



Number Seven, \$5 U.S.

TARNISHED TROPHIES

**THE DEPARTMENT OF INTERIOR'S
WILD SHEEP LOOPHOLE**

October 1996

About PEER

Public Employees for Environmental Responsibility (PEER) is an association of resource managers, scientists, biologists, law enforcement officials and other government professionals committed to upholding the public trust through responsible management of the nation's environment and natural resources.

PEER advocates sustainable management of public resources, promotes enforcement of environmental protection laws, and seeks to be a catalyst for supporting professional integrity and promoting environmental ethics in government agencies.

PEER provides public employees committed to ecologically responsible management with a credible voice for expressing their concerns.

PEER's objectives are to:

1. **Organize** a strong base of support among employees with local, state and federal resource management agencies;
2. **Inform** the administration, Congress, state officials, the media and the public about substantive issues of concern to PEER members;
3. **Defend** and strengthen the legal rights of public employees who speak out about issues of environmental management; and
4. **Monitor** land management and environmental protection agencies.

PEER recognizes the invaluable role that government employees play as defenders of the environment and stewards of our natural resources. PEER supports resource professionals who advocate environmental protection in a responsible, professional manner.

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About This Report

This PEER white paper documents the institutional corruption of the Assistant Directorate for International Affairs (AIA) of the U.S. Fish & Wildlife Service in facilitating trophy hunting of threatened and endangered species. The paper is not a critique of the practice of sports hunting or of the sport-trophy industry. Rather, this paper reports the actions of a tax-supported, public agency whose mission is service to the people through enforcement of the law.

This white paper is the first of a series of reports detailing failures of the Fish & Wildlife Service in meeting the letter as well as the spirit of the Endangered Species Act.

This white paper was prepared by employees of the Fish & Wildlife Service who have made professional sacrifices to bring these issues to

public attention. These scientific, law enforcement and regulatory specialists have chosen to remain anonymous not only to avoid the inevitable retaliation but also to let the facts contained herein speak for themselves.

A number of independent scientists based both in this country and abroad have assisted in the development of this report. Still other scientists and specialists graciously allowed PEER to cite their work in this white paper.

PEER is proud to serve conscientious public employees who have dedicated their careers to faithful execution of the laws that protect this country's and this planet's natural resources.

Jeff DeBonis
PEER Executive Director

I. Executive Summary

According to its own specialists, the U.S. Fish & Wildlife Service is driving protected foreign game species to extinction through the illegal issuance of permits to import game trophies. Despite mandates to enforce both the Endangered Species Act and international conservation treaties, the Assistant Directorate for International Affairs (AIA) within the Fish & Wildlife Service is promoting importation of sports-hunted trophies of threatened and, in some cases, endangered species.

The sports hunting industry and its politically connected sponsors have captured the AIA to such an extent that-

*hundreds of permits are issued annually for the importation of threatened or endangered sports trophies, and, according to available statistics, the number issued is growing at a substantial rate;

*criminal enforcement against illegal trophy smuggling has been paralyzed by the noncooperation of Fish & Wildlife officials;

*a Fish & Wildlife Service official convicted of felony wildlife smuggling in connection with an illegal trophy importation scheme was reinstated to a position reviewing and recommending approval of documents on the status of foreign endangered species, including the very game animals involved in his conviction.

Top Administration officials from both parties, powerful members of Congress and wealthy big game safari hunters have combined to smother attempts to bring AIA's permit practices in line with the law.

Big game safaris to Asia or Africa can cost more than \$50,000 per person while the U.S. import permit fee for the trophy is only \$25.

The prevailing philosophy governing AIA policies is "conservation through utilization." The

idea is that hunting actually benefits the species because the substantial hunting proceeds that go to the host government are supposed to fund conservation programs for the threatened game species. In reality, these safari revenues provide precious hard currency to poor Third World countries for general operations and, in some cases, fund development or livestock projects which further jeopardize the game species.

This report examines in detail the plight of two of the most sought after trophy animals in the world: the argali and the urial sheep, both cousins of America's bighorn and both from Central Asia.

In the case of the argali, the largest wild sheep in the world whose males have huge sweeping racks of horns that are much prized as trophies, AIA issues scores of trophy importation permits a year-

*in violation of a special rule adopted in 1993 laying out extremely rigorous conditions for import;

*in the face a formal proposal by the Fish & Wildlife Service to have the argali listed as endangered, thus precluding further permits. That measure for the argali has been left pending without action for over 3 ½ years even though such listing proposals are supposed to be acted on within a year;

*despite the findings by its own scientists and international consultants that the status of the argali was, at best, unknown and that there was no evidence that hunting proceeds were being channeled into conservation, as required by law before permits could be issued;

*contrary to the position of the European Union and others who totally ban all argali trophy importation.

In early 1995, Interior Secretary Bruce Babbitt

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presided over an auction of two argali importation permits at a Safari Club International conference and proclaimed that the auction proceeds would benefit the species. At the same time, AIA within the Department of Interior is resisting Freedom of Information Act requests for documents submitted to justify argali permits issued or extended and will not confirm even the number of permits granted.

In the case of the urial, AIA has taken the position that most subspecies are not listed as endangered under international treaty and, thus, may be imported without any permit from the Fish & Wildlife Service. In 1994, with the support of hunting organizations, AIA formally proposed reducing international protections for

all urials. This proposal, which shocked and drew public ridicule from international experts on the species, was quickly withdrawn.

In August of 1996, the Fish & Wildlife Service announced that it "is now considering the possibility of cosponsoring" a proposal by Germany to upgrade protection for the animal, the exact opposite of the position taken by the agency as little as 18 months prior.

Notwithstanding this possible about face on the status of the urial, the grip of the sports hunting industry upon AIA and the decision making process at the Department of Interior appears to be growing tighter at the same time that the viability of these species deteriorates.

II. The Legal Ecosystem of International Species Protection

With the late 20th century came increasing recognition of the extent and diversity of that part of the natural world that may be disappearing under human pressures. The United States took a leadership role in addressing the absence of an international legal structure for species protection.

Thirty years ago, in October of 1966, Congress passed the original Endangered Species Preservation Act. That measure charged the Department of the Interior to develop a list of endangered wildlife within the United States and required federal agencies to take appropriate conservation measures. There followed the Endangered Species Conservation Act of 1969, which extended coverage to foreign species and provided for substantive controls on their importation.

Utilizing this legislation, Interior not only developed an extensive list of globally endangered wildlife, based on compilations of international conservation organizations, but soon was expanding this list on its own initiative in response to special areas of need. The 1972 U.S. listing of eight species of great whales and eight kinds of spotted and striped cats helped to cut off major markets for the products of those animals and to inspire a worldwide movement that, up to now, has prevented their extinction.

In the next year came the comprehensive Endangered Species Act of 1973, designed to replace, strengthen, and greatly expand the earlier legislation. Besides instituting strict prohibitions on the taking and harming of all kinds of endangered animals and plants, the new Act set forth a series of remarkable innovations. Along with listing species "in danger of extinction," the Interior Department (and the Commerce Department for certain marine species) was now required to classify "threatened" species, those "likely to become . . . endangered . . . within the

foreseeable future." In this way it was hoped that problems could be recognized and remedies initiated well before the endangered stage was reached.

The 1973 Act also carried a new dimension of protections, providing that the endangered or threatened designation did not have to apply to an entire biological species or subspecies, but could in some circumstances be restricted to qualifying populations. It would thus be possible to designate a species partly as endangered and partly as threatened. Special rules could be issued that are deemed "necessary and advisable to provide for the conservation" of threatened species and populations.

The term "conservation" was defined to mean methods and procedures, including regulated sport hunting in some limited circumstances, that actually improve the status of the involved species. All of these measures, as evidenced by the stated findings and purposes on the very first page of the Act, were to be carried out in an international context, the ultimate goal being the conservation of entire global ecosystems.

In 1973 also came the Convention on International Trade in Endangered Species of Wild Fauna and Flora or "CITES." This treaty, now ratified by the United States and 131 other countries, seeks to control the exploitation of wildlife and plants through import and export restrictions. By vote of the member nations, species of concern are placed on either of two major lists: Appendix I, for species threatened with extinction and that are or may be affected by trade; and Appendix II, for those that are not necessarily threatened with extinction now but that may become threatened unless trade is subject to strict regulation. Although there is some administrative overlap with the U.S. Endangered Species Act, CITES is basically inde-

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pendent and its appendices do not correspond precisely to the lists prescribed by the Act.

Both CITES and the Endangered Species Act provide for permits for activities that are otherwise prohibited. In the case of CITES, it is understood that issuance of such permits is a routine procedure, practically the rule, rather than the exception. Trade in Appendix I species requires both an export permit, from the country of origin, and an import permit, from the country of destination. Appendix II species need only the export permit. In either situation, the action being authorized must not be detrimental to the survival of the involved species. CITES further requires all member nations to have a "management authority" to process permits and a "scientific authority" to compile relevant data and provide advice as to whether various actions may be detrimental.

In the United States, these provisions of CITES are implemented through the Interior Department's Fish & Wildlife Service (FWS), particularly the Assistant Directorate for International Affairs (AIA), which includes the Office of Management Authority and the Office of Scientific Authority. Although their names correspond to CITES specifications, these two offices have additional functions not related to the treaty.

Permits issued under the Endangered Species Act are not intended to be routine or regular, but rather involve circumstances that would be expected to develop just a few times. Permits, for example, to take or import

threatened species may be issued for scientific and educational purposes or for zoological exhibition. Permits may also be issued for an activity that enhances propagation or survival of the species.

In the Fish & Wildlife Service, the Office of Management Authority within the Assistant Directorate for International Affairs handles permit processing. The OMA assembles information to determine whether issuance of such permits would, as required by law, enhance propagation or survival of the involved species. The Office of Scientific Authority, assigned to work on the listing and regulation of foreign and endangered species, provides additional advice to the Office of Management Authority as to the appropriateness of permits.

Endangered Species Act permit authorization for the importation of a sport-hunted trophy of a threatened species is drawn from the "enhancement of propagation or survival" exception from the Act. Obviously sport hunting is not relevant to propagation—but it sometimes has been determined to enhance survival by the logic of utilization. In other words, a carefully managed sport hunting program can provide a host government with the economic incentive to enhance the general conservation of a species. Based on this argument that sport hunting can "enhance the survival" of a particular species through sponsoring conservation activities, the FWS has permitted, by special rule, the importation of sport hunted trophies of some foreign threatened species.

III. Fish & Wildlife “Safari” Service

On its face, there is nothing inherently wrong with using the large amounts of money spent on sport hunting to sponsor conservation when an animal's status is relatively stable. However, the same logic does not hold when an animal is rare and its status threatened. Under the ESA, AIA is required to have positive proof that trophy hunting enhances the survival or propagation of a sport hunted species to justify issuing an import permit.

In recent years, AIA has issued permits and increasingly issued policy decisions that serve the interests of the influential sports hunting lobby. AIA has been consistently initiating measures removing species from protection lists, reducing restrictions, and promoting utilization. With regard to its endangered species activities, AIA now seems to perceive its role not as a chronicler and defender of the natural world on behalf of the entire United States, but as the facilitator of commercial and trophy importation for limited interest groups and, in some cases, the rubber stamp office of the safari industry itself.

Conservation through Utilization

The listing of both U.S. and foreign endangered species was once handled by the large, Washington-based Office of Endangered Species. In late 1987 that office was abolished, with native species responsibilities split between Fish & Wildlife Service regions and a rump Washington unit, and foreign listing transferred to the Office of Scientific Authority, now part of the FWS's Assistant Directorate for International Affairs (AIA) which also contains the Office of Management Authority, the primary office overseeing the issuing of permits.

This development caused a subtle but significant change in AIA's mission concerning foreign endangered species activities. Rather than continuing to develop a comprehensive inventory of species reflecting globally jeopardized ecosystems, as provided for at the outset

of the Endangered Species Act, AIA has increasingly become a conduit to issue permits and has focused its resources on just a handful of species of great popular or economic concern.

Contrary to the original purpose of the law, AIA has recast its relationship to sport hunters and others who “utilize” wildlife, now viewing this well-heeled lobby as the agency's primary clientele, or, in the current jargon of federal “re-invention” efforts, as “customers.” With federal dollars held so tightly, the appeal of getting endangered and threatened animals to “pay their own way” in terms of protections they require under the law sounds very attractive. In addition, this line of thinking has been made even more compelling with safari operators and sport hunting organizations expending money and influence to demonstrate how sport hunting enhances the survival of a species through generating profits that sponsor conservation activities.

Tapping the economic value of a species for wildlife conservation remains theoretical, however. Only one part of the equation has been thoroughly proven: huge profits are being generated by the safari industry. On a typical safari, a hunter can expect a trophy fee in the neighborhood of \$25,000 and to pay many thousands more for transportation, guides, supplies, and other necessities.

While this “pay your own way” thinking may not be illegal, its adoption into policy has worked to undermine true conservation. As illustrated by the fate of the wild Asian sheep discussed below, utilization approaches have been used to rationalize frequent issuance of permits, helping to push a now threatened species toward extinction. Utilization-based policies have been whole-heartedly adopted by AIA, probably for pragmatic reasons rather than out of a callous disregard for the law.

This “pay your own way” thinking, however, does not extend to the importation permits themselves. Given the significant expen-

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ditures made by the Fish & Wildlife Service to accommodate trophy hunting it is startling to realize that an import permit costs only \$25. Permits for importing trophies of exotic and threatened foreign animals are seemingly issued with the same ease and at roughly the same fee as a common hunting license required to hunt deer or ducks in this country.

Through frequent contact and lobbying by foreign government agencies and prominent U.S.-based supporters, sport hunting organizations have a compliant audience among mid-level managers at AIA. At higher levels, Fish & Wildlife Service officials may have lacked interest or simply have been overwhelmed by the constant and intense Congressional fiscal and policy pressures directed against the agency on domestic issues throughout the 104th Session. Whatever the reason, the principle of conservation through utilization seems to be firmly established within AIA.

The highest levels of the Department of Interior have not been immune to the influence of trophy hunting lobbyists. Secretary of Interior Bruce Babbitt has embraced the utilization argument on occasion, citing the po-

tential of tapping safari-generated profits for conservation. In early 1995, Babbitt spoke at a Safari Club International conference supporting the Club's plan to auction an argali sheep hunt in Kyrgyzstan, a country that has a threatened argali population. Babbitt endorsed the auction, which was facilitated by FWS providing the trophy import permits in advance, saying "These auctions promise much needed hard currency benefits to argali habitat and enlist area residents in on-the-ground efforts to conserve the species."

The conservation through utilization philosophy has served nicely to boost the income and prestige of sport hunting organizations. The AIA has adopted a broad interpretation of what activities enhance the survival of a species accepting industry-backed scientific information as the primary evidence on which permitting decisions are based. AIA regularly relies on communications from the Safari Club, for example, to determine the fate of species listings and other policy proposals put out for public comment.

The Sport Hunting Industry


The growing power of the sport hunting and safari industry, in its political influence



THE BUCK STOPS HERE. Interior Secretary Babbitt presided over the auctioning of U.S. Fish & Wildlife permits to import argali trophies.

Tarnished Trophies


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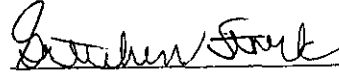
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FEE FOR SERVICE. \$25 check for one of the early argali permits on behalf of an SCI client.

through organizations like the Wildlife Legislative Fund of America and in economic clout, has served its members well. Perhaps the most influential voice in the powerful sport hunting lobby is the Tucson-based, Safari Club International (SCI). Widely regarded as the world's most powerful trophy hunting advocacy organization, SCI caters to the wealthy business person who is willing to travel around the world to hunt and take trophies of large and rare game often at a cost (for a single trip) well exceeding the average American's yearly income.

SCI's wealthy and mostly American membership of 28,000 is organized in more than 140 chapters throughout the United States, with additional chapters in 25 countries. More than 50% of SCI's membership command annual incomes exceeding \$100,000. Through its lobbying efforts, SCI has successfully obtained legal clearances for a variety of big game expeditions, delayed or prevented animal listings through law suits and other pressure tactics, and vastly broadened opportunities to take and retain sport hunted trophies.

In its 1995 report, *Big Game, Big Bucks: The Alarming Growth of the American Trophy Hunting Industry*, The Humane Society of the United States describes how SCI, through an array of glossy publications and conventions, has captured a growing appetite for stalking and killing exotic animals as a sport. SCI has made famous its World Hunting Awards program that encourages hunters to join in elite competitions primarily divided into two general categories: "grand slams" and "inner circles." The grand

slam for "Bears of the World" requires hunting expeditions on several continents in order to bag a grizzly bear, a polar bear, as well as bears found in Europe, Asia and the Middle East. To participate in the SCI "super slam" of sheep would cost \$185,000 just to compete. The upper echelon of the inner circle awards may entail a hunter taking up to 125 animals as trophies and they must be among the largest animals in a species. For SCI's "Pinnacle of Achievement," which requires competing in more than 26 categories, a hunter would have to spend millions of dollars on trophy hunting safaris and kill more than 300 animals.

Safari Club is well equipped to promote big-game hunting. With a budget of \$7.5 million and a paid staff of 40, SCI has as its chief lobbyist Ron Marlenee, a former Montana congressman strongly tied to anti-environmental activists and groups. The Club has continuously lobbied to ease permitting restrictions and has held the position that endangered status harms rather than helps any big-game animal so designated. Although the organization has sued the FWS over its listing of various species as endangered or threatened, it now claims to have a strong conservation program with an array of projects in various countries. Most are ephemeral, however, and generally serve as outlets to expand hunting privileges in those countries.

The money involved in the sport hunting and safari business is significant especially in the impoverished Third World countries where most of the animals hunted live. Trophy fees between \$10,000 to \$50,000 dollars

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spent in a low-income African or Asian country carry overwhelming influence given the magnitude of such sums in a poor economy. In most cases, a very limited number of hunting companies operate within a country.

These businesses, until recently state-run but now nominally private, still retain strong government ties. They set trophy levels and pressure government officials to increase the number of animals that can be killed. Because they are private businesses, the money does not end up going toward conservation or animal management, but toward private purposes. If it does go to the government, the money is largely dumped into a general fund and not spent specifically to protect the involved species.

The pressures toward bending the law are not confined to Third World nations, however. In 1991, following a four year investigation, U.S. law enforcement agents broke up a \$100 million dollar poaching ring involving SCI trophy hunters, some holding the Club's most prestigious Hall of Fame record. In a museum front scam, trophy hunters were able to have their prizes imported for ostensibly "scientific purposes" and then traded to have them returned to them or simply got to continue hunting endangered animals because they were anointed "associate" museum curators.

Paul Asper, an SCI member who set up his own museum, was sentenced to prison for two and a half years and fined after a conviction for illegally importing a number of animals protected under the Endangered Species Act. Asper, who reportedly had killed more than 650 animals in his career, had paid fines in the form of administrative fees to the FWS for other wildlife smuggling convictions prior to setting up his museum. For those who used these front institutions to meet their sport hunting goals, the fines and community service time served seemed to do little to faze member zeal.

The Permit Factory

SCI works on several fronts to secure trophy permits on behalf of hunters. In addition to the lawsuits and other activities that the Club con-

ducts to persuade the Fish & Wildlife Service to obtain legal access to animals that sport hunters want to hunt, the Safari Club shepherds through permits, providing needed documentation and making the arrangements to allow hunters to bring back their trophy prizes.

During the twelve year Reagan/Bush era sport hunters held high level positions in the Administration. Secretary of State and later White House Chief of Staff James Baker was a renowned big-game enthusiast, who frequently used stops in Mongolia to hunt wild sheep. The resulting bureaucratic culture of viewing the big-game hunter as the Service's primary client has stayed firmly entrenched even during the Clinton Administration. This cultural climate is reflected in the track record of AIA as measured by permits issued.

The Humane Society conducted an analysis of computerized data obtained from AIA's import/export system covering the period between 1990 and 1993. That analysis found that the number of animals killed by Americans and imported as trophies rose by a stunning 71%, from 27,205 to 46,582 four years later. Of that, the number of endangered species hunted and killed and returned to the U.S. with legal permits issued by AIA has dramatically grown in the same four year period. In 1993, 1,322 animals representing 40 endangered or threatened species were brought back as trophies representing an increase of 84% since 1990. Almost 95% of the endangered and threatened species imported as trophies in that four year period were mammals.

While there has been an apparent escalation of AIA permits to import trophies of a variety of foreign species, the full extent of the problem is unknown because of AIA's reluctance to openly share information about its permitting activities. What few documents that have been released paint a disturbing picture. For example, import permit applications initially rejected by AIA in 1993 for lack of scientific evidence were "reconsidered" when information was provided from researchers affiliated with the Safari Club. Often, these documents contained unreliable and often conflicting species' population information dating back to the

1980s or in some cases the 1930s. The permits were issued later that same year although no new evidence was proffered to indicate a successful conservation management program was ongoing in the region where the threatened species was to be shot.

Symbiosis: The Case of Richard Mitchell

Nothing illustrates the close relationship between AIA staff and the sports hunting industry better than the case of Richard Mitchell. In 1988, FWS biologist Mitchell became embroiled in a legal case resulting from the taking of four argali sheep by American hunters in China. Mitchell who was serving as a scientist on loan to the Smithsonian on a one-year assignment was along on the trip when the four sheep were killed. The case was politically charged in part because the hunters included Clayton Williams, a one-time Texas gubernatorial candidate, and his wife Modesta who had strong ties to Republicans in the Administration. The internally divisive case exploded into a 19 month legal battle where the Smithsonian paid more than \$650,000 dollars for Mitchell's defense.

The sheep trophies, identified as a subspecies of argali considered endangered at the time, were nabbed by FWS inspectors in San

Francisco. However, after a long and protracted case the government eventually returned the trophies to the hunters and dropped the charges. Members of Congress soon objected when the magnitude of the legal fees paid by the Smithsonian to defend Mitchell became known and demanded to know whether Mitchell deserved a government-financed defense. The General Accounting Office (GAO) found in an August 1991 report that because Mitchell was not on Smithsonian business the payments to his private defense counsel were illegal. In characterizing Mitchell's role on the expedition GAO concluded that Mitchell had "offered his services as a big-game hunting guide."

Many of the FWS officials involved, including agents who seized the trophies and those in other regions observing the peculiar proceedings, cited the political influence brought to bear which stalled and undermined the government's case. An article published in *Legal Times* after the case was closed in 1989 noted the political support that Clayton Williams was able to muster to get his case resolved favorably: "Directly or indirectly, Williams obtained help from Senators Lloyd Bentsen (D-Texas) and Pete Wilson, (R-Calif) and Rep. Jack Fields (R-Texas)." Bentsen was able to get FWS to conduct a full internal review. According to



REMOTE VISTAS. View of argali sheep habitat in the Altai Mountains in Bayan-Olgi Aimag, Mongolia.

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one FWS agent involved in the sheep trophy seizure, the case was handled in a way that demanded Inspector General scrutiny to determine if the Service had violated the ESA. The sheep remains, examined by three world experts, were unanimously declared to be of the endangered subspecies. Only Richard Mitchell who had facilitated the hunt and accompanied the hunting party declared the animals not of the threatened subspecies, a claim which contradicted the findings of his own agency.

The Mitchell case, which turned one part of the FWS against the agents involved in the seizure, may have had a chilling effect on aggressive enforcement of the ESA. A *Washington Post* reporter who covered the Mitchell sheep case extensively was also professionally attacked as a result of her investigative work. Meanwhile, Mitchell returned to work at the FWS as a staff biologist until further legal troubles ensnared him.

The 1988 China expedition was not an isolated incident. In 1984, Mitchell had founded the nonprofit American Ecological Union to promote sport hunting in China. This organization had received extensive financial backing from the Safari Club. Mitchell had promoted the use of the funds raised from hunters as going

towards the organization's mission of wildlife research and conservation. However, during the time Mitchell worked for the Smithsonian and promoted hunting/research tours with his private organization, he was involved in three separate trips including the China expedition that involved the killing of threatened or endangered species.

Eventually Mitchell became the target of a separate federal investigation and was convicted of wildlife smuggling in 1993. However, for the reduced charge on which he was found guilty (still a felony) he received only two years probation and paid a minimal \$1000 dollar fine.

Following his conviction, Mitchell, who has retained his job with the Fish and Wildlife Service, returned to his former position with the Office of Scientific Authority within the AIA. There he continued to be involved with permit processing decisions. Despite the fact he had been convicted for smuggling animal skins including a urial sheep hide without proper documentation, Mitchell was requested by OSA to assemble information on the urial for purposes of a CITES proposal downlisting this wild sheep's status. The proposal was eventually condemned internationally and subsequently withdrawn by



RICHARD P. READING

PRIZED HORNS. The rack of the male argali are one of the most sought after sports trophies. This skull is from a protected area of the Great Gobi in Mongolia.



Tarnished Trophies

the United States.

In 1994 Mitchell moved to another office but served as foreign endangered species liaison with the Office of Scientific Authority, reviewing and making recommendations on docu-

ments concerning the status of foreign endangered species, including the current draft proposal to re-list the argali as endangered under the ESA. Mitchell remained as liaison on foreign species until June of this year.



© Galen Rowell

URIAL SHEEP. The urial is prized not only for its horns but also its hide. Photo is of a urial in captivity in Karakoram, Pakistan.

IV. Wild Game Sheep of Central Asia

The argali and urial sheep, found in the high country of Central Asia, from the Caspian Sea to the Gobi and Himalayas, are among the most prized trophy animals in the world. Hunters pay large sums to travel to remote areas to try to locate and shoot a mature argali ram for his magnificent rack of curled horns that can exceed six feet in length. Mainly due to habitat disruption, competition with domestic livestock and hunting, the two species now survive only as fragmented and greatly reduced populations.

The argali (*Ovis ammon*) and the urial (*Ovis vignei*) are Asian relatives of the North American bighorn sheep (*Ovis canadensis*). The argali is the largest species of wild sheep, with mature males attaining weights of up to 400 pounds and having large spiral horns, each of which may be up to 75 inches long and 20 inches in circumference at the base. In comparison, North American bighorn rams weigh as much as 350 pounds and have horns as long as

50 inches. Male urials are somewhat smaller, weighing up to 200 pounds and having horns up to 45 inches long.

Wild sheep in general have not fared well in modern times, often being largely replaced by their smaller but vastly more abundant domestic relatives. Even when carefully protected from direct hunting, they have not shown the resiliency of other big game mammals, such as deer and pronghorn antelope, and their numbers have tended to remain low, their ranges restricted.

The distributions of the two Asian species do not overlap, but meet in a mountainous zone extending from Uzbekistan to northern Pakistan. The urial occurs to the west of that line as far as Iran and the Caspian coast of southwestern Kazakhstan. The argali is found in eastern Kazakhstan, Kyrgyzstan, Tajikistan, Mongolia and adjacent parts of southern Siberia, north-central and western China (including Tibet),



CAPTIVE ARGALI. Photos of argali in the wild are extremely hard to obtain because the animal has a very large flight distance, particularly in heavily hunted or poached regions. This endangered Tibetan Argali was photographed in Lanchow, China.

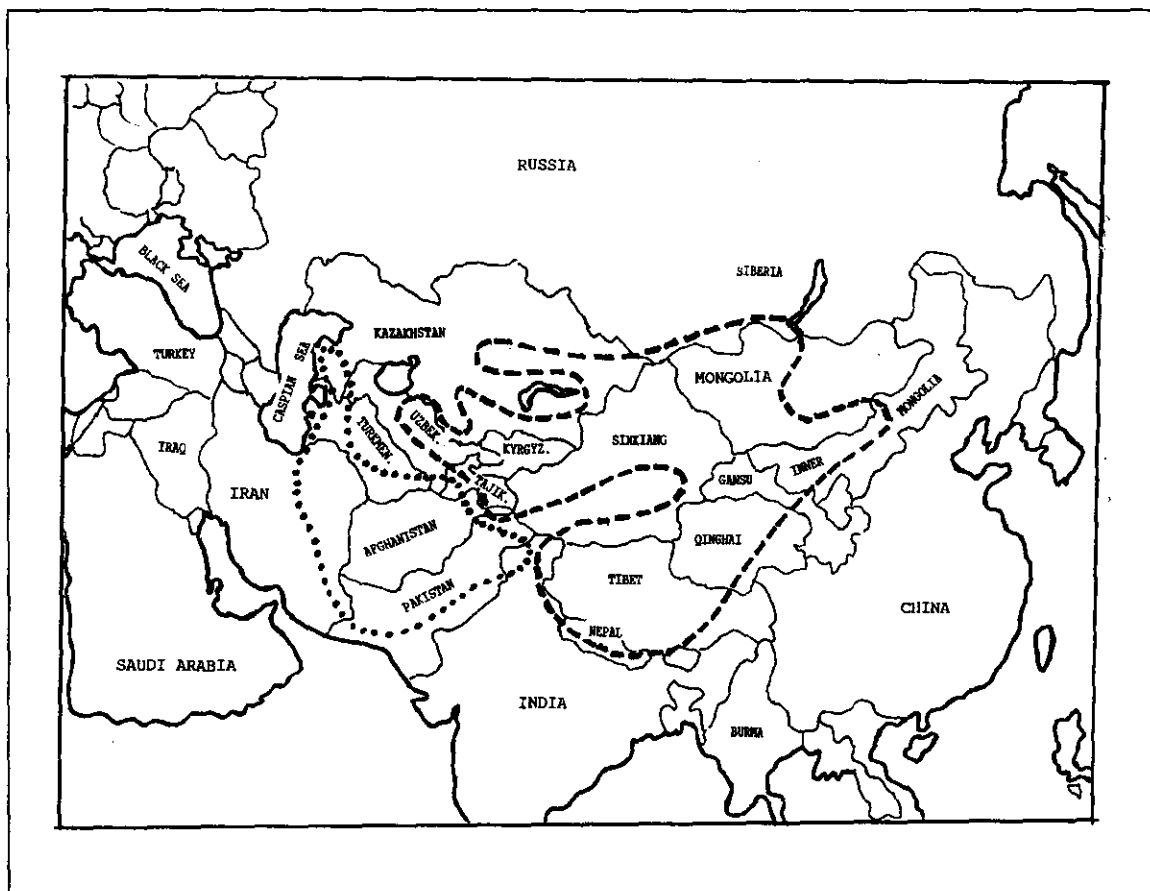
U.S. Fish & Wildlife Service

Nepal, and the Himalayan portions of Afghanistan, Pakistan, and northern India. The argali may once have occurred as far east as Beijing but seems to have been wiped out in that area by agricultural development and hunting by Western sportsmen. Sport hunting also eliminated the species from most of its Siberian range during the 19th century. A more recent problem has been meat hunting, not only by local people for their own use but also intensive killing by commercial interests and by military units in remote areas.

Probably the most severe current threat to both the argali and urial is habitat disturbance, especially the usurpation of grazing land and water sources by people and their domestic livestock. As a result of these problems, both species of sheep have become fragmented and largely restricted to remote regions. Population sizes are not well known, but numerical esti-

mates generally have fallen sharply in recent decades. There may still be around 80,000 argali and 40,000 urial in the wild. The over-all region occupied is roughly equivalent in size to the conterminous United States, which, by way of comparison, contains approximately 20,000,000 wild deer.

The argali and urial are each divided into about seven subspecies, or geographic races, that are generally distinguishable by such features as body size, horn size, and consistency and coloration of their pelts. Some subspecies have been reduced to only a few hundred individuals, others still occur in numbers around 10,000. All are now placed in a category of concern by the World Conservation Union (IUCN), an international organization that compiles data from thousands of authorities and produces lists somewhat akin to those issued pursuant to the U.S. Endangered Species Act.



TERRITORY OF THE URIAL AND THE ARGALI. The dotted line represents the range of the urial sheep while the dashed line encloses the range of the argali.

V. The Argali Saga

The argali has long been covered, at least in part, by CITES and the Endangered Species Act, but, perhaps surprisingly to those unfamiliar with legal intricacies, there remain questions as to the extent of protection provided. With respect to listing by CITES, there is some confusion. The original 1973 designations indicated that the entire argali species (*Ovis ammon*) is on Appendix II, except for the subspecies *Ovis ammon hodgsoni*, which is on Appendix I. However, there is scientific disagreement about the distribution of *hodgsoni*. Some experts consider it to be restricted to parts of Tibet and the Himalayas, and think that another subspecies can be distinguished farther north in the Chinese provinces of Qinghai and Gansu (between Tibet and Mongolia). Other authorities do not recognize the latter and think that the range of *hodgsoni* extends all the way to Gansu.

The Special Rule

The issue remained quiescent until 1988 when a group of American hunters attempted to import four argali trophies taken in the Chinese province of Gansu. In November 1989, after extensive legal and scientific review, the Fish & Wildlife Service's Division of Law Enforcement published the conclusion that the trophies did indeed represent the endangered subspecies *hodgsoni*. However, the Service simultaneously announced that it would review the status of the entire species *Ovis ammon* and possibly revise its listing. In October 1990, after assessing comments received in response to the review and other data, the Service formally proposed to add the entire argali species to the List of Endangered and Threatened Wildlife.

On June 23, 1992, after several delays to solicit and analyze additional information, the Service issued its final rules on the matter. The argali was classified as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan. For those three countries it was decided, "by a very narrow margin," to designate the species as threatened, because of evidence

that populations there "are relatively higher and more secure than elsewhere."

In conjunction with the listing of the argali, a special rule was issued providing for the limited importation into the United States of trophies taken legally in the three countries where the species was classified as threatened. However, such importation was to be allowed only after the Fish and Wildlife Service "had received from the governments of those countries properly documented and verifiable certification that: (1) argali populations are sufficiently large to sustain sport hunting; (2) regulating authorities have the capability to obtain sound data on these populations; (3) regulating authorities recognize these populations as a valuable resource and have the legal and practical means to manage them as such; (4) the habitat of these populations is secure; (5) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations; and (6) funds derived from the involved sport hunting are applied substantially to argali conservation."

In order to give authorities in the three specified countries reasonable time to meet the requirements of the special rule, and to avoid undue hardship to parties already committed to planned hunts, the Fish and Wildlife Service took the unprecedented step of delaying the effective date of the new argali listing and special rule more than six months, until January 1993. The Service already had formally delayed the decision on the proposed rule or extended the comment period on three separate occasions.

Throughout the entire rulemaking process the Service had repeatedly emphasized that importation of argali trophies was feasible, provided that substantive data were made available showing that such activity is beneficial to the conservation of the species. The pertinent foreign governments had been asked to provide these data and a lengthy period had been given for response. When no adequate information

U.S. Fish & Wildlife Service

had been forthcoming, the Service actually contracted its own expert to travel to the involved region and gather data that might help meet the criteria of the special rule.

Counterattack

Notwithstanding these repeated and expensive efforts to accommodate hunting interests,

just three days after the new regulations became effective they were challenged by two lawsuits. One was filed in the U.S. District Court in Midland, Texas, by Safari Club International and several supporting plaintiffs. The other was filed in the U.S. District Court in Washington, D.C., primarily by an anti-animal rights group known as Putting People First. Besides arguing that the status of the argali was much better than



RICHARD P. READING

MONGOLIAN HABITAT. Forbidding Altai argali habitat in Uvs Aimag.



Argali range in Khovd Aimag.

suggested by the new regulations and that the species was adequately protected by the involved foreign governments, the plaintiffs focused on a fine point of the Endangered Species Act, as set forth in Section 9(c)(2). Language there indicates that if a species is on Appendix II of CITES, and is not endangered, it generally can be imported into the United States. The plaintiffs claimed that, because argali populations in Kyrgyzstan, Mongolia, and Tajikistan were on Appendix II and listed only as threatened and not endangered, trophies could be brought into the U.S. simply with a CITES export permit from the country of origin and were not subject to further regulation.

In response, federal attorneys argued that the Endangered Species Act supports severe restrictions on the sport hunting of threatened species and that the presence of a species on Appendix II of CITES does not override additional protections of U.S. law. The Midland Court accepted the government's interpretation and on August 12, 1993 ruled against the Safari Club. The second suit was dismissed shortly thereafter and thus the new regulations remained fully in effect.

Prior to the court judgment there was con-

cern that, if the federal interpretation of Section 9(c)(2) was defeated, adequate regulation of argali importation might not be possible. This problem increased the significance of one of the factors that the Endangered Species Act provides as a reason for listing species, "inadequacy of existing regulatory mechanisms." Citing this situation and the many other problems of the argali, the Fish and Wildlife Service on April 27, 1993 issued a new proposal that would classify *all* argali populations as endangered and eliminate the special rule allowing trophy importation. This proposal remains active today but no action has been taken on this proposed listing upgrade in over three and a half years.

Permits Flow

Meanwhile in early 1993, shortly after the argali regulations became effective and in the midst of the challenging lawsuits, the Fish and Wildlife Service began to be contacted by hunters and associated outfitting businesses seeking to import argali trophies through special permits under the Endangered Species Act. Sometime later that year the position became established that permits could be issued, that the process could be carried out on a regular basis



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ARGALI POACHING. Researcher measuring an Altai argali skull. Mongolian National Conservation rangers are not allowed to carry weapons which prevents them from effectively combating poaching.

U.S. Fish & Wildlife Service

independently of the special rule, and that the permits could be considered beneficial to the species, as required by law. This last point was based on the idea that funds derived from the hunting of the involved trophies would be used for conservation of the argali.

During 1993 and 1994, importation was allowed only from Mongolia, but in 1995 permits also were issued for trophies from Kyrgyzstan. Importation from Tajikistan has not yet been approved but is under consideration. Between 30 and 40 permits are being issued annually, though AIA has shown consistent hesitancy in releasing the exact number and other details; a recent request by outside environmentalists under the Freedom of Information Act has gone unanswered for over five months.

There is ample precedent for permits to import legally taken sport-hunted trophies of fully wild threatened species, such as the African elephant. What makes the argali situation unprecedented is that not only are permits being issued for regular importation, but such is being done despite the establishment of a special rule designed precisely for the control of this importation. Moreover, the Fish and Wildlife Service has repeatedly stated that the conditions specified for importation in that special

rule have not been shown to exist. The conditions include the submittal of proper documentation by the governments of Kyrgyzstan, Mongolia, and Tajikistan, verifying adequate status and management in those countries. There has never been a substantive effort by any of those governments to meet the conditions.

At the cost of \$15,000, the Fish and Wildlife Service let a contract to the Russian Academy of Science in early 1993 to collect data that might help meet the requirements for importation. The principal investigator was Dr. Anna Luschekina of the Russian Man and Biosphere Committee, who had spent 15 field seasons studying the large mammals of Mongolia and had worked with the Service in previous projects. She was assisted in the investigation by Dr. A. Fedosenko, perhaps the foremost authority on wild sheep in the former U.S.S.R. A report, submitted in early 1994, and information provided separately by Dr. Luschekina, indicated that certain of the special rule's conditions prevailed in some of the involved countries but that none of the countries qualified fully for importation. However, even before the report was available, permits for importation were being approved. In effect, a back-room scheme was set up within AIA to bypass a publicly developed and judicially upheld federal regulation.



RICHARD P. READING

NATIVE COUNTRY. The Altai Mountains are home to a rapidly declining population of argali.

Another unique factor in the argali situation is that the permits began to come out after the Fish and Wildlife Service had issued its April 1993 proposal to extend endangered status to the argali in all countries. A final rule to that effect not only would eliminate the special rule for importation (which can apply only to species listed as threatened) but essentially would stop the permits. The Fish and Wildlife Service long has interpreted the Endangered Species Act to indicate that if a species is listed as endangered no permits shall be issued for importation of sport-hunted trophies. Ironically, even though the 1993 proposal constituted a definitive statement by the Service that it considered the entire argali species to be endangered, the agency soon was giving out the permits, in effect violating its own longstanding policy. The Office of Scientific Authority issued opinions in favor of the permits even while the lawsuits were still active.

Moreover, the failure by AIA to act on the listing proposal is itself a violation of law. The Endangered Species Act requires that a listing proposal be followed within one year by a final rule or other decision document. The argali decision thus is now more than two and a half years past the legal deadline.

Corruption of Information

Even if it had a more solid legal foundation, the argali permit system would likely not be able to stand up scientifically. Perhaps its greatest flaw is reliance for supporting data entirely on foreign government agencies that have a major financial and political stake in bringing in American sportsmen, as well as U.S. hunting businesses and organizations, such as the Safari Club and trophy hunting outfitters who have obvious financial interests.

The development of the original argali special rule in 1992 depended extensively on information supplied by Dr. George Schaller, a renowned international conservationist with years of experience investigating wildlife and its management in Central Asia, and by the World Conservation Union (IUCN) Caprinae Specialist Group, which comprises numerous experts on wild sheep from all around the world. Subsequently, as noted, Dr. Lushekina was contracted to compile additional data. Oddly, however, for assessment of permit applications AIA has consulted none of these outstanding authorities but has depended on the very interests that fought against the regulations.

The Endangered Species Act and implementing regulations require that a permit to



DETERIORATION OF POPULATIONS. Argali skull bleaching in the Gobi.

import a sport-hunted trophy of a threatened species must "enhance propagation or survival" of that species. AIA now holds that the argali import permits meet this requirement, though it has not offered an adequate explanation of this position. There has been repeated refusal to release information that might show how the permits are benefiting the argali. In seeming scorn of the Freedom of Information Act, AIA took over four months to respond to one inquiry on the matter, and has ignored another request for permit data for over five months.

AIA has made arrangements with sports hunting organizations by which funds were to become available for argali conservation in exchange for the permits. However, details of such arrangements have never been released or examined by authorities outside of the government and not involved in sheep hunting. Documents obtained by PEER indicate that in Mongolia these funds are going entirely to a water development project that may do more harm than good. In Kyrgyzstan at least some of the funds are just going to kill wolves, a wasteful and inhumane practice scorned by western conservationists. The entire process of evaluating the permits was deliberately kept from both AIA biologists as well as outside experts. For example, Dr. Lushekina, who had been contracted to help determine if there were sufficient grounds to allow importation, has questioned the efficacy of any supposed funding arrangements and has stated that the conditions set forth by the import regulations had not been met.

On June 10, 1996, AIA published a notice asking for comments on the status and management of the argali in Kyrgyzstan, Mongolia, and Tajikistan. It was indicated that information received would be considered in developing findings for future permit applications, but that processing of such applications is continuing as usual. No commitment was made either to actually follow any of the advice received or to insure that permitted activities corresponded to the intent of the argali regulations. There also apparently was no formal effort to distribute this notice to any authority on wild sheep who was not associated with political or economic interests. The only response received during the

prescribed comment period was from Safari Club International.

Decline of the Argali

The resistance of AIA toward tightening restrictions on importation seems incongruous in light of the original announcement that the decision to classify the argali only as threatened in Kyrgyzstan, Mongolia, and Tajikistan was made "by a very narrow margin." Since the original listing, evidence has accumulated of a deteriorating situation in those three countries, and it now seems likely that the argali populations there are not "relatively higher and more secure than elsewhere," as originally claimed.

In Kyrgyzstan, Drs. Lushekina and Fedosenko found little long-term management capability, only minimal use of funds from trophy hunting for conservation of the argali, and apparent disagreement by government agencies on how to treat the species. In June 1993, the State Committee for the Protection of Nature indicated that it agreed with the U.S. endangered proposal and had banned argali hunting. But almost immediately thereafter the government canceled the decision, apparently through the influence of sport hunting interests.

In Tajikistan, because of recent civil unrest, most argali habitat is not even under control of the central government. Russian troops, who still occupy the border country holding the largest argali concentrations, reportedly are engaged in intensive poaching of the species.

The number of argali in Mongolia, estimated at the time of listing to be as high as 60,000, is now thought to be no greater than 20,000 and to perhaps be as few as 8,000, mainly through continued habitat loss and poaching.

Authorities recently contacted by PEER to comment on AIA's argali policy all questioned whether status is adequate and management effective in the three involved countries. These experts, all of whom are considered authoritative by AIA but none of whom were officially informed of the June 1996 notice for comment

by AIA, doubt that funds derived from sport hunting are being applied primarily to argali conservation and contend there has not been satisfactory demonstration that the permits being issued by the United States are helping conservation.

Dr. George Schaller, Director for Science of the Wildlife Conservation Society, author of *Mountain Monarchs: Wild Sheep and Goats of the Himalaya* (Chicago Press, 1977) and numerous other books and articles on wildlife, called AIA's posture "a classic case of conflict of interest, political pressure, and other dubious activities at the expense not only of a magnificent animal but also the credibility of the Fish and Wildlife Service." Dr. Schaller states that "argali hunting in Mongolia remains a strictly commercial enterprise which neither benefits the argalis nor the local people. There is little actual protection of the argali populations and no management."

Dr. David Shackleton, Deputy Chairman of the World Conservation Union (IUCN) Caprinae Specialist Group told PEER that argali "numbers in the Pamir of Kyrgyzstan appear to have declined very recently in some areas, and in other areas have totally disappeared, while some sub-populations may have remained stable. For argali in Mongolia . . . surveys conducted during the past few years clearly show that these animals are declining and populations are becoming badly fragmented." As to whether hunting revenues are aiding conservation of the species, Dr. Shackleton commented "we have no information about what the funds generated by sport hunting are used for in Kyrgyzstan. However, our information for Mongolia clearly states that they are not used for argali conservation." Overall, Dr. Shackleton concludes: "Has there been

satisfactory demonstration that permits being issued are helping conservation? Basically the answer is no. Certainly not in any significant way."

Dr. Richard Reading, Director of Conservation Biology for the Denver Zoo, who has since 1994 been investigating the status of the argali for the Mongolian Ministry for Nature and the Environment, states:

"The status of argali in Mongolia is cause for great concern. The species has been declining for decades and all indications suggest that this trend is continuing and possibly accelerating."

Dr. Reading indicated that hunting license revenues in Mongolia were being used, without the input of biologists, to build an elaborate water catchment device, with even more planned. "Unfortunately, building additional water sources may actually harm argali conservation as they tend to increase livestock numbers and human use area," he informed PEER. "Under the Mongolian Hunting Law of 1995, none of the revenues generated from hunting revenue goes directly to conservation or management."

Noting that, unlike the United States, the European Union has a total ban on argali importation, Dr. Reading argues that AIA's permit policy is undermining species protection: "By issuing import permits for argali from Mongolia, the United States is removing pressure from the Mongolian government to actively manage its hunting resources, particularly argali, at a time when a ban on importation could be particularly effective because of the the current European Union ban."

VI. On the Trail of the Urial

As with the argali, the legal picture for the urial is cloudy. CITES originally placed the scientific name *Ovis vignei* on Appendix I, indicating that the entire species was so covered. However, the simultaneous use of the common name "shapo," and certain available records, suggest that the designation actually was intended to apply only to the subspecies *Ovis vignei vignei*, an animal restricted to a limited area in northern Pakistan and India. In any event, in 1976 the U.S. Fish & Wildlife Service concluded that all animals on Appendix I of CITES, barring evidence to the contrary, should be classified as endangered pursuant to the Endangered Species Act.

The total European prohibition on argali importation also extends to the urial. While the United States does not recognize the latter species (*Ovis vignei*) as being covered either by CITES or the Endangered Species Act, except for the narrowly restricted subspecies *Ovis vignei vignei*, the European Union (EU) considers all urials on Appendix I of CITES. In a letter to Dr.

David Shackleton, Dr. Rainer Blanke, the CITES Animal Committee Representative for Europe, wrote: "As you may know, the U.S. interprets the listing in this way that only *Ovis vignei vignei* was meant to be listed. The U.S. regards the other subspecies as not falling under CITES, which means that every American trophy hunter can bring this trophy back to the U.S. without a CITES permit. That means there is no control at all. The EU interprets the listing in that way that all subspecies of *Ovis vignei* are covered by CITES and we do not allow any import. I do not know exactly how the other CITES parties handle this problem, but I have the impression that the majority shares the EU sight."

The Downlisting Gambit

In 1994, at the same time AIA was starting to permit the importation of argali trophies, in seeming violation of its own regulations, it was campaigning to have CITES essentially reduce protection of the urial by placing the entire



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URIAL RAM. Ladakh urial pictured in the Skardu Valley of the Baltistan region of Pakistan.

U.S. Fish & Wildlife Service

species (except the race *Ovis vignei vignei*) on Appendix II. AIA developed a formal proposal to that effect for consideration at the international CITES Conference. U.S. Fish & Wildlife Service biologist Richard Mitchell participated in the development of this downlisting proposal. Despite having been involved with the original 1988 effort to import argali trophies from China and his subsequent criminal conviction on wildlife smuggling in another matter, he had nonetheless now been assigned by AIA to work on an Asian wild sheep issue.

AIA, claiming that it was only attempting to "clarify" the situation, actually called upon CITES to place the species mostly on Appendix II. Such recognition essentially would require member nations to accept importation without their own evaluation, and would tend to negate efforts at additional restrictions, such as those that could come through separate listing under the Endangered Species Act. As with the argali, AIA seems to be going out of its way to facilitate importation of the urial on behalf of sport-hunting interests in the U.S.

A review draft of the U.S. urial proposal shortly before it was to be submitted to CITES contained the statement: "in regards to the Afghan, Blandford's, and Punjab urials [subspecies of Afghanistan and Pakistan] they are in absolute tremendous numbers and the herds are . . . growing in size every year. . . . all urial except the shapo [subspecies *Ovis vignei vignei*] are extremely common." Dr. David Shackleton of the IUCN Caprinae Specialist Group was incredulous when he saw that statement. Available data, in fact, showed just the opposite; that the entire urial species was in trouble, and indeed was far less numerous than was the argali, which the U.S. recently had added to the List of Endangered and Threatened Wildlife. The data were relayed to AIA, but, while the most disconcerting language was removed from the draft proposal, it was formally submitted as planned.

International Rejection

The proposal ostensibly was for "clarification" of the listing of the urial by CITES, but has been widely construed as an attempt to validate

the AIA position that the species may be imported without permits or other controls at the receiving end.

Placement on Appendix II would have amounted to preemption of efforts to develop more restrictive controls. In particular, this downlisting would have made it difficult to petition successfully for later listing under the U.S. Endangered Species Act, since it could have been argued that the species already was adequately protected and there was no need for duplication. Even if the urial could then have been classified as threatened, no additional protection might have been forthcoming without complex legal procedures, since, it may be recalled, Section 9(c)(2) of the Act indicates that species on Appendix II may not be subject to further controls.

In any case, once the proposal was submitted to CITES, it was turned over to members of the IUCN Caprinae Specialist Group and other reviewers, who essentially tore it to pieces. A summary analysis states: "Most of the eight reviewers are emphatic regarding the severity of threats confronting *O. vignei* and the need for extreme caution in lessening the degree of protection afforded wild populations." It indicates further that the U.S. proposal failed to consider a recent breakdown of conservation controls in Central Asia and that populations probably are far lower and less secure than portrayed.

Under such withering criticism, the U.S. was forced to withdraw the proposal. However, CITES agreed to subject the question of the intent of the original classification to further review. Using recently available status information from the IUCN, it now is likely that one or more of the CITES parties will propose a definitive recognition that the entire urial species is on Appendix I. There is concern, however, that AIA may argue for an Appendix II placement of at least the one subspecies that now is being actively hunted by American sportsmen.

Possible Reversal

On August 28, 1996, the Fish & Wildlife Service published a Federal Register notice seek-

ing comments on international attempts to upgrade protections for the urial. In the notice, the agency announced that it "is now considering the possibility of cosponsoring the [urial Appendix I] proposal prepared by Germany." If this announcement reflects the agency's actual posture, this new position amounts to an almost complete reversal of its position, supposedly based upon biological investigation, from 18 months earlier.

AIA's Stealth Process

The abortive U.S. proposal on the urial, and its swift reversal, demonstrates what may

happen when the bureaucracy is subject to knowledgeable and impartial review. A position reflecting solely the narrow interests of AIA, hunting organizations, and foreign agencies was shattered once it was exposed to competent authorities with no economic or political stake in the matter. However, with respect to the even more contentious and convoluted argali situation, the bureaucracy continues to prevail. A small alliance, both inside and outside of the government, has managed to conceal its activities from the scientific and conservation communities, and apparently to defy the intent of the U.S. Endangered Species Act.

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