

CITES COP16: ANNOUNCEMENT OF PROPOSED RESOLUTIONS, DECISIONS, AND AGENDA ITEMS BEING CONSIDERED BY THE UNITED STATES; OBSERVER INFORMATION

The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), may submit proposed resolutions, decisions, and agenda items for consideration at meetings of the Conference of the Parties to CITES. The United States may also propose amendments to the CITES Appendices for consideration at meetings of the Conference of the Parties. The sixteenth regular meeting of the Conference of the Parties to CITES (CoP16) is scheduled to be held in Bangkok, Thailand, March 3-15, 2013. With this notice, we describe proposed resolutions, decisions, and agenda items that the United States is considering submitting for consideration at CoP16; invite your comments and information on these proposals; and provide information on how non-governmental organizations based in the United States can attend CoP16 as observers.

Please note that we published an abbreviated version of this notice in the **Federal Register** on June 21, 2012, in which we simply listed each issue that the United States is considering for CoP16, but did not describe each issue in detail or explain the rationale for the tentative U.S. position on each issue.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to 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, which are available on the CITES Secretariat's website at <http://www.cites.org/eng/app/index.php>. Currently, 175 countries, including the United States, are Parties to CITES. The Convention calls for regular biennial meetings of the Conference of the Parties, unless the Conference of the Parties decides otherwise. At these meetings, the Parties review the implementation of CITES, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the lists 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 amendments to Appendices I and II, resolutions, decisions, and agenda items for consideration by all the Parties at the meetings.

Recommendations for Resolutions, Decisions, and Agenda Items for the United States to Consider Submitting for CoP16

In our **Federal Register** notice published on November 7, 2011 (76 FR 68778), we requested information and recommendations on potential resolutions, decisions, and agenda items for the United States to submit for consideration at CoP16. We received information and recommendations from the following organizations: the Animal Welfare Institute; Gruhn Guitars, Inc.; the International Fund for Animal Welfare; NAMM (the International Music Products Association); the Natural Science Collections Alliance; the Ornithological Council and the Society for the Preservation of Natural History Collections; Safari Club International and the Safari Club International Foundation; the Species Survival Network; the Species Survival

Network's Amphibian Working Group; and the World Wildlife Fund. We also received comments from three individuals.

We considered all of the recommendations of the above individuals and organizations, as well as the factors described in the U.S. approach for CoP16 discussed in our November 7, 2011, **Federal Register** notice, when compiling a list of resolutions, decisions, and agenda items that the United States is likely to submit for consideration by the Parties at CoP16. We also compiled lists of resolutions, decisions, and agenda items for consideration at CoP16 that the United States either is currently undecided about submitting, is not considering submitting at this time, or plans to address in other ways. In compiling these lists, we also considered potential submissions that we developed internally. The United States may consider submitting documents for some of the issues for which it is currently undecided or not considering submitting at this time, depending on the outcome of discussions of these issues in the CITES Standing Committee, additional consultations with range country governments and subject matter experts, or comments we receive during the public comment period for this notice.

We welcome your comments and information regarding the resolutions, decisions, and agenda items that the United States is likely to submit, currently undecided about submitting, or currently planning not to submit.

A. What resolutions, decisions, and agenda items is the United States likely to submit for consideration at CoP16?

1. Quota information on CITES permits and tags for leopard trophies

The leopard (*Panthera pardus*) has been listed in CITES Appendix I since 1975. At CoP4 in 1983, the CITES Parties adopted the first in a series of resolutions addressing trade in leopard skins. Resolution Conf. 4.13, *Trade in leopard skins*, recognized that *Panthera pardus* is not endangered throughout its range and established export quotas and a tagging system for leopard skins from seven range countries. Resolutions addressing trade in leopard skins were adopted or amended at nine subsequent CoPs, most recently at CoP14 in 2007. In these resolutions, quotas for leopard skins have been revised, reporting requirements have changed, and the number of range countries with export quotas for leopard skins has risen from 7 to 12. As the resolutions addressing trade in leopard skins have evolved, the recommendations regarding the way in which quota information should be reported on export permits have also evolved.

Currently, there are two resolutions that provide recommendations regarding the information that should be included on a CITES export permit for leopard skins. In addition to the recommendations in Resolution Conf. 10.14 (Rev. CoP14), *Quotas for leopard hunting trophies and skins for personal use*, Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*, provides guidance, in Section VIII, on permits and certificates for species subject to quotas. In recent years, we have become aware that different Parties interpret the recommendations regarding quotas in these two resolutions in different ways. When the two resolutions are considered together, the recommendations for reporting of leopard quotas become less clear.

The fact that the recommendations in the two resolutions can be interpreted in different ways has given rise to misunderstandings and disagreements between some range countries and some importing countries with regard to what quota information should be included on export permits for leopard skins. We believe it is important to reach a common understanding and have been working with the CITES Secretariat and leopard range countries to find a solution. The United States is likely to submit a discussion document on this issue for CoP16, and may also submit a proposal to make changes to paragraphs a) and c) of Resolution Conf. 10.14 (Rev. CoP14) and to Section VIII of Resolution Conf. 12.3 (Rev. CoP15) to help clarify the recommendations regarding export quotas for leopard skins.

2. Retrospective permit process for certain Appendix-I specimens

CITES documents must be issued prior to the import, export, re-export, or introduction from the sea of specimens of CITES-listed species. In Section XIII of Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*, the Parties underscored the importance of issuing CITES documents prior to the activities in question, but recognized that exceptions could be made in certain specific and very limited circumstances. The resolution recommends, however, that such exceptions should not be made for trade in specimens of Appendix-I species. In our experience implementing the Convention, we have become aware that there may be a limited number of cases where it may be advisable to allow the issuance of retrospective documents for Appendix-I specimens that have been traded without CITES documents accompanying them (only under circumstances when there are compelling conservation-based reasons for doing so). The United States is likely to submit a proposal to revise Resolution Conf. 12.3 (Rev. CoP15) to include a retrospective permit process for certain Appendix-I specimens with high conservation value (e.g., live or dead animals under certain circumstances, including for emergency veterinary treatment or disease diagnosis, or irreplaceable biological samples to be used for assessments of genetic diversity or other population parameters).

3. Streamlined process for cross-border transport of musical instruments containing CITES species

Gruhn Guitars and NAMM, the International Music Products Association, recommended that the United States propose that CITES establish a passport, “personal-effects” exemption, or other process for more easily allowing musicians travelling with their personally owned instruments that contain CITES species to cross international borders. We recognize that musicians, both amateur and professional, often travel internationally with their instruments and that those instruments may be made of or include specimens of species listed in the CITES Appendices. Although some CITES Parties recognize a personal-effects exemption for such items, this exemption is not universally applied. The United States is likely to submit a document for consideration at CoP16 that would propose a revision to Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*, or possibly an expansion of Resolution Conf. 10.20, *Frequent cross-border movements of personally owned live animals*, to include a passport system for musical instruments similar to the one for personally owned live animals included in Resolution Conf. 10.20. We believe that a musical instrument passport would provide an efficient way for individuals to travel internationally with their individually owned musical instruments.

In their comments, Gruhn Guitars highlighted the sometimes lengthy process of obtaining permits to trade internationally in musical instruments. They suggested that it would be helpful to implement a more efficient process for issuing such permits. We acknowledge the commenter's concern and continue to strive to improve the permitting process within the United States. While it would not address concerns involving commercial shipments, the passport system described above that the United States is likely to propose at CoP16 would streamline the process for personally owned musical instruments.

B. On what resolutions, decisions, and agenda items is the United States still undecided, pending additional information and consultations?

1. CoP Rules of Procedure: Voting records

The Species Survival Network (SSN) recommended that the United States submit a proposal to revise the Rules of Procedure for meetings of the CoP to require that, except in the case of a vote on a proposal by a secret ballot, electronic votes be displayed to all CoP participants within minutes of the vote and that the Presiding Officer not announce the results of the vote until votes are displayed and Parties have had time to verify their votes. SSN also recommended that the United States propose that a mechanism be developed that allows Parties, in the case of a secret ballot, to confirm that their vote has been correctly recorded.

The United States shares the concerns expressed by SSN about the importance of transparency and accountability in voting at CoPs and has historically supported transparency in voting at past CoPs. At the 61st meeting of the CITES Standing Committee (SC61) in August 2011, the European Union submitted a proposal to revise the CoP Rules of Procedure to require that, when a vote is taken using an electronic voting system (except for a secret ballot vote), the individual votes of all Parties be displayed on a screen for all participants to see immediately after a vote has taken place. The United States fully supported the European Union's proposal.

At SC61, the Standing Committee agreed to recommend this change to the Rules of Procedure at CoP16. At SC62, to be held in July 2012, the United States will confirm that the Standing Committee still intends to make this recommendation at CoP16. If for any reason the Standing Committee changes its decision to submit the recommendation, the United States will then consider submitting the recommendation itself for CoP16.

2. CoP Rules of Procedure: Secret ballots

SSN recommended that the United States submit a proposal to revise the Rules of Procedure for CoPs, aligning them with those of other United Nations bodies to allow a secret ballot vote only when the motion for the vote has been approved by a majority of Parties present and voting (rather than by merely 10 Parties as is currently the requirement in the CoP Rules of Procedure). Safari Club International (SCI) and the Safari Club International Foundation (SCIF) recommended that the United States not support amendments to the CoP Rules of Procedure to impose limitations on the use of secret ballots.

The United States has historically supported transparency and accountability in voting at CoPs, and has opposed the use of secret ballots in CITES except under extraordinary circumstances. At SC61, the European Union proposed that the Standing Committee instruct the CITES Secretariat to review the current provisions on secret ballots and their use in CITES and explore options to ensure that there is better transparency in future CoP voting, to report on its findings at SC62 so that the Standing Committee can then assess the situation and, if needed in order to improve voting transparency, propose to the CoP amendments to the Rules of Procedure. The United States fully supported the European Union's proposal.

At SC61, the Standing Committee agreed that the Secretariat should conduct a study on the recent history of the use of secret ballots in CITES. The Secretariat will submit a document for SC62, to be held in July 2012, reporting on the results of this study. After the discussion of this issue at SC62, the United States will decide whether to submit a proposal for CoP16 to revise the CoP Rules of Procedure to reduce the frequency of the use of secret ballots, or possibly co-sponsor such a proposal with the European Union.

3. Climate change

The International Fund for Animal Welfare (IFAW) and SSN recommended that the United States propose a CITES resolution on climate change that would allow for increased recognition of climate change and its impacts or potential impacts on CITES-listed species. The World Wildlife Fund (WWF) indicated their support for the leadership role of the United States on the CITES Climate Change Working Group and recommended that the search capabilities on the CITES website be enhanced to allow improved access to CITES documents containing information on climate change or processes affected by climate change.

As acknowledged by WWF, the United States co-chaired and participated in the CITES Joint Intersessional Working Group on Climate Change (CCWG) and IFAW, SSN, and WWF were members of the CCWG. The role of this Working Group was to identify aspects of science-based decision-making within CITES that allow for the consideration of the impacts of climate change and to report findings and recommend further actions to the CITES Technical Committees for submission to SC62, to be held in July 2012. The CCWG submitted a report, which included the suggestion to improve the searchability of the CITES website, to the joint meeting of the CITES Animals and Plants Committees in March 2012. Based on the report, the Animals and Plants Committees decided that the current provisions of the Convention and of the CITES resolutions were sufficiently comprehensive and flexible to take into account the implications of climate change for science-based decision-making. The United States supports the decision of the Committees. However, pending the outcome of deliberations at SC62 on the report on climate change, which will be prepared by the co-chairs of the CCWG and the Secretariat, the United States remains undecided whether it will submit a document on climate change to CoP16.

4. National CITES laws made available on the web

The Animal Welfare Institute (AWI) recommended that the United States submit a draft resolution or decision “to call upon the Secretariat to complete [the National Legislation Project] by posting all CITES Party Convention implementing laws on the CITES website.” AWI reasoned, in part, that the posting of such laws publically “would benefit all CITES Parties, observers, lawyers, students, and others that may require access to a particular country's laws for research, investigation, or other purposes.” The United States recognizes that transparency and information sharing are important factors in building the confidence of the CITES community and that implementation and enforcement efforts at the national level are taken seriously. We consider the applicable Articles of the Treaty and the interpretive Resolution Conf. 8.4 (Rev. CoP15), *National laws for implementation of the Convention*, to represent a core value of CITES, namely that member States are responsible for the national implementation of CITES within their territory. When Parties fail to develop and adopt legislation or regulations adequate to implement the Convention, the core mission and objectives of CITES are undermined. The United States is considering the recommendation by AWI but remains undecided on whether to submit such a proposal to CoP16.

5. CITES purpose codes

SCI and SCIF expressed support for the position that CITES purpose-of-transaction codes should be used primarily to indicate whether the trade covered by a particular permit is for commercial or noncommercial purposes while allowing for the use of purpose codes to gather useful analytical information (such as the number and variety of hunting trophies being shipped). SCI and SCIF commented further that problems with purpose-of-transaction codes used on CITES documents should not be used as the basis for enforcement actions and putting a burden on shippers in the absence of evidence of fraudulent intent. SCI and SCIF expressed concerns that Parties should resolve differences in interpretations of the definitions or use of purpose-of-transaction codes before holding permittees responsible.

We agree that there are varying interpretations among the CITES Parties of the definitions and uses of purpose-of-transaction codes that appear on the face of CITES documents. These codes, which are used to identify the nature of the trade being authorized on a CITES document, have not been clearly defined and their uses have not been harmonized by all Parties. At CoP14, the United States submitted a proposed revision to Resolution Conf. 12.3 (Rev. CoP13), *Permits and certificates*, to clearly define each purpose-of-transaction code and harmonize their uses. While the proposed revision was not adopted, the Conference of the Parties, through Decision 14.54, directed the Standing Committee to form a Working Group to address this issue. While the Working Group completed some work, they were unable to propose any revisions to Resolution Conf. 12.3 (Rev. CoP14) at CoP15 in 2010. Therefore, the Parties revised Decision 14.54 at CoP15 to continue the Working Group and have it report back to the Standing Committee with any recommended changes. The Working Group is currently considering possible revised definitions for each of the purpose-of-transaction codes and will submit a report at SC62. However, until this work is completed, the United States remains undecided about submitting a document for CoP16 on purpose-of-transaction code definitions or on ensuring that Parties are using the codes consistently. Further, until the Working Group completes its task, it would be premature to address the second concern of SCI and SCIF on how law enforcement efforts

should be affected by the use of purpose codes.

6. Equipment needs of Parties

AWI recommended that the United States submit a draft resolution or decision to authorize the development of a mechanism to identify equipment needs of the CITES Parties for the effective enforcement of the Convention. AWI reasoned that the enforcement of CITES by many Parties is hampered by equipment shortages, and that if such shortages were publically identified, non-governmental organizations would be able to see how they might be able to make more effective donations to the Parties. The United States is considering this proposal, but currently remains undecided on the issue. We will carefully consider all comments we receive from the public on this issue in reaching our final decision.

7. Review of Significant Trade

SSN recommended that the United States submit a document for CoP16 to amend the Terms of Reference for the evaluation of the Review of Significant Trade under Decision 13.67 (Rev. CoP14) to include assessment of the “measures to be taken regarding the implementation of recommendations” contained in Resolution Conf. 12.8 (Rev. CoP13), *Review of Significant Trade in specimens of Appendix-II species*. SSN commented that such an assessment should include evaluating actions taken by the Secretariat, Animals and Plants Committees, and/or Standing Committee under this section of the resolution, because these actions have a significant influence on the conservation of species subject to the Review of Significant Trade and on the success of the review itself. In addition, SSN provided suggestions for specific changes to the Terms of Reference to address their concerns.

The United States is a member of the Advisory Working Group established to assist the Animals and Plants Committees in overseeing the evaluation of the Review of Significant Trade under Decision 13.67 (Rev. CoP14). At the recent joint meeting of the CITES Animals and Plants Committees, the Committees established a Working Group with a mandate that included: (1) Development of a road map for completion and reporting on the evaluation of the Review of Significant Trade; and (2) development of an agenda for a meeting of the Advisory Working Group to be held in Vilm, Germany, in June 2012. The United States participated in this Working Group at the joint meeting and contributed to discussions and the Working Group report. As noted in its report, the Working Group identified the present system of informing the Standing Committee as to whether or not recommendations from the Plants or Animals Committees have been met as a topic that should be discussed by the Advisory Working Group at its June meeting. Therefore, we expect the Advisory Working Group to assess and deliberate on “measures to be taken regarding the implementation of recommendations.” Pending the outcome of the discussions at the Advisory Working Group meeting, the United States remains undecided about whether it will be necessary to submit a document for CoP16 to amend the Terms of Reference to include assessment of the “measures to be taken regarding the implementation of recommendations.”

8. Non-detriment findings

AWI emphasized that there is a continued need for capacity-building efforts for the CITES non-detriment finding (NDF) process and recommended that the United States submit a draft resolution to substantively improve and strengthen NDF requirements. WWF provided comments supporting the joint NDF Working Group of the Animals and Plants Committees and the fact that the Working Group is considering a draft resolution on non-detriment findings for CoP16. WWF recommended that the United States lend its support to the process to ensure that such a resolution is adopted at CoP16. SCI and SCIF suggested that the United States support the development of guidance for making NDFs, provided that such guidance is not mandatory, does not suggest “pass or fail” criteria for permit issuance based on such findings, and is accompanied by a mechanism to assess range States’ needs for capacity building to improve NDFs and to provide such capacity-building assistance.

We agree that additional capacity building is needed for the NDF process. The United States has and will continue to support efforts to improve implementation of the Convention, including efforts to strengthen Parties’ capacity to make NDFs based on sound science. Toward that end, we have provided assistance for capacity-building efforts, including funding of and participation in workshops on the making of scientifically based NDFs.

At the recent joint meeting of the CITES Animals and Plants Committees, the Committees established a Working Group with a mandate that included preparation of a draft resolution on the establishment of non-legally binding guidelines for the making of NDFs. The United States was a member of this Working Group and contributed to the development of the Working Group’s draft resolution. The Committees requested that the Secretariat issue a Notification to the Parties inviting comments on the draft resolution developed by the Working Group, and the Committees agreed to submit for consideration at CoP16 either a revised version of the Working Group’s draft resolution or the existing version. Pending the receipt of comments by the CITES Parties and the associated additional work on this resolution by the Committees, the United States is undecided about whether to support the proposed resolution that the Committees submit or to submit an alternative proposed resolution for consideration. The United States firmly believes that any resolution on making NDFs should be nonprescriptive.

9. Captive-bred and ranched specimens

SSN submitted a recommendation that the United States submit a draft decision for CoP16 to continue the intersessional Working Group on Implementation of the Convention Relating to Captive-bred and Ranched Specimens (formed at SC61) and a draft decision directing the Working Group to study problems with the use of CITES source codes by selecting species and Parties to be addressed as case studies. WWF commented that they anticipate strong recommendations at CoP16 from the Working Group on Implementation of the Convention Relating to Captive-bred and Ranched Specimens, which will result in effective solutions to thwart the current abuses of CITES related to questionable authenticity of animals traded under source codes C (bred in captivity), F (captive-born), and R (ranched). The United States currently serves as the Chair of the Standing Committee intersessional Working Group on Implementation of the Convention Relating to Captive-bred and Ranched Specimens. The

Working Group is actively engaged in implementing the mandate assigned at SC61, and the United States, as Chair, will report to SC62 in July 2012 on the Working Group's progress. The United States will consider the need to submit a separate document on this issue depending on the outcomes of the Working Group and the Standing Committee's recommendations to CoP16.

10. Definitions of sawn wood and veneer for Appendix-II and -III timber

NAMM recommended that the United States submit a document for CoP16 proposing that CITES develop clearer definitions of the terms "sawn wood" and "veneer," which appear in the annotations for a number of timber species listed in Appendices II and III. NAMM pointed out that wooden parts and blanks for manufacture of musical instruments are typically cut from sawn wood to specific sizes following various degrees of processing, and it is currently unclear as to whether CITES documents are needed for the import and export of these commodities.

Although definitions of the terms "sawn wood" and "veneer" are already provided in CITES Resolution Conf. 10.13 (Rev. CoP15), *Implementation of the Convention for timber species*, along with the World Customs Organization Harmonized System (HS) codes that apply to these commodities, the United States believes that there may be merit in clarifying these definitions. There have been a number of instances in the past several years where there has been confusion among the Parties about whether certain "secondary transformation" wood products and semimanufactured wood products are considered sawn wood or veneer, or something else. Currently, the CITES Plants Committee is tasked with reviewing the current annotations for timber species listed in Appendices II and III. The Committee will determine if amendments to any of these annotations are necessary and will prepare clear definitions for the terms used in these annotations. The CITES Secretariat has been tasked with commissioning a study by an external consultant to review the trade in Appendix-II and -III timber species to determine the types of commodities that are exported from the range countries, and the Plants Committee is to consider the results of this study in its review. The United States contributed \$15,000 for this trade study. Once the study has been conducted, and after the Plants Committee completes its review and prepares draft definitions for the terms used in the CITES timber annotations, the United States will review the definitions drafted for the terms "sawn wood" and "veneer," determine if they provide adequate clarity, and if not, decide if it should submit a document for CoP16 proposing its own draft revised definitions of these terms.

11. Trade in hunting trophies of Appendix-I species

SSN raised concerns about the lack of scientific rigor in proposals presented at CoPs for establishing or increasing export quotas for hunting trophies of Appendix-I species and about the lack of a mechanism to review such quotas once they have been approved. SSN urged that the United States propose revisions to Resolution Conf. 2.11 (Rev.), *Trade in hunting trophies of species listed in Appendix I*; Resolution Conf. 9.21 (Rev. CoP13), *The interpretation and application of quotas for species included in Appendix I*; Resolution Conf. 10.14 (Rev. CoP14), *Quotas for leopard hunting trophies and skins for personal use*; Resolution Conf. 10.15 (Rev. CoP14), *Establishment of quotas for markhor hunting trophies*; and Resolution Conf. 13.5 (Rev. CoP14), *Establishment of export quotas for black rhinoceros hunting trophies*, to: (a) Incorporate

criteria that must be met before quotas for Appendix-I species are approved; (b) require that such quotas be reviewed and renewed at each CoP; (c) require that quotas in place be regularly monitored to ensure that the basis for assigning them remains valid; and (d) remove the presumptions placed on the importing country that quotas may be accepted as appropriate in the absence of direct evidence to the contrary. In addition, SSN recommended that the United States propose that Appendix-I export quotas not be approved for exporting countries that have not adopted appropriate measures for effective implementation of the Convention or those that do not provide timely annual and biennial reports. They also expressed concern about language in some of the resolutions stating that the financial benefits derived from trophy hunting will benefit the conservation of the species directly. SSN considers this assertion to be questionable and suggested it should be removed.

The United States believes that it is important that all export quotas are based on sound science to ensure they are non-detrimental and that they are carefully monitored by range countries. We agree that this is particularly important with regard to export quotas established by the CoP for Appendix-I species. As described in paragraph A.1. above, we recognize that exporting and importing countries share the responsibility for ensuring that export quotas are respected, and we are currently working with range States to clarify quota requirements for leopard (*Panthera pardus*) hunting trophies. The United States is undecided about submitting a document on trade in hunting trophies of Appendix-I species pending the outcomes of our discussions with leopard range States and importing countries.

12. Hunting trophy personal effects

SCI and SCIF expressed the view that hunting trophies that include manufactured items crafted from animals taken by hunters are by their very nature personal effects and should therefore qualify under the CITES personal and household effects exemption (i.e., no CITES permit or certificate would be required to move such specimens in international trade). SCI and SCIF further recommended that Resolution Conf. 13.7 (Rev. CoP14), *Control of trade in personal and household effects*, should be amended to remove the requirement that a hunting trophy must be carried by the hunter as accompanying baggage in order to qualify as a personal effect.

The Parties have been considering how to implement Article VII, paragraph 3, of the Convention for a number of years. Resolutions Conf. 10.6 and 12.9 were adopted to address some elements of this provision of the Treaty. Most recently, the Parties adopted Resolution Conf. 13.7 at CoP13 and then revised it at CoP14 (Resolution Conf. 13.7 (Rev. CoP14)) to further clarify how personal and household effects should be handled. However, issues have remained, resulting in the Parties adopting several decisions to have the Standing Committee form working groups to discuss these ongoing concerns. Decision 14.64 (Rev. CoP15), adopted at CoP15, directs the Standing Committee to extend the operation of the Working Group on Personal and Household Effects to, among other things, clarify the implementation of Article VII, paragraph 3(b). Until this Working Group has the opportunity to finalize its work and report to the Standing Committee at SC62, the United States remains undecided as to submitting a document on whether sport-hunted trophies that are not travelling with the hunter should be covered by the provisions of Article VII, paragraph 3. It should be noted that, as stated in Article VII, trophies

of Appendix-I species acquired by the owner outside his/her State of usual residence and being imported into that State cannot be treated as personal effects qualifying for the exemption under Article VII, paragraph 3.

13. Asian big cats

In their comments, SSN noted the continued illegal demand for parts and derivatives of all Asian big cats, and the illegal killing of these species to supply the trade. They further noted that too few of the measures identified by the CITES Secretariat to enhance law enforcement efforts have been adequately implemented by CITES Parties. They argued that CITES Parties should be reminded of their obligation to implement Resolution Conf. 12.5 (Rev. CoP15), *Conservation of and trade in tigers and other Appendix-I Asian big cat species*. SSN also expressed frustration over the lack of intelligence-sharing on tiger crimes. They requested that the United States call upon Asian big cat range States to provide reports on the illegal killing of and trade in all Appendix-I Asian big cat species. SSN also requested that the United States propose indicators of effective enforcement to be used by all Parties reporting, so that a more meaningful evaluation of progress can be made. SSN also recommended that the United States propose an amendment to Decision 15.46 on *Asian big cats*, to extend the deadline of June 30, 2010, by which Parties were requested to report on incidents of poaching of and illegal trade in tigers that have occurred within their territory since the beginning of 2007. They recommended that the United States call for the use of the Forest and Wildlife Crime Analytic Toolkit, currently in preparation by partners of the International Consortium on Combating Wildlife Crime (ICWC), as a means of evaluating gaps in enforcement legislation, capacity, strategy, and infrastructure, as a means for highlighting future international cooperation to strengthen national and international enforcement efforts. They also recommended that the United States draw attention to TRAFFIC's Tiger Tracker, which records open-source data on poaching, seizure, and market incidents. Finally, they asserted that nonreporting on implementation of Resolution Conf. 12.5 (Rev. CoP15) should be considered a case of noncompliance and urged the United States to raise this matter at SC62 in July 2012.

We share SSN's concerns about the continued decline in populations of Asian big cats, as well as the continued illegal international trade in their parts and products. The United States will take into consideration SSN's comments and may submit a document for consideration at CoP16 that would support a strong stance on the conservation of Asian big cats and the importance of effective reporting and sharing of intelligence information in addressing continuing illegal activities.

14. Tiger farming and domestic trade

SSN expressed concern about the continued leakage of tiger parts and derivatives from tiger-breeding operations in China, Laos, Thailand, and Vietnam. They also expressed concern about the ongoing market for tiger parts and products and evidence suggesting that China continues to be the destination for illegally killed wild tigers. SSN encouraged the United States to call for full implementation of Decision 15.46, on *Asian big cats*, at SC62 in July 2012, and consider proposing that text of the Decision be incorporated into Resolution Conf. 12.5 (Rev. CoP15),

Conservation of and trade in tigers and other Appendix-I Asian big cat species. They also proposed specific amendments to the text of Resolution Conf. 12.5 (Rev. CoP15) related to the captive breeding of tigers and other Asian big cats and the control of stockpiles of Asian big cat parts and derivatives. Finally, SSN requested that, in the event their suggested revisions to Resolution Conf. 12.5 (Rev. CoP15) are not adopted, the United States propose that, where stocks of parts and derivatives of tiger and other Asian big cats are not destroyed, they be consolidated, sealed, and adequately controlled, and that Parties provide annual reports on the volume of those stocks and the inspection and security of them.

The United States remains concerned about the continued decline in wild Asian big cat populations and the illegal trade in their parts and derivatives. We will take into consideration SSN's comments and discuss with other Parties how best to address the concerns raised here.

15. Illegal trade in specimens of Appendix-I bear species

SSN recommended that the United States propose an amendment to Resolution Conf. 10.8 (Rev. CoP14), *Conservation of and trade in bears*, and/or decisions to establish a process by which range and consumer States that are identified in the new report of TRAFFIC Southeast Asia on illegal trade in Asian bear species as being involved in illegal trade in Appendix-I bear species take specific recommended actions to address the problems identified in the report and report to the Standing Committee on progress made in implementing these actions. SSN proposed that relevant Parties should be given a deadline by which they must respond and the Standing Committee should be directed to take steps to encourage these Parties to implement the recommended actions.

The United States is currently undecided about these recommendations pending further internal discussions and additional information on how this issue might be addressed effectively within CITES.

16. Rhinoceroses: Enforcement pertaining to trade in products

SCI and SCIF commented that the United States should support strict enforcement of CITES controls on trade in rhinoceros products, without unnecessary limitations on the legitimate hunting of rhinoceroses. They noted that there have been a number of recent incidents of criminal elements taking advantage of legal hunting opportunities to feed the illegal market for rhinoceros parts. The United States is actively participating in the intersessional CITES Rhinoceros Working Group formed by the CITES Standing Committee, and we will continue to engage in that process. At this time, the United States is undecided about whether to submit a document independent of any document that may result from the work of the Standing Committee on this issue.

17. Rhinoceroses: Export of horn for commercial purposes

SSN noted the recent thefts from European museums of rhinoceros horns and the increase in criminal activity associated with the international movement of rhinoceros horns. They also

noted that the United Kingdom has taken steps to increase controls on worked rhinoceros horns and rhinoceros hunting trophies. SSN recommended that the United States ensure that rhinoceros parts from this country are not entering illegal international trade and make recommendations to the Standing Committee and CoP16 that other Parties do the same.

We are extremely concerned about the increased criminal activity surrounding the international movement of rhinoceros horns and are working both within the United States and with the international community to address this issue. The United States is a member of the Standing Committee's Rhinoceros Working Group and will continue to work through that forum to develop strong recommendations for consideration at CoP16. Depending on the outcome of that Working Group, the United States may also consider submitting a separate document for consideration at CoP16.

18. Rhinoceroses: Definition of "appropriate and acceptable" in the annotation to the Appendix-II listing of the South African population of the white rhinoceros

SSN recommended that the United States propose an additional safeguard in the annotation to the Appendix-II listing of the South African population of the white rhinoceros (*Ceratotherium simum simum*) to ensure that, if exports of live rhinoceroses from any Party are to be authorized in the future, they should be exclusively to *in-situ* conservation programs. [This recommendation for a change to the annotation of a CITES species listing should more appropriately have been submitted during the 60-day comment period for our **Federal Register** notice published on June 14, 2011 (76 FR 34746), requesting information and recommendations on species proposals for the United States to consider submitting for consideration at CoP16. However, we are addressing it in this notice and will ensure that our Division of Scientific Authority is involved in formulating our final decision.]

South Africa's and Swaziland's populations of southern white rhinoceroses are included in CITES Appendix II, with an annotation restricting their inclusion in Appendix II to the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and in hunting trophies. CITES Resolution Conf. 11.20, *Definition of the term 'appropriate and acceptable destinations,'* defines the term "appropriate and acceptable destinations" with reference to the CITES Appendix-II annotation for southern white rhinoceroses in South Africa and Swaziland to mean destinations where the Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it.

The United States understands SSN's concerns that the Appendix-II annotation, as written, does not expressly preclude the possibility of the import of live animals whose parts and products could eventually end up supplying commercial markets. Any change to the annotation to prevent this possibility would need to happen in close consultation and coordination with South Africa and Swaziland. Pending consultations with South Africa and Swaziland, the United States remains undecided about whether to submit a proposal to amend the annotation to restrict export of live animals exclusively to *in-situ* conservation programs.

19. Reporting on rhinoceros issues (Resolution Conf. 9.14 (Rev. CoP15))

SSN noted with concern the export of live southern white rhinoceroses from South Africa to China. They also noted that China apparently intends to move at least some of those animals to other facilities within the country, and they expressed concern about the future fate of those captive rhinoceroses. SSN recommended that the United States propose that all Parties include the following information in their reports to IUCN/TRAFFIC as requested in Resolution Conf. 9.14 (Rev. CoP15), *Conservation of and trade in African and Asian rhinoceroses*: the locations, domestic transfer, and the births and deaths of all live rhinos that have been subject to international trade. As noted previously, the United States is a member of the Standing Committee's Rhinoceros Working Group. We will raise SSN's suggestion within the Working Group, and dependent upon the outcome of discussions at SC62 in July 2012, the United States may also consider submitting a separate document for consideration at CoP16. WWF also expressed its hope for a strong outcome from the Standing Committee's working group in response to the ongoing rhinoceros poaching crisis in southern Africa.

20. Pangolins

SSN recommended that the United States submit a draft decision directing that CITES (presumably the Secretariat), subject to available funding, organize a meeting of regional CITES and enforcement agencies in order to establish an action plan to address the continuing illegal trade in Asian pangolins. They also recommended that the United States submit a draft resolution on the trade in pangolins urging Parties to seek to improve their legislation regarding international trade in Asian pangolins; consider voluntarily prohibiting all international trade and internal trade and sale of Asian pangolins; strengthen enforcement efforts; consolidate and ensure adequate control of stocks of parts and derivatives of Asian pangolins, and report annually to the CITES Secretariat on these stocks; and be aware of the potential demand for these species in international trade and include any data on trade in Appendix-II pangolin species in their CITES annual reports. SSN proposed that the draft resolution should also urge the Standing Committee to review annual reports at each Standing Committee meeting, make recommendations to relevant Parties to improve control, and take measures as necessary to penalize those Parties that do not implement the recommendations within a specified period of time.

We share SSN's concerns about the illegal trade in Asian pangolins and are taking their comments into consideration. At this time, the United States is undecided about whether to submit a document on this issue for consideration at CoP16. In reaching a final decision, we may undertake consultations with Asian pangolin range States and the Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN-WEN) to gauge their interest in moving forward with additional measures on this issue under CITES.

21. Elephants: Panel of Experts

SSN recommended that the United States propose a revision of Resolution Conf. 10.9, *Consideration of proposals for the transfer of African elephant populations from Appendix I to Appendix II*, to establish a standing Panel of Experts to ensure that the Panel can be convened

and deployed in a timely fashion as soon as a proposal to transfer a population of the African elephant from Appendix I to Appendix II is received by the Secretariat. SSN proposed that the Resolution also be amended to include a deadline for the Secretariat to forward submitted proposals to the Panel. The United States is always actively engaged on elephant and ivory trade issues within CITES and closely monitors activities related to evaluation of proposals to transfer elephant populations from Appendix I to Appendix II. Currently, we are undecided on the need to amend Resolution Conf. 10.9.

22. Elephants: Ivory-trading partners

Since some populations of African elephant (*Loxodonta africana*) were transferred from Appendix I to Appendix II, there have been two auctions of registered, government-owned raw ivory (from Appendix-II populations) authorized by the Conference of the Parties. The first took place in 1999, the other in 2008. In 1999, Japan was the only verified trading partner under the provisions of Decision 10.1. Japan and China were both verified as trading partners for the 2008 sale under the provisions of the Appendix-II listing annotation for the African elephant. In its comments, SSN urged a review of the trading-partner status of China and Japan, citing escalating levels of poaching and illegal trade in ivory. SSN recommended that the United States submit a document for consideration at CoP16 calling for a regular, comprehensive review of the status of all CITES-approved ivory trading partners by an independent consultant to determine whether there is a need for their trading-partner status to be amended or revoked. In addition, SSN believes that trading-partner status should not exceed a defined period of time and trading partners should be required to reapply and demonstrate that they still meet the necessary conditions.

While not specifically aimed at ivory-trading partners, we note that the Standing Committee is undertaking work on trade in elephant specimens. Decision 14.77 directs the Standing Committee, assisted by the Secretariat, to propose a decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties, for consideration at CoP16. A consultant has been hired to develop feasible options for a decision-making mechanism, and this work is currently ongoing. Decision 15.74 directs the Standing Committee, in consultation with elephant range States and the Secretariat, to evaluate the need to revise Resolution Conf. 10.10 (Rev. CoP15), *Trade in elephant specimens*, and present a summary of its consultations and proposals at CoP16. This work is also ongoing. The United States is undecided about submitting a document on ivory-trading partners pending further discussions and additional information about the progress of work under Decisions 14.77 and 15.74.

23. Monitoring the Illegal Killing of Elephants (MIKE)

SSN recommended that the United States submit a document directing the Standing Committee to: (a) Commission a full independent review of MIKE, including financial viability, to be undertaken prior to CoP17; (b) develop recommendations on the future and improvement of MIKE for adoption at CoP17, based on the outcome of the review, with a special focus on transparency and accountability in the definition of priorities for funding allocation and reporting; and (c) develop recommendations to ensure regular monitoring of the MIKE program

by the Standing Committee. The United States serves as a member of the Standing Committee's MIKE/ETIS Subgroup, which is currently undertaking a review of Resolution Conf. 10.10 (Rev. CoP15), *Trade in elephant specimens*. We are actively engaging in those discussions and expect the Subgroup to make recommendations to amend Resolution Conf. 10.10 (Rev. CoP15). The United States is currently undecided on this recommendation, pending the outcome of the Subgroup's review.

C. What resolutions, decisions, and agenda items is the United States not likely to submit for consideration at CoP16, unless we receive significant additional information?

1. Streamlined process for trade in pre-CITES, pre-ESA, and pre-Lacey Act specimens

One individual suggested that all businesses engaged in international trade in plant and animal specimens be licensed and that international trade in items containing specimens qualifying as pre-Convention under CITES, pre-Endangered Species Act (ESA), or pre-Lacey Act simply be declared on a commercial invoice rather than having to be accompanied by individual permits or certificates. This individual also asserted that all personal items in noncommercial transit should receive an automatic exemption from CITES, the ESA, and the Lacey Act.

With regard to the suggestions regarding the ESA and the Lacey Act, this notice only pertains to CITES, and comments related to the ESA and the Lacey Act are outside of the scope of this process. With regard to the suggestion that all personal items in noncommercial transit should receive an automatic exemption from CITES, while there are provisions in place to exempt some personal items from permitting requirements, an automatic exemption for all personal items would be inconsistent with the Treaty. With regard to the suggestion that international trade in pre-Convention specimens simply be declared on a commercial invoice and not require CITES permits or certificates, the Convention requires issuance and presentation of pre-Convention certificates for such specimens and the mere declaration of the specimens on an invoice in lieu of a pre-Convention certificate would be inconsistent with CITES. Therefore, the United States is unlikely to submit such a proposal for CoP16. However, as noted in A.3. above, the United States is likely to submit a document for consideration at CoP16 proposing a musical instrument passport system for personally owned instruments.

2. Financing and budgeting of the Secretariat

SSN recommended that the United States submit a document for CoP16 proposing that, when reporting on its expenditures and on its projected Costed Program of Work, the Secretariat report on costs per project and method of implementation (in addition to the broad categories presently provided), provide a separate chart on staff costs to allow Parties to better evaluate work priorities for Secretariat staff, provide a list of meetings attended by Secretariat staff and associated costs, and provide feedback on which activities have been completed and their methods of implementation, and whether core and high-priority activities have received precedence over medium- and low-priority activities. SSN also recommended that the United States propose the creation of procedures for regular financial auditing of the Secretariat and the

submission of auditing reports to the Standing Committee. SSN reasoned, in part, that their recommendation would “allow Parties to assist the Secretariat in the definition of funding priorities.” We note that the Terms of Reference for the Finance and Budget Subcommittee of the Standing Committee adopted at CoP15 direct the Subcommittee to undertake the sort of activities recommended by SSN. Therefore, the United States is not likely to submit a document for CoP16 on this issue.

3. Increased transparency within the Secretariat

AWI recommended that the United States consider submitting a draft resolution for CoP16 to mandate that the Secretariat make available all communications, correspondence, and other documents to all Parties and observers (e.g., communications from the Secretariat to a Party regarding its wildlife trade practices, etc.) in order to improve the transparency of the Secretariat.

AWI noted that, in executing instructions from the Standing or Technical Committees, the CITES Secretariat does not make its communications with Parties publicly available. AWI also noted that responses from Parties to communications from the Secretariat are only made “immediately before” such issues are scheduled for discussion at Committee meetings. While the United States is a strong supporter of transparency and information-sharing in the Secretariat's conduct of official business, we believe that the proposal from AWI is not practicable, because it would increase the workload of the Secretariat, and because some communications involve sensitive issues, including enforcement-related issues, and should not be made public. Therefore, the United States is not likely to submit a document for CoP16 on this issue, but we will continue to be an advocate for openness and transparency in the operations of the Secretariat where appropriate.

4. Human population growth and wildlife trade

One individual recommended that the United States propose a resolution for CoP16 to address the impact of human population growth on wildlife and wildlife trade. The purpose of such a resolution, according to the proponent, would be to: (a) Encourage countries to consider human population growth and potential efforts to reduce growth rates in their broader planning efforts; (b) ensure that projected human population growth and its impact on wildlife populations and their habitats is considered when countries are preparing non-detriment findings and species quotas, and in making other CITES decisions; and (c) ensure that human population growth is considered in country-specific wildlife and habitat protection plans, including plans for the regulated take of wildlife for wildlife trade purposes.

The United States acknowledges the concerns expressed by the proponent that increases in human population growth, affluence, and economic development form the basis for a proportion of the threats facing wildlife persistence and sustainability, including increased human-wildlife conflict. The United States finds that CITES scientific decision-making processes adequately allow for consideration of all threats facing populations of species that are subject to international trade, in order to ensure the sustainability of these species. Because adequate scientific decision-making processes under CITES are already in place, the United States is unlikely to propose a resolution for CoP16 to specifically address impacts of human population growth.

5. Evaluating enforcement capacity

SSN recommended that the United States consider proposing the application of the ICCWC enforcement toolkit as a means of identifying CITES enforcement assistance and development needs and that the results of any needs assessment be fully integrated into the capacity-building priorities of the Secretariat. SSN recommended that the United States seek to initiate a project, modeled on the National Legislation Project, whereby enforcement of CITES is evaluated on a Party-by-Party basis and recommendations formulated as determined by those evaluations. They further recommended that the United States submit a draft decision for CoP16 directing the Secretariat, subject to available funding, to hire a technical consultant to prepare a report on 18 examples of known illegal CITES trade from the last 5 years and report on the outcome. These examples should include 3 from each of the 6 CITES regions, and there should be 9 comprising live fauna and 9 comprising live flora. The results should then be evaluated by the Standing Committee and enforcement gaps be identified and recommendations formulated for CoP17.

It is important that Parties have national laws that adequately implement CITES, and that those laws are enforced. Although the United States generally supports efforts to measure effective enforcement capacity, SSN's proposal will have budgetary implications for the Secretariat and budgetary implications for participating Parties, including the United States, thereby reducing funding for other priorities. Therefore, the United States is not likely to submit a document for CoP16 on this issue.

6. Reporting against new indicators of effective enforcement

SSN recommended that Parties reporting to the Standing Committee and the CoP under species-specific resolutions and decisions should be required to provide evidence that the following is taking place: Proactive, covert, intelligence-led operations that build up a profile of wildlife criminals and their associations and networks; generation of the right kind of intelligence to enable the mapping of such associations and networks; multiagency and transnational sharing of intelligence through swift and secure means; development of national and transnational operations on the basis of intelligence; use of controlled deliveries as an evidence-gathering tool to disrupt networks; recovery of assets from wildlife crime through the use of proceeds of crime legislation; and increased detection and prosecution rates.

The United States believes that reporting of law enforcement techniques and procedures as proposed by SSN is unnecessary. Sufficient opportunity exists for reporting of law enforcement activities by Parties in CITES biennial reports to the CITES Secretariat and national reports to the CITES Standing Committee. We are also aware that the Enforcement Unit of the CITES Secretariat, which has been increased in size since CoP15, is already focusing on some of the areas suggested by SSN.

7. Gathering and analysis of data on illegal trade

SSN recommended that the United States consider proposing that the reporting of illegal trade data should become a matter of compliance and that Parties provide their data to INTERPOL's Environmental Crime Programme, where it can be securely accessed by enforcement officers from all CITES Parties.

As a result of discussion at SC61 of Document SC61 Doc. 31, *Gathering and analysis of data on illegal trade*, there was general agreement that it was impractical for the Secretariat to maintain a database for gathering and analysis of data on illegal trade in CITES species, and several delegations encouraged the use of existing regional or international databases, such as that operated by INTERPOL. The United States agrees that the illegal trade in CITES-listed species is currently underreported. However, there was no consensus at SC61 that the use of such tools should be compulsory. The United States believes that Parties should report on CITES-listed specimens that have been seized and/or refused entry directly into their CITES annual reports (as the United States currently does, with an additional data field called 'Status' that includes codes for specimens that have been "cleared," "seized," and "refused entry").

8. Enforcement matters: Controlled deliveries expertise

WWF recommended that the United States take the lead among Parties to lend momentum to ICCWC's ongoing work on controlled deliveries as a method of reaching the "big players" in wildlife trafficking. We support enforcement initiatives on controlled deliveries and establishing cooperation and coordination between CITES Parties that are interested in developing and implementing such programs. The Secretariat is actively involved in this area, and the United States does not foresee taking a lead role at this time.

9. Elevating the profile of wildlife crime

WWF recommended that the United States submit a draft resolution for CoP16 recognizing wildlife crime as a "serious" crime, whereby Parties agree to change their CITES-implementing legislation as necessary to provide for the maximum deterrent. Article VIII of the CITES Treaty already requires that Parties take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof, including measures to penalize trade in, or possession of, such specimens, and to provide for the confiscation or return to the State of export of such specimens. We firmly believe that the effectiveness of the Convention is undermined when Parties do not have adequate national laws in place for implementing and enforcing CITES and strongly support the continuing work under the CITES National Legislation Project. In addition, we strongly support the efforts of ICCWC and other international consortia working to support national wildlife law enforcement networks and raising awareness of the seriousness of wildlife crime. However, these activities are already going on and the United States does not believe it is necessary in addition to submit a draft resolution for CoP16 to recognize wildlife crime as a "serious" crime.

10. Multilateral measures in CITES

SCI and SCIF submitted a comment supporting the use of the various multilateral measures that

are available within CITES to deal with concerns about permit issuance and trade, and opposing the use of “stricter domestic measures.” The United States believes that stricter domestic measures are an essential part of national wildlife protection, and we support any Party’s prerogative and right under the Convention to adopt stricter measures (as per Article XIV). While we strive for multilateral solutions, we have a right and responsibility to apply stricter domestic measures as needed for national conservation and trade management purposes, if such action is otherwise consistent with international law. In drafting the CITES Treaty, the treaty negotiators clearly chose to impose no restrictions on any sovereign power to take lawful stricter domestic measures.

11. Uniform application of CITES

Gruhn Guitars commented that some countries require import permits in addition to the CITES documents issued by the exporting or re-exporting country. They stated that CITES procedures should be applied uniformly across countries. While the United States does not require the issuance of import permits for species listed in Appendices II and III, a number of countries have enacted stricter domestic legislation requiring import permits for such species. Article XIV of CITES states that the provisions of CITES do not in any way affect the right of Parties to adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of specimens of species included in the Appendices. The United States would not recommend adoption of measures that are directly contrary to the provisions of the Convention. However, if anyone believes that a country is incorrectly requiring CITES import permits, he/she should make us aware of it, and we will consult directly with the country involved.

12. Livelihoods

SCI and SCIF recommended that the United States support the review of the effects of CITES on livelihoods, specifically with regard to the benefits of sustainable use of CITES species to local communities. They note that tourist safari hunting has the potential to generate significant income for rural communities in developing countries. Resolution Conf. 8.3 (Rev. CoP13), *Recognition of the benefits of trade in wildlife*, specifically notes that “commercial trade may be beneficial to the conservation of species and ecosystems, and to the development of local people when carried out at levels that are not detrimental to the survival of the species in question.” Additionally, there is an ongoing working group of the Standing Committee specifically tasked with looking at impacts of implementing CITES listing decisions on the livelihoods of the poor. The United States is engaged in the discussions of this issue in the Standing Committee and is unlikely to submit a document for consideration at CoP16 outside of this effort.

13. Measurements and units used in reporting

SSN recommended that the United States submit a draft resolution for CoP16 that describes in detail the volume- or weight-based measurements needed for each CITES description of specimens in order to comply with the *Guidelines for the Preparation and Submission of CITES Annual Reports*. In addition, SSN suggested that the draft resolution recommend that Parties report trade using two units of measure when possible (such as the quantity of specimens and one

standard unit of measure, such as weight or volume). SSN stressed that the accurate recording on permits and in annual reports of the description of specimens and the units of measure is crucial for such data to be utilized in estimating the impacts of trade on the wild populations of CITES-listed species.

We agree that providing complete and accurate specimen descriptions, quantities, and units of measure on CITES permits is essential. We also agree that accurately recording such data in CITES annual reports is crucial if such data are to be meaningfully used in estimating the impacts of trade on the wild populations of CITES-listed species. However, we do not believe that it is necessary to submit a draft resolution for CoP16 that describes in detail the volume- or weight-based measurements recommended for use for each CITES description of specimen in the *Guidelines for the Preparation and Submission of CITES Annual Reports*. As noted by SSN in its comments, CITES Resolution Conf. 11.17 (Rev. CoP14), *National reports*, already recognizes “the importance of the annual reports and biennial reports as the only available means of monitoring the implementation of the Convention and the level of international trade in specimens of species included in the Appendices.” This Resolution also urges Parties to submit their annual reports in accordance with the *Guidelines for the preparation and submission of CITES annual reports*, and these *Guidelines* provide specific instructions for standardized reporting of specimen descriptions, units of measure, and quantity. Likewise, the instructions and explanations for the standard CITES permit form provided in Annex 2 of Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*, recommend that detailed information be provided in Block 9 describing the permitted specimen, and that the quantity and unit of measure be provided in Block 11 and should conform to the annual report *Guidelines*.

Ensuring that CITES Parties are harmonizing how they issue permits and the information provided on them is an ongoing process. Some Parties have not submitted accurate, timely, and standardized annual reports. However, over the past several years, there has been a continued improvement in permit harmonization and annual reports, and specimen descriptions, units of measure, and quantities have been more consistently reported. We believe that the additional burden of requiring the reporting of CITES trade using two units of measurement would, rather than clarifying the trade data and making it more useful, make the trade data more confusing and less standardized. Therefore, the United States is not likely to submit the draft resolution proposed by SSN for consideration at CoP16.

14. An alternative to CITES

One individual recommended that the United States submit a document soliciting discussion of the possibility of either substantially revising CITES or replacing it with a new Convention that would prohibit international trade in all species except for those designated as capable of sustaining regulated trade. It is the position of the United States that CITES has, since its inception, helped to prevent the decline in wild populations of animals and plants by ensuring that international trade does not threaten their survival. We believe that CITES has been and will continue to be an extremely effective mechanism in regulating international wildlife trade and do not support radically revising it or replacing it with a new Convention.

15. Streamlining the Review of Significant Trade process

AWI recommended that the United States consider proposing a resolution to restructure the Review of Significant Trade process to make it more streamlined and expeditious, and also to include an automatic recommendation for a suspension of trade in species under review from those countries going through the review process for those species.

The United States is a member of the Advisory Working Group established to assist the Animals and Plants Committees in overseeing the evaluation of the Review of Significant Trade under Decision 13.67 (Rev. CoP14). At the recent joint meeting of the CITES Animals and Plants Committees, the Committees established a Working Group with a mandate that included development of a road map for completion and reporting on the evaluation of the Review of Significant Trade and development of an agenda for a meeting of the Advisory Working Group to be held in Vilm, Germany, in June 2012. The United States participated in this Working Group at the joint meeting and contributed to discussions and the Working Group report. As noted in its report, the Working Group identified problems related to the slowness and inefficiency of the Significant Trade Review process as topics that should be discussed by the Advisory Working Group at its June 2012 meeting. The Working Group did not identify issues associated with recommendations for suspension of trade as a topic that should be discussed by the Advisory Working Group. The United States generally supports decision-led actions in CITES as opposed to automatically triggered actions. Therefore, the United States is unlikely to propose an automatic recommendation for a suspension of trade, and unless this concept were to be put forward by the Advisory Working Group, we would be unlikely to support inclusion of it as an amendment to Resolution Conf. 12.8 (Rev. CoP13), *Review of Significant Trade in specimens of Appendix-II species*. The road map that was developed by the Working Group indicates that the evaluation is scheduled to be completed and reported on at CoP17. Since the evaluation of the Review of Significant Trade is still ongoing and will not be completed prior to CoP16, the United States is unlikely to submit a proposed resolution to CoP16 to restructure or change the Review of Significant Trade process.

16. Periodic Review of the Appendices, Lions

SCI and SCIF recommended that the United States support the inclusion of the African lion (*Panthera leo*) in the Periodic Review of Felidae. SCI and SCIF noted that, at the 25th meeting of the Animals Committee in 2011, the Working Group on the Periodic Review of the Appendices recommended inclusion of the African lion in the Periodic Review of Felidae and that Namibia and Kenya volunteered to lead the review in coordination with the other range States. However, SCI and SCIF noted that it was not clear whether the lion review was officially part of the Periodic Review of the Appendices.

A U.S. document submitted for the 25th meeting of the Animals Committee recommended that the African lion be considered for inclusion in the Periodic Review of Felidae, as part of the Periodic Review of the Appendices. This recommendation was endorsed by the Periodic Review of the Appendices Working Group, and the Animals Committee adopted it. The United States continues to support this review. Therefore, the United States is unlikely to submit a

recommendation for CoP16 that the lion be included in the Periodic Review because the Working Group reports from the 25th and 26th meetings of the Animals Committee acknowledge that the lion is currently included in the Periodic Review of the Appendices, led by Kenya and Namibia, and both Working Group reports provide additional recommendations for the review.

17. Definition of hunting trophy

IFAW and SSN provided recommendations regarding the definition of “hunting trophy” adopted by the Parties at CoP15 in Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*. SSN highlighted the differences between the definition of “sport-hunted trophy” in current U.S. regulations and the definition of “hunting trophy” in the Resolution and recommended that the United States submit a document for CoP16 explaining the implementation and enforcement problems created by including processed and manufactured products in the definition of “hunting trophy.” Both IFAW and SSN recommended the removal of processed and manufactured products from the definition. IFAW also recommended that, to reduce confusion, the term “readily recognizable” should be replaced with the term “identifiable.”

At the time our CITES-implementing regulations were written, the CITES Parties had not defined “hunting trophy.” We developed the definition in our regulations based on our experience with international trade in these items and the commonly understood meaning of the term from the dictionary and other wildlife regulations. The United States actively participated in discussions through an online forum prior to CoP15 and in a Working Group established at CoP15 to consider a CITES definition of “hunting trophy.”

Since the adoption of the definition in Resolution Conf. 12.3 (Rev. CoP15), we published a proposed rule to amend the definition of “sport-hunted trophy” in our CITES-implementing regulations to more closely match the definition adopted by the CITES Parties. The major difference between the definition in our current regulations and the definition adopted by the Parties is that the definition in Resolution Conf. 12.3 (Rev. CoP15) allows manufactured items derived from the hunted animals to be considered part of a hunting trophy, whereas the current definition in our CITES-implementing regulations specifically excludes such items. We have proposed to incorporate the definition contained in Resolution Conf. 12.3 (Rev. CoP15) into our regulations with some additional text to clarify the conditions under which the United States will allow the import of manufactured items as part of a “hunting trophy.” If we ultimately incorporate the new definition into our regulations, we will carefully monitor imports of sport-hunted trophies, particularly imports of manufactured items as parts of sport-hunted trophies, to evaluate the impact of this change. The United States is unlikely to submit a document for CoP16 recommending changes to the definition of “hunting trophy” pending the outcome of our rulemaking process.

18. Validation of permits for trade in scientific research materials

The Natural Science Collections Alliance, the Ornithological Council, and the Society for the Preservation of Natural History Collections submitted recommendations regarding difficulties associated with validation of CITES permits for scientific specimens. The Natural Science

Collections Alliance suggested that the United States submit a discussion document for CoP16 on how to improve the permit validation process for CITES scientific specimens. The Ornithological Council and the Society for the Preservation of Natural History Collections recommended that the United States should ask the CITES Secretariat to ask countries to report prior to or at CoP16 all instances of CITES imports of scientific research material that have been detained, seized, refused entry, or destroyed as a result of the lack of validation on CITES permits. In addition, they recommended that the United States consider submitting a draft resolution for CoP16 that would exempt scientific research material from CITES permit requirements or, alternatively, suspend implementation of the CITES permit validation requirement with respect to scientific research material.

Article VII, paragraph 6 of the Convention allows a specific exemption for the noncommercial exchange of scientific specimens between registered scientific institutions. International trade in CITES-listed scientific specimens that do not meet the requirements for an exemption must be accompanied by a valid CITES document. To be considered valid, the United States requires CITES documents to be validated or certified at the time of export or re-export, including the actual quantity of the specimens being exported or re-exported. This validation requirement is consistent with the recommendations in Resolution Conf. 12.3 (Rev. CoP15), *Permits and certificates*; Article VI, paragraph 2, and Appendix IV of the CITES Treaty; and our CITES-implementing regulations. Because validation is called for by the Convention unless the exemption allowed for in Article VII, paragraph 6, applies, the United States is unlikely to submit a document for CoP16 on validation of permits for trade in scientific research materials.

19. Unlisted species

SSN recommended that the United States propose adoption of a mechanism to select and review unlisted species subject to significant levels of international trade for possible listing in the CITES Appendices. SSN further proposed that this mechanism should have oversight by the Animals and Plants Committees, with a consultant hired to undertake the reviews.

The United States recognizes the responsibility of each Party to monitor unlisted species, especially those that are native to their country, to determine if significant levels of international trade may affect their conservation status such that they should be considered for inclusion in one of the CITES Appendices. The United States also recognizes the role the Parties have in submitting proposals to the CoP for consideration by the Parties. Given limited resources available to address the existing CITES Costed Programme of Work and the fact that there are existing mechanisms available to the Parties to select and review unlisted species subject to significant levels of international trade for possible listing in the CITES Appendices, the United States is unlikely to propose a new mechanism to undertake the task.

20. Newly discovered species

AWI recommended that the United States consider proposing a resolution for CoP16 that would automatically prohibit trade in a newly discovered species until the status of the species could be properly assessed and a determination made as to whether the species requires protection under

CITES. The United States understands the conservation concerns for some species that might be over-exploited soon after being discovered, before there is adequate time for their inclusion in the CITES Appendices. We note that newly discovered species that are part of a higher taxon (e.g., genus, family, or order) listed in the Appendices are automatically covered by the listing. However, in general, species should be added to CITES Appendix I or II when a proposal demonstrates that the species meets the listing criteria and that proposal is adopted by the CITES Parties, consistent with the provisions of the Treaty. Therefore, the United States is unlikely to submit a resolution that would include species in Appendix I or II automatically or without adoption by the Parties.

21. U.S. captive tigers

IFAW requested that the United States report on the measures it has taken to implement Resolution Conf. 12.5 (Rev. CoP15), *Conservation of and trade in tigers and other Appendix-I Asian big cat species*, particularly with regard to U.S. captive tigers. The United States has long taken a leadership role in CITES in addressing illegal killing of tigers and trade in tiger parts and derivatives. We intend to continue our leadership role on this issue at CoP16. However, the United States does not believe that it will be necessary to submit a document on its captive tiger measures for consideration at CoP16 in order to do that.

22. Bear bile trade

AWI recommended that the United States consider submitting a draft resolution for CoP16 that would reduce the cruel confinement of bears for the bear bile trade by imposing requirements that bears be farmed only if there is a legitimate conservation benefit to wild populations. Although the United States is concerned about this issue, the welfare of CITES-listed species lies outside the scope of CITES except in the case of international transport. We may monitor the issue and discuss it informally with Parties engaging in this practice. However, at this time the United States is unlikely to submit this proposal.

23. Creation of artificial ice floes for polar bears

One individual submitted a comment supporting the creation of artificial ice floes that would provide polar bears with places to rest and recuperate as they migrate to the sea ice. We understand the concern of the commenter about the effects of global climate change on polar bear habitat. However, the CITES treaty's goal is to ensure that international trade in animals and plants (and their parts and products) does not threaten their survival in the wild. Therefore, CITES is not the appropriate mechanism for addressing the creation of artificial habitat for the polar bear.

24. Rhinoceroses: Annotation to the Appendix-II listing of the populations of South Africa and Swaziland of the southern white rhinoceros

SSN recommended that the United States ask South Africa to impose a unilateral suspension on exports of both live rhinoceroses and rhinoceros hunting trophies (the two types of specimens

from South Africa covered by the Appendix-II annotation) and that if South Africa fails to take action, the United States should propose an amendment to the existing annotation at CoP16 that establishes a zero export quota. SSN expressed concerns that, because South Africa has no southern white rhinoceros hunting quotas, trophy exports from South Africa to Vietnam could result in rhinoceros parts and products being used commercially for traditional Chinese medicine (TCM). In addition, SSN expressed concerns about the possibility that horns of live rhinoceroses exported from South Africa to Vietnam and China may be used commercially for TCM.

The United States acknowledges SSN's concerns about the potential for illegal trade and use of rhinoceros horn imported as hunting trophies and that the Appendix-II annotation, as written, does not expressly exclude the possibility of the import of live animals whose parts and products could eventually end up supplying commercial markets. However, the United States is unlikely to ask South Africa to unilaterally impose a suspension of trade in live rhinoceros and rhinoceros hunting trophies or to propose an amendment to the annotation at CoP16 to establish a zero export quota on these exports from South Africa. We will continue to work through the Standing Committee to address concerns over the illegal trade in rhinoceros horn, including participation in the intersessional Working Group that was established at SC61 for the purpose of considering measures to improve rhinoceros conservation and combat poaching and illegal trade. We will also continue to collaborate with South Africa, and Swaziland if requested, on ensuring effective implementation of the Appendix-II annotation, including the possibility of exploring ways to strengthen the annotation.

25. Elephant ivory trade mechanism

CITES Decision 14.77 directs the Standing Committee, assisted by the Secretariat, to propose a decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties, for consideration at CoP16. A consultant has been hired to develop feasible options for a decision-making mechanism, and this work is currently ongoing. SCI and SCIF recommended that the United States support development of an apolitical mechanism for approving trade in elephant ivory. SCI and SCFI did not request that we submit a document on this issue. We have taken note of their comments.

26. Elephants: Broadening of the debate beyond the issue of allowing legal ivory trade

WWF expressed its concern regarding recent high levels of elephant poaching in central Africa and recommended that the United States lend its weight to broadening the debate concerning elephants beyond the issue of allowing legal ivory trade. They indicated that, while this issue is important, it should be seen in a wider context of other problems that are currently more significant in driving poaching and illegal trade. They noted that the measures needed to bring about significant reductions in illegal ivory trade are clearly summarized in the *Action plan for the control of trade in elephant ivory*, but that the plan remains only partially implemented. WWF expressed its appreciation for the initiative taken by China and the United States in organizing the first Technical Exchange Meeting between producing, consuming, and transiting nations to reduce the illegal trade in African elephant ivory, held in China in 2010. WWF did not request that the United States submit a document for CoP16 on this issue. We have taken note of

their comments.

27. Sharks, rays, and skates (elasmobranchs)

SSN recommended that the United States submit a draft decision directing the Secretariat to contract appropriate technical experts to prepare a report to determine the most vulnerable elasmobranch species found in international trade in order to determine which species would most benefit from CITES listings. SSN further recommended that the findings of this report should then be referred to the Animals and Standing Committees with final recommendations to be made at CoP17.

Consideration of international trade in sharks by CITES Parties began at CoP9 (1994) with a document submitted by the United States. The intent of the document was to encourage discussion on how to collect data on international trade in shark parts and products and on the impact of that trade on shark populations. The result was the adoption of Resolution Conf. 9.17, *Status of international trade in shark species*. The Resolution called for Parties to submit information to the Secretariat and for the Animals Committee to review that information, along with information from other sources, to prepare a discussion document on the biological and trade status of sharks for consideration at CoP10 (1997). Since that time, the conservation and management of sharks has been considered at every regular meeting of the Animals Committee and CoP, and substantial work has been undertaken intersessionally.

Discussion documents have been developed, workshops held, and reports provided on various issues related to international trade in sharks. Recent efforts have been undertaken by the Shark Working Group of the Animals Committee to develop a list of vulnerable shark species found in international trade in order to determine which species would most benefit from CITES listings. Significant resources were expended on these efforts, but ultimately, it was not possible to reach consensus on a list of species. Consequently, the United States has come to believe that the idea of developing a global list of shark species in need of conservation measures may not be the most effective exercise for conserving shark populations. Rather, the United States recognizes the responsibility that Parties have to monitor international trade in unlisted species, including sharks, and where there is concern, Parties should submit proposals to the CoP for consideration. Therefore, the United States is unlikely to submit a draft decision for CoP16 directing the Secretariat to contract appropriate technical experts to prepare a report to determine the most vulnerable elasmobranch species found in international trade in order to determine which species would most benefit from CITES listings. The United States remains committed to the conservation of sharks and will continue to look for productive ways to further shark conservation in CITES.

28. Amphibians

The SSN Amphibian Working Group recommended that the United States submit a discussion document (possibly with the European Union) for the 26th meeting of the Animals Committee (held in March 2012) on international trade in frog legs and its ecological impact. They proposed that this document could include an offer to host a workshop on trade in frog legs for exporting

countries and importing countries and other experts, and urge Parties to collect data on trade volumes and species involved. While the United States did not submit such a document, Germany (at the request of ProWildlife, a non-governmental organization) did submit an Information Document for the Animals Committee meeting, entitled *Report on International Trade in Frog's Legs*, which contained a published report on the trade in frog's legs, *Canapes to Extinction: The International Trade in Frogs' Legs and its Ecological Impact*. The Animals Committee did not make any recommendations for CoP16 concerning the trade in frog's legs. The SSN Amphibian Working Group also recommended that the United States submit a document for CoP16 requesting that range States initiate better monitoring and management of wild frog populations. This recommendation was largely based on the Animals Committee Information Document.

The United States recognizes that there is a large international trade in frogs and frog legs, but it is not clear from the available evidence that the conservation impact of this trade is significant. We believe additional information is needed in this area. The United States also notes that CITES processes are currently underway for other herpetofauna (notably Asian freshwater and terrestrial turtles and Asian terrestrial and marine snakes) and that the resources necessary to conduct additional work on the frog trade might be more readily available at a future time. Although we would welcome the opportunity to consider a document submitted by another Party, the United States is not likely to submit a document as recommended on this issue.

Request for Information and Comments

We invite any information and comments concerning any of the possible CoP16 proposed resolutions, decisions, and agenda items discussed above. You must submit your information and comments to us no later than August 20, 2012, the date specified in our related **Federal Register** notice, to ensure that we consider them. Comments and materials received will be posted for public inspection on <http://www.regulations.gov>, and will be available by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Division of Management Authority. Our practice is to post all comments, including names and addresses of respondents, and to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from public review, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from public review a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all comments and materials submitted by organizations or businesses, and by individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Observers

Article XI, paragraph 7 of CITES states the following:

“Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.”

Persons wishing to be observers representing international non-governmental organizations (which must have offices in more than one country) at CoP16 may request approval directly from the CITES Secretariat. Persons wishing to be observers representing U.S. national non-governmental organizations at CoP16 must receive prior approval from our Division of Management Authority. Once we grant our approval, a U.S. national non-governmental organization is eligible to register with the Secretariat and must do so at least 6 weeks prior to the opening of CoP16 to participate in CoP16 as an observer. Individuals who are not affiliated with an organization may not register as observers. An international non-governmental organization with at least one office in the United States may register as a U.S. non-governmental organization if it prefers.

Any organization that submits a request to us for approval as an observer should include evidence of their technical qualifications in protection, conservation, or management of wild fauna or flora, for both the organization and the individual representative(s). The request should include copies of the organization’s charter and any bylaws, and a list of representatives it intends to send to CoP16. Organizations seeking approval for the first time should detail their experience in the protection, conservation, or management of wild fauna or flora, as well as their purposes for wishing to participate in CoP16 as an observer. An organization that we have previously approved as an observer at a meeting of the Conference of the Parties within the past 5 years must submit a request, but does not need to provide as much detailed information concerning its qualifications as an organization seeking approval for the first time. These requests should be sent to the Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203, or via e-mail at: managementauthority@fws.gov, or via fax at: 703-358-2298.

Once we approve an organization as an observer, we will inform them of the appropriate page on the CITES website where they may obtain instructions for registration with the CITES Secretariat in Switzerland, including a meeting registration form and travel and hotel information. A list of organizations approved for observer status at CoP16 will be available upon request from the Division of Management Authority just prior to the start of CoP16.

Future Actions

We expect the CITES Secretariat to provide us with a provisional agenda for CoP16 within the next several months. Once we receive the provisional agenda, we will publish it in a **Federal**

Register notice and provide the Secretariat's website URL. We will also provide the provisional agenda on our website at <http://www.fws.gov/international/CITES/CoP16.html>.

The United States will submit any proposed resolutions, decisions, and agenda items, as well as any species proposals, for consideration at CoP16 to the CITES Secretariat 150 days prior to the start of the meeting (i.e., by October 4, 2012). We will consider all available information and comments received during the comment period for this notice as we decide which proposed resolutions, decisions, and agenda items warrant submission by the United States for consideration by the Parties. With respect to our notice published on April 11, 2012 (77 FR 21798), we will consider all available information and comments received during the comment period for that notice as we decide which species proposals warrant submission by the United States for consideration by the Parties. Approximately 4 months prior to CoP16, we will post on our website an announcement of the species proposals and proposed resolutions, decisions, and agenda items submitted by the United States to the CITES Secretariat for consideration at CoP16.

Through an additional notice and website posting in advance of CoP16, we will inform you about preliminary negotiating positions on resolutions, decisions, and agenda items, and amendments to the Appendices proposed by other Parties for consideration at CoP16. We will also publish an announcement of a public meeting tentatively to be held approximately 2-3 months prior to CoP16, to receive public input on our positions regarding issues on the agenda for CoP16.

The procedures for developing U.S. documents and negotiating positions for a meeting of the Conference of the Parties to CITES are outlined in 50 CFR 23.87. As noted in paragraph (c) of 50 CFR 23.87, we may modify or suspend the procedures outlined there if they would interfere with the timely or appropriate development of documents for submission to the meeting of the Conference of the Parties or of U.S. negotiating positions.