

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

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

March 28, 2000

INTRODUCTION

I appreciate this opportunity to testify before you today regarding U.S. preparations for the Eleventh Meeting of the Conference of the Parties (COP11) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which will take place in Nairobi, Kenya, from April 10th through April 20th of this year. I have worked on matters involving this treaty for over 24 years, having attended nine previous meetings of the Conference of the Parties beginning with the first Conference of the Parties in Bern, Switzerland in 1976. Moreover, I served as the head of the U.S. delegation at the Tenth Meeting of the Conference of the Parties (COP10) held in Harare, Zimbabwe in 1997, and will have the same role at COP 11.

CITES -- which now has one hundred and fifty party countries, including twelve new countries since COP10 - is a treaty that works. It has become one of the most effective forces in the world today for conservation of plants and animals, both in halting the trade in species which are threatened with extinction and in ensuring that any trade in other, vulnerable species is sustainable. The lead responsibility within the United States for implementation of CITES rests with the Secretary of the Interior, acting through the Fish and Wildlife Service. The Service works closely with the Departments of State, Commerce (National Marine Fisheries Service, in particular), Agriculture (both the Animal and Plant Health Inspection Service (APHIS) and the U.S. Forest Service), Treasury (Customs), Justice, the Agency for International Development, and the Office of the U.S. Trade Representative in implementing the Convention. The States play a key role in the implementation of CITES, and the Service works closely with the States in carrying out our CITES obligations, both in regulating trade in species which are listed in the Appendices and in preparing U.S. submissions for the COP. In fact, after COP10, the Service developed an innovative new relationship with the States which allows designated State agency representatives to participate in our CITES deliberations on an equal basis with other Federal agencies for issues affecting native U.S. species. In addition, non-governmental organizations also participate actively in CITES through an extensive U.S. public participation process as well as during the COPs themselves. During our COP11 preparations, we have had five *Federal Register* notices, two public meetings, regular updates of CITES information on the Service's worldwide web pages, and countless informal consultations with interested groups representing every conceivable wildlife conservation point of view.

As we testified in 1997, the U.S. was pleased with the overall outcome of many key issues at COP10. Included among the successes were the rejection of attempts to reopen commercial trade in whales, sea turtles, and white rhinos; to loosen the restrictions on commercial trade in Appendix I species; and to change the relationship between CITES and the International Whaling Commission. We also saw the adoption of several U.S. initiatives, including those dealing with sturgeons, harmful invasive species, and others. On the one issue which loomed largest at COP10, the parties approved the downlisting of African elephants in three southern African countries to allow for an experimental, limited one-time trade in ivory stockpiles. While the U.S. opposed this effort, we attempted to advocate our position in a constructive manner which allowed the U.S. to leave the COP with our cooperative working relationship with the

affected countries stronger than ever.

Of the numerous outstanding issues to be addressed at COP 11, there are several that we would like to highlight.

RESOLUTIONS AND OTHER AGENDA ITEMS

Contribution Made by Observers at COPs and the Rules of Procedure

A major issue at COP 10, which we have worked toward resolving at COP11, deals with the recognition of the important contribution made by observers to CITES. CITES may be unique in the way that the text of the Convention allows non-governmental observers the right to participate in meetings and to speak on issues of interest to them. One of our priorities for COP 11 will be to ensure that non-governmental organizations are fully afforded these opportunities. Active participation by a broad spectrum of national and international non-governmental organizations representing widely divergent views is vital to the work of CITES, benefitting both the U.S. delegation and the COP as a whole. We will vigorously oppose suggested changes to the rules of procedure which would allow the COP Bureau (the executive body which runs the COP) to arbitrarily decide to revoke an observer's right to participate in the meeting without putting the matter out for full discussion by all of the parties. We also will oppose a revision to the rules which would reduce the transparency of the COP by making it easier to close the proceedings to outside observers.

Movement of Sample Crocodilian Skins

It is important to streamline the CITES permitting process for species that have greatly benefitted from CITES controls, and thereby reduce the burden on the affected industry where there is no conservation risk. The Service has submitted a proposal to discuss streamlining the procedures for issuing export or re-export documents for crocodilian skins that are tagged in accordance with the CITES universal tagging resolution, that will be used to help facilitate crocodilian displays at trade shows.

Reaffirmation of the Synergy Between CITES and the International Whaling Commission (IWC)

The United States has submitted a draft resolution entitled "A Reaffirmation of the Synergy Between CITES and the IWC" for consideration at COP11. This draft resolution endorses the cooperation between CITES and the IWC on matters of international trade in and management of whales, and urges the Parties to make every effort to ensure that this cooperation continues. The United States led an effort at the last meeting of the IWC to adopt a resolution endorsing the relationship with CITES and to support the continued prohibition of all commercial whaling; this resolution reaffirms that relationship.

Primarily Commercial Purposes

A proposed resolution submitted by South Africa would revise one of the Convention's most important interpretive documents, Resolution Conf. 5.10, a long-standing resolution which defines what is meant by the Convention's prohibition on imports of Appendix I species for "primarily commercial purposes." The proposed change would substitute the present analysis of whether the transaction would be for primarily commercial purposes in the country of import, for an analysis of whether the proposed export of the Appendix I specimen would be for the benefit of the species. While we are sympathetic to the need to provide resources for conservation of species in the wild, this proposed resolution is contrary to the plain text of the Convention and would create a major loophole which could undermine protection for all Appendix I species. For these reasons, we will oppose it, as we opposed similar efforts in previous COPs.

SPECIES LISTING PROPOSALS

Of the proposals sponsored or co-sponsored by the United States, 7 were for species native to the United States or U.S. waters. For native species, we worked closely with both the States and other Federal agencies, and all proposals were submitted after we achieved consensus among all Federal and State participants, through our interagency process, that the species involved meet the CITES criteria for the proposed action. We will discuss a few of the key species

proposals. Please see the attached *Federal Register* notices for a comprehensive list of proposals.

Gyr Falcon to Appendix II

We proposed to downlist the North American population of the gyrfalcon (*Falco rusticolus*) from Appendix I to Appendix II. At present, the North American gyrfalcon population, consisting of over 5,000 individuals, occurs over a large area of wilderness habitat and has not been subjected to an observed, inferred, or projected decline in numbers or in the area and quality of its habitat for over 20 years. Evidence indicates that this population has not declined due to legal or illegal international trade since at least 1981. We consulted the Government of Canada regarding this proposal and worked closely with both the States and the affected public in the preparation of this proposal. In order to allay fears expressed by some European countries, the proposal includes a zero quota for wild specimens.

Native reptiles to Appendix II

Working closely with the States, the Service evaluated an extensive number of native reptile species to determine whether they qualify for inclusion in CITES Appendix II. We concluded by consensus that the timber rattlesnake (*Crotalus horridus*) and spotted turtle (*Clemmys guttata*) qualify for Appendix II, and at the States' request, we submitted those proposals. We also concluded, again working with the States, that the alligator snapping turtle (*Macrochelys temminckii*) and the map turtles (*Graptemys* spp) should not be proposed for Appendix II, but rather should be considered for listing in CITES Appendix III -- the first such listings proposed in the United States. We have published a *Federal Register* notice informing the public that we are considering this action; that comment period closed March 13, and the Service will be evaluating all comments after our return from COP11. We also concluded that a large number of native reptile species subject to international commercial trade are either sufficiently well managed and/or their populations are in sufficiently good condition that they do not warrant consideration for CITES Appendix II or III. We have shared our evaluations with the States, and believe that this effort and our new relationship has significant positive potential for conservation of these reptile species.

Co-sponsorship: Working with other countries, particularly range countries

We co-sponsored several proposals submitted by other countries. Indeed, we submitted no proposals for species not native to the U.S. that were not co-sponsored with a range country. We would like to highlight our cooperative efforts with developing countries for the benefit of species conservation. We worked closely with India, Sri Lanka, and Nepal on several proposals including musk deer, pangolins, and tarantulas, which we believe will stimulate conservation benefits for those species and countries. We also worked cooperatively with the government of Georgia, a newly emerging nation, in the preparation and submission of a proposal for bottlenose dolphins of the Black Sea. We worked in partnership with Kenya in the preparation and submission of a proposal for the pancake tortoise (found only in Kenya and Tanzania). All of these cooperative conservation efforts reflect scientific cooperation with our colleagues throughout the world, in order to deal with and find solutions for complex conservation problems facing these species.

Creative solutions: Seahorses

Seahorses occur in U.S. waters and the waters of up to 85 other countries. Some reports estimate that as many as 20 million seahorses are harvested each year for use in traditional medicine, the curio trade, and live animals for the aquarium trade. We considered a proposal to list all seahorses in Appendix II. However, data deficiencies, taxonomic uncertainties, and complicated implementation challenges precluded such a submission at this time. Instead, working cooperatively with the government of Australia, we jointly submitted a detailed discussion paper on the issue. The paper raises the issue to the CITES Parties, but recommends creative solutions that, if implemented, may preclude the need to list all of these species, and benefit their conservation while allowing well-managed sustainable utilization.

Whales

Japan and Norway have submitted four proposals to downlist stocks of both the gray whale and minke whales from Appendix I to II. The International Whaling Commission (IWC) currently manages these stocks via zero catch quotas, as agreed by the IWC member states. If adopted, these proposals would re-open international commercial trade in whale products, and could foster increased poaching of protected whale species. Similar proposals were defeated at the

last two CITES meetings. The United States strongly opposed those proposals and continues to do so, for a number of reasons. We are strongly opposed to the downlisting of whale species subject to the commercial whaling moratorium of the IWC. We believe that CITES should honor the request for assistance in enforcing the moratorium which was communicated by the IWC to CITES. At its most recent meeting, the IWC overwhelmingly passed a resolution that directs the IWC Secretariat to advise CITES that the revised management scheme has not been completed and that a commercial moratorium is still in force for species of whales which are managed by the Commission. In addition, we believe that the close cooperation of IWC and CITES must continue in order that the conservation needs of whale species - both for management and control of international trade - will be met. We also note that, independent of the IWC issue, these whales do not meet several of the CITES criteria for downlisting to Appendix II, particularly regarding enforcement controls.

Sea turtles

Cuba has submitted two proposals to transfer the "Cuban" population of hawksbill sea turtles (*Eretmochelys imbricata*) from Appendix I to Appendix II, in an effort to open up international commercial trade in this species. We strongly oppose these proposals, on biological and enforcement grounds. International trade in hawksbill sea turtles has been prohibited since the species was listed in CITES Appendix I in 1975. The species is listed as endangered on the Endangered Species Act, and has been categorized by the IUCN as "critically endangered." Worldwide, approximately half of the known nesting populations are known or suspected to be in decline; the entire Western Atlantic-Caribbean region in particular is greatly depleted. DNA analysis of samples collected from hawksbill turtles inhabiting foraging grounds in Cuba reveal that 30% to 58% of these individuals did not originate on Cuban nesting beaches. Hawksbills which nest or forage in Puerto Rico and the U.S. Virgin Islands are known to be genetically related to animals studied in Cuba. Furthermore, illegal take and trade are significant in the wider Caribbean and Asia. There is good reason to believe that demand for tortoise shell would increase if any legal trade were reopened. Recovery efforts in place in the United States, the Caribbean and elsewhere in the world for this species would be jeopardized if any commercial trade were allowed.

African elephants

In early 1999, the CITES Standing Committee gave final approval to the one-time sales of ivory stockpiles authorized in the COP10 downlisting of elephants in Botswana, Namibia, and Zimbabwe to Appendix II. The COP10 decision also called for the establishment of systems for monitoring poaching of elephants and illegal ivory trade. The Secretariat and Standing Committee, working with the World Conservation Union (IUCN) have established two systems: MIKE (Monitoring Illegal Killing of Elephants), and ETIS (Elephant Trade Information System). We have provided significant funding to several MIKE pilot projects, through the African Elephant Conservation Fund. This funding was made in part to fulfill our pledge at COP10 that, although we opposed the downlisting and opening of the ivory trade, we are committed to helping CITES parties and the Secretariat ensure that the elephant downlisting decision does not threaten other elephant populations. An increase in poaching has been reported by several elephant range countries, including Kenya, as well as some non-governmental organizations. However, the monitoring system has not sufficiently progressed to detect any substantive increase in poaching.

For COP11, Botswana, Namibia and Zimbabwe have proposed to amend the terms of their existing downlisting annotations -- which do not allow any further ivory trade -- with annual quotas of ivory for commercial export to Japan and possibly other countries. Trade in hunting trophies, live animals, and hides would remain unchanged. In addition, South Africa has proposed to transfer its elephant population from Appendix I to Appendix II, with a quota of 30 tons of ivory from Kruger National Park for sale to Japan only. Kenya and India, on the other hand, have proposed not only to reject all of these proposals for further trade, but also to return all Appendix II populations of elephants to Appendix I. We continue to believe that Botswana, Namibia, South Africa, and Zimbabwe deserve much credit for maintaining healthy elephant populations, particularly in comparison to the elephant declines which have occurred in most other African countries. However, because neither the MIKE nor ETIS systems have yet proven their ability to provide significant data on the effects of the ivory trade, we remain very concerned about the potential effects which any further trade could have on elephants in other countries in Africa and in Asia. We are continuing to analyze these proposals and to conduct our interagency process and will have a final U.S. position prior to the start of COP11.

ATTACHMENTS

Attached to this testimony are copies of *Federal Register* notices which summarize the final U.S. decisions on proposals which we submitted for consideration at COP11, as well as our proposed negotiating positions on proposals submitted by other countries. These two notices together address the more than 50 specific issues on the agenda and the 62 proposals to amend the species listings in 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 are still ongoing. These proposed positions are published with the understanding that any new information which may become available prior to or during the COP may lead to modifications of these positions. The U.S. delegation will fully discuss the progress of negotiations during daily public briefings for U.S. observers and non-governmental organizations at COP11.

I would be pleased to answer any questions you may have about CITES implementation and our preparations for COP11 in Nairobi.

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