

CITES IMPLEMENTATION IN CHINA: SUCCESS AND CHALLENGES

Y. F. Guo and S. Wang

Institute of Zoology, Chinese Academy of Sciences, Beijing, China

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Summary

China is rich in biological diversity, while its dependence on this natural heritage is high, too. In addition to domestic use, many fur animals, song birds and species with medicinal use are in great demand for international trade which may threaten the survival of these species in the wild. In 1981, China acceded to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), bringing over-exploitation of fauna and flora through international trade under surveillance. The establishment of authorities to implement CITES, adoption of legislation to protect wild animals and plants, research and monitoring of trade in endangered species and international cooperation in wildlife trade control are observable achievements in CITES implementation in China. Yet for the biological heritage of China and its neighboring countries to be handed over with sufficient safeguard to the generation to come, endeavors in wildlife research and trade monitoring, policy change and legislation improvements are still needed in China.

1. Introduction

China is rich in fauna and flora. Its biodiversity ranks eighth in the world and first in the northern hemisphere. Over 100 000 species of animals and nearly 33 000 plant species exist in the 460 different types of ecosystems Present in China (Agenda 21, 1994). The surviving subtropical ecosystems, either in area or type, are unparalleled anywhere else in the world. The 6347 vertebrate species found in the country account for 14% of the world total and nearly 10% of them are endemic to China. (anonymous, 1998).

Yet China's dependence on these biotic assets is significant in magnitude. Dating back as early as 4500 BC, traditional Chinese medicine builds upon a rich selection of herbs and wildlife parts, and remains as a medicament in contemporary China. The use of wildlife as food, both for subsistence and as a delicacy, is also derived from and enriched by this deep-rooted tradition. Various snake species are exploited: skins are processed and dyed for making leather wares, meat consumed as food, and venom explored as a cure for drug addiction. Molted skins, whole dry bodies and gall bladders are added as ingredients in traditional Chinese medicine. Fauna and flora have long been used as an economic generator for foreign currency. The value of annual export amounts to hundreds of millions of dollars worth of medicine and nutritional supplements derived from fauna and flora. Skins of leopard cat and lynx were among the most popular items destined for European and other markets, while studies on population size, trend and monitoring of the species in use that served as the scientific basis for their exploitation were generally lacking. Measures to control trade in these biological resources were sporadic and met with limited success.

The enormous trade in fauna and flora in China warrants strict CITES controls for all species subject to any degree of threat. Since the 1972 Stockholm Declaration on Human Environment, the Chinese government began to make efforts to curb environmental damage resulting from economic development. Commensurate with this

endeavor, China acceded to Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in January 1981. The Convention took effect in China in April of the same year. In the past twenty years, noteworthy achievements have been made in the implementation of CITES in China. Meanwhile, China's growing economy is also a challenge to the biological heritage of China, as well as to that of other countries.

2. Overview of CITES

The legacy of several millions, even tens of millions of species as some estimate, on the Earth today is the culminated results of evolution of hundreds of millions of years. In the last century or two, however, many of them have become extinct at a rate far greater than the natural background rate of extinction. The reasons for this calamity are manifold. Only surpassed by habitat loss, however, is international trade which is rated as the second greatest threat contributing to the disappearance of species. This trade is a lucrative business and has been carried on for hundreds of years, almost unmitigated. The market for exotic wildlife is worth at least five billion US dollars annually.

As this trade is international in scale, measures taken by any single country to bring it under control were most often jeopardized by legislative leniency elsewhere. The earliest effort calling for such international action was contemplated in the 1960s when the General Assembly of IUCN (the International Union for the Conservation and Nature and Natural Resources, now known as the World Conservation Union) proposed "an international convention on regulations of export, transit and import of rare or threatened wildlife species or their skins and trophies". Afterwards, 23 countries met in Washington D.C. and signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in March 1973. The Convention entered into force after the tenth ratification in July 1975.

CITES is one of the most effective international environmental agreements in the field of biodiversity conservation. This is largely attributable to the unique trade control mechanism that is unparalleled by other environmental treaties. The following section will be devoted to an introduction to how CITES works to ensure that species are used in a sustainable manner.

2.1. Permit system

CITES regulates international trade in wild fauna and flora at national level based on a permit or licensing system for species listed in one of the three Appendices. The permit system is administered by the Management and Scientific Authorities, which are the core of CITES. Any international trade of species on the Appendices requires proper permits or certificates. Permits are granted only if trade is not detrimental to the survival of the species. Both an import and an export permit are required for the extremely limited trade allowed in Appendix I species. Trade in Appendix II species requires only an export permit, unless the importing country has imposed additional requirements. International trade in Appendix III species may require a permit, a re-export certificate or a certificate of origin.

A permit is not required for specimens being transported through a Party while the specimen remains in custom control. Under certain conditions, a permit may be unnecessary for personal or household effects. Moreover, if a Party enters a reservation, the trade does not require a permit from or into the country of reservation, but would require a permit from the CITES signatory. Until a reservation is removed, that Party is treated as a non-Party state by other signatories for trade in that species. Exceptions are provided for certain forms of specimens, such as personal effects, specimens of animal species bred in captivity or plant species artificially propagated, non-commercial loan, donation or exchange between registered scientists or scientific institutions.

2.2. Appendices

The level of protection afforded depends on the degree of threat that trade presents to each species. Appendix I provides the highest level of protection for listed species, allowing trade to take place only when both import and export permits are granted. It includes species threatened with extinction which are or may be affected by trade. Trade in specimens of these species “must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.” Appendix II permits but regulates trade in listed species. It includes all species “which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival.” Trade in Appendix III species requires a certificate from the country of origin that proposed such a listing. It includes “all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.” Species can be added, deleted or transferred to another Appendix, subject to a two-thirds vote in favor by a COP held once every year.

2.3. Administration

2.3.1. Secretariat

The administration of CITES is divided into the Secretariat, the Management and Scientific Authorities (for each Party), and the Conference of the Parties. The Secretariat has a broad range of duties. It organizes meetings of the Parties, prepares reports for those meetings, publishes annual reports on the work and accomplishments of the Convention, and contracts for scientific and technical studies to aid the implementation of CITES. The Secretariat is also responsible for directing the attention of the Parties to issues that may affect implementation, printing up-to-date editions of the Appendices, studying Party reports, making recommendations to members, and performing other duties that may be assigned to it by the Parties.

2.3.2. Management Authorities

Management Authorities (for each nation state which is a party to CITES) have the responsibility for granting or denying issue of CITES permits. In general, The functions of a Management Authority include the following:

- granting permits and certificates;
- elaboration and issuance of identification devices;
- preparation of means of identifying specimens;
- registration of scientific institutions, commercial facilities, etc.;
- preparation of periodic reports;
- enforcement proceedings in case of contraventions;
- communication with other Parties and the Secretariat;
- participation in meetings of COP;
- adaptation of national provisions for the enforcement of the Convention;
- implementation of decisions of COPs;
- preparation of and consultation on national comments on proposals; and
- information and education functions.

2.3.3. Scientific Authorities

The Scientific Authorities (for each Party) advise the Management Authorities about whether trade will endanger a species' survival. Advice is to be based on information on population status, distribution, harvest, population trends, other ecological or biological information, and the possibility for trade. Management Authorities may not issue an import or export permit without first obtaining this information. Responsibilities of a Scientific Authority generally include the following:

- granting of permits and certificates in collaboration with the MA;
- monitoring the export permits granted for specimens of species included in Appendix I and II, and the actual exports of such specimens;
- scientific preparation of amendment proposals concerning Appendix I and II;
- participation in the preparation of national comments on amendment proposals;
- participation in meetings of COP;
- participation in training of CITES enforcement officers;
- evaluation of annual reports;
- specimen identification, and
- review of the qualifications of scientific organizations pursuing registration for scientific exchanges.

2.3.4. Conferences of the Parties

CITES requires that a COP is convened once every two years. At these Conferences, the Parties are to evaluate the implementation of CITES and make necessary financial provisions to enable the Secretariat to perform its duties. The Parties also deliberate and adopt amendments to the Appendices, review the recovery and conservation of listed species, review and consider reports presented by the Secretariat or any Party, and make recommendations for improving CITES implementation.

Attendance at the Conference of the Parties is not limited to Party members. The United Nations, its specialized agencies, the International Atomic Energy Agency, and non-member States may also attend. In addition, any international or national body that is "technically qualified in protection, conservation or management of wild fauna and

flora" may send observers to participate. However, only Party nations can vote. There have been eleven COPs since 1973.

2.3.5. Committees

Five committees exist to assist the operation of CITES: the Standing Committee, the Plant Committee, the Animal Committee, the Nomenclature Committee, and the Identification Committee. The Standing Committee focuses on the budget, and administrative and internal affairs. The Plant and Animal Committees advise the COPs on scientific matters on plant and animal issues respectively, review Appendix II species trade data, and reassess the condition of listed species to determine if continued protection is warranted. The Identification Committee gathers information to assist in identification of specimens and parts for customs officials.

2.4. Enforcement

CITES does not have a police body to enforce the provisions. However, it requires each Party to establish legislation to implement CITES, including penalizing trade activities that violate the provisions of the treaty. Therefore, it is the responsibility of each Party to enforce the Convention. Under CITES each Party is to compile and submit a detailed annual record of exports and imports of listed species. Parties are further required to produce biennial reports on the regulatory, administrative, and legislative actions they have taken to enforce CITES. The COPs and the Standing Committee may also recommend to the Parties to impose economic sanctions on those Parties or even non-Parties that fail to comply with the provisions of CITES.

3. Institutions and legislation to implement CITES in China

Institutional allocation of competence and legislation are the primary considerations of implementation. Besides CNMA (the Management Authority) and ESSC (the Scientific Authority) which were designated to achieve the purposes of the Convention, harmonization of implementation actions between the two authorities and other sectors such as customs, wildlife departments, quarantine, airliner, railways, police, etc. is highly necessary. Public participation by non-governmental organizations and individuals interested in endangered species protection is generally lacking in carrying out conservation awareness campaigns as well as participation in formulation of conservation policies.

It is noteworthy that although it is a territory of China, the Hong Kong Special Administrative Region independently implements CITES through its Management Authority based in Agriculture and Fisheries Department, in accordance with its own legislation. The Department is in a position to issue CITES permits and certificates for consignments to and from other Parties. A comparable permit or certificate for record keeping is required for trade in CITES specimens between Hong Kong and mainland China. Macao also follows the same mechanism of control with CITES-listed species.

The following parts will be devoted to discussions of the role of those sectors with direct bearings on CITES implementation, namely the Ministry of Agriculture, State

Forestry Administration and Ministry of Construction.

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Biographical Sketches

Guo Yinfeng, earned his B.A. in English in Beijing Second Institute of Foreign Languages in 1988 and his Master of Law in Peking University in 2001. Currently he works with the Endangered Species Scientific Commission of China (Scientific Authority to CITES in China) in the Institute of Zoology of the Chinese Academy of Sciences (since 1998), specializing in wildlife trade and law enforcement. Mr. Guo attended two COPs as well as a number of technical meetings of CITES. He led a survey to discover the real situations of medicinal use of endangered species in China and gave a critical look at their sustainable use. As a visiting scholar to International Law Center for Environmental Legal Studies of Pace University School of Law, in the United States, Mr. Guo completed a study of the potential conflict between measures to enforce CITES and GATT/WTO. Major publications include trade and medicinal use of Bear parts in China, sustainability of wildlife use in traditional Chinese medicine and a number of other articles on endangered species and their sustainable use.

Wang Sung, Fudan University. Research Professor of Institute of Zoology of Chinese Academy of Sciences (CAS), member of China Council for International Cooperation on Environment and Development (CCICED) and Co-Chair of Biodiversity Working Group/CCICED. Other honors include Vice President of the China Zoo Association, Member and Vice-Chair of the China National Committee for IUBS, Vice President of China Foundation for Protection of Wild Animals and Plants/Mdm. Song Qingling Foundation, member and advisor of CAS' Biodiversity Committee, etc. Previous honors include Executive Vice Chairman and Advisor of Endangered Species Scientific Commission of P.R.C. (1983-2000), Scientific Advisor of China's State Council Environmental Protection Committee (1991-1997), head of Working Group on Biodiversity Conservation/Chinese Academy of Sciences (1990-1992), member of CITES Animals Committee & Nomenclature Committee (1989-1994), IUCN Councilor and Member of Species Survival Commission and World Commission of Protected Areas (1990s), etc. He edited *China Red Data Book for Endangered Animals* and was Chief Compiler for the volume *Mammalia*. He is also Chief of Editorial Board of *Acta Zoologica Sinica*, member and Deputy Chief Editor of *Acta Zootaxonomica Sinica*, Deputy Chief Editor, of *Chinese Biodiversity*, member of *CITES/C&M International Magazine Scientific Committee*, 1994-6, member of *Environmental Awareness of International Society of Naturalists*, Member, Advisory Board, *International Environmental Agreements: Politics, Law and Economics*, 2001. Notable awards achieved are Scientific Award for *FAUNA SINICA: MAMMALIA, CARNIVORA*, CAS (1994); IUCN Certificate for Dedicated Service to Conservation of Nature and Natural Resources as IUCN Regional Councilor at World Conservation Congress I (1996 and 2000); IUCN; and Environmental Award by China Council for International Cooperation on Environment and Development for his outstanding contributions to the lofty cause of environment and development in China and for his unique accomplishments in the field of international cooperation (1996 and 2001). He is also an Honorary Member of the American Society of Mammalogists, New York Zoological Society, etc.