

August 5, 2016

Public Comments Processing  
Division of Policy, Performance, and Management Programs  
U.S. Fish and Wildlife Service  
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Falls Church, VA 22041

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

**Docket Number: FWS-HQ-IA-2014-0018**

Re: Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora Seventeenth Regular Meeting Provisional Agenda

We are pleased to submit this statement in response to the request by the U.S. Fish and Wildlife Service (81 Fed. Reg. 40900) for comments on the negotiating positions the U.S. will take on proposed resolutions, decisions, and amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendices, as well as other items planned for consideration at the seventeenth regular meeting of the Conference of the Parties (CoP17). As representatives of musicians, performing arts presenters, and instrument manufacturers and retailers in the United States and internationally, we appreciate the leadership the U.S. government has demonstrated in advancing consideration of transportation and commerce with musical instruments in prior CITES proceedings.

A great many musicians perform with legally crafted and legally purchased musical instruments that contain elephant ivory, tortoise shell, reptile skin, and Brazilian rosewood. Very small amounts of ivory and tortoise shell may be found in an array of string, wind, percussion, and brass instruments. Reptile skin may be found on the grips of bows for stringed instruments, and Brazilian rosewood has been used in the construction of stringed instruments. We support reasonable policy solutions that will ensure that international cultural activity is supported while at the same time protections for endangered species are advanced.

**Travel**

We request that the U.S. seek outcomes at CoP17 that will advance CITES policies related to international travel with musical instruments containing protected species material. The process for traveling with musical instruments is in urgent need of improvement. CoP17 includes a proposal offered by the EU, **CoP17 Doc. 42**, to adopt changes to Resolution Conf. 16.8 on frequent cross-border non-commercial movements of musical instruments. We ask the U.S. to favorably respond to this proposal and make every effort to streamline the credentialing procedures, particularly where personal effects are concerned.

CITES policies regarding travel with musical instruments have a profound impact on the cultural and economic activity of musicians in the United States, and can significantly alter the environment for international cultural exchange. At CoP16, the U.S. proposed a resolution on Frequent Cross-Border Non-Commercial Movements of Musical Instruments, which was adopted by consensus as Resolution Conf. 16.8. According to the pre-amble to the resolution, the proposal was intended to relieve “administrative burdens for individuals who frequently move musical instruments manufactured from species listed in the Appendices to the Convention across international borders,” by providing the opportunity to obtain a single passport-like document in place of multiple permits required for exit and entry through multiple countries. While this effort to streamline permit procedures is appreciated, it has resulted in the first broad implementation of CITES permit requirements on travel with musical instruments, as the prior process was largely unimplemented and unknown to traveling musicians.

Following adoption of Resolution Conf. 16.8, both musicians and CITES management authorities have been adapting to the implementation of the new procedures. While there have been advancements in adopting a process for obtaining musical instrument certificates in the United States, difficulties persist as musicians attempt to put the permits to use internationally. Additionally, there is a lack of harmony in the permit issuance and credentialing process among CITES management authorities internationally.

We appreciate this opportunity to re-iterate our previous requests that the U.S. pursue the following action at the CoP17:

- **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.** In online guidance related to U.S. domestic policy on African elephant ivory, the U.S. Fish and Wildlife Service says the following about exceptions for importation of noncommercial shipments (*emphasis added*), “Allowing imports for law enforcement and scientific purposes is in line with the Service’s mission to help conserve African elephants and stop trafficking in African elephant ivory. The other limited exceptions allow movement into the United States of legally possessed African elephant ivory that predates the listing under the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) for personal use as part of a household move or inheritance, *musical performances*, and traveling exhibitions. Each of these types of import must meet specific criteria. And unlike the commercial antiques trade, *none of these types of imports has been used by smugglers to “cover” trafficking in newly poached ivory.*” Given that the international use of musical instruments through non-commercial movement across borders does not contribute to trafficking in endangered species, policies that protect the future use of musical instruments should be expanded under CITES. 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 traveling as “tools of the trade,” and under an ATA carnet. An ATA carnet is an existing document recognized by

more than 80 countries that already assures that the material entering a country will depart that country without undergoing a commercial transaction. These policy changes would restore opportunities for international cultural exchange and enable extremely limited CITES enforcement resources to be re-directed to genuine threats to wildlife conservation.

- **Establish more efficient and uniform procedures across international CITES authorities.** Management authorities for CITES Parties are not sufficiently prepared to issue multi-year musical instrument passports, and the process for inspecting material and credentialing CITES musical instrument certificates is uncertain. CITES countries are still in the process of fully adopting methods for issuing musical instrument passports, and the procedures for qualifying for the three-year certificates are not clearly defined and are inconsistently applied. The definition of “non-commercial” as referenced in Resolution Conf. 16.8, is interpreted unevenly, and has been occasionally assumed to exclude transportation of musical instruments for use in performances by orchestras, or for educational or demonstration purposes. At least one CITES management authority has also refused to issue single traveling exhibition permits for large traveling ensembles, instead requiring individual documents for each musician. Likewise, enforcement protocols at international ports of departure and entry are unclear, inconsistent, and unpredictable. U.S.-based musicians and makers attempting to use the musical instrument passport and single-entry U.S.-issued permits internationally are encountering confusion and delays that disrupt time-sensitive travel. The limited designated U.S. port locations and hours of operations available for inspecting and credentialing permits are insufficient to support the volume of travel undertaken by professional musicians, students, and others participating in an array of international cultural activity. Lengthy port inspection procedures on departure and arrival, for individuals and groups simply transporting musical instruments for use internationally, are an immense barrier to compliance with the underlying permit procedures. 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.** Clear, species-designated public guidance regarding the many layers of CITES requirements is not available in a format easily accessible to musicians. Musicians, makers and cultural institutions are struggling to assess and document the protected species content of musical instruments, which were legally crafted decades, and even centuries ago. In the context of the more than 40-year history of CITES, under which rules related to musical instruments have gone largely unimplemented, the CITES musical instrument permit application procedures are still entirely new and not clearly communicated to musicians. 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.

**Trade and Commerce**

Instrument makers have adapted their craft over decades to take into account the sustainability of plant and animal material currently regulated under CITES. CoP17 includes, among other items, proposals related to future domestic commercial trade policies of CITES Parties pertaining to elephant ivory, **CoP17 Doc. 57.2**. We encourage the U.S. to bring forward as an example to other Parties to CITES the very helpful accommodations that were made for musical instruments in the U.S. adoption of changes to the 4(d) rule on African elephant ivory.

CoP17 will include consideration of proposals related to ebonies and rosewood, **CoP17 Doc. 55.2** (Implementation of the Convention for Trade in Malagasy Ebonies (*Diospyros* Spp.) and Palisanders and Rosewoods (*Dalbergia* Spp.)) and **CoP17 Proposal 54** (*Dalbergia*). We ask the U.S. to work with other Parties to ensure the inclusion of annotations that will exempt finished products, including musical instruments.

Thank you for the opportunity to provide comments on the U.S. negotiating position during CITES CoP17. The music community is fully committed to the goals of wildlife conservation and combating illegal trade in ivory and other protected species. We appreciate the opportunity to partner with USFWS and the conservation community to seek reasonable solutions that protect the domestic and international use of musicians' tools of their trade, and preserve the use of historically and legally made instruments now and for future generations to come. Please feel welcome to contact Heather Noonan, Vice President for Advocacy for the League of American Orchestras at [hnoonan@americanorchestras.org](mailto:hnoonan@americanorchestras.org) for further information.

Sincerely,

American Federation of Musicians  
American Federation of Violin and Bow Makers  
Carnegie Hall  
Chamber Music America  
League of American Orchestras  
National Association of Music Merchants  
The Recording Academy