

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Sixteenth meeting of the Conference of the Parties
Bangkok (Thailand), 3-14 March 2013

U.S. MARINE MAMMAL ADVISORY BODY'S RECOMMENDATION TO TRANSFER
THE POLAR BEAR (URSUS MARITIMUS) TO APPENDIX I

Document submitted by the United States* in relation to amendment proposal CoP16 Prop. 3 on *Ursus maritimus*.

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat or the United Nations Environment Programme concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*



MARINE MAMMAL COMMISSION

The U.S. Marine Mammal Commission is an independent agency of the U.S. Government, established under Title II of the Marine Mammal Protection Act to provide independent oversight of the marine mammal conservation policies and programs of federal regulatory agencies.

The Act charges the Commission with the following seven duties:

1. undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals...;
2. conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of this Act, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock;
3. undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;
4. recommend to the Secretary [of Commerce or the Interior] and to other federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;
5. recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals and suggest appropriate international arrangements for the protection and conservation of marine mammals;
6. recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973 as may be appropriate with regard to marine mammals; and
7. recommend to the Secretary [of Commerce or the Interior], other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of this Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this Act.

To fulfill its responsibilities, the Marine Mammal Commission—

- maintains objective overview of domestic and international activities by federal agencies affecting marine mammals;
- provides informed and objective advice to the executive and legislative branches of the federal government on measures needed to achieve the policies and provisions of the Marine Mammal Protection Act;
- promotes consultations with the scientific community, state agencies, local authorities, and public interest groups to help identify mutually acceptable ways to resolve issues of concern;
- coordinates federal, state, and local efforts to achieve, economically and efficiently, the Act's stated purposes of conservation of marine mammal species, population stocks, and the ecosystems upon which they depend;
- formulates and promotes implementation of long-term policies to ensure the conservation of marine mammals and other components of the marine ecosystem; and
- carries out a directed research program to inform and guide marine mammal conservation measures at local, regional, national, and international levels.

Additional information regarding the U.S. Marine Mammal Commission can be found at <http://mmc.gov>

Please note pages 5, 6, 7 and part of page 8 from The Marine Mammals Commission's June 20, 2012 letter were deleted because they pertained to the consideration of walrus and narwhal.



MARINE MAMMAL COMMISSION

20 June 2012

Rosemarie Gnam, Ph.D.
Chief, Division of Scientific Authority
U.S. Fish and Wildlife Service
4401 North Fairfax Drive, Room 110
Arlington, VA 22203

Dear Dr. Gnam:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Fish and Wildlife Service's 11 April 2012 notice (77 Fed. Reg. 21798) on proposed resolutions, decisions, and agenda items for the Sixteenth Conference of Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Among other things, the notice requests comments on potential changes to the CITES Appendices. The Commission provides the following recommendations and rationale.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the Fish and Wildlife Service—

- submit a proposal that the polar bear be placed on Appendix I for consideration at the 2013 Conference of Parties;
- consider the pros and cons of a population-specific proposal for Appendix I listing of the polar bear;
- monitor closely the establishment of new harvest limits in Canada and be prepared to amend its proposal accordingly;
- propose to list the walrus on CITES Appendix II at the 2013 Conference of Parties; and
- not propose to list the narwhal on CITES Appendix I at the 2013 Conference of Parties.

RATIONALE

Polar Bear

The polar bear currently is listed on CITES Appendix II and is listed as threatened under the U.S. Endangered Species Act. At the 2010 Conference of Parties, the United States proposed, unsuccessfully, to move the polar bear from Appendix II to Appendix I because of the effects of trade and the ongoing and predicted negative effects of climate disruption. The Marine Mammal Commission recommended against the Fish and Wildlife Service making such a proposal. In doing so, the Commission noted that it did not believe that polar bear harvests and resulting trade warranted additional management at that time. However, the Commission advised that the Service should reconsider that proposal on a frequent basis because of the threatened status of polar bears, the uncertainties surrounding the status of many populations, and the rapid pace of habitat change.

Indeed, the Service again is considering a proposal to transfer the polar bear from Appendix II to Appendix I. However, the *Federal Register* notice and the extended version of that notice do not discuss thoroughly the factors that may justify inclusion on Appendix I, particularly those factors that have changed since the previous Conference of Parties. Rather, the justification seems to be that the United States believed that listing on Appendix I was warranted before and, in the absence of new information, must still be warranted. This is logical but, by itself, is not likely to convince the parties who opposed the previous proposal. The Marine Mammal Commission therefore encourages the Service to expand the rationale for its proposal, focusing particularly on factors that have changed since 2010.

The previous U.S. proposal was premised largely on model predictions of significant sea ice decline over the next several decades. The loss of sea ice will limit polar bear access to its primary prey (ice seals) that, in turn, will lead to reduced body condition, reproduction, survival, and population size. Such predictions are still the prevailing view among most polar bear experts and are reflected in the summary polar bear population status provided at the 2009 meeting of the Polar Bear Specialist Group (<http://pbsg.npolar.no/en/status/status-table.html>). That summary indicates that of the 19 populations, 8 are declining, 7 are too data deficient to determine a trend, 3 are stable, and 1 is increasing. The Polar Bear Specialist Group also estimated the risk of future declines among these populations and found that 6 had a very high risk, 1 had a "higher" risk, 1 had a moderate risk, 2 had a very low risk, and 9 were data deficient.

Recent publications support these projections and indicate they are already being realized. For example, in an analysis of data from polar bears in the southern Beaufort Sea, Rode et al. (2010) found that "[t]he size and condition of most sex/age classes exhibited positive relationships with the annual availability of preferred sea ice habitats" and "the decline over time in the availability of sea ice corresponded with declining trends in most measures of bear size and condition." Also, looking specifically at the Southern Beaufort Sea population, Regehr et al. (2010) concluded that "[d]eclines in polar bear survival during the period 2002-2005 were associated with longer ice-free periods over the continental shelf" and hypothesized that "declining sea ice affects polar bear vital rates primarily via increased nutritional stress." Similarly, Rode et al. (2012) reported that the availability of sea ice has begun to affect the condition of polar bears in Baffin Bay and Davis Strait.

Recent papers also have examined the ability of polar bears to swim long distances to compensate for the absence of stable sea ice. Most recently, Pogano et al. (2012) reported that several polar bears being tracked off Alaska engaged in long distance swims (> 50 km). The authors noted that long-distance swimming was becoming more common because of declining ice thickness and longer ice-free periods. They also noted that swimming appears to impose higher energetic demands than moving over ice, further compromising the condition, reproduction, and survival of those bears. One female bear, with a yearling cub when tagged, swam 687 km, remaining in the water for more than nine days. (It subsequently travelled an additional 1800 km by walking over ice and swimming intermittently). It lost 22 percent of its body mass over a two-month period and also lost its cub (Durner et al. 2011).

In Canada, the harvest pressure on polar bears also appears to be increasing for some populations and economic factors appear to be playing an increasing role. For example, in 2011, Nunavut decided to increase the allowable harvest of polar bears from the Western Hudson Bay

population from 8 to 21 despite a strong contrary recommendation from the Polar Bear Specialist Group (<http://pbsg.npolar.no/en/news/archive/2011/WH-catch-Nunavut-2011.html>). Natives from Nunavik (northern Québec), Nunavut, and Ontario all hunt polar bears from the Southern Hudson Bay population. In 2012 the harvest from that population by hunters from Inukjuac (on the Québec coast of Hudson Bay) spiked from the low single digits to more than 70 bears. Setting and enforcing quotas on wildlife used by Native hunters from Nunavik is difficult because it is governed by the James Bay Agreement of 1975. In 2012 representatives of Nunavik, Nunavut, and Ontario met with Environment Canada to lower the level of future harvests. In the end, they agreed to a tentative quota of 60 bears, a level that most polar bear scientists believe is unsustainable. Furthermore, that quota remains largely unenforceable in Nunavik and possibly in Ontario because of treaty obligations of Canada and other, less formal agreements with Native hunters. Hunting limits for 2013 probably will be set by Nunavut in the fall. These should be monitored closely by the Fish and Wildlife Service in deciding whether to move forward with a proposal to list the species on Appendix I and assessing how such a proposal might be supported at the upcoming Conference of Parties. In particular, the Service should track whether hunting from the Western Hudson Bay population is allowed. This is one of the populations that appears to be declining based on our knowledge of polar bear vital rates and evidence of a low percentage of yearlings (about 3 percent versus 15 percent for a “healthy” population), but which traditional knowledge suggests is increasing, based on the number of bears sighted on land.

Importantly, management practices and policies among the five polar bear range states vary considerably. Only Canada and Greenland allow commercial harvest and sales of polar bear parts. In the United States, polar bears may be taken by Alaska Natives for subsistence and for purposes of creating and selling authentic articles of handicrafts and clothing. In Russia, harvests have not been authorized since the mid-1950s, but Russia also has acknowledged that some hunting is known to have occurred. Norway, the other range state, does not allow any hunting. Within Canada, the status of the populations and the management practices of the responsible provincial and territorial governments vary considerably. Harvest limits for some populations appear to be conservative, while others are less so and do not appear to be sustainable.

The expanding commercial market for skins taken in Canada also supports the listing of polar bears on Appendix I. As reported recently in the Canadian press (see <http://www2.macleans.ca/2012/02/16/were-shooting-polar-bears/>, and <http://www2.macleans.ca/2011/05/25/hard-to-bear/>) the international market for polar bear skins is booming, with auction prices more than doubling over the past couple of years. In part, this is being fueled by emerging demand in China and Russia. Prices now average about \$5,000 per skin, with one prime pelt fetching more than \$12,000. The number of pelts being offered for sale also has been increasing. In 2011, about 80 polar bear hides were sold at auction. The Web site of Canada’s leading auction house for polar bear skins indicates that 150 polar bear hides will be offered for sale at its upcoming 20 June auction (<http://www.furharvesters.com/auctionqty.htm>). Rising prices and demand for polar bear skins are posing new risks to polar bear populations as unregulated populations are exposed to greater hunting pressure, quotas for regulated populations are being pushed upward by political pressure, and those quotas are more likely to be met fully.

Because of the ongoing and predicted declines in most polar bear populations, the growing scientific documentation that polar bears are being stressed and in poorer condition in several

populations, concerns about the sustainability of some of the currently authorized hunting levels, and expanding commerce in and prices for polar bear products internationally, the Marine Mammal Commission believes that a much stronger case can be made that polar bears warrant listing on Appendix I now than in 2010. For that reason, the Marine Mammal Commission recommends that the Fish and Wildlife Service submit a proposal that the polar bear be placed on Appendix I for consideration at the 2013 Conference of Parties.

The Service may want to consider a proposal that seeks to list on Appendix I only those populations (or ecoregions¹) that are declining or that may not be managed sustainably. A population- or ecoregion-specific proposal provides some incentive for precautionary management for any population or ecoregion not included on Appendix I because the economic benefits will not be lost. Also, the economic benefits derived from a carefully managed harvest may support conservation measures in areas that otherwise lack sufficient management resources. In addition, in some cases a harvest may benefit recovery. For example, a male harvest from a population with a male-biased sex ratio may improve survival of females and cubs and thereby promote population recovery.

That being said, if the Service considers a population-by-population (or ecoregion-based) approach, then it also will have to consider the potential negative effects as well. Reviewing and making decisions on all 19 populations would be a complex undertaking, requiring considerable resources and likely prompting intensive and extensive debate for a number of populations. Some of the more contentious cases likely would involve populations in Canada and Greenland, which may be highly resistant to interventions by other countries. Those other countries also may be disinclined to intervene in such decisions even if they believe management practices in Canada and/or Greenland may be inadequate. Arctic countries have a mixed record when it comes to supporting the research needed for well informed management. The idea that they would respond positively to incentives for more research/monitoring and better management is by no means certain. If a population-specific approach were to be used, it also would complicate enforcement because of the need to be able to distinguish between legally and illegally traded polar bear parts. As described earlier in this letter, the available information indicates that the situation is worsening for some populations/ecoregions, and is doing so at a relatively rapid pace. It is reasonable to anticipate that additional negative changes could occur in some populations even during the period that negotiations would be underway. Finally, given the nature of climate disruption and the fact that its repercussions may persist well beyond the time-frame for taking meaningful mitigation measures, waiting for irrefutable evidence of total population decline before taking action would be decidedly non-precautionary. To weigh all these considerations, and for the sake of completeness, the Marine Mammal Commission recommends that the Fish and Wildlife Service consider the pros and cons of a population- or ecoregion-specific proposal for Appendix I listing of the polar bear. Because the majority of the world's polar bears reside in Canadian territory, the Commission also recommends that the Service monitor closely the establishment of new harvest limits in Canada and be prepared to amend its proposal accordingly. Those harvest limits announcement are expected this fall.

¹ The Service's final rule listing the polar bear as threatened (73 Fed Reg. 28212) identified four ecoregions (seasonal ice, archipelago, divergent ice, and convergent ice) in which polar bears face different risks of extinction based on the predicted patterns of ice formation and disappearance.

Sincerely,

Timothy J. Rye

cc: Ms. Helen Golde
Rebecca Lent, Ph.D.

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