



The role of CITES and key issues for CoP17 (Johannesburg, 24 Sept - 5 Oct 2016)

*16th International Wildlife Law Conference
Stetson University College of Law
13-14 April 2016*

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

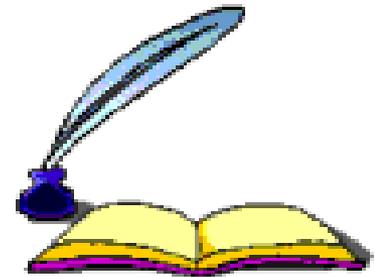


Adopted in Washington, D.C. on 3
March 1973 – currently 182 Parties



Treaty basics

- CITES entered into force on **1 July 1975** – it is an operational rather than a framework convention with several decades of implementation experience
- The Convention's text comprises the **preamble**, **25 articles**, three **species lists** (Appendices I, II and III) and a **permit model** [Appendix IV – now Annex 2 to Resolution Conf. 12.3 (Rev. CoP16)]
- CITES is a **trade regulation instrument** as well as an MEA, with clear, specific obligations to ensure that trade in 35,000+ listed species is legal, sustainable and traceable



Definition of CITES trade

"Trade" means **export, re-export, import and introduction from the sea** (*Article I, paragraph c, of the Convention*)



CITES and...

- International wildlife law – supports the conservation and sustainable use of wild animals and plants
- Biodiversity law - one of 7 global biodiversity-related conventions, together with Ramsar, WHC, CMS, CBD, ITPGR and IPPC; addresses overexploitation driver of biodiversity loss
- International environmental law in the context of sustainable development – recognized in Rio+20 outcome document and contributor to various SDGs
- Biodiversity beyond national jurisdiction (high seas) and forests (i.e. 600+ tree species) – provides international legally-binding instrument
- UN World Wildlife Day and the tackling illicit trafficking in wildlife – referenced in related UNGA Resolutions



CITES – of continuing relevance

CITES is described paragraph 203 of the Rio+20 outcome document (June 2012) as a Convention standing at the intersection between **trade, environment and development**

It plays a role in effective international cooperation to reduce the economic, social and environmental impacts of illicit trafficking in wildlife through action on both the supply and demand sides

It is also a Convention that has put into practice the concept of the sustainable use of biodiversity for the past 43 years – with tangible benefits for local people and the global environment



Framework for tracing trade

- CITES uses a system of **permits and certificates** to authorize or certify international trade in species which are listed in one of three Appendices
- An appropriate permit or certificate accompanies CITES specimens, which makes their trade **traceable**
- E-permitting is now expressly recognized in Resolution Conf. 12.3 (Rev. CoP16) of the CoP and guidance is provided through a toolkit

CITES CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA		PERMIT/CERTIFICATE No.		Original											
		<input type="checkbox"/> EXPORT <input type="checkbox"/> RE-EXPORT <input type="checkbox"/> IMPORT <input type="checkbox"/> OTHER:		2. Valid until											
3. Importer (name and address)		4. Exporter/Re-exporter (name, address and country)													
3a. Country of origin		Signature of the applicant													
3. Special conditions		8. Name, address, national seal/stamp and country of Management Authority													
3a. Purpose of the transaction (see reverse)		3b. Security stamp no.													
6.3. Scientific name (genus and species) and common name of animal or plant		7. Description of specimens, including identifying marks or numbers (quantity if any)		10. Appendix no. and source (see reverse)											
				11. Quantity (including unit)											
				11a. Total exported/Quota											
A		12. Country of origin*		12b. No. of the operation** or date of acquisition**											
B		12. Country of origin*		12b. No. of the operation** or date of acquisition**											
C		12. Country of origin*		12b. No. of the operation** or date of acquisition**											
D		12. Country of origin*		12b. No. of the operation** or date of acquisition**											
* Country in which the specimens were taken from the wild, listed in captivity or artificially propagated (only in case of re-exports) ** Only the specimens of Appendix I species listed in captivity or artificially propagated for commercial purposes *** If a pre-Convention specimen															
19. Free permit/certificate is issued by:															
Place		Date		Security stamp, signature and official seal											
14. Export/Import number		15. Bill of Lading/Air waybill number													
<table border="1"> <thead> <tr> <th>Block</th> <th>Quantity</th> </tr> </thead> <tbody> <tr> <td>A</td> <td></td> </tr> <tr> <td>B</td> <td></td> </tr> <tr> <td>C</td> <td></td> </tr> <tr> <td>D</td> <td></td> </tr> </tbody> </table>		Block	Quantity	A		B		C		D		Place of export: _____ Date: _____ Signature: _____ Official stamp and title: _____			
Block	Quantity														
A															
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D															



Why trade is traced

- The aim of regulation under the Convention is to ensure that trade is **legal and sustainable** (as well as traceable)
- **Legal** – the product was obtained in accordance with relevant national legislation
- **Sustainable** – trade in the product will not be detrimental to the survival of the species in the wild



CITES specimens

CITES regulates commercial and non-commercial international trade in wild animal and plant species, both terrestrial and aquatic, including their **parts and derivatives**

Wild-taken and produced (captive-bred or artificially propagated) specimens are covered



Tardini Satin-Finish Caiman Crocodile Belt (For Men)



Transport of live specimens

- The Convention requires that any living specimen will be so prepared and shipped as to **minimize the risk of injury, damage to health or cruel treatment**
- Resolution Conf. 10.21 (Rev. CoP16) of the Conference of the Parties to CITES recommends that, for as long as the CITES Secretariat and the Standing Committee agree, the IATA LAR (for animals), the IATA PCR (for plants) and the *CITES guidelines for the non-air transport of live wild animals and plants* in their most recent edition be deemed to meet CITES transport requirements
- Cooperation with the transport sector has increased in recent years and been extended to the prevention and detection of illegal trade



Examples of CITES animal trade

Specimens in trade

- Primates
- Hunting trophies
- Birds of prey
- Parrots & parakeets
- Crocodylians
- Snakes & lizards
- Turtles & tortoises
- Live aquarium specimens
- Food fishes
- Spiders & butterflies
- Molluscs & corals



Examples of CITES plant trade

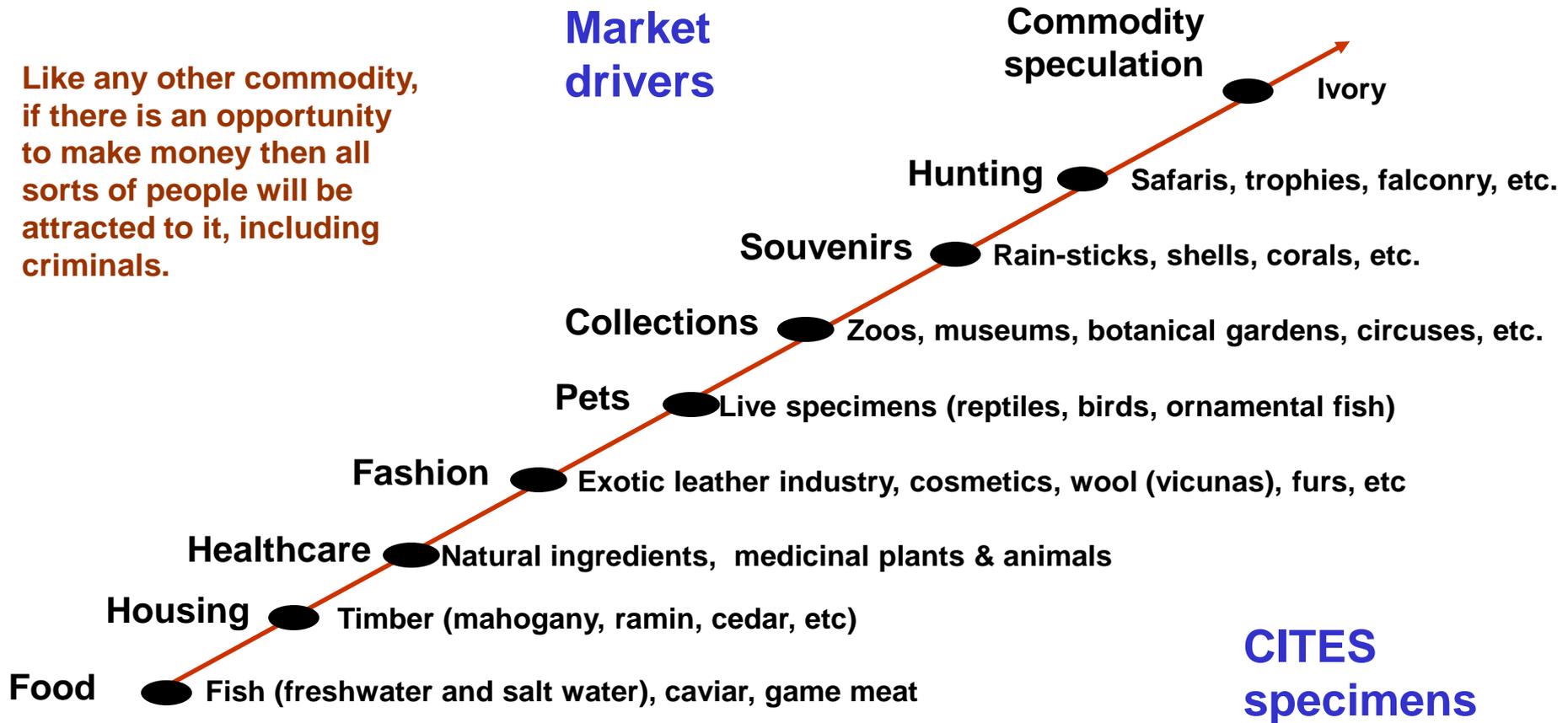
Specimens in trade

- Orchids
- Cacti & succulents
- Bulbs (Snowdrops, Cyclamens)
- Medicinal plants
- Ornamental trees
- Timber species



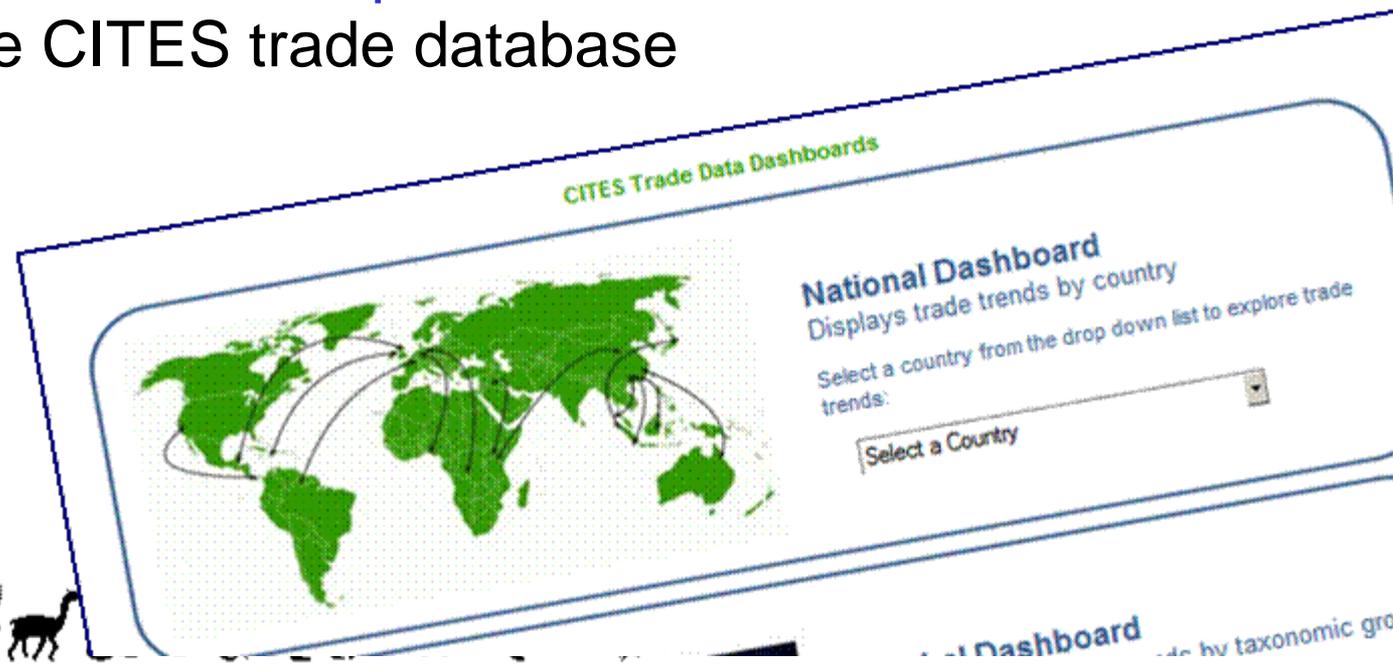
What is driving legal (and illegal) wildlife trade?

Like any other commodity, if there is an opportunity to make money then all sorts of people will be attracted to it, including criminals.



Document control and recordkeeping

- Effective implementation and enforcement of the Convention depend largely on control over the issuance, inspection and acceptance of CITES documentation
- Each Party maintains records of its CITES trade and submits **annual trade reports**, which are available through the CITES trade database



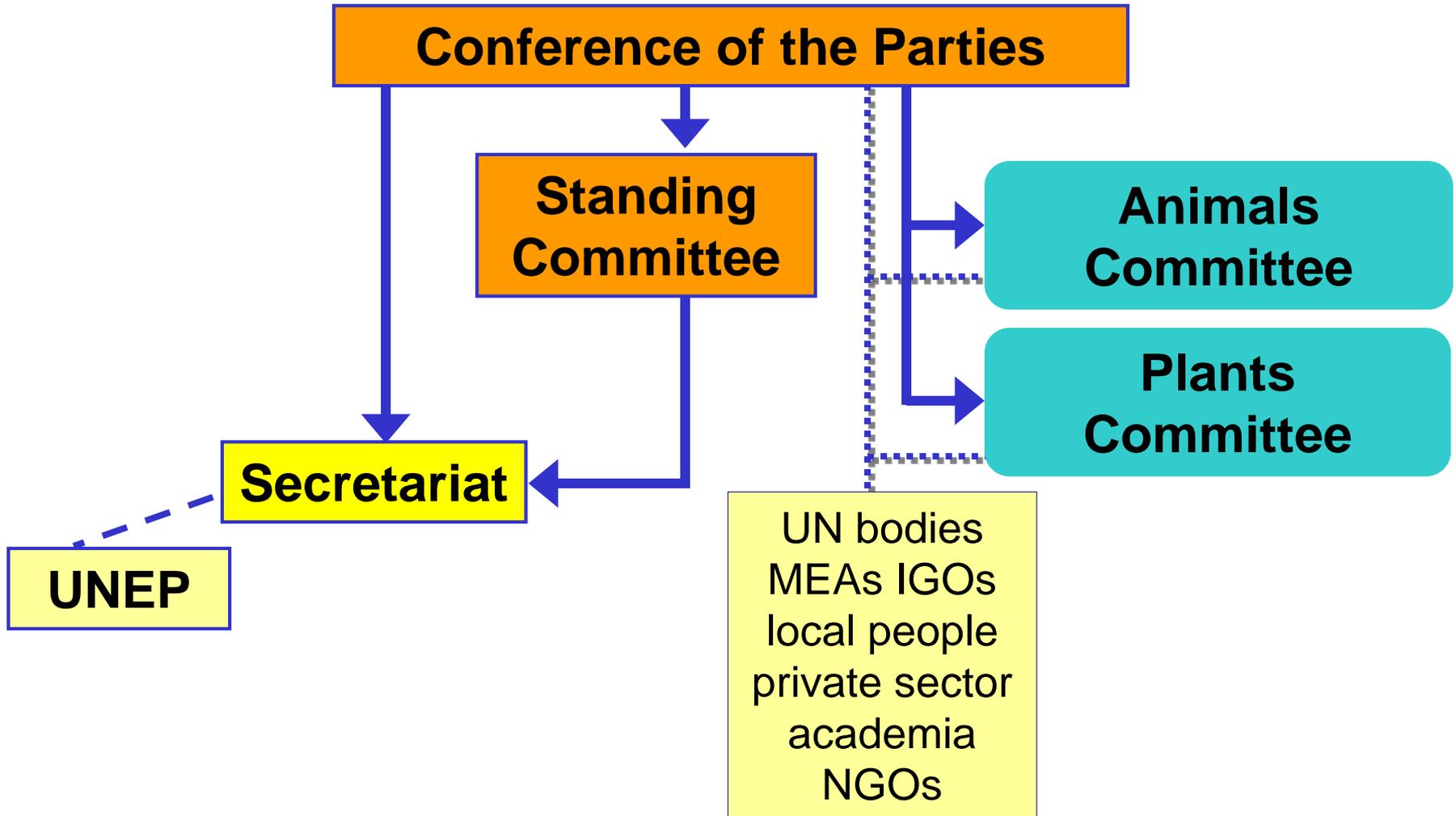
Key offences related to CITES

- Illegal trade occurs when trading without any CITES documents (smuggling)
- Illegal trade also occurs with CITES documents, such as cases involving:
 - non-valid CITES document
 - no correspondence between the shipment and the CITES document
 - re-export of specimens different from those imported

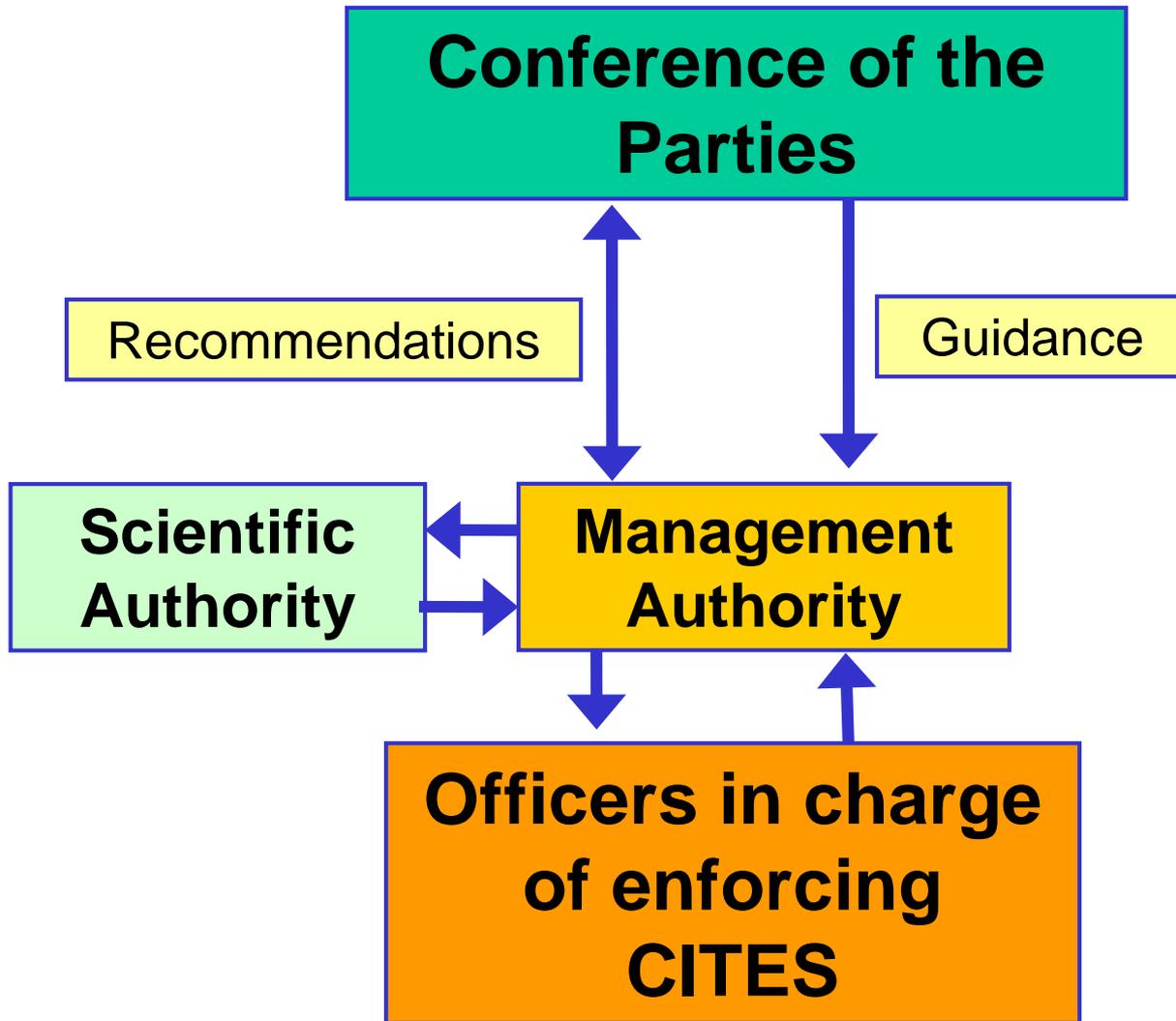
Illegal possession occurs when possessed specimens have been illegally acquired or illegally introduced into the country



CITES structure - international



CITES structure - national



Decision-making in CITES

- International decision-making
 - CITES Strategic Vision: 2008 - 2020
 - Changes to the Appendices These are legally binding
 - Interpretation of the Convention (Resolutions of the Conference of the Parties)
 - Action points (Decisions of the Conference of the Parties)



Decision-making in CITES

- National decision-making... by whom?
 - Administrative decisions (whether to issue or accept documents, verifying legal source and shipping conditions, disposal of confiscated specimens etc.) are the responsibility of the **Management Authority**
 - Decisions on whether trade is having a detrimental effect on the survival of the species, and on the ability to house and care for living specimens of Appendix-I species are the responsibility of the **Scientific Authority**



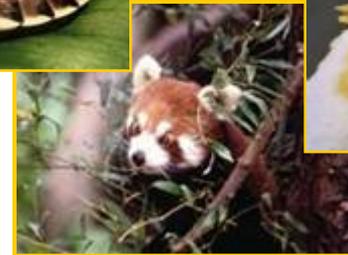
CITES Appendices

- The species whose international trade is regulated by CITES are contained in one of three Appendices

I



II



III



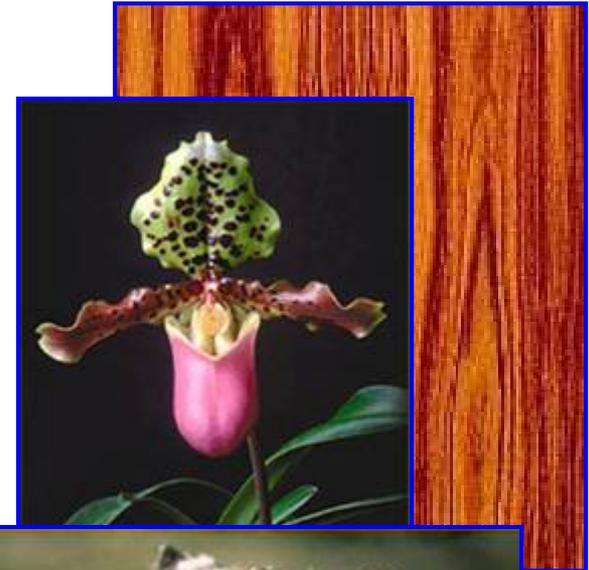
CITES Appendix I

Species threatened with extinction, which are or may be affected by trade

International commercial trade in wild-taken specimens is generally **prohibited**

Approximately 3% of all CITES-listed species

Requires proposal from Party(ies) and CoP decision



CITES Appendix II

- Species not necessarily now threatened with extinction, but whose trade must be regulated to ensure that they do not become so (96 % of CITES species)
- Species that resemble species already included in Appendix I or II
- International commercial trade is allowed but regulated
- Requires proposal from Party(ies) and CoP decision



Sharks/Manta rays in Appendix II



Cetorhinus maximus
(Basking shark)



Rhincodon typus
(Whale shark)



Carcharodon carcharias
(Great white shark)



Carcharhinus longimanus
(Oceanic whitetip shark)



Lamna nasus
(Porbeagle shark)



Sphyrna lewini, *S. mokarran*,
S. zygaena
(Hammerhead sharks)



Manta spp.
(Manta rays)

Entry into effect delayed to
14 September 2014

CITES Appendix III

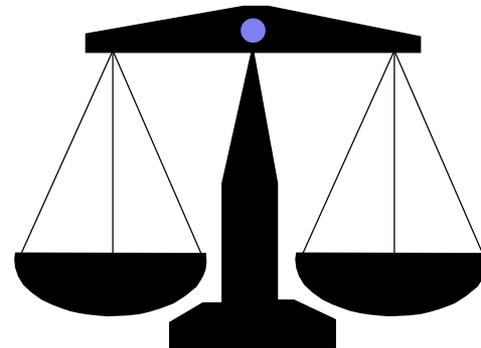
[No CoP decision needed]

- Species regulated in one country, and the cooperation of other Parties is needed to control trade
- International trade is **permitted but regulated** (less restrictive than Appendix II)
- Includes a number of **tree species**



How CITES works

- The Convention and its Appendices are legally binding, but national legislation is required to apply its provisions [e.g. primary/enabling law and implementing regulations]



Measures to be taken by the Parties

- Article VIII of the Convention requires Parties to take appropriate measures to enforce its provisions and to prohibit trade in specimens in violation of those provisions
- These measures include the penalization of illegal trade or illegal possession of CITES specimens and the confiscation of such specimens or their return to the State of export
- The CITES National Legislation Project assesses CITES-implementing legislation against agreed criteria and provides legislative advice/assistance



Stricter domestic measures

- Parties have the right under Article XIV, paragraph 1, of the Convention to adopt stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof
- Such stricter domestic measures **go beyond the provisions of the Convention** and, as unilateral measures, could perhaps give rise to a dispute in WTO



Involvement of local people

- Resolution Conf. 8.3 (Rev. CoP13) of the Conference of the Parties to CITES recognizes that **commercial trade may be useful to the conservation of species and ecosystems, and to the development of local people** when carried out at levels that are not detrimental to the survival of the species in question
- Resolution Conf. 16.6 of the CoP on *CITES and livelihoods* contains recommendations to Parties on empowerment of rural communities, enabling policies and the potential shift from *in situ* to *ex situ* production (complemented by voluntary guidelines on assessing and addressing the impacts of CITES listings on livelihoods)
- Resolution Conf. 15.2 on *Wildlife Trade Policy Reviews* encourages Parties to take into account the needs of indigenous people and other local communities when adopting trade policies concerning wild fauna and flora



Understanding what works (the successes)

1970's = less
than 5,000
vicuñas

2009 = vicuñas
no longer
endangered,
fiber traded



Interventions will fail unless they are better connected to people

CITES CoP17 - who decides the agenda?

- The **Parties** decide the Agenda
 - The Secretariat prepares a first draft for approval by the Standing Committee
 - Parties can add items for discussion, and Resolution Conf. 4.6 (Rev. CoP16) recommends that the text of any draft resolution or other document to be submitted for consideration at a meeting of the Conference of the Parties be communicated to the Secretariat **at least 150 days** before the meeting



What subjects are covered?

- Administrative matters
 - Adoption of the Agenda, Working Programme, Rules of Procedure
 - Credentials
 - Admission of observers
 - Administration, financing and budget of the Secretariat and of meetings of the CoP
 - Financial reports
 - Upcoming costed programme of work
 - Non-payment of contributions
 - Access to finance, including GEF funding



What subjects are covered?

- Strategic matters
 - Review of the Rules of Procedure of CITES governing bodies
 - Potential conflicts of interest
 - Cooperation with other organizations; IPBES
 - Cooperation between Parties and multilateral measures
 - Capacity building
 - CITES and livelihoods
 - UN World Wildlife Day



Scope of CITES cooperation

- Goal 3 of the CITES Strategic Vision: 2008-2020 is increased coherence with other multilateral instruments and processes
- Cooperation 'clusters' include the following:
 - Biodiversity-related, Rio and other conventions;
 - Natural resources (e.g. FAO, RFMOs, UNCLOS, ITTO);
 - Environment (UNEP, IUCN, various NGOs);
 - Trade, development and transport (e.g. WTO, UNCTAD, ITC, UNDP, OIE, IPPC, IATA, private sector); and
 - Law enforcement (e.g. ICCWC, Green Customs, regional networks)



What subjects are covered?

- Interpretation and implementation of the Convention
 - Compliance and enforcement; National reporting
 - National laws for implementation of the Convention
 - CITES compliance matters
 - National ivory action plans process
 - Enforcement matters (including corruption); illegal trade in cheetahs
 - Implementation of the Convention relating to captive-bred and ranched specimens
 - Evaluation of the Review of Significant Trade
 - Disposal of illegally-traded and confiscated specimens



What subjects are covered?

- Interpretation and implementation of the Convention
 - Trade control and marking
 - Electronic systems and information technologies
 - Traceability
 - Stockpiles
 - Identification of specimens in trade (e.g, timber)



What subjects are covered?

- Interpretation and implementation of the Convention
 - Species trade and conservation
 - Asian big cats
 - Action plan for ebonies and rosewoods
 - Bushmeat
 - Elephants
 - Pangolins
 - Rhinoceroses
 - Sharks and rays
 - Snakes



What subjects are covered?

- Interpretation and implementation of the Convention
 - Amendment of the Appendices
 - Periodic Review of the Appendices
 - Annotations
 - Proposals to amend Appendices I and II (e.g. possible deletion, transfer, or additions such as sharks/rays, tree species, etc.)
- Conclusion of the meeting
 - Time and venue of the next regular meeting of the Conference of the Parties
 - Closing remarks



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