

Remembering Elephants at CITES

This March, the fate of the African elephant once again will be in the hands of the countries party to the Convention on International Trade in Endangered Species (CITES) when they will respond to southern African requests to resume international trade in ivory by downlisting the elephant to Appendix II. Once united, the coalition of southern African countries (Botswana, Malawi, Namibia, South Africa, Zambia, and Zimbabwe), now is deeply divided over the legal, economic, and ecological implications of resumed ivory trade.

In early February, Zambia withdrew its support for downlisting the elephant to Appendix II and lifted its reservation to the CITES Appendix I listing, a reservation that left Zambia a non-party concerning elephants. Moreover, it burned its nine-ton ivory stockpile along with weapons confiscated from poachers. The Chief Executive of South Africa's National Parks and South African CITES delegate, Dr. G. A. Robinson, announced in late December that he opposes renewed trade in ivory and would try to persuade the rest of South Africa's delegation to vote against downlisting the African elephant. The strain of the elephant debate has cut both ways. Dr. Richard Leakey, Kenyan Director of Wildlife and ardent supporter of a trade ban on all elephant products, has said that he is willing to allow trade in elephant products if the ivory trade ban continues. The US Fish and Wildlife Service, meanwhile, has kept its position a mystery, but has made clear that it believes some trade could be beneficial to elephants.

The elephant issue also has left many conservation groups unable to find common ground. Many organizations, including Greenpeace, the Environmental Investigation Agency, and the Humane Society, vehemently oppose anything but Appendix I listing. They note that, although ivory prices and demand for ivory have declined sharply, the southern African nations cannot enforce adequately illegal or legal ivory trade, and high ranking government officials may

be involved in illegal ivory trafficking (Environmental Investigation Agency, Briefing: Elephant Poaching Down After CITES Ban - undated). Others, such as the World Wildlife Fund, suggest that a skin-only trade is possible and that, under certain conditions, they would support renewed international trade in ivory.

From a legal perspective, retaining the African elephant on Appendix I and rejecting all transfer proposals would continue the prohibition on all commercial trade in the elephant and its parts, including ivory. The combination of legal prohibition and moral repugnance brought about by media campaigns has proven highly successful in reducing demand for ivory products and, consequently, virtually halting poaching in many countries. Unconditional Appendix II listing, on the other hand, would resume commercial trade in ivory and all elephant parts subject only to the requirement that exporting countries find that the proposed export is "not detrimental to the survival of the species."

Another alternative would transfer certain countries' elephant populations to Appendix II subject to a 'zero-quota' on ivory. This would allow some range for countries to trade in skins and meat, but keep ivory off the market. Although CITES specifically permits "split listings" by country, whereby geographically separated species are listed on different Appendices, it does not provide for split listings by product. In making Appendix listings, Parties are to consider whether 'species' are threatened with extinction or may become threatened with extinction. Thus, an agreement to continue the ivory trade ban while the elephant is listed on Appendix II could be accomplished only by a resolution or by an 'annotation' to the Appendix. Resolutions of the Parties are non-binding, however, merely outlining how Parties *should* comply with CITES. The zero-quota option would be insufficient to stop imports in some countries in which national legislation allows them to ban only those products from Appendix I species. In addition, if

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Parties simply decided not to comply with the resolution, very little, if anything, could be done to force them into compliance with the resolution.

An annotation is a condition attached to a species listing within the Appendix itself. However, there is no provision within the treaty language permitting this type of listing, and, even if there was, the Parties have not created criteria to remove the annotation. Nonetheless, the Parties have listed specific populations of vicuna on Appendix II subject to the annotation that only the wool of the vicuna, which must be sheared from a live animal, can be traded. The case of the elephant raises more serious questions, because the elephant's skin, meat, and ivory all are considered valuable commercial products. With the vicuna, commercial products are not separated because only the wool is a valuable commercial product. Unlike the vicuna situation, the elephant, after its skin and meat are shipped to market, is quite dead.

These two options also present the practical problem of stockpiled ivory, which promotes speculation that a legal ivory market will appear. Already the southern African downlisting proposals and a newly established ivory marketing cartel have caused speculation that trade will reopen, and poaching has increased throughout Africa.

When countries vote to protect the elephant, they also must consider that because few economic opportunities are as lucrative as selling ivory, poachers will continue to exploit elephants, even to extinction. Moreover, the new ivory cartel will allow countries to sell ivory confiscated from poachers, a provision which proved an enormous failure under previous CITES regimes. Poaching continues throughout Africa due to the mere speculation that a legal trade will resume. Retention of the elephant on Appendix I is strongly encouraged.

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