

CITES at Its Best: CoP16 as a 'Watershed Moment' for the World's Wildlife

John E. Scanlon

The sixteenth meeting of the Conference of the Parties to CITES (CoP16) has been hailed as a 'watershed moment' for the Convention, with key decisions being taken on capacity-building, enforcement, financing and synergies. Significant decisions were also taken to bring many new species of precious fauna and flora, including commercially valuable timber and marine species, under the Convention. CITES parties demonstrated unprecedented levels of international cooperation at CoP16 to combat increased levels and types of wildlife crime, especially with regard to the poaching of African elephants for their ivory and rhinos for their horn. The great success of CoP16 reflects the increasing relevance of a four-decades-old convention to the conservation and sustainable use of wildlife.

INTRODUCTION

It was a defining moment in the forty-year history of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), when at the 16th meeting of the Conference of the Parties (CoP16) held in March 2013 in Bangkok, the 178 parties¹ agreed on new ways for CITES to ensure legal, sustainable and traceable trade in species of precious fauna and flora, including commercially valuable timber and other forest products and marine species. The Conference unanimously brought hundreds of new timber species under CITES controls, along with a number of tortoises and turtles and a wide range of other plant and animal species.² Significantly, five shark species and all manta rays were also brought under the global CITES trade regulation regime, following a vote supported by more than the required two-thirds majority. Overall, the international community made good use of this pragmatic and effective agreement to help chart a more sustainable path for marine species and forests.

¹ With over 170 parties attending CoP16.

² CITES Press Release, 'CITES Conference Takes Decisive Action to Halt Decline of Tropical Timber, Sharks, Manta Rays and a Wide Range of Other Plants and Animals' (14 March 2013), found at: <http://www.cites.org/eng/news/pr/2013/20130314_cop16.php>; CITES Press Release, 'New Rules for International Trade in Timber, Marine and Other Wild Animals and Plants Come into Force' (14 June 2013), found at: <http://www.cites.org/eng/news/pr/2013/20130614_cop16_decisions.php>.

CoP16 also saw unprecedented levels of international cooperation to combat increased levels and types of wildlife crime, and parties heeded the call from the United Nations Conference on Sustainable Development (or 'Rio+20') to recognize the important role of CITES as an international agreement standing at the intersection between trade, the environment and development.³

SHARKS AND MANTA RAYS

The meeting reached a climax on its final day after a request in the closing plenary, to reopen the debate on four shark species, failed to obtain the required support from one-third of the parties. With this and other actions, CITES parties confirmed decisions taken earlier in the week by the Conference's Committee I (that deals with scientific matters) to include five commercially valuable shark species in Appendix II. The oceanic whitetip (*Carcharhinus longimanus*), scalloped hammerhead (*Sphyrna lewini*), great hammerhead shark (*Sphyrna mokarran*), smooth hammerhead shark (*Sphyrna zigaena*) and the porbeagle shark (*Lamna nasus*) are harvested in huge numbers for their valuable fins and, in some cases, meat.

Broad alliances were forged in support of proposals to list the sharks and the manta ray across multiple geographic regions. In taking their decisions, parties had the benefit of technical and scientific advice provided by the United Nations Food and Agriculture Organization (FAO) Advisory Expert Panel, the CITES Secretariat, the International Union for Conservation of Nature (IUCN)/TRAFFIC and others.

Recognizing that implementation of these decisions will require some preparation time, parties decided that the entry into force of the inclusion of sharks and manta rays in Appendix II should be delayed by 18 months, until 14 September 2014. From that time forward,

³ CITES Resolution Conf. 16.3, CITES Strategic Vision 2008–2020 (2013). See also J.E. Scanlon, 'CITES: From Stockholm '72 to Rio+20 – Back to the Future', *IISD Sustainable Development Policy and Practice* (6 July 2012), found at: <<http://uncsd.iisd.org/guest-articles/cites-from-stockholm-in-%E2%80%9872-to-rio20-back-to-the-future/>>.

international trade in products from these species will need to be accompanied by CITES permits and certificates confirming that they are harvested sustainably and legally. The trade will also need to be reported on an annual basis to the CITES Secretariat.

Brazil announced its intention to host a regional meeting of parties from the Caribbean and South America to address implementation issues prior to the listings entering into force, and the Secretariat has met with relevant Brazilian agencies since CoP16 to support Brazil in its planning for the meeting.

Ireland, on behalf of the European Union Member States and Croatia, announced at CoP16 an implementation package of €1.2 million to be given to the CITES Secretariat to assist developing countries with implementation of CITES controls for newly listed sharks and manta rays, and other marine species. Discussions are well-advanced with the European Commission regarding how to best deploy these funds.

These listings mark a milestone in the involvement of CITES in marine species, which will enable the Convention to serve as a complementary instrument to fisheries agreements and bodies at the global and regional levels as well as national fisheries legislation and authorities and relevant codes, programmes or action plans at all levels.

PRECIOUS TIMBER

Rapidly rising demand for precious tropical hardwoods has led to serious concerns that unregulated logging and related trade is depleting populations of already overexploited species. Range States, including the host country, Thailand, believed that legally binding regulation under CITES would help them manage these valuable resources more sustainably.

All of the proposals on timber species were adopted by consensus after very intense and long negotiations. International trade in a range of rosewoods and ebonies from Asia, Central America and Africa (Madagascar) are now to be regulated by the Convention. An action plan for Madagascar was adopted to implement national activities that support its new listings. Other decisions further direct the parties to pursue certain activities that will ensure a transparent and robust implementation of the new listings. The highly effective joint programme between CITES and the International Tropical Timber Organization will continue to support the efforts of target countries in Africa, Asia and Latin America to strengthen their capacities to implement the Convention for listed tree species.⁴

⁴ See <<http://www.cites.org/eng/prog/itto.php>>.

Means of facilitating the cross-border movement of wooden musical instruments were also addressed during CoP16. Special procedures under CITES were agreed to help musicians and institutions travel with musical instruments that contain precious woods (such as Brazilian rosewood), and other products of species listed by the Convention, thereby avoiding the need to obtain permits for every international trip.⁵

ENHANCED ENFORCEMENT MEASURES FOR COMBATING WILDLIFE CRIME

CoP16 saw unprecedented levels of international cooperation to combat increased levels and types of wildlife crime – an outcome that saw past differences set aside so that viable and effective decisions could be reached to stop the poaching of elephants for their ivory and rhinoceroses for their horns. Parties took decisive action to tackle the disturbing spike in the illegal killing of the African elephant and rhino and related smuggling of their ivory and horn, and also took significant decisions on other species affected by illegal trade, such as Asian big cats, great apes, pangolins, freshwater turtles and tortoises, certain timber species and the Tibetan antelope. They also decided to request a study of the legal and illegal trade in wild cheetahs, and to assess the impact of this trade on the species' conservation in the wild.

EXPERT ADVICE ON THE CRISIS CONFRONTING ELEPHANTS AND RHINOS

Advice provided to parties by the CITES Monitoring the Illegal Killing in Elephants (MIKE)⁶ programme and the Elephant Trade Information System (ETIS)⁷ – managed for CITES by the nongovernmental organization (NGO) TRAFFIC – showed that an estimated 17,000 elephants were illegally killed in 2011 at African MIKE monitoring sites alone – a figure likely to be over 25,000 continent-wide. Analysis of the ETIS data showed that global illicit trade in ivory was at its highest level in 16 years with a sharp upward trend of large seizures of hundreds of kilos at a time – an indicator suggesting that organized crime is involved. For African

⁵ CITES Resolution Conf. 16.8, Frequent Cross-border Non-commercial Movements of Musical Instrument (2013).

⁶ CITES, Monitoring the Illegal Killing of Elephants (CoP16 Doc. 53.1, 2013), found at: <<http://www.cites.org/eng/cop/16/doc/E-CoP16-53-01.pdf>>; CITES, Monitoring the Illegal Killing of Elephants (CoP16 Doc. 53.1 Addendum, 2013), found at: <<http://www.cites.org/eng/cop/16/doc/E-CoP16-53-01-Addendum.pdf>>.

⁷ CITES, ETIS Report of TRAFFIC (CoP16 Doc. 53.2.2 (Rev.1), 2013), found at: <<http://www.cites.org/eng/cop/16/doc/E-CoP16-53-02-02.pdf>>.

rhino, information collated by the African and Asian Rhino Specialist Groups of the IUCN Species Survival Commission (SSC) and TRAFFIC for the Secretariat⁸ showed that there were almost 2,000 rhinos reported as poached in 11 of the 12 African range States between 2006 and 2012, with the illegal killing of rhinos in South Africa alone rising from 13 animals in 2007 to 668 in 2012.

ORGANIZED CRIMINAL GROUPS BEHIND THE SPIKE IN WILDLIFE CRIME

The above-mentioned analyses and other reports reveal that governments are confronting a complex and increasingly difficult situation with the mass poaching of elephants and rhinos to meet demand in lucrative black markets for ivory and horns. These crimes involve organized crime groups, rebel militia groups and on some rare occasions, rogue elements of regular military forces. Wildlife rangers serving in the frontlines are up against well-resourced criminal elements and they are often quite literally being outgunned. These brave men and women are increasingly being injured or killed in the line of duty and they require the real-time support of the police and, in some instances, the military. Enforcement authorities are up against dangerous and ruthless opponents and a response that is commensurate with the challenge is required. Many governments and international and regional initiatives now recognize that wildlife crime has become a serious threat to the security, political stability, economy, natural resources and cultural heritage of many countries, and that the extent of the response required is beyond the sole remit of environment or wildlife law enforcement agencies, or of one country or region alone.⁹

⁸ Rhinoceroses, Report of the Secretariat (CoP16 Doc. 54.2 (Rev.1), found at: <<http://www.cites.org/eng/cop/16/doc/E-CoP16-54-02.pdf>>.

⁹ See, e.g., the 2011 recommendation of the UN Commission on Crime Prevention and Criminal Justice on the need for preventive and judicial responses to illicit trafficking in endangered species of wild fauna and flora (since adopted by the UN Economic and Social Council (ECOSOC); the declaration of the Asia-Pacific Economic Cooperation (APEC) leaders adopted in 2012; the 2012 United States Senate Foreign Relations Committee Hearing on 'Ivory and Insecurity: The Global Implications of Poaching in Africa; US Secretary of State Hillary Clinton's 'Call for Action' on illegal wildlife trade; and President Obama's Executive Order on Combating Wildlife Trafficking. See CITES Press Release, 'CITES Secretary-General Welcomes Adoption of UN Commission on Crime Prevention and Criminal Justice Draft Resolution Recognizing Wildlife Crime as a Serious Crime' (26 April 2013), found at: <http://www.cites.org/eng/news/sundry/2013/20130502_ccpcj_resolution.php>; CITES Press Release, 'CITES Welcomes the APEC 2012 Vladivostok Declaration' (12 September 2012), found at: <http://www.cites.org/eng/news/pr/2012/20120912_APEC_declaration.php>; CITES Press Release, 'CITES Secretariat Welcomes President Obama's Executive Order on Combating Wildlife Trafficking' (2 July 2013), found at: <http://www.cites.org/eng/news/pr/2013/20130702_us_eo.php>.

A STRONG STAND AGAINST THE POACHING AND SMUGGLING OF WILDLIFE

In light of these disturbing trends, parties at CoP16 placed significant emphasis on enforcement matters through their formal agenda, as well as many side events, recognizing the leading role played by CITES in taking global regulatory measures to ensure legal wildlife trade and to address wildlife crime. Parties also recognized the International Consortium on Combating Wildlife Crime (ICCWC) as the world's leading inter-governmental initiative in the fight against wildlife crime.¹⁰ Furthermore, CoP16 addressed a wide-range of enforcement-related issues, including: ensuring high-level political engagement; enhancing international cooperation; coordinating enforcement support at global, regional and national levels; deploying a wider-range of operational techniques and enhancing enforcement effectiveness; enacting CITES-implementing legislation; attracting further financing; and reducing demand for illicit goods.

On the political level, ICCWC hosted a side event at CoP16 that brought together ministers and other high-level representatives to discuss transboundary wildlife crime, with a special focus on elephants and rhinoceros.¹¹ In another ICCWC event, the regional wildlife enforcement networks from around the world were brought together for the first time, recognizing the need for enhanced intra- and inter-regional cooperation.¹² The Asian Development Bank also hosted an event for senior judges, attorneys-general, prosecutors, senior customs officials, police and many others to discuss wildlife crime, where cutting-edge training in investigation techniques was delivered by ICCWC partners to wildlife law enforcement officials from across Asia.

ADOPTION OF CONCRETE AND TIME-BOUND MEASURES IN THE FIGHT AGAINST WILDLIFE CRIME

Concrete and time-bound measures were discussed at length at CoP16 and incorporated in a suite of CoP decisions to be implemented between now and 2016.¹³

¹⁰ See <<http://www.cites.org/eng/prog/iccwc.php>>.

¹¹ CITES, Chair's Summary of Roundtable on Combating Transnational Organized Wildlife and Forest Crime for Ministers and High-level Representatives (CoP16 Inf. 54, 2013), found at: <<http://www.cites.org/eng/cop/16/inf/E-CoP16i-54.pdf>>.

¹² CITES Press Release, 'First Global Meeting of Wildlife Enforcement Networks Highlights Importance of Cross-border Cooperation to Combat Transnational Organized Wildlife and Forest Crime' (7 March 2013), found at: <http://www.cites.org/eng/news/pr/2013/20130307_wen.php>.

¹³ Complementary decisions were also taken by the CITES Standing Committee at its 64th Meeting, held at the end of CoP16. See <<http://www.cites.org/eng/com/sc/64/index.php>>.

These decisions and resolutions, which were taken by consensus, demonstrate clear recognition by CITES parties that efforts to meet the challenges posed by wildlife crime, will need to: treat such crimes as serious crimes;¹⁴ coordinate enforcement efforts at global, regional and national levels; work across source, transit and destination States; make better use of forensics and the sharing of forensic evidence, in particular for large-scale seizures; take more aggressive enforcement action utilizing the sorts of techniques used to combat illicit trade in narcotics and other serious crimes, such as intelligence driven operations, risk profiling, controlled deliveries, covert operations, and the use of anti-money laundering and asset forfeiture legislation; move beyond seizures by ensuring follow-up investigations and prosecutions, especially targeted at the 'king pins' behind organized criminal syndicates; and, upon request, support countries in the immediate aftermath of serious incidents.

The CITES Secretary-General was also asked to cooperate with United Nations Office on Drugs and Crime (UNODC) regarding the national security implications for certain countries in Africa of the illegal killing of and trade in wildlife.

ADOPTION OF MEASURES TO SUPPRESS DEMAND FOR ILLICITLY TRADED GOODS

In addition to addressing enforcement, there was a clear recognition by CITES parties that efforts are needed to reduce demand for illegal and untraceable products and to enhance overall public awareness of the severe damage caused by unregulated, unreported and illegal trade. As parties strengthen their enforcement, measures targeting the criminals involved in illicit trade across source, transit and range States, they are also looking at measures to suppress demand for illicitly traded wildlife. Exemplifying such measures is the call by the UN World Tourism Organization and the UNODC for tourists to help reduce demand for illicit goods and services linked to transnational organized crime.¹⁵

¹⁴ The UN Commission on Crime Prevention and Criminal Justice has since adopted, on 26 April 2013, a draft resolution that encourages member States to make illicit trafficking in wild fauna and flora a serious crime when organized criminal groups are involved. See Draft Resolution, Crime Prevention and Criminal Justice Responses to Illicit Trafficking in Protected Species of Wild Fauna and Flora (UN Doc. E/CN.15/2013/L.20/Rev, 26 April 2013). See also CITES Press Release, 'CITES Secretary-General Welcomes Adoption of UN Commission on Crime Prevention and Criminal Justice Draft Resolution Recognizing Wildlife Crime as a Serious Crime' (26 April 2013), found at: <http://www.cites.org/eng/news/sundry/2013/20130502_ccpcj_resolution.php>.

¹⁵ CITES Press Release, 'CITES Secretary-General Welcomes UN Tourism and Crime Agencies Call on Travelers to Play a Role in Reducing Demand for Illicit Goods Including Illegal Wildlife Products'

ADOPTION OF BETTER STANDARDS, CLEARER RULES AND PRACTICAL GUIDANCE

CoP16 also adopted historic provisions to: provide guidance for establishing scientifically robust criteria for sustainable trade (known in CITES as 'non-detriment findings');¹⁶ determine the State responsible for issuing documentation for marine species harvested in international waters (known in CITES as 'introduction from the sea');¹⁷ assess the impact of CITES decisions on the livelihoods of rural communities;¹⁸ further advance electronic permitting systems;¹⁹ enhance capacity-building, including through the CITES Virtual College;²⁰ ensure the safe non-air transport of live, wild animals and plants;²¹ and strengthen the conservation and management of a range of species, including snakes, turtles/tortoises, sturgeons, saiga antelopes and agarwood-producing species. There were also decisions on means to address potential conflicts of interest that could significantly impair the impartiality, objectivity or independence of members of the CITES Animals and Plants Committees²² – an issue that drew quite a lot of attention from parties, as well as the NGO community.

MEANS FOR SECURING NECESSARY FINANCIAL AND OTHER RESOURCES FOR THE CONVENTION

The Asian and African Development Banks, the Global Environment Facility (GEF), the World Bank and the United Nations Development Programme (UNDP) all attended CoP16 in recognition of the need to scale up investment in the implementation of CITES. The World Bank also participated through its Global Tiger Initiative, which showcased its business model for tackling illegal trade in tigers. The African Development Bank

(8 April 2013), found at: <http://www.cites.org/eng/news/sundry/2013/20130409_UN_tourist_campaign.php>.

¹⁶ CITES Resolution Conf. 16.7, Non-detriment Findings (2013).

¹⁷ CITES Resolution Conf. 14.6 (Rev. CoP 16), Introduction from the Sea (2007/2013); and CITES Decisions 16.48–16.51, Introduction from the Sea: Chartering (2013).

¹⁸ CITES Decisions 16.17–16.25, CITES and Livelihoods (2013).

¹⁹ CITES Decision 16.54, Electronic Permitting (2013).

²⁰ CITES Decisions 16.28–16.29, Capacity Building (2013); and CITES Decisions 16.30–16.32, Needs Assessment for Strengthening the Implementation of CITES (2013).

²¹ CITES Resolution 10.21 (Rev. CoP 16), Transport of Live Specimens (1997/2013).

²² CITES Resolution 11.1 (Rev. CoP 16), Establishment of Committees (2000/2013); and CITES Decisions 16.9–16.10, Potential Conflicts of Interests in the Animals and Plants Committees (2013).

has since held a high-level side-event on wildlife crime.²³

A decision to further explore the possibility of making the GEF a financial mechanism for the Convention was reached at CoP16. Parties requested the CITES Secretariat to continue to work with the GEF Secretariat and the Secretariat of the Convention on Biological Diversity (CBD) to enhance the GEF biodiversity strategy in GEF-6 by strengthening the species-based component, and to convey CITES priorities for the GEF to take into account when developing the strategy.²⁴ The CITES Secretary-General has written to both the GEF Chief Executive Officer and the Executive Secretary of the CBD to follow through on this critical CoP16 decision. The GEF has since included in GEF-6, under the Biodiversity Focal Area Strategy, activities to reduce widespread poaching of African elephants and rhinos and illegal trafficking of elephant tusks and rhino horns.²⁵ Parties will consider the results of this cooperation and the most appropriate way forward at their seventeenth meeting to be held in South Africa during 2016 (CoP17).

A separate but related decision at CoP16 encouraged the CITES Standing Committee and the Secretariat to continue with their efforts to attract other sources of funding to assist parties with implementing the Convention.²⁶

ADVANCEMENT OF THE SYNERGIES AGENDA

Party-led programmatic synergies were progressed in multiple pragmatic ways. First and foremost, the CITES Strategic Vision was extended from 2013 to 2020²⁷. It was also amended to include references to the contribution that CITES will make towards the implementation of the relevant outcomes of Rio+20²⁸ and achievement of the Strategic Plan for Biodiversity 2010–2020, including relevant Aichi Biodiversity Targets (adopted at the tenth Conference of the Parties to the CBD). Such a reference to global targets set by another multilateral environment agreement is a first for CITES.

Synergies were also advanced through decisions taken on the GEF, the Intergovernmental Science-Policy Plat-

form on Biodiversity and Ecosystem Services, and the CBD's Global Strategy for Plant Conservation.

Furthermore, a resolution proposed by Switzerland was adopted,²⁹ which encourages parties to strengthen the cooperation, coordination and synergies among the national focal points for the biodiversity-related conventions and other partners to enhance coherent implementation of the Convention at the national level. A process was also initiated whereby the CITES Standing Committee will explore further options to strengthen cooperation, collaboration and synergies between CITES and other biodiversity-related conventions and report back to CoP17, thereby advancing paragraph 89 of 'The Future We Want' – Rio+20's final outcome document.³⁰

Finally, very strong support was given to the work of ICCWC³¹ – a joint initiative of CITES, the International Criminal Police Organization (INTERPOL), the UNODC, the World Bank and the World Customs Organization.³²

WORLD WILDLIFE DAY, A GENEROUS HOST AND CoP17 IN SOUTH AFRICA

Parties unanimously declared 3 March (the date on which CITES was signed in 1973) as World Wildlife Day³³ and the United Nations General Assembly will be asked to declare it as a UN Day. CITES parties, observers and the CITES Secretariat thanked the Kingdom of Thailand and its people for their extraordinary hospitality and exemplary arrangements in hosting CoP16, which were recognized as major contributors towards the meeting's success. As its final formal act, the parties accepted by acclamation South Africa's offer to host the seventeenth meeting of the Conference of the Parties to be held in 2016.

CITES IS NEEDED NOW MORE THAN EVER

The sum total of decisions and resolutions adopted at CoP16 reflect the continued relevance, significance and evolution of the Convention, particularly in its ability to reach concrete, viable and effective solutions to the

²³ African Development Bank, 'AfDB and WWF Call for Urgent Action to Combat Wildlife Crime' (30 May 2013), found at: <<http://www.afdb.org/en/news-and-events/article/afdb-and-wwf-call-for-urgent-action-to-combat-wildlife-crime-11898/>>.

²⁴ CITES Decision 16.2, Access to Global Environment Facility (2013).

²⁵ Programming Directions (Draft Document GEF/R.6/07) of Program 4.

²⁶ CITES Decision 16.3–16.8, Access to Other Sources of Funding (2013).

²⁷ CITES Resolution Conf. 16.3, n. 3 above.

²⁸ See J.E. Scanlon, n. 3 above.

²⁹ CITES Resolution Conf 16.4, Cooperation with Other Biodiversity-related Conventions (2013).

³⁰ The Future We Want (UN Doc. A/RES/66/288, 11 September 2012), paragraph 89.

³¹ CITES Resolution Conf. 11.3 (Rev. CoP 16), Compliance and Enforcement (2000/2013).

³² See <<http://www.cites.org/eng/prog/icwc.php>>.

³³ CITES Resolution Conf. 16.1, World Wildlife Day (2013).

global challenges posed by illegal, unregulated and unsustainable international trade in wildlife. The unique mechanisms provided by the Convention – including the requirement that wild animals and plants not be overexploited through international trade; ongoing feedback gained through the review of significant trade, which works to ensure that commercial trade is indeed sustainable; robust and effective compliance mechanisms, which can include targeted sanctions; and a universally recognized regulatory system of permits and certificates – provide parties with the tools they need to help ensure the conservation and sustainable use of the planet's wildlife resources.

Four decades since its adoption in Washington, DC in 1973,³⁴ the great success of CoP16 in Bangkok showed the world that CITES continues to be more needed now than ever before.

John E. Scanlon is Secretary-General of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). His work experience has been gained in the private sector, in government, with the United Nations and with international organizations, as a leader, manager, professional adviser and legal practitioner, as well as through senior voluntary positions with the nongovernment sector. He was admitted to legal practice in 1984, holds a Bachelor of Laws (1983), Master of Laws (Environmental) (1995) and is an accredited mediator (1996). In 2011, John was awarded the Member of the Order of Australia for his service to environmental law nationally and internationally.

This article draws upon articles by the author for *IISD-Sustainable Development Policy and Practice*.

³⁴ CITES Press Release, 'Remarks by CITES Secretary-General Mr John E. Scanlon' (13 February 2013), found at: <http://www.cites.org/eng/news/sg/2013/20130216_40US.php>.