

# Committee on Resources

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## TESTIMONY OF JUDGE CRAIG MANSON, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON RESOURCES REGARDING U.S. PARTICIPATION IN AND THE OUTCOME OF THE TWELFTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

February 25, 2003

Mr. Chairman, and members of the Committee, I appreciate this opportunity to testify before you today and report on U.S. participation in, and the outcome of, the Twelfth Meeting of the Conference of the Parties (COP12 or COP) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which took place in Santiago, Chile, from November 3-15, 2002.

CITES continues to serve as an effective and dynamic tool for protecting species of animals and plants affected by trade, and the number of countries that are parties to the treaty continues to grow. Just since the time of our previous testimony in September 2002, two new Parties – Kuwait and Bhutan – acceded to the treaty, becoming Parties during COP12 and bringing the total number of Parties to 160. In addition, Libya recently acceded to the treaty and it will be the 161 party to CITES in April 2003. At COP12, the Parties continued their efforts to strike a balance between the need to protect vulnerable species and the desire to reward countries that have demonstrated a commitment to the sustainable use of their wildlife resources.

The U.S. lead on CITES matters rests with the Department of the Interior, through the U.S. Fish and Wildlife Service (Service). The Service works closely with the Departments of State, Commerce (NOAA Fisheries, in particular), Agriculture (both the Animal and Plant Health Inspection Service [APHIS] and the Forest Service), Treasury (Customs), Justice, the Agency for International Development, and the Office of the U.S. Trade Representative. All of these Federal agencies participated in the development of U.S. proposals and positions leading up to COP12, and most were also represented on the U.S. delegation to the meeting. Mr. John Turner, Assistant Secretary of State for International Environmental and Scientific Affairs, was able to join the leadership of the U.S. delegation for part of the meeting. Representatives of other agencies were active in negotiations and consultations with other Parties' delegations as well as in U.S. strategy development at the meeting.

Our close relationship with the States on CITES issues continued at COP12, with a representative of the States, Wayne Regelin of the Alaska Department of Fish and Game, serving as a member of the U.S. delegation, as well as through representation as non-governmental observers by several regional associations of fish and wildlife agencies. We worked collaboratively with the States in the development of proposals, particularly those dealing with listings of native U.S. species and trade in their products.

Non-governmental organizations (NGOs) based in the United States provided valuable input through our public consultation process for the development of U.S. proposals and positions for the COP. These organizations played an active role at the COP by attending as observers who, while unable to vote, participate in the discussion of issues in the meeting and also serve as members of ad hoc working groups during the meeting. The participation of NGOs as observers at CITES meetings is advocated by the United States to ensure transparency of CITES processes. They represent a spectrum of viewpoints and expertise that helps to inform delegates and enrich meetings. To ensure that we remained accessible and open to communication with the NGO community during the meeting, we held regular briefings for them at the end of each day's proceedings.

COP12 was one of the most successful CITES meetings ever for the United States. We achieved our goals on nearly every issue, whether it was a species listing or addressing a particular problem with implementation of the treaty. As the head of the U.S. delegation, I worked actively with my counterparts from other countries on elephants, mahogany, whales, and other issue of importance to the United States. U.S. leadership was recognized in our serving on, and sometimes chairing, various working groups formed

during the meeting. As Chair of the Standing Committee, the United States was a member of the Bureau, which serves as the "Board of Directors" during the meeting for dealing with administrative matters and resolving disputes. These interactions provided opportunities to work with other countries and NGOs to develop consensus solutions to shared problems.

A key outcome of COP12 were a number of advances for the conservation of marine species subject to international trade, including the listing of whale sharks, basking sharks and seahorses; the development of a framework for collaboration between CITES and the Commission for the Conservation of Antarctic Marine Living Resources on Patagonian toothfish; the adoption of a decision drafted by the United States and Japan to establish formal ties between CITES and the United Nations Food and Agriculture Organization on fisheries issues; and a decision by the Parties to review the trade in sea cucumbers, which are a highly traded, but unregulated, marine resource.

In response to documents submitted by the United States, ad hoc working groups were formed at the COP to address both scientific and implementation issues related to the use of export quotas by the CITES Parties. We chaired a working group formed to consider ways to assist countries in improving the scientific basis for establishing quotas. The working group, which included importing and exporting countries, as well as NGOs, reached a conclusion that the existing training programs of the CITES Secretariat were the most appropriate vehicle for providing technical assistance to Parties on the development of quotas. A decision was adopted to involve the Animals and Plants Committees in the development of training materials, based on sound scientific and management principles. We also submitted a document outlining problems related to implementation of quotas and were successful in getting this issue referred to the Standing Committee for further deliberation.

The Parties also continued their efforts to find alternative approaches for dealing with specimens of CITES-listed species that represent a low conservation risk. Since COP11, we have participated in a working group assigned to investigate ways of streamlining permitting procedures for time-sensitive biological samples for research, diagnosis of disease, and other scientific purposes. The Parties adopted a resolution that simplifies procedures for these types of specimens while retaining sufficient control to ensure that negative impacts on wild populations are avoided. Two listing proposals also eliminated permitting requirements for certain CITES-listed species. Switzerland submitted a proposal to exempt certain artificially propagated cacti from CITES permitting requirements, and the United States submitted a proposal to have certain artificially propagated orchid hybrids exempted. Both of these proposals were adopted.

The Parties dealt with 68 agenda items and 60 species proposals at COP12; we would like to highlight those that we feel are most significant.

## RESOLUTIONS AND OTHER AGENDA ITEMS

### Budget

The activities of the CITES Secretariat and the permanent committees (Standing, Animals, and Plants) are funded through voluntary contributions of the Parties, augmented by a trust fund. In recent years, expenditures have exceeded the Parties' contributions, resulting in a draw-down of the trust fund. Therefore, a significant amount of time was spent at COP12 on budget matters. Because the demands on the Secretariat for assistance to the Parties and other activities continue to increase and because the trust fund had been drawn down to agreed upon levels, the Secretariat was seeking an increase in the Parties' voluntary contributions. However, based on longstanding U.S. policy, we, with like-minded countries, opposed any increase in the Secretariat's budget. Rather, we advocated seeking greater efficiency in the way work is conducted and the curtailment of low-priority activities. In the end, the parties approved a 6% increase in contributions, based on a desire to maintain capacity-building in developing countries and to assist developing countries to participate in meetings. As Chair of the Standing Committee, we will continue to work with other Parties to contain costs and control the CITES budget.

### Consistency in CITES Implementation among Parties

The effectiveness of CITES is directly impacted by Parties' ability to meet their obligations under the treaty. The Parties continue to wrestle with ways to encourage each other to improve their capacity for implementing the treaty and complying with its requirements. Several decisions were taken to move the Parties forward toward more uniform implementation and enforcement of CITES. These included: vesting the Standing Committee with a greater role in implementation; capacity-building initiatives for developing

countries; efforts to improve the exchange of law enforcement information to assist investigations; continuing progress on national laws to implement CITES; and the exploration of mechanisms to aid Parties in verification of the authenticity of CITES documents.

#### Review of the Listing Criteria

The CITES listing criteria form the foundation for all activities under the treaty, since they determine which species are included in the Appendices and on what basis. The criteria were last modified at COP9, in 1994, when a major revision was undertaken. The Parties agreed at that time to review the criteria and make appropriate changes by COP12. Therefore, at COP11, a process was established for a review of the listing criteria through the establishment of a Criteria Working Group. Unfortunately, the process established at COP11 did not result in consensus recommendations from the Criteria Working Group for revision of the criteria, and many Parties adamantly opposed the adoption of any revisions at COP12. An ad hoc working group at the COP, on which NOAA Fisheries participated for the U.S. delegation, established a framework for continuing this review within the Animals and Plants Committees, with oversight by the Standing Committee. Recommended revisions to the listing criteria are to be submitted to COP13 for consideration by the Parties. We will remain active in the review process to ensure that listing criteria are grounded in science.

#### SPECIES LISTING PROPOSALS

In preparing for COP12, we developed a strategy focused on native U.S. species as our highest priority. We also gave consideration to foreign species, particularly if the United States was significantly involved in the trade of a species or could play a leadership role in the conservation of the species. However, particularly for species outside our borders, all of our actions were grounded in collaboration with other agencies or governments and consensus building.

We proposed or co-sponsored 16 species listing proposals for COP12. Of these, 7 were for native species; 5 were adopted, one was rejected, and one was withdrawn. We worked closely with and consulted the States and other Federal agencies, including NOAA Fisheries, as well as other Departmental bureaus such as the Bureau of Land Management and the National Park Service, on proposals for native species. The results of the proposals for native species are summarized in the table below.

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Proposal

COP12 Result

Vote/Decision

Prop 34

Deletion of the orange-throated whiptail lizard (*Cnemidophorus hyperythrus*) from Appendix II.

Adopted

Consensus

Prop 37

Inclusion of seahorses (*Hippocampus* spp.) in Appendix II.

Adopted, as clarified

75-24 in Com. I

Prop 38

Inclusion of humphead wrasse (*Cheilinus undulatus*) in Appendix II.

Rejected

65-42 in Com. I

Prop 46

Transfer of Tonopah fishhook cactus (*Sclerocactus nyensis*) from Appendix II to Appendix I.

Adopted

Consensus

## Prop 47

Transfer of Blaine's pincushion (*Sclerocactus spinosior* spp. *blaneii*) from Appendix II to Appendix I.  
Withdrawn

## Prop 48

Transfer of the Santa Barbara Island dudleya (*Dudleya traskiae*) from Appendix I to Appendix II.  
Adopted  
Consensus

## Prop 53

Deletion of Maguire's bitter-root (*Lewisia maguirei*).  
Adopted  
Consensus

All of the U.S. proposals for non-native species were for Asian freshwater turtles and tortoises, and each of them included a range country as a co-sponsor. All of these proposals were prepared at the request of the Parties that attended a CITES-sponsored workshop, hosted by China in May 2002, to address the trade in turtle species in Asia. The workshop resulted in several recommendations by the participants, including specific recommendations to list species being threatened by over-utilization for human consumption. Because the proposals were derived from the workshop with the full endorsement of range countries, they were adopted by consensus at the COP with little debate. A similar workshop resulted in the U.S. submission of a proposal to include seahorses in Appendix II, also with broad support of range countries, which was adopted by a 3-to-1 margin. We believe that the use of such workshops to review the status of highly traded species can preclude contentious and time-consuming debate at a COP, and often result in recommendations other than listings of species in the CITES Appendices to address the conservation needs of the species.

## African elephants

A total of six proposals were submitted for consideration at COP12: five that would have allowed regular commercial trade in ivory by the proponent countries – Botswana, Namibia, South Africa, Zambia, and Zimbabwe – and a proposal from India and Kenya to return all African elephant populations to Appendix I, which would prohibit any further commercial ivory trade. The U.S. delegation put substantial effort into negotiations with the proponent countries to reach a compromise on the proposals. While recognizing the management successes of some of the range countries, we were concerned about regular ivory trade and negotiated with the southern African countries to amend their proposals to allow only a one-time sale of ivory. We also worked with other delegations to ensure that the conditions of any sale of ivory included effective safeguards to prevent adverse impacts on elephant populations in other countries.

Three of the southern African nations, Botswana, Namibia, and South Africa, will be permitted to conduct a one-time sale of registered government stockpiles of ivory, no earlier than May 2004. Conditions for the sale include: the sale must be from existing government stocks from elephants that died from natural causes (Botswana 20 tons, Namibia 10 tons, South Africa 30 tons); trade can occur only with qualifying importing countries that have effective internal law enforcement and controls to prevent illegal trade or the re-export of ivory; revenues from ivory sales must be used for conservation purposes or community development projects in areas within or adjacent to elephant range; and the Monitoring of Illegal Killing of Elephants (MIKE) program, which is designed to provide a baseline of elephant populations and ongoing monitoring, must be expanded and operational.

Zimbabwe's proposal for ivory sales failed, as did Zambia's proposal to downlist its elephant population from Appendix I to Appendix II and to sell its government-held ivory stock. The United States led a majority of countries which did not support Zimbabwe's proposal because of concerns over the current political situation in the country and whether they could adequately control and enforce requirements for a one-time sale of registered government stockpiles of ivory. A majority of the Parties, including the United States, did not support Zambia's proposal because their elephant population has not yet stabilized and they lack the internal mechanisms for enforcement. However, we are reviewing ways to assist Zambia in rectifying these problems through potential funding under the African Elephant Conservation Act.

## Mahogany

A proposal to include bigleaf mahogany in Appendix II was submitted by Guatemala and Nicaragua. This was the fourth time such a proposal had been submitted to a COP, and two previous proposals had been co-sponsored by the United States. We came into COP12 officially undecided on the proposal to list bigleaf mahogany in CITES Appendix II. We came prepared to consult quietly with range States, listen to their views on the listing, and take a position that would best support range-State efforts to achieve sustainable harvest and continued trade in mahogany underpinned by implementation of broader sustainable forest management plans across the range.

We facilitated a dialogue between the range countries, and we indicated our commitment, as the largest importer, to maintain healthy trade and our willingness to cooperate with the range States as they seek to strengthen sustainable forest management and mahogany control efforts. We used our undecided position to encourage all parties to come to a consensus on the most effective outcome for conservation and sustainable use of the species.

When the proposal came to a vote, no broad consensus had been reached among all the range countries on an Appendix-II listing. In this case, we were prepared to, and did, vote for the listing proposal. We believe that our vote for Appendix II is a vote for sustainable use and continued trade of bigleaf mahogany. An Appendix-II listing under CITES is not designed to discourage trade. Rather it is intended to ensure trade is based on sustainable harvest.

As the major importer of bigleaf mahogany, the U.S. is committed to making this listing work, both at our ports and for the U.S. consumer. We are also committed to working with the range States to make it a success. The Service has coordinated an interagency effort to put into place an administrative plan on implementation for the listing, which becomes effective on November 14, 2003.

#### Whales

Japan submitted two proposals that would have downlisted virtually all the northern hemisphere populations of minke whales and the western North Pacific population of Bryde's (pronounced "broodis") whales from Appendix I to Appendix II of the convention. We are pleased that the member nations of CITES did not approve these proposals, which would have allowed new significant commercial trade in whales for the first time since 1986 when virtually all whale populations were placed in Appendix I.

Under CITES, a proposal to uplist or downlist a species requires a two-thirds majority vote. Neither of the Japanese proposals garnered even a majority. The United States, under expert guidance from the NOAA Fisheries, strongly stated our position that we do not believe that the species qualify for downlisting to Appendix II or that it would be appropriate to resume commercial trade at this time. We are gratified that other nations agreed with our position and voted to reject the proposals. We also believe it is inappropriate to consider downlisting the two species under CITES until the International Whaling Commission completes its revised management scheme for the species. The IWC currently has in place a moratorium on commercial whaling.

The decision to lower the protection status for species under CITES depends both upon biological factors and whether effective management and enforcement plans are in place. Currently there is no agreed-upon plan to regulate and enforce commercial whaling, so the two species do not qualify for downlisting.

#### Other Marine Species

Progress on marine conservation at COP12 was due in large part to unparalleled interagency effort with the Service, NOAA Fisheries, and the Department of State. Staff and leadership from all three departments worked consistently and tirelessly to advocate our positions, develop international consensus, and plan future collaboration. I'd like to spend a few minutes highlighting some of their accomplishments.

**Seahorses:** With the support of our State and territorial fisheries agencies, the Service and NOAA Fisheries jointly developed a proposal to list all 32 species of seahorses in Appendix II of CITES, to require systematic permitting and monitoring of all international trade in this taxon between CITES nations. Seahorses are vulnerable because of low reproductive potential, habitat degradation, and complex reproductive cycles. Overfishing or population declines are apparent in several nations for at least six species. Other species of seahorses qualify for Appendix II because they closely resemble the most threatened and heavily fished species. The proposal was adopted by consensus, but with our suggested delayed implementation until May

2004. During the 18-month delay, we plan to work with both our State partners and foreign governments to ensure that legal, sustainable seahorse trade continues smoothly under the Appendix-II listing. Issues that need to be addressed include: 1) exporting countries' need for technical assistance in monitoring harvest and restricting exports to sustainable levels; 2) consideration of a global minimum size that will help ensure sustainable harvest; 3) consulting with U.S. State agencies to advise them on future permitting requirements for export; and 4) practical means for addressing bycatch of seahorses. We have already approached seahorse fishery managers in Florida to discuss possible bilateral technical exchanges with other governments in 2003. We are also working with academia and experts in non-governmental organizations to issue a new identification manual for all 32 species, which will be distributed worldwide for use in law enforcement.

Sea cucumbers: Colleagues in NOAA Fisheries developed for COP12 a discussion document on the conservation of and trade in sea cucumbers. Harvest pressure on these species has increased in recent years due to growing international demand. The U.S. proposal, supported by others, requested an intersessional technical workshop to evaluate the conservation status of these species and consider appropriate conservation measures, including regional management, domestic fisheries controls, and possible future CITES listing. Japan, supported by Cuba, China, and Malaysia, opposed any action by the CITES Parties, considering the topic to be under the jurisdiction of FAO and other fisheries organizations. However, the majority of CITES nations accepted the U.S. proposal for a technical workshop and directed the CITES Animals Committee to prepare a discussion paper for COP13 (tentatively scheduled for late 2004) on biological and trade status and conservation needs.

We now plan to provide partial funding for this workshop, which should occur in late 2003 or early 2004. We will also strive to confirm specific terms of reference for this workshop at the next CITES Animals Committee meeting this summer. We envision several key topics to address, including identification of dried specimens in trade, appropriate monitoring protocols, and effective fishery management approaches. We will remain an active participant in this issue through final report submission at COP13.

Humphead wrasse: With strong support from other countries and our Pacific territories, we introduced a proposal to list the humphead wrasse in Appendix II at COP12. The humphead wrasse is one of the largest coral reef fishes, growing to more than 2 meters in length and living more than 30 years. It is heavily exploited for the live reef food fish trade, which supplies luxury restaurants in Hong Kong and other Asian markets. The species can fetch up to \$150 per kilogram, and demand is expected to grow with increasing human populations and affluence in China. Declines or extirpations have been reported throughout the species' range from the Red Sea to the South Pacific shortly after commercial fisheries began. Our Pacific territories have experienced this first-hand. Although the proposal failed with a simple majority approval, we feel that this voting pattern shows broad interest in this issue. We plan to consult with other Pacific countries and pursue ways to keep the live reef food fish trade and humphead wrasse at the forefront of CITES discussions. We will also consider whether to re-propose a listing at COP13.

Toothfish: On the Patagonian toothfish issue, the United States helped work out an agreement between Australia and Chile that will improve international monitoring of harvest and trade of this deep-sea fish, which is threatened by over-harvesting and illegal fishing. The resolution will improve monitoring of harvests and international trade in the species, which is also known as Chilean sea bass. As a result of the resolution, Australia withdrew a proposal to list the species in Appendix II.

Once again, range states disagreed sharply over the need to protect a species: the Australians wanted to list toothfish in Appendix II while the Chileans were strongly opposed. We quietly conferred with both countries and with other range states to come up with an acceptable proposal establishing a collaborative mechanism between CITES and the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) that will lead to better conservation of the species.

Cooperation between FAO and CITES: For many years, the United Nations Food and Agriculture Organization (FAO) Fisheries Program has been working with CITES Parties on issues of mutual concern. These include the biological criteria for listing marine species in the CITES Appendices and international shark conservation. This work has resulted in a strong desire among member States of both organizations for the two bodies to work more cooperatively on issues of mutual interest. Such work could include scientific review of marine species listing proposals for CITES. At COP12, we negotiated a consensus document with the Japanese asking the Parties to approve the initiation and completion of a formal Memorandum of Understanding (MOU) between the two institutions. This decision was accepted, almost unanimously by the CITES Parties, and will be considered by FAO through its Committee on Fisheries in

late February. Our colleagues in the Department of State played a critical role in the U.S. delegation on this issue at COP12, and we will reciprocate by working with them and the NOAA Fisheries while negotiating the MOU in the Committee on Fisheries. With this exemplary interagency effort, we hope to have the agreement in place and functioning well before COP13.

#### COP13--WHEN AND WHERE

The Parties approved a proposal from Thailand to host COP13 in Bangkok in late 2004 or early 2005, with specific dates to be determined. We will begin our preparations for COP13 later this year by seeking public input on potential U.S. proposals. We intend to follow a similar strategy leading up to COP13, with a primary focus on native species, collaboration at home and abroad, and a science-based, practical approach to the conservation of species in trade.

#### ATTACHMENTS

Attached are two tables, one listing all of the agenda items and a summary of the outcome for each, and another listing all of the species proposals and the results for each.

I would be pleased to answer any questions you may have about U.S. actions at COP12 and the outcome of any agenda items or proposals not discussed in detail here.