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CITES ACTIVITIES IN RELATION TO THE IVORY AND
RHINO HORN TRADE

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This report was presented at a time when the author was employed as a consultant to the CITES Secretariat for the purpose of providing technical assistance to African countries on matters pertaining to the implementation of CITES. Therefore, the views expressed hereunder are those of the author and do not necessarily represent those of the CITES Secretariat, nor those of the Conference of the Parties.

Introduction

At the time of this meeting there are 71 Parties to CITES, including many, but not all of the major ivory and rhino horn producing countries. Notable amongst those African States not yet Party to CITES are Sudan and Congo both of which are major producers and entrepots. The number of Parties is increasing rapidly and it is hoped and expected that external pressure will encourage non-members to join the Convention soon, since its effectiveness is related to the overall membership.

All rhinoceros species are listed under Appendix I of the Convention, which requires that Party States should totally prohibit all international commercial trade unless specimens were acquired prior to the Convention becoming applicable. The African elephant is listed under Appendix II, which requires that Party States allow international trade only when the legitimacy of a consignment is confirmed by the correct accompanying documentation issued by the appointed CITES Management Authority in the exporting country.

The position of the CITES Secretariat has often been misunderstood and needs to be clarified here. The functions of the Secretariat are prescribed in Article XII of the Convention and are to a large extent concerned with administration. The Secretariat may make recommendations on matters of policy and implementation, but in effect it acts on the instructions of the Parties with regard to such matters. Unless authorized by the Parties the Secretariat is not in a position to issue instructions, make policies or take decisions, and is therefore limited in the areas in which it can take action. This is perhaps best exemplified by the questions frequently asked: "Why does the CITES Secretariat not prohibit Parties from indulging in certain trading activities, and why does it not instruct Parties to cease trade with certain countries?". The simple answer to this is that unless the Parties have agreed to such prohibitions and instructed the Secretariat accordingly via a Conference Resolution, the Secretariat does not have the authority to adopt such a stance.

It should be noted here that there has been considerable criticism of the emphasis which has been placed on the necessity to take conservation measures for certain "prominent" species, most notably the African elephant. It should be remembered that Appendix II lists species not yet threatened with extinction but which may become so if trade is not strictly regulated, and the main thrust of criticism has been that the effort that has gone into elephant conservation, including implementation of CITES controls, has been misdirected. There are many other species receiving scant attention and conservation effort which are generally regarded as being endangered and which might well be considered as far more worthwhile causes. It is commonly agreed

that there are well over one million elephants in Africa and the need is to monitor trade, whereas there are other species reduced in population numbers to the low hundreds (or less) where the need is to enforce a complete prohibition on commercial trade.

This imbalance in the application of CITES is demonstrated by the Resolutions adopted by the third meeting of the Conference of the Parties held at New Delhi in March 1981. Of a total of 21 Resolutions, three were directly aimed at rhino/elephant trade and a further five were initiated at least partly as a result of problems arising from rhino/elephant trade control procedures.

Having made this point, it should also be noted that in some ways elephant and rhino are considered by many people to be "test" cases representing both Appendix I and II. If CITES can be made to work for these species, and be seen to be effective, then this might stimulate further worldwide action in the implementation of the Convention, encourage Party states to take CITES seriously and non-Party states to join. Therefore, I believe that it is now necessary to accept the situation as it stands and attempt to make the best of it to demonstrate that CITES can work.

Third meeting of the Conference of the Parties, New Delhi, March 1981

At the New Delhi meeting a series of Resolutions was adopted by the Parties concerning the implementation of the Convention. Several of these have a bearing on rhino horn and ivory trade controls:

Resolution Conf. 3.6 concerns the standardization of permits and procedures and proposes a standard format for export/re-export documents. There is no mandatory requirement for countries to adopt this format, but standardization should improve controls, and several countries have adopted the form or have indicated their intention to do so. One important point is that this format includes all information that is required under the Convention and thus even if the format is not adopted the form indicates what the contents of any national permit should include. It is hoped that this approach to standardization will remove many of the weaknesses in trade controls arising from inadequate export documentation.

Resolution Conf. 3.7 recommends the use of serially-numbered adhesive security stamps for all export permits and certificates. The intention here is to increase the tightness of controls by decreasing the frequency of acceptance of forgeries or invalid documents. The value of some wildlife products, including (obviously) ivory, is such that forgery becomes (to the trader) a worthwhile option. The resolution also recommends that for such exceptionally valuable products as ivory the use of security paper for the whole permit should be considered.

Resolution Conf. 3.8 gives the criteria by which export documentation from non-Party states should be judged. This is obviously of significance with respect to the ivory trade since large quantities of ivory are appearing on the international market either from or through Burundi, Chad, Congo and Sudan.

Resolution conf. 3.9 on "International Compliance Control" calls for all parties to improve CITES implementation, to effectively control trade and to co-ordinate enforcement.

Resolution Conf. 3.10 calls for improvements in reporting procedures. Parties are required to submit annual reports listing all imports and exports of CITES species. Thus far, such reports have mostly fallen well short of what is required for proper monitoring of trade and this is amply demonstrated by rhino horn and ivory trade figures which have often been far more accurately documented in Customs statistics.

Resolution Conf. 3.11 is concerned specifically with trade in rhino horn, which is recognized as being a major threat to rhino survival. It recommends that the CITES Secretariat should attempt to persuade non-Party states to prohibit all international trade in rhino products, and should request all Parties and non-Parties to halt all trade by placing a moratorium on all sales of government stocks of rhino products.

Resolution Conf. 3.12 addresses the subject of ivory trading and makes several recommendations designed to improve trade controls. Some of these recommendations merely re-iterate the provisions of the Convention, but two specifically attempt to extend the control system. Firstly, it is recommended that raw ivory (and a definition of this term is given) should be marked with serial numbers applied with punch-dies according to an international code so that such tusks (or pieces of tusks) are recognizable and can be related to a particular permit. Secondly it is recommended that ivory traders should be subject to a licence to trade. If applied generally these measures should go a long way towards reducing the illegal trade since the first would provide a method of tracing the origin of ivory and the second would provide a means of eliminating traders who violate the Convention. The effectiveness of these recommendations remains to be seen and depends to a large extent on their adoption by at least of majority of Parties (as do indeed most CITES measures).

Finally, Resolution Conf. 3.14 concerns the disposal of confiscated or otherwise accumulated specimens of Appendix I species. This affects government stocks of rhino horn in that it recommends that specimens in excess of requirements for various non-commercial purposes (e.g. education, training, research, etc.) should be either stored or destroyed, i.e. not sold.

These Resolutions indicate the current climate of opinion with regard to CITES implementation, and represent one aspect of CITES activity in relation to ivory and rhino horn trade. Action on these points is now required by both the Secretariat and the Parties.

Major implementation problems

The implementation of CITES both nationally and internationally has met with varying success. In order to understand why some aspects have failed to be effective and to plan the necessary remedial action it is necessary to look at some of the major problems that have arisen - six of these problem areas are outlined here.

The first major problem facing many countries when joining CITES is the complexity of the treaty itself. Usually it is implementation, and these authorities are often not capable of coping with a complex international convention designed to control trade in thousands of species originating from all parts of the globe. Initial reaction is often one of despair and CITES is often severely criticised for including too many species and attempting to do too much too quickly.

The second problem is that legislation, import/export documentation and associated procedures are often inadequate for the purposes of proper implementation of the Convention. Thus CITES may require new legislation and new administrative procedures rather than just changes in internal policy. This requirement often discourages countries from attempting to implement CITES as best they can and a common attitude is "we cannot implement CITES fully with existing legislation, so let's do nothing until we have new laws".

Thirdly, effective CITES implementation requires accurate, relatively sophisticated and often rapid communication between the authorities in different countries and also between those authorities and the Secretariat. The facilities for such communication often do not exist, especially in under-developed or developing countries - which are often the major producers of wildlife and wildlife products. For example, many Parties have not yet sent specimens of their export documents to the Secretariat for distribution to the other Parties, also, there is only infrequent international communication with respect to illegal shipments, and a large number of such consignments slip through the net not because they are undetected, but because communication is inadequate between the authorities in exporting and importing countries.

Fourthly, submission of the required annual reports has been sporadic (at best), and those reports submitted have normally been inaccurate and inadequate. For Appendix II species the Convention exists almost entirely for the purpose of monitoring trade and ensuring that such trade is legitimate. Until a high level of accuracy is achieved in annual reports this purpose cannot be fulfilled.

Fifthly, CITES implementation suffers from a problem that is common in all spheres of conservation work, namely, that the authorities responsible are underfinanced and understaffed, and what staff are available are often inadequately trained.

Finally, there exists the problem of the incorrect issue of export documentation and the acceptance in importing countries of export documentation which is inadequate or invalid. Both of these problems can be caused either by the government officials concerned being inadequately briefed or instructed, or through corruption.

These six problems exist in most African states Party to CITES and have been the major causes of the ineffective implementation of the Convention with respect to ivory and rhino horn.

Current action to improve implementation

Apart from the general action arising from the Resolutions adopted at New Delhi (and at previous meetings), and the continuing routine work of the Secretariat, the Wildlife Trade Monitoring Unit (Cambridge, UK) and the various IUCN Traffic offices (e.g. in the Federal Republic of Germany, East Africa, etc.) in monitoring wildlife trade and acting as a "switchboard" for passage of information between enforcement agencies, the Secretariat has embarked on a programme of external fund-seeking to support the provision of technical assistance to developing countries.

The first project of this type is funded by WWF (WWF/IUCN Project 1950) and is designed to provide technical assistance to African countries. In the

first phase I will be visiting eight countries in Eastern and Southern Africa over a period of three months, and in Central and Western Africa for a similar period. The main objective of the mission is to advise governments on measures to improve CITES implementation, in particular in relation to ivory and rhino horn trade controls. Additionally, it is hoped to select administrators from Management Authorities of these countries for a short training course in Europe to familiarize them with CITES administration and implementation procedures.

Future prospects

It is apparent that the effect of CITES controls on the ivory and rhino horn trades has so far not been a spectacular success. Indeed it may be that in some areas the application of superficial controls has merely served to drive the trade even more "underground" and forced the illegal traders to adopt more sophisticated methods. However, this lack of success should at least provide us with a means of identifying the shortcomings in the system and, armed with this knowledge, it should be possible to tackle the major weaknesses and get CITES working in the way it was intended. Such an approach requires several changes to succeed, firstly, an increase in the staffing level of the Secretariat, secondly, an injection of more funds into technical assistance missions and training schemes, thirdly, a large reduction in the number of species listed in the appendices, fourthly, a rational approach to control of trade in parts of derivatives (e.g. to exclude manufactured ivoryware below a certain weight), and, finally, a much more positively committed attitude from the governments involved including the provision of additional staff and funds.

Without at least some of these changes there seems to be very little hope that CITES will achieve general success. The trend in CITES policy so far has been towards greater complexity, more species on the appendices, and tighter controls. This policy trend has merely served to increase the already wide gap between what is supposed to be done and what actually happens. It is disappointing to see people clamouring for yet stricter controls when the implementation of already strict measures is, in most cases, practically non-existent. CITES needs to break away from this extreme approach and take a much more pragmatic line, if this is achieved, then CITES might work.