 1997 [FR 14689], for a rationale explaining the U.S. submission of this resolution. In response to the comments, the United States regrets any misunderstandings, in that some commenters appear to have misunderstood that the U.S. proposed resolution calls for countries to be members of the Committee (as with the Standing Committee), but of course individual countries should appoint a qualified individual as their contact point for the work of the committees. The United States believes that this proposed resolution does not infringe on national sovereignty, as claimed, and allows the Party selected by the Region to appoint whomever it chooses as the Committee member. The United States is aware that the work of the committees involves policies and views of governments (such as what draft resolutions would be supported), and as such there must be accountability to Party governments in the work of the committees. The United States emphatically endorses the vigorous, active participation of non-governmental organizations in the work of the committees (and the COP).

4. Enforcement

a) Review of alleged infractions and other problems of implementation of the Convention [Doc. 10.28]

Comments: One comment was received on this issue, expressing the opinion that a comprehensive Infractions Report "would help facilitate meaningful and constructive discussion by the Parties on alleged infractions, and result in the identification of mechanisms to reduce or eliminate the problems included in the report." The United States agrees.

U.S. Negotiating Position: Article XIII of the Convention provides for COP review of alleged infractions. The Secretariat prepares an Infractions Report for each COP, which details instances that the Convention is not being effectively implemented, or where trade is adversely affecting a species. The United States supports this biennial review of alleged infractions by the Parties, and necessary and appropriate recommendations to obtain wider compliance with the Convention. The United States supports an open discussion at COP10 of major infractions, and the enforcement of the laws and regulations implementing the Convention.

The United States received a draft copy of the Infractions Report to be presented at COP10 from the Secretariat and made comments on all matters concerning the United States. A final version of the report has not been received, nor has the anticipated second section of the report which contains explanatory and other substantive sections. When final versions of both sections are received they will be closely scrutinized by the United States.

The United States supports the hard work of the Secretariat in assembling the Infractions Report. However, the United States is concerned that the draft report did not demonstrate a special focus on high priority infractions and violations of the Convention. For example, some cases of technical errors or document irregularities received more attention than major criminal cases involving smuggling of Appendix I species and cooperation among the enforcement agencies of several governments. For example, one case in the draft report [with limited discussion] refers to the sentencing of a major parrot smuggler in the United States to almost 7 years in prison and a significant fine; this case involved excellent cooperation with several other governments, and the crimes involved caused serious potential harm to macaw populations in South America. Many other countries have also prosecuted significant violators since COP9, and the United States has urged the Secretariat to highlight such cases in the final Infractions Report.

The first draft of the Infractions Report contained numerous such alleged infractions. As with previous Infraction Reports, there is a great difference in the depth of reporting of different alleged infractions, due to what appear to be a variety of reasons, but primarily because Parties to the Convention have not communicated sufficient information to the Secretariat regarding these matters. It appears that, as with previous infraction reports, a large number of alleged infractions may be caused by a lack of training, personnel or knowledge on the workings of CITES. These are matters that can be addressed and significantly improved. The majority of the alleged infractions highlighted in the draft Infractions Report for COP10 should be issues of major concern to the Parties as they have serious consequences for the effectiveness of the Convention, and thereby for conservation.

b) Working group on illegal trade in CITES specimens [Doc. 10.29]

Comments: Seven organizations commented on this issue, two of which jointly endorsed one submission. One commenter supported this resolution, noting that the creation of an Illegal Trade Working Group "offers a double benefit because in addition to helping curtail illegal trade in endangered species, providing advice and training on enforcement techniques, smuggling, identification, document fraud and marking techniques will also benefit those of us who engage in legal trade of such specimens." The United States agrees. Another commenter called on the U.S. to withdraw this proposal and stated that "existing [enforcement] mechanisms" are preferable. One set of comments, which was jointly endorsed by two organizations, supported the resolution submitted by the U.S. in creating an Illegal Trade Working Group, and noted that the proposal would implement the recommendations in Resolution Conf. 9.8. The United States agrees. Another commenter stated that instead of an Illegal Trade Working Group, the coordination of enforcement activities through the Secretariat, or bilateral international coordination is preferable. This commenter believed the Working Group proposed would operate "outside the law, review data *in camera*, and be responsible to no sovereign power." One commenter opposed the resolution, mistakenly noting that it was submitted under a different name by the U.S. at COP9. This commenter stated that enforcement of the Convention is the responsibility of the Secretariat and Parties, and called for greater enforcement capabilities for the Secretariat, independent of other entities. Another commenter stated that "law enforcement should be supported by existing national law enforcement mechanisms...rather than the development of independent entities to detract from sovereign responsibilities."

U.S. Negotiating Position: This is a U.S.-sponsored resolution. See **Federal Register** notice of March 27, 1997 for a rationale explaining the U.S. submission of this resolution. In response to comments, above, the United States notes that it did not submit a resolution to COP9 on establishment of

an enforcement working group; rather, the United States supported such an initiative by the United Kingdom. The proposed Illegal Trade Working Group would be an adjunct to the efforts of the Secretariat and Parties; it would be responsible to the countries that are sovereign Parties to the Convention. The United States urges interested organizations to read the draft resolution that was submitted by the United States, which elaborates the work of the Working Group; it would not enforce laws, but provide enforcement technical support to Parties and the Secretariat.

c) Inspection of wildlife shipments [Doc. 10.30]

Comments: Comments were received from five organizations, two of which jointly endorsed one submission. One commenter, without either endorsing or stating opposition to the proposed resolution, wrote about inspections that they "must be rational and not unduly burden legitimate trade or cause harm to live specimens." One set of comments, which was jointly endorsed by two organizations, stated support for the resolution without giving specifics as to the reasons for their support. Another commenter, without either endorsing or stating opposition to the proposed resolution, called for the U.S. to "seek a reasonable balance on inspection of shipments...and not to use stiffer enforcement as an indirect tool to deny markets for the sustainable use of wildlife." One commenter expressed support for the resolution "in so far as it reflects the current practice of the U.S. Fish & Wildlife Service and other responsible parties to the Convention...we support the government's interest in encouraging other parties to be diligent in inspecting wildlife shipments."

U.S. Negotiating Position: This is a U.S.-sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution. In response to comments, the United States notes that this draft resolution transmits a resolution adopted by the last IUCN General Assembly.

5. National Laws for Implementation of the Convention [Doc. 10.31]

a) Analysis of the national legislation of Parties
b) Measures taken by Parties to improve their legislation
c) Measures to be taken with regard to Parties without national legislation
d) Technical assistance provided to Parties

Comments: No comments were received.

U.S. Negotiating Position: No documentation has been received on any of the topics under this sub-item.

The United States is strongly supportive of the COP8-initiated review of national laws for the implementation of the Convention; such laws are required of Parties under Article VIII of CITES. The Service has in the past provided funding for this Secretariat-sponsored activity, and has received reviews of national legislation for several countries. The U.S. strongly believes that the Convention's effectiveness is undermined when Parties do not have national laws and regulations in place for implementing CITES, particularly those which authorize the seizure and/or forfeiture of specimens imported or exported in contravention of the Convention, as well as penalties for such violations (as required by Article VIII of the Convention).

The project, adopted by the Parties at COP8, will identify deficiencies and highlight those Parties in need of improvements in their national CITES implementing legislation. Parties which are identified as not having adequate legislation are required under a decision reached at COP9 to have initiated efforts to enact such laws. At the 37th meeting of the Standing Committee Doc. SC.37.10 on this topic was discussed, and the U.S. noted that action is needed at COP10 to address those countries that have made no progress enacting relevant laws, and have not even communicated with the Secretariat or initiated any efforts towards that end.

6. Training [Doc. 10.32]

Comments: Two comments were received, one of which was jointly endorsed by two organizations. One commenter wrote that it "strongly supports the initiative and ongoing participation by the United States in training CITES enforcement officials in various Parties, otherwise lacking appropriate technical expertise." Two organizations expressed support for the Secretariat's and Parties' efforts to provide training to other Parties in need of assistance.

U.S. Negotiating Position: The United States has provided training on CITES enforcement and/or implementation since COP9 in: Bangladesh, China, Honduras, India, Indonesia, Mexico, Nepal, the Philippines, Russia, and Taiwan. The United States is currently planning several more training programs for the coming years, and considers this a very high priority activity. Doc. 10.32 was not received in time to be considered in this notice.

The United States supports all efforts by the Secretariat and other Parties to the Convention to provide training in CITES implementation and enforcement to Parties that request it. The Parties concur that training is of the highest priority, as evidenced in the ERM Report on the Effectiveness of the Convention. The United States will endeavor to ensure that this high priority on training will be reflected in the CITES budget adopted at COP10.

7. Implementation of the Convention in small island developing nations [Doc. 10.33]

Comments: No comments were received.

U.S. Negotiating Position: No document has yet been received. Some small island developing nations, particularly those in Oceania, have been unable to accede to CITES because of the substantial resources which they feel are needed to fully implement and enforce the Convention. Of particular concern is the need to name Management and Scientific Authorities. Therefore, under a plan supported by the government of New Zealand, those countries would be permitted to share the services of a multi-national Management and/or Scientific Authority. The United States supports full international membership in CITES and continues to support the plan advanced by New Zealand, and believes it is an excellent avenue towards helping small island developing nations accede to the Convention.

8. Relationship with the International Whaling Commission [Doc. 10.34]

Comments: Comments were received from seven organizations, two of which jointly endorsed one submission. One commenter supported the proposed U.S. position with regard to "Japan's misguided resolution calling for the repeal of Res. Conf. 2.9...The IWC must remain the competent authority for international whale management." Another commenter called for the U.S. to oppose this resolution,

writing that repeal of Conf. 2.9 "could bring CITES and the IWC into direct conflict, which would not be in the best conservation interests of whale species" and further stated that repeal of Conf. 2.9 would "contradict Res. Conf. 9.12, in which the CITES Parties pledged to coordinate measures with the IWC to reduce illegal whaling." Another commenter called for the U.S. to support the resolution and stated that CITES' "relationship with the IWC should be one of consultation and exchange of information." One set of comments, which was jointly endorsed by two organizations, expressed opposition to the proposed resolution, stating that it "would require CITES to interfere with operations of another treaty [and] violates the spirit of [the Convention's] Article XV [and] contradicts the will of Parties as expressed in Resolution 9.12." These organizations also stated in their comments that changing "the present relationship [between CITES and the IWC] would set the two Conventions on independent and potentially conflicting paths." The U.S. agrees. Another commenter implied that it did not support the proposed U.S. negotiating position on this resolution, but restricted its comments more to the subject of the proposed down listings of various whale species. One commenter stated strong support for the repeal of Conf. 2.9, noting that the linkage of CITES to the IWC through that resolution, "could hamper its credibility, effectiveness and independence."

U.S. Negotiating Position: This resolution, submitted by Japan, calls for the repeal of Conf. 2.9, which recommends that "the Parties agree not to issue any import or export permit or certificate" for introduction from the sea under CITES for primarily commercial purposes "for any specimen of a species or stock protected from commercial whaling by the International Convention for the Regulation of Whaling." In 1978 the International Whaling Commission (IWC) passed a resolution requesting that CITES "take all possible measures to support the International Whaling Commission ban on commercial whaling for certain species and stocks of whales as provided in the Schedule to the International Convention on the Regulation of Whaling ."

At the time the 1978 IWC Resolution was passed, some populations of whales were listed in Appendix I and some in Appendix II. From 1979 to 1983, as zero catch limits were set in the ICRW Schedule for additional populations of whales, the CITES Conference of Parties added those populations of whales to Appendix I. Most importantly, at the Fourth meeting of the COP in 1983, CITES decided that "All cetaceans for which the catches are regulated by the IWC and for which the Commission has set catch limits for commercial whaling (except for the West Greenland population of minke whales) and not already on Appendix I would be transferred to that Appendix in 1986, when the IWC decision to implement a pause in commercial whaling comes into effect." This action by CITES COP4 established a strong relationship between the two organizations whereby CITES has agreed to reflect IWC decisions in its Appendices.

The IWC has not lifted the moratorium, although some nations, such as Japan and Norway, have called for the lifting of the IWC moratorium. The IWC continues to work on activities that the United States believes must be completed before any consideration can be given to a resumption of commercial whaling. These elements include development of a scientific scheme for setting quotas and development of an observation and monitoring program to ensure that quotas are not exceeded. Japan continues to circumvent the letter of the ICRW by allowing increasingly high catches of whales for "research" purposes in the Antarctic, and more recently, in the North Pacific. Norway, has since 1993, openly defied the moratorium, by setting its own quota for the take of whales in the North Atlantic. At the most recent meeting (37th) of the CITES Standing Committee, Conf. 2.9 was incorporated into a proposed consolidated resolution for consideration by COP10, although Japan objected.

In consideration of the process related to this issue to date, the United States strongly opposes this

resolution.

9. Revision of Resolution Conf. 9.3 on Permits and Certificates [Doc. 10.35]

Comments: Three organizations commented, two of which jointly endorsed one submission. One commenter supported the proposed U.S. negotiating position, citing a "need for a clear and consistent permit process." Another set of comments, which was jointly endorsed by two organizations, also supported passage of this resolution without stating a specific rationale.

U.S. Negotiating Position: This is a U.S. sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

10. Interpretation of Article II, paragraph 2(b), and Article IV, paragraph 3 [Doc. 10.36]

Comments: Comments were received from five organizations, two of which jointly endorsed one submission. One commenter disagreed with the proposed U.S. support of this resolution, and wrote that "listing lots of look-alikes creates significant enforcement and reporting burdens." Another commenter supported the proposed U.S. opposition to this resolution writing that it "joins the United States in opposing this subversive French resolution to reduce protection for Appendix II species listed...for reasons of similarity of appearance." One set of comments, jointly endorsed by two organizations, stated opposition to the resolution without stating a specific rationale(s). One organization supported the proposed resolution stating that the "issue of look-alikes has been a major issue when it comes to bobcat and other species."

U.S. Negotiating Position: This resolution, submitted by France, recommends that Parties be exempt from the requirements in Article IV, paragraph 3 of the Convention, a) to monitor exports of species listed in Appendix II for reasons of similarity of appearance, in order to control the trade in other listed species, and b) to mark such specimens in trade with a special identification tag.

The United States opposes this resolution for several reasons. Listing under Article II.2.b. of the CITES treaty is a very important tool to provide the necessary protection to other species listed in Appendices I and II. The listing in Appendix II for similarity-of-appearance purposes allows for the detection of shifts in the market toward species listed for reasons of similarity of appearance (which could put those species at risk as well). In the case of species listed for reasons of similarity of appearance, it is important to sufficiently monitor their international trade to obtain data which could indicate increased levels of trade or conservation concerns.

11. Interpretation of Article XIV, paragraph 1 [Doc. 10.37]

Comments: Comments were received from seven organizations, two of which jointly endorsed one submission. One commenter supported the U.S. proposed opposition to this resolution by writing that this resolution would impose "additional restrictions upon rights specifically protected in the body of the Convention [and thus] this resolution represents and infringement upon state sovereignty." Another commenter, which called on the U.S. to support the French proposed resolution, stated that "stricter domestic measures should be reserved for extreme circumstances" and that the adoption of such "negates the effectiveness of the Treaty, tests its credibility as an internationally accepted regulatory mechanism, and hinders range states conservation programs." One commenter called on the U.S. to support this

proposal, and stated because "some countries...do not allow transactions with non-indigenous species that are legal under CITES..conservation programs are often hindered when the "use of the species is an important part of the conservation of the species." Another commenter stated that it was "extremely pleased that the U.S. will 'strongly oppose adoption' of France's submission to weaken a Party's ability to set stricter domestic measures to control importation of CITES-listed species. National sovereignty must not be sacrificed, especially in relation to the strong U.S. laws acknowledged by the [U.S. Fish & Wildlife] Service..." One set of comments, which was endorsed by two organizations, agreed with the proposed U.S. negotiating position in opposition to the resolution and stated that the "draft resolution would violate the language of the Convention [and it would] restrict a sovereign right of Parties that is specifically not restricted by the Convention text." The United States agrees.

U.S. Negotiating Position: This resolution, submitted by France, recommends that Parties to the Convention not adopt stricter domestic measures for non-native species, and only institute such steps for indigenous taxa when illegal trade is present. The resolution also recommends that Parties increase their consultation with other range states if enacting stricter domestic measures for non-native species.

The United States strongly opposes adoption of this resolution on the grounds that it is contrary to the text of the Convention and represents an infringement on state sovereignty. As Article XIV, paragraph 1 of CITES states: "The provisions of the present Convention shall in no way affect the right of parties to adopt: (a) stricter domestic measures regarding the conditions for trade, taking possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or (b) domestic measures restricting or prohibiting trade, taking possession, or transport of species not included in Appendices I, II or III."

The resolution submitted by France ignores the series of resolutions adopted at previous COPs, as well as numerous decisions of the Standing Committee, calling for CITES Parties to adopt stricter domestic measures to improve the effective implementation of the Convention for the conservation of species of global concern, regardless of whether the taxa in question were native or non-native to any particular country. It should also be noted that consultations with range states do occur when Parties are considering listing non-native species in the CITES Appendices. Therefore, range states are consulted and their views and data considered prior to any listing of species in the Appendices.

Many countries have adopted a large numbers of laws and regulations which are stricter domestic measures with regard to imports and exports of CITES-listed species and non-CITES species. Such laws in the United States include the Wild Bird Conservation Act (16 U.S.C. 4901 et seq.), the African Elephant Conservation Act (16 U.S.C. 4201 et seq.), the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), the Migratory Bird Treaty Act (16 U.S.C. 73 et seq.), and the Endangered Species Act (16 U.S.C. 1531-1544). The United States has also adopted stricter domestic measures under authority of the Pelly Amendment to the Fisherman's Protective Act (22 U.S.C. 1978).

12. Revision of the definition of "primarily commercial purposes" [Doc. 10.38]

Comments: Seven organizations commented, two of which jointly endorsed one submission. The set of comments which were endorsed by two organizations, supported the proposed U.S. negotiating position and stated "'primarily commercial' cannot be defined according to the use of funds earned without violating the treaty [and] acceptance [of the resolution] could lead to exports of large stocks of Appendix I specimens for commercial purposes in violation of...Article III." Another commenter agreed

with the proposed U.S. position and stated that "this resolution could create loopholes for trade in specimens of Appendix I species..." This commenter also stated that the proposed resolution would "impose an impossible burden of proof upon importing nations by requiring them to assess the exporting nation's reasons for taking of the specimen in question. The determination of 'primarily commercial purposes' should be based on the ultimate end of the specimens in trade in the importing country, not activities in the exporting country." One commenter stated that the definition of "primarily commercial purposes" in the draft resolution were "unacceptable" and that the resolution, if passed, "could create loopholes facilitating illegal trade in Appendix I species, most notable elephant ivory." The commenter further stated that the "resolution contradicts the spirit of Article II (1) and Conf. 5.10 which seek to strictly limit commercial sale of Appendix I species...Clearly submission of this resolution is another devious attempt to commercialize stockpiled ivory and put a huge wedge in the door to resuming the full-scale trade in elephant products." Another commenter recommended that paragraph 5 of the draft be amended "to make it clearer...that the Convention prohibits trade in Appendix I specimens when commercial components are involved only when the purposes of import are primarily commercial." One commenter stated that the U.S. should "seriously consider [this proposed definition] and [the draft resolution] should be supported by the U.S." This commenter stated that the "definition of 'primarily commercial purposes' needs to be approached with an understanding that appropriately controlled trade in products from well-managed conservation programs can be beneficial both the people and to wildlife conservation."

U.S. Negotiating Position: This resolution, submitted by Namibia, would amend portions of Conf. 5.10, thus revising the Parties' interpretation of the term "primarily commercial purposes" in CITES. Conf. 5.10 was developed to help countries apply the terms "primarily commercial purposes", "commercial purposes", and "non-commercial". The Parties recognized that interpretation of the provisions of Article III, paragraphs 3(c) and 5(c) varied significantly between Parties. The key to understanding both the treaty and Conf. 5.10 however is the fact that the decision on whether or not an import permit is contingent upon the finding of the importing country that the import is for non-commercial purposes.

Under this proposed resolution, the "primarily commercial purposes" decision would be based on activities in the exporting country, rather than the importing country (as specified in the treaty), such that transactions with Appendix I specimens or derivatives would not be interpreted as being for "primarily commercial purposes" despite commercial components if the following conditions are met: (1) the specimens and derivatives result from routine conservation and management programs, which are owned and controlled by a government of a Party and (2) the transaction is *(a)* conducted under the direct and full control of both the importing and exporting governments and is open to inspection by the CITES Secretariat or any body agreed to by both governments and the CITES Secretariat; *(b)* the exporting country allocates all net income from the transaction to conservation and management programs for the species concerned, its habitat, education and awareness programs, and to the development of communities directly involved in the management and conservation programs; *(c)* the importing country certifies that the imported specimens will be used in a cultural and traditional manner and will not be re-exported; *(d)* the exporting government certifies that the export will enhance the status of the species; and, *(e)* the transaction receives prior approval by the Standing Committee.

The United States opposes this resolution as written, conditions notwithstanding, as it potentially could create loopholes for trade in specimens of Appendix I species, resulting in commercialization that could lead to the extirpation or extinction of a species. It would also weaken the intent of CITES, which

was to strictly regulate trade in specimens of Appendix I species (Article II, paragraph 1). The resolution is not in accordance with the treaty. The United States is sympathetic to the concerns of the proponent country and its conservation efforts; however, the resolution, as written, is inconsistent with the intent of the Convention and could open up loopholes for trade in Appendix I species, that are at a higher risk of exploitation.

13. Criteria for granting export permits in accordance with Article V, paragraph 2 [Doc. 10.39]

Comments: No comments were received.

U.S. Negotiating Position: This agenda item refers to the decision of COP9 directing the Standing Committee to prepare a draft resolution containing criteria for granting export permits in accordance with Article V, paragraph 2 of the Convention. The United States believes that such criteria are not necessary, particularly in light of the adoption of Resolutions Conf. 9.3 and 9.25.

14. Illegal trade in whale meat [Doc. 10.40]

Comments: One set of comments was received, which was jointly endorsed by two organizations. These organizations stated that "efforts to halt this illegal trade is contingent on the continued cooperation of CITES and the IWC" and that because "all whales are listed on CITES Appendix I...it is important that discussions about the illegal international trade in whale meat continue to occur within the CITES forum." The United States agrees.

U.S. Negotiating Position: This is a United States sponsored discussion paper. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this issue. The United States wishes to facilitate discussions of methods of how to better enforce the Convention, as we believe that this is still a significant problem. The U.S. is very concerned about illegal trade in whale products, especially after the recent case of 4-6 tons of meat that were illegally shipped from Norway to Tokyo, Japan. A similar case of whale meat smuggled from Norway to Japan occurred in 1993. A resolution was adopted by the Parties at COP9, which called for further cooperation between CITES and the IWC in order to stop illegal international trade in whale products. In 1995 the IWC passed a resolution which calls for all governments and other entities with a history of practicing whaling to determine if they have any remaining stockpiles of whale meat. This agenda item will allow for discussion of these issues.

15. Illegal trade in bear specimens [Doc. 10.41]

Comments: Two comments were received on this issue, one of which was jointly endorsed by two organizations. One set of comments "wholeheartedly endors[ed] the resolutions" adopted by the Animals and Standing Committees and urged the U.S. "to continue its leadership by doing everything in its power to ensure that the Parties agree to a global moratorium on all trade in bear parts and products." Another set supported the draft U.S. position and stated that they hoped that "the United States will join China at COP10 and call for a global moratorium on the international trade in these valuable bear parts." The comments which were endorsed by two organizations stated that they favored a global moratorium of the bear parts trade and urged the Service promote initiatives to increase law enforcement activities related to illegal wildlife trade, particularly focused on illegal bear gall bladders.

U.S. Negotiating Position: Discussions at COP10 of the illegal trade in bear specimens will probably follow from previous discussions held at the last meetings for the Animals and Standing Committees. In response to the serious problems of conservation of bear populations throughout the world caused by the illegal trade in bear parts and products of Appendix I species, the United States placed this issue on the agenda of the Animals and Standing Committees.

One important decision of the Animals Committee recognizes that "bears are native to Asia, Europe, North America, and South America, and as such the problem of conservation of bears caused by illegal trade in their parts and products is a global one." The United States believes that this decision is important in that it reflects an awareness that problems of illegal trade are not limited to one region of the world, but affect all populations and all geographic regions. Again, this points to the need for both domestic and multilateral solutions to these problems.

Upon request from the Animals Committee, the CITES Secretariat issued Notification to the Parties #946 which stressed the serious problems of bear conservation and illegal trade, and requested that Parties submit for discussion at COP10 information on wild bear populations, trade, threats, legislative and/or regulatory controls on bear harvesting, enforcement, interdiction, and prosecution efforts related to illegal trade, the kinds of bear derivatives and products available on the open market, efforts to promote the use of substitutes in traditional medicines, and information on public education and outreach efforts. The purpose for this notification, and the compilation of information, was to ascertain what the real problems are, what efforts have been made by countries, and what solutions could benefit bear conservation. The United States responded to this notification and provided information on its bear populations, and trade and enforcement activities.

The Secretariat will be compiling and reviewing the responses received from the Parties in response to this notification, and preparing a report for discussion at COP10. Upon evaluating this report, the United States will review it closely and develop a policy position. The United States intends to stay deeply engaged with CITES efforts for the conservation of bear populations. Some possible outcomes that the U.S. would support include: 1) Working with key consumer countries to seek solutions to curtailing the illegal trade in bear parts, including adoption of effective legislation and regulation; 2) Increased efforts to obtain biological data for Asian bear populations, along with assessments of the scope and impact of illegal and legal trade; 3) Increased cooperative law enforcement efforts, including bilateral and multilateral law enforcement efforts, including sharing of intelligence information, forensics identification, and training. The issue could indeed be placed on the agenda of the [proposed] Illegal Trade Working Group; 4) Continuation and strengthening of ongoing efforts for cooperation with traditional medicine communities, to increase public awareness and industry knowledge about the conservation concerns associated with the bear trade, and the need for stronger trade controls and conservation measures. Efforts to find substitutes and alternatives should be encouraged; and 5) If the Parties recommend a voluntary suspension of trade in bear products (gall bladders, bile, other organs), support such a suspension of trade, provided it is coupled with the above efforts. The U.S. could implement such a multilateral decision, if it is based on the fact that any commercial trade in gall bladders or bear bile products (even from Appendix II species) is potentially detrimental to endangered bear populations. Such a suspension should not include trophies of bears, particularly those included in Appendix II; that trade is not believed to pose a conservation or illegal trade problem. Doc. 10.41 was not received in time from the Secretariat to be considered in this notice.

16. Exports of leopard hunting trophies and skins [Doc. 10.42]

Comments: One comment was received on this issue. This commenter "strenuously opposes any actions which may facilitate trade in leopard hunting trophies and skins or weaken the requirements for engaging in such trade."

U.S. Negotiating Position: Doc. 10.42 was not received in time from the Secretariat to be considered in this notice.

17. Trade in tiger specimens [Doc. 10.43]

Comments: Two comments were received on this issue. One commenter stated that "it is hoped the United States will not only maintain the beneficial conservation activities it has already taken, but increase them." The other set of comments which were endorsed by two organizations urged the Service "to advocate whatever measures are necessary to achieve full implementation of Conf. 9.13 by the U.S. and other Parties."

U.S. Negotiating Position: Doc. 10.43 was not received in time from the Secretariat to be considered in this notice.

At the 36th meeting of the Standing Committee, all Parties were asked to provide information at the Committee's 37th meeting on their efforts to end trade in tiger parts and products, reduce poaching of wild tigers, and implement Conf. 9.13 (Conservation of and Trade in Tigers) passed at COP9. The United States provided such documents to the Secretariat for the 36th and 37th meetings of the Standing Committee. At the 37th meeting of the Committee the United States reported on the following issues: efforts to interdict illegal shipments coming into the United States; training in Asia on CITES enforcement and implementation; progress made by the Service's National Fish and Wildlife Forensics Laboratory, including analysis of levels of arsenic, mercury, and other chemicals found in patented traditional Asian medicinal products; the Service's education and outreach program with the Asian community in the United States and a similar outreach program with the traditional Asian medicine practitioner community; the Rhinoceros and Tiger Conservation Act passed by the U.S. Congress and the Service's review of grant proposals under the Act; and funding through the National Fish and Wildlife Foundation for such grants.

On March 13, 1997, the Service announced the awarding of the first-ever grants issued under authority of the Rhinoceros and Tiger Conservation Act of 1994. The Act provides monies to fund projects that will enhance sustainable development programs to ensure effective long-term rhino and tiger conservation. Congress had authorized $200,000 in funding for fiscal year 1996 and $400,000 for fiscal year 1997. Ten projects receiving funding were announced, including two specifically targeted on tiger conservation efforts in India, Indonesia, and Nepal, while two additional projects benefiting both tigers and Asian rhinos were funded in India and Indonesia. Combined awards for these projects total $96,300. Additional monies were allocated to grants for rhino conservation projects (see discussion under item 19). The Service also serves on the council which administers the National Fish & Wildlife Foundation's Save The Tiger Fund, a grant program funded by primarily by Exxon to assist with the conservation of tigers.

18. Trade in African elephant specimens

a) Revision of Resolution Conf. 9.16 [Doc. 10.44]

Comments: Comments were received from one organization on this specific sub-item, which stated that the U.S. "should heed the warnings in the most recent Panel of Experts report concerning proposed elephant down-listings by Zimbabwe, Botswana and Namibia." This commenter further stated that "sufficient trade controls and regulatory enforcement mechanisms - especially in Zimbabwe - are not in place. The commenter added that "the United States should promote ongoing respect for the Panel of Experts procedure and its efforts."

U.S. Negotiating Position: Doc. 10.44 was not received in time from the Secretariat to be considered in this notice. The U.S. supports the Panel of Experts process, and supports detailed review, evaluation, and consideration of the conclusions of the panel.

b) Revision of Resolution Conf. 7.9 [Doc. 10.45]

Comments: Comments were received from three organizations on this specific sub-item, of which two organizations endorsed one submission. One commenter stated that the U.S. should support this resolution but "should consider amending Section M...to call upon the Parties to take into account the potential impact upon elephant populations in non-proponent range states." The other set of comments, jointly endorsed, supported the Panel of Experts procedure and endorsed some of the changes to Conf. 7.9 proposed by the Standing Committee. These comments also urged the Service "to note...at COP10 that it was inappropriate for the Secretariat to have expressed its opinion that 'there is no need for a special procedure for considering proposals to transfer populations of African elephant from Appendix I to Appendix II..."

U.S. Negotiating Position: At the 37th meeting of the Standing Committee discussions were held pertaining to the implementation of Conf. 7.9, which establishes the Panel of Experts process for review of proposals to transfer African elephant populations from Appendix I to II. At that meeting the Secretariat recommended repeal of Conf. 7.9 for several reasons, including their view that the new CITES listing criteria (Conf. 9.24) are sufficient. The United States continues to believe that the Panel of Experts review is important and provides an independent assessment that should be retained. The United States recalls that several African elephant range states at the last meeting of the Standing Committee strongly supported continuation of the Panel of Experts process. The United States continues to advocate that the panel review should be expanded to include review of specific ivory importing countries, if so identified in a proposal. The United States believes that the Standing Committee should not make a recommendation to the COP on repeal of Conf. 7.9, but rather should leave that discussion and decision up to the COP. The United States fully intends to evaluate the analyses in the most recent Panel of Experts report, and to take those analyses into consideration in the development of its positions on proposed transfers of certain African elephant populations to Appendix II.

c) Stockpiles of ivory [Doc. 10.46]

Comments: Two comments were received on this sub-item, one of which was jointly endorsed by two organizations. One commenter stated that "it is vital that the Service recognize that allowing sale of stockpiles, no matter how seemingly rigid the restrictions on such sales may be, will ultimately provide a laundering loophole for illegal ivory...[which] will undoubtedly lead to a renewed elephant slaughter." The two organizations jointly endorsed one set of comments, agreed with the proposed U.S. position, and stated "no single option regarding ivory stockpiles should be endorsed...since countries should be able to evaluate all options."

U.S. Negotiating Position: COP9 asked the Standing Committee to evaluate issues pertaining to ivory stockpiles, and make recommendations to the Parties. At the 37th meeting of the Standing Committee, representatives of Africa reported on a meeting held in Dakar, Senegal of African elephant range states (the United States provided financial assistance for the meeting). At that meeting, several options were presented and agreed upon by the range states. The U.S. position at the Standing Committee meeting was that no single option should be endorsed by the Standing Committee, as long as the options are fully in accordance with the provisions of the CITES treaty, since countries should be able to evaluate all options. The United States continues to support that position. Doc. 10.45 was not received in time from the Secretariat to be considered in this notice.

19. Trade in and conservation of rhinoceroses

Comments: One set of comments was received which dealt with rhino conservation in general terms. This commenter "agrees with the Service that [Standing Committee Doc. SC.37.17] should not be supported" as it "would be an unconscionable waste of scarce resources...to conduct an [sic] study on indicators, when there is not enough resources to provide on-the-ground protection of rhinos in the wild and elimination of rhino horn markets through outreach activities."

Background: The 37th meeting of the Standing Committee agreed to support the continued efforts of the IUCN/SSC African Rhino Specialist Group (AfRSG) (Doc. SC.37.17), and agreed to endorse efforts by that group to develop indicators to measure the impact(s) of the CITES listing of the species. While endorsing the efforts, the document prepared by the AfRSG was not adopted or accepted by the Committee. The United States agreed with the Standing Committee's endorsement of the efforts of the AfRSG, but supported the position of the Committee in not adopting the document. The U.S. would not support any funding from the CITES Trust Fund for those efforts.

On March 13, 1997, the Service announced the awarding of the first-ever grants issued under authority of the Rhinoceros and Tiger Conservation Act of 1994. The Act provides monies to fund projects that will enhance sustainable development programs to ensure effective long-term rhino and tiger conservation. Congress had authorized $200,000 in funding for fiscal year 1996 and $400,000 for fiscal year 1997. Four projects were funded, which directly benefit African rhino conservation, two in Kenya, and one each in South Africa and Zaire. An additional five projects were funded, which directly benefit Asian rhinos: two projects are in India and two in Indonesia. Two projects were funded which will benefit both tiger and Asian rhino conservation. Combined awards for these projects totaled $154,221.

a) Implementation of Resolution Conf. 9.14 [Doc. 10.47]

Comments: No comments were received on this specific sub-item.

U.S. Negotiating Position: Doc. 10.47 was not received in time to be considered in this notice.

b) Trade in live rhinoceroses from South Africa [Doc. 10.48]

Comments: One comment was received on this specific sub-item. This commenter stated that "[r]emoval of the annotation without uplisting to Appendix I will be a clear sign that future rhino horn trade is imminent, undermining CITES long-term interest in rhino conservation."

U.S. Negotiating Position: Doc. 10.48 was not received in time to be considered in this notice. At COP9, South Africa's population of the white rhinoceros was transferred to Appendix II, with an annotation to allow only trade in live rhinoceroses and sport-hunted trophies. South Africa will submit a report to COP10 on its implementation of this down listing. The U.S. interpretation of the proceedings at COP9 was that there would be a proposal from the Depositary Government (Switzerland) to transfer the population back to Appendix I, submitted to COP10, as well as a proposal from South Africa to retain the population back to Appendix II (if it wanted to do so). The Secretariat's interpretation differed, and it informed the United States that no such procedure is necessary. South Africa has submitted a proposal to "amend" its annotation for this species. The United States believes that this proposal constitutes a new species proposal, one which would transfer the population to Appendix II, and as such must be evaluated in the context of the CITES listing criteria in Resolution Conf. 9.24, and be subject to all of the procedures relevant to species listing proposals. The United States believes that these annotations bring up important issues that will be addressed once a document is received on this agenda item.

20. Exports of vicuña cloth [Doc. 10.49]

Comments: Two comments were received on this issue, one of which was jointly endorsed by two separate organizations. One commenter stated in general terms that the "annotated downlisting [for vicuña wool] has proved problematic and the Parties should revert to the pre-COP9 annotation which only allowed trade in finished vicuna products. International trade in raw wool must be prohibited." The jointly endorsed comments strongly urged the U.S. "to propose that Parties reinstate the wording of the vicuña annotation adopted at COP6, which permitted vicuña in carefully designated areas of Peru and Chile to be downlisted from Appendix I to Appendix II...with an annotation to allow the export of fabric and garments made from wool sheared from live vicuña and marked prior to export. Trade in raw wool was prohibited."

U.S. Negotiating Position: Doc. 10.49 was not received in time to be considered in this notice.

21. Conservation of edible-nest swiftlets of the genus *Collocalia* [Doc. 10.50]

Comments: No comments were received on this proposed resolution.

U.S. Negotiating Position: At COP9, in response to submission of a proposal to include these species in CITES Appendix II, a decision was adopted to convene an international scientific and management workshop on the conservation of edible-nest swiftlets in the genus *Collocalia*. This agenda item will discuss the results of that workshop, held in Indonesia in 1996. The United States did not attend the workshop. Doc. 10.50 was not received in time for inclusion in this notice.

22. Biological and trade status of sharks [Doc. 10.51]

Comments: No comments were received on this issue.

U.S. Negotiating Position: The United States has actively participated in the implementation of Conf. 9.17 which directs the Animals Committee to report to COP10 on the biological and trade status of sharks. The Animals Committee prepared a discussion paper in this regard. Conf. 9.17 also requested that the Food and Agriculture Organization (FAO) of the United Nations and international fisheries management organizations establish programs to collect and assemble the necessary biological and trade

data on sharks species, and that such information be distributed to the Parties at COP10. The recommendations contained in the Animals Committee discussion paper call for continued cooperation between the FAO, international fisheries organizations, and CITES. In addition, many questions were raised concerning technical and practical aspects of implementation concerns associated with inclusion of marine fish species which are subject to large-scale commercial harvesting and international trade, and also listed on the CITES Appendices. Doc. 10.51 was not received in time for inclusion in this notice.

In order to provide a framework for this and other activities that CITES will undertake to implement Con.. 9.17, the United States has introduced a resolution for consideration at COP10 concerning the formation of a Marine Fishes Working Group. See the **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

23. Trade in plant specimens

Comments: No comments were received on any of the sub-items related to this issue.

Background: Relevant documents were not received in time for inclusion in this notice.

a) Implementation of the Convention for timber species [Doc. 10.52]

U.S. Negotiating Position: At the 37th meeting of the Standing Committee, the Deputy Secretary General of CITES, acting as Chair of the Timber Working Group (TWG), introduced document Doc. SC.37.13, which sought the direction of the Committee on recommendations to be made to the Parties at COP10. (As noted at this meeting, the Secretariat planned to re-introduce this document, unchanged, to COP10 for consideration by the Parties.) At the Standing Committee meeting, the United States noted the positive, productive, and cooperative tone which characterized the TWG meetings. The United States also noted that the document submitted by the TWG (Doc. SC.37.13) was assembled by the technical experts who attended the Group's meetings.

The United States agreed that the resolutions drafted by the TWG should be submitted to COP10, except the one entitled *Regarding Appendix III Listings* (TWG.02.Concl.04 (Rev.)). The United States supports all of the draft resolutions, except for that one; the United States opposed the proposed amendment of Conf. 9.25, and will continue to do so at COP10. That draft resolution concludes that limiting an Appendix III listing to geographically separate populations would not necessarily result in enforcement difficulties for Parties; the U.S. disagrees. The draft does not take into account implementation and enforcement concerns, especially for species other than timber tree species. The United States believes that the draft resolution is a misinterpretation of the Appendix III provisions of the CITES treaty.

The topic of extending the term of the TWG was also discussed by the Group itself and reported at the Standing Committee meeting. The TWG recommended that extending the term of the working group be considered, if technical issues need to be addressed, with the same membership, but be convened only at the request of the Standing Committee, to discuss specific issues. The United States supported that recommendation, with the caveat that the Terms of Reference of the TWG remain the same. With regards to United States financial support for future TWG meetings, the United States position is that any such funding is dependent on Federal agency budgets, about which information is not currently available.

b) Amendment to the definition of "artificially propagated" [Doc. 10.53]

U.S. *Negotiating Position*: Doc. 10.53 was not received in time for inclusion in this notice.

c) Disposal of confiscated live plants [Doc. 10.54]

U.S. Negotiating Position: Doc. 10.54 is still under review by the United States. The United States has established a system of Plant Rescue Centers for the placement of confiscated live plants. The Service's Office of Management Authority and the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) work together closely on the implementation of this rescue center program. There are currently 54 active plant rescue centers in the United States. During 1996, 416 shipments containing 12,633 live plants were confiscated upon import into the United States in violation of CITES. The five families of CITES plants most confiscated were Orchidaceae (8,908 plants), Bromeliaceae (1,280 plants), Cactaceae (926 plants), Primulaceae (815 plants), and Euphorbiaceae (409 plants). Four hundred fourteen (414) of these shipments containing 12,174 plants were assigned to plant rescue centers. The United States supports the development of CITES guidelines on how to deal with disposal of live confiscated plants, and agrees generally with the Guidelines produced by the Plants Committee working group. However, the United States does not agree with the sale of confiscated specimens to traders, commercial propagators, or others involved in commercial activities. This could encourage potential illegal trade and possibly enable the original importer of the confiscated plants to reobtain these plants, or otherwise too easily benefit from the illegal import; it also violates existing agreements with the U.S. Plant Rescue Centers. The U.S. will discuss the operations of the U.S. Plant Rescue Center Program at the COP.

24. Significant trade in Appendix II species

Comments: One general comment was received on this issue, which was jointly endorsed by two separate organizations. These comments supported the Service's position and stated: "We believe that the Significant Trade Process is being undermined by the use of consultations with range states in lieu of forwarding specific primary or secondary recommendations." These comments highlighted several "weaknesses" in the Significant Trade Review process including "vaguely worded" recommendations, the Secretariat being "far too easily satisfied that...actions taken have fulfilled...recommendations," and a new procedure instituted by the Animals Committee "whereby the Conf. 8.9 process is avoided in favor of Committee member consultations with the Party of concern, which eliminates penalties to Parties for not complying with recommendations."

a) Animals [Doc. 10.55]

U.S. Negotiating Position: Doc. 10.55 was not received in time for inclusion in this notice.

At the 12th meeting of the Animals Committee, the review of species slated for examination in 1995 under the Significant Trade Review process (Conf. 8.9) was discussed at length and recommendations to the Secretariat from each of the CITES Regions were made through the Committee Chair. Prior to the 13th meeting of the Committee it was not clear whether the Secretariat had fully followed through with primary and secondary recommendations made to range states which are developed in this process. In reviewing the species slated for examination in 1996, the United States recommended that an assessment of the progress made to date by IUCN on developing a target list be conducted, and the

United States advocated a rapid completion of the task if it were not yet complete. In addition, the United States stressed the need for field projects to study significantly traded species in the wild, rather than extensive revision of lists in the Significant Trade Review process.

The United States shares concerns that the Significant Trade Review process, particularly regarding recommendations made to the Secretariat for transmission to the range states, is neither specific enough nor sufficiently "action-oriented." The U.S. also shares other concerns regarding consultation with range states, and looks forward to discussions on these issues at COP10. Except for corals and conch (both species under review in this process), the Secretariat has transmitted primary and secondary recommendations on the 1995 species significant trade review to range States.

During discussions at the 13th meeting of the Animals Committee of the 1996 review of taxa in the Significant Trade Review process, there was confusion about the timing of the review cycles used in this process. The United States supports an agreement not to initiate another round of reviews (the 1996 reviews), but to complete the 1995 cycle between that meeting and COP10, and then devote efforts to evaluating the outcomes of previously reviewed species, especially involving Parties receiving primary recommendations from the review process. The United States agrees that insufficient resources are being applied to field studies and that this aspect of the Significant Trade Review process suffers if new species are reviewed before adequate follow-up, such as field studies, have been implemented for previously reviewed species.

The United States introduced a draft resolution on reporting and identification of corals in trade, at the request of the 12th meeting of the Animals Committee. As this is a United States sponsored resolution, see **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

b) Plants [Doc. 10.56]

U.S. Negotiating Position: Doc. 10.56 was not received in time for inclusion in this notice. The United States supports the recommendations of the working group on significant trade of the Plants Committee. The recommendations are non-controversial, and accomplish a fine-tuning of the process for plants that is already underway for animals. Such an adjustment is needed to accommodate the greater number of higher-taxon listings of plants in Appendix II of the Convention. The United States believes that this process is a generally effective approach, as has been demonstrated for example, with tree ferns, where entire families are listed.

25. Sale of tourist items of Appendix I species at international airports, seaports, and border crossings [Doc. 10.57]

Comments: One comment was received on this issue, which was jointly endorsed by two organizations. These organizations supported the U.S. submission of this draft resolution, stating that the "sale of Appendix I tourist items encourages illegal trade and hampers enforcement [and] [b]order crossings are ideal places to educate travellers [sic] about the Convention." The U.S. agrees.

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

26. Trade in specimens of species transferred to Appendix II subject to annual export quotas [Doc. 10.58]

Comments: No comments were received on this issue.

U.S. Negotiating Position: Doc. 10.58 was not received in time for inclusion in this notice.

27. Trade in alien species [Doc. 10.59]

Comments: Comments were received from three organizations on this issue, one set of which was jointly endorsed by two organizations. One commenter stated that this issue "should remain outside the scope of CITES" and since the Convention "is experiencing significant problems fulfilling its current 'obligations...' involvement in invasive species issues should be avoided. Another set of comments, jointly endorsed by two separate organizations, "fully supports this document and discussions on the need to prevent the introduction to the wild of live exotic animals and plants that are traded internationally.".

U.S. Negotiating Position: This topic is addressed in an issue document co-sponsored by the United States and New Zealand. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this document. In response to comments, the United States stresses that CITES is indeed the appropriate forum for the discussion of introductions of invasive species deriving from international trade in live specimens of these species. Alien [nonindigenous] species have been identified as the second largest threat to biological diversity globally after habitat loss and degradation. The U.S. submitted a discussion paper asking that this issue be discussed at COP10. The intent of the United States is to: (1) heighten international awareness of the threats alien species pose to the conservation of biodiversity and focus attention on finding practical solutions to the alien species problems; (2) encourage cooperation and collaboration between CITES and the Convention on Biological Diversity on threats to biodiversity from the introduction of alien species through international trade in these species; and (3) encourage Parties to pay particular attention to these issues when developing national legislation and regulations, when issuing export or import permits for live specimens of potentially invasive species, or when otherwise approving exports or imports of live specimens of potentially invasive species.

28. Establishment of a working group for marine fish species [Doc. 10.60]

Comments: Comments were received from twelve organizations on this issue, one set of which was jointly endorsed by two organizations. One organization stated that it "applaud[ed] U.S. efforts to ensure that CITES trade rules are fully coordinated with conservation and management rules under other international agreements"; they did express concern for the "open-ended" jurisdiction of the proposed Working Group and the lack of "indication who would be chosen to serve on this working group." Two organizations, in opposing this draft resolution, expressed the view that marine species management and conservation issues should be dealt with only by the United Nations Food and Agriculture Organization (FAO) and either coastal nations or regional fisheries management organizations. Another commenter, whose submission was jointly endorsed by two organizations, supported the draft resolution, and noted that the proposed Working Group "would serve similar function to the of the [CITES] Timber Working Group". One commenter, a foreign government, stated in opposition to the draft resolution, that not only should only the FAO and coastal nations be solely responsible for marine species management and conservation, but that this draft resolution is unacceptable because of the increased workload it would

cause for CITES, and the absence of scientific evidence "of verification of the 'extinction level' to be considered by CITES." Another foreign commenter, in opposing this draft resolution, stated that the U.S. submission of this proposal was "inconsistent with its position committed...at the [22nd meeting of the] FAO Fisheries Committee," specifically with regard to the conservation and management of shark species. One other foreign organization, in opposition to the draft resolution, stated that "issues pertaining to marine fishes should be promoted by more appropriate organizations such as the...FAO of the United Nations." This commenter also stated the formation of such a working group would complicate "the present thinking on marine living resources [and] might cause unnecessary confusion." Another foreign organization, requesting that the U.S. withdraw the draft resolution specifically because of its involvement in shark management and conservation, expressed concerns that "CITES to a large extent is a relic of the past," and that the draft resolution "perpetuates the scatter-gun, confrontational approach." This organization favored FAO management of shark species. One commenter, expressed the opinion that the submission of the draft resolution was "premature and potentially counterproductive to the conservation and management of ocean fisheries." This commenter also stated that it was "debatable" that several marine species qualify for listing under CITES, that the tasks of the proposed working group would be "overwhelmingly complex," that "regional fishery organizations and coastal nations are responsible for managing and conserving ocean fisheries," that the control of harvests is the "most effective means of conserving marine fish," and that the proposed Working Group's tasks would be "redundant" to the work of the FAO. Another commenter opposed the draft resolution as "costly, useless and inefficient in nature...premature, redundant and overlapping." This organization also stated that the working Group's creation would "create another financial and administrative burden for the Convention," and that "it is a utopian idea to try to manage a few selected fish species without managing the totality of the marine species, including the marine mammals."

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution. In response to comments received, the United States notes that this proposed working group is modeled after the Timber Working Group established at COP9, and will complement but not in any way supersede efforts of international fishery management organizations. The purpose of the Working Group is not to propose marine fish species for listing, or deal with listing issues in any manner, but rather to investigate concerns associated with inclusion in the CITES Appendices of marine fish species subject to large-scale commercial harvesting and international trade, and develop recommendations on approaches to address identified issues with the FAO and other fishery organizations. In addition, this proposed working group will facilitate liaison between the CITES Animals Committee and the FAO and other international fisheries organizations, in order to complete the implementation of Resolution Conf. 9.17. The United States regrets the misunderstanding, reflected in some comments received, that the proposed working group would take on the work of management of commercial fisheries, which is not within CITES' purview. Rather, if a commercially fished marine species becomes depleted to the point that it qualifies for inclusion in the CITES Appendices, the efforts of this working group will be a vital component of effective implementation of such a CITES listing.

29. Scientific justification for national export quotas [Doc. 10.61]

Comments: Two comments were received on this issue, one of which was jointly endorsed by two separate organizations. One commenter stated that the U.S. should oppose this draft resolution as "burdensome and unnecessary." Other comments received, which were jointly endorsed, supported the draft resolution stating that it "would strengthen Resolution Conf. 9.3" by requiring scientific justification

for CITES export quotas.

U.S. Negotiating Position: This resolution, submitted by Israel, discusses the publication and distribution of CITES export quotas by the Secretariat and recommends the provision of relevant scientific evidence and non-detriment findings by Parties when transmitting their own national export quotas for Appendix II species to the Secretariat.

The resolution raises many concerns which the United States shares and provides for interesting points in need of additional consideration and study by the Parties. It brings forth a valid point with respect to the need for non-detriment findings in support of export quotas submitted by many Parties. Since CITES requires Parties to make a non-detriment finding when issuing an export permit, providing documentation of such a finding to the CITES Secretariat should not be burdensome to Parties that are effectively implementing the Convention. There have been problems with the quota system where quotas were established and implemented without a scientific justification.

The United States supports the preparation of scientific non-detriment findings and justifications by all Parties for the export of indigenous Appendix II species before authorizing or otherwise issuing export permits, as required by the Convention. Quotas submitted to the Secretariat should be supported by scientific documentation in the exporting country, and the Secretariat and Parties should be active in utilizing the Significant Trade Process to make determinations as to whether Parties are appropriately addressing the scientific needs inherent in issuing realistic and appropriate non-detriment findings. However, this resolution refers to those quotas that are determined by individual exporting countries, and not those quotas that are approved by the COP. At present, the United States is evaluating whether the draft resolution submitted by Israel is needed in order to interpret the Convention, but is currently leaning towards opposing this document.

30. Disposal of stocks of dead specimens of Appendix I species [Doc. 10.62]

Comments: Three comments were received, one of which was jointly endorsed by two separate organizations. One commenter supported the proposed U.S. negotiating position. One stated that "adoption of this resolution would create significant loopholes in enforcement of trade of Appendix I species." This commenter further stated that "an unqualified expansion of the utilization of Appendix I species violates the intent of CITES...which strictly restricts trade in specimens from Appendix I species." Comments which were jointly endorsed by two organizations opposed this draft resolution, stating that it would "weaken Resolution Conf. 9.10 [and] allow use of confiscated specimens giving value to illegally traded specimens, parts and products." Another commenter stated that the U.S. should investigate new approaches to the disposal of stock of dead Appendix I specimens without either endorsing or opposing the proposed U.S. negotiating position.

U.S. Negotiating Position: The draft resolution would modify Conf. 9.10 in that it recommends that confiscated dead specimens of Appendix I species not be destroyed, but utilized for useful purposes in accordance with the Convention, in particular for educational, research or scientific activities, but also for "the cultural and artistic heritage" (translation provided by the Embassy of France). The resolution makes no reference to the enforcement obligation of Parties to CITES as enumerated in Article VIII, but instead cites economic and social development provisions of the Convention on Biological Diversity.

The United States will strongly oppose this resolution and believes that Conf. 9.10 as adopted by

the Parties is effective as written. The United States believes that this draft resolution, if adopted, would create a number of enforcement problems, not the least of which would involve the large stockpiles of African elephant ivory currently maintained in a number of range states. By opening the door to the cultural and artistic utilization in international trade of stockpiles of Appendix I species, there would be a serious problem of distinguishing between illegal trade and "cultural" trade. The United States is concerned that such use of these specimens for cultural or artistic purposes could result in increased consumer demand for other such specimens.

In addition, the United States believes that this resolution, if adopted, would detrimentally impact controls on seized Appendix I plants and plant materials. The United States recognizes that there may exist many appropriate cultural or artistic uses of accumulated dead specimens of Appendix I animals and plants. However, the United States also recognizes that establishing appropriate mechanisms to ensure that these specimens are only used in the proper context will be very difficult to achieve.

31. Marking of CITES specimens [Doc. 10.63]

Comments: One set of comments was received, which was jointly endorsed by two separate organizations. These organizations disagreed with the proposed U.S. negotiating position and strongly urged the U.S. to oppose this draft resolution. These commenters stated that the proposed changes would allow "secondary products" to "enter international trade without marking" and expressed concern that the draft resolution's provisions "pose a significant threat to species which are not currently ranched but may be so in the future."

U.S. Negotiating Position: This document was submitted by the CITES Secretariat on behalf of the Animals Committee. The Animals Committee discussed problems of implementation of Conf. 5.16 which lays out the requirements for trade in ranched specimens listed in the Appendices to the Convention. The proposed resolution submitted by the Secretariat seeks to amend the marking requirements to reflect uniform marking only of items of primary economic importance. The resolution also recommends that any ranching proposal include details of the marking system, a list of all specimens of primary economic importance, and a current inventory of such stocks.

The resolution was submitted due to the general belief that the previously designed marking requirements were overly burdensome, unenforceable by national authorities, and otherwise impractical. The United States supports this resolution to create a marking regime which is not only practical and enforceable, but institutes necessary marking controls to implement the ranching requirements that are implemented under the authority of the Convention.

32. Universal tagging system for the identification of crocodilian skins [Doc. 10.64]

Comments: No comments were received on this issue.

U.S. Negotiating Position: The United States supports universal tagging of crocodilian skins. Doc. 10.64 was not received in time for inclusion in this notice.

33. Identification of corals and reporting of coral trade [Doc. 10.65]

Comments: One comment was received on this issue. This commenter supported this U.S.

proposal stating that identification and reporting of quantities of coral in international trade "has plagued the trade for many years. The proposed resolution addresses the reporting issues and provides a pragmatic solution for handling recognizable coral...under CITES."

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution, at the request of the Animals Committee.

34. Implementation of Article VII, paragraph 2: pre-Convention specimens [Doc. 10.66]

Comments: No comments were received on this issue.

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997 for a rationale explaining the U.S. submission of this resolution.

35. Captive breeding

a) Implementation of Article VII, paragraphs 4 and 5 [Doc. 10.67; Doc. 10.68; Doc. 10.69]

Comments: Comments were received from seven organizations on this issue, one of which was jointly endorsed by two separate organizations. One commenter stated that the draft resolution "is so restrictive and over-bearing that it is a disincentive to captive-breeding." Another organization encouraged the Service "to amend its resolution...to allow additional animals, eggs, or gametes from the wild to be added to the breeding stock to prevent deleterious in-breeding..." This commenter also suggested that there was insufficient time to guarantee that "more good than harm will result" from consideration of this resolution, and requested that consideration be "postponed." One commenter stated that birds "taken before some CITES designation should be exempt" and added further that "laws should encourage the redistribution of bloodlines to facilitate the maintenance of the most genetically diverse populations." Another set of comments expressed support for the U.S. submission, but urged the deletion of language which "permits the augmentation of parental breeding stock with the *'occasional addition of animals, eggs or gametes from wild populations.'*" This commenter stated opposition to the placement of confiscated live animals in captive breeding facilities. One commenter expressed opposition to the importation of animals, eggs, or gametes for captive breeding, and also suggested "postponement of discussions" of these issues until after COP10 because Parties "have not had sufficient time to review any documents that may be submitted by the Secretariat..." Another organization supported the Service's "efforts to design a comprehensive set of standards and requirements for captive-breeding facilities and applaud their proposal in so far as it establishes a thorough program for registration of facilities." One organization stated its concern with the U.S. draft resolution's "unnecessarily restrictive definition of F2" but stated that "this proposal serves to further reinforce the need to establish an exemption for 'special circumstances' species such as Asian elephants." This commenter opposed the resolution "in so far as it is more restrictive with regard to application of the definition of captive-bred" but supported the resolution "in so far as it paves the way for a limited, narrowly tailored exemption for species with special circumstances."

The United States submitted documents on captive breeding, and these documents are discussed in the March 27, 1997, **Federal Register** notice.

Doc. 10.67, 10.68.1, and 10.68.2 were not received from the Secretariat in time for inclusion in this notice. At COP9, the Parties directed the Secretariat, working with the Animals Committee, to prepare a new resolution consolidating the various extant resolutions dealing with the determination of whether a specimen is bred-in-captivity, and captive breeding of Appendix I animals for commercial purposes. The United States is closely evaluating the document from the Secretariat, and will provide detailed information, views, and positions throughout COP10. The United States is concerned however that discussions in the Animals Committee and indeed by the Secretariat in its proposed resolution, may go beyond the direction given to the Secretariat and the Animals Committee at COP9.

b) Proposals to register the first commercial captive-breeding operation for an Appendix I animal species

Comments: No comments were received on this specific sub-item.

U.S. Negotiating Position: No document has yet been received. Under Conf. 8.15, Parties must submit proposals for inclusion of operations breeding Appendix I species in captivity for commercial purposes. The Secretariat maintains a register of those facilities. Proposals are submitted to the Secretariat, which circulates them to the Parties. When a Party objects to inclusion of a facility in the Secretariat's register, and the objection cannot be resolved by the interested Parties, the proposal is discussed and voted upon by the COP (if the proponent country so wishes). This agenda item will include discussion of any pending proposals.

36. Hybrids

a) Amendment to Resolution Conf. 2.13 [Doc. 10.70]

Comments: Two comments were received on this specific sub-item, one of which was jointly endorsed by two separate organizations. One commenter supported the proposed U.S. opposition to this draft resolution, stating that it would weaken Conf. 2.13 "by allowing commercial trade in captive-bred hybrids of CITES-listed species without CITES regulation...These changes are contrary to the spirit of the Convention and will weaken species protection and enforcement efforts." The comments that were jointly endorsed by two separate organizations also supported U.S. proposed opposition to this draft resolution noting that the proposal "would weaken Conf. 2.13 by allowing commercial trade in captive-bred hybrids of CITES-listed species without CITES regulation."

U.S. Negotiating Position: This resolution was submitted by Australia and seeks to clarify the situation of animal hybrids. In accordance with Conf. 2.13, some hybrids may be subject to CITES provisions, even though they may not be specifically included in the Appendices to the Convention, if one or more of the parents' taxa are listed. Accordingly, if the parents are included on different Appendices, then the requirements of the more restrictive appendix apply. The proposed resolution would modify this system significantly, by recommending that a hybridized specimen only be considered as an Appendix I species if it was the progeny of one or more wild-caught Appendix I specimens. Hybridized specimens which do not meet the criteria would be treated as Appendix II species, and progeny from hybridized parental stock would be treated as if they were not included on any Appendix to the Convention.

The United States opposes this resolution. The United States believes that Conf. 2.13 is effective as written, well balanced in scope, effect, and intent, and needs no revision. By modifying Conf. 2.13 in the proposed manner, additional layers of complexity and confusion would be added to the issue of trade

in hybrid animal species. It could significantly increase illegal trade and risk to wild populations. In addition, these important conservation concerns arise from modifying Conf. 2.13 pursuant to the proposed resolution: (1) Full species in trade could erroneously be declared as hybrids by traders, in which case, effective law enforcement could be difficult. This could be especially significant regarding the trade in birds because of plumage that is highly variable, which may not accurately reflect the parentage of a particular specimen; (2) A captive-breeding facility may require supplementation of wild-caught parental stock in order to maintain a given level of hybrid specimen productivity; (3) The demand for pure Appendix I specimens will still require the acquisition of wild-caught stock, which may promote the laundering of wild-caught specimens under the guise of being captive-born or captive-bred hybrids; and (4) If hybrids are not protected by the more restrictive Appendix, deliberate hybridization could increase and serve to dilute available blood lines, thereby increasing pressure on wild populations to provide additional genetic material. Australia, the author of the proposed resolution, has concerns over specific species in that country and feels this issue could be satisfactorily addressed with a modification to Conf. 2.13. The United States disagrees with Australia, and strongly prefers that such concerns be addressed in a specific listing proposal.

b) Regulation of trade in animal hybrids [Doc. 10.71]

Comments: One set of comments was received on this specific sub-item. This commenter stated that this draft resolution represented "a reasonable approach to the issue of hybrids and the U.S. should support the proposal."

U.S. Negotiating Position: Doc. 10.71 was not received in time to be included in this notice. The United States supports the consensus reached by the Animals Committee at its last meeting on this issue, and hopes the Secretariat's document reflects that consensus.

37. Shipments covered by customs carnets [Doc. 10.72]

Comments: Comments were received from three organizations, two of which jointly endorsed one submission. One organization supported the "spirit of the resolution in so far as it encourages improved education and training for customs officials, as well as increased awareness of relevant requirements for shipments of wildlife," but expressed concern about the meaning of the draft resolution as it related to the legal force of customs carnets versus CITES permits and certificates, noting that these two different types of documents are "mutually exclusive under current law and practice." The comments which were jointly endorsed supported the draft resolution without providing specifics.

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

38. Frequent transborder movements of personally owned live animals [Doc. 10.73]

Comments: Comments were received from four organizations, two of which jointly endorsed one submission. One commenter, supporting the proposed U.S. position, stated that the draft resolution "represents a most practical and logical solution to the problems facing private owners of legally acquired and possessed Appendix I species who seek to temporarily transport their animals across international borders..." This organization stated that this draft resolution would have very positive effects in gaining captive-bred status for captive-born Asian elephants. The set of comments jointly endorsed by two

separate organizations also supported the proposed U.S. negotiating position, and recommended "that the certificate either be presented on re-entry or, if the animal cannot be returned, documentation to that effect be supplied to the...state of residence." These comments also stated that their support of the resolution was contingent on the acceptable of amendments being proposed by the United States. Another organization also supported the U.S. proposed position by noting that this proposed resolution "aims at correcting some inconsequential actions."

U.S. Negotiating Position: This resolution, jointly submitted by Switzerland and Germany, calls for the creation of a certificate of ownership to accompany CITES-listed, personally-owned, live animals frequently crossing international borders. The United States interprets the term personal or household effects in Article VII, paragraph 3, to include personally owned live animals that were acquired in the owner's state of usual residence. Other countries have not included live animals in their interpretation of this exemption, and the Secretariat maintains that position based on Conf. 4.12. The issuance of separate permits to people with personally owned live animals that frequently cross international borders (falconry practitioners, pet owners who travel, etc.) poses technical and administrative burdens. In addition, the Service is concerned with the number of retroactive permits it has had to issue, since the United States recognizes the exemption while other countries do not.

The United States will support the provisions of this resolution. Adoption of this resolution will reduce the administrative burdens to the animal owner and the countries to which the owner enters and exits, while ensuring marking and monitoring of movement to prevent illegal activities. However, despite general support for the provisions of this resolution, the United States believes that there remains a need to clarify the following elements in the resolution: (a) the animals must be accompanied by the owner; (b) the certificate of ownership must be validated by a Party's Customs or other appropriate authorities on import and re-export; and (c) the information on numbers of certificates issued by species must be recorded in each Party's annual report. In addition, the United States supports adoption of this resolution only if paragraph n) is adopted. This provision is to ensure that the owner not sell or transfer a live animal while outside the owner's usual state of residence under the certificate of ownership.

39. Live animals in traveling circuses [Doc. 10.74]

Comments: Five comments were received on this issue, with one submission endorsed by two separate organizations. One commenter opposed this resolution noting that its provisions "would present opportunities for fraud, for laundering Appendix I animals, and engaging in other illegal activities that would deleteriously affect wild populations as well as the integrity of the Convention." This commenter also stated that the consideration of the passport issue should be "held over for COP11." Another commenter expressed support for the "general concept" of "'passports' to facilitate movement of privately owned animals," but expressed concerns with "the resolution's limited application to government-owned or sponsored exhibitions, and the fact that the resolution as drafted does not address the concerns of other parties over appropriate safeguards to prevent illegal activity." One commenter stated that they oppose "this extremely vague resolution" and stated that "animal acts" do not "constitute an art form". This commenter also expressed doubts as to the feasibility of the passport provisions as drafted. Another set of comments, jointly endorsed by two organizations, opposed the draft resolution as "extremely vague and confusing" and stated that it "attempts to amend the treaty by creating a new category of exemption under Article VII."

U.S. Negotiating Position: Under CITES Article VII, paragraph 7, a Management Authority may

waive the permit requirements for the movement of live animals that are part of a traveling live animal exhibition if the exporter or importer is registered, the animals qualify as pre-Convention or captive-bred, and the animals are humanely transported and maintained. At COP8, the Parties adopted Conf. 8.16 to correct technical problems and prevent fraud in the movement of animals that are part of traveling exhibitions. Conf. 8.16 recommends that Parties issue a pre-Convention or captive-bred certificate for each animal as proof that the animal was registered. The certificates could be issued for three years and would not be collected at the border to allow for multiple shipments. Parties are expected to mark or identify each specimen.

This proposed resolution, submitted by the Russian Federation, considers a circus to be part of a nation's culture which does not use its animals for primarily commercial purposes. The resolution would grant circuses which are owned or funded by governments a "Certificate of Circus Animal." This certificate could not be issued to private or commercial circuses. The Certificate of Circus Animal would be proof that the circus is registered; that its specimens had been acquired in accordance with CITES; and that an Appendix I specimen that is born to the circus or for an animal acquired by the circus before transfer from Appendix II to Appendix I are of legal origin. This Certificate would be valid for all legal specimens, not just for pre-Convention or captive-bred specimens.

The resolution is an attempt to resolve a number of technical problems encountered by circuses. Currently, circuses can obtain certificates for three years under Conf 8.16 for pre-Convention or captive-bred animals. But they need to obtain other permits and certificates under Articles IV and V for Appendix II and III wildlife when pre-Convention or captive-bred requirements are not met. The second problem concerns progeny born to circuses that strictly do not meet Conf. 2.12, which is of particular concern for traditional circus species, such as the Asian elephant, that are long-lived and slow-maturing which have not had time to achieve sufficient F2 specimens. The third problem is the continued use of animals that were owned by circuses when a species is listed in Appendix II and then the species is transferred to Appendix I as happened with the African elephant. Some of these animals that are in the possession of a circus do not qualify as pre-Convention under Conf. 5.11 and so may no longer be used by circuses when traveling to other countries.

The United States will oppose this resolution. The United States does not believe that the CITES Parties should treat circuses owned or funded by a country's government differently from circuses that are privately owned. Although the United States recognizes that animals being moved by circuses are to stay in their possession and are not to be sold while the circus is outside its state of usual residence, the United States considers circuses to be conducting activities that are primarily commercial. The United States also does not agree that circuses should be exempted from the requirements of CITES as long as the Management Authority finds that the animals were legally acquired. This broad general exemption from the provisions of CITES could have serious implications for the conservation of some species.

On the other hand, the United States supports the use of a passport-type certificate similar to the Annex presented in the proposed resolution. The United States also recognizes that there are additional technical issues in Conf. 8.16 that could be clarified and looks forward to opportunities to explore these various issues.

40. Transport of live specimens [Doc. 10.75]

Comments: Four comments were received on this issue, one of which was jointly endorsed by two

separate organizations. One commenter referenced the activities of the Animals Committee Working Group focusing on this issue, and stated that the U.S. should not seek any further amendments to the group's recommendations. Another commenter wrote extensively on the IATA live animal transport guidelines, stating that "many of the IATA requirements will greatly contribute to the death or unnecessary abuse of birds in transit." This commenter called on the U.S. to abandon the IATA shipping guidelines. One commenter expressed general concern with the knowledge and expertise of Service wildlife inspectors, and stated that the Party's should "work together to develop a more comprehensive set of guidelines and resources for use by current inspection authorities." Another set of comments, jointly endorsed by two separate organizations, supported the Service's submission without giving detailed comments.

U.S. Negotiating Position: This is a United States sponsored resolution on behalf of the Animals Committee. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution. The United States agrees that the consensus document prepared by the Animals Committee should be adopted without major revisions, while at the same time retaining the essential portions of Conf. 9.23. The CITES Parties have endorsed the IATA Live Animals Regulations, as an international industry standard for the transport of live animals. The United States supports this endorsement, and will work for their implementation and enforcement, while also working to modify the IATA Regulations, when appropriate for the health and welfare of live animals in international trade.

41. Designation of Scientific Authorities [Doc. 10.76]

Comments: One comments was received, which was jointly endorsed by two separate organizations. These comments support the U.S. draft resolution.

U.S. Negotiating Position: This is a United States sponsored resolution. See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this resolution.

42. Standard nomenclature [Doc. 10.77]

Comments: No comments were received on this specific issue.

U.S. Negotiating Position: Doc. 10.77 was not received in time for inclusion in this notice.

43. Information on the population status and threats to *Ovis vignei* [Doc. 10.78]

Comments: Two comments were received on this issue, one of which was jointly endorsed by two separate organizations. One commenter stated that the U.S. "should oppose the recommendations of the Nomenclature Committee to consider all of the urial as listed on Appendix I." This commenter suggested that the U.S. propose a split-listing "which recognize the conservation programs of range states involving international sport hunting." Another set of comments, which was jointly endorsed, urged the Service to support the finding of the Nomenclature Committee which recommended that all subspecies of *Ovis vignei* be considered as listed on Appendix I. These commenters stated that they "reject plans by IUCN/SSC Caprinae Specialist Group and others to promote trophy hunting of these rare sheep, which are declining in the wild." This commenter supported "non-consumptive" uses of these animals, such that they can "remain in the population where they can continue to contribute to the gene pool of these rare subspecies."

U.S. Negotiating Position: This is an information document submitted by the Government of Germany discussing the population status and threats to *Ovis vignei*. The United States supports the effort to resolve the listing status of *Ovis vignei* and thanks the Government of Germany for presenting this document. The United States supports the recommendations of the Nomenclature Committee on this issue.

44. Traditional medicines and CITES [Doc. 10.79 and Doc. 10.80]

Comments: Two comments were received, one of which was jointly endorsed by two separate organizations. One commenter was "pleased to see that the United States is willing to promote discussion of the use of threatened and endangered species in traditional medicine." This commenter added, however, that discussions including the traditional medicine community "should not be an examination of ways to facilitate the regular, legal use of these at-risk species in medicine, but rather, a cooperative effort to promote conservation of these animals concomitant with promotion of alternatives to endangered animal remedies." The other comments, which were jointly endorsed, expressed no position.

U.S. Negotiating Position: One of the two documents in this item (Doc. 10.80) is a U.S.-submitted discussion paper, "Flora, Fauna and the Traditional Medicine Community: Working With People To Conserve Wildlife." See **Federal Register** notice of March 27, 1997, for a rationale explaining the U.S. submission of this document. The other discussion paper, "Traditional Medicine and CITES: A Discussion of Traditional East Asian Medicine," was submitted by the United Kingdom (Doc. 10.79).

The United States supports the Annex to Doc 10.79, submitted by the United Kingdom and most of its recommendations. The United States strongly supports cooperative educational efforts, working with consumer communities to increase understanding of the impacts of the wildlife trade and wildlife conservation, and facilitating the use of substitutes and alternatives to endangered species products, while respecting the value of traditional medicines and the cultures and communities that use them.. However, it continues to believe that understanding of the relationship between traditional medicine and endangered species is best worked out with the full involvement of each country's traditional medicine practitioners, a process that requires consensus building among members of that community. This involvement is critical if long-term change is to occur in patterns of traditional medicine use.

The United States supports several of the recommendations in Doc 10.79, including the following: (1) a resolution on traditional medicines containing wild species, with the caveat that representatives of traditional medicine communities must be intricately involved in the process; (2) directing the Animals Committee to include within the implementation of Resolution Conf. 8.9, a review of significant trade in animal species for medicinal use, with the understanding that representatives of traditional medicine communities should be asked to provide significant information; (3) directing the CITES Secretariat to convene a technical workshop to establish priority actions for addressing the complex problems of utilization of CITES-listed species in traditional East Asian medicines. The United States supports this recommendation in principle, but believes that such a workshop may be premature. The real work of addressing traditional medicine issues needs to be carried out within countries at local and regional levels, and led by community representatives. The United States recommends that the traditional medicine community and its affiliated industries convene any such technical workshop that is proposed so as to ensure that discussion and consensus reaches the appropriate levels in the community; (4) including within the continuing implementation of Resolution Conf.8.4, of a review of measures taken by Parties in their national legislation to control the import/export of medicinal products containing CITES-listed

species; and (5) strongly encouraging Parties to effectively implement Resolutions Conf. 9.13 and 9.14.

45. Financing of the conservation of biodiversity and development of sustainable use of natural resources [Doc. 10.81]

Comments: Four comments were received, one of which was jointly endorsed by two separate organizations. One organization opposed this draft resolution and stated that conservation funds should be generated "through sustainable use programs, such as sport hunting." Another commenter stated strong opposition, and urged the U.S. to "firmly oppose this study and urge parties and NGO's to raise needed funds through sustainable use programs and through their own government appropriations process." One organization wrote that the U.S. "should strenuously oppose any proposal to conduct a feasibility study on taxing the wildlife trade and the issuance of eco-certificates in order to provide conservation funds for biodiversity" and instead recommended that range state sustainable use programs could generate conservation funds. Two commenters also opposed this draft resolution stating that its recommendations are "beyond the scope of the treaty [and] would require the Standing Committee to involve itself in the internal finances of Parties."

U.S. Negotiating Position: In order to ensure the sustainable use of wildlife resources and to conserve biodiversity, this draft resolution would mandate that the Standing Committee, in liaison with the Convention on Biological Diversity (CBD), the Global Environmental Facility (GEF), the World Conservation Union (IUCN), and each Party, study the terms and conditions under which the establishment of a tax on wildlife specimens could be implemented and the allocation of such taxes. It recommends that the issuance of labels on wildlife and its products be subjected to the payment of such a tax.

While being supportive of biodiversity conservation and the sustainable use of wildlife, the United States opposes adoption of this resolution. The United States opposes the establishment of an international tax on wildlife use. The text of CITES neither obligates or authorizes Parties to levy any tax, whether direct or indirect, on the trade in animal or plant species that are included in the Appendices to the Convention. Nor is there a mechanism provided in CITES that would administer any funds generated from a tax on trade in a manner that would ensure sustainable trade and habitat conservation. Because the text of the Convention does not address the issue of taxation, the United States must oppose the draft resolution on Constitutional grounds. The Congress of the United States, which has exclusive jurisdiction over the passage of any legislation that would levy taxes on United States entities engaged in international trade, has not authorized such taxes to be imposed as part of the implementation of CITES.

46. Development of an Information Management Strategy [Doc. 10.82]

Comments: No comments were received on this issue.

U.S. Negotiating Position: The development of an information management strategy by the Secretariat was an item of discussion at the 37th meeting of the Standing Committee. The Secretariat presented a document for consideration by the Committee and described its proposal which involved the World Conservation Monitoring Centre. The United States supports the Secretariat's efforts to develop a better communication system between its offices and the Parties to facilitate the distribution of Notifications to the Parties and other pertinent information. At the Standing Committee meeting, the United States requested that the Secretariat prepare a list of Parties and their computer needs to assist

developing countries in obtaining the necessary computer equipment for an information management system to be put in place.

Doc. 10.82 was not received in time for inclusion in this notice. However, the United States will encourage the Secretariat and Parties to find the most cost effective yet efficient solution to these problems, and work with existing internet providers. The United States would not support a costly feasibility study, if other solutions were readily available. The U.S. will continue to urge the Secretariat to assess the computer and other information management needs of the Parties.

47. Inclusion of higher taxa [Doc. 10.83]

Comments: Four comments were received, one of which was jointly endorsed by two separate organizations. One commenter supported the proposed U.S. opposition to this draft resolution and stated that "its passage could lead to numerous split-listings which will ultimately make CITES enforcement difficult. [The resolution] is highly illogical and inconsistent with the language of the Convention itself and the new listing criteria adopted at COP9." Another organization commented that the U.S. should oppose this draft resolution as "confusing, unnecessary" as it would "vastly complicate the listing process...[and] lead to a proliferation of split-listings." One organization disagreed with the proposed U.S. position, as the resolution would "avoid negative consequences...on conservation programs" if adopted. Other comments, which were jointly endorsed by two separate organizations, opposed the draft resolution as it "would effectively make listings of higher taxa almost impossible by requiring separate annotations for each species [and] may interfere with management programs..."

U.S. Negotiating Position: This resolution, submitted by Namibia, recommends that the listing of higher taxa on the Appendices to the Convention not be made without considering negative consequences to geographically distinct populations. It also recommends the use of annotations on the Appendices to the Convention so that generalized indicators would be presented according to the conservation status and most appropriate management program for each listed species.

The United States opposes this resolution, but hopes that some of the issues raised can be addressed in the Nomenclature Committee. The United States believes that this resolution presents a system which would lead to a proliferation of confusing split-listings. There is already adequate flexibility in the Convention for Parties to make decisions as to how they manage populations of native species listed on the Appendices. In addition, the new listing criteria (Conf. 9.24, Annex 3) already adequately address the issues associated with split-listings, and in general, discourage their use. This subject was addressed at length at COP9, and the submission of this newer resolution does not allow for a fair amount of time for the Parties to implement the terms of Conf. 9.24. The Parties agreed at COP9 that reconsideration of the listing criteria should not occur until COP12, so that there is adequate experience gained with the use of the new listing criteria in Conf. 9.24.

48. Proposals concerning export quotas for specimens of Appendix I or II species [Doc. 10.84]

Comments: Two comments were received on this issue, one of which was jointly endorsed by two organizations. Both comments were on the markhor (*Capra falconeri*) proposal. One commenter stated that the U.S. should support the proposal to establish quotas as the program which would authorize the export of hunting trophies under this plan "is related to a sustainable use program designed to involve rural villages in the management and conservation of wildlife." Another set of comments, which was

jointly endorsed, urged the U.S. to oppose this draft proposal for several reasons: it "is inconsistent with Article III, para 2(d)" because it would permit "the exporting country to issue an export permit prior to the issuance of an import permit; "is inconsistent with Article III, para 3(c)...because it defines 'primarily commercial purposes'...in terms of the conditions at export; "is inconsistent with Resolution Conf. 2.11 (Rev.) because it removes the authority of the importing country to make an independent finding of non-detriment even if new data becomes available; "is inconsistent with Resolution Conf. 9.21 which requires that a request for a quota for an Appendix I species must be made by a proposal, not a resolution;" and because non-consumptive uses of markhor specimens will "ensure that animals remain in the population where they can continue to contribute to the gene pool of these rare subspecies."

U.S. Negotiating Position: The U.S. supports some aspects of Pakistan's proposed resolution containing both a proposed annual export quota for 6 markhor (*Capra falconeri* spp.) sport-hunted trophies, and an accompanying management plan. Countries can impose export quotas that they believe are needed to protect their wildlife resources and more easily enable them to make the required non-detriment findings. Export quotas on Appendix I species are limited to imports for non-commercial trade, including sport hunting trophies. The process is established in Resolution Conf. 9.21. The United States stated at COP9 that if a quota were adopted by the Parties and the United States felt that it should or could not comply with (*e.g.*, the species was listed under Endangered Species Act and required separate findings, or the United States was not convinced of the biological or trade control information presented), the United States would stipulate to that effect at the time of the relevant COP action. While Pakistan could approve the export of trophies of Appendix I species without obtaining concurrence on a quota from the CITES Parties, having a quota (1) assures the community that such trophies will be accepted by importing countries, and (2) provides the exporting country some additional support to control the level of offtake at the regional level. The biological and implementation information in the proposal appear to be adequate to support the very limited offtake requested in this resolution. The background document submitted provides information on the distribution, status, threats, and conservation measures relating to the markhor in Pakistan.

The United States does not oppose the Pakistan resolution, as the proposed quota of 6 markhor appears to be a conservative harvest level. Furthermore, with some modifications, the conservation plan is very positive. The United States notes that the subspecies *Capra falconeri chialtanensis* = *Capra aegagrus* (Chiltan markhor) is listed as endangered under the Endangered Species Act, although does not appear to be covered by the resolution. However, the straight-horned markhor (*Capra falconeri magaceros*) is also endangered under the ESA, and the finding of enhancement required for imports of endangered species may preclude issuance of permits for their import, even if the resolution is adopted.

XV. Consideration of proposals for amendment of Appendices I and II (this item consists of four subitems)

1. Proposals submitted pursuant to Resolution on Ranching [Doc. 10.85]
2. Proposals resulting from reviews by the Animals and Plants Committees [Doc. 10.86]
3. Proposals concerning export quotas for specimens of Appendix I or II species [Doc. 10.87]
4. Other proposals [Doc. 10.88]

The Service's summary of comments on proposals to amend the appendices and negotiating positions on these proposals will be presented in a separate **Federal Register** notice.

XVI. Conclusion of the meeting

Comments: No comments were received on this issue.

1. Determination of the time and venue of the next regular meeting of the Conference of the Parties [Doc. 10.89]

U.S. Negotiating Strategy: No documents have been received from the Secretariat regarding candidates as host government for COP11. The United States favors holding COP11 in a country where all Parties and observers will be admitted without political difficulties. The United States will support the holding of COPs on a biennial basis, or, as in the case of COP10, after an interval of approximately two and one half years.

Other Comments Received

Numerous comments were received on a variety of issues not directly related to issues on the provisional Agenda of COP10, and are not summarized here. However, information and comments were received regarding the issue of annotations of the CITES appendices for the purpose of transferring a species from Appendix I to II. The U.S. is currently considering whether to submit a draft resolution on this issue, and this issue is still under internal review. One set of comments submitted related to this issue, which was jointly endorsed by another organization as well. These organizations expressed concern that the "lack of guidelines to supervise the use of such annotations may cause many problems that could detrimentally effect [sic] species. For example, the Parties could transfer a species from Appendix I to Appendix II in a two-step process without any of the controls the Parties have adopted to ensure that species are not harmed by increased trade." In addition, these commenters expressed concern that there is currently no resolution in force that "supervises the use of product annotation, nor do the Parties have a review mechanism to ensure that a product annotation is not detrimental to the survival of the species."

The U.S. is concerned about the lack of guidance given to Parties on this issue due to the lack of an interpretive resolution to date. The U.S. believes that there is a very limited number of situations in which a product annotation may be useful, primarily in cases where multiple parts of a given species may be in trade, with a very wide disparity of value for the different parts and the products subsequently manufactured from them. The U.S. believes that trade in the lower value items may not always be a serious conservation concern, but that clear criteria and guidelines for their use are critical.

Authors: This notice was prepared by Bruce J. Weissgold and Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service.

Dated: JUN 2 1997

/s/ John G. Rogers

Acting Director
U.S. Fish and Wildlife Service

[Notice: Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); tenth regular meeting; summaries of public comments received and U.S. negotiating positions on agenda items and resolutions]

Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposals by Other Countries to Amend Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of decision.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animals and plants. Species for which such trade is controlled are listed in Appendices I, II, and III to CITES. Any country that is a Party to CITES may propose amendments to Appendix I or II for consideration by the other Parties.

This notice announces decisions by the U.S. Fish and Wildlife Service (Service) on negotiating positions to be taken by the United States delegation with regard to proposals submitted by Parties other than the United States. The proposals will be considered at the tenth regular meeting of the Conference of the Parties (COP10) to be held in Harare, Zimbabwe, June 9-20, 1997. This notice announces a deadline for public recommendations regarding potential reservations that could be taken by the United States on any listing decisions by the Parties at COP10. It also announces a potential amendment to the proposal submitted by the United States, and discussed in previous Federal Register notices, to include map turtles in Appendix II, and a revision to the proposal of the United States (also in the previous Federal Register notices) to include goldenseal in Appendix II.

DATES: Proposals mentioned in this notice are scheduled to be discussed along with preliminary votes by Party countries in committee on the weekdays from approximately June 11 to 17, 1997. Final votes in plenary sessions are likely on June 18 and 19, 1997, without discussion unless one-third of the Parties support the reopening of discussion on specific proposals. Any of these proposals that are adopted will enter into effect 90 days after the close of COP10 (i.e., on September 18, 1997). Public comments regarding potential reservations to be taken by the United States on listings adopted by the Parties at COP10 need to be received by the Service's Office of Scientific Authority by August 15, 1997.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Fax number: 703-358-2276. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m. Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C., telephone: 703-358-1708, fax: 703-358-2276.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three Appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless the trade is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those other species). Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

Any Party country may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses to all Parties no later than 30 days before the meeting. Proposals submitted to the Secretariat are subsequently distributed to all Parties. The proposals submitted by the United States or cosponsored with other Parties for consideration at COP10 were addressed in the April 16, 1997, Federal Register (62 FR 18559). After preliminary review of other Parties' proposals received for consideration at COP10, the Service announced the proposals and invited comments on tentative negotiating positions in the April 17, 1997, Federal Register (62 FR 18731).

This notice announces the negotiating positions to be taken by the United States delegation on the proposals submitted by the Parties other than the United States for consideration at the forthcoming meeting of the Parties. It also announces a potential amendment to a proposal submitted by the United States and discussed in previous Federal Register notices of August 26, 1996 (61 FR 44324) and April 16, 1997 (62 FR 18559), to include all species of map turtles (genus *Graptemys*) in Appendix II, and an amendment to the proposal by the United States (also in the previous Federal Register notices) to include goldenseal (*Hydrastis canadensis*) in Appendix II. The decisions announced in this notice represent formal guidance to the delegation. Although it is neither practical nor in the best interests of the United States to establish inflexible negotiating positions, the delegation will seek to obtain agreement of the Conference of the Parties with these positions unless new information becomes available

(see Summary of Positions). Decisions on negotiating positions on resolutions and agenda items to be considered at COP10 are presented in a separate Federal Register notice.

Proposals on Map Turtles and Goldenseal by the United States

On January 10, 1997, the United States submitted a proposal to the CITES Secretariat, for consideration at COP10, to include all species of map turtles (genus *Graptemys*) in Appendix II. This proposal, like all proposals submitted by the United States, was developed through a public process and first suggested formally in an August 26, 1996, Federal Register notice (61 FR 44324). As a result of input received, the final proposal was modified such that three of the twelve species would be included in Appendix II only because of similarity of appearance to the other nine species. The Service's argument in reaching that position was that, even though those three species (*Graptemys geographica*, *G. pseudogeographica*, and *G. ouachitensis*) were common and widely distributed, their listing was necessary in order that trade in the other more vulnerable species could be effectively controlled. In subsequent discussions, the International Association of Fish and Wildlife Agencies (IAFWA) asked the Service to remove those three species from the proposal, if the range States of the other nine species agreed to take certain actions that would result in the same level of protection being achieved that was intended by the Service's proposed listing. In response, the Service developed a list of State actions it deemed necessary to fulfill the intended purpose and agreed to remove the three species from the proposal, if the States would agree to engage in dialogue about implementing the needed actions. If the range States respond positively to the Service's position, the Service will amend its proposal accordingly at COP10. Subsequently, if the envisioned protection is not afforded the nine more vulnerable species, the Service will reconsider proposing the remaining three species for inclusion in either Appendix II or Appendix III.

The proposal to include *Hydrastis canadensis* (goldenseal) in Appendix II, which was submitted to the CITES Secretariat by the United States on January 10, 1997, for consideration by the other Parties at COP10 (see 62 Federal Register 18559, April 16, 1997), is being revised to exclude the finished pharmaceutical products (i.e., the end-product medicinals), so the annotation would read: "Roots, rhizomes or rootstocks, and specimens recognizable as being parts thereof, as well as powder thereof in bulk". The listing would also have the standard exclusions such as seeds, as specified in 50 CFR Part 23.23(d).

The possibility of an amendment to not regulate all parts and derivatives of this species was presented in the proposal (Section 7.1) and the April 16, 1997 Federal Register (62 FR 18571). The Service believes that this lesser regulation, which would include raw powder still in the manufacturing process but not the finished products for the consumer such as capsules, is sufficient to begin a cooperative endeavor for the conservation of goldenseal. Should it be found with experience that this is insufficient regulation, a new CITES proposal to include other parts or derivatives could be presented to the Parties to consider, and would be announced in some future Federal Register with a similar process for comments from the public.

Comments Received

A public meeting held on April 25, 1997, provided opportunities for comments from organizations and the general public on the tentative positions published in the April 17, 1997, Federal Register (62 FR 18731). These meetings were attended by 33 non-Federal-government individuals, representing 24 non-government organizations, one embassy, one foreign government agency, and three private businesses. Some of these attendees did not comment, and some followed up their verbal comments with written statements. Nineteen additional organizations, one business, and five unaffiliated individuals provided substantive written comments during the comment period on species proposals.

Most of the animal proposals received comment from at least one organization. The proposals receiving the greatest attention were those on elephants, whales, brown bear, white rhinoceros, vicuña, hawksbill sea turtle, and map turtles (the amendment being considered for the U.S. proposal). Written comments on plant species were received from three organizations and one specialist in certain aspects of plants. Cumulatively, all plant proposals were addressed by commenters, with the most comments concerning one or more of the proposals on cacti.

The Service has prepared a summary of public comments entitled "Assessment of Comments on Species Listing Proposals." The separate development of this document, in keeping with past practice of the Service, allows for more timely and less expensive publication in the Federal Register. Although biological and trade information received from individuals and organizations after the comment period expired is not referenced in this document, all such information was considered on the basis of its scientific and/or technical merit. The "Assessment of Comments on Species Listing Proposals" is available from the Office of Scientific Authority upon request.

Summary of Positions

As a consequence of (a) careful review and analysis of public comments and (b) new information that has become available from a variety of other sources since publication of tentative positions in the earlier Federal Register (62 FR 18731), some positions have been changed. Nine changes relate to animal listing proposals. Six of these (related to brown bear, vicuña, and Nile crocodile) involve negotiating positions previously "under review" and three (on vicuña annotations and South American curassows) involve reversals of position. Two changes involve plant listing proposals. One (on cut flowers of various families) involves a reversal of position; and one (on several taxa or groups of commonly propagated plants) involves a position formerly "under review." The latter involves a detailed review and analysis prepared by the Service that will be provided to interested Parties at COP10. All changes in position since the previous notice were made on the basis of new information, including information provided through the public comment process.

The negotiating positions presented in the following table are based upon (a) the best available biological and trade information available to the Service at this time, (b) the criteria adopted at COP9 for listing species in the Appendices (Resolution Conf. 9.24), (c) Confs. 3.15 and 8.22 on ranching, and (d) Conf. 9.18 on regulation of trade in plants. Rationale for (and/or commentary on) each current position is presented in footnotes referenced in the table. In some cases, only the rationale for a position has changed from that presented in the previous notice. The bases for some positions, particularly those that have changed since the previous notice, are further explained in the separate "Assessment of Comments on Species Listing Proposals."

Although this notice sets forth the negotiating positions of the United States at COP10, new information that becomes available during a COP can often lead to modifications in positions. Support or opposition to particular proposals may depend on whether certain questions about them are answered satisfactorily at the meeting. At COP10, the U.S. delegation will disclose all position changes and the rationale for them.

Species	Proposed amendment	Proponent	U.S. position
MAMMALS			
Order Diprotodontia:			
Burramys parvus (Mountain pygmy possum)	Deletion from Appendix II	Australia	Support[1]
Dendrolagus bennettianus (Bennett's tree kangaroo)	Deletion from Appendix II	Australia	Support[1]
Dendrolagus lumholtzi (Lumholtz's tree kangaroo)	Deletion from Appendix II	Australia	Support[1]
Order Xenarthra:			
Chaetophractus nationi (Hairy armadillo)	Inclusion in Appendix I	Bolivia	Support[1]
Order Cetacea:			
Eschrichtius robustus (Gray whale)	Transfer of the Eastern Pacific stock from Appendix I to II	Japan	Oppose[2]

Species	Proposed amendment	Proponent	U.S. position
Balaenoptera acutorostrata (Minke whale)	Transfer of the Okhotsk Sea West Pacific and the Southern Hemisphere stocks from Appendix I to II	Japan	Oppose[2]
Balaenoptera acutorostrata (Minke whale)	Transfer of the Northeast Atlantic and the North Atlantic Central stocks from Appendix I to II	Norway	Oppose[2]
Balaenoptera edeni (Bryde's whale)	Transfer of the North Pacific Western stock from Appendix I to II	Japan	Oppose[2]
Order Carnivora:			
Ursus arctos (Brown bear)	Transfer of all Asian and European populations from Appendix II to I	Bulgaria and Jordan	Oppose[3]
Ursus arctos (Brown bear)	Transfer of all Asian and European populations from Appendix II to I	Finland	Oppose[3]
Panthera onca (Jaguar)	Establishment of annual export quotas for hunting trophies of zero in 1997, 1998, and 1999 and of 50 thereafter	Venezuela	Oppose[4]
Order Proboscidea:			
Loxodonta africana (African elephant)	Transfer of the Botswanan population from Appendix I to II, with certain annotations[5]	Botswana, Namibia, and Zimbabwe	Under review[6, 7, 8]
Loxodonta africana (African elephant)	Transfer of the Namibian population from Appendix I to II, with certain annotations[9]	Botswana, Namibia, and Zimbabwe	Under review[6, 8, 10]
Loxodonta africana (African elephant)	Transfer of the Zimbabwean population from Appendix I to II, with certain annotations[11]	Botswana, Namibia, and Zimbabwe	Under review[6, 8, 12]

Species	Proposed amendment	Proponent	U.S. position
Order Perissodactyla:			
Ceratotherium simum simum (Southern white rhinoceros)	Amendment to annotation 503 in the CITES Appendices) to allow trade in parts and derivatives but with a zero export quota	South Africa	Oppose[13]
Order Artiodactyla:			
Pecari tajacu (Collared peccary)	Deletion from Appendix II (Mexican population)	Mexico	Oppose[14]
Vicugna vicugna (Vicuña)	Annotated transfer of certain populations to Appendix II[15]	Argentina	Oppose[16, 17, 18]
Vicugna vicugna (Vicuña)	Annotated transfer of certain populations to Appendix II[19]	Bolivia	Under review[18, 20]
Vicugna vicugna (Vicuña)	Amendment to annotation 504 in the CITES Appendices to replace the words "VICUÑANDES-CHILE" and "VICUÑANDES-PERU" with the words "VICUÑA-COUNTRY OF ORIGIN"	Peru	Support[21]
Vicugna vicugna (Vicuña)	Amendment to annotation 504 (in the CITES Appendices list) to allow also the countries that are members of the Vicuña Convention to utilize the term VICUÑA-PAIS DE ORIGEN-ARTESANIA, along with the authorized trademark, on luxury handicrafts and knitted articles made of wool sheared from live vicuñas from Appendix II populations	Peru	Oppose[18]

Species	Proposed amendment	Proponent	U.S. position
Elaphurus davidianus (Père David's deer)	Inclusion in Appendix II	Argentina and China	Support[1]
Bison bison athabascae (Wood bison)	Transfer from Appendix I to II in accordance with precautionary measure B.2.b) of Resolution Conf. 9.24, Annex 4	Canada	Under review[22]
Bos javanicus (Banteng)	Inclusion in Appendix I	Thailand	Support[1, 23]
Bubalus arnee (Water buffalo)	Include in Appendix I	Thailand	Support[1]
Ovis ammon nigrimontana (Kara Tau argali)	Transfer from Appendix II to I	Germany	Support[1]
BIRDS			
Order Galliformes:			
Pauxi pauxi (Northern helmeted curassow)	Inclusion in Appendix II	Netherlands	Support[1]
Pauxi unicornis (Horned curassow)	Inclusion in Appendix II	Netherlands	Support[1]
Order Gruiformes:			
Turnix melanogaster (Black-breasted button-quail)	Deletion from Appendix II	Australia	Oppose[24]
Pedionomus torquatus (Plains wanderer)	Deletion from Appendix II	Australia	Support[1]
Gallirallus australis hectori (Eastern weka rail)	Deletion from Appendix II	New Zealand	Support[1]
Order Psittaciformes:			
Amazona agilis (Black-	Transfer from Appendix II to I	Germany	Support[1]

Species	Proposed amendment	Proponent	U.S. position
Amazona viridigenalis (Red-crowned parrot)	Transfer from Appendix II to I	Germany	Support[1]
Cacatua sulphurea (Lesser sulphur-crested cockatoo)	Transfer from Appendix II to I	Germany	Support[1]
Eunymphicus cornutus uvaeensis (Ouvea horned parakeet)	Transfer from Appendix II to I	Germany	Oppose[25]
Vini kuhlii (Kuhl's lorikeet)	Transfer from Appendix II to I	Germany	Support[1]
Vini peruviana (Tahitian lorikeet)	Transfer from Appendix II to I	Germany	Support[1]
Vini ultramarina (Ultramarine lorikeet)	Transfer from Appendix II to I	Germany	Support[1]
Order Coraciiformes:			
Aceros waldeni (Writhed-billed hornbill)	Transfer from Appendix II to I	Germany	Support[1]
Order Passeriformes:			
Leiothrix argentauris (Silver-eared mesia)	Inclusion in Appendix II	Netherlands	Support[1]
Leiothrix lutea (Red-billed leiothrix)	Inclusion in Appendix II	Netherlands	Support[1]
Liocichla omeiensis (Omei Shan liocichla)	Inclusion in Appendix II	Netherlands	Support[1]
Tangara fastuosa (Seven-colored tanager)	Inclusion in Appendix II	Germany and the Netherlands	Support[1]
Amandava formosa (Green avadavat)	Inclusion in Appendix II	Netherlands	Support[1]

Species	Proposed amendment	Proponent	U.S. position
Padda oryzivora (Java sparrow)	Inclusion in Appendix II	Netherlands	Support[1]
Gracula religiosa (Hill mynah)	Include in Appendix II	Netherlands and the Phillippines	Support[1]
REPTILES			
Order Testudinata:			
Callagur borneoensis (Painted terrapin)	Inclusion in Appendix II	Germany	Support[1]
Eretmochelys imbricata (Hawksbill sea turtle)	Transfer of the Cuban population from Appendix I to II with certain annotations[26]	Cuba	Oppose[14]
Order Crocodylia:			
Caiman latirostris (Broad-snouted caiman)	Transfer of the Argentine population from Appendix I to II, pursuant to resolution on ranching	Argentina	Under review[27]
Crocodylus niloticus (Nile crocodile)	Maintenance of the Malagasy population in Appendix II, pursuant to resolution on ranching	Madagascar	Oppose[28]
Crocodylus niloticus (Nile crocodile)	Establishment of an annual export quota of 1000 skins and 100 hunting trophies from wild animals for the years 1998-2000	Tanzania	Oppose[29]
Crocodylus niloticus (Nile crocodile)	Maintenance of the Ugandan population in Appendix II, pursuant to resolution on ranching	Uganda	Support[30]
Order Sauria:			
Varanus bengalensis	Transfer of the population of	Bangladesh	Oppose[14]

Species	Proposed amendment	Proponent	U.S. position
Varanus flavescens (Yellow monitor)	Transfer of the population of Bangladesh from Appendix I to II subject to annual export quotas of 100,000 skins in 1997, 1998, and 1999	Bangladesh	Oppose[14]
AMPHIBIANS			
Order Anura:			
Mantella bernhardi (Golden mantella)	Inclusion in Appendix II	Netherlands	Support[1]
Mantella cowani (Golden mantella)	Inclusion in Appendix II	Netherlands	Support[1]
Mantella haraldmeieri (Golden mantella)	Inclusion in Appendix II	Netherlands	Support[1]
Mantella viridis (Golden mantella)	Inclusion in Appendix II	Netherlands	Support[1]
MOLLUSKS			
Class Gastropoda:			
Paryphanta spp. (New Zealand amber snails)	Deletion from Appendix II	Switzerland	Support[1]

Species	Proposed amendment	Proponent	U.S. position
OTHER ANIMAL PROPOSALS			
Any Appendix II species annotated to limit the trade to certain types of specimens	Amendment to the relevant annotations of Appendix II species annotated to limit the trade to certain types of specimens, to include the following wording: "All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly."	Switzerland	Support[31]
PLANTS — GENERAL			
Araliaceae: *Panax quinquefolius* (American ginseng)	Amend the Appendix II listing of this species (*cf.* current annotation #3), to include only the following parts: "Roots and specimens recognizable as being parts of roots".	Switzerland	Support[32, 33]
Cactaceae spp. (Cacti): Mexican cacti	Amend the Appendix II listing for this family (*cf.* current annotation #4), to include seeds of cacti from Mexico, except those seeds obtained from artificial propagation in Production Units.	Mexico	Support[1, 6, 34]
Leguminosae (Fabaceae): *Pericopsis elata* (Afrormosia), and Meliaceae: *Swietenia mahagoni* (Caribbean mahogany)	Amend the Appendix II listing of these two species (*cf.* current annotation #5), to include only the following parts: "Logs, sawn wood, and veneer sheets".	Switzerland	Support[35]

Species	Proposed amendment	Proponent	U.S. position
Proteaceae: *Orothamnus zeyheri* (Marsh-rose)	Transfer from Appendix I to Appendix II, in accordance with precautionary measure B.2.b) of Resol. Conf. 9.24, Annex 4.	South Africa	Support[1]
Protea odorata (Ground-rose or Swartland sugarbush)	Transfer from Appendix I to Appendix II, in accordance with precautionary measure B.2.b) of Resol. Conf. 9.24, Annex 4.	South Africa	Oppose[14, 24, 36]
Scrophulariaceae: *Picrorhiza kurrooa* (Kutki)	Include in Appendix II, along with only the following parts[37]: "Roots [i.e., rhizomes/ rootstocks] and readily recognizable parts thereof".	India	Support[1, 33]
Theaceae: *Camellia chrysantha*, which is *Camellia petelotii* in part (Golden-flowered camellia)	Delete from Appendix II.	China	Support[1]
Valerianaceae: *Nardostachys grandiflora* (= *Nardostachys jatamansi* misapplied) (Himalayan nard or spikenard)	Include in Appendix II, along with only the following parts[37]: "Roots [i.e., rhizomes/ rootstocks] and readily recognizable parts thereof".	India	Support[1, 33]
PLANTS — ARTIFICIAL PROPAGATION			
Families other than Orchidaceae (Orchids)	Amend the listings of most plant families now in Appendix II (current annotations #1, #2, #4, and #8), to also exclude the following part: "Cut flowers of artificially propagated plants".	Switzerland	Support[38]

Species	Proposed amendment	Proponent	U.S. position
Cactaceae spp. (Cacti): (1) Hybrid Easter cactus; (2) Christmas cactus, Crab cactus; (3) Red cap cactus, Oriental moon cactus; and (4) Bunny ears cactus.	Amend the Appendix II listing for this family (*cf.* current annotation #4), to exclude artificially propagated specimens of the following hybrids and/or cultivars: (1) *Hatiora* × *graeseri* (= *H. gaertneri* × *H. rosea*); (2) *Schlumbergera* (= *Zygocactus*) hybrids and cultivars [*sic*][39] (*S. truncata* cultivars, and its hybrids with *S. opuntioides* [= *S.* × *exotica*], *S. orssichiana*, and *S. russelliana* [= *S.* × *buckleyi*]); (3) *Gymnocalycium mihanovichii* cultivars (those lacking chlorophyll, grafted[40]); and (4) *Opuntia microdasys*.	Denmark	Oppose[41]
Euphorbiaceae: Succulent *Euphorbia* spp. (Succulent euphorbs): Three-ribbed milk tree	Amend the Appendix II listing of succulent *Euphorbia* spp., with an annotation to exclude artificially propagated specimens of *Euphorbia trigona* cultivars[42].	Denmark	Oppose[41]
Primulaceae: *Cyclamen* spp. (Cyclamens): Florist's cyclamen	Amend the Appendix II listing of *Cyclamen* spp., with an annotation to exclude artificially propagated specimens of the hybrids and cultivars of *Cyclamen persicum*, except when traded as dormant tubers.	Denmark	Oppose[41]

[1]The listing, uplisting, downlisting, or delisting of this taxon (or parts in the case of some plants) appears to be consistent with the relevant biological, trade, and precautionary criteria of Resolution Conf. 9.24.

[2] The United States continues to support the 1978 request from the International Whaling Commission (IWC) to take all possible measures to support the IWC ban on commercial whaling for certain species and stocks of whales and therefore opposes the transfer of this species from Appendix I to Appendix II.

[3]The proposal from Bulgaria and Jordan defers to the details presented in the proposal from Finland. Although it is clear that some of the European or Asian populations of this species not presently included in Appendix I meet the criteria for Appendix I, the United States is not convinced by the proposal that the brown bear population of Russia qualifies. The Russian population is subject to a managed sport harvest that appears to be in itself sustainable, but this population in particular is also prone to illegal take for medicinal products. Unless Russia supports the proposal and there is no compelling objection from other range states, the United States opposes the proposal as written. However, the United States would support an amended proposal that addresses specific range state populations (i.e., all members of the species within specified national boundaries) meeting the biological criteria for Appendix I, if the proposal is supported by the relevant range state(s).

[4]The proposal acknowledges that the jaguar population proposed for phased-in trophy-hunting may be the most threatened population in the country. The United States opposes this proposal without (a) a more convincing case that trophy hunting will not add to existing pressure on the jaguar population and (b) a management plan involving comprehensive population monitoring in the affected area.

[5] Annotated to allow: a) the direct export of registered stocks of whole raw tusks of Botswana origin to one trading partner (Japan) subject to annual quotas of 12.68 t. in 1998 and 1999; b) international trade in hunting trophies; and c) international trade in live animals to appropriate and acceptable destinations.

[6]The proposal presents biological information that supports the proposed action.

[7]The Panel of Experts report on this proposal noted deficiencies in the record-keeping system for the ivory stockpile and showed there is no clear plan for use of ivory revenues to benefit elephant conservation. It also noted the existence of some movement of ivory through the country. The United States has concerns about these reported deficiencies and about the adequacy of trade controls in the importing country.

[8]The United States is consulting other African elephant range states to determine whether adoption of this proposal by the Parties would cause conservation concerns in other portions of the species' range.

[9]Annotated to allow: a) the direct export of registered stocks of whole raw tusks of Namibian origin owned by the government of Namibia to one trading partner (Japan) that will not re-export, subject to annual quotas that will not exceed 6900 kg. between September 1997 and

August 1998 and between September 1998 and August 1999; b) international trade in live animals to appropriate and acceptable destinations for non-commercial purposes; and c) international trade in hunting trophies for non-commercial purposes.

[10]Although noting there is probably some movement of ivory through the country, the Panel of Experts reported satisfactory to excellent internal management controls in Namibia and an excellent legal structure for establishing a conservation fund with ivory stock sale revenues. The Panel concluded that the proposal would likely benefit elephant conservation in Namibia. The United States has concerns about the adequacy of trade controls in the importing country.

[11]Annotated to allow: a) the direct export of registered stocks of whole raw tusks to one trading partner (Japan) subject to annual quotas of 10 t. in 1998 and 1999; b) international trade in hunting trophies; c) international trade in live animals to appropriate and acceptable destinations; d) international trade in non-commercial shipments of leather articles and ivory carvings; and e) export of hides.

[12]The Panel of Experts noted deficiencies in trade enforcement controls in Zimbabwe, including failure to prevent illegal exports of large commercial shipments of worked ivory, and showed there is no clear plan for use of ivory revenues to benefit elephant conservation. It also noted the existence of significant movement of ivory through the country. The United States has concerns about these reported deficiencies and about the adequacy of trade controls in the importing country.

[13]While acknowledging the excellent record of the government of South Africa in restoring populations of this species, the United States is concerned about potential detrimental effects of re-opening a legal international trade in rhinoceros horn. The United States has invested considerable effort into encouraging use of alternatives to rhinoceros horn derivatives in traditional Asian medicines.

[14]The proposal does not present sufficient biological information to justify the listing, uplisting, downlisting, or delisting as proposed, based on the criteria in Resolution Conf. 9.24.

[15]Transfer of the population of the Province of Jujuy and of the semicaptive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan, Argentina, from Appendix I to II, with an annotation to allow only the international trade in wool sheared from live vicuñas, and in cloth and manufactured items made thereof, under the mark, "VICUÑA-ARGENTINA."

[16]Although the population may no longer meet the biological criteria for Appendix I, the proposal does not yet satisfy the precautionary measures of Annex 4 of Resolution Conf. 9.24. The proposal does not clearly describe a population monitoring program, does not demonstrate either local incentives for conservation or the existence of effective controls on production and export of products, and does not present sufficient detail to indicate transparency in the vicuña conservation fund.

[17]The United States is opposed to international trade in raw wool during the early phases of a vicuña downlisting, before a management plan has been implemented and shown to be effective, unless convincing safeguards are demonstrated by the proponent.

[18]The United States is concerned about the risks of large quantities of luxury handicrafts and knitted articles derived from vicuña wool leaving the countries of origin without CITES controls, because of the CITES personal effects exemption.

[19]Transfer of the populations of the Conservation Units of Mauri-Desaguadero, Ulla Ulla, and Lipez-Chicas, Bolivia, from Appendix I to II, with an annotation to allow only the international trade in cloth and manufactured items made thereof, under the mark, "VICUÑA-BOLIVIA."

[20]The proposal presents excellent population data and a well conceived approach to development of management plans and follow-through monitoring of the effectiveness of vicuña management in different socio-economic regimes. The United States considers this proposal to be under review until the report on exports of vicuña cloth at COP10 is presented and evaluated. Despite the quality of the proposal, the United States does not believe that trade in vicuña products from Bolivia is warranted until the proposed management plan is operational and the Parties have an opportunity to consider other than a zero quota for vicuña products, and provided that export will be limited initially to easily controlled products.

[21]The United States sees no difficulties with such a change in the labeling of approved products.

[22]Because of the remote isolation of the wild population, and because of the risk of disease spreading to captive populations if wild animals are introduced, it is highly unlikely that trade in wood bison presently in captivity would be detrimental to the survival of the species in the wild. Nonetheless, the species appears to meet the biological criteria for retention in Appendix I. The proposal remains under review, while the United States consults with Canada to obtain clarification on the species' status.

[23]The United States supports the exclusion from this proposal of introduced populations remote from the natural range, e.g., the introduced population of Australia.

[24]Although trade is not recorded, the population is so small that retention in the Appendices would seem advisable as a precautionary measure in the event illegal trade should ever occur.

[25]Because the subspecies are extremely similar and occur in the same jurisdiction, the proposed split-listing would be practically unenforceable and would be inconsistent with Annex 3 of Resolution Conf. 9.24.

[26]Annotated to allow: a) trade in current registered stocks of shell with one trading partner (Japan) that will not re-export; and b) export in one shipment per year, to the same partner, of shell marked in compliance with Resolution Conf. 5.16, which allows definitive identification of

origin, from a traditional harvest (maximum 500 individuals per year) or from an experimental ranching program (anticipated: 50 individuals in the first year; 100 in the second year; and 300 in the third year).

[27]The United States is not convinced that the necessary trade controls (including a tagging scheme in accordance with Resolution Conf. 9.22) are in place to ensure that the ranching program will be beneficial to the species and is continuing to seek clarification from Argentina.

[28]The United States opposes the proposal on the basis that it does not provide a clear picture of the regulatory and control measures that need to be in place in order to monitor ranching operations and control trade. A modified proposal under quota provisions that would allow for export of 200 or fewer problem animals, and a quota of 3,000-5,000 ranched animals as previously allowed, would be acceptable.

[29]The United States opposes export of more than 200 nuisance animals and more than 100 sport trophies, because the reporting requirement related to the previous approval by the Parties of export of 1,000 wild-caught nuisance animals and 100 trophies does not present sufficient information to justify the level of harvest and subsequent export of wild animals outside protected areas. The IUCN Crocodile Specialist Group does not believe that the current wild harvest is sustainable and questions the accuracy of crocodile export reports.

[30]The United States supports the proposal, conditional upon Uganda agreeing to (a) monitor the effect of release of juveniles in the wild and to adjust egg collection limits if necessary; (b) clarify the manner in which the ranching program provides conservation benefits to the species; and (c) accepting a CITES Secretariat review (in consultation with the IUCN Crocodile Specialist Group) of the progress of the ranching program prior to the next meeting of the Conference.

[31]The United States believes the recommended language would help clarify annotated downlistings, such as that of the South African population of the white rhinoceros, and reduce the possibility of misinterpreting or abusing the downlisting process. However, annotation of the Appendices is a complex and confusing subject that deserves a thorough review from legal and technical perspectives. Accordingly, the United States has prepared a draft resolution on annotated downlistings, presently under internal review, and looks forward to detailed discussion at COP10.

[32]The current listing includes "Roots and readily recognizable parts thereof". The proposed revision is considered to be a minor change, which would clarify and keep the intent of the 1985 proposal (at COP5) to include whole roots and the larger parts thereof, and to exclude minor pieces and processed products. Some importing Parties have found that the current annotation can be interpreted too broadly.

[33]The United States will recommend standardization of the inclusion of the parts for *Panax quinquefolius* (American ginseng), *Picrorhiza kurrooa* (Kutki), and *Nardostachys grandiflora* (Himalayan nard), with the annotation "Roots, rhizomes or rootstocks, and specimens recognizable as being parts thereof". This would keep the intent of the proposal of Switzerland for *Panax quinquefolius*, and the intent of the proposals of India for the other two species, while accommodating those two species' different morphology of having rhizomes or rootstocks.

[34]This proposal is considered necessary to assist enforcement of Mexican law that regulates the export of seeds collected in the wild from cacti in Mexico. The Government of Mexico, at the November 1996 meeting of the CITES Plants Committee, presented information on recent violations of Mexican law and over-collection of cactus seeds of various taxa for export to various Party countries. The United States is discussing with Mexico how they intend to administer the differentiation of seeds collected in the wild from seeds produced by artificial propagation in their Production Units (i.e., nurseries). We understand that this proposal only covers the populations of cacti in Mexico; it does not cover populations of Mexican cacti native beyond Mexico, or specimens of Mexican cacti artificially propagated elsewhere than in Mexico.

[35]These two current listings include "Saw-logs, sawn wood, and veneers". The proposed revision is considered to be a minor change, which would correspond to the categories and definitions of HS codes 44.03 (logs), 44.06 and 44.07 (sawn wood), and 44.08 (veneer sheets) in the Harmonized System of the World Customs Organization. The change was recommended by the CITES Timber Working Group.

[36]There are so few individuals and populations of this species known in the wild, and so few artificially propagated individuals available in cultivation, that continued inclusion of the species in Appendix I is considered to be an appropriate precaution.

[37]The proposal for this species discusses its rhizomes or rootstocks rather than botanical roots.

[38]The proposal seeks to establish a new standard exclusion for Appendix II taxa. Presently, there is no known cut-flower trade in the pertinent listed Appendix II taxa (i.e., the taxa other than orchids), either from the wild or from flowers produced by artificial propagation (nor are there any complications in any trading of their hybrids with Appendix I taxa). The conservation of species in the wild is therefore considered to be unaffected by this proposed new standard listing for Appendix II (and probably Appendix III), to which exceptions (i.e., inclusion of the cut flowers) can be made whenever warranted in future proposals for particular taxa. Although the proposal did not address the taxa of Nepal in Appendix III, which also have their listings standardized with the current annotation #1, we expect the Secretariat to encourage Nepal to accept this new exclusion for those listings as well.

[39]This proposal is considered to not include all taxa (or hybrids and cultivars) of *Schlumbergera*, but just those listed in detail in the proposal and in this *Federal Register* notice. If this proposal goes forward, the United States will seek clarification or an amendment to that more limited effect.

[40]The proposal stated that the artificially propagated grafting stocks are mostly specimens of *Hylocereus* species and *Harrisia* 'Jusbertii', but these taxa (and any other cactus taxa that might be used as grafting stock) were not directly presented for similar exclusion. The United States will consider supporting this portion of the proposal, if an amendment to specify the taxa of the grafting stocks, for example only *Harrisia* 'Jusbertii', *Hylocereus trigonus* and *Hylocereus undatus* can be adopted.

[41]Although the stipulated taxa are artificially propagated extensively, the risk either to other taxa in the wild or to pertinent natural taxa needs consideration. The burden for enforcement would be significantly complicated by excluding these artificially propagated specimens. Nevertheless, minimizing or reducing the implementation burden, and the regulation of artificially propagated specimens, are worthy goals, when there is no risk to taxa in the wild.

[42]This proposal is considered not to include *Euphorbia hermentiana*, which we understand is not a synonym of *Euphorbia trigona*.

Future Actions

Amendments are adopted by a two-thirds majority of the Parties present and voting. All species amendments adopted will enter into effect 90 days after the close of COP10 (i.e., on September 18, 1997) for the United States, unless a reservation is entered. Article XV of CITES enables any Party to exempt itself from implementing CITES for any particular species, if it enters a reservation with respect to that species. A Party desiring to enter a reservation must do so during the 90-day period immediately following the close of the meeting at which the Parties voted to include the species in Appendix I or II. Soon after COP10, the Service plans to publish a notice in the Federal Register announcing the final decisions of the Parties on all proposed amendments to the Appendices. If the United States should decide to enter any reservation, this action must be transmitted to the Depositary Government (Switzerland) by September 18, 1997. The United States has never entered a reservation to a CITES listing. It would consider doing so only if evidence is presented to show that implementation of an amendment would be contrary to the interests or laws of the United States.

Comments on Possible Reservations

The Service invites comments and recommendations from the public concerning reservations that may be taken by the United States on any amendments to the Appendices adopted by the Parties at COP10. The Service's past practice has been to solicit public comments only after the COP, in the notice that announces the actions of the Parties at the COP on the proposed species amendments. However, because of the short time available for taking reservations, the Service is now soliciting comments on possible reservations on any proposed species amendment that may be adopted. Although the Service will re-solicit comments after COP10 if time is available, this present notice may be the only request for such comments. Recommendations or comments regarding reservations must be received by August 15, 1997. If the United States should enter any reservations, they will be announced in the same Federal Register notice that incorporates the listing decisions of the Parties into the Code of Federal Regulations (50 CFR Part 23).

Reservations, if entered, may do little to relieve importers in the United States from the need for foreign export permits, because the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*) make it a Federal offense to import into the United States any animals taken, possessed, transported, or sold in violation of foreign conservation laws. If a foreign country has enacted CITES as part of its law, and that country has not taken a reservation with regard to the animal or plant, or its parts or derivatives, the United States (even if it had taken a reservation on a species) would continue to require CITES documents as a condition of import. Any reservation by the United States would provide exporters in this country with little relief from the need for U.S. export documents. Importing countries that are Party to CITES would require CITES-equivalent documentation from the United States, even if it enters a reservation, because the Parties have agreed to allow trade with non-Parties (including reserving Parties) only if they issue documents containing all the information required in CITES permits or certificates. In addition, if a reservation is taken on a species listed in Appendix I, the species should still be treated by the reserving Party as in Appendix II according to Conf. 4.25, thereby still requiring CITES documents for export of these species. It is the policy of the United States that commercial trade in Appendix I species for which a country has entered a reservation undermines the effectiveness of CITES.

This notice was prepared by Drs. Marshall A. Howe and Bruce MacBryde, Office of Scientific Authority, under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Date: JUN 2 1997

/s/ John G. Rogers, Jr.

DIRECTOR

(Notice of Decision: U.S. Negotiating Positions on Foreign Proposals to Amend CITES Appendices at COP10)

U.S. Fish and Wildlife Service

CITES COP10: Zimbabwe, June 1997

U.S. SUBMISSIONS

The tenth meeting of the Conference of the Parties (COP10) to CITES, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, is scheduled to take place in Harare, Zimbabwe, June 9-20, 1997.

The United States is submitting the following proposals to amend the list of animal and plant species included in Appendices I and II, in accordance with the provisions of Article XV, paragraph 1, of CITES. The proposals are for the inclusion of:

Flora

1. *Swietenia macrophylla* (Bigleaf mahogany): include in Appendix II, with certain stipulated exclusions[1]
2. *Hydrastis canadensis* (Goldenseal): include in Appendix II
3. *Lewisia tweedyi* (Tweedy's bitterroot): remove from Appendix II

Fauna

4. *Graptemys* spp. (Map turtles): include all 12 species in the genus in Appendix II[2]
5. *Macroclemys temminckii* (Alligator snapping turtle): include in Appendix II
6. *Crotalus horridus* (Timber rattlesnake): include in Appendix II
7. Pristiformes spp. (Sawfishes): include all species in Appendix I
8. Unionidae mussels: remove three species from Appendix II, pursuant to the periodic review process.

The U.S. is also submitting its intention to co-sponsor the following proposals submitted by other Parties:

1. Germany: include all species of sturgeons (those not currently included in the Appendices) in Appendix II.
2. Mexico: transfer *Amazona viridigenalis* (Green-cheeked parrot) from Appendix II to I.
3. Mexico: transfer *Amazona oratrix* (Yellow-headed parrot) from Appendix II to I.
4. Netherlands: include *Pycnotous zeylanicus* (Straw-headed bulbul) in Appendix II.

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[1] The Government of Bolivia has already notified the Secretariat that it wishes to co-sponsor this proposal with the United States.

[2] Nine species in the genus are proposed for inclusion in Appendix II pursuant to Article II.2.a. of the treaty and three species are proposed for inclusion in Appendix II pursuant to Article II.2.b. due to similarity of

In addition to these proposals to amend the list of species included in the Appendices, the United States is submitting the following proposed resolutions:

1. Permits and certificates (revision of Conf. 9.3)
2. Implementation of Article VII, paragraph 2
3. Sale of Appendix I tourist items at international airports, seaports, and border crossings
4. Establishment of Committees
5. Illegal Trade Working Group
6. Inspection of Wildlife Shipments
7. Trade with Parties that have not identified a Scientific Authority
8. Regulation of CITES shipments traveling on a Customs Carnet
9. Coral reporting and identification
10. Transport of live animals
11. Bred-in-captivity (revision of Conf. 2.12)
12. Appendix I species bred in captivity for commercial purposes (revision of Conf. 8.15)

The U.S. is also submitting the following discussion papers, for inclusion in the agenda of COP10 and discussion at the meeting:

13. Trade in Alien (Invasive) Species
14. Illegal trade in whale meat
15. Marine Fishes Working Group

Finally, the U.S. submitted the following document, pursuant to the COP10 agenda item dealing with the use of wildlife in traditional medicines:

16. Flora, Fauna, and the Traditional Medicine Community: Working with People to Conserve Wildlife

This notice announces proposals submitted by Parties other than the United States for consideration at the forthcoming meeting of the Parties and sets forth tentative negotiating positions of the United States on foreign proposals. CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three Appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also includes species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at the meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses and the Secretariat's own findings and recommendations to all Parties no later than 30 days before the meeting. Amendments to the Appendices are adopted by a two-thirds majority of the Parties present and voting.

Information Sought

The Service solicits comments on tentative negotiating positions for the United States on proposed species amendments submitted by Parties other than the United States. Information is also sought on the biological status of the affected species, on the amount and type of trade in specimens of the species, and on the impact of trade on their populations, especially as it relates to any potential effects on survival of the species in all or parts of its range. Comments that provide this information based on the new criteria for adding or removing species from the Appendices (Resolution Conf. 9.24) would be especially helpful. The Service will solicit comments on tentative U.S. positions for items on the COP10 agenda other than proposed amendments to the Appendices, in another **Federal Register** notice.

The present, tentative negotiating positions for the United States are based mainly on review of information presented in the proposals submitted by proponents and in terms of the criteria in Resolution Conf. 9.24, adopted at COP9. Several proposals have not yet been fully translated into English from the Spanish or French. Because information provided in some of the proposals or otherwise available to the Service is too incomplete to allow a thorough review of their merits, several of the tentative negotiating positions presented may be revised as additional biological and trade data are obtained. Final guidance for the delegation is to be based on the best available biological and trade information, including comments received in response to this notice and discussions at COP10 with other governments, scientists, and technical experts.

Proposals

In accordance with the provisions of Article XV, paragraph 1(a) of the Convention the following CITES Parties, in addition to the United States, have submitted proposals for changes to Appendices I and II of the Convention: Argentina, Australia, Bangladesh, Bolivia, Botswana, Bulgaria, Canada, China, Cuba, Denmark, Finland, Germany, India, Japan, Jordan, Madagascar, Mexico, Namibia, Netherlands, New Zealand, Norway, Peru, South Africa, Switzerland, Tanzania, Thailand, Uganda, Venezuela, and Zimbabwe.

A total of 63 proposals on plant and animal species were submitted by countries other than the United States, including 9 proposals that were submitted based on the "Periodic Review" concept first adopted at the 1981 Conference of the Parties in New Delhi, India. The Periodic Review process seeks to correct or clarify the inclusion of species listed at the Plenipotentiary Conference and COP1, before listing criteria were adopted. Some of the proposals submitted by Switzerland under this process recommend the deletion from the Appendices of those species that have not been reported in trade, unless the species should be included in Appendix II because of similarity in appearance to related taxa that do appear in trade.

It is the U.S. position (and has been at earlier COPs) that the lack of reported trade for some species should not be the sole basis for their deletion from the Appendices. The lack of reported trade for some species proposed for deletion from the Appendices may be due to (1) their rarity, (2) effective limits on trade by range States for the benefit of the species in that the range States may determine that trade would be detrimental to the survival of the species, or (3) the lack of proper documentation on the reporting of trade. Consequently, the Service does not believe that lack of appearance in trade is, by itself, a sufficient reason to warrant the removal of a taxon from the Appendices. In establishing a tentative negotiating position on these "Periodic Review" delisting proposals, the Service considered the degree of vulnerability of the species and the likelihood of it entering trade, and the net conservation effect of delisting.

Proposals submitted by Parties other than the United States are listed in the following table. Tentative negotiating positions and the basis for making them are indicated. These tentative positions were developed largely on the basis of the information contained in the proposals unless the Service has information on the species in its files, particularly from earlier COPs or meetings of permanent CITES committees. If insufficient population and/or trade information was provided, the United States' current position is to either oppose the proposal or consider it still under review, depending upon the particular circumstances, pending receipt of additional information. The complete text of each proposal received is available for public inspection at the Service's Office of Scientific Authority (see ADDRESSES above). The text of any referenced resolution from previous meetings of the Conference of the Parties is available from the Service's Office of Scientific Authority or Office of Management Authority.

Proposed amendments and tentative United States negotiating positions are as follows:

Federal Register / Vol. 62, No. 74 / Thursday, April 17, 1997 / Proposed Rules 18731

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Foreign Proposals To Amend Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of amendments to CITES Appendices proposed by foreign countries and public meeting.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animals and plants. Species for which trade is controlled are listed in Appendices I, II, and III to CITES. Any country that is a party to CITES may propose amendments to Appendix I or II for consideration by the other Parties.

This notice announces the tentative negotiating positions of the United States on proposals submitted by Parties other than the United States and invites information and comments on these proposals in order to develop negotiating positions for the U.S. delegation. The proposals will be considered at the tenth regular Meeting of the Conference of the Parties (COP10) to be held in Harare, Zimbabwe, June 9–20, 1997.

DATES: The U.S. Fish and Wildlife Service (Service) will consider all comments received through May 9, 1997, in developing negotiating positions. In addition the public will have opportunity for input at a public meeting to be held on April 25, 1997 (see elsewhere in this notice). The Service plans to publish a notice of its negotiating positions prior to COP10.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Fax number 703–358–2276. Comments and other information received will be available for public inspection by appointment, from 8 a.m. to 4 p.m. Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall A. Howe (animal proposals) or Dr. Bruce MacBryde (plant proposals), Office of Scientific Authority, at the above address; telephone 703–358–1708.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to regulate international trade in certain animal and plant species which are or may become threatened with extinction and are listed in Appendices to the Convention. Currently, 135 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties, which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions for the Parties, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for improving the effectiveness of the Convention. The tenth regular meeting of the Conference of the Parties (COP10) will be held in Harare, Zimbabwe, June 9–20, 1997.

This notice is part of a series of notices which, together with public meetings, encourage the public to participate in the development of the U.S. positions for COP10. In a March 1, 1996 Federal Register notice (61 FR 8019), the Service requested public recommendations or draft proposals to amend Appendix I or II that the United States might consider proposing at COP10. That notice described the provisions of CITES for listing species in the Appendices and set forth information requirements for proposals, based on new listing criteria adopted by the Parties at COP9. Federal Register notices on August 28, 1996 (61 FR 44324) and December 20, 1996 (61 FR 67293) requested additional comments from the public on species proposals still being considered after review of materials received in response to the March 1, 1996, notice. On the basis of a thorough review of comments received, the Service identified those proposals that met the listing criteria and presented the most compelling bases for amending the Appendices. These proposals to amend the Appendices were submitted to the CITES Secretariat on January 10, 1997, to be considered and voted upon by the Parties at COP10. The decisions on the various proposals and the rationale for each will be published in another Federal Register notice.

Species	Proposed amendment	Proponent	Tentative U.S. position
	Mammals		
Order Diprotodontia:			
Burramys parvus (Mountain pygmy possum).	Deletion from Appendix II	Australia	Support.[1]
Dendrolagus bennettianus (Bennett's tree kangaroo).	Deletion from Appendix II	Australia	Support.[1]
Dendrolagus lumholtzi (Lumholtz's tree kangaroo).	Deletion from Appendix II	Australia	Support.[1]
Order Xenarthra:			
Chaetophractus nationi (Hairy armadillo).	Inclusion in Appendix I	Bolivia	Support.[1]
Order Cetacea:			
Eschrichtius robustus (Gray whale)	Transfer of the Eastern Pacific stock from Appendix I to II.	Japan	Oppose.[2]
Balaenoptera acutorostrata (Minke whale).	Transfer of the Okhotsk Sea West Pacific and the Southern Hemisphere stocks from Appendix I to II.	Japan	Oppose.[2]
Balaenoptera acutorostrata (Minke whale).	Transfer of the Northeast Atlantic and the North Atlantic Central stocks from Appendix I to II.	Norway	Oppose.[2]
Balaenoptera edeni (Bryde's whale)	Transfer of the North Pacific Western stock from Appendix I to II.	Japan	Oppose.[2]
Order Carnivora:			
Ursus arctos (Brown bear)	Transfer of all Asian and European populations from Appendix II to I.	Bulgaria and Jordan	Under review.[3]
Ursus arctos (Brown bear)	Transfer of all Asian and European populations from Appendix II to I.	Finland	Under review.[3]
Panthera onca (Jaguar)	Establishment of annual export quotas for hunting trophies of zero in 1997, 1998, and 1999 and of 50 thereafter.	Venezuela	Oppose.[4]
Order Proboscidea:			
Loxodonta africana (African elephant)	Transfer of the Botswanan population from Appendix I to II, with certain annotations.[6]	Botswana, Namibia, and Zimbabwe.	Under review.[6 7 8]
Loxodonta africana (African elephant)	Transfer of the Namibian population from Appendix I to II, with certain annotations.[9]	Botswana, Namibia, and Zimbabwe.	Under review.[6 8 10]
Loxodonta africana (African elephant)	Transfer of the Zimbabwean population from Appendix I to II, with certain annotations.[11]	Botswana, Namibia, and Zimbabwe.	Under review.[6 8 12]
Order Perissodactyla:			
Ceratotherium simum simum (Southern white rhinoceros).	Amendment to annotation 503 in the CITES Appendices to allow trade in parts and derivatives but with a zero export quota.	South Africa	Oppose.[13]
Order Artiodactyla:			
Pecari tajacu (Collared peccary)	Deletion from Appendix II (Mexican population).	Mexico	Oppose.[14]
Vicugna vicugna (Vicuna)	Annotated transfer of certain populations to Appendix II [15].	Argentina	Under review.[10]
Vicugna vicugna (Vicuna)	Annotated transfer of certain populations to Appendix II [17].	Bolivia	Support.[1 16]
Vicugna vicugna (Vicuna)	Amendment to annotation 504 in the CITES Appendices to replace the words VICUNANDES-CHILE and VICUNANDES-PERU with the words VICUNA-COUNTRY OF ORIGIN .	Peru	Support.[10]
Vicugna vicugna (Vicuna)	Amendment to annotation 504 (in the CITES Appendices list) to allow also the countries that are members of the Vicuna Convention to utilize the term VICUNA-PAIS DE ORIGEN-ARTESANIA, along with the authorized trademark, on luxury handicrafts and knitted articles made of wool sheared from live vicunas from Appendix II populations.	Peru	Support.[10]
Elaphurus davidianus (Père David's deer).	Inclusion in Appendix II	Argentina and China	Support.[1]
Bison bison athabascae (Wood bison)	Transfer from Appendix I to II in accordance with precautionary measure 8.2.b of Resolution Conf. 9.24, Annex 4.	Canada	Under review.[20]

Species	Proposed amendment	Proponent	Tentative U.S. position
Bos javanicus (Banteng)	Inclusion in Appendix I	Thailand	Support.[1 21]
Bubalus arnee (Water buffalo)	Include in Appendix I	Thailand	Support.[1]
Ovis ammon nigrimontana (Kara Tau argali).	Transfer from Appendix II to I	Germany	Support.[1]
Birds			
Order Galliformes			
Pauxi pauxi (Northern helmeted curassow).	Inclusion in Appendix II	Netherlands	Oppose.[22]
Pauxi unicornis (Horned curassow)	Inclusion in Appendix II	Netherlands	Oppose.[22]
Order Gruiformes			
Turnix melanogaster (Black-breasted button-quail).	Deletion from Appendix II	Australia	Oppose.[23]
Pedionomus torquatus (Plains wanderer).	Deletion from Appendix II	Australia	Support.[1]
Gallirallus australis hectori (Eastern weka rail).	Deletion from Appendix II	New Zealand	Support.[1]
Order Psittaciformes			
Amazona agilis (Black-billed parrot)	Transfer from Appendix II to I	Germany	Support.[1]
Amazona viridigenalis (Red-crowned parrot).	Transfer from Appendix II to I	Germany	Support.[1]
Cacatua sulphurea (Lesser sulphur-crested cockatoo).	Transfer from Appendix II to I	Germany	Support.[1]
Eunymphicus cornutus uvaeensis (Ouvea horned parakeet).	Transfer from Appendix II to I	Germany	Oppose.[24]
Vini kuhlii (Kuhl s lorikeet)	Transfer from Appendix II to I	Germany	Support.[1]
Vini peruviana (Tahitian lorikeet)	Transfer from Appendix II to I	Germany	Support.[1]
Vini ultramarina (Ultramarine lorikeet)	Transfer from Appendix II to I	Germany	Support.[1]
Order Coraciiformes:			
Aceros waldeni (Writhed-billed hornbill)	Transfer from Appendix II to I	Germany	Support.[1]
Order Passeriformes:			
Leiothrix argentauris (Silver-eared mesia).	Inclusion in Appendix II	Netherlands	Support.[1]
Leiothrix lutea (Red-billed leiothrix)	Inclusion in Appendix II	Netherlands	Support.[1]
Liocichla omeiensis (Omei Shan liocichla).	Inclusion in Appendix II	Netherlands	Support.[1]
Tangara fastuosa (Seven-colored tanager).	Inclusion in Appendix II	Germany and the Netherlands.	Support.[1]
Amandava formosa (Green avadavat)	Inclusion in Appendix II	Netherlands	Support.[1]
Padda oryzivora (Java sparrow)	Inclusion in Appendix II	Netherlands	Support.[1]
Gracula religiosa (Hill myneh)	Include in Appendix II	Netherlands and the Philippines.	Support.[1]
Reptiles			
Order Testudinata:			
Callagur borneoensis (Painted terrapin).	Inclusion in Appendix II	Germany	Support.[1]
Eretmochelys imbricata (Hawksbill sea turtle).	Transfer of the Cuban population from Appendix I to II with certain annotations[25].	Cuba	Oppose.[14]
Order Crocodylia:			
Caiman latirostris (Broad-snouted caiman).	Transfer of the Argentine population from Appendix I to II, pursuant to resolution on ranching.	Argentina	Under review.[26]
Crocodylus niloticus (Nile crocodile)	Maintenance of the Malagasy population in Appendix II, pursuant to resolution on ranching.	Madagascar	Under review.[26]
Crocodylus niloticus (Nile crocodile)	Establishment of an annual export quota of 1000 skins and 100 hunting trophies from wild animals for the years 1998 2000.	Tanzania	Under review.[26]
Crocodylus niloticus (Nile crocodile)	Maintenance of the Ugandan population in Appendix II, pursuant to resolution on ranching.	Uganda	Under review.[26]
Order Sauria:			
Varanus bengalensis (Indian monitor)	Transfer of the population of Bangladesh from Appendix I to II subject to annual export quotas of 150,000 skins in 1997 and 225,000 in 1998 and 1999.	Bangladesh	Oppose.[14]

Species	Proposed amendment	Proponent	Tentative U.S. position
Varanus flavescens (Yellow monitor)	Transfer of the population of Bangladesh from Appendix I to II subject to annual export quotas of 100,000 skins in 1997, 1998, and 1999.	Bangladesh	Oppose.[14]
Amphibians			
Order Anura:			
Mantella bernhardi (Golden mantella)	Inclusion in Appendix II	Netherlands	Support.[1]
Mantella cowani (Golden mantella)	Inclusion in Appendix II	Netherlands	Support.[1]
Mantella haraldmeiari (Golden mantella).	Inclusion in Appendix II	Netherlands	Support.[1]
Mantella viridis (Golden mantella)	Inclusion in Appendix II	Netherlands	Support.[1]
Mollusks			
Class Gastropoda:			
Paryphanta spp. (New Zealand amber snails).	Deletion from Appendix II	Switzerland	Support.[1]
Other Animal Proposals			
Any Appendix II species annotated to limit the trade to certain types of specimens.	Amendment to the relevant annotations of Appendix II species annotated to limit the trade to certain types of specimens, to include the following wording: All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly .	Switzerland	Support.[27]
Plants General			
Araliaceae: Panax quinquefolius (American ginseng).	Amend the Appendix II listing of this species (cf. current annotation #3), to include only the following parts: Roots and specimens recognizable as being parts of roots .	Switzerland	Support.[30 39]
Cactaceae spp. (Cacti): Mexican cacti	Amend the Appendix II listing for this family (cf. current annotation #4), to include seeds of cacti from Mexico, except those seeds obtained from artificial propagation in Production Units.	Mexico	Support.[1 6 39]
Leguminosae (Fabaceae): Pericopsis elata (Afromosia), and Meliaceae: Swietenia mahagoni (Caribbean mahogany).	Amend the Appendix II listing of these two species (cf. current annotation #5), to include only the following parts: Logs, sawn wood, and veneer sheets .	Switzerland	Support.[31]
Proteaceae:			
Orothamnus zeyheri (Marsh-rose)	Transfer from Appendix I to Appendix II, in accordance with precautionary measure B.2.b) of Resol. Conf. 9.24, Annex 4.	South Africa	Support.[1]
Protea odorata (Ground-rose or Swartland sugarbush).	Transfer from Appendix I to Appendix II, in accordance with precautionary measure B.2.b) of Resol. Conf. 9.24, Annex 4.	South Africa	Oppose.[14 32 33]
Scrophulariaceae: Picrorhiza kurroa (Kutki).	Include in Appendix II, along with only the following parts [32]: Roots [i.e.,rhizomes/rootstocks] and readily recognizable parts thereof .	India	Support.[1 39]
Theaceae: Camellia chrysantha, which is Camellia petelotii in part (Golden-flowered camellia).	Delete from Appendix II.	China	Support.[1]
Valerianaceae: Nardostachys grandiflora (=Nardostachys jatamansi misapplied) (Himalayan nard or spikenard).	Include in Appendix II, along with only the following parts [32]: Roots [i.e.,rhizomes/rootstocks] and readily recognizable parts thereof .	India	Support.[1 39]
Plants Artificial Propagation			
Families other than Orchidaceae (Orchids)	Amend the listings of most plant families now in Appendix II (current annotations #1, #2, #4, and #8), to also exclude the following part: Cut flowers of artificially propagated plants .	Switzerland	Oppose.[34 34]

Species	Proposed amendment	Proponent	Tentative U.S. position
Cactaceae spp. (Cacti): (1) Hybrid Easter cactus; (2) Christmas cactus, or Crab cactus; (3) Red cap cactus, Oriental moon cactus; and (4) Bunny ears cactus.	Amend the Appendix II listing for this family (cf. current annotation #4), to exclude artificially propagated specimens of the following hybrids and/or cultivars: (1) Hatiora graeseri (= H. gaertneri H. rosea); (2) Schlumbergera (= Zygocactus) hybrids and cultivars [sic][36] (S. truncata cultivars, and its hybrids with S. opuntioides [= S. exotica], S. orssichiana, and S. russelliana [= S. buckleyii]); (3) Gymnocalycium mihanovichii cultivars (those lacking chlorophyll, grafted[36]); and (4) Opuntia microdasys.	Denmark	Under review.[37]
Euphorbiaceae: Succulent Euphorbia spp. (Succulent euphorbs): Three-ribbed milk tree.	Amend the Appendix II listing of succulent Euphorbia spp., with an annotation to exclude artificially propagated specimens of Euphorbia trigona cultivars.[38].	Denmark	Under review.[37]
Primulaceae: Cyclamen spp. (Cyclamens): Florist s cyclamen.	Amend the Appendix II listing of Cyclamen spp., with an annotation to exclude artificially propagated specimens of the hybrids and cultivars of Cyclamen persicum, except when traded as dormant tubers.	Denmark	Under review.[37]

[1] The listing, uplisting, downlisting, or delisting of this taxon (or parts in the case of some plants) appears to be consistent with the relevant biological, trade, and precautionary criteria of Resolution Conf. 9.24.

[2] The United States continues to support the 1978 request from the International Whaling Commission (IWC) to take all possible measures to support the IWC ban on commercial whaling for certain species and stocks of whales and therefore opposes the transfer of this species from Appendix I to Appendix II.

[3] The proposal from Bulgaria and Jordan defers to the details presented in the proposal from Finland. Although it is clear that the European populations of this species not presently included in Appendix I meet the criteria for Appendix I, the United States is not presently convinced by the proposal or other information that the remaining populations proposed for transfer to Appendix I qualify. Russian populations are subject to a managed sport harvest that appears to be in itself sustainable, but these populations in particular are prone to illegal take for medicinal products. The proposal remains under review, while the United States seeks additional information on the magnitude of the threat of illegal trade in Russian and eastern Asian populations to determine if the proposal is warranted in its entirety.

[4] The proposal acknowledges that the jaguar population proposed for phased-in trophy-hunting may be the most threatened population in the country. The United States opposes this proposal without (a) a more convincing case that trophy hunting will not add to existing pressure on the jaguar population and (b) a management plan involving comprehensive population monitoring in the affected area.

[5] Annotated to allow: (a) The direct export of registered stocks of whole-raw tusks of Botswana origin to one trading partner (Japan) subject to annual quotas of 12.68 t. in 1998 and 1999; (b) international trade in hunting trophies; and (c) international trade in live animals to appropriate and acceptable destinations.

[6] The proposal presents biological information that supports the proposed action.

[7] The Panel of Experts report on this proposal noted deficiencies in the record-keeping system for the ivory stockpile and showed there is no clear plan for use of ivory revenues to benefit elephant conservation. It also noted the existence of some movement of ivory through the country. The United States has concerns about these reported deficiencies and about the adequacy of trade controls in the importing country.

[8] The United States is consulting other African elephant range states to determine whether adoption of this proposal by the Parties would cause conservation concerns in other portions of the species range.

[9] Annotated to allow: (a) The direct export of registered stocks of whole raw tusks of Namibian origin owned by the government of Namibia to one trading partner (Japan) that will not re-export, subject to annual quotas that will not exceed 6900 kg. between September 1997 and August 1998 and between September 1998 and August 1999; (b) international trade in live animals to appropriate and acceptable destinations for non-commercial purposes; and (c) international trade in hunting trophies for non-commercial purposes.

[10] Although noting there is probably some movement of ivory through the country, the Panel of Experts reported satisfactory to excellent internal management controls in Namibia and an excellent legal structure for establishing a conservation fund with ivory stock sale revenues. The Panel concluded that the proposal would likely benefit elephant conservation in Namibia. The United States has concerns about the adequacy of trade controls in the importing country.

[11] Annotated to allow: (a) The direct export of registered stocks of whole raw tusks to one trading partner (Japan) subject to annual quotas of 10 t. in 1998 and 1999; b) international trade in hunting trophies; c) international trade in live animals to appropriate and acceptable destinations; d) international trade in non-commercial shipments of leather articles and ivory carvings; and e) export of hides.

[12] The Panel of Experts noted deficiencies in trade enforcement controls in Zimbabwe, including failure to prevent illegal exports of large commercial shipments of worked ivory, and showed there is no clear plan for use of ivory revenues to benefit elephant conservation. It also noted the existence of significant movement of ivory through the country. The United States has concerns about these reported deficiencies and about the adequacy of trade controls in the importing country.

[13] While acknowledging the excellent record of the government of South Africa in restoring populations of this species, the United States is concerned about potential detrimental effects of re-opening a legal international trade in rhinoceros horn. The United States has invested considerable effort into encouraging use of alternatives to rhinoceros horn derivatives in traditional Asian medicines.

[14] The proposal does not present sufficient biological information to justify the listing, uplisting, downlisting, or delisting as proposed, based on the criteria in Resolution Conf. 9.24.

[15] Transfer of the population of the Province of Jujuy and of the semicaptive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan, Argentina, from Appendix I to II, with an annotation to allow only the international trade in wool sheared from live vicunas, and in cloth and manufactured items made thereof, under the mark. VICUNAA ARGENTINA.

[16] Although the population may no longer meet the biological criteria for Appendix I, more detailed information on population inventory methods for wild herds and on management and transparency of the conservation fund are desirable in light of the precautionary measures of Annex 4 of Resolution Conf. 9.24. The proposal remains under review while the United States seeks clarification.

[17] Transfer of the populations of the Conservation Units of Mauri-Desaguadero, Ulla Ulla, and Lipez-Chiaos, Bolivia, from Appendix I to II, with an annotation to allow only the international trade in cloth and manufactured items made thereof, under the mark. VICUN BOLIVIA.

[18] The proposal presents excellent population data and a well conceived approach to development of management plans and follow-through monitoring of the effectiveness of vicuna management in different socio-economic regimes.

[19] The United States sees no difficulties with such a change in the labeling of approved products.

[20] Although the United States believes that trade in wood bison presently in captivity would have no negative impact on the wild population, the species, based on information in the proposal, still appears to meet the criteria for retention in Appendix I. The proposal remains under review, while the United States consults with Canada to obtain clarification on the species status.

[21] The United States supports the exclusion from this proposal of introduced populations remote from the natural range, e.g., the introduced population of Australia.

[22] The species does not appear to be subject to international trade.

[23] Although trade is not recorded, the population is so small that retention in the Appendices would seem advisable as a precautionary measure in the event illegal trade should ever occur.

[24] Because the subspecies are extremely similar and occur in the same jurisdiction, the proposed split-listing would be practically unenforceable and would be inconsistent with Annex 3 of Resolution Conf. 9.24.

[25] Annotated to allow: (a) trade in current registered stocks of shell with one trading partner (Japan) that will not re-export; and b) export in one shipment per year, to the same partner, of shell marked in compliance with Resolution Conf. 5.16, which allows definitive identification of origin, from a traditional harvest (maximum 500 individuals per year) or from an experimental ranching program (anticipated: 50 individuals in the first year; 100 in the second year; and 300 in the third year).

[26] The transfer of certain populations of crocodilians from Appendix I to II is possible pursuant to Resolution Conf. 3.15, 5.16, and 8.22 (ranching) and 9.24 (export quota). The United States is seeking information on whether (1) annual reports will be filed regularly with the CITES Secretariat by the proponent; (2) there is an adequate basis for monitoring the status of wild populations; (3) management plans provide for the return of animals to the wild in numbers as appropriate; and (4) there is an implementable limit on the harvest of wild juveniles and adults.

[27] The United States believes the recommended language would clarify annotated downlistings, such as that of the South African population of the white rhinoceros, and eliminates the possibility of misinterpretation or abuse of the downlisting provisions. The United States looks forward to a detailed discussion of annotated downlistings from legal and technical perspectives at COP10.

[28] The current listing includes Roots and readily recognizable parts thereof . The proposed revision is considered to be a minor change, which would clarify and keep the intent of the 1995 proposal (at COP9) to include whole roots and the larger parts thereof, and to exclude minor pieces and processed products. Some importing Parties have found that the current annotation can be interpreted too broadly.

[29] The United States will recommend standardization of the inclusion of the parts for Panax quinquefolius (American ginseng), Picrorhiza kurrooa (Kutki), and Nardostachys grandiflora (Himalayan nard), with the annotation Roots, rhizomes or rootstocks, and specimens recognizable as being parts thereof . This would keep the intent of the proposal of Switzerland for Panax quinquefolius, and the intent of the proposals of India for the other two species, while accommodating those two species different morphology of having rhizomes or rootstocks.

[30] This proposal is considered necessary to assist enforcement of Mexican law that regulates the export of seeds collected in the wild from cacti in Mexico. The Government of Mexico, at the November 1996 meeting of the CITES Plants Committee, presented information on recent violations of Mexican law and over-collection of cactus seeds of various taxa for export to various Party countries. The United States is discussing with Mexico how they intend to administer the differentiation of seeds collected in the wild from seeds produced by artificial propagation in their Production Units (i.e., nurseries). We understand that this proposal only covers the populations of cacti in Mexico; it does not cover populations of Mexican cacti native beyond Mexico, or specimens of Mexican cacti artificially propagated elsewhere than in Mexico.

[31] These two current listings include Saw-logs, sawn wood, and veneers . The proposed revision is considered to be a minor change, which would correspond to the categories and definitions of HS codes 44.03 (logs), 44.06 and 44.07 (sawn wood), and 44.08 (veneer sheets) in the Harmonized System of the World Customs Organization. The change was recommended by the CITES Timber Working Group.

[32] There are so few individuals and populations of this species known in the wild, and so few artificially propagated individuals available in cultivation, that continued inclusion of the species in Appendix I is considered to be a needed precaution.

[33] The proposal for this species discusses its rhizomes or rootstocks rather than botanical roots.

[34] The proposal apparently seeks to establish a new standard exclusion for Appendix II taxa, but does not provide information to show that there presently is an unnecessary regulatory burden on a cut-flower trade in the listed Appendix II taxa (or actual complications in any trading of their hybrids with Appendix I taxa). Furthermore, the proposal did not address the taxa of Nepal in Appendix III, which also have their listings standardized with the current annotation #1. The conservation of species in the wild is considered to be better served with the present standard listing for Appendix II (and Appendix III), to which exceptions could be made if warranted in future proposals for particular taxa (as was done for the Orchidaceae or orchids).

[35] This proposal is considered to not include all taxa (or hybrids and cultivars) of Schlumbergera, but just those listed in detail in the proposal and in this FEDERAL REGISTER notice.

[36] The proposal stated that the artificially propagated grafting stocks are mostly specimens of Hylocereus species and Harrisia Jusbertii , but these taxa (and any other cactus taxa that might be used as grafting stock) were not directly presented for similar exclusion.

[37] Although the stipulated taxa are artificially propagated extensively, the risk either to other taxa in the wild or to pertinent natural taxa needs further consideration. The burden for enforcement may be complicated rather than relieved by excluding these artificially propagated specimens. Nevertheless, minimizing or reducing regulation of artificially propagated specimens, when there is no risk to taxa in the wild, is a worthy goal.

[38] This proposal is considered not to include Euphorbia harmandiana, which we understand is not a synonym of Euphorbia trigona.

Future Actions

Prior to COP10, the Service will announce in the Federal Register its negotiating positions for COP10 on proposed amendments to the Appendices by foreign countries. In that notice the Service will solicit comments or recommendations on whether the United States should consider taking a reservation on any of the proposed amendments to the Appendices that are adopted by the Parties. Unless the United States enters a reservation by September 18, 1997, any amendments adopted by the Parties will become effective on that date. The Service will publish a notice of proposed rulemaking that would implement such amendments. In addition to considering proposed amendments to the Appendices at COP10, the Parties may also consider certain recommendations by the Nomenclature Committee that seek to clarify the current listing status of certain species.

A public meeting will be held on Friday, April 25, 1997 from 10:00—1:00 at the Department of the Interior: Room 7000, 18th and C Street, NW, Washington, DC. Please note that this room is accessible to the handicapped. This meeting will provide the public an opportunity to comment on U.S. positions leading up to COP10. In addition to foreign species proposals, the Service will be prepared to discuss U.S. positions on the Agenda for COP10, resolutions submitted by other countries, and any other item of interest to the public in relation to CITES COP10.

This notice was prepared by Drs. Marshall Howe and Bruce MacBryde, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: April 11, 1997.

Jay L. Gerst,

Director.

[FR Doc. 97–9624 Filed 4–16–97; 8:45 am]

BILLING CODE 4310–55–P

ROBERT L. LIVINGSTON
1ST DISTRICT, LOUISIANA

CHAIRMAN,
APPROPRIATIONS COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–1801

PLEASE RESPOND TO:

WASHINGTON OFFICE:
ROOM 2406
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3015
FAX: (202) 225-0739

DISTRICT OFFICES:

METAIRIE OFFICE
111 VETERANS BOULEVARD
SUITE 700
METAIRIE, LA 70005
(504) 589-2753
FAX: (504) 589-2097

HAMMOND OFFICE
300 EAST THOMAS STREET
HAMMOND, LA 70401
(504) 542-8616
FAX: (504) 542-8677

NORTHSHORE ONLY
(800) 851-3573

May 29, 1997

The Honorable Don Young
Chairman
U.S. House of Representatives
Resources Committee
Washington, DC 20515

Dear Don:

Thank you for inviting me to comment on the U.S. Fish and Wildlife Service's proposal to list all 12 species of Map Turtles and the Alligator Snapping Turtle in Appendix II of the Convention on the International Trade of Endangered Species (CITES).

Mr. Chairman, there is no question in my mind that if this change is enacted it will have an adverse effect on turtle farmers in Louisiana and in my district due to the fact that trade will be strictly controlled. Specifically, I feel that the CITES listing is unnecessary since turtle farms in my district are already regulated by the Louisiana Department of Agriculture and have done an admirable job of preventing both the Map turtle and the Alligator Snapping turtle from becoming threatened or extinct. The fact is that each Louisiana turtle farmer returns 200 turtles per year to the wild (over 10,000 per year). Without this effort the turtles would be closer to extinction. Turtle farmers simply do not need another government agency imposing regulations to make their lives any more difficult.

A number of turtle farmers in my district have contacted me expressing opposition to the proposed listing. I have enclosed a number of their letters so that the Committee may have the benefit of their views. Thank you again for giving me the opportunity to relay my concerns.

Sincerely,

ROBERT L. LIVINGSTON
Member of Congress

RLL:jb

STATE OF LOUISIANA
HOUSE OF REPRESENTATIVES

HENRY "TANK" POWELL
District 73

423 S. Ninth Street
Ponchatoula, Louisiana 70454
Telephone: (504) 386-2910
(800) 408-9763
Fax: (504) 386-6135

TRELENA HENRY, Legislative Assistant

Commerce
Education
Labor & Industrial Relations

September 26, 1996

Congressman Bob Livingston
U.S. House of Representatives

VIA FAX: (202)225-0739

Re: Turtle Legislation

Dear Bob:

I have recently been visited by several Tangipahoa Turtle farmers. It would seem that an act of federal legislation is being heard that would adversely effect the turtle farmers in Louisiana (over 50 farmers in Louisiana).

This legislation would require that turtle farmers receive approval from Washington prior to shipping, whereas now the approval comes out of the New Orleans office of Wildlife and Fisheries. I have enclosed a letter from the National Turtle Farmers & Shippers detailing their concerns.

I would like to see the legislation exempt Louisiana farm raised turtles. Each Louisiana turtle farmer gives back 200 turtles per year to the wild (over 10,000 turtles per year), therefore, without them the turtles would be even closer to extinction.

Any efforts on your part to exempt La. Turtle farmers from the legislation would be greatly appreciated. If I can be of service please feel free to contact me.

Sincerely,

Tank Powell

TANK POWELL
State Representative
District 73

TP/th

ational Turtle Farmers & Shippers Association, Inc.
13202 HIGHWAY 22 • PONCHATOULA, LOUISIANA, U.S.A. 70454
PHONE: (504) 294-5419 • FAX (504) 294-2314

BOBBY KLIEBERT, *President*
KENNETH LANDRY, *Vice President*
KEITH BOUDREAUX, *Secretary*
MICHAEL HEBERT, *Treasurer*

SEPTEMBER 18, 1996

DEAR LOUISIANA TURTLE FARMER,

IT HAS COME TO MY ATTENTION THAT THE U.S. FISH AND WILDLIFE SERVICE IS TRYING TO PLACE THE MAP TURTLE, ALLIGATOR SNAPPER, AND THE SOFT SHELL TURTLE ON CITES - APPENDIX II LISTING.

APPENDIX II INCLUDES SPECIES THAT, ALTHOUGH NOT NECESSARILY NOW THREATENED WITH EXTINCTION, MAY BECOME SO UNLESS THE TRADE IS STRICTLY CONTROLLED.

EVEN THOUGH SOME TURTLES FARMERS DO NOT DERIVE ANY INCOME FROM THESE SALES, SOME TURTLES FARMERS DO.

I FEEL THAT IF WE ALLOW ANY TURTLE TO AGAIN NOT BE ABLE TO BE SOLD THEN WE ARE ALLOWING FURTHER CLOSURE OF OUR INDUSTRY AND WE MUST ASK THE QUESTION " WHAT TURTLE IS NEXT ? ".

I SUGGEST THAT YOU WRITE OR FAX YOUR OPINION AND TRY TO HAVE FARMED RAISED TURTLES EXCLUDED FROM THIS REGULATION.

PLEASE ADDRESS YOUR COMMENTS TO THE FOLLOWING ADDRESS BEFORE OCTOBER 11, 1996.

CHIEF, OFFICE OF SCIENTIFIC AUTHORITY
4401 NORTH FAIRFAX DRIVE, ROOM 750
ARLINGTON, VIRGINIA 22203

FAX NUMBER 703 358 2276

PLEASE REMEMBER TO STATE THAT THESE TURTLES ARE FARM RAISED AND WE ARE REGULATED BY THE LOUISIANA AGRICULTURE DEPT.

THANK YOU FOR YOUR PROMPT ATTENTION.

SINCERELY,

Keith Boudreaux

KEITH BOUDREAUX
SECRETARY, NTSFA

KDB/kb

L. Livingston
of Congress
District of Louisiana

OFFICE

CONSTITUENT SERVICE FORM

OCT - 4 1996

Name Bobby Kliebert (Bob's Turtle Farm) Phone (504) 345-7825

Address 19123 Sisters Road ~~Social Security #~~

Ponchatoula, LA 70454 ~~Veterans Claim #~~

~~Other~~

Regarding the US Fish & Wildlife Service seeking comments and information about turtles. We of the Louisiana pet turtle farming industry feel that: 1) the farm raised pet turtle SHOULD NOT be considered for placement on Appendix II. 2) with a program for the pet turtle farmer to release a percentage of his harvest back into the wild, these turtles will not become endangered. 3) if pet turtle farmers are not put out of business because of Humane Society red tape, the turtles that are farm raised could keep the wild replenished. 4) a release program with green turtles has been in effect in Louisiana for several years and has been very successful.

Mr. Livingston, your comments on our behalf to the US Fish & Wildlife Service would be greatly appreciated.

ie to the Privacy Act of 1974 (Public Law 93-579). and Louisiana Law (Revi
tatues 46:55), Federal and State Government agencies are prohibited from r
easing any information or discussing anything regarding another individual
thout the individual's written permission. Your signature on this page
thorizes me, as your Congressman, to contact the proper officials in your
half, discuss the matter and receive information.

9-27-1996
DATE

Bobby A. Kliebert
SIGNATURE

Jesse Evans - President
1609 Loop Road
Wildsville, LA 71377 USA
Tel. (318) 339-8951
Fax (318) 339-6771

MAY 28 1997

Date: May 22, 1997

Robert Livingston
U.S. House of Representatives
2406 Rayburn House Bldg.
Washington, D.C.

Dear Sir:

We have just found out that some of our farm raised turtles (MAPS) are going to be placed on CITIES listing. This would only hinder us with more paper work, and is totally unnecessary. We are afraid that if they are successful at putting the **MAPS** on **CITIES** , our **Red Ear** turtles may be next.

I am enclosing a short history of how the turtle industry got started in Louisiana. We are a group of hard working men, (52) that own family businesses. It is a shame that we have branches of our government that try and make it so hard on the small businesses, that it actually discourages them to continue to stay in business.

I am in hopes that you and our other elected officials can help us. We have always tried to fight our own battles, but we are up against a branch of government that has caused many problems. It started in 1995, when USF&W in Chicago, decided that (500) turtles per box was too many. Even though, we had shipped **millions of baby turtles** (since shipping began) in the early 70's), without any **mortalities**, and our customers **pay in advance.** They (**USF&W**) decided that we could only ship 333 turtles per box. . Our customers are now complaining to us that the turtles dehydrate during shipping, as there is too much air space. I knew it was not a good idea, as a turtle likes to clamber on top of one another. This is their nature!!! It is very upsetting to have someone using their authority, and try to tell professionals (and we are professionals at packaging and shipping turtles), how to conduct their business.

On behalf of the Louisiana Turtle Farmers Association, I ask your help on the above problems at we are facing. I look forward to hearing from you.

Best regards,

Jesse Evans

Jesse Evans, President LTFA

LOUISIANA FARMS "SALMONELLA FREE" TURTLES

Louisiana turtle farming was started in the late 40's and early 50's by (5 or 6) men. They would take buckets and go along the rivers and lake banks in search of turtle nest. After a long day of searching and digging, the eggs were brought back to their back yards, place in sand boxes and covered with wet gunny sacks. They waited 60 days for the turtles to hatch and sold them to pet stores here in the States.

The demand for turtles increased, and the few farmers decided to fence up ponds in their back yards. They stocked their ponds with breeders caught from the lakes and rivers near their homes. This made it much easier for the men, and it became a family business.

The farms continued to prosper, but had a set back in the early '70's. There were more and more turtles being put on the market and some had been found to carry salmonella bacteria. The FDA soon began to get involved. The farms decided it best to impose a ban on the sales of baby green turtles here in the States.

Some of the farms started exporting turtles to countries over seas. They were successful, and this kept the industry growing. The turtle farmers, realizing that there were still problems, formed an association, and went to Louisiana State Department of Microbiology for help. Dr. Ron Seibling, microbiologist, started working on a method to treat the turtle eggs, so we could raise a salmonella free turtle. The Seibling method has been the number 1 thing that kept the industry alive.

Since there were no regulations on the farms,(and some of them were not following the Seibling method) of treating turtle eggs, the industry suffered another set-back. Some countries, (Italy, Spain and France) were about to stop all importation of baby turtles. In the mid 80's the association, went to the State legislature, and asked for help. It was decided that the Department of Agriculture & Forestry, would start regulating the farms. Since the Department started regulating the farms,(thanks to Commissioner Bob Odom and his assistant, Dr. C.T. Raby), the industry has grown to double the farms. There were 8.2 million turtles raised in 1996. This brought millions of foreign dollars into the economy here in Louisiana.

The turtle industry has a great impact on the economy here in the State. It has put people to work, that are usually on welfare and food stamps.

We do have some unnecessary problems facing the industry at this time. We must get a (3177) USF&W clearance on the turtles before they can leave the country, this is perfectly understandable. But now USF&W,(unaware that Louisiana has a turtle farming industry), are stating that some of our farm raised turtles (MAPS) be placed on CITIES listing. This being that their agents can not tell the different species and (some of the species may be coming endangered), but the ones we farm, are not! We need your help, to keep the LOUISIANA FARM RAISED TURTLES off CITIES.

O