

CITES And The International Protection Of Biodiversity

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ABSTRACT

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was established in 1973 to address the increasing impact of trade on the conservation of wild species. The trade, which affects hundreds of millions of species, is difficult to regulate due to the scale of illegal trade. CITES is crucial for conservation of wild species as it addresses the global decline in biodiversity. The Convention considers threatened species from two angles: those threatened with extinction and those not yet threatened. The appropriate trade regulations are adopted based on the threat level and the degree of protection. CITES is an economic instrument, not a spatial or biological criteria-based protection mechanism. It is a first-generation convention that operates on three appendices, listing species based on their threat to their survival. The authorisation or prohibition of trade depends on this classification. Appendix-I lists all species threatened with extinction that are or could be affected by trade, while Appendix II includes all species that could become threatened with extinction if trade in specimens of these species were not subject to strict regulation. Appendix III includes all species declared to be subject to regulation intended to prevent or restrict their exploitation and requiring the cooperation of other Parties for the control of trade. The effectiveness of CITES has been the subject of significant studies on its effectiveness and efficiency. However, the control of the effectiveness of the Convention cannot be conducted with regard to all species threatened with extinction, as it would be both reductive and inaccurate. The CITES system is largely based on scientific advice and information, with authorizations or refusals to export or import specimens based on scientific advice. Environmental assessments have occupied an increasingly important place in recent years, particularly through assessments of the impacts of existing or future trade in species. The unbridled development of international material devoted to the environment can lead to questions about the legal, political, and scientific links existing between CITES and other international instruments relating to the environment and their influence on the effectiveness of the Convention. External cooperation are an important factor of dynamism for CITES and its partners, and they also seem to avoid contradictions or conflicts between the provisions of primary or secondary law of CITES and other international conventions.

1. Introduction

On March 3, 1973, an eighth-state meeting in Washington adopted the International Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES). The International Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES) came into force on July 1, 1975, and has undergone two amendments since. These amendments were a response to a threat that scientists clearly identified: the constantly increasing impact of trade on the conservation of wild species. This threat persists today, as these activities represent several billion dollars annually (Vincent et al. 2014).

Regulating this trade, which has an obvious impact on hundreds of millions of plant and animal specimens, is extremely difficult due to its scale. Experts estimate that the illegal trade in species accounts for 25% of global trade, generating revenues of approximately five billion euros. At the same time, some studies estimate that around twenty-seven thousand species disappear every year, or around seventy-four species a day. These

figures, which have been rising steadily since 1973 and bear witness to the global decline in biodiversity, demonstrate the relevance of CITES as an instrument for managing the conservation of wild species. On January 21, 2009, Bosnia-Herzegovina joined the Convention, bringing the number of parties to it to one hundred and seventy-five (Velázquez et al. 2011).

At the outset, it is important to remember that CITES, far from being a global treaty for the protection of wild species, is a convention dealing solely with international trade in threatened species. The level of "threat," as envisaged under CITES, is the result of an equation between the level of conservation of species and the impact on their populations of a man-made threat: trade. The notion of "endangered species" is therefore considered from two distinct angles: species "that are threatened with extinction (trade in which should be prohibited) and those that are not yet threatened with extinction (trade in which may be authorized)". We will adopt appropriate trade regulations for the concerned species based on these two threats. While the impact of CITES regulations on the management of biological diversity is obvious, it is necessary to understand that the Convention is first and foremost an economic instrument. The protection afforded is therefore neither spatial nor based solely on biological criteria but is the direct consequence of managing an activity (Wells et al. 1991).

As a first-generation convention, CITES has a relatively simple operating system. Three appendices, which list species according to the degree of threat to their survival, form its entire basis. This classification is the basis for authorizing or prohibiting trade with a given animal or plant species (Morton et al. 2022).

Appendix I lists "all species threatened with extinction that are or may be affected by trade," so the aim is not to protect all endangered species indiscriminately, but only those whose trade could cause them to become extinct. For species listed in Appendix I, trade "shall only be authorized in exceptional circumstances," and it is totally prohibited if it is solely for commercial purposes. Therefore, we must demonstrate not only the impact of trade but also the species listed in Appendix I. Therefore, we have defined a threat threshold based on biological criteria. Therefore, we have defined a threat threshold based on biological criteria: we consider a species as threatened with extinction when its probability of extinction is 50% within five years or 20% within ten years (Ugochukwu et al. 2018).

Appendix II includes "all species which, although not necessarily threatened with extinction at present, could become so if trade in specimens of these species were not subject to strict regulation". This appendix encompasses specific species that necessitate regulation to effectively manage the trade in specimens of listed species. Trade in Appendix-II species is, in principle, authorized but subject to compliance with all the formalities set out in Article-IV of the Convention (Dickson 2002). Finally, Appendix III includes "all species to which a party declares to be subject, within the limits of its jurisdiction, to regulations designed to prevent or restrict their exploitation and which require the cooperation of the other parties for the control of trade (Lubis 2017).

Each Conference of the Parties (COP) is where the CITES system changes because the Member States vote on changes to the annexes. The COP decides whether to add or remove species from an appendix and whether to adopt or change resolutions. Because of its age and specific features, CITES has been and continues to be the subject of a large number of studies on its effectiveness and efficiency. However, we cannot check the effectiveness of the Convention in relation to all species threatened with extinction, but rather in relation to the text's very purpose. It would therefore be both simplistic and inaccurate to regard the Convention as aiming to protect *all* endangered species (Lewis 2009).

CITES' effectiveness has usually been examined from two perspectives: science's role in the Convention's operation and state applications. Upstream of the decision-making process, the CITES system relies heavily on scientific advice and information. Authorizations and refusals to export or import specimens must be based on scientific advice. Each party must designate at least one scientific authority. The Secretariat, on the other hand, "shall undertake, in line with programs decided upon by the Conference of the Parties, scientific and technical studies which will contribute to the implementation of the present Convention." These studies will include ones that look into the rules that must be followed for the proper storage and transport of living specimens as well as ways to identify these specimens. Lastly, the Conference of the Parties (COP) mandated that proposals to amend Appendices I and II must rely on the most up-to-date information, with the Parties providing solid scientific reports to support each proposal. While scientific biological assessments have always played an essential role in negotiations at CITES COPs, environmental assessments have become increasingly important in recent years, particularly through assessments of the impact of trade in existing or future species (D'Cruze et al. 2016).

Since CITES is not self-executing, the Member States must first transpose each decision, raising questions about the situation downstream of the decision-making process. After transposing the decisions, the uniform application of the adopted decisions becomes crucial (Graham 2017).

If we continue to consider these two aspects in our study of the effectiveness of the Washington Convention, we should also investigate a third aspect. In fact, if international environmental issues are allowed to grow without limits, people will start to question the legal, political, and scientific ties that exist between CITES and other international environmental laws, as well as how important those links are to the effectiveness of the Convention. Reviewing the studies conducted on the Washington Convention and examining its operation from this perspective suggests that external cooperation plays a crucial role in dynamism, benefiting both CITES and its partners (II). Beyond that, they also seem to be a safeguard that makes it possible to avoid certain contradictions, or even conflicts, between the provisions of primary or secondary law of CITES and other international conventions—conflicts that would inevitably reduce the effectiveness of the instruments in question (I) (Wiersema 2017).

Apart from the technical interest of this study, it is worth noting its underlying theoretical contribution. Indeed, this "self-regulation" appears to bolster the theory that views the international legal order as a cohesive system rather than a fragmented entity (Garrison 1994).

This article will therefore look back at some of the international cooperation that plays the most active part in the life of the Convention. The arduous negotiations at the last COP25 and the intense European debate on bluefin tuna classification demonstrate how challenging this life can be (Challender et al. 2015).

We will prefer the term "cooperation" over any other noun, as it uniquely represents the plurality and diversity of the links developed by CITES with other conventions. However, we will only study cooperation that has a legal foundation, not the sporadic cooperation that certain bodies of these conventions conduct on their own (Swanson 1999).

1. Cites External Cooperation: Joint Risk Management Conflict of Standards

Among the obstacles likely to affect the effectiveness of international conventions, the risk of oppositions developing between several texts of equal legal force is undoubtedly one of the most important. How can we ensure the effectiveness of one treaty if another, involving the same parties, yields the opposite outcome? There may in fact be profound contradictions between two texts that are in force at the same time, whether at the level of their provisions of primary law (A) or secondary law (B). CITES is no exception to this state of affairs (Fuchs 2008).

The two most striking examples of this risk of conflict are the World Trade Organisation (WTO) and the International Whaling Convention. Since the aim of the CITES regulations is to manage trade in endangered species, there is a risk of contradiction with GATT rules. As for the Whaling Convention, while the provisions of the treaty are perfectly compatible with those of CITES, the debates conducted within the COPs of the two Conventions clearly show the real danger of seeing a conflict of standards develop at the level of their secondary legislation (Wells et al. 1991).

1.1 A Risk of Opposition in Principle: CITES and the World Trade Organisation (WTO)

Among the oppositions to CITES, the relationship between the Washington Convention and the WTO consistently captures the attention of legal experts. Fourteen environmental conventions the WTO Secretariat has listed 14 environmental conventions that use trade measures, with CITES occupying a prominent position due to its purpose standards and GATT rules is real here, since in addition to regulating the import-export of wild species of fauna and flora threatened with extinction, the Convention allows the parties to adopt stricter trade measures, up to and including a complete ban on trade in certain species. The exercise of this right raises numerous concerns regarding the transparency, necessity, equity, consistency, and proportionality of these prohibition decisions, as mandated by the WTO. The CITES bodies (COP and Secretariat in particular) are aware of these concerns and of the real risk represented by a clash between the rules adopted and those of the GATT. Thus, in its *Vision of a strategy up to 2005*, objective 5.1 of CITES was to "ensure that measures taken under CITES are recognised and accepted by the WTO and that mutual support prevails between these bodies in the decision-making process." "Parties should encourage coordination between the Secretariat and the WTO Secretariat," according to two earlier CITES decisions, and "CITES management authorities should work with their national trade experts to improve mutual understanding of the objectives of CITES and the WTO" (Cochrane 2015).

Since the early 2000s, the bodies of the Washington Convention have increased the frequency of their meetings, participating in numerous colloquia and working sessions with representatives of the WTO, UNEP, and other

multilateral environmental agreements (MEAs) that address the compatibility of the trade measures they adopt with the rules of the GATT. CITES is also an *ad hoc* observer at special sessions of the WTO's Committee on Trade and Environment (CTE) and, in 2007, requested observer status on the WTO General Council. Despite the General Council rejecting the request due to a block on observer status, the WTO acknowledged CITES's valuable contribution to the ongoing Doha environment negotiations through its role within the CTE. CITES subsequently reiterated its request for "observer status in the General Council and other WTO bodies that the Committee deems relevant." Finally, objective 3.5 of the CITES Strategy Vision for 2008–2013 again addresses cooperation with "other international organizations and agreements dealing with natural resources" in order to achieve a "coherent and concerted approach" to species that may be threatened with extinction through unsustainable trade (Gorobets 2020).

No panel of the WTO's Dispute Settlement Body (DSB) has yet to rule on the conformity of the rules of the Washington Convention with the GATT, largely due to the concerted efforts of the WTO and CITES bodies. However, the question remains largely open and is the subject of various reflections (Gehring et al. 2008).

GATT rules do not expressly prohibit the inclusion of trade-related measures in environmental agreements, provided that these measures serve the sole purpose of protecting the environment, human life, and health, are consistent with the organization's rules, or align with the exceptions outlined in those rules. Since the United States-Gasoline Standards case in 1996, the panels and the Appellate Body have repeatedly affirmed this right. Article XX of the GATT specifies some of these exceptions, two of which relate to trade measures taken to protect the environment and human health. It provides that "Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(g) relating to the conservation of exhaustible natural resources, if such measures are applied in conjunction with restrictions on domestic production or consumption (Couzens et al. 2013).

The *United States-Gasoline Standards* case, the *Tuna-Dolphin I* case, the *Tuna-Dolphin II* case, the *Shrimp-Turtle* case 42, and the *Asbestos* case, in particular, have shown the extent to which the interpretation of the chapeau and subparagraphs b) and g) of Article XX can be complex and controversial. One thing is certain, however: the panels and the Appellate Body are not "anti-AME" and therefore not "anti-CITES." *The Tuna-Dolphin I* case's GATT panel ruled that international agreements could protect dolphins. However, it rejected the argument that Article XX was extra-territorial. The panel in the *Thon-Dauphin II* case reached a different conclusion, suggesting that "Article XX may have extra territorial effect but not extra-jurisdictional effect. In the *Shrimp-Turtle* case, the WTO panel and appellate body found in favour of environmental treaties. The appellate body seems to confirm that WTO members can take extraterritorial measures to protect natural resources, provided that they do so under an environmental agreement (Ugochukwu et al. 2018).

In 2006, CITES took note of the Director-General of the WTO's statement during the European Commission's Green Week: "We all know that we should avoid unilateral action [to protect the environment]". So, let's support multilateral environmental agreements. In addition to citing CITES numerous times as an instrument for protecting the biological heritage, Pascal Lamy added that "the WTO Appellate Body has repeatedly confirmed that WTO rules should not be interpreted in isolation from other legislation (Vincent et al. 2014).

Uncertainty remains, however, as to the actual compatibility of CITES-type MEAs with GATT rules. Some authors propose two potential solutions to resolve this ambiguity: either amend Article XX by incorporating a specific paragraph for MEAs, or establish a collective interpretation of this article that would validate current MEAs, such as CITES, and serve as a model for future ones. However, these solutions, like many others, remain doctrinal in nature, and it remains unclear what position a panel would adopt in the event of a conflict between regulations stemming from a convention such as CITES and the GATT rules. The *Shrimp and Prawns* case appears to have brought some clarity, but in the *Biotech Products* case, the panel implied that all WTO members must be members for an MEA to be considered. For some, it is likely that the task of coordinating MEAs using trade-related measures with GATT rules will fall primarily to the panels and the Appellate Body. This highlights the importance of the relationship and work carried out jointly by CITES and the WTO. For the time being, this cooperation seems to be the surest way of avoiding any conflict of standards and therefore intervention by the DSB (Lewis 2009).

Besides the philosophical disagreements that could make CITES less useful if it clashed with another system's primary law rules, like those of the WTO, there may also be problems when secondary law rules adopted under different conventions clash. This risk of conflict, often due to the intractable position of certain States Parties,

is a recurring stumbling block between CITES and one of the oldest international conventions relating to the environment: the International Whaling Convention (Favre 1993).

1.2 Risks of Opposition in Implementation: CITES and The International Whaling Convention

A conference of fifteen states in Washington adopted the Whaling Convention, also known as the International Convention for the Regulation of Whaling and its Protocol, on 2 December 1946. It came into force the following year and was one of the first modern international treaties devoted to an environmental issue. The few precedents include the "common law" resulting from the arbitration award on fur seals and the London Conventions. It is important to note that, similar to CITES, the Whaling Convention does not serve as a global tool for the protection of large cetaceans. The first environmental in fact, the first environmental treaties were characterized by their "utilitarian" or even mercantilist aims; in any case, they were "anthropocentric," with the protection of species achieved by imposing prohibitions or restrictions on the hunting or capture of the animals in question. s described in the last paragraph of its preamble, organizes its mandate around a dual objective: the effective conservation of large cetacean stocks and the orderly development of the whaling industry. In the 1990s, the IWC broadened this initial mandate to include the management of stocks of small cetaceans (orcas, dolphins, porpoises, etc.) (Bowman 2013).

Currently, Appendix-I of CITES lists the vast majority of hunting-affected large cetacean species, prohibiting commercial trade of their specimens except in "exceptional circumstances." The Whale Convention has completely prohibited the commercial whaling of large cetaceans since the 1982 moratorium on commercial whaling came into force in 1986. We renew the moratorium every four years, and it remains in effect to this day. Genuine scientific and legal cooperation has developed between the two bodies. In 2000, for example, CITES adopted a resolution on "the conservation of large cetaceans, trade in large cetacean specimens, and relations with the internal. For instance, in 2000, CITES passed a resolution on "the conservation of large cetaceans, trade in large cetacean specimens, and relations with the International Whaling Commission," mandating the transmission of all pertinent information from its member states to the Whaling Commission as significant (Sand 2013).

There are, however, a number of grey areas that mar this idyllic picture. When it comes to cetaceans, some countries are stepping up their efforts to preserve their whaling activities. These states are Japan, Norway, and Iceland. Together, they pose a threat not only to the preservation of the current cetacean protection but also to the smooth operation of the IWC and CITES. Norway and Iceland, exercising their right of objection, rejected the 1986 moratorium and proceeded with commercial whaling. Japan, which had also objected to the moratorium, withdrew its objection but has since been conducting scientific whaling campaigns, as permitted under Article VIII of the Whaling Convention. In addition to its commercial whaling campaigns, Iceland, like Japan, carries out scientific whaling. States that carry out this hunting are free to use the products of their hunt in any way they desire, but Article VIII requires a scientific interest to justify the hunting permit. Japan therefore uses it to supply its domestic market. The Member States themselves issue scientific whaling permits, allowing permit holders to hunt an unlimited number of whales (Andersson et al. 2021).

Notably, these three hunting countries have implemented reservations on all the cetacean listings they target. Therefore, the practice of reservations and the right to object pose a de facto danger for both CITES and the IWC. This is because the three states are effectively "released from their obligations concerning cetaceans" under the two instruments, resulting in ineffective cooperation and regulations. But beyond this practice, another major threat sometimes arises in relations between CITES and the IWC. Faced with the failure of their attempts to get the Commission to suspend the moratorium, certain states, such as Japan, bound by the 1986 text since the withdrawal of its objection, do not hesitate to take action before CITES, demanding that certain cetaceans be removed from Appendix-I. The issue is as follows: Appendix I prohibits the importation and exportation of specimens for commercial purposes only. In fact, the prohibition extends to any trade in their derivatives. Japan only carries out scientific whaling as authorized by Article VIII of the Whaling Convention, but it can only use the products of its hunt (whale meat and by-products) on Japanese soil because of the provisions of Appendix-I. If CITES decided to downgrade certain large cetaceans from Appendix-I to Appendix-II, Japan would be able to develop a trade in whale by-products without violating the 1986 moratorium, since in the eyes of the IWC it is only hunting for scientific purposes (Challender et al. 2020).

Having perceived the danger, the IWC, at the initiative of the United Kingdom, adopted a "CITES Resolution" in May 2007, reiterating the listing of all species of enormous whales on the IUCN Red List and the importance, for their protection, of maintaining their Appendix I status. Under the mandate to protect wild species threatened by trade and the influence of its 2000 resolution, CITES members rejected the Japanese draft decisions at the 2007 COP. These decisions, if adopted, would not have resulted in the down-listing of large

cetacean species from Appendix I, but they could have been a first step in that direction. At present, CITES and the IWC are still working together to protect threatened species of large cetaceans. For instance, the fourteenth CITES COP adopted a decision that prohibits any "periodic review," meaning an examination that could potentially lead to the down-listing of great whales, as long as the IWC moratorium remains in effect. These few developments highlight the pitfalls that threaten the effectiveness of the Washington Convention. The contradiction between the provisions of CITES and those of the WTO could seriously paralyze the action of the former, and the Japanese example demonstrates that secondary legislation, even if it doesn't obstruct the Convention's action, can be equally counterproductive and harmful to the environment. Furthermore, we have only discussed three regimes here, while the number of conventions on environmental matters alone currently stands at over two hundred and sixty. However, the WTO and the IWC serve as examples of how cooperation between various international forums can be crucial, enabling the application of various instruments and regimes without significant incoherence. Aware of this fact, CITES does not hesitate to develop, maintain, and improve a large number of synergies with other instruments devoted to environmental protection (Velázquez et al. 2011).

2. CITES Cooperation: A Factor of Dynamism and Influence

The international cooperation that CITES has developed appears to play a significant role in the dynamism, effectiveness, and influence of the Convention and its partners, surpassing any risk of contradiction or conflict of standards. The most representative examples of this dynamic are the synergies developed with the other major environmental conventions, such as the Convention on Biological Diversity and the Convention on Migratory Species (2.1). In addition, although it does not constitute cooperation in the sense presented in this article, the regional application of the Convention in Europe and the links developed with the European Union are an important additional factor of effectiveness (2.2) (Hepworth et al. 1998).

2.1 CITES Synergies: Examples from the Convention on Biological Diversity and the Convention on Migratory Species

Alongside CITES, two major species protection conventions are the 1979 Bonn Convention on Migratory Species and the 1992 Convention on Biological Diversity. It is therefore not surprising that CITES has sought to collaborate with the bodies of these two instruments. The first of these instruments, unlike CITES and although it is more of a not a binding instrument, the "framework treaty" is a genuine species protection treaty, also based on a system of appendices. Appendix-I contains the list of "endangered migratory species" and Appendix II the list of migratory species "whose conservation status is unfavourable" and which "require the conclusion of international agreements for their conservation and management" (Dickson et al. 2002).

The only truly binding provision contained in the CMS text is the prohibition on any taking of specimens of species listed in Appendix I. The protection of Appendix II species is left to the States, which must conclude regional agreements for the protection of migratory species crossing their territory. The second was one of the main agreements adopted in 1992 at the Earth Summit in Rio de Janeiro, and is intended as a text for the global protection of biodiversity. To achieve this, the CBD sets three objectives to be respected: "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of its genetic resources" (Vincent et al. 2014).

To achieve their common objectives, CITES and the CBD signed a *Memorandum of Understanding* in 1996 to promote institutional cooperation, the exchange of experience and information, the coordination of work programmes and joint conservation actions. In order to ensure the effectiveness of this agreement, the CBD COP adopted the same year a decision relating to in this document, the Commission calls on the Member States of the European Union and the European Community to: "The relationship of the Convention with the Commission on Sustainable Development and the conventions on biological diversity, other relevant international agreements, institutions and processes", in which it asks the Member States to "National correspondents" of the two conventions to "cooperate in the application of the provisions of these conventions at national level in order to avoid duplication".

In 2001, the *Memorandum* was amended. Article 5a was added, requiring the parties to "develop work plans for the implementation of joint actions". In 2004, a symposium of experts was held in Germany to promote synergies between the CBD and CITES. Particular emphasis was placed on the beneficial effects of such cooperation. For the experts, "CITES trade provisions provide a potential vehicle for managing trade in fauna and flora in the context of achieving CBD-related goals". The same year, CITES endorsed these conclusions in the context of "improved synergy in the application of CITES and the CBD", and the issue was again on the agenda in 2005 (Morton et al. 2022).

One of the main actions developed thanks to the synergy between CITES and the CBD is certainly the *Global Strategy for Plant Conservation* adopted by the CBD in 2002, with the first results expected in 2010. The main objective is to "combine efforts to halt the decline in plant diversity", a decline that is much less well known to the general public than that of animal diversity. Aware that CITES has listed a large number of plants in its appendices, the CBD in 2000, even before adopting the *Strategy*, asked its secretariat to "liaise with the relevant organisations, in particular [...] CITES [...] in order to gather information on plant conservation" (D'Cruze et al. 2016).

The Washington Convention responded to the CBD's call and, in addition to providing the information needed to continue studies on the state of plant conservation, adopted several decisions asking the Plants Committee to work in collaboration with the CBD. For example, a 2004 decision states that "the Plants Committee will establish, in its activities and collaborations, links with the Global Strategy for Plant Conservation adopted by the CBD, in particular with regard to Objective XI which states that 'no species of wild flora is threatened by international trade', as well as with other issues of interest to the CBD". A 2007 decision uses exactly the same terms, adding "[...] and other matters relating to species of flora listed in the CITES Appendices; the Secretariat shall communicate the results of its work under the Memorandum of Understanding with the Secretariat of the CBD". The *Strategy* is not yet fully operational, but the efforts made to achieve certain objectives, such as raising public awareness and strengthening the exchange of information and experience, are already producing results. In fact, in a decision adopted in 2010, CITES mandated the Plants Committee to collaborate with the CBD *Strategy*: "and on any process established to develop the Strategy after 2010, provided that it relates to CITES, as well as on other matters relating to plant species listed in the CITES Appendices; the Secretariat shall communicate the contribution made by CITES under the Memorandum of Understanding with the CBD Secretariat (Bowman 2013).

With the aim of carrying out complementary actions, the CITES and CMS Secretariats also signed a *Memorandum of Understanding* in 2002 to encourage institutional cooperation, the exchange of experience and information and the coordination of work programmes. Paragraph 7 of the preamble to this *MoU* states that "CITES activities concern migratory species and matters also covered by CMS or its subsidiary agreements". The agreement was amended in 2005 to include the "CITES/CMS List of Joint Activities 2005-2007" designed to facilitate implementation of the *Memorandum* and thus clarify cooperation (Couzens 2013). One of the main contributions of this cooperation has been the harmonisation of nomenclature and taxonomy. Indeed, in 2007, at its 57e meeting, the CITES Standing Committee had already agreed that it was necessary to start working with CMS on the standardisation of nomenclature. The two Secretariats therefore prepared a document on the taxonomy and nomenclature of fauna listed in the appendices of the two conventions, to be forwarded to the CMS Scientific Council. The document having been favourably received by the Scientific Council, the COP adopted a recommendation which states that the nomenclature used by CMS for terrestrial mammals will follow that of CITES, and asked the CMS Scientific Council to consider doing the same for birds. Conversely, for marine mammals, CMS preferred another standard nomenclature reference and asked the CITES Animals Committee to review this reference. In a resolution on standard nomenclature adopted in 2002 but revised in 2010, CITES appended a "list of standard references adopted by the Conference of the Parties" which included the new designations of two cetacean species put forward by CMS. This contribution, which is not negligible from a scientific point of view, has been monitored by the IWC in its census of whale populations (Wiersema 2017).

These institutional arrangements are shaping a new dynamic, based on results, whereas individual conventions are sometimes accused of inefficiency. In fact, the standardisation and exchange of information and the constant concern to avoid "duplication" can only facilitate the work of the convention bodies and, by the same token, increase their effectiveness. As the benefits are mutual, not only CITES but also its partners benefit from a new vitality (Garrison 1994).

2.2 Regional Application of the Convention: The Example of the European Union

Although it is not a question of cooperation, such as those presented so far, since, for example, no memorandum of understanding has been signed between CITES and the European Union (EU), the application of CITES within the EU is a factor in the effectiveness of the Convention that should not be forgotten (Challender et al. 2015).

It is important to note that the EU remains a non-member of CITES. This was initially due to the 1973 version of the Convention not including regional economic integration organisations as members. Adopted in 1983, the Gaborone Amendment filled this gap by allowing such organizations to join. Although the European Economic

Community, at the time, encouraged the adoption of this amendment, the Union still cannot be a party. Fifty-four of the countries that were members in 1983 must ratify the amendment for it to enter into force, but only forty-seven have deposited their instrument of ratification to date. This situation might suggest that some CITES members do not wish to see regional organisations become members. Could this be due to a fear of facing a block vote by the member countries of these organisations? This question was at the heart of the debate over the inclusion of bluefin tuna in Appendix I of CITES (Reeve et al. 2003).

This has not stopped the Community and then the EU from addressing international wild species trade. The Community therefore decided to implement the Washington Convention in the Community legal order by means of Regulations (EEC) No 3626/82 and No 3418/83. Regulations (EC) No 338/97 and No 1808/2001 later replaced these two regulations, coming into force on 1st June 1997 (Fuchs et al. 2008).

Regulation (EC) No. 338/97, now known as the "CITES Regulation," ensures that it is "applied in accordance with the objectives, principles, and provisions" of the Washington Convention. Article 74 of Commission Regulation (EC) No 865/2006 of 4 May 2006, as amended by Commission Regulation (EC) No 100/2008 of 4 February 2008, finally repealed Regulation 1808/2001. Although CITES relies on three appendices, the CITES Regulation significantly broadens the Convention's reach at the regional level. By doing this, the CITES Regulation allows for the inclusion of species in its four appendices that do not share the same classification as their CITES counterparts, or those not listed. Therefore, Appendix A encompasses species found in Appendix I of CITES, as well as species that face extinction or are extremely rare, regardless of their inclusion in Appendices II and III of CITES. With the exception of paragraph 3, Article 8(1) of the CITES Regulation formally prohibits all trade in species listed in Appendix A (Cochrane et al. 2015).

Appendix B is the most important in terms of the number of species listed. It brings together species listed in Appendix II of CITES, those listed in Appendix I but which have been the subject of a reservation, and species for which international trade or the action of invasive species could compromise the survival or conservation of populations. Unlike Appendix II of CITES, which only requires an export permit, the regulation requires any importer of a species listed in Appendix B to obtain an export *permit and* an import permit. Appendix C includes all species listed in Appendix III of CITES that have not been classified in Appendix B, as well as species classified in Appendix II but which have been the subject of a reservation. Only an export permit and an import notification are required to move a specimen from Appendix C. Finally, Appendix D has a list of species that aren't in any of the CITES appendices but whose imports by Member States are high enough that the Community should keep an eye on them. It also has a list of organisms that are in Appendix III but have been protected by a reserve. Any introduction into the EU is subject to the transmission of an import notification (Graham et al. 2017).

Articles 6 and 18 of the regulation allow the EU to adopt measures similar to CITES; In addition, the Commission has adopted "restrictions, either general or concerning certain countries of origin, on the introduction" of specimens. In 2008, in application of the CITES regulation, the Commission adopted a new regulation suspending the introduction into the Community of specimens of certain species of wild fauna and flora. On July 22, 2010, based on the Convention, the Commission adopted a new regulation listing the new appendices, following the amendments made at the last CITES COP.

In addition to providing protection for species not listed in the CITES appendices, the application of this community regulation is beneficial to the Convention in a number of other ways. The Regulation requires Member States to notify the Commission "and, for the species listed in its annexes, the Secretariat of the Convention" of any seizures or confiscations of listed species (Gorobets 2020).

The Member States are then obliged to send each other all the information relating to the species listed in the annexes to the regulation and also to send it to the Commission for the detailed drafting of the reports provided for in article VIII, paragraph 7 of CITES. Secondly, cooperation has been established between EU Member States since community law requires that all regulations be applied uniformly. In fact, the scientific authorities in each Member State meet approximately every two months in Brussels, as do the management bodies, which validate the decisions taken by the Scientific Review Group (SRG) at each meeting. The uniform application of the regulation has another interesting effect: when a Member State refuses the introduction of a specimen of an Appendix B species into its territory, all introductions of specimens of this species are immediately suspended throughout the EU. A decision by the GES may validate this suspension, and the Union may then adopt a suspension regulation. If the suspension is not validated by the GES, it will remain in force until new scientific data justifies its termination (Morton et al. 2022).

Finally, unlike CITES, the European Union has a court with jurisdiction to monitor the application of the regulation by its Member States. In 1990, the Court of Justice of the European Communities condemned France

for having failed to fulfil its obligations under Regulation 3626/82, which is now repealed. In this case, the Court ruled that the French authorities had breached their obligations by failing to ensure that the Bolivian exporting authorities were trustworthy by stating that the trade in cat skins had not had a negative impact on the conservation of the species hunted. Although it is not a party to CITES, the European Union, through Regulation (EC) No 338/97, is nevertheless a player in its own right in the field of international trade in endangered species and a potential partner for the Convention. In addition to creating a regular and reliable source of information, the uniform application of the CITES regulation, guaranteed by the Court of Justice, makes the EU Member States key players in the management of trade in endangered species. For example, the debate over the inclusion of bluefin tuna in Appendix I, which developed extensively before and during the 15th COP of CITES, arose from a proposal by Monaco that was taken up and promoted at the regional level by the European Union (Vincent et al. 2014).

As shown by the number of studies devoted to it, CITES remains a fascinating instrument of international environmental law. It is an illusion to think that CITES is ideally applied. Moreover, the Washington Convention, which celebrated its thirty-fifth anniversary this year, sometimes seems quite fragile compared with the imposing framework conventions developed over the last two decades (Wells et al.1991).

Nevertheless, it works and, supported by its application within the European Union, is showing a notable dynamism. While the significant development in environmental matters may pose a risk to individual treaties, this article shows the extent to which the diversity of conventions devoted to environmental protection is beneficial when the various instruments coordinate their activities. International cooperation enables CITES and its partners to improve their effectiveness by overcoming the risks of their respective actions being neutralized by a conflict of standards; by ensuring, through the quantity, quality, and diversity of the information exchanged, that they have first-rate scientific information; and, finally, by giving new value to the decisions of each organization through the support it receives from the others (Reeve et al. 2003).

However, the Washington Convention is under threat. Despite the environmental impetus being felt more and more across the globe, CITES needs to remember that its mandate is to manage the trade in wild species. Protection must certainly be guaranteed for the most threatened species, but it is really a question of ensuring the serene continuity of the activity and not just protecting biodiversity. This danger is real if not prevented, as shown by IWC animosity and problems.

3. CITES and Position of India

India is endowed with extensive mangrove ecosystems along the coasts of West Bengal, Odisha, Andhra Pradesh, Tamil Nadu, Maharashtra, Gujarat, and the Andaman Islands, encompassing an area of approximately 682,000 hectares. Coral reefs are prevalent in the Gulf of Kutch off the Maharashtra coast, along the Kerala coast, in the Gulf of Mannar, Palk Bay, Wadge Bank, the Tamil Nadu coast, and surrounding the Andaman and Lakshadweep Islands. These coastal regions are characterized by rich biodiversity, hosting diverse floral and faunal communities. However, these areas are increasingly threatened by human activities, including pollution, deforestation, indiscriminate resource extraction, dredging, and quarrying, all of which contribute to environmental degradation and adversely impact biodiversity. Following the 1992 Rio UN Conference on Environment and Development (UNCED), there has been a growing global emphasis on biodiversity conservation. Effective biodiversity protection relies heavily on understanding the taxonomy of various species, their ecological interactions, and the broader ecological context. To enhance environmental sustainability while maximizing resource returns, it is essential to develop policies that promote sustainable resource utilization, facilitate indigenous drug extraction primarily for domestic consumption, and allow for limited exports. While there is a natural inclination towards the intensive exploitation of exportable resources, it is crucial for the country to balance this with the imperative of biodiversity conservation and fulfilling domestic needs in its pursuit of increased foreign exchange (Rana 2023).

The Government of India has enacted several laws aimed at the conservation of living organisms and their habitats. Notably, various species of sponges and gorgonids found along the Indian coastline produce economically significant chemical compounds. The Indian Wildlife Protection Act of 1972, along with its subsequent amendments, provides essential protections for these species (Karanth 2013).

International trade involving all wild fauna and flora, particularly those species regulated under CITES, is governed by a combination of legislative frameworks, including the Wildlife (Protection) Act of 1972, the Amendment Act of 2002, the Foreign Trade (Development Regulation) Act of 1992, the Foreign Trade Policy of the Government of India, and the Customs Act of 1962. The Management Authority for CITES in India is the Director of Wildlife Preservation. The importation of animals, along with their parts and products, for purposes such as zoological parks, circuses, or research is permissible, provided it adheres to CITES regulations

and is recommended by the Chief Wildlife Warden of the respective States and Union Territories, under a license issued by the Director General of Foreign Trade (DGFT) (Kamalakannan 2017).

Additionally, the importation of wild animals classified as pests in a passenger's personal baggage is also regulated by CITES, in accordance with the Ministry of Commerce's guidelines. All imports and exports of wild animals, including marine species and plants, are restricted to specific Customs points located in Mumbai, Kolkata, New Delhi, Chennai, Cochin, Amritsar, and Tuticorin, as stipulated by the regulations. Two critical conditions that must be met for the import and export of wildlife and their derivatives are: (i) adherence to CITES provisions and (ii) inspection of shipments by the Regional Deputy Directors of Wildlife Preservation at the designated Customs points. For items regulated under CITES, an endorsement is required on the corresponding CITES export permit. Furthermore, all marine species listed in the Schedules of the Wildlife (Protection) Act of 1972 are prohibited from export, with all Holothurians specifically included in Schedule 1 of the same Act (Rana 2023).

India has been a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since 1976. The Managing Authority for CITES in India is the Additional Director General (Wildlife) and Director of Wildlife Preservation within the Ministry of Environment, Forest and Climate Change. The scientific authorities responsible for CITES-related matters in the country include the Directors of various zoological, botanical, marine, and wildlife institutes. In response to the escalating issue of organized wildlife crime, which has both inter-state and international implications, as well as the illegal trade in wildlife and its products, the Wildlife Crime Control Bureau was established in 2007 under the Wildlife Protection Act of 1972. The Bureau is headquartered in New Delhi, with regional offices located in New Delhi, Kolkata, Mumbai, and Chennai. The enforcement of CITES regulations is currently managed by Customs officials and Regional Deputy Directors of the Wildlife Crime Control Bureau, utilizing the Customs Act of 1962 at points of import and export, alongside the State Wildlife Departments led by Chief Wildlife Wardens under the Wildlife (Protection) Act of 1972 (Soni 2020).

The preservation of wildlife holds significant importance for humanity. The loss of wildlife species could ultimately result in the demise of the human population. The primary objective of wildlife conservation is to safeguard endangered species and maintain ecological equilibrium. In 2010, the Supreme Court of India mandated the Central and State Governments, along with their respective agencies, to take comprehensive measures to protect India's wildlife and enforce strict penalties against violations of the Wild Life (Protection) Act of 1972, which is essential for sustaining ecological balance in the country. In response to the escalating threats faced by wild animals, the Government of India has implemented various initiatives nationwide. Additional programs aimed at the conservation and protection of endangered species include captive breeding efforts and the South Asia Wildlife Enforcement Network (SAWEN), which addresses trans-boundary wildlife crimes. As of January 1, 2023, India boasts 106 National Parks, 567 Wildlife Sanctuaries, 105 Conservation Reserves, 220 Community Reserves, and 129 Marine Areas designated as protected regions (Singh 1999).

Moreover, initiatives such as the Animal Welfare Board of India (established in 1962), the National Wildlife Action Plan (1983), the Wildlife Trust of India (1998), and the Wildlife Crime Control Bureau (2007), along with the involvement of State Police and State Forest Departments, enhance governmental efforts toward animal welfare and protection. On an international scale, numerous initiatives have been undertaken to conserve wildlife. The Convention on International Trade in Endangered Species (CITES) established in 1973, the Convention on Migratory Species (CMS) from 1979, the Convention on Biological Diversity (CBD) from 1992, the Ramsar Convention of 1971, and the World Heritage Convention of 1972 are collectively referred to as the 'Big Five' global frameworks for wildlife conservation. Additionally, regional agreements focusing on specific areas such as Africa, Antarctica, and Europe further contribute to these global conservation efforts (Karanth et al. 2013).

International Wildlife Law encompasses a range of agreements that are binding in nature, often supplemented by a dynamic array of non-binding instruments, including decisions made during Conferences of the Parties (COP) and various action plans. Non-Governmental Organizations, such as the Trade Record Analysis of Flora and Fauna in Commerce (TRAFFIC) and the World Wildlife Fund (WWF), collaborate with governmental bodies and other stakeholders to promote effective conservation strategies aimed at preserving biodiversity, wildlife, and their habitats through the implementation of targeted programs and policies (Srivastava 2016).

In India, the challenge of safeguarding the environment and wildlife has intensified due to the increasing population and the corresponding demand for natural resources. The rampant destruction of animal habitats, coupled with poaching, hunting, and illegal wildlife trade, has resulted in the extinction of several species, including the Indian Aurochs, Pink-Headed Duck, Sunderban Dwarf Rhinoceros, Northern Sumatran

Rhinoceros, and Asiatic Cheetah. Numerous other species are now classified as endangered. According to the 2020 International Union for Conservation of Nature (IUCN) Red List, approximately 30,000 species of flora and fauna in India are considered endangered, with some, such as the Asiatic Lion, Snow Leopard, One-Horned Rhinoceros, and Musil, categorized as critically endangered (Heinrich 2021).

Human avarice and the widespread practice of poaching significantly threaten the survival of indigenous and endangered species within forest ecosystems, particularly among vertebrates that are nearing extinction. Data from the Wildlife Crime Control Bureau (WCCB) and associated law enforcement agencies indicate that between 2012 and 2018, over 9,253 individuals were apprehended for various poaching offenses in India; however, the conviction rate stood at a mere 2 percent. This statistic underscores a troubling reality: despite numerous arrests, perpetrators often evade legal consequences. The leniency of penalties under the Wildlife Protection Act of 1972 contributes to a lack of seriousness among both authorities and offenders regarding wildlife crimes, resulting in ongoing exploitation through hunting and illegal trade (Poonia et al. 2022).

Although there exists over and above 100 legislative measures at both Central and State levels aimed at environmental protection and wildlife conservation, the effective enforcement of these laws remains a formidable challenge. The National Green Tribunal, established in 2010 to address environmental and forestry issues, has largely failed to provide justice. A significant shortcoming of this specialized tribunal is its limited capacity, operating with only five benches, which hampers its ability to resolve cases promptly. Consequently, the backlog of pending cases continues to grow. Furthermore, as a quasi-judicial entity, the tribunal lacks the authority to adjudicate matters governed by the Indian Forest Act of 1927 and the Wildlife Protection Act of 1972. Similarly, the Pollution Control Board (PCB) suffers from inadequate staffing, expertise, and authority to effectively combat pollution. These constraints, coupled with insufficient funding, conflicts between local communities and forest authorities, and inaction at forest checkpoints, exacerbate the difficulties in enforcing environmental laws rigorously (Mohapatra 2015).

4. Conclusion

In comparison to developed nations, the status of animal welfare in developing countries remains significantly inadequate, despite the considerable efforts made by various organizations and individuals. This disparity can be attributed to a multitude of economic and cultural challenges prevalent in these regions. Furthermore, without a foundational level of awareness and education among the general populace, the enactment of laws is unlikely to affect meaningful change in the treatment of animals. A genuine understanding of the significance of wildlife and environmental conservation is essential; without this awareness, the exploitation of natural resources will persist, regardless of the number of laws established and enforced. Although numerous initiatives have been undertaken to safeguard the environment and wildlife, the results have often fallen short of expectations. As the most evolved species on Earth, it is imperative that we take comprehensive measures to ensure a sustainable environment and learn to coexist harmoniously with nature.

Despite the existence of various welfare legislations, programs, and policies aimed at protecting wildlife and the environment, immediate action is required to address the damage inflicted upon these areas. This includes implementing a comprehensive ban on the production of civilian arms and ammunition, increasing penalties and making certain offenses non-bailable, prohibiting human development projects in and around protected zones, stationing central forces alongside forest officials at forest checkpoints for effective monitoring, establishing more environmental courts with an independent judiciary, engaging local communities in conservation efforts, controlling human population growth, and developing alternative materials to replace all non-biodegradable products.

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