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Almost 20 years after the signing of the convention, CITES is still struggling to find a role for itself. The debate between strict preservation and consumptive use continues to generate a great deal of acrimony, as the ongoing debate over the status of the African elephant witnesses. If the debate is not resolved soon, CITES might find itself bypassed by a new convention — much broader in scope, and potentially much better funded.

Kyoto Meeting

CITES' biannual Conference of Parties was held in Kyoto from 2-13 March 1992. Again the African elephant took centre stage, though not' — as was the case in Lausanne in 1989—to the exclusion of everything else. Debate in the substantive Committee I was divided between about 100 proposals for amendments to the Appendices and a sheaf of resolutions on the structure of the convention itself.

The best that can be said for the debate on amendments to the Appendices was that it was refreshingly broad in its coverage. Attention was rightly turned to several bird species (the value of the international trade in tropical birds dwarfs the trade in all other wildlife products combined) (Fitzgerald, 1989). And for the first time serious attention was paid to a number of plant taxa. (CITES, Doc.8.46)

Nevertheless, as usual, it was the African mammals that dominated the proceedings. The quality of debate was not particularly high. The basic problem was that the debate was much less an interactive process than a declarative one. There was a great deal of sermonising and self-righteousness on all sides. This process reached

its most absurd during the debate on the elephant that included a ringing statement from Burundi on the moral imperative for banning the ivory trade and for protecting the noble animal (CITES, Com.I 8.9).

As in the past the basic pattern was to put more and more species on Appendix I. Efforts to down-list various species — including the elephant, both species of African rhinoceros, the cheetah, the leopard and various others—were all roundly rejected (CITES, Com.I 8.9).

Interestingly a few species were down-listed. These included the North American bobcat (*Felis rufus escuinapae*) (CITES, Doc.8.44). It was left for Rowan Martin of Zimbabwe to note that barely half an hour before the bobcat was down-listed without any trade or population data at all, a similar proposal for the leopard was rejected for lack of information despite several hundred pages of supporting studies. Martin claimed to be "bewildered", but he was being disingenuous: it was apparent to everyone present that no high-profile species — no species that might have a 'constituency' in the donation-giving countries — could possibly be down-listed (CITES, Doc.8.45). The decisions were political, not biological.

CITES Visibility: Pluses and Minuses

The accelerating tendency to push species onto Appendix I and its converse, the difficulty of down-listing species, points to a basic contradiction within CITES.

CITES is a success because it is a spectacle. It is one of the most visible instruments of international law

in any field. Governments that know that they are in the public eye are highly responsive to the perceived wishes of their constituents, and highly responsive to lobbying (Lyster, 1985).

That is positive, for in the absence of public pressure it is altogether likely that governments would simply ignore CITES completely.

But there are problems, too.

The first is that it gives a massively disproportionate weight to the voice of rich countries and the non-governmental lobbyists in those countries. It is the Western European and North American publics that stump up the money for wildlife lobbyists, and it is therefore, naturally, the rich man's philosophy of wildlife management that prevails. The views of the poorer countries'—which, ironically, are guardians of most of the world's endangered species'—are marginalised (Harland, 1992).

Further, because the whole process is so driven by NGO lobbies, debate must be pitched at a level meaningful to the constituencies from which these lobbies draw their support. That means two things. First, there is a hugely disproportionate interest in the—'charismatic megafauna', to the detriment, unfortunately, of less glamorous but equally important species (Tolba, 1992).

Secondly, complicated solutions, however effective, must be abandoned in favour of simpler ones — ones that will have appeal at the bumper-sticker level. Thus it is very much easier to say "Save the Elephant: Ban the Ivory Trade" than it is to say "Save the Elephant: Support a Programme to Make Elephant Habitat Viable Against Human Encroachment" (Harland, 1990).

NGO Dilemma

The elephant debate at Kyoto illustrated this problem nicely. Those non-governmental groups that do elephant conservation work in Africa — most notably WWF — found themselves in an awkward position, caught between a need to support a policy that actually does some good, and a policy that appeals to a constituency that largely receives its information as sound bites on the evening news. To their credit — but to the detriment of their funding base — WWF, as well as a number of Africa based experts such as

Iain Douglas-Hamilton, refused to take the expedient course of supporting the Appendix I listing (WWF, 1992; Douglas-Hamilton, 1992).

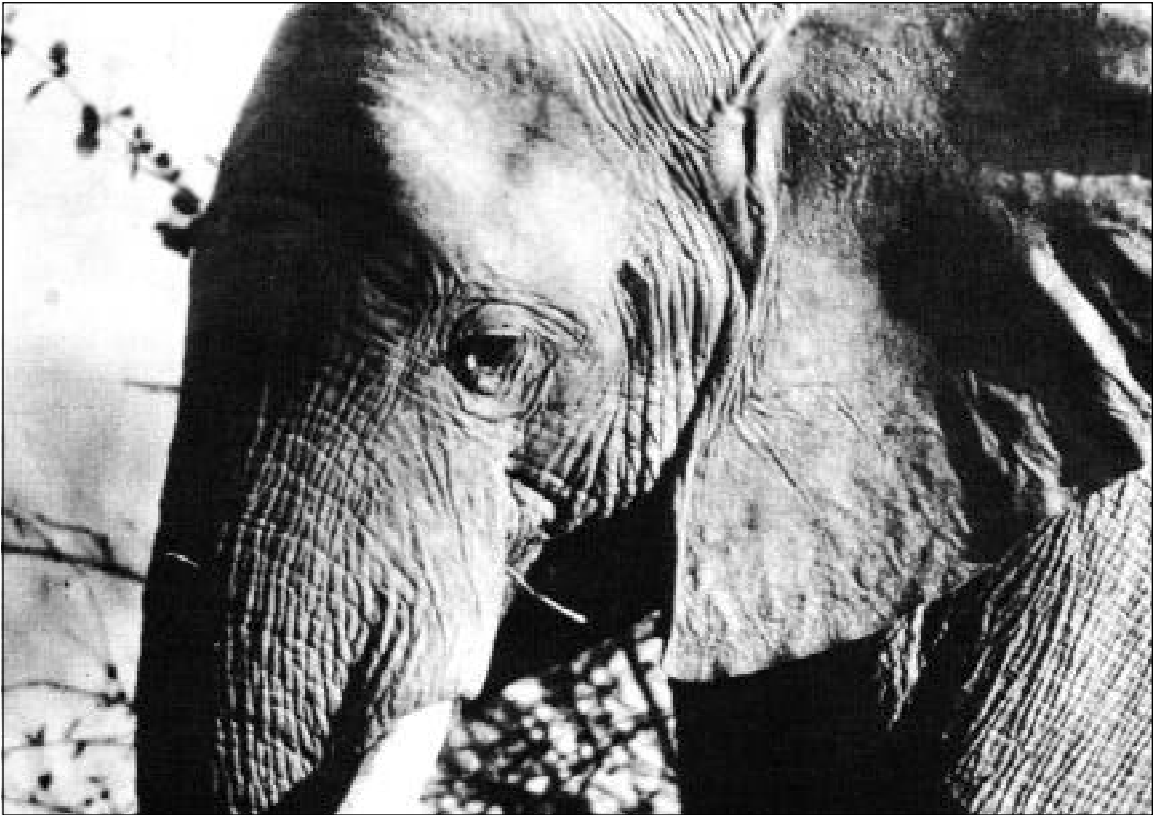
On the other hand, groups with no commitments in Africa found it simpler to stake out positions that, even if they advanced the cause of the elephant not at all, played well at home. There were, unfortunately, several in this category, the most extreme of which was the Environmental Investigation Agency. The EIA produced a very handsome, and no doubt expensive, report that made a powerful case and was widely reported in the press (EIA, 1992). It seemed not to concern EIA supporters that information in the report was misleading, and in important respects just plain wrong. Apparently the truth was not so important as the funding base. Where the elephant featured in all this was unclear.

Overloading on Appendix I

Another problem with CITES comes from the same source, though it affects governments rather than lobbyists. That is the incessant urge to list species on Appendix I. At each biannual meeting, the Parties agree that Appendix I is overcrowded, and that customs officers simply cannot enforce a list that includes thousands of discrete items. And then, often in almost the same breath, governments vote whole rafts of species onto Appendix I.

There are two reasons for this. The first is that governments like to be seen to be 'doing something'. Listing a species on Appendix I is the cheapest, most visible option open to a government that wants to placate voters without going too far out of its way. No matter if the number of species on Appendix I dilutes its effectiveness. That is a subtlety, it is assumed, that is lost on the voting public. Thus, "listing itself is considered more important than the subsequent enforcement" (CITES, Doc.8.14).

The second reason for over-loading Appendix I is less cynical, and points to a serious structural flaw in the convention. It is the fact that Appendices II and III in their present form are largely ineffective. They do not suppress demand and they rely entirely on the (often absent) goodwill of the exporting state to control supply (Swanson and Barbier, 1992). The main reason the elephant ended up on Appendix I was the total failure of the Appendix II machinery to stop the poaching that had halved population numbers in



a decade (Barbier *et al*, 1990). Likewise, one of the main reasons that a down-listing for the rhino was rejected was that it was felt, probably correctly, that however ineffective Appendix I controls might be, Appendix II controls would likely be worse (CITES, Com.I 8.10).

The Role of the Public

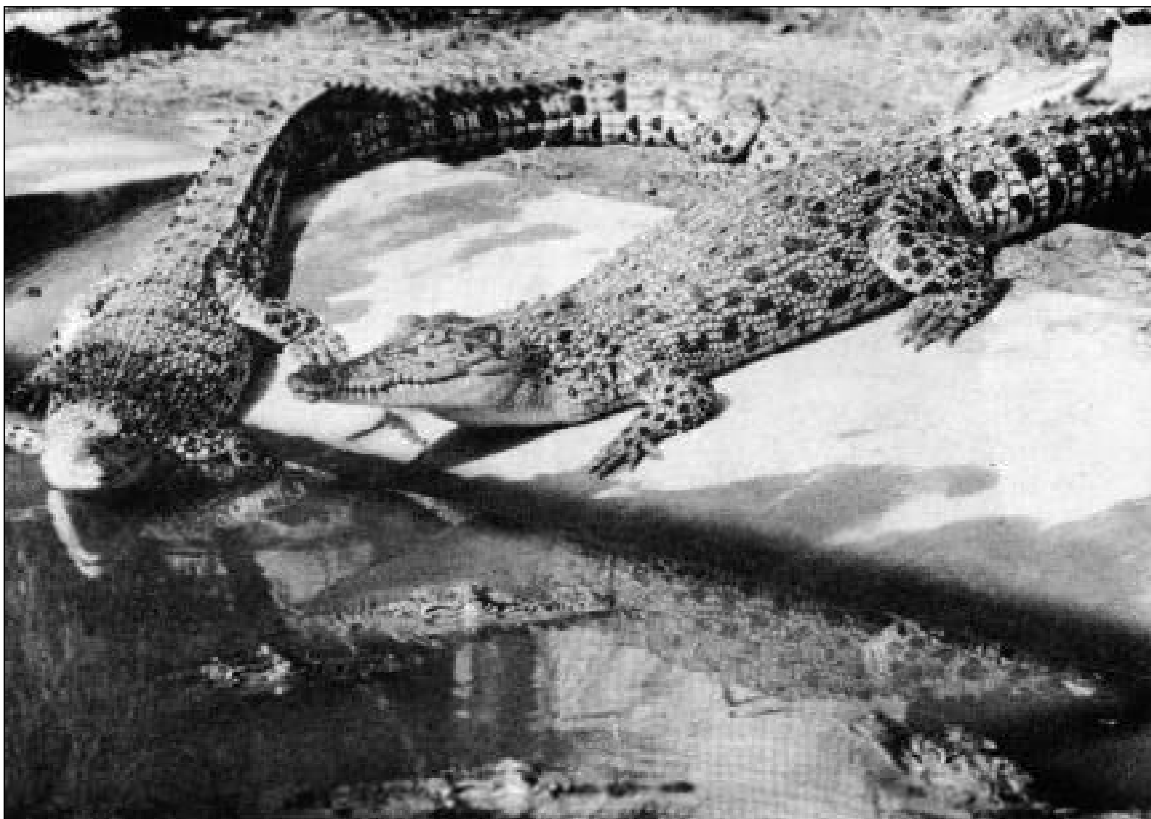
CITES' problems can be thus roughly divided into two areas: those that grow out of its extreme malleability in the face of public opinion that is not always very well informed, and those that are internal to the convention itself.

The first group are the more intractable. So long as CITES is so open to public influence (which it must remain if governments are to take it seriously), its agenda and its decisions will largely reflect the concern of the rich countries. That is one reason developing countries are talking increasingly of bypassing CITES altogether, and focusing on the recently-negotiated Convention on Biological Diversity.

On the other hand, there is some hope. So far governments and NGOs seem to be adhering to Mencken's adage that "nobody ever went broke underestimating the intelligence of the American public." It is widely assumed that the public in Europe and North America is somehow incapable of seeing wildlife conservation as more than a black-and-white struggle between poachers and conservationists.

Judging from the press reports that came Out of the Kyoto meeting, that assumption is wrong. A large part of the press corps gave over considerable space to discussing the needs and aspirations of African farmers, and to discussing the threat to wildlife in more than just the lexicon of a morality play (AWF, 1992). It was encouraging stuff, and should be pursued.

The CITES Secretariat, however, is not good at cultivating the press. The new Secretary-General, aware perhaps of his predecessor's fate, gives the press as wide a berth as possible. He may be right to keep a low profile while he finds his feet, but a little bit of co-operation with a press corps that is making an intelligent effort to raise the level of public debate on the subject might not be amiss (Paul Ress, pers comm).



Structure of the Convention

On the second problem, that of the structure of the convention, things are looking hopeful. The original premise of CITES is that international trade in endangered species is bad. The more in danger a species is, the less it should be traded. Thus Appendix I, which effectively bans all trade, is reserved for the most endangered species; Appendix II affords a lower (and largely ineffective) level of protection, and is for species in less immediate danger, and so on.

For over a decade several countries have been trying to turn that premise around. Their belief is that a well regulated trade should be a positive asset in conservation.

Their first substantial initiative was the resolution on ranching, adopted in 1981 (CITES, Conf.3.15). The crocodile ranching schemes that grew out of that resolution have been an unreserved success, and Zimbabwe's contention that trade has helped to boost crocodile numbers is certainly true. Indeed, one of the most time-consuming issues at Kyoto was dealing

with the long list of countries that wanted approval for ranching proposals of their own.

The other notable success has been with the vicuna. The down-listing of the vicuna onto Appendix II to allow the sale of hair from live-shorn animals has worked well, and the vicuna's prospects have improved considerably since its introduction. It is an imaginative use of Appendix II, and one that a number of countries would like to see developed.

Zimbabwe and a group of southern African supporters presented five resolutions designed to push the inchoate willingness to accept trade as beneficial still further. Some less-than-coherent opposition from Kenya notwithstanding, the standard of debate on these resolutions was good and represented the high-point of the meeting.

Three of the southern African resolutions passed, in amended form, and were adopted by consensus. Two others were rightly rejected (CITES, Doc.8.49; CITES, Doc.8.52). The first of those adopted was a general recognition of the potential benefits of trade in wildlife,

and the ease with which it passed showed just how far CITES has evolved in ten years of prodding from southern Africa. From a convention committed to taking endangered species out of trade, CITES is now equally committed to examining conservation measures that involve encouraging trade in endangered species. For developing countries, keen to find ways of marrying conservation and economic development, the trend is an encouraging one (CITES, Doc.8.48).

The second resolution passed was possibly the most far-reaching. It recommended overhauling the Berne Criteria (the rules that determine onto which Appendix a given species should be put), replacing the existing, difficult-to-apply and somewhat arbitrary rules with new 'objective criteria' (CITES, Doc.8.50).

It has long been acknowledged that the Berne Criteria are flawed, but until now the difficulty of producing anything better has let them stand (CITES, Doc.8.12). The southern African proposal, for establishing 'objective criteria', may have been noble in intent, but the draft criteria they proposed gave very little room for optimism that they had come up with anything better than the Berne Criteria. The daunting task of drafting something that is, a) more objective, b) workable and c) does not require huge amounts of information that simply are not available, has been left to IUCN and others to sort out in the inter-sessional period.

The third resolution passed concerned the need to consult with range states when submitting a proposal for the amendment of the Appendices (CITES, Doc.8.51). The point here seemed to be that the southern Africans—and many other Third World states—feel that the fate of their wildlife is determined by Europeans and North Americans with almost no regard to the views of range states themselves. To reinforce the point, land-locked Zimbabwe submitted (and later withdrew) a proposal to put the North Sea herring on Appendix I (CITES, Doc.8.46).

As originally formulated, the resolution on consultation would have given range states the ability to kill any proposal that two-thirds of them did not like. That was amended out of the final text, as demand control in *importing* states is one of the few weapons that makes CITES really effective. The obligation to consult, however, was retained, and the mechanism put in place goes some way to making sure that rich

Westerners do not push through amendments oblivious to the needs, wishes and interests of those who actually have to live with the species concerned.

More than was probably realised at the meeting itself, the three resolutions passed went a long way towards changing the very philosophy and direction of CITES—or at least they formalized a decade-long shift away from the original intent of CITES as a mechanism for turning parts of the Third World into an open-air zoo (Tolba, 1992).

CITES: An Endangered Species?

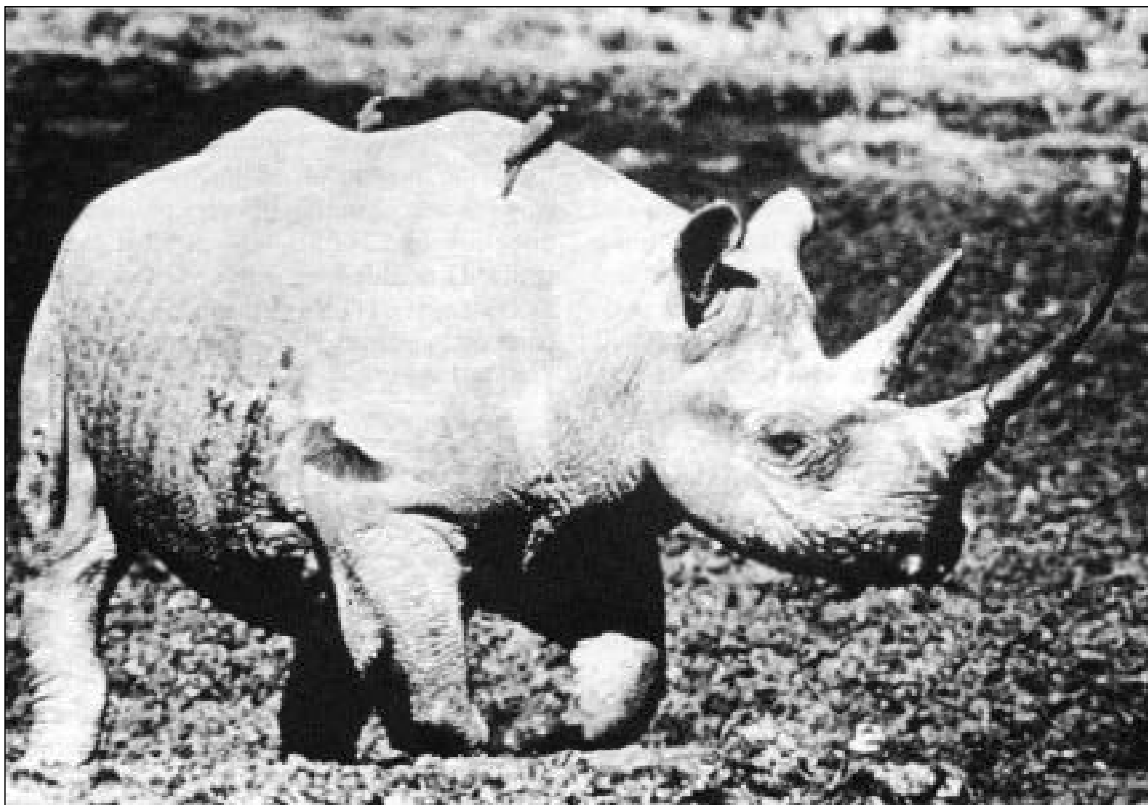
Whether the moves to accommodate the developing countries were sure enough to secure a strong future for CITES remains to be seen.

At the meeting Botswana and Zimbabwe threatened again (they have done so twice before) to leave CITES altogether (Kedikilwe, 1992). They probably will stay, though it is likely that they will be working vigorously to trade in wildlife products outside the CITES system. They may already be planning to move a certain amount of ivory and rhino horn (Reuter, 1992).

Meanwhile many countries in Latin America and southeast Asia have been looking to a new convention that would be more responsive to their needs. This is the Convention on Biological Diversity, recently signed in Rio de Janeiro. That convention—which also will be administered by UNEP—would give final say on every conservation project to the government of the country concerned. The involvement of the rich countries would be circumscribed by a series of articles upholding the 'sovereignty' of poor nations rich in biological diversity (UNEP, 1992).

The biodiversity convention is as yet untried, and the United States is sceptical enough of it not to have signed in Rio, but with interim financial support coming from the 1.3 billion dollar Global Environmental Facility it is altogether possible that it could quickly eclipse the North-dominated forum that is CITES.

How viable CITES remains will depend heavily on the extent to which recent efforts to make it more responsive to the needs of species-rich, economically-poor countries succeed.



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