

# Committee on Resources

## Subcommittee on Fisheries Conservation, Wildlife and Oceans

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### Background

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March 21, 2000

#### MEMORANDUM

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

**FROM:** Majority Staff

**SUBJECT:** Hearing on the Proposed U.S. positions on Agenda Items and Resolutions for the Eleventh 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, March 28, 2000 in room 1334 Longworth House Office Building, the Subcommittee will meet to hold an oversight hearing on the proposed U.S. positions on agenda items and resolutions 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). COP11 will be held April 10-20, 2000, at the United Nations Environment Programme (UNEP) Headquarters in Nairobi, Kenya. The witness invited to testify is 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 150 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 (whether dead or alive, and/or any recognizable part or derivative) from unregulated international trade.

Protected species are listed on Appendices I, II, or III of CITES. Appendix I includes 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 is not detrimental to the survival of the species. 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 within their boundaries that requires 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 by or exported from the United States generally must pass through one of several ports designated by the U.S. Fish and Wildlife Service (USFWS) for clearance by an USFWS wildlife inspector. The list of species regulated under CITES and regulations applicable to these listed animals are presented in 50 C.F.R. Part 23.

Actions taken under CITES effect the trade in wildlife across international boundaries, but do not necessarily effect 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 as the lead agency for protecting wildlife under the jurisdiction of the United States. As the lead agency, the USFWS functions as the U.S. Management Authority for CITES. The USFWS 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 COP11 by November 12, 1999 (150 days prior to the start of the meeting).

The 9<sup>th</sup> meeting of the CITES Plants Committee met in Darwin, Australia on

June 7-11, 1999, and the 15<sup>th</sup> meeting of the CITES Animals Committee met in Madagascar on July 5-9, 1999. The CITES Plants and Animals Committees are technical committees established by the CITES Conference of Parties. They met to discuss scientific and technical issues pertaining to CITES implementation for plants and animals. These Committees usually meet once a year between COP meetings to work on resolving CITES plant and animal related issues carried over from previous Committee meetings or COP meetings, as well as identifying new issues in need of resolution.

The last meeting of the Conference of the Parties (COP10) was held on June 9-22, 1997, in Harare, Zimbabwe. COP10 was unusual in the deliberations due to the large number of secret ballot votes. Parties normally vote by a show of placards or by a roll call vote. In order to downlist or uplist a species, two-thirds of the Parties must vote in favor of the proposal. Proposals at COP10 to amend the Appendices by downlisting or uplisting that received secret ballot votes were on: whales, elephants, rhinoceros, hawksbill sea turtles, and bigleaf mahogany. The elephant and whale proposals were particularly controversial and took up much of the debate time during the Conference. An interesting feature of the CITES Conference is that all qualified non-governmental organizations (NGOs) may fully participate in debates and discussions on pending items before the Conference. However, they cannot vote in either Committee meetings or in Plenary sessions.

### **COP11:**

To prepare for COP11, the USFWS published its first scoping document in the Federal Register in January, 1998, requesting recommendations on proposals to CITES. The second Federal Register notice requesting recommendations was published in April, 1999. On July 8, 1999, the USFWS published proposed resolutions and agenda items being considered for amendments to CITES appendices submitted by the United States. On February 17, 2000, the USFWS published its draft resolutions, draft decisions, discussion papers, other items and proposals to amend CITES appendices submitted by the United States. On March 8, 2000, the USFWS published summaries of the proposed U.S. negotiating positions on agenda items, resolutions, and species proposals to amend CITES appendices submitted by other countries and the CITES Secretariat for COP11.

The issues that will be very controversial at COP11 are the amendments to transfer elephant and whale species from Appendix I, all trade being prohibited, to Appendix II, which allows monitored trade. Japan is petitioning to transfer the Eastern North Pacific stock of Gray whale from Appendix I to II. Japan and Norway are petitioning to transfer the Okhotsk Sea West Pacific, Northeast Atlantic and the North Atlantic Central stocks of Minke whales from Appendix I to II. The United States current negotiating position is in opposition to these amendments.

South Africa is petitioning to transfer its elephant population from Appendix I to Appendix II, with the stipulation (annotation) that it be allowed to trade in ivory (30 tons), hides and leather goods, trophies and live animals.

Botswana, Namibia, and Zimbabwe are petitioning to maintain their populations of elephants on Appendix II and to establish a limited commercial trade in elephant products. For instance, Botswana wants an annotation of 12 tons of ivory, hides and leather goods, trophies and live animals. Namibia wants to trade 2 tons of these products, while Zimbabwe requests a quota of 10 tons. In each case, the population of African elephants continues to increase in

southern Africa and there is an economic value for the elephant products which are confiscated, culled or die of natural causes.

Meanwhile, India and Kenya are petitioning to transfer all elephant populations currently in Appendix II to Appendix I. The United States is still developing its negotiating position on these amendments.

Attached is the Federal Register notice describing the United States position on draft proposals and decisions, discussion papers, and other items for consideration at COP11

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