



SPECIAL SUPPLEMENT

"Hunting provides the principal incentive and revenue for conservation.
Hence it is a force for conservation."

World Conservation Force Bulletin

conservationforce.org April 2012

USF&WS Proposes New CITES Regulations

The US Fish & Wildlife Service (FWS) has published a *proposed* rule to revise its regulations implementing CITES with updates for CoP14 and 15: *Revisions of Regulations Implementing the Convention on International Trade in Endangered Species and Wild Fauna and Flora (CITES); Updates Following....* 74 FR 14200, March 8, 2012. You can view the proposal on Conservation Force's website at <http://www.conservationforce.org/pdf/2012-CITESregs-4986.pdf>. Note that these are only *proposals*, so you continue to be subject to the existing rules for now. That said, it may be best to start practicing the more restrictive procedures when appropriate.

This is an extremely important proposal that requires detailed attention. Though not of the magnitude of the 2007 regulations that are still causing havoc today, the proposal is the same kind. In fact, it addresses some of the problems with the Service's 2007 regulations, such as the re-definition of hunting trophies, which it proposes to largely roll back to what it was before 2007.

FWS notes that the CITES Parties established a definition at CoP15, and FWS proposes to adopt that definition for itself with some qualifications. That is the age-old definition we all know that does not change a trophy. A trophy is a trophy.

Manufactured items made from the sport-hunted animal will now be importable.

Thanks to successful remedial work at CITES CoP15, Res. Conf. 12.3, Rev. CoP15, the FWS writes, "allows manufactured items derived from the hunted animal to be considered part of a 'hunting

DATELINE:
United States



John J. Jackson III

trophy,' whereas our definition (USF&WS) in 50 CFR Part 23 (2007) specifically excludes such items...." The FWS states, "We continue to have concerns...(yet) we propose to incorporate into Section 23.74 the definition contained in Resolution Conf. 12.3 (Rev. CoP15) with some additional text to clarify the conditions under which we will allow the import into the United States of manufactured items as part of a 'hunting trophy.'"

This would eliminate the current definition against trophies if the item is crafted or worked (buttons, clothing, elephant hair bracelets, gun scabbards, belts, buckets, ornaments, etc.). It would also eliminate the need to code items as "personal" property on the export permit instead of "trophies" and avoid the hail of seizures arising from such foolishness. It will eliminate the confusion in trade statistics arising out of the FWS demand that trophy items worked or crafted not be coded as trophies. It remains to be seen if it applies to scrimshawed tusks or more serious carvings. Many hunters chose to have the Big Five pencil-etched on tusks of one-tusk elephant or on inferior tusks in the past, and we still have one case in litigation.

It is important to note the new

"... we are concerned that the conditions don't serve as unnecessary traps in the course of time, as they no doubt will for some."

- **ROLLBACK OF TROPHY DEFINITION**
- **RESTRICTIONS ON USE AFTER IMPORT**
- **NEW REPLACEMENT PERMIT PROCEDURE**

"conditions" below required by the proposal because any violation invalidates the export permit and "subjects" the item to seizure. Today, seizure is a given.

(1) Is raw, processed, or manufactured;...

(4) Includes worked, manufactured, or hand-crafted items made from the sport-hunted animal only when:

(i) Such items are contained in the same shipment as raw or tanned parts of the sport-hunted animal and are for the personal use of the hunter;

(ii) The quantity of such items is no more than could reasonably be expected given the number of animals taken by the hunter as shown on the license or other documentation of the authorized hunt accompanying the shipment; and

(iii) The accompanying CITES documents (export document and, if appropriate, import permit) contain a complete itemization and description of all items included in the shipment.

This last condition, (iii), presumably is satisfied by completing the validation box on the export permit in detail, but if it is not there, you will lose it. On the import side, when import permits are necessary for Appendix I species, then

your application will need to specify the item. Essentially, the proposal states that the fact the trophy is manufactured (worked, crafted, modified) has to appear on the import permit; so, you will have to describe that in your permit application and make sure the import permit reflects that specification. This is in addition to the description on the export permit, which is issued after the fact. It is not clear if the crafted item is to be treated the same when it is the primary trophy rather than a separate part that is crafted, i.e. does your import application and permit have to state painted elephant tusks even though it is only one piece. So, you need to know of any crafting before applying for an import permit so that you can have it specified on the permit, then the description on the export permit description must be compatible. This is not just true of separate items; it is true of whole items that have any working even though they are one piece.

This is not yet a home run. There is still a lot of work ahead for this to survive the proposal process. The Service expresses extreme concern that some non-trophy items have been imported disguised as parts of trophies and emphasizes they will "carefully monitor imports" of such items to "evaluate the impact of this change" and "revisit our definition" as needed. That said, we are concerned that the conditions don't serve as unnecessary traps in the course of time, as they no doubt will for some.

Use of Trophies After Import

The FWS is also adding text to emphasize that prohibited uses of trophies after import are unlawful. This may signal a new enforcement focus; **so, heads up!** It makes clear that the transfer, donation, exchange or sale of Appendix I species and certain Appendix II species (like elephant on Appendix II with an annotation that it is for trophy purposes only – Botswana, RSA, Namibia, Zimbabwe) may only be for non-commercial purposes. This means you can't ever sell your leopard, elephant, rhino, etc., even within your home state, because that prohibition is put on all import permits as a condition of import.

Replacement Documents

The FWS is making the replacement of documents that are lost, damaged

or destroyed more onerous and more like that necessary for retrospective documents that need amendment or were never issued in the first place. For example, the proposed criteria for acceptance of a replacement document requires that the trophies be presented for inspection without delay upon arrival, a replacement document request be made at the same time and a signed, dated, notarized statement at the same time that describes the circumstances that resulted in the lost, damaged, stolen or accidentally destroyed document and, fourth, that a copy of the document in question be provided at that same time. Those are a lot of new conditions that go beyond the underlying CITES Resolution. Normally when a document is lost or stolen the problem is not discovered until the point of arrival/import, so how does one meet all of these conditions instantly? We will wait to see what the expert import brokers advise, but the FWS seems to be proposing an impossibility. If possible, it will have to be skillfully and precisely executed by professionals who are well prepared for it in advance and can identify the nature of the problem instantly (what the FWS calls a sworn "statement of responsibility"). Certainly brokers need to speak up and against this requirement if it is too burdensome. All of the actions have to be taken before a search for the missing documents, so act accordingly. See Section 23.52 on page 14220 of the Notice. Imagine requesting an export country to issue a new permit before a search for a lost document is even made or swearing what happened before you know. Who is going to swear until the facts are known?

Make no mistake, Law Enforcement is not happy with import brokers that have held off declaring imported items until a search is made or, worse, until a replacement permit is obtained. It must be remembered that until recently Law Enforcement gave importers a 30-day "grace period" to correct mistakes and to find or replace missing or damaged permits. Law Enforcement also did not hold hunters liable for government-to-government differences. So, in effect, FWS has eliminated the grace period to correct errors and losses, is holding the hunter responsible for government errors and is now eliminating the wiggle room when permits are lost and need



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to be replaced. It is difficult to imagine requesting a replacement permit before making a search for a missing document, but that is what the proposal distinctly states.

What may be as important are issues not addressed in the proposal, like the recent US enforcement of double quotas

when trophies are imported in a different year than taken, so brokers should be advised. There also is no revision of the FWS regulation on validation/endorsement upon export that is leading to a growing number of seizures. The Parties to CITES adopted a revision so that when things go awry, the importing

and exporting countries could attempt to work it out. Instead the FWS is seizing and forfeiting shipments even though there is no doubt about the quantity or authenticity of the items. Perhaps these issues should be brought up by commenters as well. The deadline for comments is April 9, 2012. ■

Update on Three Amigos: Dama Gazelle, Addax and Scimitar-horned Oryx

By the time you read this, the new rule for these three endangered-listed species will be in effect, April 4, 2012. Conservation Force has and continues to contribute its expertise and assistance to help ranches make the transition.

Though the date has passed, that date was just the date the special regulations were made effective, not a deadline to apply for permits. A ranch owner/operator can apply for the permits at any time. The importance of the date of April 4 is that a ranch must now have a captive-bred permit (technically a registration of the ranch/facility) to trade any of the three species interstate or to get a take permit. You also need a **take** permit, second permit, as well to harvest the animals whether recreationally or for profit. A captive-bred permit/registration is sufficient for the rancher or staff to do necessary culling, but not for third parties, whether family, friends or paying customers. You **don't** need a captive-bred permit/registration to trade state-to-state if it is not a commercial transaction, but we are not clear just what that transaction might be, so we advise obtaining a permit to protect yourself.

The inclusion of these three listed species under the long-existing ESA two-permit system has brought about noteworthy changes in how the system is administered, some good and some perhaps not so good.

First, the Service has temporarily shifted four persons to handle the anticipated applications rush on a priority basis. Though that is good, it may be the cause of new nuisances in the administration of this special permitting. One such change is a soft requirement that the enhancement

contribution to an *in situ* project in a country of origin be 10 percent or more of the gross sales price of each animal taken, i.e. 10 percent of the price must be sent to a project that enhances the species' survival in the wild. There has never before been a minimum, but now the Chief of Permits requires 10 percent or more unless less can be justified. We will have to wait to see how that plays out, but we have advised all those we have assisted that there is now a minimum.

Due to a request from Dallas Safari Club, Exotic Wildlife Association and Conservation Force, the Service has beefed up its pitiful instructions that appear on the back of the permit application forms. The Service has issued *Guidelines* that are much more useful. They are not in the *Instructions* on the back side of the permit applications because that takes years to reform. The *Guidelines* are on the Service's website and can be found on Conservation Force's website at <http://www.conservationforce.org/pdf/3%20Amigos%20Guidelines.pdf>. Many of the questions are intended for zoos and circuses, not open ranches, so those questions can truly discourage a permit applicant from a ranch. It still takes some experience to properly complete the application. Dallas Safari Club and FWS co-hosted a workshop in Kerrville, Texas, to help many applicants with their permits, and we continue to help others as a public service. Conservation Force played a role in developing these guidelines and is proud of it. It is a positive development.

Some permit applications have been returned and delayed because of a need for photographs better depicting cover on the habitat. In those instances, satellite photographs just did not satisfy

the FWS' requirements.

Small put-and-take or churning ranches that are disposing of surplus animals from other ranches may not be permitted. The nuisances and restrictions on those, if permitted at all, are yet to be worked out.

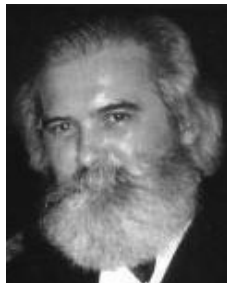
Conservation Force has been helping applicants and answering inquiries; up to 10 or more a day for months. We have not been able to keep up with the demand to our satisfaction because we did not have the resources to beef up our staff to meet the crisis in a timely manner. Nevertheless, we have maintained our leadership and will continue to serve this niche of the industry and enhance the survival of these species in projects that already exist and to initiate others. Our memberships on the Antelope and Deer Specialist Groups of IUCN will be helpful. Remember that the anti-hunting organizations track down the conservation projects supported by hunting ranches and intimidate the project partners and managers. Their aim is to kill the project or have it reject the revenue from the permits (10 percent per animal) so that the dependent ranch permits can't be issued or renewed. We have always been able to stay ahead of these attacks and threats but welcome any suggestion on the conservation of these three species. Hunters are the force. (Humane Society International, HIS, made the most recent attack. It receives nearly two million dollars a year from HSUS, according to HSUS' recent 990 tax form.)

A special thanks goes to Dallas Safari Club, Texas Wildlife Association, Houston Safari Club, the Conklin Foundation and Ricardo Longoria for their support. ■

CF Board Members Selected To Important IUCN Posts

Two Board Members of Conservation Force were selected by IUCN for important posts. First, in March, Shane Mahoney was confirmed as Director of the Sustainable Use Specialist Group (SUSG) of IUCN. This is part of the re-vamping of SUSG worldwide. There is to be new leadership and funding of the SUSG.

The SUSG has suffered from a lack of financial resources and support for many years. It has gone without an international head since Jon Hutton



Shane Mahoney
made Director of
North American
Sustainable Use
Specialist Group

resigned as Chairman more than two years ago. Despite the importance of IUCN's leadership to the development and acceptance of sustainable use necessary for better conservation practices and the human condition, that leadership and steering had lapsed. That was scary. Now, once again, it is promising.

With the promise of new funding from several sources, including perhaps Newfoundland, Professor Rose Connie from Australia has been selected as the

new International Chair and Shane as the Director in the North American region. I can't emphasize enough the importance of this development and the growing concern of many that the concept of sustainable use was losing ground.

Shane has been a Board Member of Conservation Force since the death of Dr. Bart O'Gara. He is an active participant of our "Think Tank," "Conservation Leadership," "Outreach," "Communication" and "Best Science" initiatives. He is the second Conservation Force Board Member to serve as the North American Director of the SUSG of IUCN. Conservation Force Board Member Dr. James Teer was the first and longest serving Director of North America.

The IUCN is the largest umbrella organization of conservation organizations and governments in the world. It is made up of a number of commissions, one of which is the Species Survival Commission. That commission, the SSC, is in turn made up of *specialist groups*. Some are taxon-specific, like the Antelope Specialist Group (ASG), the Polar Bear Specialist Group (PBSG), the Cat Specialist Group (CatSG), the African Elephant Specialist Group (AESG), Caprinae Specialist Group (CSG) and the Rhino Specialist Group (RSG). Those may sound familiar to you because of

their role in listing proposals during CoPs of CITES and consultations in ESA listing proposals.

The Specialist Groups affect a lot of policy decisions. In CITES they are official scientific consultants. They



Philippe Chardonnet
to launch new African
Buffalo Initiative
Group (AfBIG) under
auspices of Antelope
Specialist Group

serve as scientific advisors to many decision-makers who look to them as the foremost experts with the most up-to-date status information of the respective taxon. Conservation Force leadership serves on and tracks a great number of the Specialist Groups. For example, Philippe Chardonnet,

Conservation Force Board Member known recently for all his African lion work, is the Co-Chair of the Antelope Specialist Group (ASG) of IUCN and has recently succeeded in creating the African Buffalo Initiative Group (AfBIG) under the auspices of the ASG. Of course, we serve on many other specialist groups and Conservation Force is a member of the IUCN as an organization as well. ■

Help Needed For Conservation Force Intern Program

Each year Conservation Forces hires summer clerks as interns through programs at local universities. This summer we have an opportunity to step up that program, but we need funding. We have an opportunity to employ a particularly desirable law student for a four-month term. Conservation Force needs help with its summer intern program.

That law student is Jared Rann, son of Jeff Rann, the renowned professional hunter. Jared was born a US citizen, but

he grew up in Botswana's Okavango and was schooled in South Africa. He is aware and concerned with the future role of sustainable hunting in Africa and is intimately familiar with the current situation in Botswana, where the government is closing hunting in most, if not ultimately all, Botswana concessions.

He is a stakeholder in the future of hunting, our wildlife resources and our way of life. He can be a great asset to Conservation Force, and

the experience can provide a solid foundation for a lifetime of service to the hunting community. We need him, and there is great potential for the whole community.

The estimated cost for his participation in the four-month program is \$12,000. The tax deductible donations should be earmarked for "Conservation Force Intern Program – 2012," payable to Conservation Force at PO Box 278, Metairie, LA 70004-0278, USA. Please call (504-837-1233) if you have questions. ■

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