

the export of sport-hunted trophies of Appendix-I species. While trade in such species may not be detrimental, and noncommercial trade can be allowed, the CITES treaty includes no requirement that such actions directly address the issue of enhancing the conservation of the species in the wild.

CITES also allows for the transfer from Appendix I to Appendix II of certain populations of species that can be demonstrated to benefit from "ranching," for purposes of trade. A ranching operation must primarily benefit conservation of local populations of the species in the wild. Ranching involves the development of a management program for a specific population of an Appendix-I species, such as Nile crocodiles in Zimbabwe. Under this program, crocodile eggs are taken from the wild and hatched in captivity, and then some juvenile crocodiles are returned to the wild, while others are retained for commercial activity. This provides an incentive to protect and recover the wild population.

For native species listed under the ESA, the Congress has directed that they be automatically protected from take, in addition to prohibitions against commerce and trade. A foreign ESA-listed species is protected from importation into the United States and from foreign commerce by American citizens, but not from take by an American within a foreign country. This reflects the limited extent to which domestic U.S. law applies overseas. We have a very different degree of control, and thus a very different ability to influence conservation, in other sovereign countries that have their own national laws and policies.

The ESA also provides us with permitting authority in Section 10(a)(1)(A) to allow for otherwise prohibited activities for listed species. This authority allows for the issuance of permits "for scientific purposes, or to enhance the propagation or survival" of the listed species, as well as other purposes for threatened species. The net result is that the ESA imposes different and more stringent permitting standards for the importation of an endangered species than is required under Appendix I of CITES. Under CITES, the issue is whether the importation of an Appendix-I foreign species is not detrimental to the survival of the species. Under the ESA, the issue is whether the importation of a foreign species enhances the survival of the species.

Special Rule Authority for Foreign Species Listed as Threatened

The ESA allows for the promulgation of special rules under Section 4(d) for threatened species. Special rules can be used to authorize permits for activities consistent with the specific conservation needs of a species and may be less restrictive than for endangered species. Using this Section 4(d) authority, we have issued regulations to allow for the importation of sport-hunted trophies of certain foreign species listed as threatened. Likewise, we have lifted restrictions on the import of products from several foreign species listed as threatened when we determined that lifting the import ban would be an incentive for the development of a more rigorous conservation program in the range state.

Examples of the use of the special rule authority include African elephants and saltwater crocodiles. The African elephant is listed as threatened with a special rule that allows for the import of sport-hunted trophies where it can be clearly demonstrated that the range country has established and is implementing a conservation program using regulated sport hunting as a tool to enhance the survival of the species. Several species of salt water crocodiles from Africa and Australia are listed as threatened with a special rule that allows the import of crocodile parts and products from certain managed populations to encourage and help create an incentive for the development of more rigorous conservation programs in affected range countries.

The need exists to address legitimate conservation issues affecting foreign ESA-listed species on a case-by-case basis, without sole reliance on a reclassification from endangered to threatened status so that Section 4(d) may be applied. The benefits of an innovative conservation program should not be limited solely to species that have already met the standard for reclassification to threatened status. Based on our experience in international conservation efforts, we believe that in some limited situations, the only way for the United States to participate in programs to improve the status of an endangered species is to allow import of specimens, parts, or products from well-regulated taking programs, if the programs are designed to promote conservation of the species in the wild. By making such determinations on a case-by-case basis, we expect that issuance of such permits will facilitate further conservation efforts that could lead to reclassification of a species from endangered to

threatened, or off the ESA list completely.

Enhancement Findings for Foreign Species Listed as Endangered

As indicated, we have been able to make the necessary "no detriment" CITES finding and the ESA's "enhancement of survival" finding for some activities that involve the direct removal of individuals from the wild for several foreign species listed in Appendix I that are also listed as threatened under the Act. While Section 10(a)(1)(A) of the ESA actually allows for the issuance of import permits to enhance the survival of foreign species listed as endangered, if the necessary enhancement finding can be made, we have historically interpreted the enhancement standard for foreign endangered species fairly narrowly. This practice has resulted in the routine denial of applications for the import of foreign species listed as endangered if the import would cause the killing of any individual in the wild, even in those situations involving a CITES-approved export program or other substantive conservation program. This has included the denial of applications for the import of parts and products from ranched populations, import of specimens meeting CITES requirements for specimens bred in captivity or artificially propagated for commercial purposes, sport-hunted trophies from countries with CITES-approved quotas for the species involved, and international movement of live zoological specimens.

The traditional, narrow approach to enhancement findings for actions that would result in the killing or removal from the wild of a foreign endangered species has precluded the use of the import permit as a proactive tool and incentive for foreign species conservation. We now believe that in some situations we could achieve a greater conservation benefit by providing for the importation of carefully selected foreign endangered species, or threatened species lacking (or in lieu of) a Section 4(d) rule, in exchange for a substantive and comprehensive conservation plan that offsets a limited take and further promotes the conservation of the species within the range country. An enhancement finding could be used as a more flexible proactive conservation tool to encourage the development of such substantive conservation plans for foreign species listed as endangered. Such an approach would help us expand the effectiveness of the ESA in meeting the growing habitat protection needs of foreign wildlife. Further, by