

February 2, 2016

Public Comments Processing
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
5275 Leesburg Pike
MS: BPHC
Falls Church, VA 22041

Submitted Via: Federal eRulemaking Portal: <http://www.regulations.gov>

Docket Number: FWS-HQ-IA-2014-0018; 96300-1671-0000-R4

Re: Proposed Resolutions, Decisions, and Agenda Items Being Considered for Discussion at CoP17

I am pleased to submit comments on behalf of the League of American Orchestras (the League) in response to the December 4, 2015 request by the U.S. Fish and Wildlife Service (80 Fed. Reg. 75873) for potential resolutions, decisions, and agenda items for discussion at the seventeenth regular meeting of the Conference of the Parties (CoP17) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The League is fully committed to the goals of wildlife conservation and combatting illegal trade in protected species, and we appreciate the leadership the U.S. government has demonstrated in advancing consideration of non-commercial transportation of musical instruments in prior CITES proceedings.

The League leads, supports, and champions America's orchestras and the vitality of the music they perform. Its diverse membership of approximately 800 nonprofit organizations across North America runs the gamut from world-renowned symphonies to community orchestras, from summer festivals to student and youth ensembles. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners. Our organization is also an active participant in the wider international cultural exchange community, partnering with The Recording Academy, Chamber Music America, the American Federation of Musicians, the American Federation of Violin and Bow Makers, the National Association of Music Merchants, and the Performing Arts Alliance to communicate with musicians in the U.S. and abroad regarding compliance with international rules for travel with musical instruments that contain protected species material.

In comments filed on July 10, 2015, the League explained the essential use of musical instruments by individual musicians, small and large professional ensembles, and youth orchestras performing globally in order to advance diplomacy, spark artistic innovation, and support vital international cultural activity. Musicians perform with valuable and culturally significant musical instruments, legally crafted decades and even centuries ago that can contain small amounts of elephant ivory, embellishments of tortoise shell, grips of reptile skin, and Brazilian rosewood. The process for traveling with these musical instruments in compliance with CITES requirements remains in urgent need of improvement, and reasonable policy solutions can ensure that international cultural exchange is supported while at the same time advancing protections for endangered species. Our prior comments requested that the U.S. offer resolutions and agenda items at CoP17 that will advance CITES policies related to non-commercial international travel with musical instruments containing protected species material. We are encouraged to note that the items still under consideration by the U.S. (80 Fed. Reg. 75875) for addressing at CoP17 include travel with musical instruments:

12. Traveling with musical instruments: Recommendation that the United States: Support establishing more efficient and uniform procedures for issuing documents for international transport of musical instruments and inspecting and clearing such documents; and work with officials in other countries to ensure that concepts such as the musical instrument certificate and personal effects exemption for musical instruments containing CITES-listed species are adopted by all CITES Parties.

We write to emphasize the critical leadership role the U.S. is uniquely positioned to play in advancing this issue at CoP17. At the CoP16, the U.S. proposed the original resolution on Frequent Cross-Border Non-Commercial Movements of Musical Instruments, which was adopted by consensus as Resolution Conf. 16.8. Among CITES Parties, the U.S. was also the first to begin implementation and enforcement of procedures related to the Musical Instrument Certificate (MIC). As noted in our prior comments, lack of clarity among CITES Parties regarding the requirements for qualifying for an MIC, uneven procedures for issuing the MIC, and vast inconsistencies in the implementation and credentialing of the MIC have caused significant barriers to international cultural activity. We have been informed recently by our international colleagues in the music community – particularly those in the European Union – that U.S. leadership in initiating steps to streamline and harmonize this process will be essential for progress on this topic at the CoP17.

The U.S. Fish and Wildlife Service's supplemental explanation accompanying the Federal Register notice offers that, "the United States may submit a discussion document for consideration at CoP17 outlining our experiences and recommending amendments to

improve and make several technical fixes to the resolution.” As the U.S. contemplates potential improvements, we once again request pursuing the following action at the CoP17:

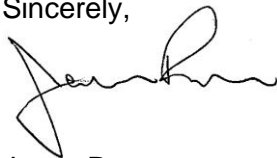
- **Clarify the definition of “non-commercial” activity as referenced under Resolution Conf. 16.8.** This phrase is interpreted unevenly outside of the U.S. The U.S. implementation of the MIC has consistently acknowledged that activity will meet the “non-commercial” standard when travel with musical instruments is for performance purposes and does not involve a commercial transaction of the actual instrument. Management authorities in European countries implementing the MIC have in some cases erroneously assumed that a performance by a music ensemble for a paying public audience constitutes commercial activity under Resolution Conf. 16.8. If this ambiguity is not formally clarified, it imperils the underlying goal of the MIC, which is to facilitate international performances.
- **Implement a “personal effects” exemption and exemptions for musical instruments transported by cargo under a carnet, which would allow legally crafted and legally purchased musical instruments to be transported through international ports without undergoing burdensome inspection procedures.** Given that the international use of musical instruments through non-commercial movement across borders does not contribute to trafficking in endangered species, parties gathered at CoP17 should explore every possible option related to travel with musical instruments as “personal effects” under Resolution Conf. 13.7, promoting adoption of personal effects exemptions for individuals and smaller groups of travelers. For larger musical ensembles transporting instruments by cargo, consideration should be given to potential permit and inspection exemptions for cargo that is traveling as “tools of the trade,” and under an ATA carnet. We recognize that adoption of a personal effects exemption is, to a degree, at the discretion of CITES Parties and subject to domestic policy. There are indications that such opportunities are likely to be embraced in European and Asian countries, should the U.S. lead the way. Since such exemptions are only useful if acknowledged in all countries through which a musician must travel, we urge the U.S. to carry this discussion forward at CoP17.
- **Create harmonized, streamlined permit procedures that accommodate the frequent travel and varied ensembles in which musicians engage.** The impact of the current restriction on musical instruments appearing on more than one permit at a time multiplies the burden on applicants, the management authorities that issue permits, and the enforcement officials that credential them. In the U.S., single permits are issued to group ensembles for instruments that may number more than 40 items accompanying an orchestra tour. This single document enables the ensemble to present one certificate for credentialing in the U.S. and at international ports. However, upon return to the U.S., the ensemble must immediately void the permit so that musicians performing independently or in another ensemble may apply for a new permit. Likewise, musicians holding

individual permits must void them before their instrument is included on a group permit. Given the narrow timeframe between engagements, this is impractical. In Europe, management authorities are reluctant to issue a single permit on behalf of an ensemble, and are instead issuing single permits for each musician. While this adds an element of durability to the permit process, it can create significant challenges in port credentialing, where dozens of documents must be individually credentialed. CITES authorities should adopt formal procedures to pursue harmonizing musical instrument passport issuance and enforcement protocols across parties.

- **Establish a process for issuing clearer, public international guidance tailored for musicians preparing to come into compliance with existing CITES permitting rules and enforcement procedures.** Just as permit and enforcement procedures should be harmonized across CITES parties, so must uniform and understandable public guidance be developed that will enable musicians to come into compliance with evolving rules for international travel.

Thank you for the opportunity to provide additional comments on potential agenda items for consideration during CITES CoP17. The League of American Orchestras looks forward to continued engagement with the U.S. Fish and Wildlife Service on immediate and ongoing implementation of the Musical Instrument Certificate, as well as pursuing opportunities for future international policy improvements that will both protect endangered species and facilitate international cultural activity.

Sincerely,



Jesse Rosen
President & CEO