

# The Conservation Corner

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In an earlier issue of The Conservation Corner, Rick Jordan of Hill Country Aviaries gave us the scoop on "CITES" – the "Convention on International Trade in Endangered Species." As a follow up to that article, this issue of the Conservation Corner deals with the Wild Bird Conservation Act (WBCA), enacted in 1992 to meet the obligations of the US as a signatory to CITES. Briefly, the stated purpose of the WBCA is to ensure that exotic bird species are not harmed by international trade. The U.S. Fish & Wildlife Service (FWS) was given the authority to issue permits to allow import of listed birds for scientific research, zoological breeding or display, or personal pet purposes when the applicant meets certain criteria. The FWS may also approve cooperative breeding programs of WBCA-protected birds, and subsequent import permits under such breeding programs (AFA oversees a number of such "cooperative breeding programs"). The WBCA also hoped to encourage wild bird conservation programs in countries of origin. For example, wild-caught birds may be imported into the United States if they come from FWS-approved management plans for sustainable use of the species. A multitude of websites deal with the WBCA, but one of the more useful collections of official USFWS information (including downloadable copies of forms) is at <http://www.fws.gov/international/permits/web%20list%20wbca.htm> .

This is the official line. But what does the WBCA mean for aviculturists in the United States? I am happy to be able to provide you that information with a well researched, insightful article by Sandee Molenda, owner of the Parrotlet Ranch and frequent contributor of legislative information to AFA.

## The WBCA Revealed, by Sandee L. Molenda, C.A.S.

In 1992, Congress enacted, and President George H.W. Bush signed into law, the Wild Bird Conservation Act (WBCA). With a simple stroke of a pen, overnight, the face of American aviculture was changed forever. Not since the Lacey Act of 1900, where every species of birds suddenly came under Federal regulation, had Congress enacted a law that so profoundly regulated the keeping and breeding of species of exotic birds in the United States. Although aviculture has seen an explosion of people involved with birds since its passage, few aviculturists today have even heard of the WBCA and even fewer know what it is or how it affects their birds.

**Purpose:** The WBCA was designed for two purposes - to conserve exotic birds and to meet the United States' obligations under the Convention on International Trade in Endangered Species (CITES). It was specifically designed to prohibit or severely limit imports of exotic birds regardless if the species is covered or not under CITES. It was also to provide standards for qualifying bird breeding facilities and retail outlets, establishment of the Exotic Bird Conservation Fund and authorized Federal mandates for marketing, identification and record keeping of exotic birds.

The purpose of the WBCA is to promote the conservation of exotic birds as follows:

- (1) Assist wild bird conservation and management programs in the countries of origin of wild birds
- (2) Ensure trade in species of exotic birds involving the U.S. is biologically sustainable and not detrimental

(3) Limit or prohibit imports of exotic birds to ensure that wild exotic bird populations are not harmed by removal of exotic birds from the wild for trade

(4) Ensure exotic birds in trade are not subject to inhumane treatment

(5) Encourage and support effective implementation of CITES

**History:** At the time the WBCA was first proposed, the U.S. was the world's largest importer of exotic birds and a party to CITES. The avicultural community, along with many other diverse groups and individuals including biologists, veterinarians and ornithologists worked to develop legislation that would not be detrimental to native populations of birds. Many avicultural organizations got together and sent representatives to testify before U.S. Fish & Wildlife Service as well as encouraged their members to lobby Congress. Many important strides were made on behalf of aviculture, however, organizations representing animal rights groups pushed for more severe restrictions as well as outright bans on bird ownership. The International Parrotlet Society succeeded in being the only organization to have species listed on the Approved Captive Bred Species for Import list. Congress, however, subsequently determined that the international pet trade in wild-caught exotic birds was contributing to the decline of species in the wild and that the mortality associated with the trade was unacceptably high.

Congress further decided that the U.S. should play a substantial role in finding solutions to these problems, including assisting countries in implementing wild bird conservation programs and ensuring that the U.S. market does not operate to the detriment of the survival of species in the wild. They also authorized sustainable utilization of exotic birds to create economic value in both the birds and their habitats to contribute to their conservation and promote the maintenance of biological diversity. Utilization of exotic birds that are not sustainable would be prohibited and any country's decision not to export would be respected and its efforts supported while countries that did allow export of their

wild birds would be assisted in developing or implementing scientifically-based management plans. WBCA also prohibits the importation of species not listed under CITES, although to date, USFW has not exercised this authority. The WBCA was signed into law in October of 1992 and severely restricted importation of all bird species except under quite limited circumstances.

**Authorization and Jurisdiction:** Congress immediately gave jurisdiction of administration of the WBCA to the U.S. Fish & Wildlife Service and authorized them to implement regulations to administer the WBCA. Specifically, Congress gave authorization as follows:

- (1) Ability to suspend imports of any species of exotic birds
- (2) Ability to lift suspension of imports of any species of exotic birds
- (3) Place limitation on imported species of exotic birds
- (4) Amend list of Approved Captive Bred Species for Import
- (5) Qualify bird breeding facilities for import of captive bred species
- (6) Determine non-captive bred species allowed to be imported



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- (7) Enforcement of WBCA including civil and criminal charges
- (8) Specify exemptions under which exotic bird species may be imported
- (9) Approve and monitor breeding cooperatives
- (10) Establish Exotic Bird Conservation Fund
- (11) Voluntary labeling program for exotic bird species in the market place
- (12) Mandatory marking or other identification of exotic birds
- (13) Mandatory record keeping
- (14) Mandate humane treatment of exotic birds in trade
- (15) Voluntary program of certification of bird breeding facilities and retail outlets
- (16) Provide technical conservation assistance to other nations including funds
- (17) No regulations are allowed to deter the captive breeding of exotic birds.

**Enforcement:** It is a felony to unlawfully import an exotic bird except as specifically provided under the Exemptions section of the WBCA. The U.S. Federal district courts have jurisdiction over all actions arising under the WBCA. The WBCA provides for both civil and criminal penalties involving fines or imprisonment, or both. Conviction under WBCA also may subject one to prosecution under the Lacey Act as well. One well-known conviction under the WBCA included a seven-year Federal prison term with no parole and tens of thousands of dollars in fines.

**Exemptions:** The WBCA specifically prohibits the import of all species of birds for any commercial purposes or for sale into the pet trade. However, WBCA does allow for importation of some bird species under strictly limited conditions and with government approval as follows:

- (a) Scientific Research
- (b) Zoological Breeding or Display
- (c) Personally Owned Pet of an Individual Returning to the US

- (1) Must be continually out of the country for a minimum of one year and show proof of ownership
  - (2) Limited to 2 exotic birds in any year
- (d) Approved Cooperative Breeding Programs
    - (1) Designed to promote the conservation of the species and maintain the species in the wild by enhancing the propagation and survival of the species;
    - (2) Developed and administered by, or in conjunction with, an avicultural, conservation, or zoological organization that meets standards developed by the Secretary
    - (3) No birds or offspring of birds imported under an approved cooperative breeding program may be sold in the commercial or pet trade
  - (e) Captive Bred Species
    - (1) Species regularly bred in captivity and no wild-caught birds of the species are in trade worldwide
    - (2) Species bred in a qualifying foreign facility
  - (f) Non-Captive Bred Species
    - (1) Each country of origin for which the species is listed is effectively implementing the Convention, particularly with respect to—
      - (A) Establishment of a scientific authority or other equivalent authority;
      - (B) Requirements of Article IV of the Convention with respect to that species; and
      - (C) Remedial measures recommended by the Parties to the Convention with respect to that species.
    - (2) A scientifically-based management plan for the species has been developed which—
      - (A) Provides for the conservation of the species and its habitat and includes incentives for conservation;
      - (B) Ensures that the use of the species is biologically sustainable and maintained throughout the range of the species in the country to which the plan applies at a level that is consistent with the role of the species in the ecosystem and is well above the level at which the species might become threatened with extinction; and
      - (C) Addresses factors relevant to the conservation of the species, including

illegal trade, domestic trade, subsistence use, disease, and habitat loss.

(3) The management plan is implemented and enforced.

(4) The methods of capture, transport, and maintenance of the species minimizes the risk of injury or damage to health, including inhumane treatment.

(g) Exempt Species

(1) Domestic poultry

(2) Dead sport-hunted birds, museum specimens, scientific specimens, or products manufactured from such birds

(3) Birds in the following families: *Phasianidae*, *Numididae*, *Cracidae*, *Meleagrididae*, *Megapodiidae*, *Anatidae*, *Struthionidae*, *Rheidae*, *Dromaiinae*, and *Gruidae*.

(4) Birds native to the United States

**Currently:** Over the years, USF&W has requested information from the public under the WBCA including placing or removing species from the Approved Captive-Bred Species for Import. In fact, Congress specifically mandated that USF&W would work directly with the exotic bird industry for regulations under WBCA and give periodic reports to Congress. The International Parrotlet Society recently petitioned USF&W to include several newly developed color mutations of Pacific, Blue Wing, Spectacle and Green Rump parrotlets on the Approved Captive-Bred Species for Import list. USF&W has also approved at least one foreign breeding facility and several dozen breeding cooperatives over the years, although the process is time consuming and requires considerable paperwork.

In the more than a dozen years since the WBCA was enacted, things have changed both for the good and for the bad. Although the US no longer imports wild-caught birds, many other countries continue to import wild birds by the tens of thousands. The European Union has been debating regulations based on the WBCA that would prevent the import of wild-caught birds into Europe. No action was taken until 2005 when the appearance of the H5N1 subtype of avian influenza caused the EU to institute a temporary ban.

Many companion bird species have thrived under the attentive care of American aviculturists and are both readily available and bred specifically to be wonderful companion animals. In fact, it not would be incorrect to state that the WBCA has helped catapult American aviculturists to being the world's best at breeding exotic birds. Long-term bird

breeders often know specific species' husbandry and breeding requirements better than most biologists, veterinarians and zoologists.

Unfortunately, however, many species have almost disappeared from American aviculture as they were either difficult to breed or not "desirable" as companion animals and therefore could not be economically sustained. Another unfortunate but anticipated problem with WBCA is the incentive for smuggling of illegal birds. Both USF&W and USDA widely report that the smuggling of wildlife is only surpassed by the illegal drug and arms trades and that millions of dollars in animals and animal parts are brought illegally into the US each year. Perhaps one unanticipated impact of WBCA is the huge proliferation of bird theft that has resulted since its passage. Tens of thousands of exotic birds, some exceedingly rare and only being bred in cooperatives, have been stolen over the years leaving many aviculturists living behind locked fences, purchasing guard dogs, motion detectors and sophisticated alarm systems.

**Future:** One can only speculate on how the WBCA will continue affect the future of American aviculture. Many of the exotic bird species breeding now, especially the large macaws and cockatoos, will obviously not continue to produce for many more years. It is unknown how many of these species have been bred for more than one or two generations, leaving their futures unknown. Others, such as parrotlets, which are breeding multiple generations, may soon be facing a genetic bottleneck, especially the rare species. This will eventually happen with the larger species as well, but due to their longevity, it will simply take more time. Even common species such as Pacific parrotlets may be in peril in the future due to the influence of color mutations and the attendant inbreeding that is inevitable when developing new color mutations.



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It is important for aviculturists to be educated on the WBCA and its developments. It is even more important for them to be proactive and willing to petition and lobby for their own best interests. USF&W is constantly bombarded by requests for more difficult and extensive regulations and it is up to us as bird owners and breeders to be aware and willing to make our voices heard in opposition. We are often the only line of defense between common sense and regulations that harm not only aviculture industry but the birds as well.

References used in writing this article:  
 U.S. Department of Fish & Wildlife  
 Library of Congress  
 U.S. Federal Code  
 Cornell University Law School  
 Federal Register ■

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