

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Reclassification of Nile Crocodile From Endangered To Threatened

AGENCY: Fish and Wildlife Service.

ACTION: Final rule.

SUMMARY: The Nile crocodile (*Crocodylus niloticus*) is reclassified from endangered to threatened under provisions of the Endangered Species Act of 1973, as amended (Act). An existing special rule, applicable only to the Zimbabwe population of the Nile crocodile, remains in effect. A special rule applicable to all populations of the Nile crocodile in those countries in which the species is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna or Flora (CITES or Convention) is still under consideration and may be repropounded in the near future. This rule implements Federal protection provided by the Act for threatened species for all populations of the Nile crocodile.

EFFECTIVE DATE: October 25, 1993.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240. Fax number (703) 358-2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia, address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, or by phone at (703) 358-1708.

SUPPLEMENTARY INFORMATION:**Background**

Historically, the Nile crocodile (*Crocodylus niloticus*) was widespread throughout Africa and as far north as Syria. Presently, it is confined chiefly to the upstream regions of the Nile, tropical and southern Africa, Madagascar, and Comoros and Seychelles islands, the extent of its range when originally listed as endangered in 1970. In the 1950's and

1960's, throughout much of the then-existing range, populations were seriously reduced by habitat alteration, hunting for the hide industry, or killing to eliminate threats to humans, livestock, and the fishing industry.

The Nile crocodile was listed as endangered under the U.S. Endangered Species Act (Act) in 1970 (35 FR 8495) and in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1975 (when CITES came into force) because of the widespread decline of the species. Since that time, a number of African countries have recognized the value of the Nile crocodile for its ecological role and as a source of sustainable economic benefit under proper management, especially through ranching for a controlled harvest of skins.

Throughout its range today, most populations of the Nile crocodile are reported to be increasing or to have at least stabilized. In some areas, dams on rivers have increased available habitat through the creation of lakes. Of those countries that have started ranching operations, Zimbabwe appears to have the best information on wild crocodile populations. Other countries, particularly Botswana, Ethiopia, Kenya, Malawi, Mozambique, South Africa, Tanzania, Uganda, and Zambia, have expanded their national data bases on wild crocodile populations in order to meet the CITES criteria for ranching operations or trade under export quotas.

Because Zimbabwe had a well-developed ranching scheme and considerable data on the status of its wild populations, its ranching proposal was the first one accepted by the CITES Parties (1983). Based on this and other information, in 1987, the Service reclassified to threatened ranching populations of the Nile crocodile in Zimbabwe to threatened (52 FR 23148); and in 1988, the Service reclassified the wild populations of the Nile crocodile in Zimbabwe from endangered to threatened (53 FR 38451).

In 1984, CITES officials met in Brussels, Belgium, to discuss CITES implementation in Africa. The transfer of the Nile crocodile to Appendix II and the difficulty of satisfying the downlisting criteria, as presented in CITES resolution Conf. 1.2, were major issues of discussion. Not all African countries had ranching schemes at the time or intentions to develop them. It was recognized that an alternative procedure was needed to allow for utilization of wild populations while information was being gathered to satisfy the rigorous downlisting criteria of resolutions Conf. 1.2 (Berne criteria)

or Conf. 3.15 (ranching). The outcome was a quota system adopted by the Parties in 1985 as resolution Conf. 5.21. Under this procedure, Nile crocodile populations of nine African countries (Cameroon, Congo, Kenya, Madagascar, Malawi, Mozambique, Sudan, Tanzania, and Zambia), were transferred from Appendix I to Appendix II, subject to export quotas established by agreement of the Parties. The population of Botswana was added in 1986 through a postal vote. In 1987, export quotas were renewed for Nile crocodiles from all ten countries, and the CITES Secretariat initiated the CITES Nile Crocodile Project in eastern and central Africa and Madagascar (Hutton 1989).

At the 1989 CITES Conference of Parties, additional populations of the Nile crocodile were transferred from Appendix I to Appendix II, pursuant to resolution Conf. 3.15 on ranching. This decision affected populations in Botswana, Malawi, Mozambique, and Zambia. The Party countries also agreed in 1989 to continue export quotas for the Nile crocodile, pursuant to resolutions Conf. 5.21 (export quota system) and Conf. 7.14 (annual export quotas). However, export quotas for Cameroon, Congo, Madagascar, and Sudan populations were set at zero at that time, and export of only captive-raised specimens was allowed from Madagascar in 1991 and 1992. The Parties also approved the transfer of Nile crocodile populations in Ethiopia and Somalia from Appendix I to Appendix II pursuant to Conf. 5.21.

The appropriateness of the original endangered listing under the Act and Appendix I listing under CITES has been the subject of much international debate. However, improvements in the status of Nile crocodile populations and their management have now prompted the CITES Parties to allow trade from 11 national populations, most of these under the ranching criteria of resolution Conf. 3.15.

The Service initiated a status review of the Nile crocodile on October 29, 1990 (55 FR 43387). All six commenters expressed the opinion that the Service should downlist the Nile crocodile from endangered to threatened and rely on CITES controls between producing and consuming countries to ensure that illegal products do not enter the market. On January 8, 1992, the Service received a petition dated December 28, 1991, from Dr. J.M. Hutton, Executive Manager of the Crocodile Farmers Association of Zimbabwe, requesting the reclassification of the Nile crocodile. The Service reviewed the petition and information available from the status review, and, after concluding that the

petition contained substantial scientific and commercial information indicating that a downlisting action was warranted, the Service, on August 3, 1992, proposed reclassifying the Nile crocodile from endangered to threatened with an accompanying special rule (57 FR 34095).

Comments Received on Proposed Rule and Proposed Special Rule

Two individuals, as well as the IUCN Crocodile Specialist Group, and SAVE African Endangered Wildlife Foundation, supported the reclassification of the Nile crocodile from endangered to threatened. The Australian National Parks and Wildlife Service (ANPWS), the Crocodile Farmers Association of Zimbabwe (CFAZ), and TRAFFIC USA also supported the reclassification, but expressed concern about proposed paragraph (c)(1)(ii)(C) of § 17.42 that would have required crocodile skin products to either be tagged or to be accompanied by CITES documents containing the same information as is on the tags for the crocodiles from which the manufactured products were obtained. The ANPWS stated that the control of skins removes the need to require every manufactured product to be marked, and anticipating that a similar special rule would be proposed for the saltwater crocodile, ANPWS indicated that, because saltwater crocodile skins used in product production in Australia are not tagged, it would not be possible to record the tag numbers of these products on CITES permits. The CFAZ raised the same concerns as the ANPWS. They also expressed the concern that the requirements of this paragraph were unenforceable and urged that it be deleted. TRAFFIC USA also supported the reclassification, but expressed the belief that proposed paragraph (c)(1)(ii)(C) is impractical and unenforceable. They noted that "because of the complexities of the crocodilian product manufacturing industry, and the regular movement of skins, skin parts, and product parts between manufacturers, this requirement . . . will be impossible to meet." Furthermore, TRAFFIC USA expressed support for establishing a "water-tight system of controlling trade in the raw material."

The Service recognizes the concerns presented by the ANPWS, CFAZ, and TRAFFIC USA, and agrees with TRAFFIC USA in seeking to strengthen the control of trade in whole and partial skins. International trade in certain crocodilians has presented significant problems for the CITES Parties. The

United States, in conjunction with Australia, Italy, and Germany, submitted a resolution to the CITES Secretariat that was presented and adopted at the Eighth Meeting of the Conference of the Parties in March 2-13, 1992. This resolution (Conf. 8.14) calls for a universal tagging system for the identification of crocodilian skins in international trade. These recommendations as well as additional ones specified by the CITES Animals Committee should, if properly implemented, reduce the trade control problems when the tagging system is initiated about October 1, 1993.

Therefore, in response to the comments received on the previous proposed special rule and in response to resolution Conf. 8.14, the Service is developing a special rule that is designed to complement the provisions of the universal tagging system to be implemented by the CITES Parties. The Service expects to publish the proposed special rule in the near future.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations implementing the listing provision of the Act (50 CFR part 424) set forth five factors to be used in determining whether to add, reclassify, or remove a species from the Lists of Endangered and Threatened Wildlife and Plants. These factors and their applicability to populations of the Nile crocodile in Africa are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The Nile crocodile is widely distributed throughout Africa south of the Sahara, and is chiefly confined to the upper Nile, tropical and southern Africa, and Madagascar. It is regarded as a dangerous pest species, and each year many attacks on humans are reported. In the 1950's and 1960's, Nile crocodile populations were seriously reduced throughout much of their range because of habitat alteration, hunting for the hide industry, and killing to eliminate a threat to humans, livestock, and the fishing industry.

Little is known about Nile crocodile distribution and abundance prior to the 1960's. Intensive surveys and management of the species did not begin until the 1980's. The CITES Nile Crocodile Project was initiated in 1987, and surveys were conducted in the following countries: Botswana, Kenya, Madagascar, Malawi, Mozambique, Tanzania, and Zambia. Crocodile populations are either stable or

increasing in all of these countries except Madagascar (Hutton 1988), although crocodiles are still widely distributed on the island. Most African countries have now recognized the species as valuable in terms of its ecological role and as a source of sustainable economic benefit when properly managed, especially the ranching of animals for a controlled harvest of skins. Commercial ranching of the species has increased the management and conservation of wild populations. In some areas, dams on rivers have increased available habitat through the creation of lakes and lagoons.

In 1987, the Southern African Development Coordination Conference (SADCC) held a workshop on crocodile management and utilization to improve conservation efforts. Over the years, the SADCC countries (Angola, Botswana, Malawi, Mozambique, South Africa, Tanzania, Zambia, and Zimbabwe) have taken an active role in the management of crocodiles. Intensive surveys have been conducted in several SADCC countries, and it is estimated that there are at least 43,000 crocodiles in the Zambezi River and lake system alone. The major rivers (2,760 km shoreline) of Tanzania have about 76,000 animals. Zambia, with 6,870 km of river and 5,776 km of lake shore, has over 150,000 crocodiles (Hutton et al. 1987). Nile crocodile populations in Southern Africa have recovered significantly, and according to Hutton (1989), the species never was in danger of extinction.

B. Over-utilization for Commercial, Recreational, Scientific, or Educational Purposes

The Nile crocodile has been persecuted as vermin, often with the aim of complete eradication. Harvest was accelerated in the 1950's and 1960's for the commercial export of hides. By the late 1960's, large-scale uncontrolled hunting had markedly declined in many countries, either because of legal protection or because it was no longer profitable to hunt crocodiles. In recognition of over-exploitation, the species was placed in Appendix I of CITES in 1975. The subsequent recovery of most populations, even to nuisance levels, led to the need for a procedure to allow for controlled utilization of wild populations, so that there would be an economic incentive to conserve a species that was otherwise viewed as a threat.

Zimbabwe was the first African country to successfully use CITES procedures and criteria (Conf. 3.15 on ranching) to transfer its Nile crocodile population to Appendix II, thus

allowing for regulated trade. Zimbabwe's ranching proposal was accepted in 1983. Following a meeting in 1984 at Brussels to discuss CITES implementation in Africa, an alternative procedure was adopted to allow for the utilization of wild populations while information was being gathered to satisfy the criteria of resolutions Conf. 1.2 or 3.15. In 1985, in accordance with resolution Conf. 5.21, Nile crocodile populations in nine African countries were transferred to Appendix II with export quotas. In 1985, the population of Botswana was added through the CITES postal procedures. In 1987, all ten African countries applied to continue their quotas. At the 1989 Meeting of the Conference of the Parties, ranching schemes (under Conf. 3.15) were approved for Botswana, Malawi, Mozambique, and Zambia. To date, 11 national populations of the Nile crocodile have been transferred to Appendix II either under the ranching criteria (Conf. 3.15) or the quota system (Conf. 5.21), and trade permitted. In addition, the population of the Nile crocodile in Somalia has been transferred to Appendix II, but the CITES Parties have not authorized any export quota in 1993 or 1994.

C. Disease or Predation

Disease and predation are not reported to be factors significantly affecting the status of Nile crocodile populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The Parties to CITES have adopted a series of resolutions to allow for trade of Nile crocodile skins. Presently, 12 countries have Nile crocodile populations listed in Appendix II, chiefly under the resolutions on ranching (Conf. 3.15) and quotas (Conf. 5.21). Throughout Africa, countries are seeking to increase tolerance for the species and encourage the maintenance of wetland habitats by ensuring that sustainable use gives the wild populations of Nile crocodiles an economic value.

The high value of Nile crocodile products and the relative abundance of animals have prompted many range countries to develop, or begin to develop, sustained-use management programs. Virtually all of these programs have been endorsed by the Parties to CITES. In 1987, the CITES Secretariat funded the CITES Nile Crocodile Project, which surveyed populations in seven African countries. Governments of African countries now advocate conservation of the species

through ranching, including egg and hatchling collecting, and trade.

The adoption of universal tagging requirements for all crocodylian skins is an important step in addressing illegal trade. At the 8th meeting of the CITES Conference of the Parties in Kyoto, Japan, a resolution was passed establishing requirements for a universal tagging system for the identification of crocodylian skins in international trade. The provisions of the resolution and additional recommendations of the CITES Animals Committee are expected to be implemented about October 1, 1993.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

No other natural or manmade factors are considered to be significantly affecting the status of the Nile crocodile.

The Service has evaluated the best available biological and commercial information regarding past, present, and future threats faced by the Nile crocodile in preparing this final rule. Criteria for reclassification of a threatened or an endangered species, found in 50 CFR 424.11(d) include extinction, recovery of the species, or error in the original data for classification. This final rule is based upon data that populations of the Nile crocodile have recovered sufficiently, threats have been significantly reduced, and therefore the species is not in danger of extinction. Identification of skins as to their origin remains necessary to ensure that illegal skins do not enter into commercial trade.

After actions taken at the 1992 CITES Conference of Parties, the Nile crocodile populations in Botswana, Ethiopia, Kenya, Malawi, Mozambique, Tanzania, Zambia, and Zimbabwe are included in Appendix II under ranching provisions, and the populations in Madagascar and Somalia are continued in Appendix II under the quota system although the quota for Somalia is zero at least through 1994. Also at the 1992 meeting, the populations in South Africa and Uganda were transferred from Appendix I to Appendix II with export quotas.

Effects of This Rule

This rule will reclassify all populations of the Nile crocodile from endangered to threatened under the Act. However, until a new special rule is repropounded and finalized, the existing special rule is applicable only to the Nile crocodile population in Zimbabwe and only allows importation of specimens from that country directly into the United States under special conditions. This means that the prohibitions of 50 CFR 17.31

(incorporating portions of 50 CFR 17.21) and the permit requirements of 50 CFR 17.32 shall apply with regard to all other Nile crocodile populations.

Available Conservation Measures

Conservation measures provided to foreign species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by governments, private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(2) of the Act, as amended, requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs in the form of personnel and training of personnel.

In general, sections 4(d) and 9 of the Act, and implementing regulations found at 50 CFR 17.31 (which incorporate certain provisions of 50 CFR 17.21), set forth a series of prohibitions and exceptions that generally apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take within U.S. territory or on the high seas, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver,

carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service, the National Marine Fisheries Service, and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance propagation or survival, and for incidental take in connection with otherwise lawful activities. The importation of a personal trophy, taken through a carefully managed sport-hunting program that provides an economic incentive for the general conservation of the involved species, may in some cases be considered to enhance the survival of that species. For threatened species, there also are permits available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Although threatened species are generally covered by all prohibitions applicable to endangered species under section 4(d) of the Act, the Secretary may propose special rules if deemed necessary and advisable to provide for the conservation of the species. The existing special rule applicable only to the Zimbabwe population of Nile crocodile will remain in effect at this time, although a typographical error in that rule is being corrected. A new

special rule being considered would allow importation of skins and products from Nile crocodile populations listed in Appendix II of CITES provided several special conditions are met by countries of origin and re-exporting countries. The Service intends this special rule to be applicable to other crocodilian species and expects the proposed special rule to appear with a reclassification action proposed for the Australian population of the saltwater crocodile.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* (48 FR 49244) on October 25, 1983.

Literature Cited

Hutton, J.M., J.N.B. Mphande, A.D. Graham, and H.H. Roth. 1987. Crocodile management and utilization in the SADCC region of Africa. Proc. of SADCC Workshop on Crocodile Management and Utilization. 194pp. + Annex.

Hutton, J.M. 1989. CITES and the Nile crocodile in East/Central Africa and Madagascar. Coordinator's report to the CITES Secretariat. 51pp.

Author

The primary author of this rule is Charles W. Dane, Office of Scientific

Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703-358-1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

1. The authority section for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

§ 17.42 [Amended]

2. Amend § 17.42(c)(1)(i)(A) by revising the reference "(a)(1)(i)(B)" to read "(c)(1)(i)(B)".

3. Amend § 17.11(h) by removing the existing entry for the Crocodile, Nile (*Crocodylus niloticus*) under "Reptiles" on the List of Endangered and Threatened Wildlife and adding the following in alphabetical order to read as follows:

§ 17.11 Endangered and threatened wildlife

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rule
Common name	Scientific name						
Reptiles:							
Crocodile, Nile	Crocodylus niloticus	Africa, Middle East	Entire	T	3, 279, 334, 514.	NA	17.42(c)

Dated: August 20, 1993.

Richard N. Smith,

Acting Director.

[FR Doc. 93-23160 Filed 9-22-93; 8:45 am]

BILLING CODE 4310-65-P
