



Foreign Species and the Endangered Species Act

What does the U.S. Fish and Wildlife Service do with foreign Species?

The U.S. Fish and Wildlife Service (Service) uses the best available scientific and commercial information to determine whether species that occur in other countries (i.e., species with ranges completely outside the United States) meet the Endangered Species Act (ESA) definition of a threatened species or an endangered species. That is, the Service determines whether species in other countries (foreign species) should be listed and afforded the protections of the ESA

The five factors that the Service uses to determine whether a species should be listed as endangered or threatened are:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, recreational, scientific, or educational purposes;
3. Disease or predation;

4. The inadequacy of existing regulatory mechanisms; or
5. Other natural or manmade factors affecting its continued existence.

Using these five factors, the Service also assesses species already listed to determine whether they should be reclassified from threatened to endangered and whether threats have been reduced or eliminated to the point the species should be reclassified from endangered to threatened or removed from the list.

How does the listing process begin?

The listing process may begin in two ways—through a petition process or through the Service’s annual assessment of candidate species. The ESA provides that any interested person or organization may petition the Secretary of the Interior to add a species to the list or to remove it from the list. Through the candidate assessment process, Service biologists identify species as candidates for listing.

For a detailed description of the listing process, see the “Listing a Species as

Threatened or Endangered, Section 4 of the Endangered Species Act” fact sheet at <http://www.fws.gov/endangered/esa-library/pdf/listing.pdf>.

How many species are listed?

Along with more than 1,000 species listed as endangered or threatened in the United States, several hundred species in other countries are listed under the ESA. For a complete list of threatened and endangered species in other countries, see the Environmental Conservation Online System species report at <https://ecos.fws.gov/ecp/report/species-listings-foreign?statusCategory=Listed>.

How does the ESA protect foreign species?

By regulating the activities of American citizens and residents with regard to listed species, the ESA helps to ensure that people under the jurisdiction of the United States do not contribute to the further decline of these species. Without permits consistent with the conservation goals of the ESA, activities such as the import or export of endangered or threatened species are unlawful.

The African elephant, a threatened species. Photo by Joe Milmo



Why does the Service list species in foreign countries, when it has no regulatory jurisdiction in that country?

The ESA requires the Service to list species as endangered if they are in danger of extinction, and as threatened if they are likely to become endangered in the foreseeable future, regardless of the country in which the species lives. The ESA specifically directs the Service to consider species that have been identified by any foreign nation as at risk of extinction and to take into consideration conservation initiatives by foreign nations to prevent the need to list such species.

Interest in conserving species in danger of extinction got national attention in 1966 when Congress passed the Endangered Species Preservation Act. Globally, the issue generated action in 1969, when Congress passed the Endangered Species Conservation Act, which recognized that fish and wildlife and plants know no jurisdictional boundaries and that conservation is a global issue. In an international approach, the Act called for a meeting of countries to plan a strategy to prevent extinctions—an event that took place in 1973, when 80 nations gathered in Washington, D.C., demonstrating the scope of the concern. Months later, on December 28, 1973, President Nixon signed into law the Endangered Species Act of 1973.

How can a listing under the ESA benefit foreign-listed species?

Listing species under the ESA can generate conservation benefits, such as increasing awareness of them, prompting research efforts to address their conservation needs, or funding in-situ conservation in range countries. For example, under the ESA and the U.S. Panda Policy established under the ESA, giant pandas generate a large sum of money (e.g., through increased gate receipts for zoos having pandas, gift shop sales of panda related items, and donations) that must go back into in-situ panda conservation projects in China. If not for listing this foreign species under the ESA, the significant conservation and research benefits that have been obtained would have never occurred.

The ESA also provides for limited financial assistance to develop and



Photo by Sávio Freire Bruno

In December 2010, the U.S. Fish and Wildlife Service listed the Brazilian merganser as endangered along with six other bird species in the Atlantic Forest Biome, where the forest is being converted to agriculture, as well as the production of charcoal, and the construction of steel plants and hydropower projects. Listing action began with a petition from the International Council for Bird Preservation.

manage programs to conserve listed species in foreign countries, encourages conservation programs for such species, and allows for assistance for programs in the form of personnel and their training. For examples, see the Division of Conservation's Regional Programs webpage at <https://www.fws.gov/international/wildlife-without-borders/regional-programs/>.

What activities does the ESA prohibit?

Except by regulation or permit issued for specific purposes consistent with the ESA, it is unlawful for any person subject to the jurisdiction of the United States to:

- Import listed species into, or export listed species from the United States.
- Take—which includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, collecting, or attempting any of these—of listed species within the United States, its territorial waters, or on the high seas.
- Possess, sell, deliver, carry, transport, or ship listed species taken in violation of the ESA.
- Sell or offer for sale in interstate or foreign commerce; or deliver, receive, carry, transport, or ship listed species in interstate or foreign commerce in the course of commercial activity.

Does the Service impose critical habitat protection or other restrictions in foreign countries?

No. Critical habitat is only designated on U.S. lands. While the ESA's prohibition on foreign commerce applies to any person subject to the jurisdiction of the United States, it does not apply to foreign nationals carrying out foreign commerce. Furthermore, the "take" prohibition applies only to activities within the United States. In addition, the Service does not review foreign actions to ensure that they do not jeopardize continued existence of endangered and threatened species as is done with federal agencies in the United States.

**U.S. Fish & Wildlife Service
Ecological Services Program
5275 Leesburg Pike
Falls Church, VA 22041
703/358-2171
<https://www.fws.gov/endangered/>**

September 2020