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**Docket Number: FWS-HQ-IA-2021-0008**

**Re: Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Nineteenth Regular Meeting: Proposed Resolutions, Decisions, and Agenda Items Being Considered**

We are pleased to submit this statement in response to the request by the U.S. Fish and Wildlife Service (87 FR 12719) for further comments on resolutions, decisions, and agenda items that the United States might submit for discussion at the 19th Conference of the Parties (CoP19) 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 ongoing policy improvements at CoP19. These comments follow on comments submitted by our stakeholders on May 3 of 2021.

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.

**Musical Instrument Certificate**

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 advancing diplomacy, sparking artistic innovation, and supporting 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.

The Musical Instrument Certificate (MIC) 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 designated port through which an instrument travels. Musical instruments accompanied by a CITES Musical Instrument Certificate may be hand-carried, in checked luggage, or transported via cargo for larger ensembles. The purpose code P is indicated on a certificate for personal use by individuals, and purpose code Q is indicated on a certificate when a larger ensemble may be considered a traveling exhibition of multiple instruments on a single permit.

**The process of issuing and credentialing these permits is extremely variable from country to country and is in urgent need of harmonization and streamlining in order to fully facilitate non-commercial travel with musical instruments.**

In comments filed in response to the request at 86 FR 12199, we requested that the U.S. seek outcomes at CoP19 that will advance CITES policies related to international travel with musical instruments containing protected species material by initiating a proposal to simplify procedures related to the Musical Instrument Certificate, which is in use by musicians seeking to travel internationally for performances.

The U.S. responded in two sections of the current request for comments. At 87 FR 12725, the U.S. states the following:

*29. Personal and household effects: Based on internal discussions, the United States is considering proposing an amendment to Resolution Conf. 13.7 (Rev. CoP17) on Control of trade in personal and household effects to designate a weight, volume, or number of specimens of certain species to be included in the list in paragraph b) iv) for which the Parties have agreed that CITES documents are not required unless the specimens being carried as a personal or household effect exceeds the weight, volume, or number specified. Items for which we are considering submitting such a proposal include American ginseng packaged and ready for retail trade, and finished musical instruments, finished musical instrument parts, and finished musical instrument accessories. We solicit information on what may be appropriate quantities if we decide to submit such a proposal.*

**We urge the U.S. to not propose a new restriction on the personal effects exemption for finished musical instruments, finished musical instrument parts, and finished musical instrument accessories by adding a limitation based on weight, volume, or number of items.** This proposal would not provide the help sought by musical instrument stakeholders and would instead increase the permit burden for those simply traveling with musical instruments currently exempt from permit procedures. Resolution Conf. 13.7 (Rev. CoP17) provides at section 3.b. that Parties shall “not require export permits or re-export certificates, for personal or household effects which are dead specimens, parts or derivatives of Appendix-II species.” This provision currently does not contain a limitation on the scope of finished musical instruments, finished musical instrument parts, and finished musical instrument accessories that can make use of this exemption.

**Annex 2 to Resolution Conf. 13.7 (Rev. CoP17) indicates that “Parties should make every effort not to lengthen unnecessarily the list of personal and household effects with quantitative limits.”** We believe the U.S. is in error to suggest that such a new limitation would create a path to improving international movement of musical instruments, their parts, and

accessories when it would, in fact, have the reverse effect. Also, given that the personal effects exemption is unevenly adopted by Parties, changes to that resolution would not be a complete solution to global travel problems.

At 87 FR 12727, the U. S. states the following:

*10. Travel with instruments containing CITES species: The League of American Orchestras recommends that the United States propose an exemption from CITES requirements of noncommercial movement of musical instruments containing CITES-listed species. We are unlikely to submit such a proposal as we cannot propose or support the adoption of a new exemption from CITES requirements that does not exist in the Convention. We will consider other avenues for addressing the concerns of musicians and other musical instrument stakeholders in the context of possible amendments to Resolution Conf. 13.7 (Rev. CoP17) on Control of trade in personal and household effects.*

**We appreciate that the U.S. will pursue avenues for addressing the concerns of musicians and other musical instrument stakeholders, and urge the U.S. to carefully consider the comments provided by stakeholders to-date, as well as the historic leadership the U.S. has provided in this area.** The comments submitted by U.S. stakeholders do not simply call for an exemption from the CITES procedures, but instead seek opportunities to streamline requirements within the bounds of CITES procedures and regulations.

Following leadership by the U.S. to initiate a proposal to streamline the CITES permit process for musical instruments, 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 U.S. provided further leadership in this area when supporting at the 17<sup>th</sup> Conference of the Parties (CoP17) the unanimous approval of [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.

The U.S. can once again lead in this area by initiating a proposal for simplified procedures for the Musical Instrument Certificate.

We have been informed by individual musicians and 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. 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 streamline it, consistent with CITES directives, to provide simplified procedures for those activities that do not constitute a threat to the conservation of protected species. In particular:

1. Consistent with [Decision 18.171](#) on Simplified Procedures for Permits and Certificates adopted at the 18<sup>th</sup> Conference of the Parties, musical instruments being transported under the Musical Instrument Certificate should be added for consideration for simplified procedures.

2. CITES Parties should be reminded of the provision of [Resolution Conf. 16.8 \(Rev. CoP17\)](#) related to instituting personal effects exemptions. Such exemptions are only helpful if acknowledged by all countries through which a musician must travel.
3. Allow streamlining of inspection and permit credentialing requirements for musical instruments transported by cargo under an ATA carnet – an internationally recognized customs re-export document. [Resolution Conf. 12.3 on Permits and Certificates](#) and [Resolution 9.7 \(Rev. CoP 15\) on Transit and Transshipment](#) provide special consideration for sample collections that could be a model for musical instruments.

At the 18<sup>th</sup> meeting of the Conference of the Parties (CoP18), Decision 18.171 was adopted, including a directive for the Secretariat to prepare draft guidance on Simplified Procedures that “should include consideration of other types of specimens in addition to those identified in document [CoP18 Doc. 56](#), paragraph 13, with a focus on the international movement of CITES specimens where the trade will have a negligible impact on the species concerned.” Consistent with the work undertaken to establish **simplified procedures** for other specimens, decisions taken at CoP19 should consider opportunities to alleviate noncommercial movement of musical instruments from the current full battery of permit requirements, such as being stamped at each border by CITES management authorities at locations separate from customs officials and with limited hours of operation, which can cause delays in travel.

Full recognition of the **personal effects exemption** would represent real relief for international guest soloists, small groups, and large ensembles, 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 advance 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 musicians could carry instruments in cabin or as checked baggage without permits, they could practice and rehearse at their own discretion (shortly before departure and soon after landing), as well as have the ability to maximize the opportunities to perform additional solo and smaller ensemble work.

We also once again request that CITES parties undertake consideration of **streamlining permit requirements 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 an added layer of burdensome permit and inspection procedures beyond those already undertaken in customs procedures. ATA carnets are internationally recognized customs documents that require re-export within an allotted timeframe and waive duties and taxes, and are frequently in use by larger performing ensembles for global tours. Given that the international use of musical instruments does not contribute to trafficking in endangered species, allowing streamlined CITES permit and inspection for instruments transported by cargo and travel under an ATA carnet should be given consideration.

**As the U.S. initiated the creation of the Musical Instrument Certificate, it should lead an effort towards improvements in this area by proactively submitting a proposal to fully implement simplified procedures.** This policy change would restore opportunities for international cultural exchange and enable extremely limited CITES enforcement resources to be redirected to genuine threats to wildlife conservation.

### **Trade and Commerce in Wood Species**

At the 18<sup>th</sup> Conference of the Parties, music industry stakeholders supported revisions to Annotation #15, which were adopted by the Parties and have entered into effect. Annotation #15 applies to *Dalbergia spp. (except Dalbergia nigra)*, and *Guibourtia demeusei*, *Guibourtia pellegriniana*, and *Guibourtia tessmannii*. We appreciate the leadership role and support offered by the U.S. delegations throughout the development of the revised annotation. The revisions to Annotation #15 adopted at COP18 have substantially supported noncommercial and commercial cross-border movement of musical instruments, while relieving CITES management authorities of unnecessary permit burdens.

The original Annotation #15 adopted at the 17<sup>th</sup> Conference of the Parties (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](#). It hindered trade, travel, and artistic activity, and imposed an extreme permit burden on CITES management authorities. The permit requirements originally imposed by Annotation #15 included multiple permits for the same piece of wood as it moved from blanks to finished product. In aggregate, these instruments represent an extremely small proportion of the worldwide trade in rosewoods in terms of volume, while representing a significant proportion of the permits issued following CoP17. 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. Imposing permitting and documentation requirements on musicians for the transboundary resale and use of their instruments had hindered trade and cultural activity and presented the risk of undermining the substantial investments (sometimes life savings) of musicians with no apparent accompanying conservation value.

With the implementation of the revised Annotation #15 as agreed at CoP18, confidence in musical instrument trade and in the effectiveness of CITES has been significantly restored across the music sector. As the U.S. prepares for the CoP19 consideration of species proposals and annotations, we encourage ongoing leadership that will prevent unintended consequences.

At the 74<sup>th</sup> CITES Standing Committee Meeting, the Committee recommended that the following mandate to the Secretariat in [Decision 18.321 on Annotation #15](#) be renewed at CoP19:

subject to available resources, undertake a study to assess the effect on *Dalbergia*/*Guibourtia* species in international trade of the exemptions contained in annotation #15 for finished musical instruments, parts and accessories, and the conservation implications thereof;

**We urge support from the U.S. to ensure that any further action regarding the mandate to study the conservation implications of the Annotation #15 exemptions for finished musical instruments, parts, and accessories include music sector stakeholders as partners with the Secretariat and the Parties in discussions regarding the scope of the proposed study. We believe our expert knowledge and perspective would add significant value to this effort.**

### **Electronic Permitting**

The U.S. notes at 87 FR 12725 that is actively engaged in discussions on potential proposals regarding the issuance of electronic CITES permits. **The U.S. should support continued**

**development of a robust electronic permitting system such as eCITES that would allow for universal utilization of electronic permits.** If properly implemented, movement to electronic permitting would substantially reduce the time necessary for permit issuance and transmission, while reducing opportunities for fraud. U.S. companies and individuals that rely upon CITES documents for international shipments and travel would also benefit from greater certainty that properly documented shipments would avoid costly delays due to questions about CITES documentation that could be transmitted well in advance of arrival at a foreign port of entry.

Thank you for the opportunity to provide comments in response to the March 7, 2022 USFWS notice of potential action on the species proposals, resolutions, decisions, and agenda items that the United States may consider submitting for discussion at CoP19. We look forward to providing further comments as the CoP19 agenda is set, and as the U.S. shapes positions regarding species proposals, and in response to proposals offered by CITES parties in the coming months. 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 Composers Forum**  
**American Federation of Musicians of the United States and Canada**  
**American Federation of Violin and Bow Makers**  
**Chamber Music America**  
**ForestBased Solutions**  
**International Association of Violin and Bow Makers**  
**League of American Orchestras**  
**C.F. Martin & Co., Inc.**  
**National Association of Music Merchants**  
**OPERA America**  
**Paul Reed Smith Guitars**  
**Performing Arts Alliance**  
**Recording Academy**  
**Taylor Guitars**  
**Theatre Communications Group**