



The Fate and Future of the Wildlife Trade Regulatory Regimes: The Case of CITES and Rhino Horn Trafficking

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**Box 12.1 Convention on International Trade in Endangered Species of
Fauna and Flora (CITES): Key Features**

Characteristics

- CITES is the basic regulatory tool of the wildlife trade control. Its aim is to combat the illegal and unsustainable wildlife trade through a uniform regulatory regime and increased coordination on a global scale. It is a voluntary international agreement among governments of 183 countries.

Origins

- CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of the International Union for Conservation of Nature (IUCN). The text of the Convention

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was finally agreed at a meeting of representatives of 80 countries in Washington, DC, the USA, on 3 March 1973, and on 1 July 1975 CITES entered in force.

CITES main corresponding international convention is:

- United Nations Convention on Transnational and Organized Crime 2000.

The CITES operation is supported by key bodies:

United Nations

- **United Nations Economic and Social Council (ECOSOC):** the United Nations' central platform for reflection, debate and innovative thinking on sustainable development. As the umbrella for the UN's functional and regional commissions, and operational and specialized agencies, it links the setting of global norms with their implementation.
- **United Nations Environment Programme (UNEP):** the UN leading authority that sets the global environmental agenda. UNEP plays a major role in monitoring environmental issues, coordinating all UN-based environment programs, and promoting scientific research in the environmental area. UNEP hosts the CITES Secretariat.
- **United Nations Office on Drugs and Crime (UNODC):** is the UN office mandated to assist Member States in their struggle against illicit drugs, crime and terrorism through the research and analytical work, field-based technical cooperation and normative work and legal assistance.

Government and non-government bodies

- **International Consortium on Combatting Wildlife Crime (ICCWC):** a collaborative effort between the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and the World Customs Organization (WCO). ICCWC's mission is to strengthen criminal justice systems and provide coordinated support at national,

regional and international level to combat wildlife and forest crime.

- **Regional and national authorities implementing CITES:** for example the **Committee on Trade in Wild Fauna and Flora of the European Commission**, the United States Fish and Wildlife Service (FWS) etc.
- **Nongovernmental organisations:** IUCN, WWF, TRAFFIC and many others supporting active struggle against unsustainable wildlife trade.

The main dilemmas the CITES face nowadays are, among others: weak interaction between CITES and national regulatory regimes of wildlife trade, weak enforcement of wildlife trade regulation, weak environmental management, insufficient development and support of consumer- and demand-reduction strategies, and promotion of alternative livelihood opportunities to wildlife trade.

INTRODUCTION

The international wildlife trade (WT) belongs among the major activities threatening global environmental security. The WT is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, exotic leather goods, wooden musical instruments, timber, tourist souvenirs and medicines (CITES 2018a). While the wildlife trade is a global one, with routes extending to every continent, the key markets for wildlife commodities are in the USA, the European Union and China (Nelleman et al. 2014: 16–17).

Thousands of wildlife species are threatened by illegal and unsustainable wildlife trade. The violators of wildlife trade regulatory regimes flexibly adapt to the conditions in various countries and skilfully use existing gaps in the international and local systems of control. Also, lax law enforcement, weak border controls, and the perception that the WT is high profit and low risk contribute to large-scale commercial wildlife trafficking. Individual estimates from the Organisation for Economic Co-operation and Development (OECD), the United Nations Environment Programme (UNEP) INTERPOL and the UN Office on

Drugs and Crime (UNODC) place its monetary value between USD 70 and 213 billion annually (Ibid: 13).

The scale and nature of the challenge are reflected in the decisions and programmes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the UN Commission on Crime Prevention and Criminal Justice (CCPCJ), UNODC, the UN Economic and Social Council (ECOSOC), the UN General Assembly, the UN Security Council, INTERPOL, the World Customs Organisation (WCO), the World Bank, many significant nations, governmental and non-governmental organisations and initiatives, and other actors (CITES 2018b; UNODC 2018a; ECOSOC 2013; UN General Assembly 2015; UN Security Council 2017; INTERPOL 2018; WCO 2018; World Bank 2018). However, as the former UNEP Executive Director Achim Steiner writes, the responses to the problem to date, in terms of impact on the ground, have been too modest and inadequate to the scale and growth of the trade's threat to wildlife and the environment (Nelleman et al. 2014: 14). There is an insufficient understanding of the phenomenon of WT, and there are many contradictory interests and incoherent environmental laws on the local, national and international levels of WT administration. A global and holistic response to WT needs to be created and implemented in order to deal with these problems. The creation of a sufficiently broad, coherent and effective WT regulation regime would be one of the cornerstones of such a strategy.

In the following text, the development and current state of the WT regulatory regime, and especially CITES as its fundamental provision, are discussed. The analysis is based on the first generation of regime analysis, respectively the consequentialist theoretical approach highlighting incentives for regime formation and structural conditions; regime evolution and maintenance; and regime compliance (Hynek 2017). In the first part, the structure and functional mechanisms of the WT regulatory regime are described. We argue that in terms of the degree of security regulation, the current WT regime can be classified as a *weak global regulatory regime*, that is a regime which achieves a certain form of legalisation in terms of creating rules of conduct and obligations to be imposed in the global space, and then delegates the authority to implement the rules to other parties. The regime compliance, however, is frequently weakened due to the existing situation.

In the second part, the current dynamics of the WT regulatory regime and its triangular interactions with national restrictive regimes and

international wildlife markets are discussed through the means of a case study on the trade in rhino horns. The wildlife market is understood as a space where wildlife products are traded and where demand for, offers of, and trade in these kinds of goods exist. In the case of rhino horn trafficking, the main actors on the market are the consumers of rhino horns in Asian countries, especially in China and Vietnam, African and Asian countries where populations of rhinos exist, and networks of wildlife traffickers operating on a global scale. Also in this part, the related ideas and norms, and processes and outcomes are identified in the case of the rhino horn trade. Furthermore, loopholes in the system and the problems of compliance with it, namely significant areas to be addressed, are defined in this part, and from these, generalisations about the issue of the WT regulatory regime are made.

ELEMENTS OF THE GLOBAL WT REGULATORY REGIME

The UN Economic and Social Council (ECOSOC) is the United Nations' central platform for reflection, debate and innovative thinking on sustainable development (ECOSOC 2018). Resolutions of the ECOSOC Crime Congresses serve as the basis for developing international policies on crime prevention or matters pertaining to the administration of justice. Within ECOSOC, the UN Office on Drugs and Crime (UNODC) is mandated to assist Member States in their struggle against illicit drugs, crime and terrorism, including environmental crime (UNODC 2018b).

At the implementing level, the UN Environment Programme (UNEP) is the leading authority that sets the global environmental agenda. UNEP plays a major role in monitoring environmental issues, promoting scientific research and coordinating all UN-based environment programs. It also hosts the secretariats of many critical multilateral environmental agreements and research bodies, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora—CITES (UNEP 2018).

CITES is the basic regulatory tool of WT control. The aim of this voluntary international agreement is to combat the illegal and unsustainable wildlife trade through a uniform regulatory regime and increased coordination on a global scale. The text of the Convention was agreed at a meeting of the representatives of 80 countries in Washington, DC on 3 March 1973, and on 1 July 1975 CITES entered into force (CITES

2018a). Currently, 183 countries (Parties) are signatories of CITES (CITES 2018c).

UNEP organises at least once every two years the Conferences of Parties, which are the main decision-making bodies of CITES. During the Conferences, the precepts of the Convention are amended. CITES further delegates to the Convention's parties the authority to implement its rules, or more specifically, to develop and enforce national legislation that offers protection to species under the auspices of the Convention (CITES 2018d).

The WT regulatory regime is further supported by various organisations and networks. On 23 November 2010, the International Consortium on Combatting Wildlife Crime (ICCWC), a collaborative effort between the CITES Secretariat, INTERPOL, UNODC, the World Bank and the World Customs Organisation (WCO), was formed. ICCWC's mission is to strengthen criminal justice systems and provide coordinated support at the national, regional and international level to combat wildlife and forest crime (CITES 2018e). Furthermore, non-governmental organisations (NGOs) and informal initiatives are active in the struggle against the unsustainable WT as well. From among them, the International Union for Conservation of Nature (IUCN), the World Wildlife Fund (WWF) and TRAFFIC play pivotal roles in the field of wilderness preservation, the reduction of the human impact on the environment, and the WT monitoring on global level (IUCN 2018; WWF 2018a; TRAFFIC 2018a). There are a number of other regional, national and local conservation NGOs in many countries as well, which operate under various conditions, and are more or less mutually tied to each other and able to communicate and cooperate on conservationist issues.

Cites and WT Markets

The fundamental idea of the CITES strategy related to the WT is that if the trade is appropriately regulated, animals and plants faced with extinction will have time to multiply and therefore increase their survivability in the wild (Schneider 2012: 34). Because the trade in wild animals and plants crosses borders between countries, the effort to regulate it requires international cooperation. CITES was conceived in the spirit of such cooperation. Today, it applies to more than 35,000 species of animals and plants, whether they are traded as live specimens, fur coats

or dried herbs, and under it, they are subjected to different degrees of protection. Appendix I of the Convention includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but whose trade must be controlled in order to avoid an utilisation of the species that would be incompatible with their survival. Appendix III contains species that are protected in at least one country which has asked other CITES Parties for assistance in controlling the trade of the species. Changes to Appendix III follow a distinct procedure from procedures for changes to Appendices I and II, as each Party is entitled to make unilateral amendments to it. The degrees of protection vary, depending on the actual state of the concrete species (CITES 2018a).

Each Party to CITES also voluntarily submits reports on the legislative, regulatory and administrative measures taken by the country to enforce the Convention. The reports, which are fed into the database maintained for the Secretariat by the United Nations Environment Programme—World Conservation Monitoring Centre (UNEP-WCMC), provide the basis for a comparative trade analysis and the creation of international WT control strategies. Unfortunately, it is not unusual that the reports are sometimes delayed or that they are not submitted by the governments of the signatory countries in certain years (CITES 2018f, g, h).

Since CITES, as a voluntary treaty, is not designed to punish offenders of the Convention, it relies on individual countries to self-monitor. Each country has various sociolegal and economic factors that influence the degree to which its national laws are written and enforced and there are also various organisations in various countries that are responsible for the CITES rules' implementation. There are countries that have even stricter national WT regulation regimes than those provided by CITES but in some other countries, CITES is only weakly implemented.

For example, in the USA (USA), a CITES Party from 1974, the primary vehicle through which the Convention is implemented and enforced is the Endangered Species Act (ESA), and the U.S. Fish and Wildlife Service (FWS) is designated to act as the CITES management and scientific authority (CITES 2018c; FWS 1973, 2018a). Overall, protections afforded by the ESA are far stricter than those provided by CITES in many cases. For example, there were instituted quotas for exporting hunted wild cheetahs in Botswana, Namibia and Zimbabwe but under the ESA the cheetahs are classified as “endangered” (in danger

of extinction), and the FWS does not allow the importation of hunting trophies pertaining to the cheetahs because US officials do not believe that the current hunting and animal management programs in these countries are allowing for sustainable populations of the animals (FWS 2018b; Schneider 2012: 37).

In the European Union (EU), a CITES Party from 2015,¹ the provisions of CITES are implemented through a set of regulations known as the EU Wildlife Trade Regulations. The EU Wildlife Trade Regulations are reflected in the national legislations of all EU Member States (2012). A number of relevant bodies at EU level, i.e. the Committee on Trade in Wild Fauna and Flora, the Scientific Review Group and the Enforcement Group, all of which consist of representatives of the Member States, were established, and they are convened and chaired by the European Commission (European Council 1996).

The basic European Union WT regulation is the Council Regulation (EC) No. 338/97 of 1996, which lays down the provisions for the import, export and re-export of as well as for the internal EU trade in specimens of species listed in the four Annexes, which are continuously replenished and modified through a European Commission Regulation (Ibid.). Annex A of EU Council Regulation No. 338/97 corresponds with CITES Appendix I with the addition of some CITES II and III species for which the European Union has enacted stricter laws. Annex B contains all other CITES Appendix II species, some CITES Appendix III species, and some non-CITES species; Annex C contains all other CITES Appendix III species; and Annex D contains some CITES Appendix III species for which the EU holds a reservation and some non-CITES species. The EU Wildlife Trade Regulations therefore not only implement the provisions of CITES and the majority of the CITES Resolutions, but they also go beyond the requirements of the Convention in the species' conservation (European Commission 2018).

People's Republic of China (PRC) accessed CITES in 1981, and then added the species listed in the CITES Appendices to its national protection measures, or more specifically, to its Wildlife Protection Law. The species are classified into various groups in this law. Class 1 species, which are primarily the endangered ones, are managed by the national government while provincial governments govern Class 2 species. The Departments of Forestry and Fisheries Administration under the State Council and under local governments at or above the county level are responsible for the protection of terrestrial and aquatic wildlife

respectively in their respective areas. The sale, purchase and utilisation of wildlife under special state protection or the products thereof are prohibited but, according to Article 27 of the Law, these practices can be permitted with the approval of the relevant departments of wildlife protection if they are necessary for scientific research, captive breeding, public exhibitions or performances, heritage conservation or other special purposes (CITES 2018c; EIA 2016).

On the other hand, CITES' impact has been relatively weak due to the bad social and economic situation, and the non-compliance with and lack of enforcement of it in many states of Africa. In 2004, a study of compliance with CITES among African nations reported that 49 out of 52 African countries are State Parties to CITES. However, only four African countries were evaluated as countries which adequately implement CITES in order to ensure compliance with it; 20 African countries have implemented some provisions of CITES but require more activity in this area in order to meet the legislation requirements; and 24 African countries meet none of the requirements of CITES (Fiadjoe 2004).

Due to the existing situation, CITES has mixed results after 43 years of its existence. CITES can certainly point to an enormous body of work on its part, with thousands species of animals and plants now under some form of international trade regulation because of it. Some of its successes are also evident from well-regulated legal trades in wildlife and global trade bans on some species. However, many of the problems in this area still survive.

Among the major issues of concern with CITES is the fact that the Convention lays out rules for trade in over 35,000 protected species, and it requires its parties to penalise any trade in violation of these rules, but there are many crimes affecting wildlife that have nothing to do with these listed species. The species that are not listed in CITES may be harvested and traded internationally, as is frequently the case in timber and fish trafficking. The process of CITES' refilling and modification is cumbersome and lengthy because the signatories can ask for amendments and changes to the Appendices' listings at the Conference of Parties only, and species can only be added to Appendix I or II with the approval of two-thirds of the Parties (CITES 2018a; CITES World 2004: 3). Their interests in the protection of various species often differ.

Another problem lies in the fact that CITES is limited to regulating international trade, so the harvesting of wildlife on national level, such as the domestic poaching of protected species, and domestic markets for

wildlife, does not fall within its scope (UNODC 2016: 3). A comprehensive agenda on the enforcement of the treaty's policy on national levels does not exist. This is painful especially in situations in which tensions between CITES rules and the national interests in the lucrative practice of trading in endangered species appear.

Under these conditions, the spaces for an unsustainable WT still exist. Legal WT markets are frequently merged together with illegal WT markets. Also, attracted by high profits, organised criminal networks became involved in the profitable WT business in some cases. This is the case with the plight of the world's rhinoceros species, which are facing aggressive poaching as the demand for their horns increases in Asia.

CITES VERSUS TRAFFICKING IN RHINO HORN

Rhino Horn Market

Currently, there are approximately 20,700 southern white rhino (*Ceratotherium simum*) and 4800 black rhino (*Diceros bicornis*) in Africa. The northern white rhino subspecies has been reduced to just two rhinos, which are living in East Africa. In Asia, there are an estimated 3300 greater one-horned Indian rhino (*Rhinoceros unicornis*) living in India and Nepal, at least 67 of the Javan rhinos (*Rhinoceros sondaicus*), and as few as 30 Sumatran rhino (*Dicerorhinus sumatrensis*) left in the wild in Indonesia (Poaching Facts 2018b). Although the ban on trafficking in Asian rhino horns has been in place since July of 1975, when the Asian species had been listed in Appendix I of CITES, or from 1977, when the two African rhino species were added to Appendix I, the number of the rhino population still continues to decrease due to the high demand for rhino horn in consumer markets (Poaching Facts 2018a).

In the early stages of the current crisis in 2008, just 262 rhinos were killed for their horns across seven African range states. But in 2014, the corresponding figure already reached 1215, and in 2015 there were 1342 rhinos killed. Altogether, more than six thousand rhinos have fallen in Africa over the past decade (IUCN 2016; WildAid 2014). South African rhinos could be extinct within the next 20 years if the current trend will not be reversed (Crookes and Blignaut 2015: 11).

At the core of the rhino, crisis is the high demand for rhino horn in consumer markets in Asia, especially in China and Vietnam, where the belief in the curative properties of rhino horn is deep-seated in

traditional medicine. Although modern clinical trials question its effectiveness, it is believed that powder from rhino horn is able to cure a wide range of illnesses, including cancer. Rhino horn serves as a luxurious commodity as well, and it is used to demonstrate affluence and social status both as a party drug and as a gift to important political officials (Emslie and Brooks 1999: 26, 28; WildAid 2014: 6). It is rivalling gold and platinum in value as the black market price of rhino horn increased from \$65 per kilogram in 1975 to \$34,000 in 2009, and \$65,000 after 2014 (GDC 2015a).

The source regions of rhino horn are African and, on a considerably lesser level, Asian countries. In Africa, four range states—the Republic of South Africa (RSA), Namibia, Kenya and Zimbabwe—hold 98% of Africa’s remaining rhinos, with the RSA alone holding over 80% of all black and white rhinos (Emslie and Brooks 1999: 11). The smallest rhino populations then live in Cameroon, Ivory Coast, Malawi, Mozambique, Rwanda and Zambia (Emslie and Brooks 1999: 11). In Asia, India hosts approximately 78% and Nepal 17% of the rhino population. Furthermore, a small population of Javan rhino exists in West Java, and the Sumatran rhino is restricted to only four isolated sites in Sumatra and Kalimantan in Indonesia (Emslie et al. 2016: 14–15).

The demand for rhino horn in Asia has been a profitable business opportunity for wildlife traffickers. Rhino parts are a traditional commodity in the regional Asian trade and as trade records suggest, the intercontinental trade in African rhino horn between Africa and Asia has existed for centuries as well (Milliken et al. 1993: 7–8). After the rhino populations were considerably reduced in Asia, the wildlife traffickers turned even more of their attention to Africa, and thus the intercontinental trade in rhino horns grew in importance in modern times. The situation changed in the 1990s, when the bans in China, Hong Kong, Taiwan and Singapore, combined with increased public awareness campaigns, reduced the demand for rhino horn on the international market (WildAid 2014: 7). Then for 15 years, the rhino populations in Africa were gradually recovering, but in 2008 the interest in rhino horns on the Asian market grew again (TRAFFIC 2018b; WildAid 2014: 7). The value of rhino horn became such that professional criminals with no history in the wildlife trade and no connection to its source or destination markets began to explore the rhino horn market (UNODC 2016: 71).

Modi Operandi of Rhino Horn Traffickers

The traffickers in wildlife developed several *modi operandi* to break CITES rules and national systems of rhino protection to meet the profitable demand for rhino horn. They derive most of their rhino horn supplies from poaching, but natural mortality losses, thefts from government and private stockpiles, illegal internal sales and so-called pseudo-hunting also continue to contribute to their illicit supplies.

In Asia, reported one-horned rhino poaching levels are relatively low. In Vietnam, the last surviving rhino was poached in 2010 (Emslie et al. 2012: 13). In India, 34 rhinos were poached in 2014 and 24 in 2015; in Nepal, only one rhino was killed in 2013–2015 and there was no poaching reported in 2016 (Emslie et al. 2016: 15–16). However, in Africa, the situation has been considerably more dramatic. The number of reported poached rhinos in Africa per year has increased from 62 animals in 2007 to 1342 in 2015. Most of the poaching, despite the government and private owners' efforts to save the rhino population, took place in the RSA (87.5% in 2015) (Emslie et al. 2016: 2). Increased losses of rhinos were enregistered in Zimbabwe (a record 164 rhinos killed in 2008 and 50 in 2015), Namibia (90 in 2015) and Kenya (a record 59 rhinos in 2013 and 11 in 2015) as well, reaching the highest level in nearly two decades (Emslie et al. 2016: 2). In 2016 and 2017, the rate of increase in total rhino poaching has stabilised and started to slowly decline, but it still remains unacceptably high. For example, in South Africa, the number of poached rhinos fell from 1175 in 2015 to 1054 in 2016, and 1028 in 2017 (TRAFFIC 2018c).

The criminal networks engaged in poaching operate with various degrees of sophistication. For example, in the RSA, the majority of the rhinos poached are taken from Kruger National Park, which is contiguous with Limpopo National Park in Mozambique, and many of these rhinos are taken by Mozambican poachers crossing between the two parks (UNODC 2016: 70). There are groups of poor villagers from Mozambique slipping through holes in the border fence to poach rhino on foot in Kruger National Park; however, militant groups and organised crime syndicates are also involved in such activities, either by poaching rhino themselves or by providing incentives for villagers to do so. There is evidence of the use of advanced technologies (helicopters, night vision goggles, infrared sensors, tranquilising drugs, high-powered weapons and silencers and so on) that are way beyond the financial or technical reach of African villagers in the killing of the animals (Ayling 2012: 5).

The government of the RSA responded to the situation by establishing a national programme called *Integrated Strategic Management of Rhinoceros* to manage the rhino population (DEA 2017). Under this programme, RSA national security forces and private rhino owners started to organise rhino guards, surveillance systems and border controls, etc. However, as shown by the high numbers of rhinos still poached in recent years in the RSA, the system is not sufficiently effective. Furthermore, there are continuing and worrying signs that poaching gangs are increasingly moving beyond South Africa's borders and gaining a foothold in other African countries (such as Namibia and Zimbabwe)—many of which have fewer available resources for protecting wildlife (Emslie et al. 2016: 3, 18).

In parallel to the poaching, thefts of rhino horn from government custody have occurred in Botswana, Mozambique and the RSA (Emslie et al. 2016: 11). In Europe, during 2011 and 2012 members of the Rathkeale Rovers, an Irish Traveller group, raided museums and auction houses and stole rhino horns worth a reported sum of 57 million pounds (UNODC 2016: 71). The case eventually led to the arrest of some 30 individuals (Emslie et al. 2016: 11).

The high value of rhino horn has also driven a peculiar means of evading CITES controls as well—the so-called pseudohunting in the RSA and Swaziland, which is practiced in the following way. In recognition of South Africa and Swaziland's success with rhino conservation and management, their populations of white rhino (which carry the largest amount of horn) were transferred from CITES Appendix I to Appendix II in 1994 and 2004 respectively, thus allowing for the rhinos to be in the international trade in live animals (for zoos and the like) and be killed for hunting trophies (CITES 2016a; UNODC 2016: 70). The latter exception spurred the practice of recruitment of hunters who officially hunt rhino in Africa on the basis of their hunting licence, getting them to kill rhinos, and then exporting the rhino horn abroad as a hunting trophy, though hunting trophies are officially not for sale, and selling it on the illicit black market.

These operations were largely linked to the harvesting of rhino horns on private lands in the RSA, where private rhino reserves stretch over an area of about two million hectares, incorporating 330 separate properties and about 6200 rhinos (33% of the national herd) (Hübschle 2017: 6). Private game farmers were frequently willing to support doubtful pseudohunting practices for profit there.

In many cases, applications for hunting licences were coming from people with no prior hunting experience, and/or people from countries from which applications had not been received in the RSA before (Ibid). Especially Vietnamese nationals have continued to be active participants in the sport hunting of white rhino in South Africa since 2003. Overall Vietnamese citizens have hunted more than 400 rhino legally on privately owned properties throughout the country between 2003 and 2012 (Emslie et al. 2012: 7). Their rhino “trophies” were then sent back to Vietnam and, without any state control, sold on the Vietnamese black market. To address this abuse of the system, the South African government took the extraordinary measure of suspending the issuing of hunting licences to Vietnamese nationals in 2012.

Similarly, in 2012, a Thai national pled guilty to organising 26 “fake” rhino hunts and correspondingly acting as an agent for import and export groups and companies in Thailand and Laos. This representative of a Laotian wildlife trafficking network recruited Thai sex workers who were already based in South Africa to accompany him and his colleagues to private hunting reserves and farms to act as stand-ins for trophy hunters. Together with them, Asian traffickers, South African private game farmers, corrupt wildlife industry professionals and conservation and customs officials were also involved in the scheme (UNODC 2016: 71; Hübschle 2017: 9).

When the Asian hunters started to attract the uncomfortable attention of South African officials, the traders in rhino horns turned to Europe, where, according to the European law, the import procedures connected to the CITES Appendix II category of species, namely to Annex B of EU Council Regulation No. 338/97, were simplified. The II/B category required permits for rhino horn exports from the RSA but not for rhino horn imports to EU countries. This gap in the legislation allowed for practically uncontrolled imports of the horns, their subsequent sales on the European black market, and further illegal exports of the horns to Asia.

Between 2010 and 2015, the Czech Republic (CR) became a key strand in a complex web of criminal activity and illicit rhino horn deals. The criminal operations were organised by the local Vietnamese criminal underworld, which was able to employ South African owners of farms and officials, and also Czech “pseudo-hunters”, and even lawyers in the rhino horn smuggling operations, and to build up a semi-legal road for the rhino horns’ transfers from South Africa across Central Europe to

Vietnam. Czech investigators believe that as many as 180 people may be implicated in the scheme (Rademeyer 2016: 41–47; GDC 2015a, b). The RSA authorities stopped the issuing of licences for rhino hunting to Czech citizens in July 2014 but the problem just moved to other countries. For example, in Central Europe, problems with pseudohunting were also detected in Slovakia and Poland (GDC 2015b).

In 2014, a federal indictment was unsealed by the US Court in Alabama charging two South African nationals and their company, a large game hunting business, with conspiracy to violate the Lacey Act, which provides for the protection of endangered species. They operated a business out of Alabama that recruited American hunters, duping them into believing they were legally hunting rhinos. The hunters were each told a similar story about how the particular rhino that they would hunt was a problem animal that needed to be killed and so no export permit was available or needed. Instead, the cost of the hunt was considerably less (\$10,000 or less) than that of one where a hunter could bring back a trophy. The defendants then sold the horns from the rhinos killed in the scheme to contacts who smuggled the horns to Asia. The related investigation has resulted in the arrest of almost three dozen individuals (USDJ 2014; UNODC 2016: 71; Shelley 2016: 3).

Smuggling methods used in Africa, too, display high degrees of organisation, and the related smuggling routes spread around the globe. According to World WISE, in order of importance, South Africa, Mozambique, Zimbabwe and Kenya are the main sources of seized shipments of rhino horns. Meanwhile, the United Arab Emirates and European countries (including Slovakia, the Czech Republic, Belgium, Italy and Germany) are pointed to as the main transit countries for Asia (UNODC 2016: 71). Most of the related rhino horn seizures involve Vietnamese or Chinese nationals, indicating the global reach and linkages of Asian criminal networks (Emslie et al. 2016: 5).

The Regulative Regime of the Rhino Horn Trade

The rhino shooting in Africa continues. A common international policy of rhino horn trade control still does not exist. The implementation of the rhino-related decisions adopted at the 16th meeting of the Conference of the CITES Parties in Bangkok in 2013, which recommended to all the participant states that they should improve their related legislation, police cooperation and control mechanisms; exchange

information; develop demand reduction strategies or programmes, etc. has had little impact (apart from a recent slowing in the rate of increase in poaching and reduced levels of pseudohunting) in terms of curbing further expansion of the trade, which has effectively doubled since 2013 (CITES 2016b; Emslie et al. 2016: 18).

The problem raised a debate which deeply polarised the rhino conservation community. The key issue is whether or not to legalise the horn trade. Although it is a comparatively well-designed legal instrument, CITES has been criticised because of its emphasis on regulatory measures and disregard for the economic reality of the rhino horn trade. Especially the African rhino range states argue that the existing CITES regulations and system are already obsolete, and a sustainable and non-detrimental trade in rhino horn is possible under the right conditions. Hunting, in their view, maintains healthy rhino populations as well as raising money for the important work of protecting and conserving these assets (De Beer 2016).

In October 2016, South Africa hosted the 17th Conference of CITES in Johannesburg. There the parties to the treaty turned down Swaziland's proposal for a limited legal trade in rhino horn on the international market. At the same conference, South Africa was commended for not presenting a proposal to trade in rhino horn (AWF 2017). However, in April 2017, the Constitutional Court of South Africa lifted the moratorium from 2009 imposed by the RSA Minister of Environmental Affairs on the trade in rhinoceros horns. Since then, the domestic trade in rhino horn has been legal. The new regulations on the domestic trade remain vague, allowing room for interpretation and clever manoeuvring (Hübschle 2017: 4–5). In June 2017, an RSA rhino breeder announced that he would be selling a portion of his rhino horn stockpile in a legal global online auction, being the first South African breeder to do so (Okori 2017). The shadow zone between the South African national politics and the CITES politics thus broadened.

Unlike the RSA, a number of states, including China, the EU and the USA, have tightened their anti-rhino-horn-trade measures in recent years although they did so on various levels. The China State Council issued a notice on China's prohibition of the trade of rhino horns and tiger bones already in May 1993 and publicised the state's prosecution of some rhino horn dealers. Also, the use of rhino horn was banned in traditional Chinese medicine, and rhino horn was removed from the Chinese pharmacopoeia administered by the Ministry of Health of the

People's Republic of China. Meanwhile, currently China's legal imports of rhino horn are close to nil (WildAid 2014: 6–7; EAL 2017: 16). On the European Union level, the import of rhino horns was corrected on February 2015, when the EU introduced more strict laws on imports of rhino trophies; from that date on, special permits issued in the countries that will receive the imports of hunting trophies are required for six animal species (African lions, polar bears, African elephants, Southern white rhinoceroses, hippopotamuses and argali sheep). The regulation allows for blocking of suspicious imports and the registration and subsequent control of the rhino hunters (European Commission 2015). In the USA, the federal regulations protecting rhinos are still not strong enough to combat the current problems in this area. To date, only 5 states—California, Hawaii, New Jersey, New York and Washington—have banned the purchase, sale, trade and possession with the intention to sell of ivory and rhino horns (ALRC 2018).

Another key issue is whether or not legalising the horn trade could escalate the demand for rhino horns in Asian markets, especially in China and Vietnam. Opponents of the legalisation argue that this demand far exceeds the rhino horn market's capacity. Although it has been completely illegal for many years and suppressed by Chinese authorities especially in recent years, the illegal rhino horn trade in China continues and the black market for rhino horn there is stable and strong, as it is fed through illicit channels (EAL 2017: 16, 80; Emslie et al. 2016: 5). As China now has a capitalist economy and less state control of businesses, individual entrepreneurs and private businesses have created more varied avenues for the illegal wildlife trade in China.

The situation is even worse in Vietnam. Vietnam joined CITES in 1994 (CITES 2018c). In 2012, Hanoi signed an agreement with South Africa with the condition that it would begin controlling the illegal trade in rhino horn (DEA 2012). In 2013, the Vietnamese Prime Minister issued Decision 11 on the prohibition of the export, import, selling and buying of specimens of some wild animals listed in the Appendices of CITES, including rhino horn (Hübschle 2017: 9–10). One priority for the Vietnamese government is to show its political will in tackling the illegal trade in rhino horn, but weak law enforcement, corruption and a soaring demand for rhino horn among the newly prosperous middle class in Vietnam appear to have made prosecutions of people involved in the rhino horn trade difficult. In 2016, Vietnam was still identified as “the leading country of import” in Asia for rhino horn by the IUCN,

TRAFFIC and the African and Asian Rhino Specialist Group (Emslie et al. 2016: 5).

Despite some improvements the global rhino crisis continues. It is obvious that the problem of rescuing rhinoceroses reaches far beyond the current principles of the CITES regulatory regime. Combatting rhino poaching and illicit rhino horn trafficking effectively will require a concerted global effort, revision and harmonisation of national rhino horn regulatory regimes, anti-corruption efforts, control of horn stock management, better and more flexible information sharing and coordinated investigations between law enforcement agencies in source and consumer countries to dismantle the criminal networks engaged in the rhino horn trade operating around the globe.

CONCLUSIONS: THE FUTURE OF WT REGULATORY REGIMES

CITES, as a basic global WT regulatory regime, and the regional, national and local WT regulatory regimes create a complex system of wildlife trade control. The analyse based on the consequentialist theoretical approach confirmed strong incentives for its creation, as it is reflected in the decisions and programmes of various international organisations (CCPCJ, UNODC, ECOSOC the UN General Assembly, the UN Security Council, INTERPOL, WCO, the World Bank etc.), many significant nations (USA, EU, PRC etc.) governmental and non-governmental organisations and initiatives (IUCN, WWF, TRAFFIC etc.) and other actors. However, despite a high participation rate and its success in creating global rules for sustainable WT control, CITES still suffers from many structural and operational shortcomings threatening its maintenance and compliance. As an international treaty on wildlife trade control joined by sovereign nations on a voluntary basis, CITES fails to accurately monitor supplies, particularly where the given trade is illegal; it fails to consider the impact of trade controls in realistic terms, and it does little to consider the complex nature of demand or contend with changing market dynamics. Discrepancies in the implementation of CITES regimes on international and national levels are clearly visible as well.

To more effectively manage trade, reforms are needed within CITES and in the sphere of interaction between CITES and local regulatory regimes of wildlife trade. To curb the rise in the illegal wildlife trade, responses to it must involve a range of internationally harmonised

legal measures, stricter law enforcement and coordinated regulation of the WT, environmental management, consumer- and demand-reduction strategies and promotion of alternative livelihood opportunities (Nelleman et al. 2014: 14).

This need was clearly defined in the course of the 17th Conference of CITES in Johannesburg in 2016. The Conference was labelled as a “game changer” in the global WT policy. The Conference’s decisions included strengthened actions to combat illicit wildlife trafficking; greater protection of entire groups of species; targeted demand reduction strategies for illegally traded wildlife; strengthening agendas of global enforcement; development and financing of agencies that have the capacity and technical expertise to help ensure the implementation of the Convention on the front lines, where it matters most—with the CITES management and scientific authorities, as well as customs officials, businesses, police, prosecutors and park rangers; and closer engagement with rural communities (CITES 2016c). It is a question for the future, however, whether this new and more complex strategy will overcome the WT regulatory regime’s weaknesses.

Box 12.2 Selected Essential Further Reading

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NOTE

1. The initial text of the CITES Convention signed in 1973 foresaw that only States could be Parties to it. This has changed with the entry into force in November 2013 of an amendment which allows regional economic integration organisations to join CITES. On that basis, the Council approved the EU accession to CITES in 2015 after the European Parliament gave its consent in 2014 (CITES 2018i).

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