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Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act - 1996 Report

Table of contents

Minister's Message

Introduction

Administration of the Act

- B-1 Management and Scientific Authorities
- B-2 Agreements with the Provinces and Territories
- B-3 Permits

Regulation, Compliance, and Enforcement

- C-1 Regulatory Development
- C-2 Compliance
- C-3 Enforcement

International Cooperation

- D-1 CITES Committees and Preparations for COP10
- D-2 Enforcement

Sources of further information

- E-1 Government of Canada
- E-2 Provinces and Territories

MINISTER'S MESSAGE

*His Excellency
The Right Honourable Roméo Leblanc, P.C.
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Governor General of Canada
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Your Excellency:

I am pleased to submit to you and to the Parliament of Canada the first annual report on the implementation of the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA).

The diversity of the Earth's animal and plant life is disappearing at an alarming rate. Although much of this loss is due to habitat destruction, poaching and smuggling also take their toll. Unregulated trade in certain Canadian and foreign wild animals and plants increases the risk of extinctions of these species and impoverishes their surrounding ecosystems.

WAPPRIITA and the Wild Animal and Plant Trade Regulations became law on 14 May 1996. Together they provide Canadians with effective tools to combat illegal trade in wildlife and wildlife parts. Internationally, WAPPRIITA is the vehicle by which Canada fulfills its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Act makes it an offence to import wildlife products that have been illegally obtained or illegally exported from other countries. Within Canada, WAPPRIITA gives national support to provincial and territorial wildlife legislation. It is no longer possible to break the law in one province and escape prosecution by leaving the jurisdiction. WAPPRIITA also protects Canadian ecosystems from the introduction of nonnative wild species that may be harmful to indigenous species.

Environment Canada's main priority for 1996 was on completing the Wild Plant and Animal Trade Regulations, as these had to be in place before the Act could be proclaimed. Our next priority was on promoting awareness of the Act and its objectives with the public and specific user groups. Examples of promotional activities are contained in the report.

We will continue to develop the regulations over the next several years in order to increase the effectiveness of the Act and to reduce the administrative burden on the public _ for example, by ceasing to require certain permits, in cases where they provide little conservation benefit. Another priority will be on completing memoranda of understanding with the provinces and territories on the administration and enforcement of WAPPRIITA. These will formalize and enhance the high level of cooperation that we already enjoy.

Much dedication and hard work has gone into putting WAPPRIITA in place. I wish to acknowledge the contributions of my federal, provincial, and territorial colleagues and their officials, Environment Canada employees across the country, the interested public, and representatives of nongovernmental organizations, industry and trade associations, and hobbyist organizations. I look forward to continuing to work with all these partners as we build on the solid foundation that we now have in place.

Hon. Christine S. Stewart

INTRODUCTION

Throughout history, humankind has depended on wild plants and animals for food, apparel, shelter, and commodities for trade. Trade in wildlife and wildlife products can be beneficial, providing jobs and income while posing little risk to source populations, as long as these are well managed and maintained at optimum levels for sustainability. On the other hand, wildlife trade has the potential to reduce world populations of some species, to contribute to the loss of biodiversity throughout the world, and to introduce exotic species into native ecosystems where they may do harm. To address these problems, in 1975 the world community adopted the **Convention on International Trade in Endangered Species of Wild Flora and Fauna** (CITES), an agreement that regulates international trade in certain animals and plants, their parts, and products made from them. Canada was one of the original Parties to the Convention which, by the end of 1996, had been adopted by 136 sovereign states.

CITES identifies species that have been or may be threatened with over-exploitation as a result of trade pressures, and sets trade controls on the basis of the protection required by each species. Species are listed by the Parties in one of three appendices to the Convention according to the level of control considered necessary.

Species listed in **Appendix I** are recognized as threatened with extinction. Trade in specimens of these species are subject to particularly strict regulation in order not to endanger further their survival. Trade for primarily commercial purposes is prohibited. The limited trade that is allowed (e.g., for scientific or breeding purposes) requires both an export permit from the exporting country and an import permit from the receiving country. The Peregrine Falcon and Whooping Crane are examples of Canadian species on Appendix I.

Appendix II lists species that are not currently threatened with extinction but may become so, unless trade is strictly regulated to avoid over-exploitation. Species are also listed on Appendix II because they are difficult to distinguish from other species listed on Appendix I or II. A CITES export permit is required from the exporting country. The polar bear, river otter, and Burrowing Owl are examples of Canadian species on Appendix II. The black bear is an example of a Canadian species listed for "look-alike" reasons.

A two-thirds majority of votes cast at a Conference of the Parties is required to list, de-list, or change the listing of any species in Appendix I or Appendix II.

Individual Parties may list species found within their borders in **Appendix III** in order to manage trade in those species. A CITES export permit from the listing nation is required. The walrus is the only example of a Canadian species on Appendix III.

To more effectively implement its obligations as a Party to CITES and to offer greater protection to all wildlife, whether of Canadian or foreign origin, in 1996 Canada adopted new legislation to govern trade in wildlife. The **Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act** (WAPPRIITA) received royal assent on 17 December 1992. The Act could not be proclaimed until regulations addressing implementation were in place. The Act was brought into force on 14 May 1996 when the Wild Animal and Plant Trade Regulations took effect.

The purpose of WAPPRIITA is to protect Canadian and foreign species of animals and plants that may be at risk of over-exploitation due to poaching or illegal trade, and to safeguard Canadian ecosystems from the introduction of species designated as harmful. It accomplishes these objectives by controlling the international trade and interprovincial transport of wild animals and

plants, and their parts and derivatives, and making it an offence to transport illegally obtained wildlife between provinces or between Canada and other countries. The Act is the legislative vehicle by which Canada meets its obligations under CITES and, as such, replaces regulations for this purpose (now repealed) under the Export and Import Permits Act (EIPA). It also replaces the Game Export Act (now rescinded), which applied only to nonliving specimens, and designates harmful species formerly listed in the Customs Tariff or in EIPA regulations. (Harmful species, including mongooses, raccoon dogs, and starlings, pose a risk to Canadian ecosystems because of their potential to displace native species, damage habitat, or introduce disease).

WAPPRIITA provides for more effective and efficient enforcement than was possible under previous legislation, and its penalty regime reflects the seriousness with which Parliament views wildlife crime. Previously, under the Export and Import Permits Act there was a maximum fine of \$5000 and/or imprisonment for up to 12 months for summary offences and a maximum fine of \$25 000 and/or imprisonment for up to five years for indictable offences.

Under WAPPRIITA, on summary conviction an individual may be fined up to \$25 000, imprisoned for up to six months, or both. Conviction on more serious offences, such as organized poaching and trafficking, may result in fines up to \$150 000, imprisonment for up to five years, or both. Fines for corporations are higher: up to \$50 000 on summary conviction and up to \$300 000 for indictable offences.

Fines can be increased when the offence involves more than one specimen or product, and for continuing or subsequent offences, and an additional fine equal to the profits gained by illegal activity may be levied. In addition to these penalties, the court may make orders to prohibit certain activities, require remedial action or compensation, or direct the offender to publish details of the offence, perform community service, report on activities, post a bond, or comply with any other conditions the court imposes. Minor offences will be dealt with by issuing tickets under the Contraventions Act, following conclusion of agreements with the provinces.

Section 28 of the Act requires annual reporting of the administration of WAPPRIITA, which follows.

ADMINISTRATION OF THE ACT

B-1 Management and Scientific Authorities

Environment Canada administers **WAPPRIITA** through its national office, where the national **CITES** management and scientific authorities are located. CITES management and scientific authorities are also located in the Department of **Fisheries and Oceans** (DFO) for fish and marine mammals, and in each province or territory (except Alberta) for provincially managed species. **Agriculture and Agri-Food Canada** (AAFC) assists Environment Canada by processing CITES documentation for the export of artificially propagated plants as an attachment to documents required under the *Plant Protection Act*, which AAFC administers.

The management and scientific authorities have specific roles in approving applications to import and export wildlife or wildlife products listed by CITES. The management authority ensures that specimens were legally acquired and, in the case of Appendix I species, are not being traded for primarily commercial purposes. The scientific authority ensures that the movement of a specimen will not be detrimental to the survival of the species and, in the case of live imports, that the specimen will be given proper housing and care. If both authorities are not satisfied that all conditions have been met, a permit will not be issued.

Enforcement of WAPPRIITA is overseen by the **Enforcement Branch of Environment Canada** and carried out by five **regional offices** (Pacific and Yukon, Prairie and Northern, Ontario, Quebec, and Atlantic), in cooperation with other federal agencies, including **Revenue Canada**, the **Royal Canadian Mounted Police** (RCMP), and **Department of Fisheries and Oceans** (DFO), as well as with **provincial and territorial wildlife agencies**.

B-2 Agreements with the Provinces and Territories

Under Section 5 of the Act, agreements may be made with the provinces and territories "to provide for the cooperative management and administration of this Act and to avoid conflict between, and duplication in, federal and provincial regulatory activity."

Saskatchewan and Yukon

Two such agreements have been reached with the Province of Saskatchewan and the Yukon Territory. Memoranda of Understanding (MOU), drafted in 1996 and completed in 1997, outline the roles and responsibilities of each party for issuance of CITES permits, enforcement, and scientific advice; and guidelines are given for conflict resolution, consultation, public awareness, information sharing, financial considerations, supplemental agreements, administration, and annual review and reporting. Under the MOUs, Saskatchewan and Yukon issue permits for and lead enforcement activities related to the export of all indigenous species listed by CITES, except for: those species for which DFO is responsible and, in the case of Saskatchewan, black bear; **for** the export and interprovincial transport of all species listed in their respective *Wildlife Acts*; and for the interprovincial transport of species designated under WAPPRIITA, by cross-reference to provincial and territorial legislation, as being harmful to Canadian ecosystems.

Alberta

On January 1, 1995, Alberta formally withdrew from administration of CITES for resource and jurisdictional reasons. Environment Canada now carries out all WAPPRIITA functions for Alberta with respect to CITES that are carried out elsewhere by other provinces and territories.

Others

The other provinces and territories carry out functions for the administration of CITES for indigenous species similar to those described above in the paragraph on Yukon and Saskatchewan. MOUs are currently being negotiated with other jurisdictions to encourage cooperation and to set out the respective administrative and enforcement roles with respect to WAPPRIITA.

B-3 Permits

WAPPRIITA is primarily used to implement CITES, and currently all permits issued under the Act are for CITES-listed specimens. No permits were issued in 1996 to authorize the importation of species identified under the Act as potentially harmful to Canadian ecosystems.

All CITES import permits are issued by Environment Canada. DFO issues CITES export permits for fish and marine mammals. The provinces and territories issue CITES export permits for items leaving their jurisdictions, with the exceptions noted in the preceding section for Saskatchewan and Alberta*.

*In addition to obtaining CITES permits required by Canada, persons importing or exporting wild animals and plants should also inform themselves as to the permit or other requirements under other applicable federal legislation, such as the Health of Animals Act and Plant Protection Act

administered by Agriculture and Agri-Food Canada, as well as the requirements of the relevant provincial and territorial governments.

Until early in 1996, **Agriculture and Agri-Food Canada** (AAFC) issued CITES permits for artificially propagated plants along with their own phytosanitary certificates. When the Greenhouse Certification Program was introduced, a phytosanitary certificate was no longer required to transport plants from certified greenhouses between Canada and the U.S. With the burden of issuing phytosanitary certificates lightened, AAFC ceased issuing CITES permits. Environment Canada has assumed this responsibility and issues CITES export permits valid for multiple shipments by certified nurseries of artificially propagated plants; this arrangement is possible as the AAFC certification program requires that no wild plants be introduced into the propagation facilities. For uncertified greenhouses, Environment Canada accepts a phytosanitary certificate issued by AAFC as a CITES certificate of artificial propagation.

The relatively large number of export permits derives largely from the export of black bears, which are hunted for sport in Canada and listed in WAPPRIITA as a CITES **Appendix II** species. Although management agencies in Canada agree that black bear populations in Canada are healthy, the black bear is listed in CITES Appendix II for "look-alike" reasons (i.e., black bear body parts look like the body parts of endangered bears that require a higher level of protection and are thus subject to trade controls that would normally not be applied to such a species). Import permits are most commonly issued to institutions such as zoos to import live **Appendix I** species for the purpose of breeding; to landed immigrants who wish to bring personal effects (e.g., furniture or decorative items, garments, live pets) into the country; and to hunters who wish to bring back trophy parts of animals legally hunted abroad.

CITES Permits Issued in Canada in 1996				
Jurisdiction	Import	Export	Temporary Export/Import	Scientific
Canada	174	6 812	250	30
Alberta*		N/A		
British Columbia		2 221		
Manitoba		1 722		
New Brunswick		1 154		
Newfoundland		119		
N.W.T.		92		
Nova Scotia		52		
Ontario		4 526		
P.E.I.		3		
Quebec		1 990		
Saskatchewan		1 288		
Yukon		162		
TOTAL	174	20 141	250	30
Appendix I species included on permit	174	154	137	0
* Does not issue CITES permits.				

REGULATIONS, COMPLIANCE, AND ENFORCEMENT

C-1 Regulatory Development

The regulatory program under the Act is complex, requiring extensive consultation with the provinces and territories, stakeholders and the public. As a result, regulatory development will proceed by steps over several years. The **Wild Animal and Plant Trade Regulations** (1996), the first step, essentially "rolled over" the regulatory provisions that WAPPRIITA replaced. In so doing, they designate the species protected by the Act and detail the Act's requirements with respect to import, export, and possession of wild species. Future regulations will address exemptions or other modifications to permit requirements (e.g., for personal and household effects and captive-bred specimens, in accordance with terms of the Convention); permit fees and other cost-recovery measures; and administrative matters, such as record keeping, marking of specimens, and designating ports-of-entry.

C-2 Compliance

Promotion

Environment Canada has increased its efforts to promote compliance with WAPPRIITA by focussing on public awareness. It has done so through several means, including:

- newspaper articles, press releases, advertisements, and media interviews;
- posters, brochures, and a video on CITES in several languages: for example, a national brochure, **Endangered Species and the Traveller**, which was developed by the Pacific and Yukon Region of the department, has been produced in both official languages, as well as in Cantonese, Japanese, Chinese, Vietnamese, and Mandarin, and is now being translated into Spanish; also, information on WAPPRIITA and CITES was included in a brochure, **Bon Voyage, But...**, which was issued by the Department of Foreign Affairs and International Trade to all recipients of new passports in 1996;
- regular mailings to user groups (e.g., traditional medicine importers, orchid societies);
- CITES displays in airports and other public buildings: for example, interactive kiosks were installed at the Vancouver International Airport and displays were placed in the Vancouver Passport Office and the United Terminal; and the Prairie and Northern Region of Environment Canada has displays in shopping malls and other public places; the Atlantic Region has a permanent display at the Cherrybrook Zoo, in Saint John, N.B., which won an award in 1996 for the best display on endangered species in zoo's across Canada;
- information sessions for the public (e.g., international travellers and school groups) and user groups, such as travel agencies, hunting clubs, and commercial importers (e.g., traditional medicine importers, pet trade industry, plant growers): for example, the department's Atlantic Region had displays at the Association of Canadian Travel Agents' annual conference which was held in P.E.I. and the Canadian Association of Zoological Parks and Aquariums annual conference held in Moncton;
- attending trade shows, conferences, and special events: for example, in the Atlantic Provinces, displays were placed at variety of sports and outdoors shows and at special events over the course of the year, including during Environment Week celebrations in June.

The provinces and territories promote public awareness of WAPPRIITA and their own wildlife trade regulations through media releases, provision of information about permit requirements to clients (e.g., outfitters, taxidermists, fur dealers), notes in hunting/trapping regulation brochures, and school presentations.

Verification

It is generally considered that voluntary compliance with legislation governing international trade in wildlife has improved in recent years, mainly as a result of increased public and business awareness of permit requirements (e.g., many federal and provincial agencies report an increased number of inquiries for information). However, such voluntary compliance is likely to be demonstrated by those already disposed to obeying the law. Overall compliance is difficult to measure; however, intelligence gathering and analysis and prosecutions suggest that illegal trade by organized operators is sizeable and possibly growing in Canada as it is elsewhere in the world, and that compliance promotion activities have not significantly altered the behaviour of this group.

Monitoring

Monitoring activities include the following:

- monitoring **CITES** permits and other export/import permits;
- inspections at international ports;
- sharing information with Revenue Canada and with other national/international agencies;
- spot-checks or routine inspection of wildlife businesses (e.g., taxidermists, outfitters, guides);
- monitoring hunting;
- cultivating sources of information, intelligence gathering;
- following up reports from the public (e.g., through Crime Stoppers).

All **regional offices of Environment Canada** engage in more monitoring now than they did five years ago, in large part because more resources have been applied to this activity. DFO reports that monitoring has been maintained at similar levels.

Inspections

Environment Canada conducted 3995 inspections related to wildlife trafficking in 1996. This figure includes inspections made under the *Export and Import Permits Act* prior to 14 May 1996, as well as those made under WAPPRIITA after this date. Typical inspections include the following:

- border inspections of goods arriving in or leaving Canada in personal baggage or commercial shipments (e.g., at Revenue Canada's border crossings at the Canada-U.S. border, international mail centres, and at international airports);
- inland inspections related to the movement and care of CITES-controlled species (e.g., inspections of exporters, pet stores, CITES-registered captive-breeding facilities, and care facilities for live Appendix I specimens).

C-3 Enforcement

Implementation Procedures and Officer Training

Procedures for implementing new elements of WAPPRIITA were prepared for the countrywide training of Environment Canada enforcement officers. Training is aimed at equipping officers not only to do their own work, but also to train other officers. In 1996, regional enforcement officers conducted training programs on WAPPRIITA for regional personnel in other federal agencies, including **Revenue Canada**, the **Royal Canadian Mounted Police (RCMP)**, **Parks Canada**, **Agriculture and Agri-Food Canada**, the Department of **Fisheries and Oceans (DFO)**, **provincial/territorial wildlife agencies**, and the **U.S. Fish and Wildlife Service**. The **Prairie and Northern Region of Environment Canada** also presented a training program on WAPPRIITA for five Alberta Provincial Court judges, a first in Canada. A one-week Wildlife Trade Identification course was given to Revenue Canada's customs officers in Rigaud, Quebec as part

of a pilot project in Revenue Canada's Ontario and Quebec region, with assistance from other regions.

Cooperation with Other Federal Agencies

From June to November 1996 a Joint Service Initiative pilot project was run by Environment Canada in cooperation with Revenue Canada. The objectives of the project were to increase the level of compliance verification of commercial imports of CITES-controlled wildlife, to enhance service to importers, to improve decision making by customs officers regarding referrals to Environment Canada, and to identify areas requiring attention when considering national implementation of the program.

The pilot was run in eight customs offices, four in southern Ontario and four in Quebec. A customs officer at each location was trained in the use of the *CITES Control List*, the issuance of permits, and the identification of specimens. These officers in turn offered CITES awareness training to fellow officers in their offices. Results of the project showed that both compliance with import requirements and service to importers were enhanced and that Environment Canada officers were freed to focus their attention on higher-risk shipments.

Investigations

In 1996 Environment Canada conducted over 200 investigations into poaching or trafficking incidents involving international or interprovincial movement of wildlife under provisions of applicable federal, provincial/territorial or foreign legislation. Since **WAPPRIITA** came into force on 14 May 1996, 20 investigations have been carried out specifically under WAPPRIITA.

Prosecutions

Cases already prosecuted under the new law include the following:

- In August 1996, a Filipino national was convicted in an Ontario court under WAPPRIITA subsection 6(2) of unlawfully importing four elephant tusks into Canada. He was sentenced to 22 days in jail. Lead agencies: Revenue Canada, Environment Canada.
- In November 1996, a British national was convicted under WAPPRIITA subsection 6(2) of unlawfully importing 232 live Indian star tortoises into Canada. The court fined him \$10 000 and ordered forfeiture of the tortoises, valued at up to \$250 000. Lead agencies: Revenue Canada, Environment Canada.
- In November 1996, a Canadian was convicted under WAPPRIITA subsection 6(2) of unlawfully exporting from Canada one bear gall bladder, intended to be taken to Korea via Detroit, Mich. He was fined \$5 000. Lead agency: RCMP.
- In November 1996, a B.C. man was convicted under WAPPRIITA subsection 6(2) of knowingly importing two Moluccan cockatoos into Canada without the proper permits. The judge ordered forfeiture of the birds, valued at US\$4 000, and gave the defendant a discharge. Lead agency: Environment Canada.

INTERNATIONAL COOPERATION

D-1 CITES Committees and Preparations for COP10

Canada is an active participant in the work of **CITES** internationally, and representatives from Environment Canada, Natural Resources Canada - Canadian Forest Service, and DFO took part in a number of related committee meetings during 1996. These included meetings of the CITES Standing Committee, the Plants and Animals committees, and the Timber Working Group, as well as the CITES North American Regional meeting with the United States and Mexico. A major

focus of these meetings in 1996 was on preparations for the 10th Meeting of the Conference of the Parties (COP10), subsequently held in Harare, Zimbabwe, 9-20 June 1997.

Also in preparation for COP10, Canada began consultations with the provinces and territories, as well as with stakeholders and the public, on proposals concerning Canadian species that Canada might take forward, as well as on proposals being developed by other Parties. These consultations resulted in development of a Canadian proposal, which ultimately was approved by the Parties in Harare, to transfer the wood bison from **Appendix I to Appendix II**: this will permit a controlled export of ranched wood bison from Canada to other countries.

D-2 Enforcement

Through the **North American Wildlife Enforcement Working Group** to Cooperate in Wildlife Enforcement, Canada (Environment Canada) works with the United States (**U.S. Fish and Wildlife Service**) and Mexico (**Procuraduría Federal de Protección al Ambiente**) to promote wildlife enforcement, including controlling the trade of species protected under national legislation. This group had been in place for a number of years, but was formally established in 1996 in support of the **North American Agreement on Environmental Cooperation** and the work of the **Trilateral Committee for Conservation and Management of Wildlife and Ecosystems**. The group promotes the exchange of information related to wildlife enforcement (including policy, regulation, initiatives, and responses), joint training of officers, exchange of training expertise, and cooperation and consultation with other groups with an interest in wildlife enforcement.

Environment Canada also works with Interpol (the wildlife subgroup) and the World Customs Organization (CITES Working Group).

Environment Canada's Office of Enforcement, Wildlife Division is also leading an international project to prepare identification guides for species protected under CITES. These guides will be used by nonspecialist officers who enforce CITES at the international level to identify CITES-controlled specimens more accurately. Identification guides for birds and crocodilians have already been published (in 1994 and 1995, respectively), and preparation of two additional guides is in progress. A guide on butterflies is being prepared with support from Environment Canada's Biodiversity Convention Office, and another on turtles and tortoises is being published in partnership with Mexico's Office of the Attorney General for the Protection of the Environment and the U.S. Department of the Interior. The CITES Secretariat and the Customs Cooperation Council have assured their support in the promotion and distribution of these publications.

SOURCES OF FUTURE INFORMATION

E-1 Government of Canada

Environment Canada's Green Lane

Environment Canada has established an environmental information network on the Internet to help Canadians make informed decisions and take action on environmental issues and sustainable development. Anyone with access to the Internet may log onto the Green Lane and get up-to-date information on Environment Canada's activities and, in particular, its WAPPRIITA-related activities. Information on the Act and regulations, as well as on the CITES Convention, appendix listings, and specific permit and other requirements for taking CITES-listed species into and out of Canada can be found on the Green Lane. Publications lists and ordering information are also available on the Green Lane.

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E-2 Provinces and Territories

For information on CITES export permits and provincial and territorial requirements with regard to wild animals and plants regulated by the provincial and territorial governments, please contact:

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Wildlife Branch
Ministry of Environment, Lands and
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Government of British Columbia
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