Chapter 3

When CITES Works and When it Does Not

R B Martin

Introduction

Has CITES been successful? If the evidence is inconclusive then can we specify the circumstances in which it is likely to be successful? And what are the lessons to be drawn from this? This chapter examines these vexed questions. It begins by considering the direct evidence that CITES has helped to conserve wild species. It then discusses the sort of factors that are likely to make CITES successful. Finally, some reforms are proposed.

Has CITES Worked?

CITES came into force in 1975 and is, in principle, a simple convention. Species can be listed in one of three appendices. Species listed in Appendix I are supposed to be on the brink of extinction and may not be traded commercially; species listed in Appendix II are not yet threatened with extinction but may become so if trade is not controlled;[1] and species are listed on Appendix III when a party is regulating a species within its jurisdiction and it does not want the species to be traded internationally without its express permission.

In addressing the question of whether CITES has worked, numerous claims have been put forward for the value of the convention. It has been said that it has led to a greater awareness of conservation issues;

[1] Appendix II also includes species which resemble those listed on Appendix I ('look-alikes') on the assumption that trade in such species, even if they are not threatened, also needs to be controlled.

that it has forced the Parties to the convention to strengthen their domestic implementation of conservation measures; and that it has reduced demand for the products of endangered species. There may be an element of truth in all these assertions. Nevertheless, the effects in question are, at most, byproducts of the convention and they could have been achieved through other means.

There is only one direct test of the performance of CITES – has the convention improved the status of the species of wild fauna and flora that it sets out to protect? However, there is no clear cut answer to this question. There are no species whose numbers have increased so dramatically after being listed on the CITES appendices that the improvement is obvious. So, in attempting to answer the question accurately, considerable care is needed. In order to show that an improvement was caused by a listing on Appendix I of CITES one would need data on the global species population that demonstrated two things. Firstly, it would have to be established that the population was declining to the point that it was threatened with extinction immediately before it was listed on Appendix I and that the decline was definitely caused by unsustainable international commercial trade. Secondly, it would have to be shown that the population increased in numbers after the listing to the point where the population could be deemed to have recovered and could be transferred to Appendix II so that it could once more be traded commercially on a sustainable basis. Moreover, the figures would have to demonstrate that the increase was due to the listing and not to other factors such as an intrinsic population increase or improved law enforcement.

It has not yet been shown that there are any species that have satisfied these criteria. Trexler has claimed that there is no measurable evidence that CITES has benefited any species at all (Trexler, 1990). In a recent review of the effectiveness of CITES commissioned by the Parties to the convention, the consultants examined the status of 12 selected species and were able to conclude that only two *appeared* to have improved as a result of their listing on CITES appendices (Environmental Resources Management, 1996). This is telling stuff. If the convention is benefiting species then, even after careful study, it has not been demonstrated.

One of the two species that the consultants concluded had improved in status as a result of the policies of CITES was the Nile crocodile (*Crocodylus niloticus*). However, in a well-prepared submission to the consultants carrying out the review, the Crocodile Specialist Group of the IUCN Species Survival Commission analysed the various factors which contributed to the recovery of the Nile crocodile

populations. They contended that the status of the Nile crocodile improved not as a result of applying the standard CITES medicine, but as a consequence of departing from that prescription. Specifically, it was only when CITES shifted from a policy of restricting trade to one of promoting the sustainable use of crocodiles that crocodile numbers increased.[2] The direct evidence for whether CITES has been successful is, at best, inconclusive. Nevertheless, this does not mean that nothing more can be said. It is still possible to pose a more general question about the *sorts* of circumstances in which CITES is *likely* to be successful. In addressing this question one is enquiring into the causal factors – including the policies of CITES themselves – that determine the fate of species. The experiences of the last 25 years provide some help in answering this question.

When is CITES Likely to Work?

In considering the factors which are likely to influence the success of CITES, it is useful to make a rough distinction between institutional and policy factors. I will begin with the former.

CITES is an international agreement which depends on the Parties to implement its decisions. This has implications for when CITES is likely to work well. It suits Parties where wildlife control is strongly centralized and efficiently managed, where citizens have legal rights to use wildlife only as permitted by government agencies and where this central control is popularly accepted.[3] In such systems the national bureaucracy will be well placed to implement CITES controls effectively. Moreover, CITES will be most effective when it works in concert with national states and not against them; that is, when it aids the Parties' own law enforcement efforts to control illegal or excessive trade. It is best treated as an extra facility under which any Party can invoke the assistance of law enforcement agencies of other Parties in improving the implementation of its own policies. This presupposes a high degree of mutual respect for the sovereign rights of nations and tolerance of a wide variation in approaches to conservation issues.

---

2 The case of crocodiles is discussed further by H Kievit in Chapter 8 of this book.

3 This statement should not be taken to endorse strong, centralized institutions as the appropriate national strategy for wildlife conservation and management. Indeed, investment in government agencies to carry out conservation is unlikely to be as effective or cost-efficient as devolving power to local institutions.

Where these conditions are not satisfied, however, CITES is unlikely to work. This will be the case where control of wildlife is not centralized or not popularly accepted or where the state bureaucracy is weak and inefficient. In these circumstances no amount of controls at the international level can rectify the weaknesses of state agencies. Moreover, if the fate of wildlife is effectively determined by rural people rather than by government agencies, and if states are represented by government officials who may have little interest in or knowledge of rural people, then CITES is not likely to provide an effective forum for dealing with wildlife issues. Additionally, the effectiveness of CITES will be undermined if the aims of all the participating Parties do not coincide. There is a common misconception that CITES provides protection to species. In fact, protection can only be achieved by law enforcement agencies and citizens of range states. CITES provides no short cuts and its effectiveness will be severely diminished if it is working against some national states. Thus, CITES will be unlikely to work when it is used as a mechanism to enable certain Parties to impose their perceived conservation solutions on other Parties. Such an attitude is contrary to the spirit needed to form conventions. The voting system within CITES is unique in that it allows Parties who bear no financial costs for the protection of species which occur in other Parties' countries to, nevertheless, take decisions with financial implications for those range states.

In light of this, Article XIV of the original treaty, which allows Parties to take stricter domestic measures, is very important. It would appear to be reasonable for range states to make occasional use of the provision of Article XIV for species which might, for example, be heavily traded by their neighbours but for which they wished to apply more rigorous controls than provided for in the treaty. But, with the passage of time, it is consumer states that have made most use of this provision. By imposing controls on the import of wild species that are stricter than those agreed by CITES they have been able to impose their own conservationist agenda on the range states, often without prior consultation. This tends to nullify the purpose for which states come together to form conventions.

As regards the functioning of CITES itself, the meetings of the Conference of the Parties to CITES are probably the best organized meetings of any convention. Documents are submitted a minimum of 150 days before the meeting, the agenda is set well in advance, every session starts and finishes exactly at the stated times, rules of procedure are strictly adhered to and documentation arising from each day of the meeting is distributed the following morning. The

Secretariat deserves full credit for this organization. But this, in itself, does not ensure success. The quality of the delegates is also important. CITES meetings worked extremely well when the delegates were senior technical officials functioning in their appointed capacities as Scientific and Management Authorities. Up until 1987, plenary and committee sessions were characterized by fast, intelligent debate among independent delegates who took no prior positions on issues and were capable of assessing the arguments presented.

Unfortunately, these standards no longer obtain. The positions taken by many nations are now motivated by political considerations unrelated to conservation and they are decided in advance of the meeting so that debate is futile. Many of the delegates are junior bureaucrats without authority or experience. They come to the meeting without having done a thorough job of preparation and hence are incapable of making significant interventions. Essential background documents, such as the reviews from IUCN and TRAFFIC (the wildlife trade monitoring programme of WWF and IUCN) on listing proposals, are not read or are ignored. Few Parties take any interest in proposals involving species which occur outside their boundaries.

Turning to issues of policy, CITES works best when the positive role which trade can play in wildlife conservation is acknowledged and when it is prepared to use its appendices flexibly. The beneficial effect of trade has been recognized for some time in a number of countries. For example, in many southern African states there is a significant move to promote wildlife management, in all its diverse forms, as a primary form of land-use – both as a means to improve human livelihoods and as a way of securing wildlife habitat.

CITES has shown some signs of recognizing this point. In 1992 a resolution was adopted that recognized that trade could promote wildlife conservation. More substantively, endangered species of crocodilians benefited from commercial trade when CITES transferred them from Appendix I to Appendix II. This was achieved through quota systems which provided incentives for Parties to improve their management. This is an example of CITES at its most effective. The Parties showed flexibility and actively sought solutions to allow trade that would benefit the species, regardless of the degree to which it was endangered. What made this solution possible in this case was the high commercial value of crocodile products, which allowed substantial investments in the management of the species. So CITES reduces illegal trade indirectly (but effectively) when the emphasis is placed on promoting a controlled, legal trade.

Where the high commercial value of products has been ignored and attempts have been made to destroy potential legal markets, it has seldom resulted in any lasting gains for the species involved (Dublin *et al*, 1995). Trade bans generally have the effect of driving trade underground and removing all means of monitoring. The black rhino (*Diceros bicornis*) is a classic example of a case where CITES has failed and will always fail if it does not take note of the realities of a given situation. In this instance the Parties have stuck rigidly to the provisions for no commercial trade in Appendix I species and the range states concerned have had few funds to improve the status of the species and little incentive to do so. Thus, the trade ban failed. The magnitude and nature of the demand was underestimated; the costs of the protection system pursued by CITES were too high; the illegal trade could not be controlled through the limited mechanisms available; and there were no incentives, such as existed for the Nile crocodile, to conserve the species.

What limits CITES is the binary system of two appendices and the provisions of Article III, which debar trade for Appendix I species when that trade is primarily for commercial purposes. The dilemma in which Parties find themselves is whether to give precedence to the endangered status of a species and list it on Appendix I, or whether to ignore its endangered status and list it on Appendix II so that beneficial trade can take place.

The importance of incentives for conservation also helps to explain why captive breeding is often not effective as a means of conservation. At one stage in the history of CITES captive breeding was seen as a valuable conservation tool which could remove the pressure on wild species by providing an alternative harvest. However, in addition to the pollution, disease and genetic problems which can arise in captive rearing situations, the great disadvantage is that, having obtained a founder population from the wild, little reason remains to reinvest in the conservation of wild populations (Luxmoore and Swanson, 1992). CITES should actively seek to encourage sustainable wild harvests. The banning of all trade, other than from captive breeding programmes, does not act as an incentive to conserve wild populations.

As it is not always easy to predict the effects of a particular policy on wild species, adaptive management is important and CITES would work well if this approach to its implementation was adopted. The use of species would not be subject to a prerequisite of expensive surveys and research, the costs of which invariably fall on the range state and the results of which cannot establish how a population will

respond to exploitation. Instead, the monitoring of the harvested population would provide the data needed to improve management and ensure sustainability. At present a listing on Appendix I need not be accompanied by any monitoring or improvements in management and there is a tendency for certain developed countries to demand certainty based on 'scientific principles' before trade can be contemplated. This demonstrates a limited understanding of the tools science has to offer. In such situations the attempt to make predictions based on a limited understanding of the parts of the whole and on the assumption of a stable environment is an inferior form of science (Holling, 1993). Dublin has remarked that this approach is likely to result in the greatest divisions between developed and developing countries in the coming years (Dublin, 1996).

In all of this, it is important that species are listed for the right reasons. CITES is concerned with species threatened by international trade and its appendices should reflect this. However, there is over-representation of so-called 'charismatic' species attractive to human beings and under-representation of some of the vertebrate orders with many endangered species, such as fish. If the Parties move rapidly to apply the new criteria for listing species on the appendices, this could rectify the present imbalance.[4] Appendices which are overburdened with species that are not threatened weaken the credibility of CITES and can lead to a dilution of conservation efforts and funds. It is also a feature of CITES that when a species population in one range state is threatened it is often listed on Appendix I, regardless of its secure global status. In such cases it should simply have been listed on Appendix III by the affected range state.

What Changes are Needed to Make CITES Work Better?

In a perfect world, if every nation state possessed strong, competent agencies (wildlife, forestry, fisheries, customs, police etc) to conserve and manage its fauna and flora sustainably and to minimize illegal trade, there would be no need for any convention to regulate international trade. But it is not a perfect world. There is a wide variation in the capacity and political will of different states to conserve natural resources. As a result, there is widespread mistrust and dissatisfaction

[4] New criteria were proposed at the 8th CITES Meeting in Kyoto (1992) and introduced at the ninth CITES Meeting in Fort Lauderdale (1994).

about how the responsibility to conserve what is perceived to be a global heritage is distributed between individual nation states. So, a convention is needed. Given our knowledge as we approach the turn of the century, what changes should be made to the existing CITES convention?

In the light of the above discussion, three recommendations can be made. Firstly, the existing system of two appendices should be replaced with a single appendix on which are listed all species of international concern and the focus should be on appropriate management programmes for each species. This may entail introducing a quota system for each species such as has been used under CITES for crocodiles. Quotas could vary from zero upwards, thus retaining the possibility of imposing a trade ban on any species. The value of the quota system lies in the fact that Parties are obliged to take into account their national utilization and this results in an overall improvement in management, a feature which has so far eluded CITES because of its limited focus on international trade. Moreover, an amended treaty would provide a good basis for involvement in the sustainable use of timber and fish species. These are not the business of CITES at present because the articles of the convention limit it to consideration of species threatened with extinction.

Secondly, and relatedly, the treaty should take more account of the different circumstances in different countries. Such an approach is consistent with the decentralized strategy, which IUCN's Sustainable Use Initiative is adopting to cater for the variation in approaches to sustainable use in each region of the world. Given the current situation with CITES, where the United States, the European Union and Australia are using stricter domestic measures to differentiate among imports from individual states, this would not be a new phenomenon for CITES. It implies a departure from concerns about the global status of species but, since that has already happened in a *de facto* sense, it is not a departure from the present status quo.

Finally, if reformed in this way, it would make sense to place CITES under the larger umbrella of the CBD. The time may have come to reconstitute CITES as a new protocol under the CBD, incorporating the recommendations made here.[5]

[5] The relationship between CITES and the Convention on Biological Diversity is discussed further in Chapter 11.

References

Dublin, H, Milliken, T and Barnes, R (1995) *Four Years After the CITES Ban: Illegal Killing of Elephants, Ivory Trade and Stockpiles*, IUCN Species Survival Commission Report, Gland

Dublin, H (1996) 'North–South dissonance on consumptive use of charismatic megafauna', in *The Proceedings of a Pan African Symposium on Sustainable Use of Natural Resources and Community Participation*, IUCN ROSA, Harare

Environmental Resources Management (1996) *Study on How to Improve the Effectiveness of CITES*, Final Report to the Standing Committee of CITES, Lausanne

Holling, C (1993) 'Investing in Research for Sustainability', *Ecological Applications*, Vol 3, No 4, pp 552–555

Luxmoore, R and Swanson, T (1992) 'Wildlife and Wildland Utilization and Conservation', in Swanson, T and Barbier, E (eds) *Economics for the Wilds*, Earthscan, London

Trexler, M (1990) 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora: Political or Conservation Success?', PhD Dissertation, University of California at Berkeley

ENDANGERED SPECIES
THREATENED CONVENTION

THE PAST, PRESENT AND FUTURE OF CITES,
the Convention on International Trade
in Endangered Species of Wild Fauna and Flora

Edited by JON **HUTTON** and BARNABAS **DICKSON**

EARTHSCAN
Earthscan Publications Ltd, London