



UNITED NATIONS NON-GOVERNMENTAL LIAISON SERVICE/NGLS

*Serving the UN system and NGO community for 20 years***CITES***THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA***INTRODUCTION**

There are over 13,000 known mammal and bird species, as well as tens of thousands of reptiles, amphibians and fish, millions of invertebrates and some 250,000 flowering plants. While extinction is a natural feature of the evolution of life on earth, most plant and animal extinctions have been caused by the activities of humans.

Many species are declining in number because their habitat is being destroyed or disturbed. In fact this is the single most important threat to the survival of species. The second biggest threat is believed to be unrestricted exploitation of animals and plants, primarily for commerce. Of course, these threats are growing along with the size of the human population.

Wildlife specimens can be very valuable, providing a high incentive to take them from the wild and trade in them even if they are rare, or protected. And because the trade takes place across international borders, international legislation is indispensable.

TOWARDS A CONVENTION

The first international discussion of problems created by wildlife trade took place at the General Assembly of IUCN-The World Conservation Union in 1960. At its meeting in 1963 it called for a convention to control international trade in threatened species. IUCN then prepared a draft convention, seeking comments from governments and relevant international organizations. The third draft for consultation was sent out in 1971.

In 1972, the United Nations Stockholm Conference on the Human Environment passed a resolution urging the adoption of a convention along the lines recommended by the IUCN General Assembly.

The United States convened a diplomatic conference to negotiate a convention in Washington DC in February-March 1973. At this meeting, 88 countries discussed a draft convention, based mostly on the previous drafts and comments from governments. In March 1973, 21 countries signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which is deposited with the

Swiss government. CITES entered into force on 1 July 1975, 90 days after ten states had ratified or acceded to it. CITES is open for accession indefinitely and no restriction has been made on which states are eligible to accede. Once a state has joined CITES, it is referred to as a party.

AIMS AND DEFINITIONS OF THE CONVENTION

The objective of the convention is to make sure that international trade does not threaten the survival of any species of wild animal or plant.

CITES governs international trade not only in live animals and plants but also in parts, such as skins, shells and horns, and in products such as watchstraps and ivory piano keys, if there is reason to believe they come from species covered by the convention.

The species covered by the convention are included in three appendices.

Appendix I includes all species threatened with extinction which are or may be affected by trade, although it does not say what 'threatened with extinction' means. When the convention entered into force, about 450 species were listed in Appendix I.

Appendix II includes species which, although not threatened with extinction, may come under threat unless trade in them is strictly controlled. It may also include species that are similar in appearance to those included because of potential threats, because the problems of distinguishing them can hamper effective control. As a result, some large groups of species are in Appendix II, including all wild cats.

Appendix III includes species that any party has placed there because, although exploitation is already regulated or prohibited within its jurisdiction, it needs the cooperation of other parties.

The inclusion of species in Appendices I and II, as well as all other changes to these appendices, are done by agreement of the Conference of the Parties to CITES, either at its biennial meetings or by postal vote. A two-thirds majority is required to adopt amendments. Amendments to Appendix III, on the other hand, are made unilaterally by a party. It has only to

make a request to the secretariat and to provide proof that it protects the species concerned.

The convention defines 'species' as meaning "species, subspecies or geographically separate population." So the populations of a species in different countries may be included in different appendices if necessary.

REGULATION OF TRADE

The trade in specimens of animal and plant species face different degrees of regulation depending on the appendix in which the species is listed. This regulation is achieved through a system of permits and certificates. These documents should be presented each time a consignment of specimens leaves or enters a country.

Appendix I

Appendix I species enjoy the greatest level of protection since their trade may only be authorized in exceptional circumstances. The guiding principle here is that export of such specimens must not be a threat to the survival of the species, and import of wild-taken specimens should be allowed only if the purpose is not primarily commercial.

CITES prohibits the export of Appendix I specimens without an export permit, which is only granted when the designated scientific authority concludes that export will not jeopardize the species' survival. The state of export must also be satisfied that the specimen was acquired legally and, if alive, will be prepared and transported to minimize the risk of injury, damage to health or cruel treatment. And it must also be satisfied that an import permit has been granted (except for re-export of parts and derivatives).

The issuance of import permits for wild specimens is restricted in order to limit trade in Appendix I species. Before an import permit is granted, the importing state must determine that the import is not primarily for commercial purposes and will not jeopardize the survival of the species; if the specimen is alive, the proposed recipient must be suitably equipped to house and care for it. In practice, these provisions mean that trade in wild Appendix I specimens is very restricted and that import is generally for scientific research, education, conservation activities (such as breeding and reintroduction) and hunting trophies. The last of these can be important in the case of species that are globally rare but locally abundant.

The document authorizing the export of a specimen that has been previously imported is called a re-export certificate. It may be granted only if the import was legal.

A special certificate is needed for specimens of Appendix I marine species that are not under the jurisdiction of any state. This is granted under conditions similar to those for trading in other Appendix I specimens. This is to ensure that threatened marine species, such as whales, are not taken from the high seas to be put to commercial use in the territory of a state party.

Appendix II

Conditions for trade in specimens of Appendix II species are less strict but only with respect to import, no import permit being required. The scientific authority must make the same determination for export of Appendix II specimens as for those of Appendix I. The exporting state must also be satisfied that the specimen was obtained legally and, if living, will not be damaged or treated cruelly during shipment. Furthermore, a scientific authority must monitor the issuance of export permits as well as the actual export. If necessary, it

can make recommendations about limiting exports to maintain a species at an ecologically appropriate level throughout its range.

Appendix III

When a species is included in Appendix III, export from the state that listed it requires an export permit. This may be granted only if the country of export is satisfied that the specimen was obtained legally and that, if alive, the risk of injury, damage to health or cruel treatment in transport has been minimized. Import is allowed only on presentation of the export permit or, if the specimen did not originate in the state that listed the species, a certificate of origin. Re-export is allowed only if the re-exporting state certifies that the specimen is indeed being re-exported.

Trade with a non-party is allowed as long as that state issues a document comparable to the one required by the convention for trade with a party. Moreover, the Conference of the Parties has recommended that documents from non-parties should be accepted only if the process of issuing them is similar to that followed by parties. The competent issuing authorities of non-party states therefore also need scientific advisers to determine the potential effects of trade.

Exemptions and Special Provisions

There are a limited number of exemptions and special provisions under the convention. It does not require permits for specimens remaining in transit under customs control. The conference has recommended that parties nonetheless verify the presence of valid export documentation for specimens in transit.

Permits are also not needed for international trade in specimens acquired before the convention applied to the species concerned if the state of export certifies that the specimens were pre-convention. The conference has recommended that this exemption only apply where the date of acquisition is pre-convention for both the exporting country and the importing country.

For trade in personal and household effects, for example when someone with a crocodile skin handbag goes on holiday, or when someone with a pet parrot moves to a different country, no permit or certificate is normally needed. To prevent abuses, however, there are two cases in which this exemption does not apply. When an Appendix I specimen acquired by the owner abroad is being imported back into his/her home country, there is no exemption and a permit is needed. A permit is also needed when someone acquires an Appendix II specimen and is taking it back to his/her home country from the country in which it was removed from the wild, if the latter country requires export permits to authorize the export of such specimens.

Special provisions exist for trade in specimens of captive-bred animals and artificially propagated plants. If they are of Appendix I species and are produced for commercial purposes, they should be treated as Appendix II species. But for species in Appendix II and III, and captive-bred or artificially propagated Appendix I species not produced for commercial purposes, a confirmation certificate can be accepted to authorize trade instead of any other permit or certificate. In these cases, no judgement about the effects of the trade by the scientific authorities is needed.

The non-commercial exchange of certain museum and herbarium specimens between scientists or scientific institutions is also exempt from normal permit requirements, provided the scientists have been registered by the state in which they are located. Specimens owned by travelling zoos, circuses, menageries, plant exhibitions and other travelling exhibitions, if they are pre-convention, captive-bred

or artificially propagated, can also be exempted from the usual permit and certificate requirements. In the case of travelling circuses, the conference has agreed to a special certificate authorizing the international movements of their live animals.

ESSENTIAL MEASURES

Under the convention, parties must carry out a number of measures to ensure the convention is properly implemented. To start with, each party must prohibit trade in violation of the convention and must penalize illegal trade or possession of illegally-traded specimens. Each country can decide the appropriate penalties for itself. Illegally obtained specimens must be confiscated or returned to the state of export, or both. While confiscation can be considered an effective deterrent, there are sometimes problems in disposing of confiscated stocks.

Parties may designate special ports of exit and entry for all export and import of specimens of listed species. The aim is to increase expertise at certain ports, to minimize the delays caused by formalities, and to enable complex problems related to identifying species to be better addressed. Live specimens that are confiscated can be returned to the state of export or sent to a rescue center or another appropriate place. The conference has adopted guidelines for parties to follow when deciding what to do with confiscated live specimens.

Reports of trade in listed species must be presented to the secretariat each year. This allows monitoring of the convention's implementation and of the effects of trade on the species concerned. The CITES secretariat reviews these reports and the data they contain are computerized by the World Conservation Monitoring Centre. Parties must also submit a biennial report on the legislative, regulatory and administrative measures they have taken to enforce the convention.

RESERVATIONS

Although the convention does not allow general reservations, a party may enter a specific reservation regarding the inclusion of a species in the appendices or an amendment. Any party that does this is treated as a non-party with respect to trade in specimens of the species concerned. The Conference of the Parties has, however, recommended that any party having entered a reservation on a species included in Appendix I should nonetheless treat it as if it were in Appendix II. This means that exports still have to be maintained at sustainable levels, even if the import is for commercial purposes.

STRUCTURE

Each party must designate one or more management authorities responsible for issuing permits and certificates, as well as scientific authorities to provide advice, among other things, on the effects of proposed trade. When a state ratifies or accedes to CITES, it must inform the depositary government of the name and address of the management authority responsible for communicating with the secretariat and other parties. This establishes a global network of institutions that cooperate with their counterparts in other states. The network is of critical importance to the implementation of the convention and thus to wildlife

conservation, trade regulation and rational management of wildlife resources.

The convention also establishes a secretariat. The secretariat was initially funded by UNEP and, after this support was phased out, the convention was amended to give to the Conference of the Parties the right to adopt financial provisions, including a budget for the secretariat and a scale of contributions from the parties.

The secretariat performs a wide range of tasks, including advising the parties on the convention implementation; arranging meetings of the parties; preparing reports, including an annual report on its work and reports on CITES implementation; preparing the proceedings of meetings of the Conference of the Parties; preparing draft resolutions on matters such as the interpretation of the convention for consideration by the conference; confirming the validity and authenticity of permits; organizing training seminars on implementation and enforcement; and so on. The secretariat also frequently notifies parties of matters related to implementation of the convention, such as the names and addresses of the designated national authorities, new national legislation to implement the convention, national export quotas, registered captive-breeding operations and so on. The secretariat liaises with organizations worldwide including the United Nations, the World Customs Organization, the International Air Transport Association and ICPO-Interpol, cooperation with the last of these being a key element in the fight against illegal trade. The secretariat also provides liaison with governmental and non-governmental conservation organizations and professional associations.

The Conference of the Parties is the supreme decision making body of CITES. It holds ordinary meetings roughly every two years and may hold extraordinary meetings on written request of at least a third of the parties. It reviews implementation of the convention, progress made to restore and conserve the species included in the appendices, and reports submitted by the secretariat, and may consider and adopt amendments to Appendices I and II. The conference approves the secretariat's work programme and budget and also makes recommendations to improve the effectiveness and implementation of the convention.

The conference has set up several permanent committees to assist it in its tasks. The senior one is the Standing Committee, which effectively represents the Conference of the Parties between its meetings. The other permanent committees are the Animals Committee, the Plants Committee, the Nomenclature Committee and the Identification Manual Committee.

IMPLEMENTATION

Reviewing and improving the implementation of the convention has been the work of the Conference of the Parties, the secretariat and the permanent committees and temporary working groups set up since the convention entered into force in 1975. The main permanent committees meet at least once a year and guarantee the continuity of the work of the conference between its meetings.

The first meeting of the conference was held in Berne (Switzerland) from 2-6 November 1976. It set out criteria for amending Appendices I and II.

The second meeting took place in San José (Costa Rica) from 19-30 March 1979. A permanent Standing Committee of the Conference of the Parties was established to monitor

implementation of the convention in the period between meetings. The conference also agreed to call an extraordinary meeting to provide a legal basis for specifying the levels of contributions by the parties to the secretariat's budget; and requested the establishment of a trust fund to provide financial support for the convention.

In May 1979, UNEP's Governing Council confirmed that it would end its regular funding after 1983; funding for the secretariat and the conference meetings would henceforth be the sole responsibility of the parties. To deal with this, the convention was amended at an extraordinary meeting in Bonn (Germany) on 22 June 1979. In September that year, the United Nations Controller established the trust fund for CITES.

The third meeting of the conference was held in New Delhi (India) from 25 February-8 March 1981. Key issues included African elephant ivory, rhinoceros horn and whale products. The issue of ranching began gaining prominence and a resolution on this subject was adopted, making it possible to transfer a species from Appendix I to Appendix II for ranching (the rearing in captivity of specimens—usually eggs or young animals—taken from the wild). This was especially important for crocodile conservation.

The fourth meeting was in Gaborone (Botswana) from 19-30 April 1983. A quota system was adopted for trade in leopard skins, an Appendix I species, so that even trophy trade was limited. A resolution was passed on the control of operations to breed Appendix I species in captivity for commercial purposes, obliging the breeders to be registered with the secretariat if their products are for export. During the Gaborone meeting, an amendment approved at an extraordinary meeting of the conference allowed regional economic integration organizations to accede to the convention. This was primarily to enable the European Union to become a party to CITES. This amendment has not yet entered into force.

The fifth meeting of the conference took place in Buenos Aires (Argentina) from 22 April-3 May 1985. Much attention was paid to marine turtles but none of the proposals was accepted. A system was adopted to control trade in African elephant ivory by quotas and marking. The system was heavily criticized by some organizations who complained of its loopholes. A striking feature of this meeting was the vigorous involvement of NGOs, marking the beginning of a long-term trend. A number of NGOs advocated against allowing controlled trade in ranched Appendix I species, especially marine turtles.

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The sixth meeting was held in Ottawa (Canada) from 12-24 July 1987. Again, trade in African elephant ivory was a key issue, and six out of 22 resolutions adopted dealt with the ivory trade. For the first time, the parties adopted a resolution going beyond the limits of the convention, dealing with trade in rhinoceros products: it urged parties to prohibit all trade in rhinoceros products, internal and external, with legitimate trophies the only exception. When this resolution was replaced seven years later, the principle remained.

The seventh meeting of the conference was held in Lausanne (Switzerland) from 9-20 October 1989. The African elephant was transferred to Appendix I, and a special procedure was adopted to consider proposals to transfer populations back to Appendix II, as it was recognized that some did not meet the criteria for inclusion in Appendix I. The procedure included the establishment of a Panel of Experts to consider each proposal.

The eighth meeting was in Kyoto (Japan) from 2-13 March 1992. It adopted a resolution recognizing the potentially beneficial effects of trade in wildlife when carried out in accordance with the convention. It also adopted a resolution on trade with non-party states, urging parties to apply the same strict conditions to trade with non-parties as to trade with parties. This resolution calls on parties not to trade with countries that have not designated a scientific authority or informed the secretariat. Another important resolution gave the Animals Committee a mandate to review the implementation of Article IV of the convention to ensure that trade is carried out in a sustainable manner. A universal tagging system to identify crocodilian skins was also established.

The Conference of the Parties met for the ninth time from 7-18 November 1994 in Fort Lauderdale (United States). As at a number of previous meetings, the fate of the African elephant was high on the agenda. South Africa proposed to transfer its elephant population from Appendix I to II but withdrew its proposal in the face of strong opposition, mainly from other African elephant range states. At least two meetings of concerned nations are due to be convened to discuss this before the next meeting of the conference, which will take place in Zimbabwe in 1997.

The ninth meeting counted several important actions: approval of revised, updated criteria for amending Appendices I and II; a revision of many old resolutions and deletion of others that were out of date; agreement that a thorough review of the effectiveness of the convention should be carried out by independent consultants; and recognition of the need for better enforcement of the convention. The following were among the important changes to the appendices: the South African population of southern white rhinoceros was transferred from Appendix I to II, to allow trade only in live animals to appropriate destinations and in hunting trophies; the brown hyena was also transferred from Appendix I to Appendix II since its populations had sufficiently recovered and were not affected by international trade; and the red winged tinamou was among species deleted from the appendices because they are no longer considered threatened, at least not by international trade. A number of species were also added to the appendices, including two species of fruit bat, the lesser panda, red and blue lory, and some species of aloe (Appendix I), and the hippopotamus, three species of pangolin, the saiga antelope and box turtles (Appendix II).

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