

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Twelfth Regular Meeting; Tentative U.S. Negotiating Positions for Agenda Items and Species Proposals Submitted by Foreign Governments and the CITES Secretariat; Extension of Comment Period**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** This notice announces the provisional agenda for the twelfth regular meeting of the Conference of the Parties (COP12) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The description of each agenda item is followed by a brief explanation of the tentative U.S. negotiating position for that item. Proposals submitted by the United States are only covered in this notice to a limited extent. This notice contains primarily summaries of the tentative U.S. negotiating positions on agenda items, resolutions, and species proposals submitted by other countries and the CITES Secretariat for COP12. We are also extending the comment period on these issues, which was announced in our **Federal Register** notice of August 20, 2002 (67 FR 53962).

**DATES:** In developing U.S. negotiating positions on these issues, we will now consider information and comments that you submit if we receive them by October 31, 2002. Our previous comment period was announced (August 20, 2002 (67 FR 53962)) to run through October 4, 2002. This extension is being made in order to give the public every opportunity to provide comments in development of our tentative negotiating positions.

**ADDRESSES:** *Comments:* You should send comments pertaining to resolutions and agenda items to the Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203, or via e-mail at: [cites@fws.gov](mailto:cites@fws.gov). You should send comments pertaining to species proposals to the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750, Arlington, VA 22203, or via e-mail at: [scientificauthority@fws.gov](mailto:scientificauthority@fws.gov). Comments and materials that we receive will be available for public inspection, by

appointment, from 8 a.m. to 4 p.m., Monday through Friday, at either the Division of Management Authority or the Division of Scientific Authority.

**FOR FURTHER INFORMATION CONTACT:** (1) For information pertaining to resolutions, discussion papers, and agenda items for the 12th meeting of the CITES Conference of the Parties: Peter O. Thomas, Ph.D., Chief, U.S. Fish and Wildlife Service, Division of Management Authority, tel. 703-358-2095, fax 703-358-2298, e-mail at: [cites@fws.gov](mailto:cites@fws.gov). (2) For information pertaining to species proposals for the 12th meeting of the CITES Conference of the Parties: Robert R. Gabel, Chief, U.S. Fish and Wildlife Service, Division of Scientific Authority, tel. 703-358-1708, fax 703-358-2276, e-mail at: [scientificauthority@fws.gov](mailto:scientificauthority@fws.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, referred to below as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may become threatened with extinction. These species are listed in appendices to CITES, copies of which are available from the Division of Management Authority or the Division of Scientific Authority at the above addresses, from our World Wide Website <http://international.fws.gov>, or from the official CITES Secretariat Website at <http://www.cites.org/>. Currently, 158 countries, including the United States, are Parties to CITES. CITES calls for biennial meetings of the Conference of the Parties (COP), which review issues pertaining to CITES implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose and vote on amendments to appendices I and II (species proposals), resolutions, decisions, discussion papers, and agenda items for consideration by the Conference of the Parties. Accredited nongovernmental organizations may participate in the meeting as approved observers, and may speak during sessions when recognized, but may not vote or submit proposals. COP12 will be held in Santiago, Chile, November 3-15, 2002.

This is our sixth in a series of **Federal Register** notices that, together with announced public meetings, provide you with an opportunity to participate in the development of U.S. tentative negotiating positions for COP12. We published our first **Federal Register** notice on June 12, 2001 (66 FR 31686), and with it we requested information and recommendations on potential species proposals for the United States to consider submitting for discussion at COP12, and we also presented biological and trade status information on several species that we were already considering. You may obtain information on that **Federal Register** notice, and on species amendment proposals, from the Division of Scientific Authority at the above address. We published our second **Federal Register** notice on July 25, 2001 (66 FR 38739), and with it we requested information and recommendations on potential resolutions, decisions, and agenda items for the United States to consider submitting for discussion at COP12. You may obtain information on that **Federal Register** notice, and on proposed resolutions, decisions, and agenda items, from the Division of Management Authority at the above address. We published our third **Federal Register** notice on March 27, 2002 (67 FR 14728), and with it we announced a public meeting to discuss proposed amendments to the CITES appendices (species proposals), resolutions, decisions, and agenda items that the United States was considering submitting for consideration at COP12, and we provided information on how non-governmental organizations based in the United States can attend COP12 as observers. You may obtain information on that **Federal Register** notice from the Division of Management Authority (for information pertaining to proposed resolutions and agenda items) or the Division of Scientific Authority (for information pertaining to proposed amendments to the appendices) at the above addresses.

We published our fourth **Federal Register** notice on April 18, 2002 (67 FR 19207), and with it we described the U.S. approach for COP12; described resolutions, decisions, and agenda items that the United States was considering submitting for consideration at COP12; described proposed amendments to the CITES Appendices (species proposals) that the United States was considering submitting for consideration at COP12; invited your comments and information on these potential proposals; and, reminded you of a public meeting to discuss these potential submissions,

which was announced in our **Federal Register** notice of March 27, 2002. You may obtain information on that notice from the Division of Management Authority (for information pertaining to proposed resolutions and agenda items) or the Division of Scientific Authority (for information pertaining to proposed amendments to the Appendices) at the above addresses.

We published our fifth **Federal Register** notice on August 20, 2002 (67 FR 53962). With this notice we announced a public meeting on September 10, 2002, which took place as scheduled (*see DATES and ADDRESSES*, from the August 20 **Federal Register** notice). That public meeting was held in the Sidney Yates Auditorium of the Department of the Interior. The U.S. discussed a variety of logistical and policy issues, heard views of the public on a number of COP12 species proposals and resolutions, and answered a number of questions from the public.

We also posted a notice on our Internet website (<http://international.fws.gov/>) "Potential Species Proposals, Resolutions, Decisions, and Agenda Items the U.S. is Considering Submitting for Consideration at CITES COP12" on April 1, 2002. At the time this notice was prepared, we were also planning to post two abbreviated tables on tentative U.S. negotiating positions for resolutions, decisions, other agenda items, and species proposals on our website.

You may locate our regulations governing this public process in 50 CFR 23.31–23.39. Before COP12, we will announce any changes to the tentative negotiating positions contained in this notice and any undecided negotiating positions by posting a notice on our Internet website (<http://international.fws.gov/>). Pursuant to 50 CFR 23.38 (a), the Director has decided to suspend the procedure for publishing a notice of final negotiating positions in the **Federal Register**, because time and resources needed to prepare a **Federal Register** notice would detract from essential preparation for COP12, and because the information on negotiating positions will otherwise be available on the Internet. After COP12, we will announce the amendments to CITES appendices I and II and resolutions and decisions that were adopted by the Parties at the meeting, and request comments on whether the United States should enter reservations on any of the species amendments.

At our public meeting on April 17, 2002, we discussed species proposals, resolutions, discussion papers, and

agenda items submitted by the United States to COP12. We discussed species amendments and resolutions submitted by other CITES Parties and the Secretariat, and other agenda items leading up to COP12, at the public meeting on September 10, 2002.

### Tentative Negotiating Positions

In this notice we summarize the tentative U.S. negotiating positions on agenda items, resolutions, and proposals to amend the Appendices, that have been submitted by other countries and the CITES Secretariat. (Proposals submitted by the United States are covered in the Internet website posting (<http://international.fws.gov/>, "Potential Species Proposals, Resolutions, Decisions, and Agenda Items the U.S. is Considering Submitting for Consideration at CITES COP12") of April 1, 2002 (*see Background*, above). We will not cover most of those issues in this notice. However, for those U.S. submissions not fully explained in the Internet website posting of April 1, 2002, we provide additional information in this notice.

In this notice, numerals next to each agenda item or resolution correspond to the numbers used in the agenda for CITES COP12, and posted on the CITES Secretariat's Internet website (<http://cites.org/eng/cop/12/docs/index.shtml>). However, when we completed this notice, the Secretariat had not yet made available documents for a number of the agenda items and resolutions on the agenda for COP12. Tentative negotiating positions in this notice do not include documents posted to the Secretariat's website after August 1, 2002.

In the discussion that follows below, we have included a brief description of each proposed resolution, agenda item, or species proposal submitted by other countries or the CITES Secretariat, followed by a brief explanation of the tentative U.S. negotiating position for that item. However, new information that may become available at COP12 could lead to modifications of these positions. The U.S. delegation will fully disclose changes in our negotiating positions and the explanations for those changes during public briefings at COP12. The United States is also very concerned about the budgetary implications and workload burden that will be placed upon the Parties, the Committees, and the Secretariat and intends to review all suggested changes in view of these concerns.

### Agenda (Provisional) (Doc. 11.3)

#### *Opening Ceremony and Welcoming Addresses*

The Secretariat will not prepare a document on these agenda items. According to tradition, as the host country for COP12, Chile will conduct an opening ceremony and make welcoming remarks.

#### *Strategic and administrative matters*

##### 1. (a) Rules of Procedure (Doc. 1.1)

Tentative U.S. negotiating position: Support, with exceptions described below.

A draft version of the Rules of Procedure, which describe the manner in which a meeting of the COP is conducted, is distributed prior to all CITES meetings of the COP by the Secretariat. The Secretariat prepared document COP12 Doc. 1.1, which includes a draft of the Rules of Procedure for COP12, and proposes the Conference of the Parties adopt these draft Rules. At the 46th meeting of the Standing Committee (Geneva, March 2002), the Secretariat presented a draft version of the Rules of Procedure for COP12, which included a number of proposed changes to the Rules adopted by the Parties for COP11. The Standing Committee discussed this draft document and concerns were raised, including by the United States, over a number of the changes to the Rules proposed by the Secretariat. The Standing Committee agreed to a number of amendments to the Secretariat's version of the draft Rules of Procedure, and the Secretariat included these amendments in its draft Rules of Procedure in document COP12 Doc. 1.1. In addition to the Standing Committee's amendments, the Secretariat proposed a change to Rule 28.4, on submission of informative documents and exhibitions, to simplify the Rule's text.

Most of the concerns raised by the United States at the 46th meeting of the Standing Committee to the draft Rules of Procedure for COP12 presented there have been addressed and incorporated into the draft version in document COP12 Doc. 1.1. As such, the United States tentatively proposes to support most aspects of the draft version of the Rules of Procedure in document COP12 Doc. 1.1, with the following exceptions: With respect to Rule 17 on the right to speak at meetings of the COP, the United States tentatively does not oppose the proposed changes to this Rule about the order on which the Presiding Officer calls on speakers, as long as every effort is made to allow delegates and observers time to speak or

make interventions; with respect to Rule 20 on submission of draft Resolutions and other documents, the United States tentatively supports in part the changes proposed by Chile in document COP12 Doc. 1.2 (*see below*); with respect to Rules 22 and 23 on proposals for amendment of Appendices I and II, although the United States tentatively agrees with the proposed changes to the text in these Rules, it believes that the term "scope," which appears in both, should be clearly defined; and, with respect to Rule 25 on methods of voting at meetings of the COP, the United States historically has not supported the use of secret ballots, believing that the CITES process at meetings of the COP should be as transparent as possible. As such, the United States is tentatively considering support of the changes to Rule 25 proposed by Chile in document COP12 Doc. 1.2 (*see below*).

(b) Revision of the Rules of Procedure (Doc. 1.2; Chile)

This document was prepared by Chile, and it proposes changes to Rules 20 and 25 of the Rules of Procedure. Tentative U.S. negotiating position: Support, with exceptions described below.

In Rule 20, Chile proposes a change to paragraph 3, regarding circulation to the Parties of urgent draft Resolutions and other documents arising after the 150-day submission deadline. Rule 20.3, as drafted by the Secretariat, states that such documents be circulated "no later than during the session preceding the session at which they are to be discussed." Chile proposes that these kinds of documents should be circulated at least 24 hours preceding the session at which they are to be discussed, as 24 hours is the minimum amount of time necessary to review such documents. Although the United States agrees with Chile that at least 24 hours is necessary to review these documents, it recognizes that it is not always possible for the Secretariat to circulate them 24 hours in advance, particularly in the final days of the COP. The United States recommends that every effort be made to have these documents available 24 hours in advance but does not support changing the rule to make this a requirement.

Chile also proposes several changes to Rule 25, on methods of voting, designed to reduce the use of secret ballots. As discussed above under agenda item 1.

(a) the United States historically has not supported the use of secret ballots, believing that the CITES process at meetings of the COP should be as transparent as possible. Therefore, the United States tentatively supports the

changes to Rule 25 proposed by Chile in document COP12 Doc. 1.2.

2. Election of Chairman and Vice-Chairman of the Meeting and of Chairman of Committees I and II and of the Budget Committee (no document)

*Tentative U.S. negotiating position:* Undecided.

The Secretariat will not prepare a document for this agenda item. The United States will support the election of a highly qualified Conference Chair, Vice-Chair, and Committee Chairs representing the geographic diversity of CITES.

The Chair of the CITES Standing Committee (United States) will serve as temporary Chair of the meeting of the COP until a permanent Conference Chair is elected. According to tradition, the host country, which will be Chile in this case, provides the Conference Chair.

The major technical work of CITES is done in the two simultaneous Committees, thus, Committee Chairs must have great technical knowledge and skill. In addition, CITES benefits from active participation and leadership of representatives of every region of the world. The United States will support the election of Committee Chairs and a Vice-Chair of the Conference having the required technical knowledge and skills and also reflecting the geographic and cultural diversity of CITES Parties.

3. Adoption of the Agenda (Doc. 3)

*Tentative U.S. negotiating position:* Support, with additions described below.

This document is prepared for each CITES COP by the Secretariat. The United States has reviewed the Provisional Agenda for COP12 provided by the Secretariat and supports its adoption with the addition of several species proposals submitted by the new CITES Management Authority of Madagascar. At previous meetings of the CITES COP, the United States has supported adoption of the provisional agenda as circulated to the Parties. However, the provisional agenda for COP12 reflects an issue of concern for the United States; specifically, the exclusion of species proposals submitted by Madagascar. It is our understanding that the proposals were not initially accepted by the Secretariat because the Secretariat was unable to verify the lawful status of the new CITES Management Authority of Madagascar at the time the proposals were received by the Secretariat. However, political events in Madagascar since that time have demonstrated that the office submitting the proposals was,

at that time, the lawful Management Authority of Madagascar. Therefore, the United States supports the addition of Madagascar's species proposals to the Conference agenda. The species proposals in question covered tortoises, chameleons, frogs, the whale shark, orchids, and several palms.

4. Adoption of the Working Programme (Doc. 4)

*Tentative U.S. negotiating position:* Undecided.

Prior to the a meeting of the CITES COP, working programmes distributed by the Secretariat are provisional. It is possible that changes may be made to this document prior to the start of COP12, or at the meeting of the Conference of the Parties. The United States generally supports the COP12 Provisional Working Programme posted at the time this notice was prepared. However, The United States remains concerned that the species proposals submitted by Madagascar be considered by the Parties, as discussed above, under Adoption of the Agenda.

Furthermore, pending our review of any forthcoming changes to the Working Programme, we will remain undecided on those potential modifications.

5. Establishment of the Credentials Committee (Doc. 5)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

The establishment of the Credentials Committee is a standardized matter. The Credentials Committee approves the credentials of delegates to the meeting of the COP by confirming that they are official representatives of their governments, giving them the right to vote in Committee and Plenary sessions. The Credentials Committee consists of representatives from no more than five CITES Party governments nominated by the Standing Committee. The United States was a member of the Credentials Committee at COPs 10 and 11.

6. Report of the Credentials Committee (Doc. 6)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

The United States will support adoption of the report of the Credentials Committee if it does not recommend the exclusion of legitimate representatives of countries that are Parties to CITES. The United States will encourage timely production of Credentials Committee reports at COP12.

Adoption of the report of the Credentials Committee is generally a standardized exercise. Representatives

whose credentials are not in order should be given observer status as provided for under Article XI of the Convention. If evidence is provided that credentials are forthcoming but have been delayed, representatives can be allowed to vote on a provisional basis. A liberal interpretation of the Rules of Procedure on credentials should be adhered to in order to permit clearly legitimate representatives to participate. Exclusion of clearly legitimate representatives whose credentials are not in order could undermine essential cooperation among Parties. However, vigilance is necessary in cases of close votes, or decisions to be made by secret ballot.

#### 7. Admission of Observers (Doc. 7)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

A document for this agenda item, prepared by the Secretariat, is not normally distributed prior to the start of a CITES COP. The United States supports admission to the meeting of all technically qualified non-governmental organizations, and the United States opposes unreasonable limitations on their full participation as observers at COP12. Non-governmental organizations (NGOs) are admitted as observers if their headquarters are located in a CITES Party country, and if the national government of that Party approves their attendance at the COP. International NGOs are admitted by approval of the CITES Secretariat. After being approved as an observer, an NGO is admitted to the meeting of the COP, unless one-third of the Parties objects.

Non-governmental organizations representing a broad range of viewpoints and perspectives play a vital and important role in CITES activities and have much to offer to the debates and negotiations at a meeting of the COP. Their participation is specifically provided by Article XI of the Convention. The United States supports the opportunity for all technically qualified observers to fully participate at meetings of the COP, as is standard CITES practice. The United States also supports flexibility and openness in the process of disseminating documents produced by NGOs to Party delegates. This information sharing is vital to decision-making and scientific and technical understanding at a CITES meeting.

#### 8. Matters Related to the Standing Committee

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

The United States is the North American regional representative and the Chair of the Standing Committee. The Forty-seventh Meeting of the Standing Committee will meet on November 1–2, 2002, before COP12 begins, to nominate the chairs of COP committees, provide guidance needed to conduct the meeting of the COP, and follow-up on outstanding committee issues. The Financial Sub-Committee will also meet to finalize the budget for the COP Budget Sub-Committee. The Forty-eighth meeting of the Standing Committee will tentatively meet at the end of the COP.

##### (a) Report of the Chairman (Doc. 8)

When we completed this notice, we still had not received a document for this agenda item from the Secretariat. The United States, as Chair of the Committee, will prepare this requisite report on the execution of the Committee's responsibilities and its activities between COP11 and COP12 to accurately reflect the discussions and decisions of the Committee.

##### (b) Election of New Regional and Alternate Regional Members (No Document)

At the time this notice was prepared, a document was not yet available from the Secretariat.

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

The Regional Representative for North America from COP11 through COP13 has been, and will be, the United States. Under Resolution Conf.11.1, "terms of office of the regional members shall commence at the close of the regular meeting at which they are elected and shall expire at the close of the second regular meeting thereafter."

#### 9. Financing and Budgeting of the Secretariat and of Meetings of the Conference of the Parties

*Tentative U.S. negotiating position:* Undecided.

At each meeting of the COP, the CITES Secretariat submits its financial report and budget for approval. The Parties may modify the budget before approving it. Financial support for the Secretariat comes from a Trust Fund consisting of voluntary annual contributions from Party governments, based on a United Nations scale. Additional support for CITES activities is provided through extra contributions from governments and nongovernmental organizations, and is used for projects approved by the Standing Committee. This "external funding" is not part of the Secretariat's budget.

The United States is currently reviewing the Secretariat's budget documents. The United States advocates fiscal responsibility and accountability on the part of the Secretariat and the Conference of the Parties. The United States plans to be an active participant in the budget discussions at COP12 and at the Finance Sub-Committee meetings of the Standing Committee just before COP12. The United States strongly supports a budget that represents zero-growth in Parties' voluntary contributions.

##### (a) Budget for 2003–2005 (Doc. 9.1)

The Parties will fully discuss issues associated with the anticipated expenditures of the Secretariat for the triennium 2003–2005 at COP12. The United States will review the documents carefully, bearing in mind the need to balance tasks assigned to the Secretariat with available resources.

##### (b) Procedure for Approval of Externally Funded Projects (Doc. 9.2)

External funding is financial support provided by Parties and nongovernmental organizations for projects approved as CITES priorities by the Standing Committee. The external funding procedure is designed to avoid conflicts of interest (real or apparent) when approving projects and channeling funds between the provider and the recipient. At SC46, the Parties did agree to a revised procedure to allow more flexibility to the Secretariat in approving external funds. The United States, through the Department of the Interior and the Department of State, contributes external funding to Standing Committee-approved projects including delegate travel to the meetings of the COP, support for Committee meetings, CITES enforcement and implementation training, and biological studies of significantly traded species.

#### 10. Committee Reports and Recommendations

##### (a) Animals Committee

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

##### (i) Report of the Chairman (Doc. 10.1)

The current Chair (Mr. Marinus Hoogmoed of the Netherlands) will report on the activities of the Animals Committee since COP11. Since April 15, 2001, the Animals Committee has met three times: the sixteenth meeting (AC16) was held on December 11–15, 2000, in Shepherdstown, West Virginia; the seventeenth meeting (AC17) was held on July 30–August 3, 2001, in Hanoi, Vietnam, and the eighteenth

meeting (AC18) was held on April 8–12, 2002, in San Jose, Costa Rica. The Regional Representative from North America on the Animals Committee is Dr. Kurt Johnson of our Division of Scientific Authority, who replaced Dr. Susan Lieberman when she ended her employment with the U.S. Fish and Wildlife Service between COPs 11 and 12. The United States is an active participant in Animals Committee meetings, working groups, and activities. When we completed this notice, we still had not received a copy of the Chair's Report. You may obtain information regarding Animals Committee meetings from the Division of Scientific Authority at the address above (see **FOR FURTHER INFORMATION CONTACT**).

(ii) Election of New Regional and Alternate Regional Members (No Document)

The six CITES regions are represented on the Animals Committee by one or two persons, according to the number of countries in each region. This process was established in CITES Resolution Conf. 11.1, which is available on the Secretariat's web page. The representatives are individuals, and not governments. Parties within each CITES region meet during the meeting of the COP to elect new Animals Committee members to represent them. The current North American regional representative on the Animals Committee is Dr. Kurt Johnson, of our Division of Scientific Authority, on behalf of the United States. Dr. Johnson also serves as Chair of the Animals Committee working groups on Significant Trade and Review of the Appendices. The United States, Mexico, and Canada have discussed our representation for the interval between COP12 and COP13, and we will meet to finalize the region's selections for representative and alternate during the first week of COP12.

(b) Plants Committee

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

(i) Report of the Chairman (Doc. 10.2)

The current Chair (Dr. Margarita Clemente of Spain) will report on the activities of the Plants Committee since COP11. Since COP11, the Plants Committee has met three times: the tenth meeting of the Plants Committee (PC10) was held in Shepherdstown, West Virginia (December 11–15, 2000); the eleventh meeting (PC11) was held in Langkawi, Malaysia (September 3–7, 2001); and the twelfth meeting (PC12) was held in Leiden, the Netherlands

(May 13–17, 2002). The United States sent a delegation to those Plants Committee meetings and has participated actively in Plants Committee activities. When we completed this notice, we still had not received a copy of the Chair's Report. You may obtain information regarding the Plants Committee from the Division of Scientific Authority at the address above (see **FOR FURTHER INFORMATION CONTACT**).

(ii) Election of New Regional and Alternate Regional Members (No Document)

The six CITES regions are represented on the Plants Committee by one or two persons, according to the number of countries in each region. This process was established in CITES Resolution Conf. 11.1, which is available on the Secretariat's web page. The representatives are individuals, and not governments. Party countries within each CITES region meet during the meeting of the COP to elect new Plants Committee members to represent them. The current North American regional representative on the Plants Committee is Dr. Bertrand von Arx from Canada. The United States, Mexico, and Canada have discussed our representation for the interval between COPs 12 and 13 and will meet to finalize the region's selections for representative and alternate during the first week of COP12.

(c) Nomenclature Committee Report (Doc. 10.3)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review

The Nomenclature Committee reviews nomenclature (scientific name) and taxonomic (scientific classification) issues that apply to species listed in the CITES Appendices. The Committee also prepares and adopts checklists for the various taxa (classifications) listed in the CITES Appendices.

The Nomenclature Committee does not have regional representatives and meets only as needed, usually during the meetings of the Plants and Animals Committee. The United States participates in all activities of the Nomenclature Committee. The current Co-chairs are Dr. Marinus Hoogmoed (of the Scientific Authority of the Netherlands) for fauna (animals), and Dr. Noel McGough (of the Scientific Authority of the United Kingdom) for flora (plants). Drs. Hoogmoed and McGough had not submitted their report for consideration at COP12 by the time this notice was completed.

11. Identification Manual (Doc. 11)

*Tentative U.S. negotiating position:* Support.

This document describes the ongoing production of material for the CITES Identification Manual. This manual contains information necessary to identify specimens of CITES-listed plants and animals in trade, and is often used by Parties' law enforcement agencies. Since COP11, the Secretariat has been responsible for updating the Identification Manual with new material on newly listed species. Proponents of successful listing proposals are supposed to provide identification material within one year of the proposal's adoption.

This document specifies identification material that is currently under production, being translated, or delinquent from Parties. According to this list, the United States must still submit material for identifying eight taxa that we proposed for listing in previous meetings of the Conference of the Parties. We pledge to develop this material as time and resources allow, and we will inform the Secretariat and the other Parties at COP12. The United States completed and submitted identification materials to the CITES Secretariat for several plant species in May 2002. In addition, the United States volunteered to submit a new identification manual on Indo-Pacific corals in trade, which is scheduled for completion in the near future.

12. Revision of the Action Plan of the Convention (Doc. 12)

*Tentative U.S. negotiating position:* Support, with the exceptions and amendments described below.

The United States has been an active member and sometimes Chair of the Standing Committee working group on the Action Plan. The United States continues to support the execution of the Action Plan and support the recommendations of the working group. The United States would, however, like the Parties to direct the Standing Committee working group to focus on the periodic review and evaluation of the progress of the Action Plan rather than on continuing to revise and update it. The United States believes that the Parties, the Secretariat, and Committees will be unable to develop their own work plans to implement the Strategic and Action plans if these plans continue to be updated and revised. The United States is also concerned that the Action Plan is not being implemented overall and that it holds the Committees and Secretariat to a higher level of responsibility than many of the Parties.

The United States suggests that the Parties direct the Committees and Secretariat to report to COP13 on progress of the implementation of their work plans and provide a schedule for their completion under the Action Plan. The United States, while recognizing that some Parties lack the capacity to take on the task of implementing the Action Plan, would also like the Parties to, at a minimum, include national implementation of the objectives of the Action Plan in their future biennial reports.

### 13. Establishment of Committees

(a) Revision of Resolution Conf. 11.1 on Establishment of Committees (Doc. 13.1; Chile)

*Tentative U.S. negotiating position:*  
Oppose.

Chile proposes to revise the current resolution that sets the level of regional representation in the Animals and Plants Committees so that representation in these committees is the same as the Standing Committee. Currently, regional representation in the Animals and Plants Committees consists of 10 individuals in each committee as follows: one each chosen by North America and Oceania, and two chosen by each of the major geographic regions of Africa, Asia, Europe, and South and Central America and the Caribbean. Regional representation in the Standing Committee consists of 14 individuals as follows: 1 for regions with up to 15 Parties; 2 for regions with 16 to 30 Parties; 3 for regions with 31 to 45 Parties; or 4 for regions with more than 45 Parties.

The United States tentatively plans to oppose this revision of the resolution on establishment of committees. The addition of 8 new representatives (4 in each committee) would have significant financial implications at a time when funds are insufficient to conduct all the priority tasks identified in the Strategic Plan. Also, representatives to the Animals and Plants Committees are chosen by the geographic region for their scientific expertise, not as representatives of governments. Thus, the need for additional individuals with scientific expertise from regions is unclear.

(b) Enhancing Implementation of the Convention (Doc. 13.2; United States)

*Tentative U.S. negotiating position:*  
Support.

We think the Parties need to identify an ongoing forum within the Convention to discuss implementation issues. Such a forum needs to include technical experts on implementation

within the Parties and be led by the Parties. An in-depth discussion of implementation issues is constrained by the current committee structure and corresponding budget allocations. The United States thinks that it is important to look beyond this structure in exploring ways to address critical implementation problems.

(c) Review of the Committee Structure (Doc. 13.3)

*Tentative U.S. negotiating position:*  
Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12. As noted for the previous agenda item (13 b), we think the current committee structure fails to address numerous important implementation issues, particularly with regard to certain CITES species listings or types of parts and derivatives in trade.

### 14. Title of the Convention (Doc. 14)

*Tentative U.S. negotiating position:*  
Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

### 15. Outcome of the World Summit on Sustainable Development and the Discussion on International Environmental Governance: Consequences for CITES (Doc. 15)

*Tentative U.S. negotiating position:*  
Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

### 16. Cooperation With Other Organizations

(a) Cooperation between CITES and the Commission for Conservation of Antarctic Marine Living Resources (CCAMLR) regarding the trade in toothfish (Doc. 16.1; Chile)

*Tentative U.S. negotiating position:*  
Undecided.

CCAMLR is responsible for the conservation and management of Antarctic marine living resources in waters between the Antarctic continent and the Antarctic Convergence, a line of

latitudes between 45 and 60 degrees South where the colder, fresher Antarctic waters meet the warmer, saltier waters from the Atlantic, Indian and Pacific Oceans. In response to concerns over illegal, unreported, and unregulated (IUU) fishing for toothfish (*Dissostichus spp.*) in these waters, CCAMLR members have adopted conservation measures, including a Catch Documentation Scheme (CDS) introduced in May 2000 for tracking and monitoring the harvest and trade in toothfish.

Chile indicates that the 30 Member countries and acceding States to CCAMLR represent the main harvesting, processing, and consuming countries for toothfish, and that CCAMLR has made progress in controlling IUU fishing. In fact, only about half of this number of Members and acceding States are engaged in toothfish harvest and trade. Chile also states that there is no doubt that cooperation on the part of countries that are not parties to CCAMLR, but are parties to CITES, would be helpful in supporting CCAMLR's conservation measures.

The resolution calls for all CITES Parties that fish for or trade in toothfish to, (a) comply with CCAMLR conservation measures regarding toothfish (including adopting use of the CCAMLR *Dissostichus* Catch Document (DCD) for toothfish that are imported, exported, or in transit through their territories) if they are not already doing so, (b) be vigilant in examining toothfish in trade, particularly its geographic origin, (c) cooperate with the CCAMLR Secretariat in the collection of trade data, and (d) take measures to ensure that their flag vessels are not used to undermine CCAMLR conservation measures or those adopted by States in whose territorial waters *Dissostichus* is found. The resolution urges CCAMLR to keep CITES Parties informed, directs the CITES Secretariat to provide CCAMLR with any available information on illicit trade, and invites all interested States, the United Nations Food and Agriculture Organization (FAO) and others to cooperate in efforts to prevent illicit trade.

Australia has submitted a proposal for including Patagonian and Antarctic toothfish in CITES appendix II (Prop. 39) and provided a discussion paper on how CCAMLR and CITES permitting regimes may work together to monitor trade. (See number 66 of this notice). Chile is urging CITES Parties to voluntarily adhere to CCAMLR conservation measures as an alternative approach to an appendix-II listing. As with all papers concerning trade in *Dissostichus spp.*, in order to determine

a position on Chile's proposed resolution, U.S. government agencies will evaluate the many complex aspects of the trade and how CITES might be useful as an adjunct to traditional fisheries management. This includes how our position would affect or be affected by the proposed cooperation with FAO (see Doc. 16.2.2, discussed below) regarding international trade in marine fish species. At this time, the United States is undecided as to our positions on issues related to the role of CITES in international toothfish trade.

(b) CITES and FAO

(i) Synergy and Cooperation Between CITES and FAO (Doc. 16.2.1; Japan)

*Tentative U.S. negotiating position:*  
Oppose.

Japan has submitted a draft resolution calling on the CITES Secretariat to work with the FAO Secretariat toward developing a Memorandum of Understanding (MOU) that would establish a framework for cooperation between CITES and FAO. Japan states that the MOU would enhance cooperation and exchange of information and establish a process to ensure FAO involvement in the scientific evaluation of proposals for listing and down-listing of commercially exploited aquatic species.

A set of recommendations for strengthening cooperation between CITES and FAO with respect to commercially exploited fish species was agreed to in Bremen, Germany at the 8th session of the FAO Committee on Fisheries Subcommittee on Fish Trade held during February 2002. The United States was pleased to work closely with Japan and others at the meetings in Bremen and has also submitted a document endorsing an MOU between FAO and CITES (see Doc. 16.2.2).

We agree that FAO and the mandated regional fisheries management organizations (RFMOs) are appropriate inter-governmental bodies responsible for fisheries management (under Article XV, 2b). The United States, however, believes that regulation of international trade under CITES can serve as a useful adjunct to traditional fisheries management for species that might be listed in the CITES Appendices. The United States supports the expert process outlined in the Bremen recommendations but does not believe that action in FAO does not require a parallel response in CITES. The Bremen recommendations call for both CITES and FAO to make the political commitment necessary to ensure improved cooperation on commercial

fish species; for CITES, this means through action at the COP.

(ii) FAO Collaboration With CITES Through a Memorandum of Understanding (Doc. 16.2.2; United States)

*Tentative negotiating position:*  
Support.

The Eighth Session of the FAO (Food and Agriculture Organization of the United Nations) Committee on Fisheries, Sub-Committee on Fish Trade, held in February 2002 (Bremen, Germany), sent forward a recommendation supporting the implementation of a Memorandum of Understanding (MOU) between FAO and CITES. The United States has submitted this document requesting that the CITES Parties review this recommendation and suggesting that the Standing committee determine a course of action and time-frame for initiating and finalizing such an MOU. The MOU would cover all CITES-specific issues under review by FAO, and could be established between the CITES Standing Committee and the comparable FAO committee. The United States recognizes the contributions FAO has made in evaluating the CITES listing criteria for marine fish and supports a formal MOU between CITES and FAO to facilitate exchange of information and technical advice regarding commercially exploited fish species.

(c) Cooperation and Synergy With the Inter-American Convention for the Protection and Conservation of Sea Turtles (Doc. 16.3; Ecuador)

*Tentative U.S. negotiating position:*  
Support.

This draft resolution directs the CITES Secretariat to investigate opportunities for cooperation and coordination between CITES and the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) (including Parties to the IAC and its Secretariat).

As a Party to the IAC, which entered into force May 2, 2001, the United States supports this draft resolution. We also note that a draft resolution developed at the second CITES wider Caribbean range States hawksbill turtle dialogue meeting (May 21–23, 2002, Cayman Islands, United Kingdom), with the support of the United States, urges the participation of relevant regional and international multilateral environmental agreements, such as UNEP–CEP, the IAC and other relevant bodies, to promote joint collaboration to recover hawksbill sea turtles throughout the Wider Caribbean. CITES, IAC, and UNEP–CEP all have important roles in

the conservation of sea turtles in the region. Therefore, we intend to support this draft resolution and to recognize these organizations' roles in the conservation of marine turtles.

(d) CITES and the International Whaling Commission

(i) Cooperation Between CITES and the International Whaling Commission (Doc. 16.4.1; Mexico)

*Tentative U.S. negotiating position:*  
Support.

If adopted, this resolution would reaffirm the complementary relationship between CITES and the IWC as a crucial element for the conservation of whale stocks. The resolution encourages the IWC to inform CITES of its decisions regarding whale stocks. It proposes retaining whale species listed in the CITES appendices in which they are currently listed because it is premature to downlist these species while work is continuing to develop a Revised Management Scheme. Maintaining this listing would strengthen the ability of IWC to enforce its current moratorium on commercial whaling, as communicated to CITES by IWC in 1978, through listing in CITES appendix I.

(ii) Matters Relating to the International Whaling Commission (Doc. 16.4.2; United States)

The United States notified the CITES Secretariat that we will not be submitting this document at this time. However, the United States does plan to submit an information document at COP12 detailing the status of efforts by the International Whaling Commission (IWC) to adopt a Revised Management Scheme (RMS) to manage commercial whaling, should it resume. This information paper will also include a summary of actions taken at the October 14–17, 2002, meeting of the IWC (Cambridge, United Kingdom), which is intended to make further progress on the Revised Management Scheme. The United States believes that no great whale species should be considered for downlisting from appendix I until the IWC adopts an effective Revised Management Scheme.

(e) Statements From Representatives of Other Conventions and Agreements (No Document)

*Tentative U.S. negotiating position:*  
Undecided, until documents are available for review.

The Secretariat will not produce a document for this issue. The United States supports ongoing dialogue between CITES and other relevant and related conventions and agreements and

believes statements from them could be valuable at meetings of the COP.

#### 17. Sustainable Use and Trade in CITES Species (Doc. 17; Norway)

*Tentative negotiating position:*

Oppose, with some exceptions.

Norway addresses concerns it has regarding sustainable use and the amendment of the CITES appendices. Norway thinks there are difficulties with delisting or downlisting a CITES species even when warranted by the CITES criteria, and warns against the use of trade restrictions as "protectionistic measures under cover of scientific uncertainty." Norway proposes: (a) the development of CITES guidelines for the interpretation of the principle of sustainable use, in cooperation with the Convention on Biological Diversity (CBD) and the Food and Agriculture Organization (FAO); (b) the preparation of a proposal by COP13 to revise the listing criteria so as to include the principle of sustainable use; and (c) the development of a 5-year review process or a "sunset clause" to ensure that the CITES appendices reflect accurately the conservation status of a species.

Although the United States fully supports the sustainable use of wildlife as a means for the economic development of local communities as well as an incentive for the conservation of species and ecosystems, we do not believe there is a need to develop a CITES definition of sustainable use. From its inception, CITES has been an effective tool for the promotion of sustainable use of appendix-II species through the issuance of non-detriment findings as required under Article IV, paragraph 2(a), of the Convention. There would be difficulties in the practical application of many elements in the Norwegian proposal. We believe the development of CITES guidelines for the interpretation of the principle of sustainable use would be potentially problematic. Guidelines would likely vary considerably depending on the species, ecosystems, and/or socio-economic or political systems involved.

Failure to adopt a proposal for the delisting of an appendix-II species or the transfer of a species from appendix I to II does not mean that there are widespread difficulties related to the delisting and downlisting processes. It simply means that the majority of Parties have not been persuaded to adopt a given proposal. Furthermore, we disagree with the assertion that listing of species in the CITES Appendices is used to conceal scientific uncertainty. To the contrary, the United States believes that it is important to

acknowledge the importance of the precautionary approach to wildlife management and that failure to do so would constitute a greater risk than if no trade restrictions were in place for wild populations for which there is uncertainty. In fact, the United States and Norway both subscribe to the precautionary approach in the case of fisheries management. As Parties to the 1995 United Nations Fish Stocks Agreement, both have agreed to be "more cautious when information is uncertain, unreliable or inadequate," and further that "the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures" (UNFSA Article 6, paragraph 2).

Through Decision 11.2, the Parties established a specific protocol for examining the current listing criteria contained in Resolution Conf. 9.24. Since COP11, a Criteria Working Group has been reviewing the listing criteria. A report of the working group will be presented at COP12 (*see* Doc. 58, below). Comments on the criteria included in Norway's resolution should have taken place through this process. If not, Norway still has an opportunity to present their comments during discussion of the listing criteria at COP12.

Finally, there is already a process in place for periodic review of the appendices. The Plants and Animals Committees review listings that may no longer be appropriate, utilizing the listing criteria in Resolution Conf. 9.24. Within the Animals Committee, the species reviews are conducted on a voluntary basis by Parties. As a result, relatively few reviews have been completed thus far. The Animals Committee is currently developing guidelines for improving the periodic review process. Without an adequate budget that is specifically allocated for conducting species reviews, it is unlikely that all listed species can be reviewed properly every 5 years as recommended by Norway. In addition, establishment of a sunset clause is troublesome given that it could result in the delisting of species that continue to require the trade controls afforded by CITES.

Although the United States does not plan to support this resolution on sustainable use and trade in CITES species as currently drafted, we would consider support for a dialogue on the concept of sustainable use within CITES that could further clarify its meaning, particularly in high-volume or high-value species. Furthermore, the United States supports closer collaboration

between CITES and FAO, CBD, or other appropriate inter-governmental organizations in areas where work can be complementary (*see* item 16b, above).

#### 18. Economic Instruments and Trade Policy (Doc. 18)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

#### 19. Financing of the Conservation of Species of Wild Fauna and Flora (Doc. 19)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12. In response to Decision 11.78, the Secretariat distributed Notification to the Parties No. 2001/016, in which it requested information on national funding mechanisms for the conservation of wild fauna and flora. The United States provided information on four such mechanisms, but noted in its response that it would be unable to provide information on all relevant U.S. funding mechanisms due to the enormity of the task. The United States supports efforts to provide information on the broad array of mechanisms available to support wildlife conservation.

#### 20. Reports of Dialogue Meetings

##### (a) Results of the African Elephants Dialogue Meeting (Doc. 20.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat as the African elephants dialogue meeting is scheduled to be held in Santiago, Chile, immediately prior to the start of COP12. Once we receive a document on this agenda item, presumably at COP12, we will review it closely and develop a tentative negotiating position for COP12.

##### (b) Results of the Wider Caribbean Hawksbill Turtle Dialogue Meeting (Doc. 20.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

We expect that this will provide an update on the two CITES wider Caribbean range states hawksbill turtle dialogue meetings held since the eleventh meeting of the CITES Conference of the Parties (COP11). At COP11, Cuba submitted two proposals to transfer the hawksbill turtle (*Eretmochelys imbricata*) population inhabiting Cuban waters from appendix I to appendix II (Proposals 40 and 41), but they were rejected, partly because there was no regional consensus among hawksbill range countries in the Caribbean. After COP11, the Secretariat convened two technical workshops of Caribbean hawksbill turtle range states and territories to discuss and, if possible, reach consensus on the many difficult issues raised at COP11 regarding the conservation and management of hawksbill sea turtles. The first CITES wider Caribbean range states hawksbill turtle dialogue meeting was held in Mexico May 15–17, 2001. This was followed by a second hawksbill turtle dialogue meeting held May 21–23, 2002, in the Cayman Islands, United Kingdom. The United States provided financial support for and participated actively in both hawksbill turtle dialogue meetings. At the second hawksbill turtle dialogue meeting, working groups drafted a communique and a draft resolution for submission at COP12, with the participation and full support of the United States. Among other things, the draft resolution urges Caribbean states and territories to develop a regional conservation strategy for hawksbill turtles. It also urges Parties to adopt and implement standard protocols for the monitoring of hawksbill turtles developed at the second hawksbill dialogue meeting. The United States will work for adoption of the draft resolution.

### Interpretation and Implementation of the Convention

#### Review of Resolution and Decisions

##### 21. Review of Resolutions and Decisions

###### (a) Review of Resolutions

###### (i) Resolutions To Be Repealed (Doc. 21.1.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet

available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

Decision 11.136, adopted at COP11, directed the Secretariat to analyze information it receives from the Parties regarding problems in the implementation of existing Resolutions and prepare a document for the Standing Committee. Based on its own analysis of the implementation of existing Resolutions and on information it received from several CITES Party countries (including the United States), the Secretariat prepared and presented document SC46 Doc. 10 at the 46th meeting of the Standing Committee (Geneva, March 2002). This document provided a list of those Resolutions for which the Secretariat was planning to prepare proposals for COP12 to either repeal or revise. The Standing Committee requested that the Secretariat notify all Parties of the Resolutions for which it intends to prepare amendment proposals for COP12, and to provide a brief explanation of the reasons for the proposed amendments.

At the time this notice was prepared, the Secretariat had not yet notified the United States of the Resolutions for which it intends to prepare proposals for COP12.

###### (ii) Resolutions To Be Revised (Doc. 21.1.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

This issue, "Resolutions to be revised," is part of the same analysis by the Secretariat that is described above for agenda item 21. (a) (i), entitled "Resolutions to be repealed." As with that agenda item, at the time this notice was prepared, the Secretariat had not yet notified the United States of the Resolutions for which it intends to prepare proposals for COP12.

###### (b) Review of Decisions (Doc. 21.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

In addition to providing a list of those Resolutions for which the Secretariat

was planning to prepare proposals for COP12 to either repeal or revise, document SC46 Doc. 10, presented by the Secretariat at the 46th meeting of the Standing Committee (Geneva, March 2002), included a statement that the Secretariat was planning to prepare proposals to put into Resolutions the texts of existing Decisions that are not time-limited.

In principle, the United States supports the concept of moving the text of Decisions that are not time-limited into Resolutions. Decisions are supposed to provide immediate instructions that are more short-term in nature than the guidance found in Resolutions. They are usually intended to be carried out between two meetings of the COP.

#### Regular and Special Reporting Requirements

##### 22. Report on national reports required under Article VIII, paragraph 7, of the Convention

(a) Annual reports (Doc. 22.1)  
*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

The United States supports efforts to encourage all Parties to submit annual reports, for all species of fauna and flora, consistent with their domestic legislation. Each Party is required by CITES to submit an annual report containing a summary of the permits it has granted and the types and numbers of specimens of species in the CITES Appendices that it has imported and exported. Accurate annual report data are essential to measure the impact of international trade on CITES-listed species, and can also be an effective enforcement tool, particularly when imports into a given country are compared to export quotas from other countries. The United States has submitted all of its CITES annual reports through 2000, and intends to meet its obligation to submit its 2001 annual report by the October 31, 2002, submission deadline.

##### (b) Biennial reports (Doc. 22.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it

closely and develop a tentative negotiating position for COP12.

The United States supports efforts to encourage all Parties to submit biennial reports on legislative, regulatory, and administrative measures taken to enforce the provisions of CITES. Each Party is required by CITES to submit such biennial reports. Due to staffing shortages for the past several years, and work priorities involving timely preparation of the U.S. annual reports, we have been unable to prepare and submit U.S. biennial reports since 1987–1988. However, the United States intends to meet its obligation to submit its 2000–2001 biennial report before the opening of COP12 in November 2002.

### 23. Appendix-I Species Subject to Export Quotas

#### (a) Leopard

(i) Report on implementation of Resolution Conf. 10.14 on quotas for leopard hunting trophies and skins for personal use (Doc. 23.1.1)

*Tentative U.S. negotiating position:* Oppose, with exceptions described below.

This document, with a proposed amendment to an existing resolution (Resolution Conf. 10.14), was marked “provisional” by the CITES Secretariat when this notice was prepared. If we receive a new version of this document in the future, we will review it closely to determine whether our tentative negotiating position for COP12, outlined here, needs to be changed.

Resolution Conf. 10.14 establishes annual export quotas for leopard hunting trophies and skins and requires that Parties with such a quota submit a special annual report, in addition to the annual report required by Article VIII, paragraph 7, of the Convention, that identifies particular information about the exports. Conf. 10.14 also established the tagging requirements for leopard trophies. The Secretariat submitted a proposed amendment to Conf. 10.14 that, at a minimum, would remove the special annual reporting requirements called for under the Resolution and would allow the Parties with leopard quotas to submit the required information solely in their CITES annual report. However, the Secretariat’s proposed amendment also recommends that Conf. 10.14 be repealed, in its entirety, on the basis that none of the Parties with leopard quotas have exceeded them in the past, that sustainable quotas can be established under existing national voluntary quotas, and that tagging leopard skins and trophies does not

provide any benefit in controlling illegal trade.

The United States agrees that requiring a special annual report would not be necessary, provided that the Parties include the same information regarding the annual leopard exports that is called for in Conf. 10.14 in the CITES annual report and the Parties have a consistent record of submitting their annual reports. However, a large number of the leopard trading countries have failed to submit their annual reports either in a timely manner or at all. Because this species is included in appendix I, the United States does not agree with the Secretariat that Conf. 10.14 should be repealed. The Parties have identified leopard as a species of particular concern by placing it in appendix I. As such, it is important for the Parties to be actively involved in the establishment of quotas. It is also important to maintain the tagging program to assist in the control of illegal trade and to properly identify legitimate trophy specimens that enter international trade.

(ii) Amendment to the quota of the United Republic of Tanzania (Doc. 23.1.2)

*Tentative U.S. negotiating position:* Undecided.

This document proposes to amend the leopard export quota established in Conf. 10.14. Currently, the annual quota for Tanzania is 250 leopards. This document requests that the quota be raised to 500 leopards annually. The United States, as reflected in the document we submitted for COP12 on establishing scientifically based quotas, is very interested in ensuring that annual export quotas are established on strong biological data. Tanzania’s request does not go into sufficient detail about the leopard review to determine at this time whether the proposed increase is based on sound science that would ensure sustainable harvesting of leopards or is market-driven to increase the level of tourism within Tanzania. Therefore, we have not been able to develop a tentative negotiating position for COP12 at this time.

(b) Markhor (Doc. 23.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

The document submitted for this agenda item at the previous COP

(COP11) covered the use of annual export quotas for *Capra falconeri* (markhor) granted to Pakistan at COP10 under the provisions of Resolution Conf. 10.15. In that document the Secretariat made four comments/recommendations: (1) That the deadline to May 31st be accepted; (2) that Resolution Conf. 10.15 makes no reference to management of revenues and that this matter should be addressed at the national level; (3) the Secretariat commends Pakistan for reporting its first successful hunts since a markhor quota was approved and the implementation of its community-based conservation program for markhor; and (4) the Secretariat notes that no information was provided on the status of markhor in the 1998 annual report; the Secretariat suggests that Pakistan should provide information to the COP on a sustainable monitoring program at an appropriate frequency that would cover all important subpopulations of markhor.

At COP11, Resolution Conf. 10.15 was amended to include most of these recommendations. At COP11, the United States was concerned about the poor reporting and lack of adequate population survey data presented by Pakistan. We remain concerned about these issues, and await the document for COP12 to see how they have been addressed. We have heard from reliable sources that Pakistan might request an increase in their quota to 20 animals. We do not support such an increase. In fact, if the forthcoming document demonstrates that Pakistan has continued a poor record of reporting, or has not conducted adequate surveys, the United States will consider recommending a quota reduction or suspension.

### 24. Exports of Vicuna Wool and Cloth (Doc. 24)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

### 25. Transport of Live Animals (Doc. 25)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, we were still reviewing the document posted by the Secretariat. We will continue to do so as we develop a tentative negotiating position for COP12.

The United States has been supportive and actively involved in the Transport Working Group (TWG) of the Animals Committee since its inception. We expect to continue that level of support after COP12, and we support the COP re-authorizing the TWG through COP13. At the 18th meeting of the Animals Committee (San Jose, Costa Rica, April 2002), the Chair of the TWG reported on the group's continuing efforts to recommend revisions to the Live Animals Regulations of the International Air Transport Association (IATA) and to evaluate mortality levels in traded CITES-listed wildlife. The United States supported the TWG's efforts in this area, and we expect to continue our general support of the group's activities.

#### *General Compliance Issues*

#### 26. Compliance With the Convention (Doc. 26)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

#### 27. Enforcement Matters (Doc. 27)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, we were still reviewing the document posted by the Secretariat, which was marked Provisional at that time. The document was later posted in a final form, and we will continue to review it as we develop a tentative negotiating position for COP12. However, while the United States feels that there is merit in the major recommendation presented in the document, we remain officially undecided pending additional review and consultation.

This document, prepared by the Secretariat, covers a wide range of issues related to the enforcement of the Convention, including: communication by Parties with the Secretariat, enforcement alerts issued by the Secretariat, the confidentiality of information received by the Secretariat, allegations of corruption in CITES management authorities and enforcement agencies, national interagency enforcement cooperation, specialized enforcement units and personnel, regional and international interagency enforcement cooperation, dealing with offenders, forensic science, courier and postal services, domestic

enforcement, fraudulent use of CITES permits and certificates, and designation of scientific authorities by the Parties.

The document also contains a draft decision in which the Secretariat suggests that the COP authorize the Secretariat to convene an experts meeting to discuss enforcement-related issues before the Convention.

The United States is generally very supportive of the Secretariat's efforts to provide enforcement assistance and coordination with the Parties, and the United States frequently requests the Secretariat's assistance in contacting other Parties for enforcement-related issues.

#### 28. National Laws for Implementation of the Convention (Doc. 28)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

We expect that this document, prepared by the Secretariat, will cover progress on implementation of Decisions 11.15, 11.17, 11.18, and 11.19. The most recent action on these matters took place at the 46th meeting of the Standing Committee (March 12–15; Geneva, Switzerland) in which the Committee reached agreement on a variety of actions or recommendations directed to a large number of Parties deemed by the Secretariat to have inadequate domestic legislation to effectively implement the Convention.

#### 29. Verification of the Authenticity and Veracity of CITES Permits and Certificates (Doc. 29; Chile)

*Tentative U.S. negotiating position:* Support, noting budgetary concerns.

This document and draft resolution are intended to address concerns about the authenticity of CITES documents. The document identifies the unfortunate fact that fraudulent CITES documents have been discovered in use. With the improvements in technology, false documents can be created that are very difficult to distinguish from valid CITES documents issued by an appropriate CITES Management Authority. Chile proposes that all Parties establish an Internet website where copies of all CITES documents that a Party issues would be available for comparison purposes. The United States agrees that a concise and secure method of verifying the authenticity of CITES documents would be very beneficial. However, substantial logistical and legal

ramifications must be considered prior to any type of website being established. Logistical concerns include the security of the site, the level of access available to Parties, and the cost of establishing the websites. For the United States, if not other Parties, there is the question of whether making such data available is in compliance with current domestic laws and regulations. Therefore, the United States would recommend that this proposal be reviewed further by the Parties and, if desirable and funding can be obtained, a working group be formed to address this particular proposal and other means to allow the verification of CITES documents.

#### 30. Implementation of CITES in the European Community (Doc. 30; Denmark)

*Tentative U.S. negotiating position:* Undecided.

The United States supported the amendment in 1983 and submitted it to Congress, but it was not ratified. There were concerns because the amendment is not specific to the European Community and would allow accession of other regional economic integration organizations to CITES. In addition, at that time not all European Community members were Parties to CITES. The United States has not ratified the Gaborone amendment, and the United States is uncertain whether it will support this draft decision.

#### *Species Trade and Conservation Issues*

#### 31. Trade in Bear Specimens (Doc. 31)

*Tentative U.S. negotiating position:* Oppose unless an alternative solution to address the ongoing illegal trade in some appendix I species is developed by the Parties.

This report was prepared by the CITES Secretariat, and also serves as the report of the Standing Committee as required in Decision 11.80. The report summarizes information provided or actions taken in response to five Decisions adopted at COP11 relating to trade in bear specimens. The Parties, including the United States, that have provided information to the Secretariat all report that they have adequate national legislation and enforcement measures in place to implement the Convention with regard to bears. The Secretariat concludes that the actions called for in Decisions 11.43, 11.44, 11.45, 11.46 and 11.80 have been achieved, and those Decisions can be deleted. The Secretariat further asserts that the Parties should have in place legislative and enforcement measures to effectively implement the Convention for CITES-listed species, and that those

measures need not be species-specific. Subsequently, it recommends repealing the six points listed under URGES in Resolution Conf. 10.8. The United States is hesitant to do this without having alternate options available to eliminate the illegal trade in and strengthen law enforcement efforts for appendix I bears.

32. Conservation of Leopard, Snow Leopards and Clouded Leopard (Doc. 32; India)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

33. Conservation of and Trade in Tigers (Doc. 33)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

In January 1999, we hosted the CITES Tiger Missions Technical Team in Los Angeles, California, as part of its investigations of tiger range and consumer states. This visit provided us, as well as other relevant Federal agencies, an opportunity to meet with the members of the technical team and outline law enforcement and public outreach efforts with regard to tiger conservation in the United States. The team prepared a report of its mission, which was presented at the 42nd meeting of the Standing Committee.

In October 1998, Congress amended the Rhinoceros and Tiger Conservation Act (RTCA) of 1994. The amendments allow for penalties for actual or even the attempted import, export, or sale of products labeled or purporting to contain rhino or tiger products, items, or derivative substances. The Act also directs the U.S. Fish and Wildlife Service to develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species. In April 2000, we hosted two public meetings to review and take comments on a proposed outreach plan, which was published in the **Federal Register** (65 FR 21206). Since that time, we have been active in forming partnerships with other organizations to carry out the activities of the plan. The Service also continues to be active in providing

funding for tiger conservation worldwide through the Rhinoceros and Tiger Conservation Fund, authorized by the RTCA of 1994.

34. Conservation of Elephants and Trade in Elephant Specimens

(a) Illegal Trade in Ivory and Other Elephant Specimens (Doc. 34.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

(b) Illegal Hunting in Elephant Range States (Doc. 34.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

(c) Revision of Resolution Conf. 10.10 (Rev.) on Trade in Elephant Specimens (Doc. 34.3; India and Kenya)

*Tentative U.S. negotiating position:* Undecided.

The document for consideration was submitted by Kenya and India. The document emphasizes a need to revise Resolution Conf. 10.10 to reflect new information regarding the sale of illegal ivory and the need to educate consumers, the deletion of paragraphs which address the detection of links between poaching trends and changes in the CITES Appendices, and adding a requirement that Parties receive annual updated information on illegal ivory collected by the Elephant Trade Information System (ETIS).

The United States is undecided on whether it will support the proposed resolution from Kenya and India. The United States is continuing to evaluate this issue, and plans to develop a policy position on this proposed resolution once all the documents on ETIS and the range states' dialogue are available for review.

35. Conservation of and Trade in Rhinoceroses (Doc. 35)

*Tentative U.S. negotiating position:* Oppose unless an alternative solution to address the ongoing illegal trade in some appendix I species is developed by the Parties.

Resolution Conf. 9.14 (Rev.) establishes a series of standard measures

that all rhinoceros range countries should implement to improve the conservation status of rhinoceros. It also directs the Standing Committee to take appropriate actions to address illegal trade in rhinoceros specimens, and it establishes a reporting system for providing information on rhinoceros activities in various range and non-range countries to the Conference of the Parties. The Secretariat proposes in this document to repeal Conf. 9.14 (Rev.) because they believe it contains generic recommendations that the Parties should be implementing for all species, and because the Parties have failed to report on their activities related to rhinoceros conservation. Whereas we understand the Secretariat's frustration with the lack of response by the Parties, we believe that rhinoceros species warrant special attention from the Parties. Some of the recommendations, such as those for tracking rhinoceros horn stocks, are specific to rhinoceros, and we believe these species, and other high-profile appendix-I species with significant ongoing conservation problems, continue to deserve special attention under CITES. In addition, we believe that range countries have demonstrated a keen interest in rhinoceros conservation at past COPs. Therefore, we are not sure that repeal of Conf. 9.14 (Rev.) is appropriate, but we would welcome recommendations to improve its effectiveness. We will be particularly looking to range countries on this issue at COP12.

36. Conservation of and Trade in Musk Deer (Doc. 36)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

This document is likely to resemble the document submitted by the Secretariat to the last meeting of the Standing Committee (SC46). Our position on that document was that there had been a lack of significant progress on the musk deer conservation actions called for in the relevant Resolution and Decisions from COP11, and that such lack of progress was of great concern to us. The existing Resolution and Decision were adopted at COP11 as a compromise to an appendix-I listing for the entire genus *Moschus*. As such, they should have formed the basis for priority action on this taxon by the Secretariat. However, adequate effort has not been devoted to

raising the funds necessary to address the needs of this genus, and other activities have been insufficient to advance the recommendations by the Parties specified in the Resolution and Decisions.

37. Conservation of and Control of Trade in Tibetan Antelope (Doc. 37)

*Tentative U.S. negotiating position:* Oppose unless an alternative solution to address the ongoing illegal trade in some appendix I species is developed by the Parties.

The Secretariat reported on Tibetan Antelope activities at SC46. At that time, the United States was already disappointed by the lack of real progress made on implementation of Resolution Conf. 11.8. As the current report indicates, little has been done since then. The Secretariat has assisted in the production of an identification kit, and requested China and India to inform it of any assistance they may need related to Tibetan antelope conservation (although the Secretariat just made contact with these two States almost two years after COP 11). There is no mention of activities undertaken by China, India, or Nepal for Tibetan antelope conservation. Because China is the principal range State for Tibetan antelope, its actions are critical to the long-term survival of the species. India, as the main destination for raw shahtoosh, is also a key player. This taxon deserves greater attention, but the United States suggests that the Parties might consider developing a more comprehensive approach to address this species and other appendix I species that continue to be traded illegally and commercially.

38. Controlled Trade in Specimens of Abundant Cetacean Stocks (Doc. 38; Japan)

*Tentative U.S. negotiating position:* Oppose.

If adopted, this resolution would support trade in whale products originating from stocks transferred from appendix I to appendix II among those Parties that are also signatories to the International Convention for the Regulation of Whaling and that have established DNA register systems to monitor such trade.

The United States believes that CITES should continue to honor the request for assistance in enforcing the moratorium on commercial whaling, which was communicated by the IWC to CITES in 1978. This request was answered by the CITES Parties in Resolution Conf. 2.9, which call on the Parties to "agree not to issue any import or export permit or certificate" for introduction from the sea

under CITES for primarily commercial purposes "for any specimen of a species or stock protected from commercial whaling by the International Convention for the Regulation of Whaling." While the scientific committee of the IWC has developed the Revised Management Procedure (RMP) for setting quotas if commercial whaling were to resume, the IWC has not completed the development of a Revised Management Scheme (RMS) for monitoring the catch of whales. The United States believes that any type of commercial whaling or trade should not resume until the RMS is completed and the current moratorium on commercial whaling is lifted for any stocks that enter into international trade.

39. Conservation of and Trade in Freshwater Turtles and Tortoises (Doc. 39)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document we will review it closely and develop a tentative negotiating position for COP12.

The United States has been actively involved in, and supportive of, CITES efforts in recent years regarding the trade in tortoises and freshwater turtles, and associated conservation and management issues. The United States funded and participated in the technical workshop on tortoise and freshwater turtle trade and conservation hosted by China in March 2002, and we supported adoption of the workshop's recommendations and findings. For COP12 we have co-sponsored a number of appendix II species proposals for Asian freshwater turtles with China and India, and we support other proposals submitted by China and Germany.

40. Conservation of and Trade in Pancake Tortoise *Malacochersus tornieri* (Doc. 40; Kenya)

*Tentative U.S. negotiating position:* Oppose because of budgetary concerns.

The pancake tortoise ranges from central Kenya southward through central Tanzania. Within that range, the species is discontinuously distributed because of its strict habitat requirements; the species is found only where suitable rock crevices and outcroppings exist in thorn-scrub and savannah vegetation (Somalia-Masai floristic region). The pancake tortoise was listed in appendix II in 1975. Kenya enacted stricter domestic measures to prohibit commercial export of the species in 1981, although the United

Republic of Tanzania permits the export of farmed specimens. The pancake tortoise is a desirable and valuable species in the pet trade, and although it is captive bred with some regularity, demand for wild caught specimens remains high.

Kenya submitted a proposal to transfer the species from appendix II to appendix I at COP11. The COP11 proposal (Doc. 11.59.3, Prop. 11.39) was withdrawn by Kenya after the United Republic of Tanzania provided oral assurances that it would not permit the export of wild caught specimens. However, there appears to be ongoing illegal trade in pancake tortoises, although it is difficult to determine the origin of specimens that appear to have been collected in the wild; in 2000 and 2001 the United States received several shipments of adult pancake tortoises with permits indicating that they were born in captivity.

The Pancake Tortoise Working Group proposed by Kenya would be tasked to develop recommendations on measures to improve conservation, control trade in live specimens of the species, and analyze whether existing breeding operations for the species conform to certain conditions. Management of the trade in pancake tortoises has been problematic for many years, but we note that it might be more appropriate for the COP to authorize addressing this issue through an existing CITES mechanism, rather than through the formation of a species-specific working group. Two potential ways to address these issues in a cooperative setting, and develop consensus recommendations, are either through the Animals Committee significant trade review process in Resolution Conf. 8.9 (Rev.) (under which the pancake tortoise has previously been reviewed), or through the Animals Committee working group on the conservation of and trade in freshwater turtles and tortoises, which the United States hopes will be re-authorized at COP12.

The United States believes that either of these two Animals Committee mechanisms are appropriate, and could be productive venues to address and resolve the issues highlighted in Doc. 40. We note that the creation of new working groups is administratively and financially burdensome and it is preferable to take advantage of existing systems to address trade and implementation concerns when available.

## 41. Conservation of Sharks

(a) Conservation and Management of Sharks (Doc. 41.1; Australia)

(b) Conservation of and Trade in Sharks (Doc. 41.2; Ecuador)

*Tentative U.S. negotiating position:* Support but have budgetary and workload concerns.

Australia and Ecuador have submitted separate documents on the role of CITES in international shark conservation. Although slightly different in objective, both papers recite the history of how CITES Parties got engaged in shark conservation and prescribe a series of future initiatives to help promote adequate management for vulnerable stocks. The Australian document suggests that the CITES Animals Committee could, among other things, regularly review the conservation status of various shark populations and recommend listing priorities to the Parties. The Ecuadorean document recommends tighter cooperation between CITES and FAO to ensure that national management plans are developed and implemented. Both documents recommend an ongoing review of shark conservation by CITES bodies beyond COP12.

A series of Decisions and Resolutions since COP9 have prompted international discussion on sharks in both CITES and FAO fora. The net result of this activity has been FAO's adoption in 1999 of an International Plan of Action for Sharks (IPOA-Sharks), and ongoing monitoring by the CITES Parties of FAO success in this endeavor. Although the IPOA lays out specific elements for National Plans of Action (NPOA's) to conserve sharks (data collection, monitoring, stock assessment, etc.), it is purely a voluntary measure that has met with limited success in FAO member nations. Out of 87 shark-fishing nations, most of which are CITES Parties, only two (the United States and Japan) have adopted NPOA's. Fifteen other member nations have committed to developing NPOA's, but often have made this contingent on external assistance and funding.

We agree that national implementation of the IPOA for sharks has been thus far disappointing but the blame lies with the Parties, not FAO. However, we are reluctant to endorse the idea of increasing the workload of the Animals Committee to include intensive monitoring and review of non-listed species. However, it is completely within the terms of reference and the history of the Animals Committee for the Committee to review and promote listings for specific shark taxa and

monitor and review the trade of listed shark species.

## 42. Conservation of Sturgeons and Labeling of Caviar

(a) Implementation of Resolution Conf. 10.12 (Rev.) on Conservation of Sturgeons (Doc. 42.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

This document is the report from the Animals Committee on the Implementation of Resolution Conf. 10.12 (Rev.). At the time this notice was prepared, this document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

At COP11, Decision 11.59 was adopted by the Parties which requested that all Parties trading in sturgeon and paddlefish report to the Secretariat on the progress made in implementing Resolution Conf. 10.12 (Rev.), Conservation of sturgeons, before the 18th meeting of the Animals Committee. Based on the information provided by the Parties, the Secretariat submitted a report to the 18th meeting of the Animals Committee. Decision 11.96 directs the Animals Committee to review the Secretariat's report, decide upon actions to be taken, and report at COP12.

(b) Consolidation of Resolutions Relating to Sturgeons and Trade in Caviar (Doc. 42.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, this document was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

Parties are just beginning to implement Conf. 11.13 requirements that are in addition to any domestic requirements. The proposed revisions to Conf. 11.13 presented at the 18th Animals Committee meeting include provisions covering the labeling of re-exported caviar. The United States maintains that there should be a system in place for exports that can be evaluated and modified as needed to ensure it is working effectively before moving forward with labeling of re-exports.

## 43. Conservation of Seahorses and Other Members of the Family Syngnathidae (Doc. 43)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

As per the requirements of Decisions 11.97 and 11.153, the Secretariat convened a technical workshop on the conservation of seahorses and other fishes in the family Syngnathidae (e.g., pipefish and sea dragons). This workshop was held May 27–29, 2002 (Cebu, Philippines), and the United States sent a representative. One aspect of the workshop was to evaluate a draft proposal written by the United States to include seahorses in appendix II of CITES (see Proposal 37, below). The workshop participants spent three days examining current trade data, evaluating national and regional management approaches for seahorses, and considering the efficacy of a potential appendix-II listing proposal. We expect Doc. 43 to summarize the workshop findings, which includes an endorsement of the U.S. listing proposal, recommendations for an 18-month delayed implementation of the listing if adopted, and suggestions for minimizing the impact on fishing communities that harvest seahorses. The United States is pleased to have our seahorse listing proposal endorsed by this body of scientists and trade experts, and will consider the other recommendations found in Doc. 43 once we have had a chance to fully review and evaluate the document.

44. Conservation of and Trade in *Dissostichus* Species (Doc. 44; Australia)

*Tentative U.S. negotiating position:* Undecided.

Australia submitted this draft resolution as a companion to its proposal to list *Dissostichus* spp. (both Patagonian and Antarctic toothfish) on CITES appendix II (see section 66, Prop. 39 of this notice). These species are currently managed under the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) in designated waters surrounding the Antarctic continent. This draft resolution offers details on how an appendix-II listing for toothfish might be implemented. It recommends, among other provisions, that CITES Parties agree that the advice of the CCAMLR Scientific Committee

concerning annual catch limits be considered a non-detriment finding for *Dissostichus* spp. within the CCAMLR Convention Area for CITES purposes. It also asks that Parties accept that a *Dissostichus* Catch Document (DCD) is equivalent to, and an acceptable substitute for, a certificate of introduction from the sea or an export permit under CITES.

Under Australia's proposal, Parties to CITES whose trade in *Dissostichus* is conducted using CCAMLR's Catch Documentation Scheme (CDS) within the CCAMLR Convention Area will be considered as having met the requirements of CITES. However, trade in toothfish harvested outside the CCAMLR Convention Area would be subject to CITES permitting requirements.

If agreed to by the Parties, this would be the first appendix-II listing for a commercially-traded marine fish species. The effect of this listing proposal, if adopted, would combine the regulatory regime of a regional fishery management organization (RFMO) with that of CITES. The Parties would need to resolve a number of implementation issues, including how the two permitting systems might work side by side, and the difficulties in making scientific non-detriment findings for high seas species. These matters, and others related to potential listings of high seas marine fish species, have not been fully explored by the Parties. In addition to considering how the two regulatory regimes would work in concert, the United States has not yet determined how our position would affect or be affected by the proposed cooperation with the United Nations Food and Agriculture Organization (FAO) regarding international trade in marine fish species. At this time, the United States is undecided as to our positions on issues related to CITES's role in international toothfish trade.

45. Trade in Sea Cucumbers in the Families Holothuridae and Stichopodidae (Doc. 45; United States)

*Tentative U.S. negotiating position:* Support.

In our **Federal Register** notice of April 18, 2002 (67 FR 19207), we stated that we were seeking additional information (particularly on abundance, identification techniques, trade volumes, and other range country interest in CITES listing) while considering submitting an appendix-II listing proposal for sea cucumbers. Based primarily on our consultations with other range countries for these species, we believed the most appropriate approach for COP12 was to

submit a discussion paper on the issue of trade in these species, similar to what has been done in the past for other taxa, such as Syngnathidae (seahorses and their relatives). Rather than submit a proposal while significant questions exist about the trade in these species and the impact on them, we believed it would be more prudent to submit a discussion paper containing the information we have been able to gather at this point in time. The Conference of the Parties can then decide how to proceed and whether to further consider the listing of these species in the CITES Appendices.

46. Biological and Trade Status of *Harpagophytum* (Doc. 46)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document we will review it closely and determine whether our tentative negotiating position for COP12 needs to be changed.

The genus *Harpagophytum*, comprises two species, *H. procumbens* and *H. zeyheri*, native to southern Africa. The common name, devil's claw, is derived from the tough, thorny barbs, that grow on the woody fruits. Neither species is currently listed in the CITES appendices. The natural habitat of these perennial herbs are steppe-like arid zones of Angola, Botswana, Namibia and South Africa and, to a lesser extent, in Mozambique, Zambia and Zimbabwe. Flowers and leaves of the plant can only be found during the short rainy season. To survive the dry period, the plant forms water-storing secondary root tubers branching off horizontally from the primary taproot. These secondary storage tubers contain chemical compounds which have medicinal applications. Devil's claw is used in western and traditional medicine as an analgesic and anti-inflammatory. European countries have used it for years to treat rheumatic problems. The tubers are collected and sliced into thin disks and dried before export. A main threat to *H. procumbens* is the large-scale harvest of its secondary storage tubers using detrimental harvesting techniques, to meet international market demand.

Germany proposed *Harpagophytum procumbens* and *H. zeyheri* for inclusion in appendix II at COP11. However, due mainly to the objections of the range nations of these species, the proposal was not adopted. Instead, the Parties adopted two Decisions (11.63 and 11.111) designed to gather and

analyze biological and trade information on the genus *Harpagophytum*. The Plants Committee was tasked with preparing a report on the biological and trade status of the genus for COP12. As a result of these Decisions, Dr. John Donaldson, African Regional Representative on the Plants Committee, prepared a report summarizing the available information on the trade, management, and biological status of *Harpagophytum*, which he presented at the 12th meeting of the Plants Committee (PC12; Leiden, The Netherlands, May 2002). Also, a regional devil's claw conference was held in Namibia in February 2002. Participants included representatives of the various stakeholders in the range countries. A report on the outcome of the conference was presented at the PC12. Finally, Germany, a major importer of *Harpagophytum*, presented a report at PC12 on imports of the genus into Germany.

The Plants Committee supported the recommendations made in the reports presented at PC12, and the Regional Representative on the Plants Committee from Africa was tasked with preparing a report on the issue for COP12. We expect the document (COP12 Doc. 46) to be this report. The United States supports the efforts of the Regional Representative for Africa, the Namibian devil's claw working group, and Germany in reviewing biological and trade data and improving regional cooperation to ensure the sustainable management of *Harpagophytum*, and anticipates tentatively supporting document COP12 Doc. 46.

47. Conservation of *Swietenia macrophylla*: Report of the Mahogany Working Group (Doc. 47)

*Tentative U.S. negotiating position:* Support with the exception of extending the group terms of reference through COP13 which would depend on the success of the appendix II listing proposal.

Decision 11.4 regarding conservation of *Swietenia macrophylla* called for a mahogany working group to meet to consider, among other things, the effectiveness of the current and potential appendix-III listings, the status of the species, legal and illegal trade, and ways to increase the number of range states listing mahogany in appendix III. This meeting was convened as the Mahogany Working Group meeting in October 2001 in Bolivia. As a participant of the Working Group and a financial supporter of the meeting, the United States generally supports the conclusions and

recommendations of the Working Group.

48. Implementation of Resolution Conf. 8.9 (Rev.) on Trade in Specimens of Appendix-II Species Taken From the Wild

(a) Revision of Resolution Conf. 8.9 (Rev.) (Doc. 48.1)

*Tentative U.S. negotiating position:* Support.

Resolution Conf. 8.9 (Rev.) and Decisions 11.106 and 11.108 of the COP outline a process to review the implementation of Article IV of the Convention *vis-a-vis* appendix-II species that are traded in significant quantities. At AC17, the Secretariat introduced document AC17 7.4, drafted by the African Resources Trust (ART). The document highlighted problems with the Significant Trade Process, including discrepancies between Resolution Conf. 8.9 (Rev.) and Decisions 11.106 and 11.108, and suggested ways to correct such problems. Based on this document drafted by ART and discussions of a working group at AC17, the Secretariat prepared for AC18 document AC18 Doc. 7.3, which contained a revised draft version of Resolution Conf. 8.9 (Rev.). The revised draft resolution integrated all pertinent decisions dealing with the Significant Trade Process with Resolution Conf. 8.9 (Rev.). At AC18, a working group, of which the United States was a member, reviewed and amended the draft resolution. This revised draft resolution was then forwarded to PC12 for further review and comment prior to its submission at COP12. As an active member of the working groups involved in the revision of Resolution Conf. 8.9 (Rev.) at AC18 and PC12, the United States supports the submission of this document by the Secretariat.

(b) *Saiga tatarica*: Summary of the CITES-sponsored Workshop in Kalmykia in May 2002 and Presentation of the Draft Conservation Action Plan (Doc. 48.2; United States)

The United States withdrew this agenda item.

49. Nationally Established Export Quotas for Appendix-II Species: the Scientific Basis for Quota Establishment and Implementation (Doc. 49; United States)

*Tentative U.S. negotiating position:* Support.

This document focuses on the scientific basis for establishment and implementation of nationally established export quotas for appendix-II species (*i.e.*, appendix-II export quotas established voluntarily by individual

Parties to the Convention) reported to the CITES Secretariat. The purpose of this discussion paper is to outline these concerns, and provide a basis for further discussion and possible action. We have highlighted five principal issues of concern: (1) Lack of a common understanding of the relationship between non-detriment findings and nationally established quotas for appendix-II species; (2) lack of a common understanding of the relationship between non-detriment findings and revisions to nationally established quotas for appendix-II species; (3) lack of a mechanism to review the biological basis of quotas; (4) lack of an agreed-upon mechanism for addressing quota overages; and (5) lack of specific requirements in reporting quotas. These issues are complex, particularly when viewed from a variety of perspectives, such as those of an exporting Party, importing Party, or from elsewhere. We believe they could best be addressed in a working group at COP12, potentially followed by an inter-sessional Export Quota Working Group, as proposed in Annex 3 of the companion document (Doc. 50.2).

*Trade Control and Marking Issues*

50. Management of Export Quotas

(a) Improving the Management of Annual Export Quotas and Amendment of Resolution Conf. 10.2 (Rev.) Annex 1 on Permits and Certificates (Doc. 50.1; Germany)

*Tentative U.S. negotiating position:* Support, with the exceptions described below.

We believe this document constitutes a positive contribution to discussions at COP12 on the establishment and implementation of appendix II export quotas. The United States has also submitted two documents in this area (Docs. 49 and 50.2). We believe the basic assumptions and findings underpinning this document and those submitted by the United States are very similar. While we believe that a modification to Resolution Conf. 10.2 (Rev.), as proposed in Doc. 50.a, could be part of a solution to address shortcomings in the current export quota system, the United States hopes that these issues will be openly discussed at COP12 in a working group so that an inclusive approach to this issue can be developed, one that can be implemented and enforced by all CITES Parties.

(b) Implementation and Monitoring of Nationally Established Export Quotas for Species Listed in Appendix II of the Convention (Doc. 50.2; United States)

*Tentative U.S. negotiating position:* Support.

This document discusses trade records for appendix II species covered by nationally established export quotas, and includes discussion of problems implementing these quotas, such as permit issuance, interpretation of reported quotas, and monitoring and reporting the use of export quotas. Doc. 50.(b) also includes a discussion of other types of export quota systems used in CITES, and contains text for two Decisions for the consideration of the Parties at COP12. The issues associated with the administration and implementation of nationally established export quotas are complex, particularly when viewed from the perspectives of affected stakeholders, such as that of an exporting Party, an importing Party, or from elsewhere. Due to the complexity of the issues involved, the variety of different perspectives and interests associated with these issues, and the submission of related documents by Germany (see Doc. 50.1, above) and the United States (Doc. 49, above), we believe it would be best to address them in a working group at COP12. Assuming that all issues could not be addressed and resolved at COP12, this working group could be followed by an inter-sessional "Export Quota Working Group," as proposed in Annex 3 of this document (Doc. 50.2).

51. Trade in Time-Sensitive Research Samples (Doc. 51)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

The agenda item refers to the ongoing review of trade in biological samples by the CITES Parties. At COP11, Switzerland, Germany, and the United Kingdom submitted a draft resolution (Doc. 11.45.1) to amend Resolution Conf. 9.6 to exempt certain tissue samples as not readily recognizable parts and derivatives. The draft resolution was not adopted. Instead, a number of decisions were adopted that directed the Animals Committee (Decision Nos. 11.103–105) to identify and evaluate certain aspects of biological samples, and directed the Standing Committee (Decision Nos.

11.87–11.88) to consult with the Secretariat of the Convention on Biological Diversity and to make recommendations on enforcement and implementation of trade in these types of samples for COP12. The United States participated in a working group of the Standing Committee. We think it is important to find simplified permitting and inspection procedures to allow for the timely movement of biological samples, both for scientific research and for commercial trade in high-volume appendix-II specimens.

#### 52. Movements of Collections of Samples

##### (a) Movement of Sample Reptile Skins and Other Related Products (Doc. 52.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

This document proposes the establishment of procedures that would allow shipments of sample products, such as shoes or belts, to be moved across international borders for the purpose of displaying the samples at trade shows or exhibitions. The United States is interested in developing a system that would allow for easier movement of such samples in cases where the sample would be used to generate legitimate sustainable trade in appendix II species, where the sample is not for sale while outside of its originating country, and would be returned to the originating country at the conclusion of the trade show or exhibition.

##### (b) Use of Certificates for Movements of Sample Collections, Covered by an ATA or TIR Carnet and Made of Parts or Derivatives of Species Included in Appendices II and III (Doc. 52.2; Italy and Switzerland)

*Tentative negotiating position:* Support, if changes can be made to adapt the system so it can be implemented in Parties like the United States.

The United States recognizes the need to streamline the administrative procedures required for the cross-border movement of these sample products. In addition, adoption of this proposal could potentially be beneficial to exporting countries, and the United States, in terms of showcasing their products and fostering trade in products harvested from sustainable ranching or

sound management practices, while still adhering to the conservation requirements for CITES-listed species. The current version of this draft document and resolution contains some proposed items that are not compatible with U.S. regulations and permitting and enforcement procedures. The United States intends to address these issues with the proposing Parties during a working group at COP12 in an attempt to find a workable solution and adopt a resolution that will meet the needs of all of those that can legally implement such a system.

#### 53. Trade Regimes for Timber Species (Doc. 53)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, the document for this issue was not yet available from the Secretariat. Once we receive the document, we will review it closely and develop a tentative negotiating position for COP12.

At COP11, the Parties directed the Secretariat in Decision 11.155 to investigate the potential for silvicultural techniques to provide useful bases for establishing trade regimes for timber species. At its 10th meeting (Shepherdstown, West Virginia, December 2000), the Plants Committee agreed that timber coming from managed natural forests should be regarded as “wild,” because the current CITES definition of “artificially propagated” could not be applied, owing to the absence of “controlled conditions.” It was also agreed that the Secretariat should further explore the subject and consider the possibility of creating a special source code for timber from silviculturally managed forests. At the 11th meeting of the Plants Committee (Langkawi, September 2001), it was agreed that the Secretariat would collate information on the definition of different production systems, source codes for silvicultural techniques, and certification of sustainably managed forests and the certification’s compatibility with the scientific approach to making a non-detriment finding. The United States did not support the Secretariat’s proposal, and cautioned that Scientific Authorities should not consider certification or eco-labeling as a substitute for conducting rigorous reviews of all available information in making non-detriment findings. At the 12th meeting of the Plants Committee (Leiden, The Netherlands, May 2002), TRAFFIC International presented a proposal to conduct a study to assess the existing schemes for certification of sustainably

managed forests and their compatibility with the scientific requirements of making a non-detriment finding for trade in appendix-II tree species. The Plants Committee did not agree to fund the proposed study, concluding that the evaluation of certification schemes should be postponed until such schemes are better defined. We expect that Doc. 53 will be the report of the Secretariat on the progress of the issue of trade regimes for timber species since the eleventh meeting of the CITES Conference of the Parties.

#### *Exemptions and Special Trade Provisions*

#### 54. Trade in Personal Effects

##### (a) Trade in Personal Effects (Doc. 54.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

The United States would like to see the Parties address the issue of trade in personal effects. Currently, there is not a uniform approach to handling personal effects, even though Article VII, paragraph 3, of the Convention identifies an exemption for such items. The United States recognizes the personal effects exemption, as do many other Parties, but not every Party is implementing the exemption.

##### (b) Personal Effects Made of Crocodilian Leather (Doc. 54.2; Venezuela)

*Tentative U.S. negotiating position:* Oppose.

This document identifies the problem of Parties implementing Article VII, paragraph 3, in an inconsistent manner, or not implementing it at all. The document points out that failing to allow the personal effects exemption may, in certain circumstances, have a negative effect on conservation efforts that have been put in place for crocodilian species. Venezuela has submitted a draft resolution that would define “personal and household effects” and stresses that Parties should amend their domestic laws and regulations to allow for the exemption outlined in Article VII, paragraph 3. The United States agrees with encouraging Parties to implement the exemption for personal effects. This document and Doc. 54.1 both address the same issue, however, this document focuses only on crocodilian products. The United States feels that if a resolution is adopted at COP12 it should address all personal

and household effects, not just crocodilian products.

#### 55. Operations That Breed appendix-I Species in Captivity for Commercial Purposes

(a) Revision of Resolutions Conf. 8.15 and Conf. 11.14 on Guidelines for a Procedure To Register and Monitor Operations That Breed appendix-I Animal Species for Commercial Purposes (Doc. 55.1)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

This document will probably consist of a report from the AC on its activities on preparation of Annex 3 of Resolution Conf. 11.14, which is to replace Resolution Conf. 8.15. At COP11, Parties adopted a resolution for the registration of commercial captive-breeding facilities for appendix-I animal species (Conf. 11.14). In addition, Decision 11.101 requested the AC to compile a list of appendix-I species that are critically endangered in the wild and/or known to be difficult to breed or keep in captivity (*i.e.*, Annex 3).

Under Conf. 11.14, facilities breeding appendix-I species for commercial purposes and included in Annex 3 must become registered with the CITES Secretariat, thus providing all Parties with an opportunity to comment on whether or not these operations should be registered. Facilities breeding appendix-I species not included in Annex 3 must register with their country's management authority, but are not required to be registered with the Secretariat or subject to consultation with other Parties, including range States. Once Annex 3 is compiled, Conf. 11.14 will replace Conf. 8.15.

At AC16, a working group produced by general consensus definitions for the terms "critically endangered in the wild," "difficult to keep," and "difficult to breed." However, the members of the AC did not reach consensus about the proposed definition for "critically endangered in the wild," so the matter was deferred to AC17.

At AC17, the members of the AC agreed to conduct a pilot project to compile three alternative lists of appendix-I species that may be considered difficult to keep or breed in captivity, *i.e.*, species that are categorized in the IUCN Red List 2000 as (1) critically endangered in the wild,

(2) critically endangered or endangered in the wild, and (3) critically endangered, endangered, or vulnerable in the wild. The AC decided to initially limit this exercise to the Reptilia, and to review the outcome of the project at AC18. The IUCN Crocodile Specialist Group (CSG) was later contracted by the Secretariat to conduct this review.

At AC18, the CSG presented its report, which found that the alternative lists of Appendix-I reptiles difficult to keep or maintain in captivity would not differ significantly from the list of all reptile species currently listed in Appendix I. Furthermore, in a working group at AC18, most delegates agreed on the right of range States to place species in Annex 3. The working group concluded that further work was needed on the registration of Appendix-I breeding facilities for commercial purposes.

(b) Applications To Register Operations That Breed appendix-I Species in Captivity for Commercial Purposes (Doc. 55.2)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

This document may include a proposal from the United Kingdom to register a green turtle (*Chelonia mydas*) captive-breeding operation on Grand Cayman, Cayman Islands (United Kingdom). The Service is currently reviewing that application as requested by CITES Notification to the Parties No. 2002/039 ("Control of operations that breed Appendix-I species in captivity for commercial purposes") issued by the Secretariat on June 24, 2002. We believe that the Parties may be asked to vote on this proposal at COP12 if any Party objects to the registration of the facility through the notification process, as described in Resolution Conf. 8.15.

56. Non-commercial Loan, Donation or Exchange of Museum and Herbarium Specimens (Doc. 56; United States)

*Tentative U.S. negotiating position:* Support.

Please see our **Federal Register** notice of April 18, 2002 (67 FR 19207) for a discussion of why we submitted this document.

57. Traveling Live-animal Exhibitions (Doc. 57; Russian Federation)

*Tentative U.S. negotiating position:* Oppose.

The document addresses concerns that the Russian Federation has about the current Resolution Conf. 8.16 and why this resolution does not cover all of the animals that the Federation would like to be covered by an exemption. The United States supported and continues to support the current resolution (Conf. 8.16). We believe that the resolution provides Parties with a mechanism to allow the international movement of animals that fall within the exemption provided by Article VII, paragraph 7, of the Convention. While there may be a need for better clarification of some aspects of the current resolution to assist Parties in the implementation of the resolution, we do not feel that any substantial changes are required. The revised resolution proposed by the Russian Federation goes beyond what is allowed under the Convention by giving an exemption to all animals within a traveling exhibition, including animals that were recently removed from the wild. The proposed revision would allow the exporting country to issue a document for any animal without addressing the no detriment criterion of Article III or IV. The United States could not support such a resolution.

#### *Amendment of the Appendices*

58. Criteria for Amendment of appendices I and II (Doc. 58)

*Tentative U.S. negotiating position:* Undecided.

This document and its associated annexes were submitted by the Secretariat. This agenda item prompts the COP to decide on what should occur regarding review of Resolution Conf. 9.24, which contains the criteria for inclusion of species in appendices I and II. This document consists of five Annexes:

*Annex 1:* Explanation of why the criteria review process concluded that the current Resolution Conf. 9.24 should be amended;

*Annex 2:* The timeline for the review of the listing criteria from COP11 onwards;

*Annex 3:* Explanation of the proposed amendments to Resolution Conf. 9.24;

*Annex 4:* A "clean" version of the amended Resolution; and,

*Annex 5:* The report on the review of Conf. 9.24 from the Chairmen of the Animals Committee and the Criteria Working Group (CWG) submitted to the Standing Committee (Annex 5a); and the report on the review of Conf. 9.24 from the Chairman of the Plants Committee (Annex 5b) submitted to the Standing Committee.

The terms of reference for the review of the listing criteria (Decision 11.2)

specifically called for a consensus report to be developed by the Chairs of the Animals and Plants Committees for COP12. However, the Chairs of the Animals and Plants Committees did not reach consensus on the appropriate revisions to the listing criteria. In Annex 5b, the Chair of the Plants Committee explains why she believes the terms of reference for the review of the listing criteria have been violated and why she, therefore, does not endorse the current revisions shown in Annex 4. The Chairs of the Animals Committee and the CWG provide their rebuttal to these arguments in Annex 5a.

The terms of reference for the review of the listing criteria laid out a specific protocol for the Animals and Plants Committees to choose taxa (both listed and non-listed under CITES), evaluate them, and decide whether Conf. 9.24 was applicable and useful for analyzing their conservation status. This analysis was intended to guide the CWG in revising Annexes 1, 2, 5, and 6 to Conf. 9.24. The Chair of the Plants Committee claims that this process has largely been ignored, and is proposing that the COP advocate a process to continue the criteria review beyond COP12. The Animals Committee and CWG Chairs claim that the review complied with all the terms of reference. Their Chairs' rebuttal focuses largely on how Parties' comments were accommodated, timetable adherence, and the inclusion of the viewpoints of the fisheries experts in the final revisions. However, they do not discuss the issue of the missing taxon reviews.

In our comments on CITES Notification to the Parties No. 2001/37 and our interventions at the 46th meeting of the Standing Committee (SC46), we concurred with the Chair of the Plants Committee in that the taxon-specific reviews called for in the terms of reference had not occurred, excepting the standard review of the appendices (called for in Conf. 9.24) and the FAO work on marine species. In addition, Decision 11.2 specifically calls for examination of Annexes 1 and 2 (appendix-I and appendix-II listing criteria), the definitions in Annex 5, and the species proposal format shown in Annex 6. There is no mandate to the CWG for revision of the precautionary principle nor the "special cases" described in Annexes 3 and 4 of Conf. 9.24. However, the Chairs of the CWG and the Animals Committee have twice proposed substantial changes to these Annexes. There has been no formal discussion in the Animals and Plants Committees of how the criteria and the terminology of Conf. 9.24 specifically apply to various taxa of plants and

animals (except for one presentation on fisheries methodology made at the December 2000 joint meeting of the two committees in Shepherdstown, West Virginia). This places the Parties in the uncomfortable position of changing the criteria without an analysis of their current strengths and weaknesses.

Nonetheless, the United States has invested significant amounts of time and money in the criteria review process, including participation in both CWG meetings, hosting the joint Animals and Plants Committee meeting, reviewing several taxa in the periodic Review of the Appendices, and critically evaluating Conf. 9.24 for marine species. We believe that the reports now available to the COP reflect significant effort and thought on behalf of the Chairmen and the Parties, and explore many important aspects of the current listing criteria. Furthermore, we believe that the fundamental principles and precautionary approaches laid down by the Parties in Conf. 9.24 remain intact in the final revisions. The current suggested revisions (with noted exceptions) serve mainly to clarify terminology and harmonize Conf. 9.24 with other resolutions. It is our position that the Parties should seek to retain the aspects of the review that appear to have the support of a majority of Parties, but consider continuing the review of Resolution Conf. 9.24 to fulfill the original terms of reference.

59. Amendment of the Appendices With Regard to Populations (Doc. 59)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

60. Annotations for Medicinal Plants in the Appendices (Doc. 60)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

Annotations of the listings of medicinal plants in the Appendices have been a topic of discussion at recent meetings of the Plants Committee, and we anticipate that this agenda item may be related to these proceedings. The focus of these discussions is the accuracy of terms used in the

annotations and the lack of consistency of terminology used in the annotations. At the eleventh meeting of the Plants Committee, the United States prepared a document containing definitions of various terms used in medicinal plant annotations. This work was continued to the twelfth meeting of the Plants Committee, but was not completed. The United States will support any effort to ensure that annotations of medicinal plants listed in the Appendices are accurate as to the parts or products referred to, and will also support efforts to harmonize terms used for different plants when the same part or product is covered by annotations.

#### *Other Themes and Issues*

61. Establishment of a Working Group To Analyse Relevant Aspects of the Application of CITES to Marine Species (Doc. 61; Chile)

*Tentative U.S. negotiating position:* Support but note budgetary concerns and possible duplication of effort if an implementation committee or sub-committee is formed.

This draft resolution proposes that a Working Group on Marine Species be established by the CITES Animals Committee to provide technical procedures and recommendations to promote the effective application of CITES for marine species. Chile proposes that the group could develop a definition of "introduction from the sea" in accordance with provisions of international laws or agreements, including the United Nations Convention on the Law of the Sea of 1982 (UNCLOS). This group would be a venue for discussion of technical questions from the FAO Committee on Fisheries, and could recommend a procedure for effective collaboration with other international organizations responsible for marine species.

The United States recognizes the need for input into the CITES process from fisheries resource managers and has submitted a document (Doc. 16.2.2) asking the CITES Parties to suggest means for developing and finalizing a Memorandum of Understanding (MOU) between CITES and FAO. Such an MOU would facilitate exchange of information and technical advice on CITES provisions and requirements related to any listed commercially traded fish species.

The United States supports the goal of Chile's resolution, although we have not developed clear positions on all of the specifics and implications of such a group. The United States believes that such a Working Group should report to the Standing Committee, as did the

Timber Working Group, rather than to the Animals Committee. The United States believes that if such a working group were to be established, its subject matter should be limited to marine fish and invertebrate species only. Finally, the United States is concerned about the budgetary implications of such a Working Group and whether it would impose additional work burdens on the Secretariat.

#### 62. Bushmeat (Decision 11.166)

*Tentative U.S. negotiating position:* Support.

This document was prepared by the CITES Secretariat, and summarizes the activities of the CITES Bushmeat Working Group (CBWG) since COP11. Decision 11.166 called for the establishment of a working group of interested range and donor States to examine issues raised by the trade in bushmeat, with the aim of identifying solutions that can be implemented by the range States. The CBWG consists of representatives from Cameroon, the Central African Republic, the Congo, Democratic Republic of Congo, Equatorial Guinea and Gabon. Supported in part by grants from the U.S. Fish and Wildlife Service, the CBWG has met several times since COP11 to review the status of the bushmeat trade and develop a framework for implementing priority actions. The document contains a draft Decision calling for the maintenance of the CBWG until COP13. In light of the impressive accomplishments of the CBWG since COP11, the United States supports the maintenance of the working group until COP13.

#### 63. The Rescue of Dependent Apes From War Zones (Doc. 63; Kenya)

*Tentative U.S. negotiating position:* Support as long as the countries involved in such trade ensure such an exemption does not allow or encourage illegal trade of primates.

The document proposes an exemption to CITES permitting requirements in order to evacuate captive great apes from war zones to other countries when no alternative refuges are available in the country where they are being kept. Evacuated apes would be transferred to the nearest available government-approved and professionally accredited sanctuary on a temporary basis until long-term welfare of the animal can be assured in the country of export. To be eligible for this exemption the animal must be in captivity and need human care that may become unavailable due to wartime conditions, the transfer must be completely non-commercial, and the transfer must be carried out under the

direction of the CITES Management and Scientific Authorities of both countries under a system established by the CITES Secretariat. At this time, the proposal only directs the Secretariat to establish a system by which Parties could implement this procedure. This system would then be incorporated into a proposal to be presented at a later COP for final approval. The United States suggests that if a permanent implementation body is formed within the Convention that this issue be referred to that body for resolution.

The United States agrees that great apes, which are all listed in appendix I of CITES, should be afforded the maximum protection available. The United States supports the proposed resolution to direct the Secretariat to establish a system, to be presented at a later COP, to temporarily transfer imperiled captive great apes out of war zones to nearby institutions. The United States suggests that the Parties have final approval to ensure that CITES safeguards are being enforced and that the specifications for transfer of specimens detailed above are met.

#### 64. Trade in Traditional Medicines (Doc. 64)

*Tentative U.S. negotiating position:* Undecided, until documents are available for review.

At the time this notice was prepared, a document was not yet available from the Secretariat. Once we receive a document on this agenda item, we will review it closely and develop a tentative negotiating position for COP12.

Both the Plants and Animals Committees were directed to review the trade in CITES-listed species for traditional medicines. Neither committee was able to fully carry out this investigation, due to a lack of basic information on the many ingredients and uses of CITES-listed species parts and derivatives in traditional medicines, worldwide. Decision 11.165, adopted at COP11, directed the Secretariat to compile an inventory of operations where artificial propagation or captive breeding of CITES species is conducted for medicinal purposes, and to continue developing the list of species of plants and animals and their parts traded for medicinal purposes.

#### 65. Publicity Materials (Doc. 65)

*Tentative U.S. negotiating position:* Support.

This document provides a review of Decision 11.131 and actions that have been taken since COP11 to meet its requirements. This decision directed the Secretariat to develop a work plan to prepare publicity materials for animal

and plant species included in the Appendices. In addition to serving in an advisory capacity to Parties wishing to develop outreach materials, the Secretariat has taken other actions to fulfill its duties in regard to this decision. The Secretariat has produced a brochure for public distribution and for use in workshops to create general awareness of the aims of CITES and animals and plants included in its Appendices. The Secretariat has also changed the focus of its newsletter, *CITES World*, to provide articles that highlight initiatives taken by Parties on issues of importance to all Parties. In future outreach materials, the Secretariat plans to highlight the positive effects of CITES on the conservation and sustainable utilization of wild species. The United States supports efforts by the Secretariat and all Parties to increase public awareness of the animals and plants listed in the CITES Appendices and the functioning of CITES.

#### *Consideration of Proposals for Amendment of Appendices I and II*

#### 66. Proposals to Amend appendices I and II (Doc. 66)

*Prop. 1.* Amendment of Annotation 607 to read: "The following are not subject to the provisions of the Convention: (a) synthetically derived DNA that does not contain any part of the original; (b) urine and feces; (c) synthetically produced medicines and other pharmaceutical products such as vaccines that do not contain any part of the original genetic material from which they are derived; and (d) fossils. Submitted by Switzerland.

*Tentative U.S. negotiating position:* Support.

The United States was a member of a working group established by the CITES Standing Committee at its 45th meeting. The working group was charged, in part, with identifying types of samples that may be considered as not subject to the provisions of the Convention. This proposal from Switzerland reflects the agreement reached by that working group. We believe that exempting these four classes of specimens will have no impact on the conservation of CITES-listed species. However, we also believe that there may be a need to clearly define some of these terms, such as "fossil," to ensure that such an exemption is uniformly applied by the Parties.

*Prop. 2.* Annotation of taxa *Agapornis* spp. (lovebirds), *Platycercus* spp. (rosellas and parakeets), *Barnardius* spp. (rosellas and parakeets), *Cyanoramphus auriceps* (yellow-crowned parakeet),

*Cyanoramphus novaezelandiae* (New Zealand parakeet), *Psittacula eupatria* (Alexandrine parakeet), *Psittacula krameri* (ring-necked parakeet), and *Padda oryzivora* (Java sparrow) with the following text: Color morphs produced by captive breeding are considered as being of a domesticated form and are therefore not subject to the provisions of the Convention. Submitted by Switzerland.

*Tentative U.S. negotiating position:* Undecided.

The species listed in this proposal are frequently bred in captivity to produce color morphs (*i.e.*, mutations). Switzerland submitted a discussion paper at the first European Regional Meeting of the CITES Animals Committee (November 2001) noting that managing the trade in these birds requires significant resources and has little or no relevance to conservation of wild populations of these species. The United States seeks input on whether or not some color morphs in the proposed species might be difficult to distinguish from normal-colored wild stock as well as on whether the proposal is permissible given the definition of specimen in Article I of the Convention. We also question the rationale for referring to these as “domesticated,” since normal-colored specimens of these species might actually have been bred in captivity for more generations than color morphs, but under this proposal would not be exempted as “domesticated.”

*Prop. 3.* Transfer of Black Sea bottlenose dolphin (*Tursiops truncatus ponticus*) from appendix II to appendix I. Submitted by Georgia.

*Tentative U.S. negotiating position:* Support.

Bottlenose dolphins (*Tursiops truncatus*) were included in appendix II on June 28, 1979, and are distributed worldwide in temperate and tropical waters. The subspecies *Tursiops truncatus ponticus* is endemic to the Black Sea, isolated from other populations of bottlenose dolphins in the Mediterranean and other waters. Black Sea bottlenose dolphins look almost identical to those from other regions, and their genetic distinctness is unknown. At COP11, the United States withdrew a proposal to transfer the subspecies to appendix I when Georgia (co-sponsor and range country) could not attend. It is believed that overall abundance of dolphins in the Black Sea has declined greatly due to over-exploitation into the 1980s for human consumption and industrial products. A large purse-seine fishery conducted by the former Soviet Union, Bulgaria, and Romania collapsed in the 1960s due to

over-harvest, and large takes by rifle continued by Turkey until a ban in 1983. The proponents state that the population meets two of the biological criteria for inclusion in appendix I from CITES Resolution Conf. 9.24, Annex 1:

*Criteria B:* The wild population has a restricted area of distribution and is characterized by (iii) a high vulnerability due to the species' biology or behavior, and (iv) an observed, inferred or projected decrease in the number of individuals, area or quality of habitat, and reproductive potential.

*Criteria C (iii):* A decline in the number of individuals in the wild, which has been inferred or projected on the basis of levels of patterns of exploitation, and threats from extrinsic factors such as the effects of pathogens, competitors, parasites, predators, hybridization, introduced species, and the effects of toxins and pollutants.

In our **Federal Register** notice of April 18, 2002 (67 FR 19207), we generally agreed with this assessment, noting the multitude of threats to wild Black Sea bottlenose dolphins. The exact size of the Black Sea population is unknown, and no estimates exist of sustainable levels of take. As signatories to the Bern Convention, range countries Bulgaria, Romania, Turkey, and Ukraine have all banned possession and internal trade in *T. truncatus*. In addition, the Parties to the Bern Convention adopted a resolution in November 2001 urging that this subspecies be transferred to appendix I of CITES. The Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea, and Contiguous Atlantic Area (ACCOBAMS) adopted a similar resolution at a meeting in February 2002, and both of these resolutions were forwarded to the CITES Animals Committee. The Animals Committee could not agree on the biological status of the Black Sea population, and has not endorsed or rejected the idea of listing in appendix I. Furthermore, the genetic distinctiveness of Black Sea bottlenose has yet to be determined. Geneticists with the National Marine Fisheries Service are currently working to obtain Black Sea bottlenose dolphin tissue specimens from range countries, and will make genetic comparisons between these samples and those from other bottlenose dolphin populations during the summer of 2003. Listing subspecies in any CITES appendix is discouraged by Resolution Conf. 9.24 (Criteria for amendment of appendices I and II), unless the taxon in question is highly distinctive and use of the subspecies name would not lead to enforcement problems.

The United States will strive to obtain samples to complete genetic analysis on Black Sea bottlenose dolphins to help bolster the biological rationale for listing the population separately in appendix I. This issue notwithstanding, the other factors and criteria mentioned above suggest that the Black Sea bottlenose dolphin qualifies for uplisting to appendix I.

*Props. 4 and 5.* Prop. 4: Northern hemisphere minke whale (*Balaenoptera acutorostrata*)—Proposal for transfer from appendix I to appendix II (except the Yellow Sea, East China Sea, and Sea of Japan populations) with annotation. Prop. 5: Bryde's whale (*Balaenoptera edeni*)—Proposal for transfer from appendix I to appendix II of the western North Pacific population, with annotation. Both proposals submitted by Japan.

*Tentative U.S. negotiating positions:* Oppose.

Japan has proposed to downlist these populations of minke and Bryde's whales in accordance with Resolution Conf. 9.24, Annex 4. Japan has also submitted lengthy annotations for each downlisting, which would among other things: (1) restrict trade to International Whaling Commission (IWC) signatory governments that also have “an effective DNA register system” for whale products; (2) govern catch levels by using the International Whaling Commission Revised Management Procedure; (3) establish export quotas; and (4) require DNA profiles to accompany specimens in trade. The following discussion addresses both proposals.

The United States opposes the downlisting of these populations of whales, which are subject to IWC moratorium on commercial whaling. The United States continues to believe that it is inappropriate to consider these species for downlisting until the IWC completes its revised management scheme in order to implement a monitoring and inspection program for commercial whaling, as discussed below. The United States also believes that these species do not qualify for transfer to appendix II. The discussion that follows relates to all four of these proposals.

The United States believes that CITES should honor the request for assistance in enforcing the moratorium that the IWC communicated to the CITES Parties in a resolution passed at the Special Meeting of the IWC in Tokyo in December 1978. This request was answered by the CITES Parties in Resolution Conf. 2.9 (“Trade in Certain Species and Stocks of Whales Protected by the International Whaling

Commission from Commercial Whaling”), which calls on the Parties to “agree not to issue any import or export permit or certificate” for introduction from the sea under CITES for primarily commercial purposes “for any specimen of a species or stock protected from commercial whaling by the International Convention for the Regulation of Whaling.” Resolution Conf. 2.9 was overwhelmingly reaffirmed by the Parties at COP10, by the defeat of a draft resolution proposed by Japan to repeal this resolution. At the 50th meeting of the IWC subsequent to COP10, the IWC passed a resolution that expressed its appreciation for the reaffirmation of this link between the IWC and CITES. IWC Resolution IWC/51/43 also welcomes the CITES COP10 decision “to uphold CITES Resolution Conf. 2.9.” Support for these requests of the IWC necessitate opposition to any proposal to transfer whale stocks to appendix II.

Additionally, according to Resolution Conf. 9.24, Annex 4, Precautionary Measures, paragraph 2.B. a. “[e]ven if such species do not satisfy the relevant criteria in Annex 1, they should be retained in Appendix I unless \* \* \* the species is likely to be in demand for trade, but its management is such that the Conference of the Parties is satisfied \* \* \* with (i) implementation by the range States of the requirements of the Convention, in particular Article IV; and (ii) appropriate enforcement controls and compliance with the requirements of the Convention.” Unfortunately, these “appropriate enforcement controls,” as part of a Revised Management Scheme, have not yet been adopted by the IWC. Therefore, these whale stocks do not qualify for transfer to appendix II under Resolution Conf. 9.24.

The assumption in the downlisting proposal for these populations of minke and Bryde’s whales is that there are discrete genetic differences within species and between individuals, and that species stocks and individuals can be readily differentiated by forensic DNA methods. The United States disagrees scientifically with the statement that the precautionary measures of Resolution Conf. 9.24 Annex 4 are fulfilled because DNA analysis techniques allow for the identification of whale stocks, and even individual whales. This is not the case, as the experts who have developed these methods will attest and the scientific literature reinforces. While clear markers differentiate species, finding forensic markers for all individuals within a population or stock is much more problematic. Doing so is

usually possible only when the population distinctiveness approaches that of species. Thus, a DNA analysis would not distinguish between minke whales listed in appendix I and minke whales listed in appendix II. Appropriate safeguards to prevent trade in whales listed in appendix I would not exist, if some whales of that species could be traded under appendix II.

Moreover, the use of Japanese and Norwegian DNA registers that are not available for scrutiny by other whale DNA experts is counter to all principles of forensic identification. Only when there is agreement on DNA markers, tested against adequate sample sizes of the whale stocks in question, could they be utilized for verification purposes. This research may show significant evolutionary units within some stocks, and it may also show significant gene flow between stocks, thus, making forensic identification of meat samples to particular stocks impossible. Full transparency, accuracy, and availability of all DNA markers is essential to the IWC, and the United States does not believe these are available at this time. The lack of public scrutiny of Japanese and Norwegian DNA registries renders them an ineffective tool for monitoring whale catches.

The previous IWC management regime was not effective in managing the whaling industry. While it was in place, the whaling industry drastically depleted whale stocks until many became threatened with extinction. There has been illegal, unregulated, and unreported harvesting of whale stocks by certain IWC member nations. Since the establishment of the worldwide moratorium on commercial whaling, coupled with the CITES appendix-I listings, the Commission has continued to work on activities that the United States believes must be completed before commercial whaling can even be considered. This management regime must include devising an observation and monitoring program to ensure that quotas are not exceeded and whale products are legally obtained. Thus, the United States opposes even considering the downlisting of any whale species until the IWC has taken steps to create and institutionalize a revised management regime that brings all whaling under effective IWC monitoring and control.

*Prop. 6.* Maintain the Botswana population of the African elephant (*Loxodonta africana*) in appendix II, with annotations for trade. Submitted by Botswana.

*Tentative U.S. negotiating position:* Undecided.

Botswana’s African elephant population was transferred to appendix II at COP10, with an annotation that, among other aspects, allowed for a one-time sale of ivory stocks to Japan. Botswana has proposed to amend that annotation to allow for commercial trade in government-owned stocks of ivory to “CITES-approved trading partners who will not re-export ivory,” with a one-off quota of 20,000 kg of ivory and an annual quota of 4,000 kg of ivory. Other amendments to the annotation include allowing export of hides, leather goods, and ivory carvings. We are continuing to evaluate this proposal, in the context of all proposals relevant to the African elephant (Proposals 6–11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP11. Recent reports indicate that illegal trade in ivory is continuing and may pose a significant threat to some elephant populations. Because the monitoring systems have not yet provided significant data on the effects of this trade, we remain very concerned about the potential effects a legal trade could have on poaching in other countries in Africa and Asia.

*Prop. 7.* Maintain the Namibian population of the African elephant (*Loxodonta africana*) in appendix II, with annotations for trade. Submitted by Namibia.

*Tentative U.S. negotiating position:* Undecided.

Namibia’s population of African elephants was transferred to appendix II at COP10, with an annotation that, among other aspects, allowed for a one-time sale of ivory stocks to Japan. Namibia has proposed to amend that annotation to allow for commercial trade in government-owned registered stocks of raw ivory (whole tusks and pieces), to “trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Namibia will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade,” with a one-time export quota of 10,000 kg of ivory and an annual quota of 2,000 kg of ivory. The proposal also includes allowing trade in leather and ivory carvings for non-commercial purposes and trade in hides. We are continuing to evaluate this proposal, in the context of all proposals relevant to

the African elephant (12.6–12.11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP11. Recent reports indicate that illegal trade in ivory is continuing and may pose a significant threat to some elephant populations. Because the monitoring systems have not yet provided significant data on the effects of the ivory trade, we remain very concerned about the potential effects any legal trade could have on poaching in other countries in Africa and Asia.

*Prop. 8.* Maintain the South African population of the African elephant (*Loxodonta africana*) in appendix II, with annotations for trade. Submitted by South Africa.

*Tentative U.S. negotiating position:* Undecided.

The South African population of African elephant was transferred from appendix I to appendix II in 1997, subject to Annotation 604. The latter allows for trade in live animals for reintroduction purposes, trade in hides and leather goods, non-commercial trade in hunting trophies, and a zero quota for government-owned raw ivory originating from Kruger National Park. This proposal allows for an initial sale of the Kruger National Park stockpile of ivory (30,000 kg of whole tusks and cut pieces) and a subsequent annual quota of two tons. We are continuing to evaluate this proposal, in the context of all proposals relevant to the African elephant (Proposals 6–11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received at the time this notice was prepared, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP11. Recent reports indicate that illegal trade in ivory is continuing and may pose a significant threat to some elephant populations. Because the monitoring systems have not yet provided significant data on the effects of the ivory trade, we remain very concerned about the potential effects any legal trade could have on poaching in other countries in Africa and Asia.

*Prop. 9.* Downlist the Zambian population of the African elephant (*Loxodonta africana*) from appendix I to appendix II, with annotations for trade. Submitted by Zambia.

*Tentative U.S. negotiating position:* Undecided.

Zambia proposes to downlist its population of African elephant to appendix II with an annotation to permit trade in up to 17,000 kg of whole tusks owned by Zambia's Wildlife Authority and live sales under special circumstances. Revenue would be used for conservation purposes. We are continuing to evaluate this proposal, in the context of all proposals relevant to the African elephant (Proposals 6–11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP 11.

*Prop. 10.* Maintain the Zimbabwe population of the African elephant (*Loxodonta africana*) in appendix II, with annotations for trade. Submitted by Zimbabwe.

*Tentative U.S. negotiating position:* Undecided.

Zimbabwe's population of African elephant was transferred to appendix II at COP10, with an annotation that, among other aspects, allowed for a one-time sale of ivory stocks to Japan. Zimbabwe has proposed to amend that annotation to allow for commercial trade in stocks of raw ivory (whole tusks and pieces) "to trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls," with a one-time export quota of 10,000 kg of ivory and an annual export quota of 5,000 kg of ivory. We are continuing to evaluate this proposal, in the context of all proposals relevant to the African elephant (Proposals 6–11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received at the time this notice was prepared, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP11. Recent reports indicate that illegal trade in ivory is continuing and may pose a significant threat to some elephant populations. Because the monitoring systems have not yet provided significant data on the effects of the ivory trade, we remain very concerned about the potential effects any legal trade could have on poaching in other countries in Africa and Asia.

*Prop. 11.* Transfer to appendix I all populations of African elephant (*Loxodonta africana*) currently listed in appendix II. Submitted by India and Kenya.

*Tentative U.S. negotiating position:* Undecided.

We are continuing to evaluate this proposal, in the context of all proposals relevant to the African elephant (Proposals 6–11), and relevant documents (Documents 20.1, 34.1, 34.2, 34.3). These issues are very complex. All of the relevant documents to be evaluated at COP12 dealing with ivory trade have not yet been received at the time this notice was prepared, and we are continuing to evaluate the impact of decisions and proposals adopted at COP10 and COP11. We note that this proposal has a wider scope of effect than the other proposals (see Proposals 6–11, above), since it would return all African elephant populations to appendix I and obviate any of the extant annotations. Since its adoption would make the other proposals (Proposals 6–10) moot, and it has a wider scope of effect, we note that the COP should discuss this one prior to discussing the other African elephant-related proposals.

*Prop. 12.* Transfer from appendix I to appendix II of the population of vicuna (*Vicugna vicugna*) of the Province of Catamarca, Argentina, for the exclusive purpose of allowing international trade in wool sheared from live animals, cloth, derived manufactured products, and other handicraft artifacts bearing the label "VICUNA—ARGENTINA." Submitted by Argentina.

*Tentative U.S. negotiating position:* Support.

Although the United States has several concerns about this proposal, our tentative position is to support it. The United States has longstanding concerns about the so-called "semi-captive" management of vicuna in Argentina, and we are not particularly supportive of its proliferation. (Although the so-called "semi-captive" populations of Catamarca Province were downlisted at a previous COP, the CITES community has never seen an actual list of all such populations in Catamarca or elsewhere in Argentina for that matter. It may be the first instance where CITES actually agreed to downlist a taxon without a complete description of what was actually being down-listed.) This concern notwithstanding, we believe that the best way to counteract the proliferation of this management approach is to encourage the management of wild vicuna populations. This proposal does that. We are also concerned with the piecemeal approach that Argentina has taken in approaching down-listing of its vicuna populations. While this approach may be considered "precautionary," it is in conflict with Annex 3 of Resolution Conf. 9.24 with regard to split-listings. There are

obvious enforcement problems associated with subnational split listings. We would encourage Argentina to pursue an approach and timetable that would allow the remainder of its national population to be down-listed at a future COP.

*Prop. 13.* Transfer to appendix II of the Bolivian populations of vicuna (*Vicugna vicugna*) in appendix I, in accordance with Article II, paragraph 2 (a), of the Convention, with the exclusive purpose of allowing international trade in products made from wool sheared from live animals and bearing the label "VICUNA—BOLIVIA." Submitted by Bolivia.

*Tentative U.S. negotiating position:* Undecided.

The United States has several concerns about this proposal. We note that 73% of Bolivia's vicuna population occurs in areas that have already been downlisted to appendix II. There has been very little growth in the vicuna population of other management units. In fact, only one other area has had a clear population increase, based on data in Table 2 of the proposal. Only 15,500 vicunas occur outside these three units. We further note that Bolivia has not yet exported any cloth produced from vicuna, although this has been legal for more than two years. This is not an encouraging sign. Finally, we note that Bolivia has established a so-called "semi-captive" population for investigative purposes. In its proposal submitted to COP 11, Bolivia stated that it would only manage its vicuna as wild populations. We would like Bolivia to clarify its intention with regard to this "semi-captive" population. Finally, we have consistently received reports that poaching is a problem in Bolivia, and that poaching by Bolivian nationals is a problem in adjacent countries, especially Argentina and Chile. Our tentative position is that the proposal needs to be amended before it can be supported. Bolivia needs to establish a cautious national quota that emphasizes harvest from the three populations already in appendix II. Therefore, the U.S. negotiating position is currently undecided.

*Prop. 14.* Transfer from appendix I to appendix II of the population of vicuna (*Vicugna vicugna*) in the Primera Region of Chile through a modification of annotations - 106 and + 211. Submitted by Chile.

*Tentative U.S. negotiating position:* Undecided.

The United States also has concerns about this proposal. As with the Argentinian proposal, we are concerned about so-called "semi-captive" management of vicuña, and we are not

particularly supportive of its proliferation. The Chilean proposal does not adequately address how so-called "semi-captive" management will contribute to the conservation of wild vicuna populations in Chile. Without such an explanation, it is difficult to support this proposal. Therefore, the U.S. negotiating position is undecided at the time this notice was prepared.

*Prop. 15.* Transfer of the Chilean populations of lesser rhea (*Rhea pennata pennata* = *Pterocnemia pennata pennata*) from appendix I to appendix II. Submitted by Chile.

*Tentative U.S. negotiating position:* Support.

This subspecies is found in southern Chile and southern Argentina. Based on survey data conducted since 1996, Chile estimates that around 50,000 lesser rheas currently exist in the entire country. Density estimates have increased from 1.55 adults per square kilometer in 1997 to 5.13 in 2000. Illegal trade in the subspecies does not constitute a threat to the subspecies. Under the Chilean Hunting Law, the ownership, transport, and trade of any part, product, or specimen of lesser rhea is prohibited, unless it originates from an authorized breeding facility. If its proposal is adopted, Chile would allow trade only in lesser rhea specimens originating from captive-breeding operations registered with Chilean authorities. All captive-bred animals will be individually identified with microchips. Other subspecies of the rhea appear to be distinguishable through physical traits. Therefore, the United States believes that this species qualifies for transfer to appendix II according to Resolution Conf. 9.24, as well as the precautionary measures of Annex 4, B.2.b. Argentina, the only other range state, with over 1.6 million wild specimens of this subspecies and whose lesser rhea population was downlisted to appendix II at COP11, supports Chile's proposal.

*Prop. 16.* Transfer of the yellow-naped amazon (*Amazona auropalliata*) from appendix II to appendix I. Submitted by Costa Rica.

*Tentative U.S. negotiating position:* Undecided.

This species is considered threatened or endangered by its six range countries (Mexico, Guatemala, Honduras, El Salvador, Nicaragua, and Costa Rica). Whereas international trade of the species is legally prohibited in all range countries, except Nicaragua where it is under a quota system, wild populations continue to decline due to intense habitat loss, illegal international pet trade, and domestic use as a popular pet species. In some areas, wild populations

have been completely extirpated. The United States seeks range country input and additional data on the status of wild populations and trade before reaching a decision on this proposal.

*Prop. 17.* Transfer of yellow-headed amazon (*Amazona oratrix*) from appendix II to appendix I. Submitted by Mexico.

*Tentative U.S. negotiating position:* Support.

This species is found in Belize, Guatemala, Honduras, and Mexico, with the largest segment of its range occurring along the southern coasts of Mexico. This species may number fewer than 7,000 birds and is considered endangered by IUCN. It may have declined by over 90% throughout its range since the 1970s. Over 70% of its subtropical habitat has been lost due to deforestation. Nestlings are usually captured for domestic and international trade, often resulting in the felling of trees that contain nest cavities. This species was the most confiscated parrot species between 1998 and 2000 at the U.S.-Mexican border. All of the range countries have either prohibited or restricted international trade. However, domestic and illegal trade of this popular pet species continues. Because its continued decline is linked to trade, and the proposal originates from the range country that contains the largest populations of this species, the United States supports this proposal. We also note that the United States has considered submitting a similar proposal in the past.

*Prop. 18.* Transfer of blue-headed macaw (*Ara couloni*) from appendix II to appendix I. Submitted by the Federal Republic of Germany on behalf of the Member States of the European Community.

*Tentative U.S. negotiating position:* Undecided.

The species is distributed in Peru, western Brazil, and north-western Bolivia. The last global population estimate was about 10,000 birds in 1990. More recent reports indicate that the species is local and erratic in occurrence, but locally common, and perhaps expanding its range. However, the species does have a low rate of reproduction, and an increase in legal and illegal trade throughout the range may be contributing to its decline. Habitat destruction is also a threat in Bolivia. Brazil is evaluating this species to determine whether or not it qualifies as endangered fauna and, thus, should receive strict national protection. It is not protected in Peru and Bolivia. There appears to be little population monitoring and management in the range countries. The Brazilian

Management and Scientific Authorities and the Bolivian Scientific Authority support this proposal. The Brazilian Management Authority is also a co-proponent. Because of the support of the range countries and the increase in commercial trade, the United States may support this proposal, but would like more information on the status of the species to determine whether it qualifies for Appendix I biologically.

*Prop. 19.* Transfer of the South African population of the Cape parrot (*Poicephalus robustus*) from appendix II to appendix I. Submitted by the Republic of South Africa.

*Tentative U.S. negotiating position:* Support.

The Cape parrot is locally distributed in the Eastern Cape, KwaZulu-Natal, and Limpopo provinces of South Africa. It is dependent on afro-montane yellowwood forest for feeding, breeding, and nesting. Due to logging pressure, afro-montane yellowwood forests have become fragmented, reduced, or eliminated. Lack of nesting sites and foraging opportunities have resulted in population declines. An annual census throughout the range identified only 396 birds in 2000 and 358 in 2001. The birds are also vulnerable to capture and shooting when natural food abundance is low and birds move into pecan orchards. Domestic trade for pets and traditional medicines is greater than international trade in this species; there is no legal international trade from South Africa. There is, however, some illegal trade due to the value of the species to collectors because of its rarity. Poaching for the illegal trade may be a greater risk to the remaining flocks in the short-term than habitat loss. Because the population of this species is small and fragmented, habitat loss and illegal trade threaten the survival of the species, and the range country has issued the proposal, the United States supports this proposal.

*Props. 20–29, 31, and 32.* Inclusion in appendix II of several species of Asian freshwater turtles: *Prop. 20—Platysternon megacephalum* (submitted by China and the United States); *Prop. 21—Annamemys annamensis* (submitted by China and Germany); *Prop. 22—Heosemys* spp. (submitted by China and Germany); *Prop. 23—Hieremys annandalii* (submitted by China and the United States); *Prop. 24—Kachuga* spp., except *K. tecta*, (submitted by India and the United States); *Prop. 25—Leucocephalon yuwonoi* (submitted by China and Germany); *Prop. 26—Mauremys mutica* (submitted by China and the United States); *Prop. 27—Orlitia borneensis* (submitted by China and Germany);

*Prop. 28—Pyxidea mouhotii* (submitted by China and the United States); *Prop. 29—Siebenrockiella crassicollis* (submitted by China and the United States); *Prop. 31—Chitra* spp. (submitted by China and the United States); and *Prop. 32—Pelochelys* spp. (submitted by China and the United States).

In the **Federal Register** notice of April 18, 2002 (67 FR 19207), we indicated that we were considering proposals to list a number of Asian freshwater turtle and tortoise taxa in appendix I or II of CITES because of over-exploitation for the food and pet trades. We decided to defer a decision on these proposals until after a CITES-sponsored Workshop on Conservation of Freshwater Turtles and Tortoises, which was scheduled for March 25–28 in Kunming, China. The Workshop was held, and many Asian range countries attended. The consensus recommendation from the Workshop was that 11 turtle taxa are top priorities for CITES listings at COP 12: *Heosemys* spp., *Leucocephalon yuwonoi*, *Orlitia borneensis*, *Mauremys (Annamemys) annamensis*, *Kachuga* spp., *Platysternon megacephalum*, *Mauremys mutica*, *Chinemys* spp., *Chitra* spp., *Pyxidea mouhotii*, *Pelochelys* spp., and *Hieremys annandalii*. Of these, Germany submitted proposals for the first four taxa, and the United States submitted the remainder, with the exception of *Chinemys* spp. (instead, the United States submitted a proposal for *Siebenrockiella crassicollis*). China is a co-sponsor of both the German and U.S. proposals.

*Prop. 30.* Transfer of the population of hawksbill sea turtle (*Eretmochelys imbricata*) in Cuban waters from appendix I to appendix II, pursuant to Resolution Conf. 9.24, for the exclusive purpose of allowing the Government of Cuba to export its stockpile of shell plates (7,800 kg), accumulated legally from its national conservation and management program between 1993 and 2002, annotated as follows: (a) the export will not take place until the CITES Secretariat has verified, within 12 months of the decision, that the importing country has adequate internal trade controls and will not re-export and the CITES Standing Committee accepts this verification; and (b) the wild population in Cuban waters will continue to be managed as an appendix-I species. Submitted by Cuba.

According to the CITES web site, Cuba withdrew this proposal on August 19, 2002.

*Prop. 33.* Inclusion of the genera *Hoplodactylus* and *Naultinus* (New Zealand geckos) in appendix II. Submitted by New Zealand.

*Proposed U.S. position:* Support.

All gecko species are fully protected in New Zealand. They have been heavily impacted by human activity, including habitat modification and destruction, poaching, and most importantly, by introduced mammalian predators. Illegal trade in New Zealand geckos is occurring; the extent of which has yet to be fully known. This trade primarily supports the European and U.S. pet markets, where these species are in high demand and are fetching prices as high as \$15,000 per individual. Recent information has shown that New Zealand gecko species are appearing on the international market at numbers far exceeding the breeding capacity of the captive population. Species are being advertised for sale for which there are no captive populations and no documented export from New Zealand. The ability of New Zealand gecko populations to recover is limited by their low reproductive potential. Even low levels of trade can have significant effects on wild populations. The species in these two genera satisfy the criteria of Annex II (2a and 2b) of Resolution Conf. 9.24. Within *Hoplodactylus* and *Naultinus*, identification to species level can be very difficult. However, the genera are distinct from other geckos and each other.

*Prop. 34.* Deletion of the orange-throated whiptail lizard (*Cnemidophorus hyperythrus*) from appendix II. Submitted by the United States.

*Tentative U.S. negotiating position:* Support.

Our proposed negotiating position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207). The United States will actively work towards adoption of this proposal at COP 12.

*Prop. 35.* Inclusion of the whale shark (*Rhincodon typus*) in appendix II. Submitted by India and The Philippines.

*Tentative U.S. negotiating position:* Support.

The whale shark is the largest fish and is a sluggish pelagic filter feeder often seen swimming on the surface. It occurs in tropical and subtropical waters worldwide. The United States unsuccessfully proposed the species for inclusion in appendix II at COP11. The primary threat to the species is directed commercial harvest, exacerbated by a vulnerable life history. Harvest is facilitated by seasonal aggregations in known areas and driven by a lucrative international market for fins and meat. Population size is unknown, but the species is considered to be rare. Local seasonal populations and catch per unit

effort have apparently declined drastically in some places, whereas fishing effort and price have increased. It is not known to what degree fishing in one area affects populations in other areas, although the fact that at least some of the sharks migrate long distances within ocean basins suggests that the effects may not be purely local. The proponents believe the species meets the criteria for appendix II as shown in Resolution Conf. 9.24, Annex 2a, B(i).

Whale sharks are currently protected in Australia, the Maldives, Honduras, Malaysia, the U.S. Atlantic coast and Gulf of Mexico, India, South Africa, and the Phillipines, leaving Taiwan as the only jurisdiction with a significant legal commercial fishery. Illegal trade may be growing and compromises the domestic protection mentioned above. In our April 18, 2002, **Federal Register** (67 FR 19207) notice, we expressed concern that only limited data were available on trade volumes and the impact of remaining fisheries. However, the proponents have provided additional trade and harvest data, and preliminary analysis suggests that the proposal is defensible.

*Prop. 36.* Inclusion of the basking shark (*Cetorhinus maximus*) in appendix II. Submitted by the United Kingdom on behalf of the member States of the European Community.

*Tentative U.S. negotiating position:* Support.

The basking shark is widely distributed in coastal waters and on the continental shelves of temperate zones in the Northern and Southern Hemispheres. The species is currently listed in appendix III (fins and whole carcasses) by the United Kingdom. The main threat to basking shark populations is from fishing operations, both targeted on basking sharks and through incidental or by-catch in other fisheries. The biology of the species makes it especially vulnerable to exploitation: it has a slow growth rate, a long time to sexual maturity (ca. 12–20 years), a long gestation period (1–3 years) and a similar interval between pregnancies, low fecundity (the only recorded litter was of just six very large pups), and probable small populations. There are a few well-documented fisheries for *C. maximus* (especially from the Northeastern Atlantic), and these suggest stock reductions of 50–90 percent over short periods (typically a few decades or less). These declines have persisted into the long term, with no apparent recovery several decades after exploitation has ceased. Other data, based on sightings and less well-recorded fisheries, suggest similar

declines. The proponents state that this species meets the criteria listed in Resolution Conf. 9.24, Annex 2a, B(i).

In our April 18, 2002, **Federal Register** (67 FR 19207) notice, we noted increasing demand for basking shark fins in international trade. Given the convincing biological data, excellent identification manuals, and trade documentation provided by the proponents, the United States intends to support this proposal at COP12.

*Prop. 37.* Inclusion of seahorses (*Hippocampus* spp.) in appendix II. Submitted by the United States.

*Tentative U.S. negotiating position:* Support.

Our position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207).

*Prop. 38.* Inclusion of humphead wrasse (*Cheilinus undulatus*) in appendix II. Submitted by the United States.

*Tentative U.S. negotiating position:* Support.

Our position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207).

*Prop. 39.* Inclusion of the Patagonian and Antarctic toothfishes (*Dissostichus eleginoides* and *D. mawsoni*) in appendix II. Submitted by Australia.

*Tentative U.S. negotiating position:* Undecided.

The Patagonian toothfish (*Dissostichus eleginoides*) is the largest finfish with any economic importance inhabiting the Southern Ocean. The Antarctic toothfish (*D. mawsoni*) is a similar-looking species that partially overlaps the range of the Patagonian toothfish, and is occasionally harvested in conjunction with the latter species. Toothfish have been fished commercially for about 20 years, and management of the species is under the competence of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). There are several characteristics of the life history of *D. eleginoides* that make the species vulnerable to over-exploitation. The production of large yolky eggs implies that fecundity of Patagonian toothfish is comparatively low. In addition, *D. eleginoides* matures at a relatively late age, with age at first spawning from 8–10 years of age. The species is relatively slow growing and long lived, likely surviving to a minimum of 40–50 years old. In our April 18, 2002, **Federal Register** notice (67 FR 19207), we provided the latest harvest and trade data for toothfish, and restated our concerns about suspected high levels of illegal, unreported, or misreported landings.

Given the available biological information, trade data, and regulatory regimes in CCAMLR, the proponents state that *Dissostichus eleginoides* (Patagonian toothfish) qualifies for listing in appendix II as per Resolution Conf. 9.24: it is known that the accumulated harvesting from the wild of this species for international trade (by illegal, unregulated, and unreported fishing operations) has a detrimental impact on the species due to these activities, thus making the annual harvest continually exceed the level that can be continued in perpetuity. Australia proposes listing of the Antarctic toothfish (*Dissostichus mawsoni*) in appendix II in accordance with Article II 2(b) (*i.e.*, due to similarity of appearance) because the species resembles *D. eleginoides* so closely that a non-expert with reasonable effort is unlikely to be able to distinguish between them.

CCAMLR adopted a conservation measure to track and monitor trade in *Dissostichus* spp. (Patagonian and Antarctic toothfish), known as the Catch Documentation Scheme (CDS), which became effective in May 2000, but has been implemented slowly. Since then, the United States and other countries have worked to improve the efficiency and coverage of the CDS among CCAMLR parties and non-Parties. Details of this work can be found in our April 18, 2002, **Federal Register** notice (67 FR 19207) on COP12. In conjunction with the current listing proposal, Australia has offered a discussion paper on how the CDS and CITES permitting regimes may work together to monitor the international toothfish trade while minimizing duplicative paperwork (see section 44, above).

The United States has seized 5 shipments of illegally caught toothfish since the summer of 2001, most recently in May 2002 with assistance from Australia. Given such successes under CCAMLR's regime and continuing improvements to its CDS system, the United States sees CCAMLR as a viable management institution for toothfish. However, the proponents describe innovative approaches to synchronizing CITES and CCAMLR documents, minimizing industry burdens under a listing, and expanding the coverage of CCAMLR's management regime. These warrant serious consideration. As in the case of all proposals concerning trade in *Dissostichus* spp., in order to determine a position on Australia's proposal, U.S. government agencies will evaluate the many complex aspects of this international trade and how CITES might be useful as an adjunct to traditional fisheries management. This

includes how our position would affect or be affected by the proposed cooperation with the United Nations Food and Agriculture Organization (FAO) regarding international trade in marine fish species. At this time, the United States is undecided as to our positions on issues related to CITES's role in international toothfish trade.

*Props. 40 and 41.* Prop. 40—Inclusion of the butterflies *Atrophaneura jophon* and *A. pandiyana* in appendix II (the latter included due to similarity of appearance with the former species); Prop. 41—Inclusion of the butterflies *Papilio aristophontesis*, *P. nireus*, and *P. sosia* in appendix II (the latter two included due to similarity of appearance with the former species). Both proposals submitted by Germany on behalf of the member states of the European Community.

*Tentative U.S. negotiating position:* Support.

*Atrophaneura jophon* is a swallowtail butterfly known only from the rain forests in south-western Sri Lanka. It is classified as critically endangered by the IUCN due to its extremely limited extent of occurrence and a decline in habitat availability. *Papilio aristophontesis* is a forest species endemic to the Comoros Islands and is classified as endangered by the IUCN due to a decline in habitat availability. A few specimens of both *A. jophon* and *P. aristophontesis* have been offered for sale at insect trade fairs in Central Europe. Whereas small-scale collection is not normally harmful to butterfly populations, for those already threatened by habitat loss even small amounts of collecting by individuals may cause harm and commercial collecting even greater harm still. Species that are demonstrably rare tend to be desirable and command high prices. With the apparent rarity of *A. jophon* and *P. aristophontesis*, existing small-scale trade is possibly unsustainable. Sri Lanka strongly supports the proposal for *A. jophon* and *A. pandiyana*.

Prop. 42. Inclusion of the entire species *Araucaria araucana* in appendix I, replacing the annotation limiting the appendix-I listing to the populations of Argentina and Chile, and eliminating the annotation to include all other populations in appendix II. Submitted by Argentina.

*Tentative U.S. negotiating position:* Support.

At COP11, Argentina had submitted a similar proposal, in which they had proposed to transfer the Argentine population of *Araucaria araucana* from appendix II to appendix I. This species has a restricted range and is highly threatened in Argentina. Over-collection

of seeds is a serious threat to wild populations; inclusion of the species in appendix I assists in regulating trade in seeds. Because Chile's population was already included in appendix I, transfer of the Argentine population to appendix I was intended to provide greater protection to Argentina's population of this species, to harmonize trade controls for the species, and to eliminate the possibility of having appendix-I seed of the species traded as appendix-II. Placing the entire species in appendix I, which was the intent of Argentina, would have also conformed to the recommendation of Resolution Conf. 9.24, which states that split-listings should be avoided wherever possible. Argentina's proposal on *Araucaria araucana* was adopted at COP11.

Following COP11, the CITES Secretariat advised the Parties that the wording of Argentina's proposal only transferred the Argentine population of *Araucaria araucana* to appendix I, but that populations outside of Argentina and Chile remained listed in appendix II. This is contrary to the intent of Argentina, which was to include the entire species in appendix I. Based on discussions conducted in the Plants Committee at its tenth meeting in Shepherdstown (December 11–15, 2000), it was clear that the Chairman and members of the Plants Committee, as well as other Parties, also believed that was the purpose of the proposal. Subsequently, Argentina prepared another proposal to be submitted to the Parties for a vote by postal procedures, which was done in CITES Notification to the Parties No. 2001/080 (December 21, 2001). However, this proposal failed due to a failure of the minimum number of Parties to vote.

Argentina has submitted the current proposal for consideration at COP12 to redress the difficulties with getting the entire species included in appendix I. The United States is concerned about any interpretation of a listing that would consider populations outside of the range countries as separately listed entities, unless specifically considered and designated as such by the Conference of the Parties. An interpretation of the appendices to allow for separate treatment of populations outside of range countries undermines the basic intent of the Convention, which is to control global trade in listed species as a means of conserving wild populations in their range countries. We have discussed this issue with other Parties and believe it is universally understood that, unless otherwise specified by the Conference of the Parties, all populations worldwide are considered to conform to the listing

status of the populations of the range countries. Therefore, in addition to supporting this proposal from Argentina, the United States proposes to include this issue in further discussions of the listing criteria and the possible revision of Resolution Conf. 9.24.

*Prop. 43.* Amend annotation 608 to include all *Cactaceae* lacking chlorophyll and grafted on *Harrisia "Jusbertii," Hylocereus trigonus*, or *Hylocereus undatus*. Submitted by Switzerland.

*Tentative U.S. negotiating position:* Support.

This proposal expands the current exemption under annotation 608 for grafted cacti. The three grafting stock species remain unchanged, but the grafted species have now been expanded to include all cacti, but only if they are specimens (cultivars) lacking in chlorophyll. We believe the rationale provided in the proposal provides a sound basis to support this proposal, since the types of specimens that would be exempted are not relevant to the conservation of the species from which they are derived. We understand that the current exemption contained in annotation 608 presents some difficulties in implementation, since the trade in grafted cacti usually involves mixtures of specimens, some covered by the exemption and some that are not. It is also our sense that some foreign enforcement officials may already treat all grafted cacti as exempt in practice, since they occur as mixed shipments, represent a negligible conservation risk, and are difficult to distinguish in large shipments.

*Prop. 44.* Delisting from appendix II of prickly pear cacti: *Cactaceae*, Subfamily *Opuntioideae* (all species). Submitted by Switzerland.

*Tentative U.S. negotiating position:* Oppose.

In this proposal, Switzerland proposes to delete opuntoid cacti from CITES appendix II. The United States has advised Switzerland, in writing and orally at the twelfth meeting of the Plants Committee (Leiden, The Netherlands, May 2002), that we are opposed to the delisting of these species at this time because of the documented illegal trade in *Opuntia* species between the United States and Mexico, and because the United States is a range country for over 80 species of *Opuntia*, with one species listed as endangered under the Endangered Species Act. In its comments to Switzerland, the United States provided data on the extent of known illegal trade in these species, as evidenced through seizures. It is reasonable to assume that the actual level of illegal trade exceeds this

amount, since actual documented illegal trade is generally believed to be a fraction of the total illegal trade.

The Swiss proposal recognizes that Chile, Mexico, and the United States all have species classified as rare or endangered (12 species in all). However, Switzerland attempts to negate the value of these classifications on taxonomic grounds, some of which are valid, although we believe that the questionable status of some of these species is grounds for being cautious until their actual status is resolved. The proposal also questions whether we should be concerned about the documented trade, because it is not documented to the species level, and therefore we cannot determine that rare species are actually being affected. Again, we believe this is reason for maintaining these species in the appendices until we can be certain that rare species are not being affected by collection for trade, rather than assuming that they are not.

*Prop. 45.* Delisting from appendix II of leaf-bearing cacti (Cactaceae): Subfamily Pereskioideae (all species in the genera *Pereskia* and *Maihuenia*) and two genera in the subfamily Opuntioideae (all species in the genera *Pereskia* and *Qiabentia*). Submitted by Switzerland.

*Tentative U.S. negotiating position:* Undecided.

Like the previous proposal, this was submitted to the Plants Committee for its consideration at its twelfth meeting. Although we had voiced our opposition to this proposal at that meeting, we are reconsidering our position, and may remain undecided until COP12, where we will base our final decision on any additional information provided to us and the comments of the range countries. We will also be consulting with range countries in the interim, particularly Mexico. The United States is not a range country for these genera. However, two species in the genus *Pereskia* (*P. aculeata*, and *P. grandifolia*) have naturalized in Florida and Texas. We have observed only limited trade in the four genera covered by the proposal. However, we are uncertain as to what information range countries may have on trade impacts on their species.

*Props. 46 and 47.* Transfer of *Sclerocactus nyensis* and *S. spinosior* spp. *blaneii* from appendix II to appendix I. Submitted by the United States.

Our proposed negotiating position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207). The United States will actively work for adoption of this proposal at COP 12.

*Prop. 48.* Transfer of the Santa Barbara Island dudleya (*Dudleya traskiae*) from appendix I to appendix II. Submitted by the United States.

*Tentative U.S. negotiating position:* Support.

Our proposed negotiating position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207).

*Prop. 49.* Transfer of *Aloe thorncroftii* from appendix I to appendix II. Submitted by the Republic of South Africa.

*Tentative U.S. negotiating position:* Support.

*Aloe thorncroftii* is restricted in its distribution to the mountains of the Barbeton and Carolina districts in Mpumalanga Province, South Africa. The species grows predominantly on rocky outcrops in a grassland vegetation type known as Mountain Sourveld. Satellite images show that 48 percent of this habitat type has been converted to commercial forestry. Invasion by nonnative plant species is also a threat to the habitat of this plant. The total survey population for this taxon was 7,906 plants in 2000.

According to a TRAFFIC analysis of CITES trade data, there was no trade in *A. thorncroftii* between 1981 and 1995, and there is no recent evidence of legal international trade in this species. Additionally, there is no evidence of illegal trade in this species. Given the small amount of horticultural interest in this species, it is considered highly unlikely that the proposed amendment will affect demand levels for this species. According to the proposal, it is much easier and cheaper to grow *A. thorncroftii* from seed than to collect plants from the wild.

*Prop. 50.* Inclusion in appendix II of the neotropical populations of bigleaf mahogany (*Swietenia macrophylla*), including logs, sawn timber, veneer, and plywood. Submitted by Guatemala and Nicaragua.

*Tentative U.S. negotiating position:* Undecided.

The proponents state that they are proposing this amendment to the appendices in accordance with Article II, paragraph 2.(a) of the Convention and Resolution Conf. 9.24, Annex 2a, which states that the harvesting of specimens from the wild for international trade has, or may have, a detrimental impact on the species by either: (i) exceeding, over an extended period, the level that can be continued in perpetuity; or (ii) reducing it to a population level at which its survival would be threatened by other influences. They further state that the purpose of the proposal is to promote sustainable management of *S.*

*macrophylla* in order to help ensure its further conservation and trade.

Bigleaf mahogany is currently listed in appendix III by several range countries, in the Americas only: by Costa Rica in November 1995 (including its saw-logs, sawn wood, and veneer sheets, although other derivatives such as furniture are exempt from CITES requirements); by Bolivia in March 1998; by Brazil in July 1998; by Mexico in April 1999; by Peru in June 2001; and by Colombia in October 2001. Species listed in appendix III can be traded commercially. Once a species is added to appendix III, the countries that list the species are required to issue permits and ensure that specimens are legally acquired; non-listing range countries must issue certificates of origin; and importing countries are required to ensure that all shipments are accompanied by the appropriate CITES documents. The issuance of appendix-III documentation is dependent on legal findings and does not include biological determinations for export.

Proposals to include this species in CITES appendix II were submitted at COP8 and COP10 with the United States as a co-sponsor with Costa Rica and Bolivia, respectively, and at COP9 by the Netherlands. In our April 18, 2002, **Federal Register** notice (67 FR 19207), we indicated that we did not plan to submit a proposal for this species, although we had received a recommendation to do so. This decision was taken after extensive discussion within the U.S. government, and in light of the previously unsuccessful efforts to list the species in appendix II. We would therefore be interested in comments regarding the usefulness of including bigleaf mahogany in appendix II, especially with respect to any advantages that might be gained beyond the current listing of the species in appendix III.

*Prop. 51.* Annotation of Orchidaceae in appendix II to exempt the artificially propagated hybrids of six genera under certain conditions. Submitted by the United States.

*Tentative U.S. position:* Support.

As described in our April 18, 2002, **Federal Register** notice, our Division of Scientific Authority and the American Orchid Society prepared a draft proposal for consideration by the Plants Committee at its twelfth meeting in May 2002. This proposal is for the annotation of the listing of orchids in appendix II to exempt the artificially propagated hybrids of six genera: *Cattleya*, *Cymbidium*, *Dendrobium*, *Oncidium*, *Phalaenopsis*, and *Vanda*. The proposed annotation provides clear restrictions on this exemption so that it applies only to

large-volume commercial shipments that are highly uniform and otherwise characteristic of artificially propagated specimens. Exempted shipments also may not contain a mixture of genera, or even different hybrids, within a container. This proposal received strong support from the Plants Committee, as well as from other countries that attended the meeting, and the United States was asked to submit the proposal for COP12.

*Prop. 52.* Deletion of the annotation to the desert-living cistanche (*Cistanche deserticola*) in appendix II. Submitted by China.

*Tentative U.S. negotiating position:* Support.

At COP11, the Parties adopted a proposal from China to include the desert-living cistanche (*Cistanche deserticola*) in CITES appendix II with the annotation "designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas and confectionary." However, after COP11 it was discovered that the reference to roots in the annotation was incorrect because *C. deserticola* is a parasitic plant and does not have roots. The parts of the plant that are traded are the stems, which are harvested either subterranean or above ground. The proposal is to delete the current annotation for the listed species.

*Prop. 53.* Deletion of Maguire's bitter-root (*Lewisia maguirei*). Submitted by the United States.

*Tentative U.S. negotiating position:* Support.

Our proposed negotiating position is discussed in the **Federal Register** notice of April 18, 2002 (67 FR 19207).

*Prop. 54.* Inclusion of *Guaiaecum* spp. in appendix II, with annotation designating all parts and derivatives, including wood, bark and extract. Submitted by Germany on behalf of the member states of the European Community.

*Tentative U.S. negotiating position:* Support.

The genus *Guaiaecum* consists of 4–6 different species of New World evergreen trees and shrubs distributed throughout Mesoamerica and the Caribbean. The current taxonomy of the different *Guaiaecum* species is still not

unanimously accepted. However, the following species are discussed in the proposal: *G. angustifolium*, *G. coulteri*, *G. guatemalense*, *G. officinale*, *G. sanctum*, and *G. unijugum*. *G. coulteri* is most likely endemic to Mexico.

*Guaiaecum sanctum* and *G. officinale*, which are internationally traded for their wood and medicinal resin, are already listed in appendix II of CITES. The remaining species of *Guaiaecum* are not regulated by CITES. *Guaiaecum sanctum* (timber only) was listed in appendix II in 1975. In 1985, an annotation (#1) was added to the listing of *G. sanctum*. In 2000, the species was proposed to be transferred from appendix II to appendix I at COP11. However, the proposal was later withdrawn. Since 2001, the Mexican CITES Authorities have significantly reduced exports of *G. sanctum* from Mexico. At PC12 (Leiden, The Netherlands, May 13–17, 2002) the Mexico announced that an export quota for *G. sanctum* would be established in due course.

There is no detailed species population information available. With the existing CITES trade controls for both *G. sanctum* and *G. officinale*, collection and export of *G. coulteri* may be expanding and thus its population decreasing. International trade data are usually only listed as "lignum-vitae" and usually do not distinguish among *Guaiaecum* species. *G. sanctum* and *G. coulteri* look very similar in the wild and cannot be readily and clearly distinguished by non-experts. However, information on the ranges of the various species indicates that a control system could be instituted whereby species could be identified by their origin and tracked in trade. *Guaiaecum coulteri* does have special legal protection in Mexico, and permission is required to harvest, use, possess, or export this species. Despite insufficient identification of *Guaiaecum* species exported from Mexico, most exports from Mexico to the United States are likely to be *G. coulteri* or *G. sanctum*. The proposed listing of the remaining taxa of *Guaiaecum* is supported by the Mexican authorities and would eliminate such problems as deliberate mislabeling of wood to avoid CITES permit controls.

## Conclusion of the Meeting

67. Determination of the Time and Venue of the Next Regular Meeting of the Conference of the Parties (no document)

The Secretariat does not normally circulate a document on the time and venue of the next regular meeting of the COP. We anticipate receiving information on this at COP12, at which time we will develop a negotiating position. The United States favors holding COP13 in a country where all Parties and observers will be admitted without political difficulties. The United States normally supports holding meetings of the COP on a biennial basis, or, as in the case of COPs 10, 11, and 12, after an interval of approximately 2½ years.

68. Closing remarks (no document)

## Future Actions

Before COP12, we will announce any changes to the tentative negotiating positions contained in this notice and any undecided negotiating positions by posting a notice on our Internet website (<http://international.fws.gov/>). After the meeting of the COP, we will publish a notice announcing the amendments to CITES appendices I and II and resolutions and decisions that were adopted by the Parties at the meeting, and requesting comments on whether the United States should enter reservations on any of the amendments to the appendices.

## Reminder of Extension of Comment Period

We remind you that with this notice we have extended the comment period on tentative U.S. negotiating positions on species proposals, proposed resolutions and decisions, and agenda items submitted by other Parties and the CITES Secretariat for consideration at COP12 through October 31, 2002.

Dated: October 23, 2002.

**Marshall P. Jones, Jr.,**

*Acting Director, Fish and Wildlife Service.*

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