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Joint Standing Committee on Treaties
Department of House of Representatives
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Humane Society International (HSI) Supplementary Submission to the Joint Standing Committee on Treaties regarding 2007 Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Thank you for the opportunity to present to the Joint Standing Committee last week. This submission is to supplement our submission sent on the 23rd April 2008. It responds to questions raised by the Committee and comments made by the representative of the Department of Environment, Water, Heritage and the Arts (DEWHA).

The Committee sought clarification from HSI as to whether the freshwater sawfish sent to overseas aquaria will be the subject of a captive breeding program. It is exceptionally difficult to breed these species in captivity. We are not aware that it is the intention of the importing aquaria to attempt to breed the species, and it was not included in the draft Ambassador Agreement for the exports (attached to our initial submission). The Department may have amended the Ambassador Agreement since but this has not been provided to us and it is still the unamended draft from September 2007 that is currently on DEWHA's website. It is extremely unlikely the importing aquaria would ever be successful if they did attempt to breed the species, thus the aquaria are likely to remain in the market for further imports from the wild in the future and the primary intention of the importing aquaria is to use the species for public display.

HSI would like to point out to the Committee that the Appendix II listing for the freshwater sawfish applies to the species across its range in South East Asia and is not exclusively applicable to Australia. Thus the

subjectivity involved in interpreting the phrases ‘primarily for conservation purposes’ and ‘appropriate and acceptable’ is available to other countries where standards may be lower than Australia’s.

We would also like to point out the phrase in common currency at CITES is ‘not primarily for commercial purposes’ and that guidance has been given to Parties on the interpretation of this concept in a number of resolutions. ‘Primarily for conservation purposes’ is a new concept Australia has introduced specifically for the freshwater sawfish annotation which has not been defined and is less clear, making it less restrictive precisely to enable trade in the sawfish.

The representative from DEWHA suggested HSI did not consider education to be an important strategy in species conservation, stating “*Clearly, HSI is arguing that education is not conservation*”. On the contrary, HSI considers education to be extremely important in conservation efforts to protect species and consider this to be an important part of our own role as a conservation organisation. We also fund a number of programs in the Asia Pacific region that include education about species conservation as a core function. It can be argued that public display of live animals can play a role in education strategies for conserving species, but for those that want to pursue that strategy, a balance has to be struck between the welfare of the animals involved and whether their conservation is jeopardised by capturing the animals from the wild. The welfare of the animals and their conservation must remain paramount. The *Commonwealth Environment Protection and Biodiversity Conservation Act (EPBCA) 1999*, which implements CITES in Australia, provides for this balance.

Further, the EPBCA draws a distinction between education as a casual side effect of public display and formal education in enrolled programs when justifying the importation of CITES listed species. In defining whether an import of a species is for an eligible non commercial purpose, EPBCA s303FE and Regulation 9A.10 hold that the importation of the species cannot be for education unless it is imported to an institution whose primary role is education with enrolled participants. This is to rule out imports of CITES Appendix I species to institutions whose primary purpose is entertaining casual visitors for commercial purposes and in recognition that casual education as a result of public display is not sufficient justification to import a CITES Appendix 1 species (precisely why Cairns Marine Aquarium Fish needed freshwater sawfish on Appendix II). It is therefore a stretch to argue that public display of animals in the United States and France will have an educative benefit

that can be construed as being strong enough to warrant the export of the species for ‘conservation purposes’.

EPBCA Regulation

9A.10 Export or import for the purposes of education

For paragraphs 303FD (1) (c) and (2) (c) of the Act, the following conditions are specified:

(a) the specimen will be used for education or training by a private or public institution that has a primary function of educating or training enrolled or registered participants;

(b) the specimen will not be used for commercial purposes after it is no longer needed for education or training by the institution;

(c) the specimen is not needed for conservation breeding or propagation by the exporting country;

(d) if possible, the specimen comes from a captive animal or an artificially propagated plant;

(e) for education or training involving a live animal, the animal is held in a way that is known to result in minimal stress and risk of injury to the animal;

(f) in the case of education or training in which an animal is killed, the killing is done in a way that is generally accepted to minimise pain and suffering;

(g) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.

As explained in our previous submission, CITES requires the Australian Government to prepare a ‘non detriment finding’ when exporting Appendix II species, to give assurances to the importing country that the trade will be sustainable. HSI would like the Committee to be aware that the exporter prepared the ‘non-detriment finding’ for the Australian Government for the six sawfish exported just prior to last year’s federal

election. This represents a clear conflict of interest and is highly irregular. HSI recommends the Committee recommends an end to this practice. The Australian Government should ensure that the information gathered for non detriment findings is sourced independently.

We note representative of DEWHA informed the Committee that the non detriment finding went out for a period of public consultation, and that this was unusual. In HSI's opinion this should be standard practice for the export of Australian wildlife, and we recommend that the Committee suggests this for all future exports.

The Committee asked the representative from DEWHA whether there was a scientific study to determine that the exports of freshwater sawfish from Australia are sustainable. HSI is unaware of there being a scientific study to determine this and certainly not a study that has been published in any peer reviewed scientific journals. We suggest the Committee checks with DEWHA whether it is instead the case that a CSIRO officer gave a personal opinion to DEWHA in relation to the sustainability of the exports.

Lastly, the Committee asked HSI if we considered the attendance of the representative from Cairns Marine Aquarium Fish to be an impropriety. On reflection, HSI would like to amend the view we presented to the Committee on this point. We have become used to industry members playing a role on government delegations to international treaties. We agree with members of the Committee that this practice can present a serious conflict of interest where a wildlife trader has a direct commercial interest in the decisions of the Government delegation. We would recommend the Australian Government discontinues the practice where there is a clear pecuniary interest.

HSI thanks the Committee once again for considering our views.

Yours sincerely,

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