

23 January 2002

U.S. Comments on the Overall plan to develop a factual record on SEM-99-002 submitted by the CEC Secretariat on December 14, 2001

Background Section

First paragraph, second sentence: The Secretariat's characterization of the requirements of Section 703 of the Migratory Bird Treaty Act with respect to "taking" is inaccurate. The U.S. proposes that this sentence be revised to read as follows:

"...which prohibits the killing or 'taking' of migratory birds and their nests or eggs, against loggers, logging companies, and logging contractors."

First paragraph, third sentence: We ask that the Secretariat revise this sentence to include language directly from the Submission (as opposed to re-characterizing statements in the Submission and then citing four pages and an appendix). We propose reworking the sentence to read as follows:

"The Submitters claim that logging operations consistently result in violations of the Act which have 'significant consequences, because logging directly kills or takes migratory birds by destroying nests, crushing eggs, and killing nestlings and fledglings.' "

First paragraph, fourth sentence: Please revise this sentence as follows:

"The Submitters assert that despite being aware of these alleged violations...."

Overall Scope of the Fact Finding Section

While the Submitters' allegations are described in some detail, almost no information is provided regarding the U.S. government response. To maintain balance, the Secretariat should provide additional information describing the main elements of the U.S. government response to the MBTA submission.

For consistency, please revise bullet (i) to read as follows: "the alleged violations of section 703 of the MBTA in connection with the two cases that are referenced in Council Resolution 01-10".

Bullet (iii) is unnecessary. Bullet (ii) is general in nature and effectively covers the substance addressed in bullet (iii), therefore, the third bullet should be removed.

Overall Plan Section

In order to facilitate the fact finding as well as internal U.S. coordination efforts, it is requested that all communications between the Secretariat and U.S. federal government officials, as outlined under the first and second bullets, be in writing and go through the following primary points of contact, with an electronic copy to the U.S. Environmental Protection Agency/Office of International Activities (frigerio.lorry@epa.gov):

U.S. Department of Interior/ Fish and Wildlife Service

Kevin Adams

Assistant Director, Law Enforcement

U.S. Fish & Wildlife Service

Mail Stop 3012

1849 C Street NW

Washington, D.C. 20240

ph: 202-208-3809

fx: 202-482-3716

***DOI does not have email access at this time**

U.S. Department of Agriculture

Tom Darden

Acting Director Wildlife, Fish, Watershed, Air, and Rare Plants Staff

USDA Forest Service

Sidney R. Yates Federal Building

201 14th Street at Independence Avenue, SW

Washington, D.C. 20250

ph: 202-205-1167

fx: 202-205-1599

email address to follow

Additionally, the contacts identified above should be copied on all communications between the Secretariat and U.S. state and local officials (including an electronic copy to the U.S. Environmental Protection Agency via frigerio.lorry@epa.gov).

Second bullet:

- The following sentence should be included after the first sentence in the first paragraph:
“All requests for information from government authorities will be in writing.”
- Bullet (i) under the second bullet should be revised as outlined above.
- Bullet (iii) under the second bullet should be removed for the reasons stated above.

Fourth bullet: If the Secretariat obtains independent experts to develop information, the Secretariat should ensure that such experts represent a balanced point of view.

U.S. Comments on the Overall plan to develop a factual record on SEM-97-006, 98-004, 98-006, and 00-004 submitted by the CEC Secretariat on December 14, 2001

Since these four documents contain much of the same “boilerplate” language, the comments outlined below apply to all four work plans.

Overall Scope of the Fact Finding Section

Bullet (iii) is unnecessary. Bullet (ii) is general in nature and effectively covers the substance addressed in bullet (iii), therefore, the third bullet should be removed.

Overall Plan Section

Second bullet:

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Fourth bullet: If the Secretariat obtains independent experts to develop information, the Secretariat should ensure that such experts represent a balanced point of view.