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アメリカが世界の生物多様性保護活動に刻んだ足跡

1973年アメリカ合衆国絶滅危惧種保護法（Endangered Species Act of 1973）が残した功績

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America's Mark on Global Biodiversity Protections:

The Legacy of the United States Endangered Species Act of 1973

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Abstract

December 2023 will mark the 50th anniversary of the passage of the 1973 Endangered Species Act of the United States. At the time of its passage, the U.S. Endangered Species Act (ESA) was far and away the most comprehensive piece of legislation ever enacted to halt and reverse rising rates of species extinction and biodiversity loss. Other nations emulated the ESA in their past and present endangered species laws and regulations, even as late as 2019, leading to the eventual emergence of a set of global standard practices for species and habitat protections that endure to this day, practices with obvious American roots. This study demonstrates how America's 1973 Endangered Species Act had a profound influence on endangered species protection practices in other countries, with the ESA essentially becoming a template for other national and provincial governments to follow when considering their own endangered species management protection programs. The ESA's emulation by other polities is indicative of the degree to which the United States has greatly impacted and continues to influence global environmentalism.

Key words: endangered species, Endangered Species Act, biodiversity, environmental law

Introduction

In January 1973, an initial draft version of the United States Endangered Species Act was brought to the floor of the U.S. Congress. According to the historical archives of the U.S. House of Representatives, lawmakers would spend the next 12 months debating and revising the Act before agreeing on its basic form and function. In December 1973, a finalized version of the Endangered

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Species Act passed the Senate with near unanimous approval. On December 20, 1973, the U.S. House of Representatives approved the Act with overwhelming bipartisan support, voting 355 to 4 in favor of its passage and sending the bill to President Richard Nixon for his signature. President Nixon signed the U.S. Endangered Species Act into law on December 28, 1973, per congressional records.

At the time of its passage, the U.S. Endangered Species Act (ESA) was the most comprehensive piece of legislation addressing protections for wildlife and their habitats ever enacted. Over the next several years, other governments at the state, provincial, and national levels would follow America's lead. These laws were either designed for the same purposes as the ESA or as instruments through which governments planned to implement the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), a multilateral environmental treaty that preceded the ESA and which the ESA itself references. The Wildlife Act of Ireland was enacted in 1976 (and later amended in 2000). Norfolk Island, then a self-governing territory of Australia, passed its own Endangered Species Act in 1980. The United Kingdom enacted the Wildlife and Countryside Act in 1981. The Canadian province of Manitoba passed its Endangered Species and Ecosystems Act in 1990. Australian central government lawmakers enacted that nation's Endangered Species Protection Act in 1992. Lawmakers in the Philippines adopted Republic Act No. 9147 in 2001. Canada's central government implemented the Species at Risk Act in 2002. And more recently, Uganda's legislature enacted the Uganda Wildlife Act in 2019. Written above is not a comprehensive list of national and subnational endangered species laws that followed the 1973 ESA. Japan's national government enacted the Act on Conservation of Endangered Species of Wild Fauna and Flora (ACES) in 1992, the same year member states of the United Nations adopted the Convention on Biological Diversity. Japan's ACES law entered into force in early 1993.

Enforcement of the ESA is handled through the U.S. Department of the Interior, further delegated to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service. The ESA directs the Secretary of the Interior to carry out assessments of native plants and animals to determine their status in the wild. The Secretary is directed to determine, based on these assessments, whether a species is threatened with possible extinction or at risk of imminent extinction, and then accordingly list such categorized species as "threatened" or "endangered" in accordance with ESA procedures. The law then directs the Secretary to identify habitat critical to the survival of a species, and then draft a plan for the protection of such critical habitat as deemed necessary to ensure a species is saved from extinction. The process must be transparent and made available for the public to review and comment on. The general public is also invited to propose species for listing and protection. The U.S. Endangered Species Act is also remarkably international in scope. The ESA specifies that the Department of the Interior is to cooperate with foreign governments in pursuing endangered species conservation. The ESA explicitly mentions Japan, Canada, and Mexico as nations with which the United States must cooperate on biodiversity protection, and the law even directs the Secretary of the Interior to inform foreign governments of listing decisions regarding species also existing in foreign territories. Foreign governments are also invited to comment on the listing decisions proposed by the U.S. Department of the Interior. The

law also says that the ESA is the vehicle through which the United States Government will enforce provisions of the CITES multilateral environmental treaty.

With slight variations, this general species management approach as outlined above is repeated in form and function in other nations' endangered species protection laws at the state, provincial, and national levels. There are important distinctions to be highlighted between other governments' species protection acts and the ESA. However, a review of specific examples of legislation that followed the 1973 ESA demonstrates how the United States has had a profound influence on the way the world pursues measures to slow or halt the alarming decline in global biodiversity witnessed today. What follows is a demonstration of how America has shaped the foundation of worldwide endangered species management and conservation, and how this influence is likely to endure for decades to come as governments and the global community struggle to halt the alarming decline in global biodiversity scientists are documenting daily.

Methods

This paper explores the degree to which other nations have emulated the letter and spirit of the U.S. Endangered Species Act, and how that landmark bill has essentially forged part of the world's approach to endangered species management and biodiversity protections since its enactment. This review begins with a look at how a portion of the existing academic literature interprets the legacy of the ESA. Next, endangered species legislation as enacted by governments in Australia, Canada, Ireland, the Philippines, and Uganda are assessed to determine just how similar they are to America's ESA. Complete texts of legislation were downloaded from official government websites. Where only PDF file versions of legislation were made available, these files were converted into Word format using Adobe's online PDF-to-Word conversion tool to enable a more thorough textual analysis and comparison. Endangered species trade laws as enacted by the United Kingdom, New Zealand, Nigeria, and Singapore, as well as CITES and the United Nations Convention on Biological Diversity (CBD), were reviewed separately and in addition to other examples of national legislation to provide a more comprehensive picture of the world's approach to biological diversity protection and its roots in American legislation. This initial cross-analysis is limited to English speaking jurisdictions, but Japan's ACES law was reviewed in its original Japanese and in English translation (as translated by the author or the online service Japanese Law Translation) to assess the degree to which Japan's own landmark species protection law may have been influenced by earlier protection models pioneered by the U.S. Endangered Species Act.

Legacy of the Endangered Species Act—Differences to Other Acts or Approaches

Science has demonstrated how biodiversity itself, or the mere existence of biodiversity, is of direct benefit to humans. Recent research reveals how bird species richness strongly correlates to people's sense of well-being. In areas of Europe where bird populations were found to be the most biodiverse, humans living in these same areas reported higher average rates of contentedness and

life satisfaction compared to areas of comparatively poor bird species richness (Methorst et al., 2021). The correlation between bird biodiversity and life satisfaction in Europe is so strong that the additional quantifiable measure of happiness reported by people living in the mere presence of greater bird biodiversity increased in a similar way as if those same individuals enjoyed increases in their incomes (ibid).

Thus, governments endeavor to prevent species' extinctions because of the widely held and confirmed belief that species richness and greater biodiversity are of benefit to humans. The U.S. Congress states this explicitly in the introduction to the ESA and its contents, titled "Findings, Purposes, and Policy." In Section 2(a)(3) Congress states that species are to be protected from extinction because they "are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people." This section avoids mention of the commercial value of species, but it is stated explicitly later in the document that threatened and endangered species are to be both protected from and for commercial activity—economic activity that doesn't directly involve a species should be pursued in a way as to not threaten the existence of a species, and the direct commercial exploitation of a species must be conducted in a manner to ensure sustainable use and the ongoing, long-term existence of said species. The reference to "recreation" also suggests Congress understood the commercial potential of biodiversity in that people will travel and spend money to see and experience species. Thus, the ESA introduced to the world the concept of legislating the value of wild species to humans in terms of perceived cultural and esthetic benefits, for scientific and educational purposes, and commercial gain. In other words, the ESA legislated the concept of biodiversity as another natural resource for humans to manage, much the same as with mineral wealth or timber. As will be demonstrated below, other national and international biodiversity laws continued this practice of commodification for management and trade—humans determined to protect wild species not for their own sake, but as resources to be managed and exploited responsibly by humans.

How governments pursue endangered species management varies greatly due to variances in national histories, government structures, governing philosophies, and internal politics. Even countries with very similar histories, cultures, shared species, and shared geography can approach the same goals of species conservation in very different ways. For instance, a 2013 review of the differences between the U.S. ESA and Canada's Species at Risk Act (SARA) found the two laws result in the Canadian and American authorities often taking far different approaches in pursuing the same goals. The researchers noted how the SARA law dictates that all species status assessments must be undertaken by a single scientific body charged by the national government to perform this work, whereas in the United States the ESA authorizes species assessments by different parties, with Congress declining to use the ESA to forge a single national scientific body to exist only to assess species' status in the wild (Waples et al., 2013). At the same time, the ESA mandates strict deadlines for listing decisions and prohibits listing decisions that are influenced by social and/or economic considerations, meaning the ESA doesn't allow authorities to forego a scientifically sound listing decision simply because listing a species may prove economically detrimental in some way (ibid). SARA and other national endangered species laws make more

explicit concerns about the costs of implementing listing decisions.

Actions in pursuit of endangered species protections in the United States also tend to be far more litigious than in other jurisdictions, and the ESA itself falls victim to this additional use of time and resources. The Congressional Research Service (CRS) recently highlighted the litigious nature of the ESA and endangered species management in the U.S. with a case study of the listing history of the gray wolf. Initially listed as endangered in 1967, FWS has attempted numerous times to either change the listing status or delist certain populations of gray wolves over the past 20 years. As CRS details, lawsuits filed by interested parties have thwarted every attempt by FWS to do so as groups take advantage of vague language or wording in ESA sections to block FWS delisting attempts (Ward, 2020). Though lawsuits over endangered species listing decisions do occur in other jurisdictions, cases of endangered species listing decisions or other management decisions becoming frozen for two decades or more by contentious litigation is a common American phenomenon and is one key way in which endangered species management in the U.S. starkly differs from other nations' approaches.

However, the similarities between other national endangered species management laws and regimes and the ESA far outweigh any apparent and obvious differences. Waples et al. argue in their paper that endangered species management and protection could be enhanced in both Canada and the United States if the ESA and SARA were re-drafted or interpreted in ways to see the acts better mimic one another. In reality, Canada's SARA national endangered species legislation already heavily mimics the ESA in real and very consequential ways.

The Influence of the 1973 ESA on Other Nations' Endangered Species Legislation

The U.S. ESA is both domestic and international in scope. The preambular "Findings, Purposes, and Policy" section references the United States' obligation to international cooperation under migratory bird treaties signed with Canada, Mexico, and Japan, as well as other multilateral wildlife protection conventions, in particular conventions related to fisheries conservation (Sec.2.a Findings, 4, A-G). The ESA also references the United Nations CITES convention and U.S. obligations under that treaty. That these mentions appear early in the text of the law make it clear that international environmentalism and rising concern over threats to global biodiversity had influenced the drafting of the ESA before its adoption in late 1973. Moving beyond 1973, however, the ESA has had a tremendous impact on how other governments frame and pursue endangered species and habitat protection.

The U.S. Congress charged the U.S. Department of the Interior with enforcement of the ESA. The law stipulates that the Secretary of the Interior must make determinations as to "whether any species is an endangered species or a threatened species," with "endangered" defined as facing the imminent prospect of extinction and "threatened" defined as a species declining to such an extent as it may become at risk of extinction in the near future (Sec.4.a General, 1). If such a determination is made, the Secretary is ordered to publicly list the species as threatened or endangered, and to notify the public of any changes to a listing status that may occur, including the removal of a species

from the list of threatened or endangered species (Sec.4.a General, 2, A). Thus, a fundamental pillar of government endangered species protection was enshrined into the ESA: that a designated government agency must make an official determination of a species' threatened or endangered status, that a listing must be formally and publicly made in a clearly stipulated, procedural way, and that any changes to the listing status (additions, alternations, or removals) must also be made public.

Next, the ESA directs the Secretary of the Interior to identify habitats deemed critical to the survival of a species in the wild (Sec.4.a General, 3, A, i). The ESA excludes from Interior's jurisdiction properties held by the Department of Defense (Sec.4.a General, 3, B, i). The formal determination by government of critical habitat is another pillar of species conservation policy enshrined by the ESA and sets the stage for governments to develop management plans for these areas of land or marine habitat. The policies pursued are wide-ranging, from basic legal restrictions on activities conducted in these areas to outright government appropriation or purchase of tracts to remove them from commercial considerations entirely.

The ESA empowers the public to drive endangered species management. Upon receipt of a petition for a listing decision (add, revise, or remove) the ESA then sets a deadline of 90 days for the Secretary to determine whether or not the third-party petition is warranted and would prompt an Interior Department review of a species' status in the wild (Sec.4.b Basis for Determinations, 3, A). The law then gives Interior another 12 months to notify the public as to how it intends to proceed with the petition for a listing decision (Sec.4.b Basis for Determinations, 3, B). Another common feature of the ESA is strict timelines for listing decisions to be made and announced, the requirement that listing decisions be made public (in the Federal Register and in local newspapers where a species is known to be prevalent), and that the public is invited to review and even participate in the listing process. The ESA attempts to enforce transparency, accountability, and public participation in listing considerations and determinations. And as noted earlier, listing actions or petitions also fall under judicial review and court challenges are common.

All the above core principles of procedural, participatory, and timely endangered species listing decisions and policies, subject to judicial oversight, are enshrined in other nations' endangered species management laws and regulations, as will be discussed in greater detail below.

Canada, 2002 Species at Risk Act

Though Waples et al. argue that Canadian and American endangered species laws are too different and should be harmonized, a more careful reading of Canada's national 2002 Species at Risk Act (SARA) reveals how lawmakers in Ottawa were inspired by both the letter and spirit of the U.S. ESA in drafting their own foundational endangered species management act.

Whereas the ESA designates the Department of the Interior as the responsible enforcement authority, SARA stipulates the formation of a "Canadian Endangered Species Conservation Council" consisting of ministers of three federal agencies (Environment, Fisheries and Oceans, and Parks Canada) and ministers from concerned provinces or territories (Composition 7(1)). Enforcement

obligations can be delegated to a specific ministry after consultation with other parties to the Council, with a delegation determination made public within 45 days from commencement of a species status review (Responsibility of Minister, 8). The Council must also act in consultation with representatives of First Nations groups where endangered species management decisions may impact them (National Aboriginal Council on Species at Risk, 8).

SARA establishes a clearly defined listing process to be undertaken by the Committee on the Status of Endangered Wildlife in Canada, or COSEWIC (Establishment, 14). In this section, SARA goes beyond ESA in listing specificity, authorizing the Committee to make a determination on whether a species is "extinct, extirpated, endangered, threatened, or of special concern" (ibid), all subcategories of the more general "species at risk" classification. The Committee is also ordered to note publicly whether there is no cause for concern over a species' status, or in cases where scientific data are lacking to make any specific determination (Functions, 15). COSEWIC is directed to establish subcommittees to undertake reviews of the status of individual species (Subcommittees, 18(1)) and as with the ESA, SARA specifies a timeline for action: the law gives COSEWIC one year upon receipt of a subcommittee report to make an assessment and listing decision (Time for assessment, 23(1)). SARA also authorizes any interested group or member of the public to petition COSEWIC for a listing decision (Applications, 22(1)). The SARA also gives COSEWIC a 90-day deadline to make public its intention on how to list a species (Report on response, 3).

Manitoba, Canada, 1990 Endangered Species and Ecosystems Act

The ESA's influence on endangered species management regimes is felt at the Canadian provincial level, as well.

The provincial government of Manitoba adopted its 1990 Endangered Species and Ecosystems Act (ESEA) as an updated version of earlier endangered species management legislation. In it, the provincial Lieutenant Governor is authorized to appoint a minister in charge of policy direction and enforcement, and the newer ESEA also establishes an advisory committee with members appointed by the Lieutenant Governor (Part II Administration, 6(2) and 6(3)). Upon receipt of a report by the advisory committee and minister, the Lieutenant Governor is authorized to determine whether or not a species can be listed as endangered, threatened, extirpated, or of "special concern" (Part III Species at Risk). Upon a listing determination, a recovery plan must be drafted (ibid) which may include special designation of habitat or areas deemed critical to the survival of a species, including legal restrictions on activities that might be detrimental to a species' survival (ibid). The ESEA also empowers Manitoba's Lieutenant Governor to designate "endangered ecosystems," a provision mimicking the ESA's authorization of critical habitat designation (Part III.1). Public notification and participation are also required: the law requires a 90-day public notification prior to a listing decision or new regulation being enacted, to give time for public comment (Part III.1, 12.5(1)).

Australia, 1992 Endangered Species Protection Act

The ESA's influence on other governments' endangered species management regimes is apparent beyond North America.

Australia's 1992 Endangered Species Protection Act establishes the Endangered Species Advisory Committee under the direction of the National Parks and Wildlife Service (Part 1, 3(2)(e)). The Committee is established to undertake assessments of species and to make a determination on whether to list the species as endangered, vulnerable, or presumed extinct (Part 2-Listing, 14). The law provides definitions for each listing category and how such a determination is to be made. Listing decisions are to be made public in both a national government periodical and in newspapers published in states where that particular species is known to be found (Part 2, Division 2, 18). Members of the public are also invited to nominate species for certain listing statuses (Part 2, Division 2, 25). A species recovery plan must also be drafted and made available for public review and comment (Part 3, Division 1). The Act also details a timeline for action and even included a detailed timetable determining the steps and length of time authorized for implementing and reviewing recovery plans (Part 3, Division 2). The law also directs the ultimate regulatory authority, the minister of the National Parks and Wildlife Service, to accept advice on listing decisions from a Scientific Subcommittee, and that the public must be notified of decisions on listings or de-listings within 30 days of such a determination (Part 2, Division 2, 24).

Ireland, 1976 Wildlife Act

Ireland's Wildlife Act of 1976 also follows the pattern pioneered by the ESA. Ireland's law established the Minister of Lands as the primary authority responsible for species management and protection, again for the benefit of the citizenry (Part 2, Chapter 1, 11-1). The law directs the Minister to consult with other government agencies, a committee of experts, and the public in determining policy (Part 2, Chapter 1, 12-1 and 13-1). The Act directs Ireland's Minister of Lands to identify habitat of importance to protected species and to set up mechanisms to protect the habitat so that it may continue to sustain that species, including through establishing wildlife refuges and other protected lands (Part 2, Chapter 2). The public must also be notified of any actions or changes in policy, as outlined in several sections of the Act, and for a specified period.

The Philippines, 2001 Republic Act No. 9147 (Wildlife Resources Conservation and Protection Act)

The Philippines Republic Act No. 9147, enacted in 2001, establishes the Department of Environment and Natural Resources as the primary authority charged with enforcing the Act as it pertains to terrestrial plants, animals, and ecosystems; the Department of Agriculture is vested with enforcement authority in aquatic ecosystems (Sec. 4). This division of labor closely resembles the U.S. Department of the Interior's decision to split enforcement of the ESA between the Fish and

Wildlife Service for continental ecosystems and the National Marine Fisheries Service for oceanic ecosystems. The Act directs the Secretary of the responsible department to make a determination as to whether a species should be listed as critically endangered, endangered, vulnerable, or "other accepted categories" (Sec. 22). The Act directs the Secretary to make public a list of species and their statuses and to accept petitions from the public concerning proposed listing and delisting decisions (Sec. 22, d). The Philippines' law stipulates that the respective Secretary has one year from the enactment of the law to develop a comprehensive list of species and their statuses, and two years to determine critical habitats beyond already protected areas (Sec. 25). The law then directs authorities to formulate conservation plans, with national and local governments collaborating.

Uganda, 2019 Wildlife Act

Uganda's 2019 Wildlife Act (Act 17) stipulates that all wild fauna and flora in the country are property of the national government to be managed by the government for the benefit of the people of Uganda unless a specific wild plant or animal has been lawfully taken possession of by an individual or group (Sec. 3). The Minister (simply defined in the Act as "the minister responsible for wildlife") is then directed to make a listing determination on various species as determined by an advisory board. The Minister can list a species as either extinct, extinct in the wild, critically endangered, endangered, vulnerable, threatened, nearly threatened, or data deficient; a listing determination must be made public in the Gazette, a government periodical (Part V, Sec. 34, 3). These listing status options closely resemble the classifications used by the International Union of Conservation of Nature (IUCN) in their periodic species assessments. Uganda's law does not specify a length of time by which the Minister must arrive at the listing determination or issue public notification of a listing determination. The Act also is much more focused on user rights and the processes by which an individual or group may receive a license to exploit species, including for bioprospecting purposes (the practice of harvesting species for their potential genetic value). The ESA includes provisions for licenses to be issued to permit "incidental takes" of species but makes no mention of bioprospecting. This is an indication that drafters of Uganda's Act had more contemporary concerns in mind when finalizing their endangered species law, and yet Uganda's law contains the same core provisions found in other countries' endangered species legislation: a designated national authority charged with undertaking species assessments (with expert input), making listing decisions, and then notifying the public of said decisions while allowing the public space to both give input on decisions and to offer their own listing additions or change proposals.

Japanese endangered species law and the ESA

As in the U.S. ESA, Japan's Act on Conservation of Endangered Species of Wild Fauna and Flora (ACES) begins with a declaration of a purpose or reason for drafting legislation to prevent extinctions. That stated purpose is identical to that first articulated in the ESA: because maintaining greater biodiversity is of benefit to humans. Chapter 1, Article 1 of ACES declares that Japan

has drafted this legislation "in view of the fact that wild fauna and flora are not only important components of ecosystems but also serve an essential role in enriching the lives of human beings," and because biodiversity helps contribute to "wholesome and cultured lives for present and future generations of citizens." Though culturally distinct and often far apart in terms of attitudes toward living natural resources (an excellent example is the rift between the United States and Japan on the question of commercial whaling) along these lines Japan also embraces the American view that humans seek to prevent extinctions so that humans, and not animals, may experience greater benefits.

As in the ESA, Japan's ACES designates an ultimate authority responsible for endangered species designation and protection, in this case, the Ministry of the Environment (MoE). The law gives the minister of MoE the power and responsibility to declare species as "rare" plants or animals warranting protection (Article 2, 1), noting that MoE retains this authority from prior Japanese law and practice. The ACES law also empowers the Ministry of the Environment to make a unilateral temporary declaration of a species' "rare" status (Article 5, 1). The law deems the minister of MoE responsible for ACES and also requires MoE to make public its decision in the national government's Gazette, and specifies that this temporary designation is only good for three years (Article 5, 3 and 4). The law also specifies the kinds of restricted activities related to a rare species that the minister is authorized to regulate, as well as penalties to individuals for non-compliance.

The ACES law also empowers the MoE to designate and protect habitats deemed critical for the survival of rare plants and animals (Article 36, 2). Before making that call, MoE is directed to consult with other relevant government authorities and with the Central Environmental Council, a body established in prior chapters of the law (Article 36, 4). MoE is also required by law to notify the public of any forthcoming designation of species or habitat status prior to making such a determination, and that the public has a right to provide its input into the decision-making process (Article 36, 5).

The language of ACES makes explicit the role of the public in species conservation. It authorizes the minister of MoE to appoint individuals as "rare wildlife species conservation promoters" for their expertise and enthusiasm for rare species conservation (Article 51, 1). It directs the MoE to cooperate with the nation's zoos and botanical gardens on species conservation initiatives and even captive breeding programs (Chapter V: Certified Zoos and Botanical Gardens Conserving Rare Species). ACES directs MoE to educate the public on the importance of rare plant and animal conservation (Article 53, 2). In other words, ACES makes MoE and the minister the ultimate authority over rare species conservation decisions but mandates that the minister and MoE take every opportunity to invite public participation and cooperation at nearly every step of the regulatory process, much in the same way that ESA requires public notification and comment periods, invites public petitions for listing decisions, and directs authorities to incorporate and cooperate with other levels of government (including foreign governments) and members of the public in the endangered species conservation process.

ACES differs most from ESA in that it goes into great detail regarding how MoE may authorize and regulate various business dealings concerning designated rare species. This stems

from the fact that the ACES law is also designed to clarify how Japan will meet compliance with its CITES obligations—other endangered species laws passed many years after ESA also show this particular characteristic (as will be explained below). ACES is also not as detailed as ESA in that it appears to forgo reliance on different levels or categories of extinction threat (going with a general "endangered" or "rare" definition and avoiding the language of "threatened" or "near threatened" species). Nevertheless, ACES borrows the same general precedent framework or skeleton established in America's ESA law. As with the ESA, in Japan's foundational endangered species law a central government authority is made responsible for assessing and determining a species' status, in collaboration with experts and members of the public. That central authority must also designate habitat areas deemed important or critical for the survival of that species, and then impose restrictions on activities allowed in these areas to conserve the species. Decisions on designations must be made public and in a timely manner; for example, ACES specifies 14 days as the length of time MoE must give as prior public notice of species or habitat designations or changes to designations (Article 36, 5). ACES establishes a supreme power over endangered species management but also mandates transparency in decision-making and ample opportunities for public participation in the conservation process, all concepts borrowed from the ESA in other national endangered species legislation.

Discussion and Conclusion

Most national comprehensive endangered species laws reference the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The ESA is no exception; in fact, the United States signed onto CITES the same year as the ESA was drafted and finalized, in 1973, and the ESA devotes an entire section to establishing the Secretary of the Interior as the managing authority of U.S. compliance with CITES and to outline how the U.S. will pursue said compliance (Convention Implementation Sec. 8A). Other governments followed this script, and in some cases, governments weighted their endangered species legislation more heavily toward CITES compliance and less towards domestic protections of endangered species. In two cases, endangered species laws are focused primarily on managing endangered species trade restrictions over domestic conservation initiatives. This may be a reflection of the relatively small size of the particular territorial jurisdictions falling under these pieces of legislation. Singapore's Endangered Species (Export and Import) Act of 2006 explicitly states that it exists for purposes of CITES compliance. Norfolk Island, Australia's Endangered Species Act of 1980 is also drafted primarily as a CITES compliance vehicle, and that Act even includes the entirety of the CITES treaty in its Schedule addendum. Other nations adopted endangered species laws that can be best described as a hybrid approach to explicit CITES compliance measures and domestic ESA-type overarching conservation measures.

But in national and provincial endangered species legislation, a clear pattern is apparent, and one with obvious American roots. The United States Endangered Species Act of 1973 states that it is the duty of the government to prevent species' extinctions because greater biodiversity

is of benefit to humans. The entire world echoed this stance in the preamble of the 1992 United Nations Convention on Biodiversity in adopting language certifying member states' awareness of "the intrinsic value of biodiversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational, and aesthetic values" worthy of protection. The ESA law identifies a governing authority responsible for national endangered species protections. It specifies that this authority can assess and identify endangered species according to certain standards that it determines, but that these standards must be informed by science and scientific advisors. The ESA demands full transparency, ordering those determinations to be made public and that the public be afforded sufficient time to consider proposals and respond. The public is also empowered to petition for endangered species determinations or changes to species' status. The pattern is one of establishing a central responsible authority that nevertheless recognizes it must cooperate with the public to achieve the goal of preventing extinctions, and because of this fact, the legislation similarly empowers the public to appeal to this strong central authority for policy changes. And the entire process must be made open, transparent, and participatory. The national endangered species laws of other English-speaking nations and Japan embraced this same foundational pattern, a clear demonstration of the degree to which America's 50-year-old Endangered Species Act set the tone for government-driven biodiversity protections throughout the world.

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