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<http://www.epa.gov/opptintr/lead/index.html>

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping.

Dated: August 19, 1997.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AE16

Changes in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, or "the Convention") regulates international trade in certain animals and plants. Species for which such trade is controlled are listed in Appendices I, II, and III to the Convention.

This document announces decisions by the Conference of the Parties to CITES on amendments to Appendices I and II, and repeats a previous request (62 FR 31054) for comment on whether the United States should enter reservations on any of the amendments. The effect of a reservation would be to exempt this country from implementing CITES for a particular species. However, even if a reservation were taken, many importing countries would require comparable documents, and many importers to the United States would be required, under the Lacey Act Amendments of 1981, to obtain permits issued by foreign countries. The CITES amendments to Appendices I and II described in this document will enter into effect on September 18, 1997, unless specifically indicated otherwise.

Reference is also made here to establishment by the Parties of an export quota for the markhor, a species both included in Appendix I and listed as Endangered under the Endangered Species Act, and the implications for the importation of markhor sport-hunted trophies into the United States.

DATES: The amendments to Appendices I and II adopted at the recent meeting of the Conference of the Parties become effective 90 days after their adoption under the terms of CITES and therefore are enforceable as of September 18, 1997, with the exception of the amendments concerning sturgeons, which will take effect on April 1, 1998. The Service will consider all comments received by September 12, 1997, in determining whether the United States should enter any reservations.

ADDRESSES: Please send correspondence concerning this proposed rule 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, Office of Scientific Authority, U.S. Fish and Wildlife Service, Arlington, Virginia, telephone 703-358-1708.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which the 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 lists species that must be subject to regulation in order that trade in other listed species may be brought under effective control (e.g., because of similarity-of-appearance problems). Appendix III includes species that any Party 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 may propose amendments to Appendices I and II for consideration at 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 to all Parties no later than 30 days before the meeting.

Recent Decisions

The tenth meeting of the Conference of the Parties to CITES (COP10) was held June 9-20, 1997, in Harare, Zimbabwe. At the meeting, the Parties considered 62 different animal proposals and 13 different plant proposals to amend the Appendices. These were described in the **Federal Register** on April 16, 1997, for proposals submitted by the United States (62 FR 18559), and on June 6, 1997, for proposals submitted by other Parties (62 FR 31054). All proposed amendments not withdrawn by the proponents were considered and acted upon by Committee I during the Conference, with each accredited attending Party having one vote. Adoption of amendments by Committee I requires either consensus or, in case of a vote, a two-thirds majority of those Parties present and voting (abstentions not included). Action by Committee I on species proposals was accepted by the Plenary session, unless a motion to reopen debate was put to vote and approved by one-third of the non-abstaining Parties voting.

Debate was reopened and votes recast on the following proposals that had not received the required two-thirds majority in Committee I: the proposal on the southern white rhinoceros (*Ceratotherium simum simum*) by South Africa; the proposal on the ultramarine lorikeet (*Vini ultramarina*) by Germany; and an amended proposal on the hawksbill sea turtle (*Eretmochelys imbricata*) by Cuba. The proposal on the ultramarine lorikeet was adopted in Plenary. The proposal on the southern white rhinoceros and the amended proposal on the hawksbill sea turtle, however, were rejected.

The use of the secret ballot process for voting on species proposals was more widespread at COP10 than at past conferences. This was due in part to a change in the Rules of Procedure adopted at COP9, which reduced the number of seconding Parties required to sustain a motion for a secret ballot, and in part to the number of controversial proposals up for consideration. Secret ballots were cast in Committee I on all whale proposals, the hawksbill turtle proposal, all elephant proposals, and the proposal on bigleaf mahogany. A call by Panama for a secret ballot on the United States' proposal to include the sawfishes in Appendix I was rejected.

One secret ballot was also cast in Committee II. All proposals brought to a vote in Plenary, except that on the ultramarine lorikeet, were conducted by secret ballot. The United States believes that the position of CITES Parties on species proposals should be public and the voting process transparent. Consequently, the United States delegation announced on the floor or in other public fora its vote on species proposals conducted by secret ballot at COP10. The United States in Committee I voted for the proposal on bigleaf mahogany and against all other proposals voted on by secret ballot.

Species proposals advanced by the United States met with mixed results. Proposals on the green-cheeked parrot (*Amazona viridigenalis*), straw-headed bulbul (*Pycnonotus zeylanicus*), sturgeons (Acipenseriformes), three species of mussels (Unionidae), and Tweedy's bitterroot (*Lewisia tweedyi*) were adopted by consensus, and goldenseal (*Hydrastis canadensis*) by vote. The effective date of the sturgeon proposal was amended to April 1, 1998, to allow enough time for identification techniques to be refined and made operational. The proposal to include all sawfishes (Pristiiformes) in Appendix I encountered bloc opposition from Parties concerned about CITES involvement in marine species issues and was defeated. The United States was persuaded by arguments from other Parties that, in light of the endemic status of the alligator snapping turtle (*Macrochelys temminckii*) and timber rattlesnake (*Crotalus horridus*) in the United States and apparently low levels of international trade in both species, the conservation value of an Appendix II listing was questionable. The United States therefore withdrew these proposals and stated that it will consider, at least for the alligator snapping turtle, whether an Appendix

III listing will provide the insights needed into the effect of international trade on its conservation status. State wildlife agencies will be fully consulted in the process of considering this approach. The proposal on nine species of map turtles (*Graptemys spp.*), though supported by a majority of the Parties, fell one vote short of the required two-thirds majority. Nonetheless, the Service will continue its cooperative approach with the States to identify appropriate conservation strategies for these and other native reptile species that are involved in international trade.

Although disappointed with the close negative vote on inclusion of bigleaf mahogany (*Swietenia macrophylla*) in Appendix II (the vote was 67 Parties in favor, 45 opposed, failing by 8 votes to reach the required two-thirds majority), the United States looks forward to progress in the conservation of this species, in the context of a number of range States' Appendix III listings and other efforts. Brazil, Bolivia, and Mexico stated in Plenary that they would include their populations in Appendix III. (Costa Rica included the species in Appendix III in 1995—see 61 FR 6793.) In addition, a mahogany working program is being established for 18 months (through 1998) that will provide for discussion among all range States, major importing countries, and pertinent organizations on conservation and sustainable trade of bigleaf mahogany.

The Conference of the Parties also accepted a determination by the Nomenclature Committee that the CITES listing of the urial sheep, *Ovis vignei*, in Appendix I only applies to the subspecies *Ovis vignei vignei* and that other subspecies of *Ovis vignei* are not presently listed. This determination reverses an earlier decision of the Nomenclature Committee (reported in 61 FR 67293, December 10, 1996) that

the entire species must be considered listed, because the taxon originally intended for listing could not be determined with certainty. The reversal was made on the basis of compelling evidence provided by the Depositary Government (Switzerland) from transcripts of committee discussions during the Plenipotentiary meeting (in 1973) and COP1 (in 1976). This interpretation is consistent with the interpretation long held by the United States. It is anticipated that Germany will submit a proposal to COP11 to include the other subspecies in Appendix II and that such a proposal will be supported by the range States.

Although there are no CITES listing implications, the Service wishes to note the action of the Parties at COP10 in adopting a resolution submitted by Pakistan to establish an annual export quota of six markhor (*Capra falconeri*) sport-hunted trophies. This species is included in Appendix I. Although adoption by the Parties of a quota for export of an Appendix I species normally constitutes assurance to the exporting country that exports within the established quota will be accepted by importing countries, stricter domestic measures may in some cases override such assurances. In the case of the markhor, two subspecies, *Capra falconeri megaceros* (includes *C. f. jerdoni*) and *Capra falconeri chialtanensis* (= *C. aegagrus*), are listed as Endangered under the U.S. Endangered Species Act (ESA). A finding of enhancement completely independent of any CITES finding would have to be made for import of either of these ESA-listed subspecies into the United States.

Results of actions by the Conference of the Parties on the proposed amendments to the Appendices are given in the table below:

Species	Proposed amendment	Proponent	Decision of the parties
MAMMALS			
Order Diprotodontia:			
<i>Burrhamys parvus</i> (Mountain pygmy possum).	Deletion from Appendix II	Australia	Adopted.
<i>Dendrolagus bennettianus</i> and <i>D. lumholtzi</i> (Bennett's and Lumholtz's tree kangaroos).	Deletion from Appendix II	Australia	Adopted.
Order Xenarthra:			
<i>Chaetophractus nationi</i> (Hairy armadillo) ..	Inclusion in Appendix I	Bolivia	Adopted as amended to include in Appendix II.
Order Cetacea:			
<i>Eschrichtius robustus</i> (Gray whale)	Transfer of the Eastern Pacific stock from Appendix I to II.	Japan	Rejected.
<i>Balaenoptera acutorostrata</i> (Minke whale)	Transfer of the Okhotsk Sea West Pacific stock from Appendix I to II.	Japan	Rejected.
<i>Balaenoptera acutorostrata</i> (Minke whale)	Transfer of the Southern Hemisphere stock from Appendix I to II.	Japan	Rejected.

Species	Proposed amendment	Proponent	Decision of the parties
<i>Balaenoptera acutorostrata</i> (Minke whale)	Transfer of the Northeast Atlantic and the North Atlantic Central stocks from Appendix I to II.	Norway	Rejected.
<i>Balaenoptera edeni</i> (Bryde's whale)	Transfer of the North Pacific Western stock from Appendix I to II.	Japan	Withdrawn.
Order Carnivora:			
<i>Ursus arctos</i> (Brown bear)	Transfer of all Asian and European populations from Appendix II to I.	Finland, Bulgaria, and Jordan.	Rejected.
<i>Panthera onca</i> (Jaguar)	Establishment of annual export quotas for hunting trophies of zero in 1997, 1998, and 1999 and of 50 thereafter.	Venezuela	Withdrawn.
Order Proboscidea:			
<i>Loxodonta africana</i> (African elephant)	Transfer of the Botswanan population from Appendix I to II, with certain annotations.	Botswana, Namibia, and Zimbabwe.	Adopted as amended. ¹
<i>Loxodonta africana</i> (African elephant)	Transfer of the Namibian population from Appendix I to II, with certain annotations.	Botswana, Namibia, and Zimbabwe.	Adopted as amended. ²
<i>Loxodonta africana</i> (African elephant)	Transfer of the Zimbabwean population from Appendix I to II, with certain annotations.	Botswana, Namibia, and Zimbabwe.	Adopted as amended. ³
Order Perissodactyla:			
<i>Ceratotherium simum simum</i> (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	Rejected.
Order Artiodactyla:			
<i>Pecari tajacu</i> (Collared peccary)	Deletion from Appendix II (Mexican population).	Mexico	Adopted.
<i>Vicugna vicugna</i> (Vicuña)	Annotated transfer of certain populations to Appendix II ⁴ .	Argentina	Adopted.
<i>Vicugna vicugna</i> (Vicuña)	Annotated transfer of certain populations to Appendix II.	Bolivia	Adopted as amended. ⁵
<i>Vicugna vicugna</i> (Vicuña)	Amendment to annotation 504 in the CITES Appendices list to replace the words "VICUÑANDES-CHILE" and "VICUÑANDES-PERU" with the words "VICUÑA-COUNTRY OF ORIGIN".	Peru	Adopted.
<i>Vicugna vicugna</i> (Vicuña)	Amendments 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	Adopted.
<i>Elaphurus davidianus</i> (Père David's deer)	Inclusion in Appendix II	Argentina and China ..	Withdrawn.
<i>Bison bison athabasca</i> (Wood bison)	Transfer from Appendix I to II in accordance with precautionary measure B.2.b) of Resolution Conf. 9.24, Annex 4.	Canada	Adopted.
<i>Bos javanicus</i> (Banteng)	Inclusion in Appendix I	Thailand	Withdrawn.
<i>Bubalus arnee</i> (Water buffalo)	Inclusion in Appendix I	Thailand	Withdrawn.
<i>Ovis Ammon nigrimontana</i> (Kara Tau argali).	Transfer from Appendix II to I	Germany	Adopted.
BIRDS			
Order Galliformes:			
<i>Pauxi pauxi</i> (Northern Helmeted curassow).	Inclusion in Appendix II	Netherlands	Withdrawn.
<i>Pauxi unicornis</i> (Horned curassow)	Inclusion in Appendix II	Netherlands	Withdrawn.
Order Gruiformes:			
<i>Turnix melanogaster</i> (Black-breasted button-quail).	Deletion from Appendix II	Australia	Adopted.
<i>Pedionomus torquatus</i> (Plains wanderer)	Deletion from Appendix II	Australia	Adopted.
<i>Gallirallus australis hectori</i> (Eastern weka rail).	Deletion from Appendix II	New Zealand	Adopted.
Order Psittaciformes:			
<i>Amazona agilis</i> (Black-billed parrot)	Transfer from Appendix II to I	Germany	Withdrawn.
<i>Amazona viridigenalis</i> (Red-crowned parrot).	Transfer from Appendix II to I	Mexico, United States, and Germany.	Adopted.
<i>Cacatua sulphurea</i> (Lesser sulphur-crested cockatoo).	Transfer from Appendix II to I	Germany	Withdrawn.
<i>Eunymphicus cornutus uvaensis</i> (Ouvea horned parakeet).	Transfer from Appendix II to I	Germany	Withdrawn.
<i>Vini kuhlii</i> (Kuhl's lorikeet)	Transfer from Appendix II to I	Germany	Rejected.
<i>Vinni peruviana</i> (Tahitian lorikeet)	Transfer from Appendix II to I	Germany	Rejected.
<i>Vini ultramarina</i> (Ultramarine lorikeet)	Transfer from Appendix II to I	Germany	Adopted

Species	Proposed amendment	Proponent	Decision of the parties
Order Caraciiformes:			
<i>Aceros walderi</i> (Wreathed-billed hornbill)	Transfer from Appendix II to I	Germany	Withdrawn.
Order Passeriformes:			
<i>Pycnonotus zeylanicus</i> (Straw-headed bulbul).	Inclusion in Appendix II	Netherlands and the United States.	Adopted.
<i>Leiothrix argentauris</i> (Silver-eared mesia)	Inclusion in Appendix II	Netherlands	Adopted.
<i>Leiothrix lutea</i> (Pekin robin)	Inclusion in Appendix II	Netherlands	Adopted.
<i>Liocichla omeiensis</i> (Omei Shan liocichla).	Inclusion in Appendix II	Netherlands	Adopted.
<i>Tangara fastuosa</i> (Seven-colored tanager)	Inclusion in Appendix II	Germany and the Netherlands.	Adopted.
<i>Amandava formosa</i> (Green avadavat)	Inclusion in Appendix II	Netherlands	Adopted.
<i>Padda oryzivora</i> (Java sparrow)	Inclusion in Appendix II	Netherlands	Adopted.
<i>Gracula religiosa</i> (Hill mynah)	Inclusion in Appendix II	Netherlands and the Philippines.	Adopted.
REPTILES			
Order Testudinata:			
<i>Macrolemys temminckii</i> (Alligator snapping turtle).	Inclusion in Appendix II	United States	Withdrawn.
<i>Callagur borneoensis</i> (Painted terrapin) ...	Inclusion in Appendix II	Germany	Adopted.
<i>Graptemys</i> (Map turtles)	Inclusion of nine species in Appendix II	United States	Rejected.
<i>Eretmochelys imbricata</i> (Hawksbill sea turtle).	Transfer of the Cuban population from Appendix I to II with certain annotations.	Cuba	Rejected.
Order Crocodylia:			
<i>Caiman latirostris</i> (Broad-snouted caiman)	Transfer of the Argentine population from Appendix I to II, for purpose of ranching.	Argentina	Adopted.
<i>Crocodylus niloticus</i> (Nile crocodile)	Maintenance of the Malagasy population in Appendix II, for purpose of ranching.	Madagascar	Adopted.
<i>Crocodylus niloticus</i> (Nile crocodile)	Establishment of an annual export quota of 1,000 skins and 100 hunting trophies from wild animal for years 1998–2000.	Tanzania	Adopted.
<i>Crocodylus noloticus</i> (Nile crocodile)	Maintenance of the Ugandan population in Appendix II, for purpose of ranching.	Uganda	Adopted.
Order Sauria:			
<i>Varanus bengalensis</i> (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	Rejected.
<i>Varanus flavescens</i> (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	Rejected.
Order Serpentes:			
<i>Crotalus horridus</i> (Timber rattlesnake)	Inclusion in Appendix II	United States	Withdrawn.
AMPHIBIANS			
Order Anura:			
<i>Mantella bernhardi</i> , <i>M. cowani</i> , <i>M. viridis</i> , and <i>M. haraldmeieri</i> (Golden mantella frogs).	Inclusion in Appendix II	Netherlands	Withdrawn.
FISHES			
Order Acipenseriformes (Sturgeons)	Inclusion of all presently unlisted species in Appendix II.	Germany and the United States.	Adopted as amended. ⁶
Order Pristiformes (Sawfishes)	Inclusion in Appendix I	United States	Rejected.
MOLLUSKS			
<i>Fusconaia subrotunda</i> , <i>Lampsilis brevicula</i> , and <i>Lexingtonia dolabelloides</i> (Unionid mussels).	Deletion from Appendix II	United States	Adopted.
<i>Paryphanta</i> spp. (New Zealand amber snails)	Deletion from Appendix II	Switzerland	Adopted.
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	Adopted. ⁷

Species	Proposed amendment	Proponent	Decision of the parties
PLANTS—GENERAL			
Araliaceae: <i>Panax quinquefolius</i> (American ginseng).	Amend the Appendix II listing of this species (<i>cf.</i> current annotation #3), to include only the following parts: "Whole and sliced roots and parts of roots, excluding manufactured, processed products such as powders, extracts, pills, tonics, teas and confectionary".	Switzerland	Adopted as amended. ⁸
Cactaceae spp. (Cacti): Mexican cacti	Amend the Appendix II listing for this family (<i>cf.</i> current annotation #4), to include seeds from Mexican cacti originating in Mexico.	Mexico	Adopted as amended. ⁹
Leguminosae (Fabaceae): <i>Pericopsis elata</i> (Afroformosa), and Meliaceae: <i>Swietenia mahagoni</i> (Caribbean mahogany).	Amend the Appendix II listing of these two species (<i>cf.</i> current annotation #5), to include only the following parts: "Logs, sawn wood and veneer sheets".	Switzerland	Adopted.
Meliaceae: <i>Swietenia macrophylla</i> (Bigleaf mahogany).	Include in Appendix II with an annotation to cover logs, sawn wood, and veneer sheets only.	United States and Bolivia.	Rejected as amended. ⁸
Portulacaceae: <i>Lewisia tweedyi</i> (Tweedy's bitterroot).	Delete from Appendix II	United States	Adopted.
Proteaceae: <i>Orothamnus zeyheri</i> (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	Adopted.
<i>Protea odorata</i> (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	Adopted.
Ranunculaceae: <i>Hydrastis canadensis</i> (Goldenseal).	Include in Appendix II, along with only the following parts: "Roots, rhizomes or rootstocks, and specimens recognizable as being parts thereof".	United States	Adopted as amended. ⁸
Scrophulariaceae: <i>Picrorhiza kurroo</i> (Kutki) ...	Include in Appendix II, along with only the following parts: "Roots and readily recognizable parts thereof".	India	Adopted.
Theaceae: <i>Camellia chrysantha</i> , which is <i>Camellia petelotii</i> in part (Golden-flowered camellia).	Delete from Appendix II	China	Adopted.
Valerianaceae: <i>Nardostachys grandiflora</i> (= <i>Nardostachys jatamansi</i> misapplied) (Himalayan nard or spikenard).	Include in Appendix II, along with only the following parts: "Whole and sliced roots and parts of roots, excluding manufactured, processed products such as powders, extracts, pills, tonics, teas and confectionary".	India	Adopted as amended. ⁸
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	Adopted.
Cactaceae spp. (Cacti): (1) Hybrid Easter cactus; (2) Crab cactus, Christmas cactus; (3) Red cap cactus, Oriental moon cactus; and (4) Bunny ears cactus.	Amend the Appendix II listing for this family (<i>cf.</i> current annotation #4), to exclude artificially propagated specimens of the following hybrids and/or cultivars: (1) <i>Hatiora graeseri</i> (= <i>H. gaertneri</i> <i>H. rosea</i>); (2) <i>Schlumbergera</i> (= <i>Zygocactus</i>) <i>truncata</i> cultivars, and its hybrids with <i>S. opuntioideis</i> (= <i>S. exotica</i>), <i>S. orssichiana</i> , and <i>S. russelliana</i> (= <i>S. buckleyi</i>); (3) <i>Gymnocalycium mihanovichii</i> cultivars lacking chlorophyll, grafted to <i>Hatiora</i> 'Jusbertii', <i>Hylocereus trigonus</i> or <i>H. undatus</i> ; and (4) <i>Opuntia microdasys</i> .	Denmark	Adopted as amended. ^{8, 10}
Euphorbiaceae: Succulent <i>Euphorbia</i> spp. (Succulent euphorbs): Three-ribbed milk tree.	Amend the Appendix II listing of succulent <i>Euphorbia</i> spp., with an annotation to exclude artificially propagated specimens of <i>Euphorbia trigona</i> cultivars.	Denmark	Adopted.

Species	Proposed amendment	Proponent	Decision of the parties
Primulaceae: <i>Cyclamen</i> spp. (Cyclamens): Florist's cyclamen.	Amend the Appendix II listing of <i>Cyclamen</i> spp., with an annotation to exclude artificially propagated specimens of the cultivars of <i>Cyclamen persicum</i> , except when traded as dormant tubers.	Denmark	Adopted as amended. ^{8, 10}

¹ Originally 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 tons in 1998 and 1999; b) international trade in hunting trophies; and c) international trade in live animals to appropriate and acceptable destinations. Amended to qualify the provision for export of sport-hunting trophies with the phrase "for non-commercial purposes." Further amended to qualify the provision for export of ivory stockpiles as follows: "No international trade in ivory before 18 months after the transfer to Appendix II comes into effect. Thereafter an experimental quota for raw ivory not exceeding 25.3 tons may be traded with Japan subject to conditions established in Decision No. XX to the Conference of the Parties." (Note: Decision No. XX establishes nine conditions that need to be met before trade in raw ivory can be resumed; directs the CITES Standing Committee to make available the evaluation of legal and illegal trade and legal offtake as established through Resolution Conf. 9.16(Rev.) as soon as possible after the experimental trade has taken place; and further directs the Standing Committee to identify in cooperation with the range States any negative impacts of the resumption of trade and determine and propose corrective measures. A copy of Decision No. XX may be obtained from the Office of Scientific Authority.)

² Originally 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 6,900 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. Amended to qualify the provision for export of sport-hunting trophies with the phrase "for non-commercial purposes." Further amended to qualify the provision for export of ivory stockpiles as follows: "No international trade in ivory before 18 months after the transfer to Appendix II comes into effect. Thereafter an experimental quota for raw ivory not exceeding 13.8 tons may be traded with Japan subject to conditions established in Decision No. XX to the Conference of the Parties." (Note: see footnote #1 for a summary of Decision No. XX.)

³ Originally 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 tons 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. Amended to qualify the provision for export of sport-hunting trophies with the phrase "for non-commercial purposes." Further amended to qualify the provision for export of ivory stockpiles as follows: "No international trade in ivory before 18 months after the transfer to Appendix II comes into effect. Thereafter an experimental quota for raw ivory not exceeding 20 tons may be traded with Japan subject to conditions established in Decision No. XX to the Conference of the Parties." (Note: see footnote #1 for a summary of Decision No. XX.)

⁴ 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 "VICUNA-ARGENTINA."

⁵ 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 "VICUNA-BOLIVIA." Amended to establish an initial export quota of zero.

⁶ Amended to establish a delayed effective date of April 1, 1998. The Parties passed a resolution in association with this amendment to the Appendices that recognizes the conservation problems facing Caspian Sea sturgeons and the need for assistance in that region to assure effective implementation of the listings. It further advocates accedence of key sturgeon range States to CITES and the formulation of a management plan for the Caspian Sea sturgeon fishery.

⁷ In a related Decision passed by the Parties, it was agreed that a working group would be established under the aegis of the Standing Committee to study the expanding array of problems and confusion arising from the use of product annotations in the Appendices. The working group will report to COP11.

⁸ The text in the amendment column at left gives the result as amended at COP10, which differs from that provided in the FEDERAL REGISTER notice of June 6, 1997 (62 FR 31054) with regard to the parts and/or derivatives included. The amendments were either minor changes in wording to clarify the proposal's intent, or involved additional parts and/or derivatives that were excluded.

⁹ The text in the amendment column at left gives the result as amended at COP10, which differs from that provided in the FEDERAL REGISTER notice of June 6, 1997 (62 FR 31054) by also including the seeds originating in Mexico from artificial propagation. This revision was recommended by the CITES Secretariat in Doc. 10.89, Annex 1. The seeds of Mexican cacti from artificial propagation that originate elsewhere than Mexico remain unregulated by CITES.

¹⁰ The text in the amendment column at left gives the results as amended at COP10, which adopted the clarifications and suggestions regarding taxa and hybrid specimens as analyzed by the United States—see the FEDERAL REGISTER notice of June 6, 1997 (62 FR 31054).

Consequences of Amendments to Appendices I and II

All proposals in the preceding table that were approved by the Conference of the Parties will enter into effect 90 days after the meeting (i.e., on September 18, 1997) under the terms of the CITES treaty (except for the listing of sturgeons, which has a delayed effective date of April 1, 1998). 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. 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 Service now repeats its request published earlier (62 FR 31054, June 6, 1997) for public comment/recommendations concerning reservations to be taken by the United States on any amendments to the Appendices adopted by the Parties at COP10. Recommendations or comments regarding reservations must be received by September 12, 1997, so that all comments can be carefully considered and the Depositary Government and the Secretariat can be informed by September 18, 1997 if appropriate. The Service proposes not to recommend any reservations. It will consider doing so only if evidence is presented to show that implementation of an amendment

would be contrary to the interests or law of the United States. If the United States should enter any reservations, they will be announced in a **Federal Register** notice as soon as possible after the decisions are made. Any reservations announced would be tentative, pending full consideration of public comments.

Reservations, if entered, may do little to relieve importers in the United States from the need for foreign export permits, because the U.S. 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 positive 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 export 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 generally 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 Resolution Conf. 4.25, thereby still requiring CITES documents for export. The United States has never entered a reservation to a CITES listing. 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.

Requirements of Other Laws

Changes in the CITES listing status of species as a consequence of actions taken at COP10 do not supersede import or export requirements pursuant to other wildlife conservation laws. For example, import or export of species listed as Threatened or Endangered under the U.S. Endangered Species Act (ESA) still must meet the provisions of that law and its implementing regulations in 50 CFR Part 17, even if those species have been transferred to a less protective CITES Appendix or removed from the Appendices entirely. The most noteworthy of the species downlisted to Appendix II at COP10 but still subject to stricter ESA provisions are the African elephant, the Argentinian and Bolivian populations of the vicuña, the wood bison, and the broad-snouted caiman. The African elephant is also subject to provisions of the U.S. African Elephant Conservation Act (AECA). Because of the high public interest in this species and the complexity of the terms of the CITES downlistings, the effects of the downlistings on trade in African elephant products is treated separately in more detail below. Species of birds included in the CITES Appendices for the first time (straw-headed bulbul, silver-eared mesia, Pekin robin, Omei Shan leucichla, seven-colored tanager, green avadavat, Java sparrow, and hill mynah) are now subject to the terms of the U.S. Wild Bird Conservation Act

(WBCA) and its regulations in 50 CFR Part 15. This will result in a prohibition on the importation of these species unless they qualify for exemptions established by regulation. Copies of these implementing regulations are available from the Service's Office of Management Authority. Importation into the United States of Sport-hunted Trophies of African Elephants from Namibia, Botswana, and Zimbabwe.

The African elephant is listed as Threatened under the ESA with a special rule at 50 CFR 17.40(e). Under the special rule, a personally taken sport-hunted trophy may be imported into the United States when it has (1) originated in a country for which the Service has received notice for that country's African elephant ivory quota for the year of export; (2) the permit requirements of the regulations for CITES permits (50 CFR 13 and 23) have been met; (3) the Service has determined that the take of the trophy for import would enhance the survival of the species; and (4) the ivory has been marked as outlined in the special rule. All these conditions will continue to apply after the Appendix II listing for the elephant populations of Botswana, Namibia, and Zimbabwe enters into effect on September 18, 1997. In making the required enhancement findings, the Service reviews the status of the population and the total management program for the elephant in each country to ensure the program is promoting the conservation of the species. The Service will make such findings on a periodic basis upon receipt of new information on the species' population or management. The enhancement findings for importation of sport-hunted elephant trophies from Botswana, Namibia, and Zimbabwe are on file in the Office of Management Authority and remain in effect until the Service finds, based on new information, that the conditions of the special rule are no longer met and has published a notice of any change in the **Federal Register**.

The practical effect of the downlistings of these three populations for sport hunters is that an import permit will no longer be required for non-commercial imports of African elephant sport-hunted trophies from these countries only. Only a CITES export permit from the country of origin or a re-export certificate from an intermediate country will be required. Populations of African elephants in all other countries, however, remain in Appendix I. Therefore, importation into the United States of sport-hunted elephant trophies from these other countries will continue to require prior

issuance of both an import and export permit. As in the past, no sport trophies of African elephants, or ivory from sport trophies, whether from Appendix I or Appendix II populations, may be exported from the United States.

Importation of Live African Elephants, Ivory, and Other African Elephant Products

When the downlistings of the elephant populations of Botswana, Namibia, and Zimbabwe become effective on September 18, 1997, it will be possible to import live elephants from any of these countries into the United States "to appropriate and acceptable destinations" without an import permit and without need for an enhancement finding. Only an export permit from the country of origin, or a re-export certificate from an intermediate country, will be necessary. For elephants from Zimbabwe only, commercial trade in hides will be allowed. However, the terms of the downlisting of the Zimbabwean population are ambiguous regarding future commercial trade in leather products. The United States intends to seek clarification on the scope of the leather goods and hides annotations from the CITES Standing Committee. Hides or leather products from elephant populations other than those of Zimbabwe are still considered to be specimens included in Appendix I and cannot be imported by any CITES Party for commercial purposes.

Regardless of any provisions of the African elephant downlistings at COP10 for export of elephant ivory or ivory products, import of worked ivory into the United States continues to be prohibited under the terms of the African Elephant Conservation Act (AECA), as interpreted by the ESA 4(d) special rule, unless they meet any of the following exceptions: (1) Bonafide antiques more than 100 years old; (2) personal and household effects registered with U.S. Customs on export and now being reimported; or (3) pre-Convention items for non-commercial use acquired prior to the first listing of the elephants under CITES in 1977. With the exception of appropriately marked sport-hunted trophies, import of raw ivory is strictly prohibited.

Note: The Department has determined that amendments to CITES Appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321-4347). This rule was not subject to Office of Management and Budget review under Executive Order 12866. Because these amendments are simply

notifications of actions taken by the CITES Parties, they are not "rules" as defined in 5 U.S.C. 551. Similarly, the Regulatory Flexibility Act (5 U.S.C. 601) does not apply to the CITES listing process. The proposed adjustments to the list in 50 CFR 23.23 are solely informational to provide the public with accurate data on the species covered by CITES. With the exception of the sturgeon species listed on the basis of the proposal by Germany and the United States, the listing changes adopted by the Parties will take effect on September 18, 1997, under the terms of CITES. The sturgeon listings take effect on April 1, 1998, as provided for in the amended language of the proposal. This proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Service finds that the public comment period must close 15 days from publication, in order to provide the necessary time to review and, if appropriate, act on any comments requesting the entering of reservations. Any such reservations must be submitted to the Depositary Government (and CITES Secretariat) by September 18, 1997.

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

This document is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.* and 87 Stat. 884, as amended). It was prepared by Dr. Marshall A. Howe and Dr. Bruce

MacBryde, Office of Scientific Authority.

Proposed Regulation Promulgation

The Service proposes to amend the list of species contained in § 23.23 of title 50 of the Code of Federal Regulations by incorporating all changes in CITES Appendices I and II that were approved by the Conference of the Parties, as set forth in the Supplementary Information section of this proposed rule.

Dated: August 15, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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