



WORLD TRADE
ORGANIZATION

CITES

Foreword

Setting the scene for a harmonious relationship

People around the globe have been trading in wildlife for centuries. In the ancient world, demand for wild exotic plants used as spices, incense or perfumes led to the development of an extensive network of trade routes connecting West to East by land and by sea. Nonetheless, the scale of that trade was nothing compared to the 7 billion people consuming biodiversity products in today's globalized economy.

Before the adoption in 1973 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), also known as the Washington Convention, international trade in wildlife was largely unregulated at the global level. Several international instruments related to wildlife conservation had been concluded in the early part of the 20th century. Nonetheless, their membership and species coverage were limited; efforts to implement them were not sufficient to be effective and a number had become somewhat outdated. With the exception of certain national laws or bilateral or regional agreements, countries were therefore quite free to trade with each other in wild animal or plant species, in any quantity, and without needing to report such trade to any global entity.

With the post-World War II economic recovery, wildlife trade increased significantly. The new focus on 'charismatic mega-fauna' and species-based conservation approaches proved insufficient to slow the decline of certain species populations. Moreover, future trends looked worrying in light of some instances of overexploitation, a growing human population and ever-increasing trade activity. Additional pressures on wildlife took the form of habitat loss and pollution.

Strong apprehension about the impact of wildlife exploitation and trade on conservation was voiced for the first time at the seventh General Assembly (Warsaw, 1960) of the International Union for the Protection of Nature. Later known as the International Union for the Conservation of Nature (IUCN), this international organization was established in 1948 with members from governmental and non-governmental organizations. Based on new information about the conservation status of many species, IUCN delegates urged the adoption of import restrictions on animals that would match the export regulations of countries of origin.

For such a system of trade controls to work, importing countries needed information on the regulations of exporting countries. However, at the time, no international legal framework for such information exchanges existed. This led delegates gathered at the eighth IUCN General Assembly (Nairobi, 1963) to recommend that an international convention to regulate trade in "rare or threatened wildlife species or their skins and trophies" be drafted and submitted for the approval of governments.

Ten years later, government delegates to the 1972 United Nations Conference on the Human Environment agreed on the Stockholm Action Plan for the Human Environment, which included a recommendation that "a plenipotentiary conference be convened as soon as possible, under appropriate governmental or intergovernmental auspices, to prepare and adopt a convention on export, import and transit of certain species of wild animals and plants". The Plenipotentiary Conference to Conclude an International Convention on Trade in Certain Species of Wildlife was held from 12 February to 2 March 1973 in Washington, D.C., and attended by representatives from 80 countries.

The final convention text was signed on 3 March 1973 by 21 countries. It contained a preamble and 25 articles as well as three species lists (Appendices I, II and III) and a permit model (Appendix IV). CITES entered into force on 1 July 1975 and will have 181 Parties as of 8 July 2015, when the accession by the European Union enters into force.

CITES establishes a legal framework for the regulation of trade in specimens of wild animals and plant species, including fish and timber. The Convention is an early example of a multilateral framework to tackle a global environmental problem through international cooperation. This reflects the reality that living resources do not know national boundaries, and that living resources in one state

may be affected by activities carried out in another. In its

trade should be conducted with a view to achieving key public policy goals, including higher living standards, full employment, the sustainable use of the world's resources and environmental protection.

Furthermore, WTO ministers agreed in a separate 1994 Decision on Trade and Environment to set up a Committee on Trade and Environment (CTE). This effectively institutionalized the topic of trade and the environment in the WTO, and ensured that the new organization could make a meaningful contribution to the global discourse on this topic. The Committee has become a unique channel of communication between the multilateral trading system and CITES, which has been a permanent observer to the CTE since 1997.

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Since CITES predates the concepts of sustainable development and use as articulated in global environmental summits and international agreements, there is no express mention in the Convention of sustainable development. Nevertheless, the broad contributions of CITES to achieving sustainable development and use result directly from the text of the Convention and the way it is applied. Its requirements that trade not be detrimental to the survival of the species concerned, and that species be maintained throughout their range at a level consistent with their role in the ecosystem, contribute directly to achieving sustainable consumption and production – one of the key elements of sustainable development. The Convention's requirements that traded specimens be lawfully obtained and that Parties take appropriate measures to enforce the Convention also contribute to these objectives, as do efforts under the Convention to combat illegal trade in wildlife.

In addition to the way in which the Convention is drafted, the mechanisms available in CITES and the decisions adopted by successive conferences of the Parties provide a practical framework that enables trade in wildlife specimens to contribute to sustainable development and use. As part of this framework, the Conference of the Parties adopted a resolution that recognized the benefits of trade in wildlife in the early 1990s, and in 2004 it acknowledged that “commercial trade may be beneficial to the conservation of species and ecosystems, and to the development of local people when carried out at levels that are not detrimental to the survival of the species in question”.

The result of the gradual convergence of CITES and the WTO around the principle of sustainable development over the past four decades has been well captured in the 2012 Rio+20 outcome document, *The Future We Want* (bap_1 1 Tf

or may be affected by trade. The inclusion of a species in one of the Appendices results in the application of certain trade requirements or restrictions under the Convention, which are intended to ensure that the species does not become or remain subject to overexploitation (and possible extinction) through international trade. The Conference of the Parties, the supreme governing body of the Convention, takes decisions on the inclusion of, transfer between or deletion of a species in Appendices I and II. The Conference may also adopt annotations to certain species listings which specify the 'specimens' covered by the Convention.

CITES trade-related measures serve as the core regulatory system of the Convention; prevent opportunities for illegal or unsustainable trade; promote compliance with and enforcement of the Convention and facilitate action against non-compliance. Such measures, whether reflected in the Convention's text or decisions of its governing bodies, have been taken in an open, transparent, evidence-based and multilateral process and forum. They have been adopted with a view to promoting the conservation and sustainable use objectives of the Convention.



Although the Convention does not specifically refer to quotas, it does require the Scientific Authority to advise the Management Authority if the grant of export permits for specimens of Appendix II listed species should be limited. Quotas can be used to maintain an Appendix II listed species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I.

Appendix III includes species which any Party identifies as being subject to regulations within its jurisdiction (for the purpose of preventing or restricting exploitation) and as needing the cooperation of other Parties in the control of trade. Such species constitute about 1% of the approximately 35,000 species covered by the Convention. Examples include several tree species, such as the Coco de Mer palm tree, the Dorcas gazelle and a sea cucumber species. Commercial or non-commercial trade can occur in Appendix III specimens taken from the wild (or bred in captivity or artificially propagated) on condition that such trade is legal and traceable. A non-detriment (or sustainability) finding is not required for trade in Appendix III specimens.

The traceability of CITES trade is ensured through a system of permits and certificates used to authorize, accompany and track a particular shipment. Some Parties have implemented electronic permitting systems, and a CITES e-permitting toolkit was developed to provide standard guidance to interested countries.

CITES Parties submit annual reports to the CITES Secretariat on their 'trade', which is defined as export, re-export, import and introduction from the sea (for specimens taken in the marine environment not under the jurisdiction of any state). These records are then incorporated into the CITES Trade Database which can be accessed and searched via the CITES website. Approximately one million permits and certificates are currently issued each year and the CITES trade database now contains over 15 million records of legal trade.

Before being traded, living specimens of Appendix I, Appendix II or Appendix III listed species must be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment. This is one of the first times that animal welfare concerns have been recognized in an international convention. Guidance on the transport of live specimens is contained in a resolution of the Conference of the Parties which, inter alia, recommends use of the Live Animals and Perishable Cargo Regulations of the International Air Transport Association as well as the CITES guidelines for the non-air transport of live wild animals and plants in meeting the Convention's transport requirements.

CITES recognizes the right of Parties to adopt stricter domestic measures, which go beyond the Convention's provisions. Although the Convention is not subject to any general reservations, it allows Parties, at specified times, to enter specific reservations with regard to any species included in the CITES Appendices.

How WTO rules leave broad scope for natural resource conservation measures

Under WTO rules, as confirmed by WTO jurisprudence, members can adopt trade-related measures aimed at

such instances, some basic trade rules, such as the non-discrimination obligation and the prohibition of quantitative restrictions, may be relevant. The Appellate Body in “Brazil – Retreaded Tyres” recognized that “tensions ... may exist between, on the one hand, international trade and, on the other hand, public health and environmental concerns”. This is why exceptions to such rules are

Maximizing opportunities for cooperation between CITES and the WTO

As the concepts of sustainable development and use assumed greater prominence in the global policy agenda, CITES and the WTO have embarked on more active forms of cooperation, including targeted institutional and policy dialogues, and joint technical assistance and capacity building activities. This has allowed CITES and the WTO to contribute more effectively to worldwide efforts to manage successfully the relationship between trade, the environment and development.

In 1994, WTO ministers took an important step towards improved cooperation between the WTO and multilateral environmental agreements (MEAs) by deciding to set up the Committee on Trade and Environment (CTE) – a forum where, among other things, the WTO and MEAs can exchange information and discuss ways to cooperate better. Of the ten items in the CTE's regular work programme, two explicitly mention the WTO-MEA relationship. Item 1 covers the relationship between the rules of the multilateral trading system and trade measures contained in MEAs, while item 5 refers to the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in MEAs.

CITES has enjoyed observer status in the CTE since 1997. The participation of CITES in the CTE was in line with an effectiveness review undertaken by CITES in 1996. The review contained a recommendation aimed at strengthening cooperation and coordination between CITES and the WTO. Subsequently, the CITES Strategic Vision: 2000-2007 defined as one of its objectives “[t]o ensure continuing recognition and acceptance of CITES measures by GATT/WTO and to ensure the ‘mutual supportiveness’ of the decision-making processes between these bodies”. More recently, an objective of the CITES Strategic Vision: 2008-2020 is that “cooperation with relevant international environmental, trade and development organizations is enhanced”.

The creation of a forum in the WTO with an explicit mandate to discuss the WTO-MEA relationship opened up new channels for two-way communication and cooperation between the WTO and CITES, and has been a key tool for promoting coherence between the two systems. The CTE has held a series of ad hoc ‘MEA Information Sessions’, which have offered an opportunity for the CITES Secretariat and 13 other MEA secretariats to engage in a sustained dialogue with CTE delegates on

the institutional aspects of the relationship between their respective agreements and the multilateral trading system. Since then, CITES and other MEAs have provided regular briefings to CTE members.

Past and current information exchanges between MEAs and the WTO are informed by background notes, communications and other documents prepared jointly or individually by the MEA and WTO secretariats. The CITES Secretariat has submitted to the CTE communications on several aspects of the relationship between CITES and the WTO. In addition, it has contributed to background papers on compliance and dispute settlement provisions in the WTO and MEAs, and on technical assistance, capacity-building and information exchange. For its part, the WTO Secretariat, in consultation with MEA secretariats, maintains a ‘matrix’ or compendium of trade-related measures in CITES and 13 other MEAs. For each MEA, the document also describes the non-compliance and dispute settlement mechanisms, the provisions relating to non-parties to the MEA, and measures to

Improving global governance for sustainable development

As worldwide efforts to achieve sustainable development intensify, it is important to continue strengthening the relationship between CITES and the WTO. Under its Strategic Vision, CITES is working towards enhanced coherence and mutual supportiveness with multilateral instruments and processes dealing with trade, the environment and development. At the WTO, discussions on the relationship between the WTO and MEAs are part of the Doha round of multilateral trade negotiations. WTO members must consider both, “the relationship between existing WTO rules and specific trade obligations set out in MEAs” (paragraph 31(i) of the Doha ministerial declaration) and the “procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status” (paragraph 31(ii)).

In these negotiations, WTO members have recognized that trade and environment regimes must be mutually supportive for them to play their full part in promoting sustainable development. A successful outcome to the negotiations would formalize existing cooperation between the WTO and MEA secretariats and establish additional means to avoid potential conflict between WTO and MEA rules, for example by strengthening national cooperation between trade and environment government agencies. Such a high level of cooperation is critically important not only when negotiating new MEAs but also when implementing existing ones. In this way, the negotiations on the WTO-MEAs relationship provide a unique opportunity to make progress on sustainable development by further improving the way in which the

multilateral trading system and CITES interact with and support one another.

The outcome of the multilateral trade and environment negotiations remains pending. Nonetheless, the successful conclusion of the WTO negotiations on trade facilitation and the subsequent adoption of the Trade Facilitation Agreement has opened up new opportunities for collaboration between the WTO and CITES. The Trade Facilitation Agreement will enter into force once two-thirds of WTO members have ratified it. To help WTO developing country members access the support they need to reap the benefits of the Agreement, the Director-General of the WTO launched the Trade Facilitation Agreement Facility in 2014.

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focused on putting in place electronic permit systems to trade in CITES specimens. These systems are more secure than paper-based permitting systems and will assist in preventing permit fraud. At the 13th meeting of the Conference of the Parties to CITES in 2004, several Parties expressed the view that the development of e-permits would assist in the handling and processing of applications for CITES permits and certificates, and the collation and dissemination of CITES trade information. Thereafter, at its 14th meeting in 2007, the Conference of the Parties to CITES revised the resolution on permits and certificates to include references to the use of electronic documents and signatures.

CITES has developed guidelines for the implementation of electronic permits which are available through the CITES e-permitting toolkit. The guidelines are included in the World Customs Organization 'data model,' a global standard on cross-border data exchange for the release

and clearance of goods through customs. The data model is often used in the development of 'Single Window' systems, which allow traders to submit all import, export, and transit documents to a single point of contact. The data model is also used in the development of 'Single Window' systems, which allow traders to submit all import, export, and transit documents to a single point of contact. The data model is also used in the development of 'Single Window' systems, which allow traders to submit all import, export, and transit documents to a single point of contact.

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