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**Docket Number: FWS–HQ–IA–2021–0008**

**Re: Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Nineteenth Regular Meeting: Provisional Agenda**

We are pleased to submit this statement in response to the request by the U.S. Fish and Wildlife Service (87 FR 51441) for comments on negotiating positions on proposed resolutions, decisions, and amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as well as other agenda items that have been submitted by other Parties, the permanent CITES committees, and the CITES Secretariat for consideration at the 19th Conference of the Parties (CoP19). As representatives of musicians, performing arts presenters, and instrument manufacturers and retailers, we appreciate the dialogue the U.S. government has facilitated in prior CITES proceedings regarding transportation and commerce with musical instruments, and we request that the agency take a strong leadership role in advancing ongoing policy improvements at CoP19.

A great many musicians perform with legally crafted and legally purchased musical instruments that contain CITES listed species. For example, very small amounts of ivory and tortoise shell may be found in an array of string, wind, percussion, and brass instruments. Reptile skin may be found on the grips of bows for stringed instruments, and a variety of woods including rosewood and neo-tropical mahogany have been used in the construction of musical instruments. We support reasonable policy solutions that will ensure that international cultural activity and legal trade is supported while at the same time protections for endangered species are advanced.

The music industry and those that supply wood product inputs to music instrument manufacturers strongly support efforts to conserve tree species. As future species-listing proposals are offered, we urge the U.S. Fish and Wildlife Service (USFWS) to make every effort to ensure – through its leadership and engagement throughout CITES negotiations and policy formation – that listing proposals take into account and prevent potential unintended consequences for trade, allow appropriate timeframes for implementation, and can be supported through harmonized interpretations across CITES parties. **As the U.S. prepares for the CoP19 consideration of species proposals and annotations, we encourage ongoing leadership that will prevent unintended consequences.** These comments build on comments previously submitted to the USFWS by music stakeholders in May 2021, April 2022, and May 2022.

Musical instruments have a long lifespan, are in use and resold over many years, are essential tools of the trade for professional musicians, and are frequently transported internationally for performances. We are fully committed to the goals of conservation and combatting illegal trade in protected species, and we appreciate the leadership the U.S. government has demonstrated in advancing consideration of musical instruments within CITES.

Several proposals under consideration at CoP19 will impact musical activity. We ask U.S. representatives to consider the following three specific actions:

- Species proposals for CoP19 include a proposal by Brazil (Prop. 49) that would list *Paubrasilia Echinata* – **pernambuco** – on Appendix I, with an Annotation specific to musical instruments. While we understand there are technical concerns with the proposal, we also offer comments specific to musical instruments. Virtually all bows used by professional musicians worldwide are made from pernambuco wood. The quality of these bows is integral to the quality of music performed for listeners internationally. For this reason, musicians, bowmakers, performing arts organizations, and listening audiences value the pernambuco tree as a uniquely essential resource for both stringed music and the environment of Brazil. That is why for more than two decades bow makers have been investing in the conservation of Pernambuco.

The pernambuco proposal would have a profoundly negative impact on stringed instrument music worldwide. The proposal severely underestimates the impact of an Appendix I listing, which would impose massive new permit requirements for traveling string musicians and curtail the sale, resale, and repair of new and most existing bows. An Appendix II listing that regulates finished products would have similar results. Any effort to increase the regulation of trade in pernambuco should accurately and fully take into account the full scope of the new regulatory burden, as well as the potential gains for conservation of the species. Music sector stakeholders urge the U.S. to take actions at CoP19 that will support the sustainability of the pernambuco species, while also preventing unnecessary and severely damaging burdens on traveling musicians, global commerce in bows, and CITES management authorities. CITES Parties should undertake further review and engagement among all relevant stakeholders in the Plants Committee, Standing Committee, and through other relevant processes and delay consideration of a change to the listing status of pernambuco to CoP20. Please find attached to these comments a statement by international music stakeholders to fully inform the U.S. position on Prop. 49.

- Finally, for those musicians and ensembles that travel with the **CITES Musical Instrument Certificate** that was created by a U.S. proposal adopted at CoP16, practical barriers and financial expenses related to navigating the required port inspection and credentialing procedures have impeded international cultural activity and, in some cases, left musicians with no option but to forgo travel with their best musical instruments.

The costs associated with the staff time and instrument evaluations required to prepare permit applications are substantial. In addition to those costs, the requirements related to the inspection and credentialing procedures for putting the Musical Instrument Certificate to use can be prohibitive. The resources required for these procedures divert resources needed to advance the artistry of musicians and performing arts organizations alike.

Performing ensembles operate with an extremely lean staff that hold responsibility for the artistic and operational details that make international performance events possible, and for solo performers and smaller ensembles, these responsibilities fall directly on musicians. To use the Musical Instrument Certificate, these expert staff and individual musicians are diverted from their primary responsibilities to visit port inspection facilities in advance of travel to gain an understanding of what will be required on the date of cargo shipment. They must investigate the highly variable port procedures and requirements for each country through which the instruments must travel. Staff and musicians also must be on-site at the time of inspection, sometimes waiting for many hours at global ports for inspections to commence. This amounts to many days of staff and musician time that comes at a high cost to the performing ensemble and diverts attention from other essential tour responsibilities. Given the post-pandemic economic constraints on musicians and live performing arts organizations, these pressures are even more considerable.

Musical Instrument Certificates often must be credentialed, and material inspected, at specific port locations that are not at the nearest point of local departure for an ensemble or musicians, nor most economical for flight costs. Additionally, inspection appointments are often available during limited hours, forcing ensembles and musicians to use flight routes that are not the most affordable option available. These dual pressures of limited ports and port inspection hours can significantly increase flight costs. Timing of inspections can mean reducing home-country concert plans prior to departure to allow for the time needed for the inspection and credentialing process on export. Likewise, the required inspection and credentialing time at ports throughout the tour can reduce the days available for critical income-generating concert activity internationally. Given post-pandemic flight disruptions, these pressures present an even more intense impact on touring.

Instruments are typically packaged for travel in a very controlled environment. The warehouse conditions for inspections worldwide can be very challenging and risky for protecting these very fragile instruments. This requires that staff and musicians be present at inspection to observe and handle the instruments during the inspection process. Opening cases and handling extremely valuable and often irreplaceable musical instruments risks damaging instruments during the course of inspections.

For procedural issues under consideration at the CoP, we ask the U.S. to once again take a leadership role and adopt supportive positions on purpose codes (Doc. 42), expand the mandate for future work on simplified procedures (Doc. 9.1.1, Annex 5), and support rapid progress on e-permitting (Doc. 41), that will all lead to improved implementation of the CITES Musical Instrument Certificate.

- We recognize with gratitude that USFWS was a global leader in securing amendments to Annotation #15 at the CoP18 that resulted in solutions for both commercial and noncommercial trade of musical instruments made from various species of rosewood. The CoP19 discussion of **Annotations** (Doc. 85.1) includes a recommendation to renew the mandate for the CITES Secretariat to undertake a study to assess the effect of the Annotation #15 exemption for finished musical instruments, parts, and accessories. We seek ongoing support from the U.S. to ensure that musical instrument stakeholders are consulted on the terms of reference for such a study. Musical instrument stakeholders

will also be offering continued participation in the wider efforts of the renewed establishment of an Annotations working group.

Thank you for the opportunity to provide comments on the positions that the United States is preparing on proposals and agenda items under consideration at CoP19. We look forward to providing further comments as the U.S. announces its positions in the coming weeks. The music community is fully committed to the goals of wildlife conservation and combating illegal trade in protected species. We appreciate the opportunity to partner with USFWS and the conservation community to seek reasonable solutions that protect the domestic and international use, production of, and trade in musical instruments.

Sincerely,

**American Composers Forum**  
**American Federation of Musicians of the United States and Canada**  
**American Federation of Violin and Bow Makers**  
**The American String Teachers Association, Inc.**  
**Chamber Music America**  
**Fender Musical Instruments Corporation**  
**ForestBased Solutions**  
**International Alliance of Violin and Bow Makers for Endangered Species**  
**International Association of Violin and Bow Makers (EILA)**  
**International Pernambuco Conservation Initiative**  
**John Cruz Custom Guitars**  
**League of American Orchestras**  
**C.F. Martin & Co., Inc.**  
**National Association of Music Merchants**  
**OPERA America**  
**Paul Reed Smith Guitars**  
**Performing Arts Alliance**  
**Recording Academy**  
**Taylor Guitars**  
**Theatre Communications Group**  
**Yamaha Guitar Group, Inc.**

Enclosure: Musical Instruments and *Paubrasilia Echinata*

## Musical Instruments and *Paubrasilia echinata* September 2022

### Background

*Paubrasilia echinata*, or pernambuco, is currently regulated by CITES under Appendix II with Annotation #10, which places controls on “logs, sawn wood, veneer sheets, including unfinished wood articles used for the fabrication of bows for stringed musical instruments.” This listing came into effect on September 13, 2007.

A proposal by Brazil ([CoP19 Prop. 49](#)) for consideration at the 19th Conference of the Parties in November 2022 would list pernambuco on Appendix I, with an Annotation placing controls on “all parts, derivatives and finished products, including bows of musical instruments, except musical instruments and their parts, composing traveling orchestras, and solo musicians carrying musical passports in accordance with Res. 16.8.”

Music stakeholders support efforts to conserve pernambuco and seek an alternate policy solution that would more effectively sustain the species, while also avoiding damage to the music sector.

### Pernambuco and music

**Pernambuco can be found only in Brazil’s Atlantic Rainforest and is a crucial part of the country’s natural heritage. It is also a uniquely essential resource for stringed music.**

The quality of the bow is of fundamental importance to the sound of the instrument and the artistry of the player, making possible the creation of stringed instrument music at its very highest level. Since the development of the modern bow by French bow maker Francois-Xavier Tourte at the end of the 18th century, pernambuco bows have been used by virtually every professional and higher-level stringed instrument musician in the world. Because of its strength, flexibility, density, weight, and stability, there is no substitute for pernambuco in the world of stringed instrument music.

Musicians depend on the highly specialized craftsmanship of bow makers, who are relatively few in number and typically work alone. Bow making uses a relatively small quantity of pernambuco. The vast majority of the world’s bow makers make less than 20 bows per year. One tree can provide a lifetime supply for each of the world’s artisanal bow makers. These same craftspeople repair bows that may be decades or centuries old. For generation after generation, the art of bow making has been transmitted from one individual maker to the next. This less visible body of knowledge and craft joins the creation of music by musicians as an essential and irreplaceable cultural tradition.

Bow makers have long been committed to saving pernambuco. They strongly oppose illegal trafficking and fully support Brazil’s call for conservation of the species. In the last several decades, urban and agricultural development has reduced Brazil’s long-exploited Atlantic Rainforest to just a fraction of its original extent. In 2000, bow makers responded by forming the International Pernambuco Conservation Initiative (IPCI), a voluntary effort funded entirely by bow makers. IPCI has been a driving force for the conservation of pernambuco. Its efforts have led to the planting of over 340,000 pernambuco seedlings in partnership with the Brazilian government, small-scale cacao farmers and Brazilian environmental NGOs. As some of these trees reach maturity, they, along with other reforested trees in Atlantic Rainforest communities that predate IPCI’s efforts by many years, will be suitable for bow making and use in trade. And its investments in science have inspired dozens of scientific projects and research papers (focused on, among others, phenology, wood anatomy and silviculture), several of which have been of fundamental importance to our understanding of the species.

The music sector is deeply committed to the conservation and reforestation of pernambuco. It is equally committed to continuing to educate the sector to ensure greater awareness of the threats to pernambuco, the responsibility to legally source wood, and the urgent need to save this precious 'music tree.'

## CoP19 Prop 49

**Music sector stakeholders are seeking to work in partnership with CITES parties toward a policy solution that will conserve pernambuco, a species on which the world of music is highly dependent, while also preventing unnecessary burdens on traveling musicians, global commerce in bows, and CITES management authorities.**

Music sector stakeholders believe that any effort to modify the regulation of pernambuco should seek balance, so that conservation and trade can continue, and so that pernambuco and stringed-instrument music can flourish. Any new proposal should be based on updated scientific data on the status of the species, as the last International Union for the Conservation of Nature (IUCN) study was issued in 1998. Decisions should also be informed by a full understanding of the scope of the new regulatory burdens as well as the potential gains for conservation of the species. This obligation is especially important when the dramatic step of an Appendix I listing is proposed.

The proposal describes the impact of an Appendix I listing as follows:

“At the national level, the transfer of *P. echinata* from Appendix II to Appendix I will not bring great changes (...).

There will be bureaucratic impacts for companies that commercialize the species products and by-products, especially in transactions involving the bows of musical instruments, which we intend to see included in the CITES controls, due to the need to obtain the export permits in the administrative agencies that issue them in each country, generating delays in commercial transactions or definitive trade barriers for cases in which there is no proof of origin, chain of custody or pre-convention certificate. It is expected that such restrictive measures will ensure greater protection for the species.”

The proposal significantly mischaracterizes the impact of an Appendix I listing, which would impose new permit requirements for traveling musicians and make virtually impossible the international sale, resale, and repair of new and existing bows. The result would be catastrophic for stringed instrument music, musicians, the historic craft of bow making, arts and cultural institutions, and the many millions of listening audience members around the world.

We agree with the CITES Secretariat's preliminary assessment (E-Notif-2022-066) that the implementation of the proposed listing with annotation has not been considered by the CITES committees with expertise in determining that the annotation is appropriate and can be readily implemented. At minimum, **the proposed listing would have the following severe impacts on global commercial and noncommercial trade:**

- **All noncommercial international travel by musicians carrying pernambuco bows - including bows made decades if not centuries ago - would become subject to CITES permitting, inspection, and credentialing requirements at global ports. Such a burden would also apply to an Appendix II listing covering newly regulated finished products.** The Musical Instrument Certificate established under Res. 16.8 is a CITES permit, with all of the related issuing and credentialing

requirements, and not all CITES authorities participate in the issuance of the Musical Instrument Certificate. Implementation of the personal effects exemption is also unevenly applied globally and is not a reliable option for travel with CITES material. Requiring permits for finished bows, whether Musical Instrument Certificates or regular permits, would oblige musicians to produce documentary evidence of the provenance of their bows that many, if not most, are unlikely to have. Given that most professional string musicians worldwide perform with pernambuco bows, this permit requirement would place a tremendous new burden on both musicians and CITES management authorities, without a corresponding benefit to conservation of the species.

- **International commercial trade, including sales, resales and repairs, would be severely restricted.** Being limited in number worldwide and handmade by craftspeople, the international trade of bows is essential to professional and higher level stringed-instrument music. It is common for musicians and makers to cross borders to facilitate trade. The trade of species listed on Appendix I, however, is only permitted under limited circumstances and after the completion of extensive and challenging paperwork requirements. A management authority may issue a pre-Convention certificate and then a permit based on proof that a specimen was acquired before the Convention or in exceptional circumstances, i.e., when it is determined that the use will not be detrimental to the species and used for primarily commercial purposes (e.g., for scientific research or education). As is true with many types of musical instruments, demonstrating the provenance of artisanal bows will be virtually impossible in most cases. Unlike instruments with serial numbers that might be used to establish age, bows have been and continue to be unmarked and traded with only the most minimal documentation. Imposing such requirements on finished products that have been in trade for many years if not many decades or longer will greatly inhibit commerce, while burdening all involved and with no commensurate benefit to conservation of the species. A similar burden would be faced if finished products were to be included in an Appendix II listing. In addition, and very significantly, European Union regulations would impose even stricter limits on the ability to trade pre-Convention pernambuco.
- **Limits on resale of existing bows would jeopardize the lifetime investments musicians and makers have in existing bows.** Considering the very long life of a bow, it can be estimated that there are several million bows in the world today, and that these bows are frequently re-sold internationally. Given that finished pernambuco products have not been regulated to date, it will be impossible for most current owners to produce documentation validating the chain of custody of the bows.
- **Repairs of existing bows - which are often purchased internationally and returned to their makers - would become virtually impossible.** Many of the world's greatest bows, which have been passed down through generations, would deteriorate, posing an incalculable loss for music and culture.

### **A better solution must be found**

CITES aims to conserve species and to enable sustainable trade. An Appendix I listing would create existential risks for stringed instrument music, for musicians who rely on their pernambuco bows as essential tools of the trade, for a more than 200-year old tradition of artisanal bow making, and for music that uplifts the human spirit – all without a commensurate benefit to the sustainability of the species.

We believe a balanced policy solution is obtainable. Music sector stakeholders support:

- the implementation of domestic export permit requirements
- the development of a comprehensive national inventory of the status of the species
- the creation of a process to establish traceability for raw pernambuco and finished bows as well as a certified chain of custody for finished bows
- increased funding and strategic partnership to promote conservation, scientific investigations of natural and artificially propagated populations, and the sustainable use of pernambuco

In particular, and in view of the lack of available data about the status of the species and potential implementation burden for music stakeholders and management authorities, we urge CITES to undertake further review and engagement among all relevant stakeholders in the Plants Committee, Standing Committee, and through other relevant processes and delay consideration of a change to the listing status of pernambuco to CoP20.

Bow makers, who have played a crucial role in efforts to conserve pernambuco and develop scientific knowledge, are prepared to carry this effort forward in partnership with luthiers, musicians, music organizations, government authorities, environmental organizations and other stakeholders.

Music stakeholders welcome dialogue with CITES authorities and other stakeholders. It is essential that we the conserve pernambuco, while also protecting the future of stringed instrument music.

**American Federation of Musicians of the United States and Canada**  
**American Federation of Violin and Bow Makers**  
**Association of British Orchestras**  
**The Australian Music Association (AMA)**  
**Brazilian Music Industry Association (ANAFIMA)**  
**Bundesverband der deutschen Musikinstrumentenhersteller e.V.**  
**C.F. Martin & Co.**  
**COMUSICA**  
**Confederation of European Music Industries (CAFIM)**  
**Dachverband Musikwirtschaft und Veranstaltungstechnik e.V.**  
**ForestBased Solutions**  
**French Musical Instrument Organisation (CSFI)**  
**International Alliance of Violin and Bow Makers for Endangered Species**  
**International Association of Violin and Bow Makers (EILA)**  
**International Federation of Musicians (FIM)**  
**International Pernambuco Conservation Initiative**  
**Japan Musical Instruments Association (JMIA)**  
**John Cruz Custom Guitars**  
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**National Association of Music Merchants**  
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