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**Docket Number: FWS-HQ-IA-2017-0079**

**Re: Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Eighteenth Regular Meeting; Provisional Agenda**

We are pleased to submit this statement in response to the request by the U.S. Fish and Wildlife Service (84 FR 8104) for comments on the provisional agenda for the 18th Conference of the Parties (CoP18) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As representatives of musicians, performing arts presenters, instrument manufacturers, makers and retailers, and wood products importers and distributors in the United States and internationally, we appreciate the dialogue the U.S. government has facilitated in prior CITES proceedings regarding transportation and commerce with musical instruments, and we request that the agency take a strong leadership role in advancing urgently needed policy improvements at CoP18.

A great many musicians perform with legally crafted and legally purchased musical instruments that contain elephant ivory, tortoise shell, reptile skin, rosewood, and other materials subject to CITES controls. 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 a variety of woods including rosewood have been used in the construction of stringed, percussion, and woodwind instruments. We support reasonable policy solutions that will ensure that international cultural activity and legal trade is supported while at the same time protections for endangered species are advanced.

We enclose with these comments four detailed statements related to CITES policies that will be under consideration at CoP18. Together with international music stakeholders, our organizations will be filing these statements as Information Documents for the record of the meeting and to inform deliberations across CITES Parties.

**Musical Instruments and Appendix II Annotation #15**

At CoP18, music industry stakeholders support adoption of **Proposal 52 – *Dalbergia* spp., *Guibourtia demeusei*, *Guibourtia pellegriniana*, *Guibourtia tessmanni*** made by the European Union and Canada, in accordance with the consensus recommendation made by the Standing Committee at its 70th meeting (SC70, Sochi, October 2018) to amend Annotation #15.

While we urge the full adoption of the proposed exemption for musical instruments without change, musical instrument stakeholders stand ready to advise on the crafting of any related guidance, such as a definition of the terms musical instruments, parts, and accessories, and exemplary, non-binding lists of musical instruments most commonly found in trade. The musical

instruments community does not have access to comprehensive information about all musical instrument types that may contain *Dalbergia*. Given the array of artisans and manufacturers involved in making musical instruments globally, and the hundreds of years over which musical instruments have been made, we are able to offer substantial information about the use of *Dalbergia* in musical instruments most commonly in trade, but not comprehensive or encyclopedic data. The music sector does not believe that it would be appropriate for a definitive list to be included as part of a CITES annotation or otherwise codified under CITES.

As stakeholders, we recognize that CITES consideration of trade in rosewoods is an ongoing topic of consideration well beyond an amendment of Annotation #15. Instrument makers have adapted their craft over decades to take into account the sustainability of plant and animal material currently regulated under CITES. **Document 74 – Rosewood Timber Species** includes the recommendation that the Secretariat undertake a study of “the biology, population status, management, use and trade for CITES-listed rosewood timber species” and that the Secretariat “subject to external funding, organize an international workshop, inviting relevant range States, trading countries, relevant organizations, industry representatives and other experts, with a view to presenting and discussing the results, and develop recommendations.” A number of the undersigned organizations participated in a working group convened at the 24th meeting the Plants Committee (PC24, Geneva, July 2018) that crafted these recommendations. By way of these comments, we wish to simply confirm that music industry stakeholders look forward to potential opportunities such as international workshops to contribute to a dialogue that would inform further study of sustainable use of rosewood timber species.

#### **Musical Instruments and the Proposed Listing of *Cedrela spp.* on Appendix II without Annotation**

Ecuador and Brazil have authored **Proposal 57 – *Cedrela*** for listing *Cedrela spp.* in Appendix II without an accompanying annotation. The omission of an annotation from such a listing would result in an undue administrative burden, have an immediate and deleterious impact on the musical instruments industry and provide little – if any – additional conservation benefit. For centuries *Cedrela*, especially *Cedrela obovata*, has been used in minimal quantities, between 150 – 400 grams per instrument, by guitar builders. An annotation for the *Cedrela spp.* Appendix II listing should have the result of exempting finished musical instruments and should include an appropriate geographic limitation to focus on the conservation of wild populations in its natural range rather than *Cedrela spp.* cultivated in non-range state plantations.

#### **Musical Instruments and the Proposed Listing of Woolly Mammoth (*Mammuthus Primigenius*) on Appendix II without Annotation**

Israel and Kenya have submitted **Proposal 13 – *Mammuthus primigenius*** to list Woolly Mammoth, *Mammuthus Primigenius*, in Appendix II without an accompanying annotation. The musical instrument community fully supports the goal of protecting elephant populations. When instrument makers stopped using elephant ivory approximately 30 years ago, the makers turned to mammoth ivory as a substitute. Today, lawfully made bows and other instruments containing mammoth ivory are being played, exhibited, and sold throughout the world by makers, dealers, and musicians who depend on them as indispensable tools of their trade. We oppose an Appendix II listing of Woolly Mammoth and believe that, at minimum, any listing should be accompanied by an annotation that would have the effect of exempting musical instruments from permit requirements for noncommercial and commercial trade.

**CITES Musical Instrument Certificates**

Comments filed by the undersigned organizations on May 11, 2018 requested that the USFWS, as the original proponent for the creation of the CITES Musical Instrument Certificate, proactively lead an effort towards improvements in this area by submitting a proposal to fully implement a “personal effects” exemption and provide exemptions for musical instruments transported by cargo under a carnet. 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. While we note that USFWS has not elected to submit such a specific proposal, we call attention to the fact that the process of issuing and credentialing Musical Instrument Certificates is extremely variable from country to country and is in urgent need of harmonization in order to fully facilitate travel with musical instruments. This is an action the Secretariat and Parties can immediately support and undertake, and we ask USFWS to elevate the visibility of these concerns while in dialogue with the Secretariat and Parties in attendance at CoP18.

We further note that decisions taken at CoP18 related to **Document 39 – Legal Acquisition Findings, Document 53 – Purpose Codes on CITES Permits and Certificates, and Document 41 – Electronic Systems and Information Technologies** will present a policy opportunity to advance actions that will add uniformity, efficiency, and consistency to the permit issuance and credentialing procedures for both commercial and noncommercial trade, and we urge the USFWS to play a leadership role in support of favorable outcomes in these areas.

Thank you for the opportunity to provide comments on the agenda items under consideration at CoP18. The music community is fully committed to the goals of wildlife conservation and combating illegal trade in 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, production of, and trade in musical instruments.

Sincerely,

**American Federation of Musicians of the United States and Canada**  
**American Federation of Violin and Bow Makers**  
**Chamber Music America**  
**Fender Musical Instruments Corporation**  
**ForestBased Solutions**  
**International Association of Violin and Bow Makers**  
**International Wood Products Association**  
**League of American Orchestras**  
**C.F. Martin & Co., Inc.**  
**National Association of Music Merchants**  
**OPERA America**  
**Paul Reed Smith Guitars**  
**Performing Arts Alliance**  
**Taylor Guitars**  
**Theatre Communications Group**

## **Statement of Principles**

### **Musical Instruments and Appendix II Annotation #15**

Annotation #15 pertaining to *Dalbergia spp.*, *Guibourtia demeusei*, *Guibourtia pellegriniana*, and *Guibourtia tessmannii* (bubinga) provides that the rosewood and bubinga Appendix II listings cover:

All parts and derivatives are included, except:

- a) Leaves, flowers, pollen, fruits, and seeds;
- b) Non-commercial exports of a maximum total weight of 10 kg per shipment;
- c) Parts and derivatives of *Dalbergia cochinchinensis*, which are covered by Annotation #4; and
- d) Parts and derivatives of *Dalbergia spp.* originating and exported from Mexico, which are covered by Annotation #6.

The absence of a clear and complete exemption for the commercial and non-commercial movement of musical instruments and parts presents a significant impact on the trade, hinders international cultural activity, and unnecessarily burdens CITES management authorities. If the Parties do not replace or amend Annotation #15, the world of music and culture will lose certain instruments that produce the highest quality tones, with no corresponding conservation benefit.

**At CoP18, music industry stakeholders support adoption of [the proposal](#) made by the European Union and Canada, in accordance with the consensus recommendation made by the Standing Committee at its 70th meeting (SC70, Sochi, October 2018) to amend Annotation #15 as follows, requiring CITES permits for:**

All parts and derivatives, except:

- a) Leaves, flowers, pollen, fruits, and seeds;
- b) Finished products to a maximum weight of wood of the listed species of 500g per item;
- c) Finished musical instruments, finished musical instrument parts and finished musical instrument accessories.
- d) Parts and derivatives of *Dalbergia cochinchinensis*, which are covered by Annotation # 4;
- e) Parts and derivatives of *Dalbergia spp.* originating and exported from Mexico, which are covered by Annotation # 6.

As the proposal states, this revision “exempts from CITES controls finished musical instruments, finished musical instrument parts, and finished musical instrument accessories, reflecting the consensus view that the regulation of these items imparts little conservation value while increasing greatly the permit and compliance burdens.”

The music industry and those that supply wood product inputs to music instrument manufacturers strongly support efforts to conserve rosewood and bubinga as well as further study of their biology, conservation, and trade. Protecting these trees is a priority.

The making of musical instruments requires very limited quantities of rosewood and bubinga. For example, guitars, violins, violas, cellos, double basses, clarinets, piccolos, oboes, flutes, xylophones, and pianos that contain rosewood or bubinga typically contain substantially less than 10kg of the material. Marimbas and a small minority of pianos may contain larger quantities of the wood, but will usually not exceed 30kg per instrument. For certain instruments, such as those of the violin family, the use of this material is at the same time minimal and crucial, as it is the most suitable material, for instance, for tuning pegs. In aggregate, these instruments represent an extremely small proportion of the worldwide trade in rosewoods and bubinga in term of volume, while representing a significant proportion of the permits issued.

**Musicians and instrument makers support a solution that will address both the commercial and noncommercial movement of instruments.** Given the long lifespan of musical instruments in use - decades, if not centuries - instruments are typically re-sold by their musician owners and are frequently

used in performances. For musicians, and particularly for orchestras and ensembles, limitations on travel and re-sale of instruments present a threat to livelihoods and artistic activity. For instrument makers and related businesses (e.g., violin accessory makers), increases in the cost of international sales can greatly erode marginal profitability and threaten livelihoods. Imposing permitting and documentation requirements on musicians for the transboundary resale and use of their instruments will hinder trade and cultural activity and potentially undermine the substantial investments (sometimes life savings) of musicians with no apparent accompanying conservation value.

**Limited administrative and enforcement resources should be focused where they will have the greatest conservation benefit.** Musical instruments remain in use and are re-sold over a long period of time by both retailers and individuals, multiplying the cost and burden of permit issuance and enforcement. Decisions at CoP18 must address the substantial increase in the volume of permits that Parties are processing in the aftermath of the *Dalbergia* listing. The overburdening of management authorities is not helpful from the perspective of either trade or conservation. It is important to note that these permits include multiple permits for the same piece of wood as it moves from blanks to finished product. Finished musical instruments, parts, and accessories should be exempt from permit requirements.

**Focus is best placed on trade from range states and not finished musical instruments.** [Resolution Conf. 11.21 \(Rev. CoP17\)](#), provides guidance and principles for annotations, and recommends that the Parties ensure that annotations are clear and unambiguous in the three working languages of the Convention; consider the conservation impact of excluding certain specimens; and consider enforceability. It further states that: 1) controls should concentrate on those commodities that first appear in international trade as exports from range States; and 2) controls should include only those commodities that dominate the trade and the demand for the wild resource. Finished musical instruments do not first appear in international trade as exports from range States and are very far from dominating the trade. These principles and facts should guide the development of the new annotation. CITES Parties implicitly recognized the conservation value of regulating trade from range states when they agreed on Annotation #10, for *Caesalpinia echinata* (also known as *Paubrasilia echinata* or Pernambuco), which covers "Logs, sawn wood, veneer sheets, including unfinished wood articles used for the fabrication of bows for stringed instruments."

#### **Essential elements of any annotation for *dalbergia* and bubinga:**

- All trade in finished musical instruments, parts, and accessories should be exempted from CITES permitting requirements, including:
  - Commercial shipments of musical instruments, parts, and accessories
  - Non-commercial shipments, including for performances, repair, and display in trade shows
  - Musical instruments as personal effects, hand-carried or shipped as cargo
- The language of a revised annotation should leave no ambiguity at the enforcement level that musical instruments, parts, and accessories are exempted. Annotation #15 adopted at CoP17 required substantial clarification of terms of reference related to non-commercial activity, consolidated shipments, weight limits, and identification and marking requirements, as agreed in [CITES Notification 2017/078](#). Exemptions related to musical instruments and their parts can be enforceable as customs officials are well acquainted with and readily identify musical instruments through the use of the Harmonized System of the World Customs Organization (HS) codes (see, e.g., [Chapter 92 on Musical Instruments; parts and accessories of such articles](#) and [Chapter 97.05 and 97.06 on collectors' pieces and antiques](#)), and the use of HS codes is encouraged in [Resolution Conf 10.13](#) paragraph c) and d). We stand ready to advise on the crafting of any related guidance, such as a definition of the terms musical instruments, parts, and accessories, and an exemplary, non-binding list of musical instruments most commonly found in trade. Given the array of artisans and manufacturers involved in making musical instruments globally over hundreds of years, we are able to offer substantial information about the use of *dalbergia* in musical instruments most commonly in trade, but not comprehensive or encyclopedic data. The music sector, therefore, does not believe that it would be appropriate for a definitive list to be included as part of a CITES annotation or otherwise codified under CITES.
- A revised annotation should ensure consistency with current practices in customs, shipping, documentation, and declarations procedures.

# Musical Instruments and the Proposed Listing of *Cedrela spp.* on Appendix II without Annotation

## **Overview:**

Ecuador and Brazil have authored a proposal to be considered at the 18<sup>th</sup> Conference of Parties in Sri Lanka for listing *Cedrela spp.* in Appendix II without an accompanying annotation. Lacking an annotation, such a listing would result in an undue administrative burden, have an immediate and deleterious impact on the musical instruments industry and provide little – if any – additional conservation benefit. We strongly feel that an Appendix II listing must be accompanied by an annotation and an appropriate geographic limitation to focus on the conservation of wild populations in its natural range rather than *Cedrela spp.* cultivated in non-range state plantations.

## **Musical instrument industry commitment to the sustainability of *Cedrela spp.***

The musical instruments industry strongly supports efforts to conserve *Cedrela spp.* as well as further study of its biology, conservation, and trade. We share the authors' goal of reversing the reductions in population and losses of genetic diversity of the genus.

## **The use of *Cedrela olerata* (Spanish Cedar) in the construction of guitars has a long history:**

For centuries *Cedrela*, especially *Cedrela olerata*, has been used in minimal quantities, between 150 – 400 grams per instrument, by guitar builders.

## **The listing of *Cedrela spp.* without an accompanying annotation would result in a heavy administrative burden without a measurable conservation benefit.**

Plant species included in CITES Appendix II are typically accompanied by a # Annotation. The *Cedrela* listing as proposed would result in many tens of thousands of acoustic guitars annually being subject to the CITES permitting regimen with the attendant additional administrative burden. CITES management authorities and enforcement resources would be consumed with issuing CITES permits rather than actively ensuring that international trade in the *Cedrela* genus does not negatively impact its survival in the wild.

## **An annotation for the *Cedrela spp.* Appendix II listing should have the result of exempting finished musical instruments.**

Resolution Conf. 11.21 (Rev. CoP17), provides guidance and principles for annotations, and states that two main principles be followed as standard guidance when drafting annotations for plants: 1) controls should concentrate on those commodities that first appear in international trade as exports from range States; and 2) controls should include only those commodities that dominate the trade and the demand for the wild resource. Musical instruments do not first appear in international trade as exports from range States and are very far from dominating the trade. These principles and facts should guide the selection of the annotation.

For instance, Annotation #5, covering “logs, sawn wood and veneer sheets” and Annotation #6, which applies to “logs, sawn wood, veneer sheets and plywood”, apply to *Swietenia mahagoni* and *Swietenia macrophylla* respectively, which grow naturally in the same ranges as does *Cedrela*. They also properly regulate the wood when it first enters commerce, excluding all other commodities from CITES control.

## **Any *Cedrela* listing should only apply to neo-tropical species.**

While “captive breeding and artificial reproduction” may have had limited success in Central and South America, the cultivation of plantation *Cedrela* has been successfully undertaken in Ghana and the Ivory Coast. Accordingly, as with the *Swietenia* listings, the *Cedrela* listing should be confined to neo-tropical regions.

## **Implementation**

To avoid disruptions to trade and support enforcement protocols for management authorities, importers, and exporters, we encourage the timeframe for implementation to be extended beyond the standard 90-day period.

## **Musical Instruments and the Proposed Listing of Woolly Mammoth (*Mammuthus Primigenius*) on Appendix II without Annotation**

### **Overview**

Israel and Kenya have submitted a proposal for consideration during at the 18<sup>th</sup> Conference of Parties in Sri Lanka to list Woolly Mammoth, *Mammuthus Primigenius*, in Appendix II without an accompanying annotation. We oppose an Appendix II listing of Woolly Mammoth and believe that, at minimum, any listing should be accompanied by an annotation that would have the effect of exempting musical instruments from permit requirements for noncommercial and commercial trade.

### **Mammoth ivory is used in the construction of bows for stringed instruments, nuts, and saddles for guitars and on other musical instruments.**

The musical instrument community fully supports the goal of protecting elephant populations. When instrument makers stopped using elephant ivory approximately 30 years ago, the makers turned to mammoth ivory as a substitute. Today, lawfully made bows and other instruments containing mammoth ivory are being played, exhibited, and sold throughout the world by makers, dealers, and musicians who depend on them as indispensable tools of their trade. For musicians, instruments are highly personal, integral to their sound and performance quality, while often representing a very substantial personal financial investment. Mammoth tips are functional and make important contributions to the bow's artistic and acoustic qualities. Replacing the mammoth tip of a bow to avoid burdensome permitting requirements would risk damaging the bow's wooden stick and artistic value.

### **The use of mammoth ivory in musical instruments does not affect the ivory trade**

The proposal states that its purpose is "to prevent illegal trade in living elephants by preventing 'laundering' or mislabeling of elephant ivory." Bows typically contain less than 1 gram (.25 gram when finished) of mammoth ivory. The overall scale of bow making is very limited. In the USA, for example, approximately 50 bow makers make some 350 bows per year. Not all of these bows are made using mammoth ivory, despite its valuable qualities. As has been widely acknowledged, because of the *de minimis* use of mammoth ivory in musical instruments, musical instruments are not contributing to the illegal elephant ivory trade.

### **An Appendix II listing of Woolly Mammoth is inappropriate**

While our organizations strongly support efforts to combat illegal trafficking of ivory and conserve elephants, we oppose this listing. The main purpose of CITES Appendix II is to regulate trade to prevent species from becoming extinct. The proposal points to a lack of data on the trade in mammoth ivory and the potential beneficial impacts on the illegal elephant ivory trade. The proposed listing would, therefore, divert resources from the regulation of trade of extant species and impose burdens on all involved without providing a clear, commensurate conservation value.

### **Any listing should be accompanied by an annotation that has the effect of exempting musical instruments**

If the Parties were to list Woolly Mammoth on Appendix II, we would strongly urge the inclusion of an annotation that would have the effect of exempting musical instruments. Doing so would help ensure that enforcement efforts are targeted on commodities linked to illegal trade while avoiding the imposition of unfair and undue costs and burdens on makers, dealers and musicians, all of which would negatively impact the international trade in art and culture.



## CITES Musical Instrument Certificates

### **Background**

Musicians perform with valuable and culturally significant musical instruments legally crafted decades and even centuries ago. A number of these instruments contain small amounts of ivory, shell, reptile skin, and rosewood or other materials regulated under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). The international use of musical instruments by musicians and professional and student ensembles is essential to advance diplomacy, spark artistic innovation, and support vital international cultural activity. In partnership with CITES parties and the conservation community, music stakeholders have undertaken efforts to increase compliance with current permit requirements while simultaneously pursuing policy improvements that will alleviate unnecessary burdens.

### **Musical Instrument Certificate Created at CoP16 – A Consolidated Permit**

At the 16<sup>th</sup> Conference of the Parties (CoP16), Resolution Conf. 16.8 was adopted on *Frequent Cross-Border Non-Commercial Movements of Musical Instruments*, creating a multi-use Musical Instrument Certificate. The Musical Instrument Certificate is not an exemption from the permit process. It is a consolidated permit. The MIC streamlines the requirement for obtaining multiple CITES export permits when an instrument contains CITES material and is not exempted from permit requirements by an annotation or a personal effects exemption. Musicians using the MIC apply to their CITES Management Authority for issuance of single permit, which must then be credentialed by CITES enforcement officials at each port through which an instrument travels.

**The process of issuing and credentialing these permits is extremely variable from country to country and is in urgent need of harmonization in order to fully facilitate travel with musical instruments. This is an action the Secretariat and Parties can immediately support and undertake.**

### **Clarifications and Exemptions Approved at CoP17**

At the 17<sup>th</sup> conference of the parties (CoP17), unanimous approval was given to [Resolution Conf. 16.8 \(Rev. CoP17\)](#), which:

1. Clarifies that instruments loaned to musicians may qualify for CITES Musical Instrument Certificates.
2. Specifies that the non-commercial scope of the Musical Instrument Certificates includes using the permits when traveling for “paid or unpaid” performances.
3. Recommends that CITES countries not require permits when musicians are carrying certain instruments as personal effects.

### **Further Improvements Needed**

We have been informed by individual musicians and some ensembles that the required time and financial expense of obtaining and putting to use the MIC has left no option but to forgo travel with their best musical instruments. This challenge was compounded by the listing of the *Dalbergia* genus in CITES Appendix II at the CoP17, which required a new wave of evaluation of significantly more musical instruments to assess, identify, and document each instrument’s rosewood components. While continued improvement and fine-tuning of existing permit procedures would be appreciated, the most effective way to minimize the burden of the permit process is to remove from the process altogether those activities that do not constitute a threat to the conservation of protected species.



1. CITES Parties should be reminded of provision of [Resolution Conf. 16.8 \(Rev. CoP17\)](#) related to instituting personal effects exemptions. Such exemptions are only applicable if acknowledged by all countries through which a musician must travel.
2. Allow permit exemptions for musical instruments transported by cargo under an ATA carnet – an internationally recognized customs re-export document.
3. Implement an electronic permit system and extend the validity period from three years to ten years.

Full recognition of the **personal effects exemption** would represent real relief for international guest soloists, small groups, and large ensemble musicians, greatly reduce the cost and time burdens related to navigating permit applications and enforcement procedures, and allow CITES authorities to dedicate limited resources to compliance and enforcement efforts that directly impact conservation goals. Nearly all orchestra musicians with CITES materials place their instruments in cargo shipments to avoid multiple, unwieldy permits in favor of a single permit and inspection procedure. If more musicians can carry instruments in cabin or as checked baggage without permits, they may practice and rehearse at their own discretion (shortly before departure and soon after landing), as well as have the ability to branch away from a tour for other solo and smaller ensemble work.

We also once again ask CITES parties to continue consideration of **permit exemptions for musical instruments transported by cargo under a carnet**. This step would allow legally crafted and legally purchased musical instruments to be transported through international ports without undergoing burdensome permit and inspection procedures. ATA carnets are internationally recognized customs documents that require re-export within an allotted timeframe and waive duties and taxes. Given that the international use of musical instruments does not contribute to trafficking in endangered species, enabling larger musical ensembles to transport instruments by cargo and travel under an ATA carnet should be given consideration for potential permit and inspection exemptions.

As we await opportunities for exemptions from the permit process, we strongly encourage CITES parties to institute an **electronic permit system**. Electronic permitting would help to streamline and make more efficient the process of acquiring, using, and invalidating musical instrument certificates. Currently, musicians holding individual permits must void them before their instruments are included on a group permit. Given the narrow timeframe between engagements, this is impractical. An electronic system would help speed the permit issuance and invalidation process, while reducing the burden on enforcement authorities. Additionally, for individual musicians who retain ownership of their instruments over time, the permit burden would be lessened by **extending the Musical Instrument Certificate validity period** from three years to ten years in duration.