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# Commodity or Taboo? International Regulation of Trade in Endangered Species

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## The Wildlife Trade Problem

The world-wide commercial exchange of wildlife (live animals and plants) and wildlife products (hides and furskins, ivory, timber, and other derivatives) is big business—valued at between \$US5–50 billion annually.<sup>1</sup> The predominant direction of the trade is South-to-North, mainly driven by consumer demand from affluent developed countries and their profitable fashion and food industries but also from other users of rare animals and plants for medical and pharmaceutical research, exhibition, or collection purposes.<sup>2</sup> A characteristic feature of the trade is its luxury orientation, reflecting consumption patterns often ranging from the non-essential to the perverse.<sup>3</sup>

While exports of wildlife and wildlife products are thus a significant source of foreign-currency revenue for a number of countries, especially in the Third World, unsustainable rates of harvesting have led to serious depletion and—in a growing number of cases—exhaustion of the resource involved. Wildlife species are indeed renewable natural resources but, like many ‘flow resources’, they have a critical level below which a decrease in reproduction capacity becomes virtually irreversible<sup>4</sup>—even though artificial conservation measures (such as captive breeding in zoological gardens or propagation in botanical centres) may still postpone the moment of biological extinction.<sup>5</sup> The need to prevent extinction can be justified scientifically as well as economically, but ultimately depends on ethical (anthropocentric or biocentric) value judgements.<sup>6</sup>

Man-made risks to the survival of wild fauna and flora are well documented and well monitored, especially in the ‘Red Data Books’ compiled since 1966 by the Species Survival Commission (SSC) of the World Conservation Union (IUCN).<sup>7</sup> Commercial exploitation for trade is not, of course, the only cause of wildlife depletion. Destruction of natural habitats is generally recognized as the single most important threat,<sup>8</sup> followed by the introduction of alien species, and there are other contributing factors such as inadequate methods of harvesting or processing that may render utilization unsustainable.<sup>9</sup> Hence there is no simple mono-causal link between trade and the conservation status of a species according to its IUCN Red List category (‘vulnerable’, ‘endangered’, ‘critically endangered’).<sup>10</sup>

By the same token, international approaches to species

conservation address a wide range of issues and primarily focus on habitat protection,<sup>11</sup> in spite of the constraints which the ‘territorial imperative’ (of national sovereignty over most of the world’s biological resources)<sup>12</sup> traditionally imposes on a regulatory regime. Yet trade was readily identified as an issue where precautionary transnational action is both feasible and necessary—not only to avoid aggravating a multiple-cause ecological problem, but also to avoid a ‘free rider’ dilemma lest unilateral bans penalize individual importing or exporting countries *vis-à-vis* their less scrupulous competitors. Economic concerns for the ‘level playing-field’ in a sizeable world market thus played a role, too, in the diplomatic negotiations leading up to the 1973 Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).<sup>13</sup>

## International Response to the Problem

CITES was preceded by two unsuccessful international attempts to regulate wildlife management among colonial powers: the 1900 London Convention Designed to Ensure the Conservation of Various Species of Wild Animals in Africa which are Useful to Man or Inoffensive<sup>14</sup> and the 1933 London Convention Relative to the Preservation of Fauna and Flora in their Natural State.<sup>15</sup> Both treaties already contained basic elements of a system to deal with the problem of unsustainable exploitation of wildlife, by way of hunting restrictions for threatened species listed in annexes, confiscation of ivory taken illegally, and export licensing for specified wildlife products. Exceptions were provided for scientific collection and for specimens acquired prior to the entry into force of the treaty.<sup>16</sup> Under the 1933 Convention, any imports of listed species required export certificates from a competent authority in the territory of origin.<sup>17</sup> Though still focused on harmonization of local wildlife management rules—motivated by traditional concern for the preservation of colonial big-game hunting-grounds and revenues—the regime thus extended its controls to wildlife-importing countries, and already envisaged wildlife identification manuals for customs officers (Article IX/5).

While the 1900 Convention never entered into force (for lack of ratification by all signatories, as required under Article VIII)<sup>18</sup> and hence did not survive the first World War, the

1933 London Convention became applicable to most of Africa, and its import restrictions were subsequently extended by Britain to Aden and India, and by the Netherlands to Indonesia.<sup>19</sup> Yet the treaty had failed to provide for decision-making institutions and secretariat services; consequently, proposals for implementation and adjustment formulated during two technical follow-up meetings (held at London in 1938 and at Bukavu, Zaïre, in 1953)<sup>20</sup> were unsuccessful and were eventually overtaken by the political events of decolonization. Even though the 1933 Convention's provisions on export–import controls became the model for similar provisions in two regional treaties—the 1940 Washington Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere,<sup>21</sup> and the 1968 Algiers African Convention on the Conservation of Nature and Natural Resources<sup>22</sup>—those were never given any practical effect by the two regional organizations concerned, the Organization of American States (OAS) and the Organization of African Unity (OAU).

Meanwhile, however, the issue had been taken up by national legislators. In the United States, the Lacey Act of 25 May 1900, which prohibited interstate commerce in illegally taken wildlife, had been extended in 1935 to wildlife imported from abroad.<sup>23</sup> Pursuant to the 1930 Tariff Act, imports of birds, mammals, and their derivative parts or products into the United States required a certificate of legal acquisition from the US consulate in the country of export.<sup>24</sup> After a number of further amendments, the Endangered Species Conservation Act of 5 December 1969 authorized the US Department of the Interior to promulgate a list of wildlife ‘threatened with worldwide extinction’, imports of which were prohibited except for scientific or breeding purposes.<sup>25</sup> At the same time—in response to public lamentations about competitive disadvantages by the American fur and leather industries and the pet trade<sup>26</sup>—the US government was directed to encourage the enactment of similar laws by other countries and to ‘seek the convening of an international ministerial meeting’ to conclude ‘a binding international convention on the conservation of endangered species’.<sup>27</sup>

The initiative coincided with preparations for the UN Conference on the Human Environment,<sup>28</sup> and with ongoing work in the IUCN, whose 1963 General Assembly in Nairobi had called for an ‘international convention on regulation of export, transit and import of rare or threatened wildlife species or their skins and trophies’.<sup>29</sup> Successive drafts were prepared and circulated after 1967 by the IUCN Environmental Law Centre in Bonn,<sup>30</sup> and revised in 1969 and 1971 in light of comments received from 39 governments and 18 non-governmental organizations.<sup>31</sup> The IUCN drafts started from the premiss that wildlife trade was to be controlled or banned on the basis of global lists of threatened species to be drawn

up and updated (along Red Data Book lines) upon advice by an international expert committee. Opposition to this approach came from developing countries, led by Kenya, insisting on the right of each range State to determine its own list of tradable species;<sup>32</sup> that view found support in the United States (which also was a commercial exporter for products such as bobcat furs and alligator hides, and which found the Kenyan approach compatible with its Lacey Act). Ultimately, both approaches were consolidated in a 1972 US draft that served as working document for the conference of 80 plenipotentiaries, held at the Pentagon from 12 February to 3 March 1973.<sup>33</sup> By coincidence, one of the largest cases of illegal wildlife imports in New York—with ramifications for major European fur traders and multiple suppliers in Asia, Africa, and Latin America<sup>34</sup>—was discovered and prosecuted immediately prior to the Conference, thereby adding a high degree of publicity and urgency.

The outcome of the Washington Conference was CITES: a convention with 25 articles and four appendices—hailed by conservationists as ‘Magna Carta for Wildlife’<sup>35</sup>—that was both a ‘conservation *and* trade instrument’,<sup>36</sup> to protect wild fauna and flora both for humankind (‘present and future generations’) *and* as national heritage (of ‘peoples and States’). It institutionalized the core idea of the 1933 London Convention, by subjecting all wildlife imports—including trade with third parties (Article X)—to mandatory licensing (Article II/4), with permits (a kind of ‘passports’<sup>37</sup>) to be issued by the exporting countries, albeit in accordance with the common criteria of Appendix IV<sup>38</sup> and on the basis of an agreed ‘blacklist’ (of prohibited species in Appendix I, subject to certain exceptions) and ‘grey list’ (of controlled species in Appendix II). Furthermore, each country of origin may unilaterally add to the lists by entering species on Appendix III, or may notify other countries (through the Secretariat) of further national restrictions. All member countries have a duty to enact and enforce the terms of the treaty by national laws, and to provide periodic trade data and reports on enforcement measures (Article VIII). As to governance, CITES learned from the negative lessons of the 1933 Convention, and established the biennial Conference of the Parties as an autonomous body for decision-making and periodic treaty adjustment (Articles XI and XV). Secretariat functions were entrusted to United Nations Environment Programme (UNEP), with a formal mandate for assistance by ‘qualified’ non-governmental organizations (Article XII).<sup>39</sup>

## Evolution of the Regime

### *Institutions*

Most of the institutional structure of CITES emerged only after the treaty's entry into force, under the residual decision-making powers of the Conference of the Parties. A total of 190 recommendations adopted in the course of nine ordinary and two extraordinary meetings held since 1976 laid down a whole new body of rules—streamlined since 1994 in the form of 'resolutions', 'revised resolutions', and 'decisions'.<sup>40</sup> Even though Conference recommendations interpreting and elaborating the text of the Convention are not considered legally binding,<sup>41</sup> they have shaped the CITES regime in a manner hardly foreseeable at the time of its creation.

The first major institutional change was triggered by a financial crisis: in 1978 the UNEP Governing Council decided to phase out its funding for CITES over a four-year 'sunset' period, during which the Contracting Parties were expected to take over as direct contributors for all Secretariat and Conference costs.<sup>42</sup> In order to meet the legal concerns raised by some countries, a formal amendment of Article XI first had to confer financial powers on the Conference of the Parties; a special CITES trust fund was then established under UNEP auspices, with an agreed scale of contributions based on the UN scale.<sup>43</sup> As a result, the regime became financially self-supporting (with a current annual budget of about \$US5 million),<sup>44</sup> 'weaning' it from UNEP fund grants—and in the process empowering it also to seek more administrative independence. The relationship with UNEP has not been without turbulence: when the UNEP Executive Director in 1990 replaced the head of the CITES Secretariat, in the wake of the ivory trade crisis,<sup>45</sup> he ran into open conflict with the Contracting Parties; though ostensibly settled in 1992 by a special agreement defining UNEP's duties of prior consultation in staff and financial matters, negotiations continue.<sup>46</sup>

The next institutional innovation was the establishment of subsidiary bodies, operating in-between meetings of the Conference: the executive Standing Committee set up in 1979, and four functional committees which were given permanent status in 1987 (Animals, Plants, Identification Manuals, and Nomenclature).<sup>47</sup> A Technical Expert Committee, which from 1979 onwards had tried to harmonize national implementation, was abolished in 1987,<sup>48</sup> and later attempts at reviving it for enforcement purposes were unsuccessful. The four functional committees work in co-operation with external scientific bodies—including the IUCN/SSC specialist groups and other non-governmental organizations (NGOs)—to provide advisory services to the Conference (especially for the periodic adjustment and long-term review of CITES Appendices I and II by the Animal and Plant Committees, and for the global harmonization of zoological and botanical taxonomies by the Nomenclature

Committee), as well as guidance for national implementation (editing of multilingual reference texts, visual aids, and training materials for customs officers by the Identification Manual Committee<sup>49</sup>).

Unlike other organizations such as the International Whaling Commission (IWC), CITES has no central Scientific Committee serving as formal linkage—or cleavage, as the case may be—between scientific and political decisionmaking. Attempts to establish such a body subsequently, as part of an ambitious reorganization plan at the 1987 Ottawa Conference, were unsuccessful.<sup>50</sup> As a result perhaps, there have been no manifest internal conflicts along the science–politics divide *à la* IWC;<sup>51</sup> and the Conference plenary (with its two sessional 'committees of the whole', one for appendix amendments and one for all other matters) remained the uncontested forum for regime policy; e.g. in the 'precautionary principle v. sustainable use' debate over criteria for listing and de-listing of species on the CITES appendices.<sup>52</sup> One possible reason for the absence of institutional in-fighting at that level also is the decentralization and delegation of day-to-day scientific decisions to *national* authorities: pursuant to Articles III and IV of the Convention, questions relating to the survival status of any species affected by the licensing process are determined by the national scientific bodies designated by each country under Article IX—although the progressive codification of common scientific criteria by the CITES Conference tends to narrow down their margin of discretion.<sup>53</sup> A significant recent development is the emergence of new *regional* institutions for implementing the Convention within the European Union: the CITES Committee, established by EEC Council Regulation No. 3626/82 of 3 December 1982, assisted since 1986 by an advisory scientific review group and since 1995 by an enforcement working group, begins to take over from the Union's member States some of the functions previously exercised by national authorities.<sup>54</sup>

### *Sanctions*

The Standing Committee of the CITES Conference soon became the principal instrument for new methods of collective action against non-compliance, both within and outside the regime. As Article XIV/1 allows parties to take stricter domestic measures than those provided by the treaty (including complete prohibitions of trade), the Committee has in a number of cases recommended to all Parties to apply that article *collectively*—albeit temporarily—against individual countries found to be in persistent non-compliance: e.g. the United Arab Emirates (UAE) in 1985–90, Thailand in 1991–2,<sup>55</sup> and Italy in 1992–3.<sup>56</sup> In the case of the UAE, the country withdrew from the Convention in 1987, after being targeted by the trade ban; when it readhered in 1990, the ban was lifted.<sup>57</sup> The procedure has also been

used against States not party to the Convention, after persistent refusal to provide ‘comparable documents’ pursuant to Article X; in the case of El Salvador (1986–7) and Equatorial Guinea (1988–92), the ban was lifted after the countries targeted became Parties, thus turning from free riders to ‘forced riders’.<sup>58</sup>

In other cases, the same result is reported to have been achieved—partly at least—by unilateral rather than collective action: soon after the United States under its Lacey Act banned wildlife imports from Singapore on 25 September 1986—citing the country’s inability to provide the ‘comparable documentation’ required under Article X of the Convention—Singapore became a Party to CITES, on 30 November 1986.<sup>59</sup> After the CITES Standing Committee on 9 September 1993 recommended stricter domestic measures (‘up to and including prohibitions of trade now’) against China and Taiwan, the United States imposed unilateral trade sanctions against Taiwan under the Pelly Amendment<sup>60</sup> with effect from 19 August 1994;<sup>61</sup> Taiwan—which cannot legally accede to CITES in view of China’s membership—amended its Wildlife Conservation Act on 27 October 1994 along CITES lines, and the US embargo was lifted on 30 June 1995.<sup>62</sup> Japan’s withdrawal of its CITES reservations concerning marine turtles in August 1994 has also been credited to the threat of US trade sanctions; what is certain is that ‘pressures from abroad’—known as *gaiatsu* in Japanese—played a decisive role in that case.<sup>63</sup> Similarly, Indonesia’s announcements of ‘voluntary’ export quotas for several endangered species in 1994 may be attributed at least in part to a European ban on wildlife imports from Indonesia, imposed by the EU CITES Committee in 1991 (under article XIV/1) and subsequently lifted in 1995 (based on findings of a field inquiry pursuant to article XIII/2, carried out by an IUCN/SSC expert commissioned by the EU).<sup>64</sup>

### *Deviation Tolerance*

Unlike its fatally immutable 1933 forerunner, CITES was deliberately designed as a flexible instrument that would adapt itself to changing circumstances (through its accelerated amendment procedure for species listed on Appendices I–III, a technique borrowed from other treaties<sup>65</sup>), and to a certain tolerable amount of deviation from full compliance: (1) through a system of reservations which allow dissenting countries to opt out of collective decisions about species listing (thereby retaining with regard to that species the same status as non-Parties); and (2) through a number of loopholes intentionally built into Article VII to deal with exceptional situations, such as specimens acquired prior to the Convention’s entry into force (the ‘grandfather clause’ already found in the 1900 London Convention).<sup>66</sup>

The opt-out system, which was more or less modelled

after the 1946 International Convention for the Regulation of Whaling,<sup>67</sup> initially turned out to be more of a problem than the drafters had anticipated.<sup>68</sup> A few countries took out massive reservations to preserve their free rider status in international trade with regard to economically important species—starting with the whalers (Japan, Norway, Peru, and St Vincent and the Grenadines are the only countries to maintain CITES reservations on whales today)<sup>69</sup> but also including other industrial consumers eager to protect their supplies: for instance, when the salt-water crocodile (*Crocodylus porosus*) was listed on Appendix I in 1979, the five countries controlling 80 per cent of the world’s luxury leather market (France, Germany, Italy, Japan, and Switzerland—for watch-straps) all entered reservations in order not to be outdone by their competitors. However, many of those early reservations have since been withdrawn, partly as a result of *gaiatsu*-type external pressures (including the European Community’s Regulation 3626/82/EEC requiring all its member countries to withdraw their CITES reservations by December 1983). Other reservations, which some countries routinely entered for bureaucratic reasons—to gain time for future administrative amendments (Austria), or to avoid overburdening their customs officers (Switzerland)—are insignificant in practice; threats to the effect that powerful members might reserve each time they were outvoted on a species did not materialize.<sup>70</sup>

With regard to the designer loopholes of Article VII, there have been a series of successive ‘interpretations’ and elaborations by the Conference of the Parties, sometimes narrowing down the exceptions (as in the case of transit shipments, or personal hunting trophies<sup>71</sup>), though rather more frequently by accommodating special interests, especially of wildlife-exporting countries—often as a trade-off for accepting stricter global listing of a species in return. New definitions of indeterminate terms such as ‘captive breeding’ and ‘artificial propagation’,<sup>72</sup> and the introduction of new exemptions such as ‘ranching’,<sup>73</sup> enabled countries meeting the criteria so established to make legitimate use (including transnational shipments) of Appendix I species at agreed sustainable rates. In the process, the CITES Conference and its Secretariat had to make use of innovative technical devices to ensure proper verification of origin and legal acquisition (e.g. special marking and tagging of wildlife products such as reptile hides and furskins, and of live animals by microchips<sup>74</sup>). Most importantly, the international allocation of export quotas to selected wildlife-producing countries (initially introduced as an exceptional measure for African ivory and leopard skins, later required as a condition for ‘downlisting’ other animal species from Appendix I to II) has become a regular item on the agenda of CITES Conference meetings.<sup>75</sup> Together with voluntary quotas for species on Appendices II and III,<sup>76</sup> their use is

now standard practice and actually begins to replace the original treaty requirement of a case-by-case 'no-detriment' finding in the granting of permits—even though there is no reference to a quota system anywhere in the Convention. None the less, these exceptions were subsequently agreed and accepted by the Parties with a view to introducing a higher degree of flexibility, within a tolerable margin of deviance from strict treaty norms.<sup>77</sup>

### *Drawing the Line*

So in a matter of two decades, the CITES regime fitted itself with new institutions, incentives, and disincentives ('carrots' and 'sticks') none of which were articulated in the original treaty text.<sup>78</sup> Did the development and use of these innovative instruments of governance contribute to making the regime effective; i.e. to the actual achievement of its objectives? Three prominent case histories may serve to illustrate the process of problem solving or 'fixing' that has emerged.

*Vicuña*: The first symptomatic policy dispute arose over CITES listing of the vicuña, the rarest species in the Andean lama family—sacred to the Incas, but in later centuries hunted relentlessly and almost to extinction because of its precious fine-wool furskin. By the 1960s the number of animals had declined to about 6,000, most of them in Peru. After the establishment of a German-funded wildlife management project in Peru's Pampa Galeras reserve in 1968, followed by a regional protection agreement with Argentina, Bolivia, and Chile at La Paz in 1969<sup>79</sup> and listing of the species on CITES Appendix I in 1973, vicuña numbers began to increase again and by 1979 had reached about 35,000 on the reserve. However, when the Peruvian government proposed to downlist the Pampa Galeras 'herd' to CITES Appendix II in order to export some of the animals and their products (to be 'harvested' by controlled culling) for the benefit of the local population,<sup>80</sup> the proposal met with strong opposition from non-governmental organizations at the 1979 CITES Conference in San José, Costa Rica. Led by a prominent Peruvian environmentalist, the NGO lobbying campaign succeeded in securing the one-third blocking minority of votes required to defeat the proposal. A compromise was reached at the 1987 CITES Conference—confirmed in 1992 and 1994—by downlisting geographically specified vicuña herds in Chile and Peru for the exclusive purpose of trading in wool sheared from live animals and identified by special cloth labels.<sup>81</sup>

*Ivory*: The second dramatic policy conflict concerned the African elephant (*Loxodonta africana*), the very species symbolized in the CITES logo. While the Asian elephant (*Elephas maximus*) had been protected on CITES Appendix I from the beginning, the African species was initially listed in Appendix II, at a time when at least 1.3 million elephants

were estimated to survive in the wild.<sup>82</sup> The theory was that well-established national programmes of wildlife management would ensure sustainability of the species as a source of tourism revenue, and would become self-supporting through income from controlled hunting and from sales of legally taken ivory, which was in high demand in countries with traditional ivory-carving industries (including China, Japan, Germany, and France).<sup>83</sup> CITES therefore concentrated its efforts on data collection, establishing a quota system for ivory exports, and standardizing the registration and identification techniques needed to verify the legal origins of ivory.<sup>84</sup> By the late 1980s, however, the illegal ivory trade had gone out of control, partly as a result of civil war in several range States (where both sides used ivory poaching to buy weapons abroad) and the free rider behaviour of non-Party states like Burundi and the UAE (serving as entrepôts for huge stockpiles of smuggled ivory destined for the Far East).<sup>85</sup> At the 1989 CITES Conference in Lausanne, after heavy lobbying by NGOs and a sequence of unilateral import bans,<sup>86</sup> a two-thirds majority voted in favour of transferring the African elephant to Appendix I, over the opposition of China and nine of the range States<sup>87</sup>—and of the CITES Secretariat (which had supported a moderated 'sustainable use' position and suffered a severe loss of face in the process<sup>88</sup>). Opinions on the effectiveness of the ban are divided, and the issue is far from closed:<sup>89</sup> even though subsequent proposals for downlisting or exemptions were withdrawn,<sup>90</sup> six Southern African range States have opted out of the trade ban by entering and maintaining reservations;<sup>91</sup> six African states have established annual trophy-hunting quotas in 1996 for a total of 628 elephants;<sup>92</sup> and a special expert panel continues to negotiate further country-specific arrangements to be submitted to the forthcoming 1997 Conference in Harare, Zimbabwe.<sup>93</sup>

*Beyond Berne*: Both the vicuña and the ivory controversies raised a more fundamental question of governance—namely, the adequacy of criteria for listing and de-listing on Appendix I and II, which once again are *not* found in the text of the Convention but were formulated in 1976 at the first CITES Conference in Berne.<sup>94</sup> The 'Berne criteria' underwent a number of modifications and exceptions in subsequent years;<sup>95</sup> they also prompted a series of surveys and reviews to ascertain the continued validity of the original listings in light of new biological data and trade statistics.<sup>96</sup> Proponents of the range States' economic utilization of wildlife resources criticized the criteria for their rigidity, which (for declared precautionary reasons) made it difficult to de-list or downlist a species once entered on an appendix. At the 1992 Kyoto meeting, a 'consumptive use block' of Southern African states (with support from the IUCN/SSC Specialist Group on Sustainable Use of Wildlife) unsuccessfully proposed an

alternative set of new ‘beneficial use’ categories.<sup>97</sup> Ultimately, the Berne catalogue was superseded by comprehensive new ‘Everglades criteria’ at Fort Lauderdale in 1994. While reiterating the precautionary principle, the new guide-lines for listing and de-listing (which are to be reviewed again in five years’ time) also reaffirm the special role of the range States of a species in the listing process, and are more specific with regard to the biological and statistical information to be taken into account.<sup>98</sup>

At the same meeting, the CITES Conference initiated an independent review of the overall effectiveness of the regime.<sup>99</sup> An external consultant team has been contracted to undertake the review, including an assessment of the Convention’s objectives; the extent to which the conservation status of selected listed species has been affected in both Party and non-Party States; implementation and enforcement of the Convention at the national level; and the relationship of CITES to other conservation instruments. The findings and recommendations of the review—including the results of a detailed questionnaire circulated in June 1996 to all Parties and to international organizations associated with CITES<sup>100</sup>—are to be submitted to the forthcoming 1997 Conference through the Standing Committee, as ‘feedback loop’ for further policy making and adjustment.

## Implementation

### *Legislation and Administrative Regulation*

By January 1997, 134 countries had become Parties to CITES, including virtually all of the ‘consumers’ (about 40) and ‘producers’ of wildlife (with some countries, such as the United States and Russia, belonging to both groups). As most of the Convention text is not ‘self-executing’, implementation requires—in addition to the formal act of ratification and promulgation in the national language—a series of follow-up measures at the appropriate legislative and administrative level of each country (and at several levels in federal states). CITES implementation illustrates a legal phenomenon known as *dédoublement fonctionnel*, in the terms coined by Georges Scelle:<sup>101</sup> rather than imposing a supranational regulatory mechanism of its own, the regime relies on reciprocal recognition of *national* regulatory decisions—provided these are made in accordance with mutually agreed standards—and leaves it up to designated national ‘management authorities’ (listed since 1980 in a global CITES Directory, together with their advisory scientific bodies) to operate the system on behalf of the international community.<sup>102</sup> In the case of the European Union, this somewhat schizophrenic role-splitting actually turns into *détriplement fonctionnel* for Management Authorities implementing a national law implementing the EU regulations implementing CITES.<sup>103</sup>

The enactment of national laws for this purpose and the empowerment of suitable national administrative agencies to enforce them are thus crucial first steps for ‘making CITES work’.<sup>104</sup> Given the diversity of national legal systems and administrative traditions, there is no single uniform ‘model law’ suitable for CITES implementation in all countries. Instead, a set of ‘guide-lines for legislation’, based on a comparison of State practice, has been issued as an implementation aid by the IUCN Environmental Law Centre since 1981.<sup>105</sup> In order to evaluate the adequacy of implementation by the Parties, the CITES Conference in 1992 defined the necessary minimum of domestic measures as comprising ‘the authority to (i) designate at least one Management Authority and one Scientific Authority; (ii) prohibit trade in specimens in violation of the Convention; (iii) penalize such trade; and (iv) confiscate specimens illegally traded or possessed’.<sup>106</sup>

As it turned out, even that minimum was a tall order for most countries. A survey of 81 CITES Parties carried out by the IUCN Environmental Law Centre in 1993–4 indicated that only 12 of the countries surveyed had completed the full range of legislative and administrative measures needed to give effect to all aspects of the Convention and related resolutions and decisions of the Conference of the Parties; legislation in at least 26 countries was found not to meet the four minimum requirements set by the Conference; and legislation in 43 other countries was considered incomplete or deficient in some specific aspects<sup>107</sup>—e.g. as regards regulation of trade in wild plants.<sup>108</sup> The 26 serious ‘laggards’ in the second category were notified that the next Conference will consider sanctions, including trade bans, against all parties which have not introduced (i.e. at least submitted to their legislature) the necessary regulatory measures by the time of the meeting in June 1997.<sup>109</sup>

### *Reporting and Monitoring*

Information on the actual administrative performance of CITES member States in implementing the Convention is available from two main sources: (1) annual and biennial self-reporting by the Parties on their national trade data and enforcement measures under Article VIII/7; and (2) compliance monitoring by the Secretariat under Article XIII.

With regard to *national* reporting,<sup>110</sup> the record is mixed: at the 1994 Conference, over 30 per cent of the Parties were identified as having failed to submit their annual reports in time.<sup>111</sup> Actually, the CITES reporting rate has improved over the years, and is currently better than that of several other global environmental treaties.<sup>112</sup> Even the incomplete trade data received since 1975 enabled the Secretariat to undertake export–import correlations which in a number of cases led to the discovery and closure of loopholes and illegal trade transactions;<sup>113</sup> and the amount of CITES data

processed by the Wildlife Trade Monitoring Unit in Cambridge rapidly increased (since 1986 about 200,000 trade records annually), to the point where in 1993 they were transferred to an Internet-accessible computer database.<sup>114</sup> None the less, the CITES Conference, in the course of streamlining its reporting procedures and deadlines in 1994, was sufficiently concerned over reporting gaps to decide that failure to report will in future be treated as a possible reason for trade sanctions to be initiated against the Parties concerned.<sup>115</sup>

The only leverage for *external* compliance control is Article XIII ('international measures'), which instructs the Secretariat to draw instances of non-compliance to the attention of the Management Authorities concerned, and subsequently, together with any comments received and follow-up information, to the attention of the Conference of the Parties. This provision gradually developed into a monitoring and verification process with active NGO participation. From 1976 onwards, an IUCN/SSC Specialist Group for Trade Records Analysis of Flora and Fauna in Commerce (TRAFFIC) started to collect information on alleged CITES infringements by wildlife traders and smugglers in different countries, which it then transmitted to the CITES Secretariat for action under Article XIII, or directly to the national authorities concerned. With funding from IUCN, the World Wide Fund for Nature (WWF), and other sources, the group has since established offices in 18 countries and now operates a world-wide network of 'CITES watchdogs'.<sup>116</sup> Paradoxically, frequent news reports about CITES infringements (as well as the prosecutions, confiscations, and fines ensuing) turned out to be the most effective way of raising public awareness and acceptance of the treaty, thus strengthening the legitimacy of the regime.<sup>117</sup>

The process was not without resistance, especially as the number of communications under Article XIII increased to over 300 per year.<sup>118</sup> When the Secretariat submitted its first detailed reports on infractions to the 1979 and 1981 CITES meetings, a number of governments objected and in at least one case formally complained for being 'fingered' repeatedly;<sup>119</sup> the obvious cause of discontent was the negative publicity and politically harmful media coverage given to certified non-compliance. In view of the clear mandate of Article VIII/8 for information disclosure, however, and as a result of meticulous editing and corroboration, the secretariat's 'infraction reports' have come to be accepted as a reliable and impartial instrument reinforcing national implementation and accountability.<sup>120</sup> Governments also began to realize the potential of CITES as a source of positive media attention ('success stories' as legitimization for national efforts in support of the regime),<sup>121</sup> especially for host countries of the biennial Conferences of the Parties, which have been known to make concessions on

substantive treaty issues in order to secure the meeting venue.<sup>122</sup>

Co-operation with the non-governmental TRAFFIC network has given CITES not only a high degree of transparency,<sup>123</sup> but also what is probably one of the best operational information sources available to any environmental treaty. While part of this information is reflected in the Secretariat's infraction reports, further independent case-studies, as well as reports on seizures and prosecutions, are regularly publicized in the *TRAFFIC Bulletins*, thus promoting continuous information exchange on enforcement practice. In addition, there have been a number of *ad hoc* assessments of CITES enforcement in the three major 'wildlife consumer countries' (Germany,<sup>124</sup> Japan,<sup>125</sup> and the United States<sup>126</sup>) and in four key regions (Asia,<sup>127</sup> Latin America,<sup>128</sup> Southern Africa,<sup>129</sup> and Western Europe<sup>130</sup>), as well as in-depth investigations of the legal and illegal trade in particular threatened species.<sup>131</sup>

### *Compliance Assistance*

It has long been recognized that most implementation gaps of environmental regimes are the result not of any premeditated violation of treaty obligations, but rather of institutional and financial constraints, especially in the Third World.<sup>132</sup> A specific example was the case of Bolivia, where persistent non-compliance with CITES permit requirements led to a Conference Resolution (adopted at the Buenos Aires meeting on 30 April 1985) recommending that all Parties refuse to accept shipments of CITES specimens accompanied by Bolivian documents, or of specimens declared as originating from Bolivia, 'if within 90 days the government of Bolivia had not demonstrated to the Standing Committee that it had adopted all necessary measures to adequately implement the Convention'. After the government responded that it simply lacked the technical expertise to ensure proper export licensing, a group of CITES importing countries and the European Community offered to provide assistance for a training programme, and in November 1985 the Standing Committee recommended suspending the embargo.<sup>133</sup> 'Capacity-building' training seminars for officials from CITES Management Authorities and enforcement services in developing countries have since been organized on a continuous basis, with funding from the regular CITES budget and from extra-budgetary contributions. Liaison has also been established with the World Customs Organization (WCO) to harmonize procedures and training materials regarding trade in wildlife and wildlife products; and with the Interpol Working Party on Environmental Crime (Sub-Group on Wildlife Crime), in order to co-ordinate training for police officers in charge of combating illegal trade.<sup>134</sup>

However, compliance also requires behavioural changes in wildlife-consuming countries—through programmes of

public education and persuasion, in particular for tourists (as potential buyers of wildlife souvenirs<sup>135</sup>) and with regard to traders.<sup>136</sup> for as long as bribes paid to foreign officials remain fully tax-deductible in Belgium, Germany, Greece, and Luxembourg,<sup>137</sup> it seems unrealistic to expect that wildlife traders will not flout CITES restrictions in other countries when the opportunity arises.

## Impact on the Problem

After 20 years in force, the jury is still out on CITES, and the ongoing effectiveness survey will give the Parties an opportunity to deliver their verdict at the 1997 Conference. The views of commentators vary, although most are favourable.<sup>138</sup> while some consider the Convention ‘perhaps the most successful of all international treaties concerned with the conservation of wildlife’,<sup>139</sup> others rate its success as ‘symbolic rather than substantial’, though conceding its usefulness as an international forum for wildlife issues.<sup>140</sup> Rhetorical questions whether the Convention has ‘answered the call of the wild’ or the call for ‘freedom from extinction’ certainly miss the point: CITES *is not* a general wildlife management treaty<sup>141</sup> (whether it *ought to be* is another matter). As it stands, it is but one component of the existing patchwork of global and regional wildlife regimes, narrowly focused on the transnational trade issue, which is only one of the multiple threats to wildlife;<sup>142</sup> and hence should be judged by its contribution to mitigating that particular threat. Unlike ‘unit management regimes’ such as the IWC,<sup>143</sup> it does not even control the actual taking of any wildlife—be it through a moratorium or catch quotas,<sup>144</sup> or through prescribed methods of capture. A proposal at the 1983 Conference to ban trade in furskins taken by use of steel-jaw leghold traps (considered cruel to animals) was rejected as being beyond the jurisdiction of the treaty;<sup>145</sup> and the 1994 Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora,<sup>146</sup> which provides for supplementary regional anti-poaching and anti-smuggling measures, has been criticized as encroaching on the sovereign regulation of hunting.<sup>147</sup> Actually, the only formal mandate for CITES to regulate the physical treatment of wildlife are provisions on transport (Articles III/2/c, IV/2/c, and V/2/b).<sup>148</sup>

It seems somewhat hazardous, therefore, to correlate the effectiveness of the Convention directly with the actual (positive or negative) conservation status of a species in its natural habitat,<sup>149</sup> or even with the overall volume of trade<sup>150</sup>—considering the multitude of cause–effect relationships most of which are outside the control of CITES, and recognizing that the Convention is not a priori anti-trade. Attempts at ‘measuring’ conservation success by the number of species transferred from Appendix I to II (on the assumption that

de-listing or downlisting would indicate recovery or an ‘out-of-danger’ finding)<sup>151</sup> are equally inconclusive, since many transfer decisions by the Conference were made for different administrative reasons.<sup>152</sup> There are, however, a number of substitution effects on the consumption side of the wildlife market which may legitimately—at least partly—be attributed to CITES:

1. in the food and fashion industries, the disappearance of luxury products from species listed on Appendix I, such as turtle soup, or the replacement of leopard fur coats by synthetic fabrics;
2. in medical and pharmaceutical research, and to some extent in the pet trade, substitution of captive-bred for wild-caught animals on Appendix I (e.g. primates); in the leather industry, the rapidly growing supply of reptile hides from CITES-controlled crocodile-ranching operations;<sup>153</sup> in the decorative plant trade, substitution of artificially propagated plants (such as orchids and cacti from CITES-registered nurseries) for nature-collected specimens; and
3. in many wildlife-consuming economies, a shift from CITES-protected species to other species not (yet) listed on the Appendices. As to the latter, concern has already expressed over a potential ‘domino effect’, and TRAFFIC has begun to monitor international trade developments also with regard to previously unaffected species (e.g. growing trade in hippopotamus ivory as a substitute for elephant ivory).<sup>154</sup>

## Barriers to Further Progress

There are signs that CITES may indeed have reached its outer limits. Considering the treaty’s focus on transnational trade, the advent of large free trade areas—aimed at the abolition of internal trade boundaries—is bound to diminish the future relevance of CITES-type border controls, unless new methods of regulation can be developed to cope with geopolitical changes of that order.<sup>155</sup>

The first test in this regard was the European Union’s move towards a boundary-free ‘internal market’ in 1984.<sup>156</sup> Even though formal CITES membership of the European Community—under the 1983 Gaborone Amendment to the treaty<sup>157</sup>—has still not entered into force for lack of the required minimum number of ratifications, the Community enacted its own binding regulations to implement CITES from 1982 onwards,<sup>158</sup> tightened by successive amendments and enforced by a landmark judgment of the European Court of Justice in 1990 (holding an unsubstantiated French CITES import permit to be in infringement of Community law).<sup>159</sup> Nevertheless, critics have pointed to serious shortcomings of those regulations—including the loss of important



statistical data on trade flows,<sup>160</sup> the automatic mutual recognition given to permits from other EU countries (making enforcement dependent on the weakest link),<sup>161</sup> and the lack of EU-wide wildlife control and inspection services to replace the former national border controls.<sup>162</sup> A comprehensive revision of the 1982 regulations, scheduled to enter into force in June 1997—which took the EU five years to prepare,<sup>163</sup> and which undoubtedly is an improvement—still fails to come to grips with these problems.

A second major challenge is the role of CITES in limiting unsustainable exploitation of species that are still outside its ambit—falling either within the regulatory competence of some other resource management regime, or under the dogma of permanent national sovereignty over natural resources. The issue came to the forefront with Dutch and German proposals at the 1992 and 1994 CITES Conferences to list commercially used tropical timber species such as mahogany and ramin on Appendix II, against predictable resistance from some range States (especially Malaysia, Brazil, Cameroon, and Congo, insisting on prior approval by the International Tropical Timber Organization).<sup>164</sup> Still, a total of 15 timber or ‘woody’ species have been placed on the CITES appendices to date;<sup>165</sup> big-leafed mahogany (*Swietenia macrophylla*), which in 1994 missed the required two-thirds majority for Appendix II by six votes in a secret ballot, was eventually listed on Appendix III by Costa Rica.<sup>166</sup> A temporary Timber Working Group established by the Conference will submit proposed new procedures for the listing of timber species in 1997, including consultation with other international bodies in that sector.<sup>167</sup>

The other explosive issue to resurface in 1997 may be ocean fisheries. While CITES amendments concerning marine species require consultations with ‘inter-governmental bodies having a function in relation to those species’ (Article XV/2/b), relations with the IWC, for one, have not always been easy.<sup>168</sup> After an only half-facetious suggestion by African countries during the 1989 Conference to list the North Atlantic herring in retaliation for elephant uplisting proposals, and after the last-minute withdrawal of a Swedish proposal for the listing of Atlantic bluefin tuna in 1992,<sup>169</sup> the 1994 Conference for the first time discussed shark fisheries and trade in shark fins—over the objections of Japan and other countries preferring to leave unlisted marine species to regulation by international fisheries agreements.<sup>170</sup> The issue is indeed reminiscent of negotiations for the 1979 Bonn Convention on the Conservation of Migratory Species of Wild Animals, where the inclusion of marine living resources was vehemently opposed by an ‘alliance of Pacific powers’,<sup>171</sup> from whose subsequent boycott that Convention never quite recovered. With the current price of Atlantic bluefin on the Japanese *sashimi* market well above \$US50

per kilogram,<sup>172</sup> the re-emergence of endangered fish species could become a political issue at the 10th CITES Conference. At any rate, the future development of CITES will be determined not only by reference to the ongoing ‘trade v. environment’ debate in the World Trade Organization,<sup>173</sup> but also by growing regulatory competition from sectoral regimes for management of the Earth’s dwindling biological resources.

## Notes and References

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1. Ginette Hemley (ed.) (1994), *International Wildlife Trade: A CITES Sourcebook* (Washington: World Wildlife Fund, Island Press); and Mark C. Trexler (1990), ‘The Convention on International Trade in Endangered Species of Wild Fauna and Flora: Political or Conservation Success?’, Ph.D. thesis, University of California at Berkeley, 9. These estimates do not include the world timber trade (about \$US40bn.) and international fisheries (about \$US12bn.). Nor do they take account of the ‘street value’ of clandestine wildlife traffic (about \$US5bn., according to a 1994 Interpol estimate), where a single hyacinth macaw fetches \$US10,000 (Noel Grove (1981), ‘Wild Cargo: The Business of Smuggling Animals’, *National Geographic Magazine*, 159/3 (Mar.), 287–314: 290).
2. Even within the category of scientific research, the majority of animal and plant imports is for lucrative commercial purposes such as pre-market testing of drugs, cosmetic products, etc.; see Tim Inskipp and Sue Wells (1979), *International Trade in Wildlife* (London: Earthscan), 32.
3. Peter H. Sand (1980), ‘Luxury at Any Cost’, *Naturopa*, 34–5: 59.
4. Siegfried von Ciriacy-Wantrup (1968), *Resource Conservation: Economics and Policies*, 3rd edn. (Berkeley: University of California), 39, 256; Paul R. Ehrlich and Anne H. Ehrlich (1981), *Extinction: The Causes and Consequences of Disappearance of Species* (New York: Random House); and Norman Myers (1996), ‘The Biodiversity Crisis and the Future of Evolution’, *Environmentalist*, 16/1: 37–47.
5. Colin Tudge (1992), *Last Animals at the Zoo: How Mass Extinction can be Stopped* (Washington: Island Press).
6. Norman Myers (1979), *The Sinking Ark: A New Look at the Problem of Disappearing Species* (Oxford: Pergamon), 18–20; Günter Altner, (1985), ‘Ethische Begründung des Artenschutzes’, *Schriftenreihe des deutschen Landesrates für Landschaftspflege* No. 46 (Aug.), 566–8; Lawrence E. Johnson (1992), ‘Toward the Moral Considerability of Species and Ecosystems’, *Environmental Ethics*, 14/1: 145–54; and Birga Dixel (1995), *Internationaler Artenschutz: Neuere Entwicklungen* (Berlin: Wissenschaftszentrum für Sozialforschung), 77–9.
7. SSC, the former ‘Survival Service Commission’ (est. 1949) of the International Union for Conservation of Nature and Natural Resources, co-operates with other expert groups such as the International Council for Bird Preservation (ICBP, founded in 1922, now BirdLife International) and the World Conservation Monitoring Centre in Cambridge (WCMC, co-sponsored by United Nations Environment Programme (UNEP), IUCN, and the World Wide Fund for Nature), which operates a specialized Wildlife Trade Monitoring Unit (WTMU) under contract with

- CITES. See John Caldwell (1994), 'WCMC: The CITES Database', *CITES/C & M International Magazine*, 1/2 (Dec.), 76–8; WCMC (1992), *Global Biodiversity Status of the Earth's Living Resources* (London: Chapman & Hall); and the updated tables in World Resources Institute (1996), *World Resources 1996–1997* (New York: Oxford University Press).
8. George Uetz and Donald Lee Johnson (1974), 'Breaking the Web', *Environment*, 16/10 (Dec.), 35 (fig. 2); Greta Nilsson (1983), *The Endangered Species Handbook* (Washington: Animal Welfare Institute), 20; and World Resources Institute (1994), *World Resources 1994–1995* (New York: Oxford University Press), 320–1 (table 20.3: Habitat extent and loss in the 1980s).
  9. It has been estimated that close to 50% of the 2m. crocodile hides taken from the wild annually are spoiled before they can be converted into luxury leather abroad: F. Wayne King (1978), 'The Wildlife Trade', *Wildlife and America: Contributions to an Understanding of American Wildlife and its Conservation* (Washington: US Council on Environmental Quality), 262; and that as a result of international trade in wild-caught birds (approx. 800,000 imported per year in the United States alone), from 5 to 10 birds die for every one that reaches a pet store alive: Craig van Note (1988), 'Statement on U.S. Enforcement of the Convention on International Trade in Endangered Species', US Congress, House of Representatives, Committee on Merchant Marine and Fisheries (Subcommittee on Oversight and Investigations), 100/2, 14 July 1988, 7.
  10. Revised IUCN/SSC Red List Categories were adopted by the IUCN Council at its 40th meeting on 30 Nov. 1994; for background, see Richard S. R. Fitter and Maisie Fitter (eds.) (1987), *The Road to Extinction* (Gland: IUCN).
  11. Annette Schmidt-Räntsch and Jürgen Schmidt-Räntsch (1990), *Leitfaden zum Artenschutzrecht* (Cologne: Bundesanzeiger); Cyrille de Klemm and Clare Shine (1993), *Biological Diversity Conservation and the Law: Legal Mechanisms for Conserving Species and Ecosystems*, IUCN Environmental Policy and Law Paper No. 29 (Gland: IUCN); and Timothy M. Swanson (1994), *The International Regulation of Extinction* (Basingstoke: Macmillan).
  12. Georges Scelle (1958), 'Obsession du territoire', in Frederik Mari van Asbeck *et al.* (eds.), *Symbolae Verzijl* (The Hague: Martinus Nijhoff), 347–61; Robert Ardrey (1966), *The Territorial Imperative: A Personal Inquiry into the Animal Origins of Property and Nations* (New York: Dell); Nico Schrijver (1996), *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge: Cambridge University Press).
  13. Signed on 3 Mar. 1973, entry into force on 1 July 1975, amendment of 22 June 1979 (Art. XI) in force since 13 Apr. 1987; multilingual (unamended) text and Final Act in United Nations Treaty Series (1976), 993, 243–438. Appendices I–III are periodically updated; the current version of Appendices I–II became effective on 16 Feb. 1995, Appendix III on 16 Nov. 1995 (see also the Reference Section). The pronunciation of 'CITES' rhymes with 'nighties'.
  14. Signed on 19 May 1900 on behalf of Great Britain, Germany, Spain, Belgian Congo, France, Italy, and Portugal; French text in Bernd Rüster and Bruno Simma (1975) (eds.), *International Protection of the Environment: Treaties and Related Documents*, 4 (Dobbs Ferry: Oceana), 1605–14, and in Clive Parry (1979) (ed.), *Consolidated Treaty Series*, 188 (Dobbs Ferry: Oceana), 418–25. The London Conference had been convened at the initiative of the British and German governments; see Maria Clara Maffei (1993), 'Evolving Trends in the International Protection of Species', *German Yearbook of International Law*, 36, 131–86; id. (1992), *La protezione internazionale delle specie animali minacciate* (Padu: CEDAM).
  15. Signed on 8 Nov. 1933 on behalf of South Africa, Belgium, Great Britain, Egypt, Spain, France, Italy, Portugal, and the Anglo-Egyptian Sudan; entry into force on 14 Jan. 1936; text in League of Nations Treaty Series (1936), 172, 241–72.
  16. Articles II/11 and III of the 1900 Convention.
  17. Article IX, which provided for special identification marks in the case of ivory and rhino horn, but generally applied to all 'trophies', broadly defined as any animal, dead or alive, and anything part of or produced from any such animal. The need for instruction of Customs officers was specifically mentioned.
  18. Sherman Strong Hayden (1942), *The International Protection of Wild Life: An Examination of Treaties and Other Agreements for the Preservation of Birds and Mammals*, Columbia University Studies in History, Economics and Public Law No. 491 (New York: Columbia University Press), 37.
  19. Under Article XIII/2; Hayden (1942), *The International Protection of Wild Life* (n. 18), 59.
  20. Cyrille de Klemm (1969), *Conservation et aménagement du milieu: Aspects juridiques et institutionnels internationaux*, IUCN Publications New Series: Supplemental Paper No. 19 (Morges: IUCN), 28–9. The two meetings were held pursuant to a protocol to the 1933 Convention, which, however, made no provision for bringing amendments into force; text in League of Nations Treaty Series (1936), 172, 270.
  21. Signed on 12 Oct. 1940, entry into force on 1 May 1942; text in United Nations Treaty Series (1953), 161, 193–216; see Article IX.
  22. Signed on 15 Sept. 1968, entry into force on 16 June 1969; text in United Nations Treaty Series (1976), 1001, 3–28; see Article IX.
  23. US Statutes 31, 187, as amended on 15 June 1935; Michael J. Bean (1983), *The Evolution of National Wildlife Law*, 2nd edn. (New York: Praeger), 111–15.
  24. Section 527, US Code 19, 1527(a); Bean (1983), *The Evolution of National Wildlife Law* (n. 23), 115–18.
  25. Public Law No. 91-135, US Statutes 83, 275, entry into force on 3 June 1970; superseded by a comprehensive new Endangered Species Act (ESA, Public Law No. 93-205, US Statutes 87, 884) after the adoption of CITES in 1973. See Andrew A. Smith, Margaret A. Moote, and Cecil R. Schwalbe (1993), 'The Endangered Species Act at Twenty: An Analytical Survey of Federal Endangered Species Protection', *Natural Resources Journal*, 33/4: 1027–75; and Carlo A. Balistreri (1993), 'CITES, the ESA and International Trade', *Natural Resources and Environment*, 8: 33–5. A similar list, though for live animals only, had already been introduced in the United Kingdom by the Animals (Restriction of Importation) Act of 17 July 1964.
  26. 'Hearings on Endangered Species', US Congress, House of Representatives Committee on Merchant Marine and Fisheries (Subcommittee on Fisheries and Wildlife Conservation), 19–20 Feb. 1969, *Serial 91–2*, 117, 166, 188; and Senate Committee on Commerce (Subcommittee on Energy, Natural Resources, and the Environment), 14–15 May 1969, *Serial 91–10*, 181.
  27. Public Law No. 91-135 (1969), sects. 5(a) and (b).
  28. As CITES negotiations were not completed in time for the Stockholm Conference in June 1972 (mainly because of diplomatic problems relating to the representation of China), Recommendation 99 of the Stockholm Action Plan called for 'a plenipotentiary conference to 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 wild plants'.
  29. IUCN (1963), *Proceedings of the 8th Session of the General Assembly* (Morges: IUCN), 130; earlier resolutions had since 1951 already aimed at prohibiting the importation of endangered species, see International Union for the Protection of Nature (1952), *Proceedings of the 3rd Session of the General Assembly* (Morges: IUPN), 24.
  30. Directed by Wolfgang E. Burhenne, who was also the author of the 1963 Nairobi Resolution.

31. Robert Boardman (1981), *International Organization and the Conservation of Nature* (Bloomington: University of Indiana Press), 89; Michael Kowalski (1972), 'Commentary upon the IUCN Draft Convention on the Export, Import and Transit of Certain Species of Wild Animals and Plants', *Catholic University Law Review*, 21/3: 665.
32. The counter-proposal prepared in response to the 1971 IUCN draft by Perez Olindo, Director of Kenya's National Parks, parallels the national listing of protected areas under the 1971 Ramsar Convention on Wetlands of International Importance, United Nations Treaty Series (1976), 996, 245–68.
33. For historical analysis of the Conference and its *travaux préparatoires*, see Anton Flachsmann (1977), *Völkerrechtlicher Schutz gefährdeter Tiere und Pflanzen vor übermäßiger Ausbeutung durch den internationalen Handel: Washingtoner Artenschutzabkommen von 1973*, LL D thesis (Zürich: Schulthess), 83–138.
34. *Ibid.* 77 (the Vesely-Forte case, resulting in a \$US500,000 fine); see Nigel Sitwell (1973), 'Stopping the Trade in Endangered Species', *World Wildlife News* (Summer), 3.
35. Elizabeth N. Layne (1973), 'Eighty Nations Write Magna Carta for Wildlife', *Audubon Magazine*, 75/3: 99; and F. Wayne King (1974), 'International Trade and Endangered Species', in P. J. S. Olney (ed.), *International Zoo Yearbook*, 14 (London: Zoological Society), 2.
36. Kevin D. Hill (1990), 'The Convention on International Trade in Endangered Species: Fifteen Years Later', *Loyola of Los Angeles International and Comparative Law Journal*, 13/2 (Dec.), 231–78; 245. Hence the treaty is more than a 'protectionist instrument'; Andronico O. Adede (1993), *International Environmental Law Digest: Instruments for International Responses to Problems of Environment and Development 1972–1992* (Amsterdam: Elsevier), 42.
37. Grove (1981), 'Wild Cargo' (n. 1), 294.
38. Superseded by the current form annexed to CITES Conference Resolution 9.3 (1994); see Willem Wijnstekers (1995), *The Evolution of CITES: A Reference to the Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 4th edn. (Geneva: CITES Secretariat), 91–104.
39. Text of Washington Conference Resolution in United Nations Treaty Series (1976), 993, 312. The UNEP Executive Director, who attended the Conference as observer, provisionally accepted the designation, later confirmed by UNEP Governing Council decision 1/I/VIII of 22 June 1973. UNEP then contracted IUCN to provide secretariat services and facilities (with UNEP funding) until Oct. 1984, when the staff were transferred to UNEP and later relocated to Geneva; Wijnstekers (1995), *The Evolution of CITES* (n. 38), 222–5.
40. Of the 190 total, 112 were later 'repealed', leaving 78 (as revised) applicable today; CITES Secretariat (1995), *Notification to the Parties*, No. 872 (31 Aug.). Until 1985 most of them were adopted by a simple majority of Parties present and voting at the meeting, with the exception of financial ones (three-fourths) and amendments of Appendices I or II (two-thirds). Under revised Rules of Procedure adopted at the 1987 Ottawa meeting, only procedural votes are now taken by simple majority, whereas all other non-financial ones require two-thirds; text of the new rules in Wijnstekers (1995), *The Evolution of CITES* (n. 38), 367–81.
41. Gabriele Bendoric-Kahlo (1989), *CITES: Washingtoner Artenschutzübereinkommen* (Berlin: Erich Schmidt Verlag), 135–58; and generally Jacob Werksman (1996), 'The Conferences of Parties to Environmental Treaties', in Jacob Werksman (ed.), *Greening International Institutions* (London: Earthscan), 55–68. The French government, in its defence in the Bolivian Furskins Case (n. 159), argued on 3 Dec. 1986 that CITES Conference Resolution 5.2 (1985) 'was only a recommendation without any legal effect' (*European Court Reports* (1990), 1, 4344). In a letter circulated to the 1987 CITES Conference in Ottawa, the Austrian government—in response to the Secretariat's Infraction Report (CITES Doc. 6.19, case No. A.1)—stated that Conference resolutions had no legal standing, and that interpretation of the Convention was a matter for Austria's internal legislation; on that case, see Valerie Karno (1991), 'Protection of Endangered Gorillas and Chimpanzees in International Trade: Can CITES Help?', *Hastings International and Comparative Law Review*, 14/4: 989–1015: 1006–9.
42. UNEP Governing Council decision 6/5/D of 24 May 1978.
43. CITES Conference Resolution 2.1 (1979) adopted at San José, Costa Rica on 30 Mar. 1979, and amendment adopted by a further plenipotentiary meeting in Bonn on 22 June 1979, entry into force on 13 Apr. 1987; Peter H. Sand (1995), 'Trusts for the Earth: New International Financial Mechanisms for Sustainable Development', in Winfried Lang (ed.), *Sustainable Development and International Law* (London: Graham & Trotman/Martinus Nijhoff), 167–84: 173.
44. CITES Conference Resolution 9.2 (1994). In addition, extra-budgetary funding for specific projects is available from voluntary contributions by governments, foundations (such as the US-based Conservation Treaty Support Fund) and industry sources, totalling about \$US3m. during the 1993–4 biennium (CITES Doc. 9.12); on approval procedures for externally funded projects, see Wijnstekers (1995), *The Evolution of CITES* (n. 38), 232–6.
45. Following a petition by 28 NGOs (with massive US support) questioning his impartiality in the dispute, the UNEP employment contract of the Secretary-General of CITES was not renewed, and a former Bulgarian ambassador to Nairobi appointed to replace him; see David S. Favre (1990, 1991), 'Trade in Endangered Species', Günther Handl (ed.), *Yearbook of International Environmental Law* (London: Graham & Trotman), 1, 195–6, and 2, 206. The incumbent (a Canadian lawyer) appealed to the UN administration in New York, and in 1993 obtained damages amounting to one year of salaries, which the UN Appeals Board recommended to be debited to the UNEP Executive Director's own salary account.
46. Text of the agreement (as approved by the 1992 CITES Conference at Kyoto) in Wijnstekers (1995), *The Evolution of CITES* (n. 38), 226–7. The relationship with UNEP is currently reviewed by a special working group established by the CITES Standing Committee at its 36th meeting (Geneva, 30 Jan.–2 Feb. 1996); terms of reference in CITES Doc. SC.36.6.1/Rev.
47. Consolidated by CITES Conference Resolution 9.1 (1994); on the history and current status of committees, see Wijnstekers (1995), *The Evolution of CITES* (n. 38), 345–65.
48. David S. Favre (1989), *International Trade in Endangered Species: A Guide to CITES* (Dordrecht: Martinus Nijhoff), 276.
49. With voluntary funding from governments and external sources, a total of 8 volumes of the manual (approximately 1,500 pages) have been issued in English since 1980, partly translated into French, Spanish, Russian, and German, and adapted to local needs; see Favre (1989), *International Trade in Endangered Species* (n. 48), 26–7. For example, a CITES identification manual for West and Central Africa is being prepared as part of a training project in Gabon funded by the Global Environment Facility (GEF), implemented by UNDP in co-operation with WWF ('Conservation of Biodiversity through Effective Management of Wildlife Trade', GAB/92/G31).
50. Favre (1989), *International Trade in Endangered Species* (n. 48), 276–80.
51. See Steinar Andresen (1989), 'Science and Politics in the International Management of Whales', *Marine Policy*, 13/2: 99–117; Patricia W. Birnie (1989), 'International Legal Issues in the Management and Protection of the Whale: A Review of Four Decades of Experience', *Natural Resources Journal*, 29/4: 903–34: 921; and Martha J. Peterson (1992), 'Whalers, Cetologists,

- Environmentalists and the International Management of Whaling', *International Organization*, 46/2: 148–86: 165.
52. See Lee A. Kimball (1996), *Treaty Implementation: Scientific Advice Enters a New Stage*, Studies in Transnational Legal Policy No. 28 (Washington: American Society of International Law), 237–40: 239; and n. 94–8 below on the saga of the 'Berne criteria'.
  53. For criticism of the current de-centralized licensing system, see Cyrille de Klemm (1997), 'La Convention de Washington sur le commerce international des espèces menacées d'extinction', in Alexandre C. Kiss (ed.), *Vers l'application renforcée du droit international de l'environnement* (Paris: Environnement sans frontières), who advocates establishment of a 'high-level Scientific Committee' for more centralized decision making by the Conference of the Parties.
  54. *Official Journal of the European Communities* (1982), L 384, 1; see Jorgen B. Thomsen and Amie Bräutigam (1987), 'CITES in the European Community: Who Benefits?', *Boston University International Law Journal*, 5/2: 269–88; and European Commission (1996), *Convention on International Trade in Endangered Species of Wild Fauna and Flora: EC Annual Report 1993* (Luxembourg: Office for Official Publications of the European Communities).
  55. CITES Secretariat (1991), *Notification to the Parties* No. 636 (22 Apr.) (ban recommended), and No. 673 of 2 Apr. 1992 (ban lifted, following the report of a field inquiry by the Secretariat pursuant to Article XIII/2 in Mar. 1992). The United States had implemented the recommendation by a unilateral ban on wildlife imports from Thailand on 1 July 1991 (US Federal Register 56: 32206).
  56. CITES Secretariat (1992), *Notification to the Parties* No. 675 (30 June) (ban recommended), No. 722 of 19 Feb. 1993 (ban suspended), and No. 842 of 18 Apr. 1995 (ban lifted). Austria, Switzerland, and the United States did not implement this recommendation. On the role of the CITES Secretariat in the sanctions against Thailand and Italy, see Rosemary Sandford (1996), 'International Environmental Treaty Secretariats: A Case of Neglected Potential?', *Environmental Impact Assessment Review*, 16/1: 3–12: 8. See also 1985–7 sanctions against Bolivia (n. 133).
  57. However, TRAFFIC reported continuing illegal trade in defiance of the country's new legislation; Ashok Kumar (1991), 'Wildlife Trade in the UAE—April 1991', *TRAFFIC Bulletin*, 12/3: 78.
  58. Steve Charnovitz (1994), 'Encouraging Environmental Cooperation through the Pelly Amendment', *Journal of Environment and Development*, 3/1: 3–28: 4 (using a term coined by Charles Pearson). On current practice pursuant to Article X (trade with States not Party to the Convention), see CITES Conference Resolution 9.5 (1994).
  59. The US embargo was lifted on 30 Dec. 1986. According to the *Straits Times* of 1 Jan. 1987, the ban had already been partially suspended (for aquarium fish) on 9 Oct. 1986, after Singapore threatened to raise the dispute in GATT. Singapore enacted a new Endangered Species (Import and Export) Act implementing CITES on 17 Mar. 1989.
  60. 1971 Pelly Amendment to the 1967 Fishermen's Protective Act, Public Law No. 92–219; see Charnovitz (1994), 'Encouraging Environmental Cooperation through the Pelly Amendment', 9; and Andrew F. Upton (1995), 'The Big Green Stick: Reducing International Environmental Degradation through U.S. Trade Sanctions', *Boston College Environmental Affairs Law Review*, 22/3: 671–92.
  61. US Federal Register 59: 22043 (9 Aug. 1994); see Shennie Patel (1995), 'The Convention on International Trade in Endangered Species: Enforcement and the Last Unicorn', *Houston Journal of International Law*, 18/2: 157–213: 197–9.
  62. On 29 June 1995 the US Department of the Interior announced that the certification under the Pelly Amendment will be reassessed in 1996, while training will be provided to Taiwan in law enforcement and CITES implementation practice; *TRAFFIC Bulletin*, 15/3 (Aug. 1995), 101. For trade controls in China (which was not 'pelled'—to use a verb by Steve Charnovitz), see Wang Xinxia (1996), 'The Implementation of CITES in China', in James Cameron, Jacob Werksman, and Peter Roderick (eds.), *Improving Compliance with International Environmental Law* (London: Earthscan), 204–10: 209.
  63. Phyllis Mofson (1994), 'Protecting Wildlife from Trade: Japan's Involvement in the Convention on International Trade in Endangered Species', *Journal of Environment and Development*, 3/1: 91–107: 100; and Christopher D. Stone (1993), *The Gnat is Older than Man: Environment and Human Agenda* (Princeton: Princeton University Press), 45; see CITES Secretariat (1994), *Notification to the Parties* No. 823 (25 Aug.). On the reasons for the reservations (importance of hawksbill tortoiseshell for the local economy of Nagasaki), see Eric J. McFadden (1987), 'Asian Compliance with CITES: Problems and Prospects', *Boston University International Law Journal*, 5/2: 311–25: 315.
  64. Ludwig Krämer (1996), 'Environmental Protection and Trade: The Contribution of the European Union', in Rüdiger Wolfrum (ed.), *Enforcing Environmental Standards: Economic Mechanisms as Viable Means?* (Heidelberg: Springer), 413–50, 437.
  65. For precedents, see Paolo Contini and Peter H. Sand (1972), 'Methods to Expedite Environment Protection: International Ecostandards', *American Journal of International Law*, 66/1: 37–59; on current CITES procedures, see Amie Bräutigam (1995), *CITES: A Conservation Tool: A Guide to Amending the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 5th edn. (Washington: WWF).
  66. On the exemptions, see Jeffrey C. Melick (1982), 'Regulation of International Trade in Endangered Wildlife', *Boston University International Law Journal*, 1/3: 249–75; Hubertus Welsch (1984), 'CITES: Trade in Appendix I Species', *Environmental Policy and Law*, 13/3–4: 100–5; and Simon Lyster (1985), *International Wildlife Law: An Analysis of International Treaties Concerned with the Conservation of Wildlife* (Cambridge: Grotius), 256–64.
  67. Article V/3 ('objections'); text in United Nations Treaty Series (1953), 161: 78.
  68. Comment (1974), 'Legislative Developments: Convention on International Trade in Endangered Species of Wild Fauna and Flora', *Law and Policy in International Business*, 6/4: 1211–27 (predicting that reservations would rarely be used); and Gwyneth G. Steward (1981), 'Enforcement Problems in the Endangered Species Convention: Reservations regarding the Reservations Clauses', *Cornell International Law Journal*, 14/3: 424–55 (examples of early problem cases).
  69. The first reservations on whales were entered (though later withdrawn) by Canada, United Nations Treaty Series (1976), 993: 391. All large cetaceans are now on CITES Appendix I, with the exception of the West Greenland population of minke whales, which is on Appendix II. A Norwegian proposal also to downlist to Appendix II the minke whale stocks of the north-eastern and central North Atlantic was rejected at the 1994 Fort Lauderdale Conference by a vote of 48:16; see Kevin Eldridge (1995), 'Whale for Sale? New Developments in the Convention on International Trade in Endangered Species of Wild Fauna and Flora', *Georgia Journal of International and Comparative Law*, 24/3: 549–65. On current co-ordination of appendix listings with the IWC (e.g. indigenous whaling exceptions of St Vincent and the Grenadines), see CITES Secretariat, *Notification to the Parties* No. 920 of 20 June 1996, and n. 168 below.
  70. See Laura H. Kosloff and Marc C. Trexler (1987), 'CITES: Enforcement Theory and Practice in the United States', *Boston University International Law Journal*, 5/2: 327–61: 358. For

- example, the United States in 1992 voted against inclusion of the American black bear (*Ursus americanus*) in Appendix II but did not enter a reservation after the decision; see Debra A. Rose (1995), 'American Bear Trade on the Rise: Regional Cooperation Needed', *TRAFFIC USA Newsletter*, 14/1: 1–5; and William Carroll Muffett (1996), 'Regulating the Trade in Bear Parts for Use in Asian Traditional Medicine', *Minnesota Law Review*, 80/5 (May), 1283–1322. On Chinese and Japanese reactions to the 1989 ivory vote, see n. 91 and 122 below.
71. In light of widespread abuse by traders and tourists, see CITES Conference Resolutions 9.7 (1994) and 2.11 (1979, rev. 1994); Wijnstekers (1995), *The Evolution of CITES* (n. 38), 119–20 and 304–9.
  72. CITES Conference Resolutions 2.12 (1979, rev. 1992 and 1994) and 9.18 (1994). Exports from internationally registered 'captive-breeding' operations or 'artificial propagation' nurseries may be authorized for commercial purposes under Article VII/4, as redefined in Conference Resolutions 8.15 (1992) and 9.19 (1994); see Wijnstekers (1995), *The Evolution of CITES* (n. 38), 135–56. For conflicting earlier interpretations, especially with regard to captive-bred birds of prey, see Gerhard Emonds (1986), 'CITES-Bescheinigungen und Greifvogelhandel', *Natur und Recht*, 8/3: 141; *contra* Hubertus Welsch (1987), *Natur und Recht*, 9/2: 68.
  73. As distinct from captive-breeding, 'ranching' is a new exception (not mentioned in the Convention but successively defined in 1981, 1985, 1987, 1989, 1992, and 1994 by CITES Conference Resolutions 3.15, 5.16, 8.22, and 9.6) whereby the Conference of the Parties may authorize commercial exports for specified populations of Appendix I species such as crocodiles; Wijnstekers (1995), *The Evolution of CITES* (n. 38), 283–301.
  74. See e.g. CITES Conference Resolution 9.22 (1994) on tagging of crocodilian skins, and CITES Secretariat (1995), *Notification to the Parties* No. 875 (31 Aug.); Wijnstekers (1995), *The Evolution of CITES* (n. 38), 105–17.
  75. CITES Conference Resolutions 8.10 (1992, rev. 1994) and 9.21 (1994); and see Martijn Wilder (1995), 'Quota Systems in International Wildlife and Fisheries Regimes', *Journal of Environment and Development*, 4/2: 55–104: 60–9.
  76. Export quotas for 1996 (37 countries, including four voluntary zero-quotas) in CITES Secretariat (1996), *Notification to the Parties* No. 916 (20 June).
  77. On tolerance of deviant conduct and the determination of acceptable compliance levels, see Abram Chayes and Antonia Handler Chayes (1993), 'On Compliance', *International Organization*, 47/2: 175–205: 200–3.
  78. Deploing their apparent absence: Laura H. Kosloff and Marc C. Trexler (1987), 'The Convention on International Trade in Endangered Species: No Carrot, but where's the Stick?', *Environmental Law Reporter*, 17: 10222–8; but see Peter H. Sand (1996), 'International Economic Instruments for Sustainable Development: Sticks, Carrots, and Games', *Indian Journal of International Law*, 36/2: 1–16.
  79. Superseded by the 1979 Lima Convention for the Conservation and Management of the Vicuña, text in Iwona Rummel-Bulska and Seth Osafo (eds.) (1991), *Selected Multilateral Treaties in the Field of the Environment* (Cambridge: Grotius), ii, 74–5; Lyster (1985), *International Wildlife Law* (n. 66), 88–94.
  80. Proposal by the Republic of Peru, CITES Doc. 2.26, Annex 3, *Proceedings of the 2nd Meeting of the Conference of the Parties* (1980), 2. 632–4. See Grove (1981), 'Wild Cargo' (n. 1), 307; Stewart Keith Eltringham and William J. Jordan (1981), 'The Vicuña of the Pampa Galeras National Reserve: The Conservation Issue', in Peter A. Jewell and Sidney Holt (eds.), *Problems in Management of Locally Abundant Wild Animals* (New York: Academic Press), 277–81.
  81. CITES Conference Resolution 8.11 (1992), and annotation 504 to Appendix I/III as amended in 1994. See CITES Secretariat (1995), *Notification to the Parties*, No. 865 (12 July); Wijnstekers (1995), *The Evolution of CITES* (n. 38), 391–2; Alfonso Ascencio Herrera and Paula M. Pevato (1996), 'Legal Framework for Environmental Cooperation in Latin America: An Overview', *Review of European Community and International Environmental Law*, 5/1: 1–17: 5–6.
  82. Results of a 1976 survey by Iain Douglas-Hamilton, summarized in UNEP (1989), *The African Elephant*, GEMS Environment Library No. 3 (Nairobi: UNEP), 18–32. Before its Appendix II listing (effective 4 Feb. 1977), the African elephant had already been listed on Appendix III by Ghana, on 12 Feb. 1976.
  83. Edward B. Barbier, Joanne C. Burgess, Timothy M. Swanson, and David W. Pearce (eds.) (1990), *Elephants, Economics and Ivory* (London: Earthscan); Edward B. Barbier (1994), 'The Role of Trade Interventions in the Sustainable Management of Key Resources: The Cases of African Elephant Ivory and Tropical Timber', in James Cameron, Paul Demaret, and Damien Geradin (eds.), *Trade and the Environment: The Search for Balance* (London: Cameron May), i. 436–58.
  84. CITES Conference Resolutions 5.12 (1985), 6.11–6.16 (1987), consolidated in 9.16 (1994), and the CITES *Ivory Trade Control Procedures Manual* (1985); Wijnstekers (1995), *The Evolution of CITES* (n. 38), 312–25; Dixel (1995), *Internationaler Artenschutz* (n. 6), 59–61.
  85. CITES Conference Resolution 6.11 (1987); Favre (1989), *International Trade in Endangered Species* (n. 48), 120–37; Michael J. Glennon (1990), 'Has International Law Failed the Elephant?', *American Journal of International Law*, 84/1: 1–43; Allan Thornton and Ros Reeve (1992), 'The Spoils of War', *BBC Wildlife*, 10/2: 24–8.
  86. On the moratorium imposed on 5 June 1989 under the US African Elephant Conservation Act, Public Law No. 100-478 (1988), see Elizabeth R. DeSombre (1995), 'Baptists and Bootleggers for the Environment: The Origins of United States Unilateral Sanctions', *Journal of Environment and Development*, 4/1: 53–75: 58. France, Germany, and then the European Community joined the ban within a week.
  87. The vote was 76 for, 11 against, and 4 (incl. Japan) abstaining; see David J. Harland (1994), *Killing Game: International Law and the African Elephant* (Westport, Conn.: Praeger), 93–9; id. (1990), 'Jumping on the "Ban" Wagon: Efforts to Save the African Elephant', *Fletcher Forum of World Affairs*, 14/2: 284; Susan L. Landy (1990), 'Banning the Ivory Trade: An Attempt to Save the African Elephant from Extinction', *Florida International Law Journal*, 5/2: 111–22; Jeffrey Vail (1990), 'Halting the Elephant Ivory Trade: A True Test for International Law', *Wisconsin International Law Journal*, 9/2: 227–56; and Joanne Boddens Hosang (1992), 'Trade with Endangered Species', in Helge Ole Bergesen, Magnar Norderhaug, and Georg Parmann (eds.), *Green Globe Yearbook 1992* (Oxford: Oxford University Press), 59–69.
  88. Philippe J. Sands and Albert P. Bedecarré (1990), 'Convention on International Trade in Endangered Species: The Role of Public Interest Non-governmental Organizations in Ensuring the Enforcement of the Ivory Trade Ban', *Boston College Environmental Affairs Law Review*, 17/4: 799–822: 809–16 (summary of legal opinion for WWF, rejecting the paper outlining the Secretariat's position); see also Thomas E. Arend, Jr. (1990), 'Ivory, Elephants, or Both: Negotiating the Transfer of the African Elephant to an Appendix I within CITES', in Lawrence Susskind, Esther Siskind, and J. William Breslin (eds.), *Nine Case Studies in International Environmental Negotiation* (Cambridge, Mass.: MIT/Harvard Public Dispute Program), 99–119.
  89. See Holly T. Dublin, Tom Milliken, and Richard F. W. Barnes (1995), *Four Years after the CITES Ban: Illegal Killing of Elephants, Ivory Trade and Stockpiles*, Report of the IUCN/SSC African Elephant Specialist Group (Gland: IUCN/SSC, TRAFFIC, WWF); Patty F. Storey (1994), 'Development vs. Conservation:

- The Future of the African Elephant', *William and Mary Journal of Environmental Law*, 18/3: 375–99; Andrew J. Heimert (1995), 'How the Elephant Lost his Tusks', *Yale Law Journal*, 104/6 (Apr.), 1473–1506; and Bill Padgett (1995), 'The African Elephant, Africa, and CITES: The Next Step', *Indiana Journal of Global Legal Studies*, 2/4: 529–52; and James I. Barnes (1996) 'Changes in the Economic Use Value of Elephants in Botswana: The Effect of International Trade Prohibition', *Ecological Economics* 18/3: 215–30.
90. On requests for transfer of specified elephant populations to Appendix II under the so-called Somali Amendment, see Susan J. Keller (1992), 'Is the International Ban on the Importation of Ivory Saving the African Elephant?', *Colorado Journal of International Environmental Law and Policy*, 3/1: 381–404; 396; David S. Favre (1992), 'Trade in Endangered Species', *Yearbook of International Environmental Law* (London: Graham & Trotman), 3, 317–22; 318; and Wilder (1995), 'Quota Systems in International Wildlife and Fisheries Regimes' (n. 75), 64–8.
  91. Botswana, Malawi, Namibia, South Africa, Zambia, and Zimbabwe; see Michael J. Glennon (1991), 'New Developments in International Law', *Proceedings of the American Society of International Law*, 85: 417–21. Other reservations initially entered by China and the United Kingdom (for Hong Kong) were withdrawn in 1990. The six 'renegade' countries established a Southern African Centre for Ivory Marketing (SACIM) but otherwise consider themselves bound by the earlier CITES rules (n. 84 above).
  92. Botswana, Cameroon, Namibia, South Africa, Tanzania, and Zimbabwe; CITES Secretariat (1996), *Notification to the Parties* No. 896 (4 Jan.).
  93. CITES Conference Resolution 7.9 (1989) laid down terms of reference for the Panel of Experts on the African Elephant and Criteria for the Transfer of Certain African Elephant Populations from Appendix I to Appendix II; Wijnstekers (1995), *The Evolution of CITES* (n. 38), 310–12. Suggestions to revise the terms of reference, and new proposals to deal with ivory stockpiles, were discussed at the 36th meeting of the Standing Committee (Geneva, 30 Jan.–2 Feb. 1996).
  94. CITES Conference Resolutions 1.1–1.3 (1976); see Daniel B. Navid (1976), 'The Washington Convention: First Meeting of the Conference of the Parties', *Environmental Policy and Law*, 2/4: 167–70. For critical analysis, see David S. Favre (1987), 'Tension Points within the Language of the CITES Treaty', *Boston University International Law Journal*, 5/2: 247–68; 249; Martin L. Ditkof (1982), 'International Trade in Endangered Species under CITES: Direct Listing vs. Reverse Listing', *Cornell International Law Journal*, 15/1: 107–20; and Paul Matthews (1996), 'Problems Related to the Convention on the International Trade in Endangered Species', *International and Comparative Law Quarterly*, 45/2 (Apr.), 421–31; 422–7.
  95. Favre (1989), *International Trade in Endangered Species* (n. 48), 32–53; and Wijnstekers (1995), *The Evolution of CITES* (n. 38), 23–8.
  96. e.g. the *Report of the Animals Committee on Significant Trade in Appendix II Species*, CITES Doc. 8.30 (1989); CITES Conference Resolution 8.9 (1992); and the 1996 *Review of Significant Trade in Animal Species*, included in CITES Appendix II: Final Report to the CITES Animals Committee (Gland: IUCN/SSC, TRAFFIC, WCMC); CITES Secretariat (1996), *Notification to the Parties* No. 917 (20 June). See Wijnstekers (1995), *The Evolution of CITES* (n. 38), 78–83; and Robert Hank Jenkins (1995), 'Significant Trade', *CITES/C & M International Magazine*, 2/3 (Apr.), 71–6.
  97. The proposed Kyoto criteria (CITES Doc. 8.50) were eventually 'de-fanged' by Conference Resolutions 8.3 and 8.20 (1992); David S. Favre (1993), 'Debate within the CITES Community: What Direction for the Future?', *Natural Resources Journal*, 33/4: 875–918; 899–907; id. (1992), 'Trade in Endangered Species', *Yearbook of International Environmental Law* (London: Graham & Trotman), 3, 317–22; John L. Garrison (1994), 'The Convention on International Trade in Endangered Species (CITES) and the Debate over Sustainable Use', *Pace Environmental Law Review*, 12/1: 301–29; Izgrev Topkov (1994), 'Sustainable Use is the Key', *CITES/C & M International Magazine*, 1/2 (Dec.), 14–17; and Dixel (1995), *Internationaler Artenschutz* (n. 6), 44–5.
  98. CITES Conference Resolution 9.24 (1994) on 'Criteria for Amendment of Appendices I and II'; Wijnstekers (1995), *The Evolution of CITES* (n. 38), 29–49; 'The New Rules of the Game' (1995), *CITES/C & M International Magazine*, 2/3 (Apr.), 6–14; Bobbie Jo Kelso (1995), 'Ninth Meeting of the Conference of the Parties to CITES', *TRAFFIC Bulletin*, 15/2 (Mar.), 63–76; 67; Alexandra Sanchez de Lozada (1995), 'CITES from the South', *IUCN Bulletin*, 26/1: 2; Bräutigam (1995), *CITES: A Conservation Tool* (n. 65); Patel (1995), 'The Convention on International Trade in Endangered Species' (n. 61), 182; and David S. Favre (1994), 'Trade in Endangered Species', *Yearbook of International Environmental Law* (Oxford: Oxford University Press), 5, 258–60.
  99. CITES Conference Decisions Directed to the Standing Committee No. 9.1 (1994): terms of reference for a study on how to improve the effectiveness of the Convention; see Patricia Birnie (1996), 'The Case of the Convention on Trade in Endangered Species', in Rüdiger Wolfrum (ed.), *Enforcing Environmental Standards* (n. 64), 233–64; 249.
  100. John Horberry and Daniel Navid (1996), 'Questionnaire for Contracting Party Representatives', *Study on How to Improve the Effectiveness of CITES: Phase I* (London: Environmental Resources Management).
  101. Antonio Cassese (1990), 'Remarks on Scelle's Theory of "Role Splitting" (*dédoulement fonctionnel*) in International Law', *European Journal of International Law*, 1/2: 210–31.
  102. Peter H. Sand (1990), *Lessons Learned in Global Environmental Governance* (Washington: World Resources Institute), 22–3.
  103. e.g. in Germany: Gerhard Emonds (1984), 'Gesetz zur Durchführung der EG-Verordnung zum Washingtoner Artenschutz-Uebereinkommen', *Natur und Recht*, 6/2: 93–6. On the problems, see n. 155–63 below.
  104. Ursula Wassermann (1980), 'Washington Wildlife Convention', *Journal of World Trade*, 14/3: 362, 366; John B. Heppes and Eric J. McFadden (1987), 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora: Improving the Prospects for Preserving our Biological Heritage', *Boston University International Law Journal*, 5/2: 229–45; 240; and Stephen Nash (1994), *Making CITES Work: A WWF Report* (Godalming: WWF UK).
  105. Gerhard Emonds (1981), *Guidelines for National Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora*, IUCN Environmental Policy and Law Paper No. 17 (Gland: IUCN); rev. and updated by Cyrille de Klemm (1993), *Guidelines for Legislation to Implement CITES*, IUCN Environmental Policy and Law Paper No. 26 (Gland: IUCN).
  106. CITES Conference Resolution 8.4 (1992); Wijnstekers (1995), *The Evolution of CITES* (n. 38), 160–3.
  107. See the three categories of countries listed in CITES Document 9.24 (1994), and in CITES Secretariat (1995), *Notification to the Parties* No. 845 (18 Apr.). Legislation in another 44 countries is now being surveyed by TRAFFIC and the IUCN Environmental Law Centre; CITES Secretariat (1995), *Notification to the Parties* No. 846 (18 Apr.).
  108. Examples in William C. Burns (1990), 'CITES and the Regulation of International Trade in Endangered Species of Flora: A Critical Appraisal', *Dickinson Journal of International Law*, 8/2: 203–23; Martin Jenkins and Sara Oldfield (1992), *Wild Plants in Trade* (Cambridge: TRAFFIC International).

109. CITES Conference Decisions Directed to the Parties No. 9.7 (1994), regarding implementation of Conference Resolution 8.4 (1992); CITES Doc. Com. 9.15 (Rev.), as adopted at the 1994 Conference; and CITES Secretariat (1995), *Notification to the Parties* No. 845 (18 Apr.).
110. 'Guidelines for the Preparation and Submission of CITES Annual Reports', in CITES Secretariat (1994), *Notification to the Parties* No. 788 (10 Mar.); comparative analysis of the Parties' compliance with earlier reporting guide-lines since 1981 in CITES Doc. 7.18 (1989).
111. Report of the Secretariat: 'Review of Alleged Infractions and Other Problems of Implementation of the Convention', CITES Doc. 9.22 (1994), 14–15; and Nash (1994), *Making CITES Work* (n. 104), 5–6.
112. On the situation in 1990, see United States General Accounting Office (1992), *International Environment: International Agreements are not well Monitored*, GAO/RCED-92-43 (Washington: GAO), 23–8; Jesse H. Ausubel and David G. Victor (1992), 'Verification of International Environmental Agreements', *Annual Review of Energy and Environment*, 17/1: 1–43.
113. See e.g. 'Investigation of Illegal Trade from Paraguay', CITES Doc. 3.6, Annex 3 (1981), *Proceedings of the 3rd Meeting of the Conference of the Parties*, 1. 297–302.
114. Under <<http://www.wcmc.org.uk/convent/cites>>; see Caldwell (1994), 'WCMC: The CITES Trade Database' (n. 7).
115. CITES Conference Resolution 9.4 (1994), referring to a 'solution in accordance with Conference Resolution 7.5'; i.e. the usual procedure for recommending a trade ban.
116. The network now is a co-operative programme of IUCN and WWF (1984 articles of association revised in 1994). See the *TRAFFIC Bulletin* (16 (1996)) published by TRAFFIC International in Cambridge, and the *TRAFFIC USA Newsletter* (15 (1996)); and Bobbie Jo Kelso (1995), 'TRAFFIC: On the Front Line', *CITES/C & M International Magazine*, 2/3 (Apr.), 58–61.
117. See generally David D. Caron (1993), 'Governance and Collective Legitimation in the New World Order', *Hague Yearbook of International Law*, 6. 29–44.
118. Report from the Secretariat: Action in Cases of Infraction, 13, CITES Doc. 8.6 (1992).
119. Germany—through its IUCN Council member whose department was also in charge of CITES implementation in the country—sent a letter of protest against the 'disproportionate number' of Secretariat communications drawing attention to CITES infringements in Germany. See the cases summarized in CITES Docs. 3.6, Annex 3, and 3.10.5 (1981), *Proceedings of the 3rd Meeting of the Conference of the Parties*, 1. 297–302, 411–14; and John A. Burton (1981), 'Comments on the Annual Report by the Federal Republic of Germany on its Implementation of CITES', *TRAFFIC Bulletin*, 3/3–4: 36–40.
120. See the most recent 'Review of Alleged Infractions and Other Problems of Implementation of the Convention', Secretariat Report to the 9th Meeting of the Conference of the Parties, CITES Doc. 9.22 (1994); Birnie (1996), 'The Case of the Convention on Trade in Endangered Species' (n. 99), 250–1; Of the 59 case summaries contained in the annex (23–101), 12 expressly acknowledge the involvement of TRAFFIC; see also Karl J. Liwo (1991), 'The Continuing Significance of the Convention on International Trade in Endangered Species of Wild Fauna and Flora in the 1990s', *Suffolk Transnational Law Journal*, 15/1: 122–52; 134 n. 55.
121. e.g. media coverage of the successful German proposal to list whales on Appendix I, which deflected attention from the country's less-than-brilliant compliance record in other sectors; Daniel Navid (1981), 'CITES Conference in New Delhi', *Environmental Policy and Law*, 7/2: 75–8.
122. On Japan's decision not to enter a reservation against the 1989 ivory trade ban in return for its designation as host of the 1992 CITES Conference, see Chayes and Chayes (1993), 'On Compliance' (n. 77), 200.
123. Sands and Bedecarré (1990), 'Convention on International Trade in Endangered Species' (n. 88); James Cameron and Ross Ramsay (1995), *Participation by Non-governmental Organizations in the World Trade Organization*, Global Environment and Trade Study No.1 (New Haven, Conn.: GETS), 21–3; and Hilary F. French (1996), 'The Role of Non-State Actors', in Jacob Werksman (ed.), *Greening International Institutions* (London: Foundation for International Environmental Law and Development), 251–58.
124. Burton (1981), 'Comments on the Annual Report by the Federal Republic of Germany on its Implementation of CITES' (n. 119); Michael Bock and Bernd Rüster (1981), 'Die illegale Einfuhr von der Ausrottung bedrohter Tier- und Pflanzenarten in die Bundesrepublik Deutschland unter Verstoß gegen das Washingtoner Artenschutz-Uebereinkommen', *Deutsches Verwaltungsblatt*, 99/5: 965–71; Gerold Schmidt (1982), 'Wirtschaftsrecht, Aussenhandel und Washingtoner Artenschutz-Uebereinkommen', *Neue Juristische Wochenschrift*, 35/10: 473–8; Deutscher Bundestag (1989), 'Summary of Governmental response to Parliamentary Questions by the Green Party on CITES Implementation in Germany', *Umwelt*, 11: 524–32; and Federal Ministry for the Environment, Nature Conservation, and Nuclear Safety (1991), *15 Jahre Washingtoner Artenschutz-Uebereinkommen* (Bonn: BMU).
125. Mofson (1994), 'Protecting Wildlife from Trade: Japan's Involvement in the Convention on International Trade in Endangered Species' (n. 63); Miyuki Taguchi (1996), *International Regimes and Cooperation: An Analysis of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and Japan*, Honors Thesis in International Studies (Portland: University of Oregon).
126. Kosloff and Trexler (1987), 'The Convention on International Trade in Endangered Species: Enforcement Theory and Practice in the United States' (n. 78); Trexler (1990), 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora' (n. 1), 64–89; van Note (1988), 'Statement on US Enforcement of the Convention on International Trade in Endangered Species' (n. 9); Trexler (1990), 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora' (n. 1), 64–89; and Meena Alagappan (1990), 'The United States' Enforcement of the Convention on International Trade in Endangered Species', *Northwestern Journal of International Law and Business*, 10/3: 541–68.
127. McFadden (1987), 'Asian Compliance with CITES: Problems and Prospects' (n. 63); and Julie Cheung (1995), 'Implementation and Enforcement of CITES: An Assessment of Tiger and Rhinoceros Conservation Policy in Asia', *Pacific Rim Law and Policy Journal*, 5/1: 125–59.
128. Kathryn S. Fuller, Ginette Hemley, and Sarah Fitzgerald (1987), 'Wildlife Trade Law Implementation in Developing Countries: The Experience in Latin America', *Boston University International Law Journal*, 5/2: 289–310.
129. Ashish Bodasing and Teresa A. Mulliken (1996), *South Africa's Wildlife Trade at the Crossroads* (Johannesburg: TRAFFIC East/Southern Africa—South Africa).
130. Elizabeth H. Fleming (1994), *The Implementation and Enforcement of CITES in the European Union* (Brussels: TRAFFIC Europe).
131. See e.g. Esmond Bradley Martin (1980), *The International Trade in Rhinoceros Products* (Gland: IUCN/WWF); Andrea L. Gaski and Kurt A. Johnson (1994), *Prescription for Extinction: Endangered Species and Patented Oriental Medicines in Trade* (Washington: TRAFFIC USA); and 20 other Species in Danger Reports published since 1991 by TRAFFIC International, Cambridge.
132. Antonia Handler Chayes, Abram Chayes, and Ronald B. Mitchell

- (1995), 'Active Compliance Management in Environmental Treaties', in Winfried Lang (ed.), *Sustainable Development and International Law* (London: Graham & Trotman), 75–89: 80; and Peter H. Sand (1996), 'Institution-Building to Assist Compliance with International Environmental Law: Perspectives', *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Heidelberg *Journal of International Law*), 56/3 (Oct.), 774–95.
133. CITES Secretariat, *Notification to the Parties* of 17 Dec. 1985; Erwan Fouéré (1988), 'Emerging Trends in International Environmental Agreements', in John E. Carroll (ed.), *International Environmental Diplomacy* (Cambridge: Cambridge University Press), 29–44: 38. CITES Conference Resolution 5.2 (1985) was eventually repealed by Resolution 6.4 (1987, rev. 1994); see Wijnstekers (1995), *The Evolution of CITES* (n. 38), 251, and the Bolivian Furskins Case (n. 159 below).
  134. 41 CITES training seminars for a total of 2,218 participants were held from 1989 to 1995; see Jean-Patrick Le Duc (1996), 'Training: An Investment in the Future', *CITES/C & M International Magazine*, 2/4 (Jan.), 39–41. Co-operation with WCO and ICPO-Interpol is addressed by CITES Conference Resolution 9.8 (1994), and by the Secretariat's *Notification to the Parties* No. 851 of 18 Apr. 1995, and No. 901 of 28 Feb. 1996. On the significance of criminal law for CITES enforcement, see Gerold Schmidt (1983), 'Strafrecht und Washingtoner Artenschutzübereinkommen', *Natur und Recht*, 5/4: 140–5.
  135. CITES Conference Resolution 4.12 (1983, rev. 1994); see also Gerold Schmidt (1981), 'Beschlagnahme von Reisesouvenirs nach dem Washingtoner Artenschutzübereinkommen', *Monatsschrift für Deutsches Recht*, 35/11: 894–6; and Umweltstiftung WWF (1992), *Handel bis zur Ausrottung* (Hanover: Schroedel), 14–18.
  136. While early voluntary arrangements between IUCN/WWF and the International Fur Trade Federation to prevent trade in endangered species (1971–3) were cancelled as a result of alleged non-compliance, several trade groups (furs, leathers, pets, ivory) subsequently participated in CITES implementation efforts; see Sarah Fitzgerald (1989), *International Wildlife Trade: Whose Business is It?* (Washington: WWF), 333.
  137. Peter Eigen and Margit van Ham (1995), 'Inseln der Integrität: der Anti-Bestechungs-Pakt, ein Vorschlag von "Transparency International"', *Vereinte Nationen*, 43/4 (Aug.), 151–4: 154 n. 7; see also Elizabeth Ibanda-Nahamya (1995), 'Combating Corruption: A Measure for Shaping Decision Making in Order to Achieve Sustainable Development', in Konrad Ginther, Erik M. G. Denters, and Paul J. I. M. de Waart (eds.), *Sustainable Development and Good Governance* (Dordrecht: Martinus Nijhoff), 402–19.
  138. See e.g. Alan H. Schonfeld (1985), 'International Trade in Wildlife: How Effective is the Endangered Species Treaty?', *California Western International Law Review*, 15/1: 111–28: 127 ('highly practical'); Steven van Hoogstraten (1986), 'The Effectiveness of International Law with regard to Endangered Species', *Hague Yearbook of International Law*, 54–6: 157–68: 167 ('on the whole successful'); Richard L. Williamson, Jr. (1990), 'Building the International Environmental Regime: A Status Report', *Inter-American Law Review*, 21/3: 679–760: 715 ('invaluable'); 'Developments in the Law (1991): International Environmental Law', *Harvard Law Review*, 104/7 (May), 1484–1639: 1557 ('successful'); Alexandre Kiss and Dinah Shelton (1991), *International Environmental Law* (Ardsey and London: Transnational, Graham and Trotman), 262 ('as a whole functions well'); Karno (1991), 'Protection of Endangered Gorillas and Chimpanzees in International Trade: Can CITES Help?', 1014 ('somewhat effective'); Simone Bilderbeek (ed.) (1992), *Biodiversity and International Law: The Effectiveness of International Environmental Law* (Amsterdam: IOS Press), 101 ('rather effective'); Hilary F. French (1992), *After the Earth Summit: The Future of Environmental Governance*, Worldwatch Paper No. 107 (Washington: Worldwatch Institute), 32 ('widely-acknowledged effectiveness'); Patricia W. Birnie and Alan E. Boyle (1992), *International Law and the Environment* (Oxford: Clarendon Press), 475 ('unique and remarkable'); Philippe Sands (1995), *Principles of International Environmental Law* (Manchester and New York: Manchester University Press), 452 ('reasonably effective'); and John Lanchbery (1996), 'The Development of the Convention on International Trade in Endangered Species of Wild Fauna and Flora', in John B. Poore and Richard Guthrie (eds.), *Verification 1996* (Oxford: Westview), 383–400: 396 ('at least partly effective').
  139. Lyster (1985), *International Wildlife Law* (n. 66), 240.
  140. Trexler (1990), 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora' (n. 1), 99–133.
  141. Michelle A. Peters (1994), 'The Convention on International Trade in Endangered Species: An Answer to the Call of the Wild?', *Connecticut Journal of International Law*, 10/1: 169–91; see also Gary D. Meyers and Kyla S. Bennett (1989), 'Answering "the Call of the Wild": An Examination of U.S. Participation in International Wildlife Law', *Pace Environmental Law Review*, 7/1: 75–116.
  142. Steven van Hoogstraten (1985), 'The Future of Endangered Species', in René-Jean Dupuy (ed.), *The Future of the International Law of the Environment* (The Hague: Academy of International Law), 109–15: 110; Anne Batchelor (1988), 'The Preservation of Wildlife Habitat in Ecosystems: Towards a New Direction under International Law to Prevent Species' Extinction', *Florida International Law Journal*, 3/3: 307–39: 309; and Steven Wheatley (1995), 'Freedom from Extinction: Conservation and Development under International Law', *Liverpool Law Review*, 17/3: 215–21.
  143. See de Klemm and Shine (1993), *Biological Diversity Conservation and the Law* (n. 11), 136.
  144. The CITES quotas for leopards, crocodiles, and African elephants are *not* limitations on taking but on transnational marketing; see Wilder (1995), 'Quota Systems in International Wildlife and Fisheries Regimes' (n. 75), 60.
  145. CITES Doc. 4.32 (1983), proposed by Gambia with the support of 14 NGOs, defeated by a vote of 30:6; see Favre (1989), *International Trade in Endangered Species* (n. 48), 74; and Mary J. Bowman (1989), 'The Protection of Animals under International Law', *Connecticut Journal of International Law*, 4/2: 487–99: 491.
  146. Signed at Lusaka, Zambia on 9 Sept. 1994, text in *Yearbook of International Environmental Law* (1994) (Oxford: Oxford University Press), 5, doc. 12; see Farhana Yamin and Annabella L. Gualdoni (1996), 'A Case Study of a Regional Approach to Compliance with CITES in Southern Africa', in Cameron et al., *Improving Compliance with International Environmental Law* (n. 62), 187–203.
  147. See David S. Favre (1994), 'Trade in Endangered Species', *Yearbook of International Environmental Law* (Oxford: Oxford University Press), 5, 259–60.
  148. CITES Secretariat (1980), *Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants* (New York: UNIPUB), implemented in co-operation with the International Air Transport Association (IATA); see CITES Conference Resolution 9.23 (1994).
  149. Lakshman D. Guruswamy, Geoffrey W. R. Palmer, and Burns H. Weston (1994), *International Environmental Law and World Order* (St Paul, Mont.: West), 811.
  150. Trexler (1990), 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora' (n. 1), 90–6; and Joanne C. Burgess (1994), 'The Environmental Effects of Trade in Endangered Species', in Organisation for Economic Cooperation and Development, *The Environmental Effects of Trade* (Paris: OECD), 132–3.



151. Malcolm J. Forster and Ralph U. Osterwoldt (1992), 'Nature Conservation and Terrestrial Living Resources', in Peter H. Sand (ed.), *The Effectiveness of International Environmental Agreements: A Survey of Existing Legal Instruments* (Cambridge: Grotius), 59–122: 80.
152. e.g. 29 species were deleted in 1987 (pursuant to CITES Conference Resolution 2.23 of 1979) as having been inappropriately listed in the first place; see Favre (1989), *International Trade in Endangered Species* (n. 48), 50.
153. By 1989 international trade in ranched crocodilian products had reached a volume of 150,000 hides valued at \$US5m.; *TRAFFIC USA Newsletter*, 10/2 (June 1990).
154. Philippe Weiler, Tom de Meulenaer, and Anne van den Bloock (1994), 'Recent Trends in International Trade of Hippopotamus Ivory', *TRAFFIC Bulletin*, 15/1 (Oct.), 47–9.
155. CITES Article XIV/3 exempts regional free trade arrangements; Article 104 of the 1993 North American Free Trade Agreement (NAFTA, *International Legal Materials* (1993), 32. 605) expressly gives priority to CITES (and its subsequent amendments if so agreed by the Parties) in case of inconsistency between treaty obligations, but then clouds the issue by requiring choice of the 'least inconsistent' alternative for compliance.
156. Gerhard Emonds (1983), 'Gemeinsame Durchführung des WA in der EG', *Natur und Recht*, 5/1: 18–24; Thomsen and Bräutigam (1987), 'CITES in the European Economic Community: Who Benefits?' (n. 54); Godelieve A. Vandeputte (1990), 'Why the European Community should Become a Member of the Convention on International Trade in Endangered Species of Fauna and Flora', *Georgetown International Environmental Law Review*, 3/2: 245–64; and Fleming (1994), *The Implementation and Enforcement of CITES in the European Union* (n. 130), 18–27.
157. Amendment of Article XXI (permitting accession to the Convention by regional economic integration organizations), adopted at the 2nd extraordinary meeting of the Conference on 30 Apr. 1983, requires 54 'acceptances' (of which 33 have been deposited to date); see Wijstekers (1995), *The Evolution of CITES* (n. 38), 273, 276.
158. Council Regulation (EEC) No. 3626/82 of 3 Dec. 1982, *Official Journal of the European Communities* (OJ), L 384: 1; the most recent update (implementing the amendments made at the 9th CITES Conference) is Commission Regulation EEC/558/95 of 10 Mar. 1995, *OJ*, L 57: 1–50, with a correction of 30 May 1995 in *OJ*, L 119: 39; further amended by Commission Regulation EEC/2727/95 of 27 Nov. 1995, *OJ*, L 284: 3.
159. 'Bolivian Furskins Case' (*Commission of the European Communities v. French Republic*), judgment No. C-182/89 of 29 Nov. 1990, *European Court Reports* (1990), i, 4337–62; see Ludwig Krämer (1993), *European Environmental Law Casebook* (London: Sweet & Maxwell), 207–15. For background, see n. 133.
160. Favre (1989), *International Trade in Endangered Species* (n. 48), 226; Annette Schmidt-Räntsch (1992), 'Besitz und Vermarktung von geschützten Tieren und Pflanzen nach der Vollendung des EG-Binnenmarktes', *Natur und Recht*, 14/1: 49–56; and CITES Conference Resolutions 6.5 (1987, rev. 1994) and 8.2 (1992, rev. 1994) on implementation of the Convention in the European Economic Community.
161. For recognition even of manifestly incorrect CITES documents from other EU countries: Wolfgang Wirth (1989), 'Ausweis- und Meldepflichten im gesetzlichen Artenschutz', *Neue Juristische Wochenschrift*, 42/25 (June), 1582–7; *contra* Klaus Ulrich Battefeld and Wolfgang Weitzel (1990), 'Nochmals: Ausweis- und Meldepflichten im gesetzlichen Artenschutz', *Neue Juristische Wochenschrift*, 43/3 (Jan.), 171–2.
162. In the United States, where federal powers to control wildlife trade are well established, the Fish and Wildlife Service is considered understaffed with 74 wildlife inspectors; see US General Accounting Office (1994), *Wildlife Protection: Fish and Wildlife Service's Inspection Program Needs Strengthening* (Washington: GAO, Dec.), 2. The EU Environment Directorate has two administrators working full-time on CITES matters, and no inspectors at all; Fleming (1994), *The Implementation and Enforcement of CITES in the European Union* (n. 130), 17; see also Patricia Doyle (1996), 'The European Community and Wildlife Supervision: The Sovereign Right to Protect National Resources', *New York International Law Review*, 9/1: 49–68.
163. First proposal by the European Commission, *Official Journal of the European Communities* (1992), C26: 1; second proposal (as amended by the European Parliament), *Official Journal of the European Communities* (1994), C131: 1; revised as 'common position' in *Official Journal of the European Communities* (1996), C196: 58, for adoption (as further amended by Parliament) by Council on 10 Dec. 1996.
164. Kelso (1995), 'Ninth Meeting of the Conference of the Parties to CITES' (n. 98), 71.
165. Richard G. Tarasofsky (1995), *The International Forests Regime: Legal and Policy Issues* (Gland and Cambridge: IUCN/WWF), 13.
166. CITES Secretariat (1995), *Notification to Contracting or Signatory States* (18 Aug.), and CITES Secretariat (1996), *Notification to the Parties No. 903* (28 Feb.). CITES permits are thus required for exports of saw-logs, sawn wood, and veneers as from 16 Nov. 1995.
167. First report of the group in CITES Secretariat (1996), *Notification to the Parties No. 909* (28 Mar.). See also Debra J. Callister (1992), *Illegal Tropical Timber Trade: Asia-Pacific* (Cambridge: TRAFFIC International); Nina T. Marshall and Martin Jenkins (1994), *Hard Times for Hardwood: Indigenous Timber and the Timber Trade in Kenya* (Cambridge: TRAFFIC International); and Doris König (1996), 'New Approaches to Achieve Sustainable Management of Tropical Timber', in Rüdiger Wolfrum (ed.), *Enforcing Environmental Standards* (n. 64), 331–71, at 346–7.
168. CITES Conference Resolutions 2.7 (1979, rev. 1994) and 9.12 (1994), and n. 68 above; see Ralph U. Osterwoldt (1982), 'International Law and Politics of Conservation, the Case of the Whales: The Endangered Species Convention (CITES), The International Whaling Commission (IWC) and Whale Conservation', M.Phil. thesis, Oxford University; and Birnie (1996), 'The Case of the Convention on Trade in Endangered Species' (n. 99), 254 n. 51.
169. Ginette Hemley (1992), 'CITES 1992: Endangered Treaty? Kyoto Decisions Political, not Practical', *TRAFFIC USA Newsletter*, 11/3: 2; and Melinda P. Chandler (1993), 'Recent Developments in the Use of International Trade Restrictions as a Conservation Measure for Marine Resources', in Jon M. Van Dyke, Durwood Zaelke, and Grant Hewison (eds.), *Freedom for the Seas in the Twenty-First Century: Ocean Governance and Environmental Harmony* (Washington: Greenpeace), 327–39: 334.
170. CITES Conference Resolution 9.17 (1994); and CITES Secretariat (1995), *Notification to the Parties No. 884* (6 Nov.) (collection of further data on shark species for discussion in 1997).
171. Australia, Canada, Japan, New Zealand, Russia, and the United States; see Lyster (1985), *International Wildlife Law* (n. 66), 282 n. 10; id. (1989), 'The Convention on the Conservation of Migratory Species of Wild Animals (the "Bonn Convention")', *Natural Resources Journal*, 29/4: 979–1000. Text of the Convention (signed on 23 June 1979, entry into force on 1 Nov. 1983) in *International Legal Materials* (1980), 19/1: 15.
172. See Andrea L. Gaski (1993), *Bluefin Tuna: An Examination of the International Trade with an Emphasis on the Japanese Market* (Cambridge: TRAFFIC International).
173. The relationship between GATT and multilateral environmental agreements—including CITES in particular—will be on the agenda of the WTO Ministerial Conference in Singapore in Dec. 1996. See James Cameron and Jonathan Robinson (1991), 'The

Use of Trade Provisions in International Environmental Agreements and their Compatibility with the GATT', *Yearbook of International Environmental Law* (London: Graham & Trotman), 2. 3–30; Timothy M. Swanson (1992), 'The Evolving Trade Mechanism in CITES', *Revue of European Community and International Environmental Law*, 1/1: 57–60; Robert Housman, Donald Goldberg, Brennan van Dyke, and Durwood Zaelke (1995), *The Use of Trade Measures in Select Multilateral Environmental Agreements* (Geneva: UNEP Trade and Environment Series No. 10); Christine Crawford (1995), 'An Examination of Conflicts between the Convention on International Trade in Endangered Species and the GATT in Light of Actions to Halt the Rhinoceros and Tiger Trade', *Georgetown International Environmental Law Review*, 7/2: 555–85; Charles R. Fletcher (1996), 'Greening World Trade: Reconciling GATT and Multilateral Environmental Agreements within the Existing World Trade Regime', *Journal of Transnational Law and Policy*, 5/2: 341–72; and Steve Charnovitz (1996), 'Multilateral Environmental Agreements and Trade Rules', *Environmental Policy and Law*, 26/4 (June), 163–9.