

THE IVORY TRADE BAN¹

General Background

Five hundred years ago, 10 million elephants populated Africa's forests and savannas, from the shore of the Mediterranean almost to the tip of Cape Good Hope.² Although estimates vary, today's elephant population is believed to be about one-twentieth of that figure. And recently, in just one decade, the elephant population dropped nearly 50 percent, from an estimated 1.3 million in 1979 to 625,000 in 1989.³ While it is difficult to estimate the current total population, it is thought that 300,000 to 500,000 inhabit Africa.⁴

In addition to a continent-wide decline, many individual populations are in jeopardy. Kenya's elephant population dropped from 65,000 in 1980 to 18,000 in 1990 even though all ivory trade was outlawed in Kenya in 1978. Between 1979 and 1987, the elephant population in Tanzania's Selous Game Reserve, one of Africa's

largest, plummeted from nearly 316,000 to 85,000.⁵ Uganda has lost 85 percent of its elephants since 1973. Tens of thousands of illegally obtained elephant tusks have been smuggled out of west and central African nations such as Tanzania, Zambia, Zaire, Sudan and Somalia.⁶ At the same time, populations in southern Africa, including those in Botswana, Zimbabwe, and South Africa, have stabilized or even increased due to effective ranch management practices. Despite the apparent successes in southern Africa, experience has shown that when elephant populations are exhausted in one locality, the illegal killing moves to another. In addition, legal trade in one country tends to attract smuggling from other countries. Through the 1980s, there was evidence that the southern African countries were being used for illegal transshipment of ivory from the north.

Ecologists attribute the drastic decline in African elephants to several factors. Loss of habitat to human encroachment poses the most serious long-term threat to the elephant's survival.⁷ When Africa had 10 million elephants, only 16 million people lived on the entire continent. Today, Africa's human population has reached 500 million and the elephant's range has been reduced to less than one-fourth of the continent's surface.⁸ The tropical and subtropical realms where elephants dwell are precisely where the human population in Africa has been increasing fastest, quadrupling in number since the turn of the century, claiming more and more elephant range for cropland,

¹ This case simulation was written by Professor Thomas Princen, School of Natural Resources and Environment, the University of Michigan with assistance from Cathy Diekmann, Jonathan Putnam, and Kathleen Mogelgaard, for teaching purposes only. Support was provided by the Program on the Analysis and Resolution of Conflicts and the Faculty Instructional Grant Program both of Syracuse University.

This simulation is based primarily on information available in the early 1990s with updates in 2003. Some information in the position papers, however, is added or altered for the purpose of the simulation and does not necessarily reflect the true positions of the respective parties.

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² World Wildlife Fund Letter, No. 2, 1989, p. 1.

³ Fitzgerald, 1989, p. 62.

⁴ World Wildlife Fund website,

http://www.panda.org/about_wwf/what_we_do/species/what_we_do/flagship_species/elephants/african_elephant/population.cfm (4 March 2003).

⁵ See Gup, "Trail of Shame," Time, Oct. 16, 1989, p. 6, cited in Sands and Bedecarre, 1990, p. 807.

⁶ WWF Letter, 1989, p. 1.

⁷ Chadwick, 1991, p. 14.

timber and pasture.⁹ Elephants and cattle compete for some of the same food. Certain native groups, such as the Masai, have randomly killed elephants as a form of political protest and as displays of bravery.¹⁰ Elephants also die from severe droughts, and from hunting for meat or trophies; it is the rare individual elephant that dies of old age. With Africa's human population projected to double in 29 years, elephant habitat is dwindling rapidly.

Although habitat loss is the greatest long-term threat, the principal immediate cause of elephant deaths in recent decades has been poaching. After World War II, the demand and price for ivory rose sharply, making poaching a very lucrative business. In the 1970s, many people invested in ivory as a hedge on worldwide inflation and ivory prices quadrupled. Prices for raw ivory in Japan, Hong Kong, and Europe, the major ivory-consuming regions, rose from between \$3 and \$10 a pound in the 1960s to \$50 a pound by the mid-1970s. In the 1980s, ivory sold for as much as \$200 a pound. At the same time, Hong Kong vastly improved its ability to mass produce ivory carvings.¹¹ Consequently, the international ivory trade and thus, the killing of elephants, skyrocketed. By one estimate, poachers were killing 200-300 elephants a day in the mid-1980s.¹²

Few African governments had the necessary resources to combat the increase in poaching. Growing political turbulence and easy access to automatic weapons greatly reduced the producer governments'

ability to protect elephant herds and enforce game laws. Poachers using paramilitary methods such as spraying bullets from semiautomatic weapons over entire herds to collect the ivory of a few elephants could just as easily turn their weapons on ill-equipped, poorly trained game wardens. In some cases, political corruption undermined conservation and protection efforts. What's more, trade sometimes flourished as a by-product of regional wars. During the Rhodesian war, for example, Rhodesian special forces formed their own ivory smuggling rings which became more active as the tide turned against the government. The result was that by the late 1980s only 1.5 percent of the elephant's total range was adequately protected.¹³

In addition to reducing elephant numbers, poaching threatens the viability of herds by disrupting the elephants' social structure. As populations dwindle, poachers kill increasingly younger elephants. Although elephants can live up to 60 years, some regions have reported that no elephants over 30 years of age can be found.¹⁴ As elephants acquire survival skills over a lifetime and pass their knowledge on to younger elephants, this knowledge is lost as more and more older elephants are killed. Increasingly younger herds may not be as capable of raising and protecting their young.

Increasing ivory prices can be largely attributed to rapidly increasing consumer income and to changes in consumer preferences,

⁸ WWF Letter, 1989, p. 4-5.

⁹ Chadwick, 1991, p. 13.

¹⁰ Fitzgerald, 1989, p. 3.

¹¹ Fitzgerald, 1989, p. 65.

¹² The Economist, July 1, 1989.

¹³ Ivory Trade Review Group, 1989, p. 7.

especially in East Asia. The Japanese have used ivory in jewelry, trinkets, ornaments, personal signature seals (*hanko*) which are required on official documents, and in medical, fertility and religious rites. Europeans have used ivory principally for decoration and such objects as piano keys, knife handles, and musical instruments like bagpipes. Ivory jewelry, billiard balls and art have been popular in the United States.¹⁵

Through the 1970s and 1980s, Japan and Hong Kong were the world's leading ivory-consuming countries. Many tusks also passed through outposts in Dubai, U.A.E. and Singapore. In 1984 alone, Japan imported some \$30 million worth of raw and worked ivory from Africa. An estimated 80 percent was illegal. Japan is reported to have accepted shipments of poached ivory from Zaire, Sudan and the Congo where ivory exports were banned, from Burundi which has no native elephants, and from Uganda where export permits had been forged.¹⁶ Then, Japan was the ultimate destination for 40 percent of all the world's ivory.¹⁷

Hong Kong used ivory principally for carving. Some 75 percent of the ivory carved in Hong Kong in the early 1980s was exported and much of the rest sold to foreign tourists. Forty to fifty percent of Hong

Kong's total exports went to the United States.¹⁸ U.S. consumer demand thus accounted for roughly 15 of every 100 elephants killed.¹⁹ Worked ivory from Hong Kong was also exported to such countries as France, West Germany, Italy, Austria, the United Kingdom and Japan. The European Community accounted for roughly 20 of every 100 elephants killed.²⁰ In 1984, after the United Kingdom implemented stricter trade controls in Hong Kong, carvers began exporting their expertise, setting up offshore factories in Macao, Singapore, Taiwan and the U.A.E.²¹ After ivory was worked in a carving country, it became nearly impossible to detect its origin or determine whether the ivory was obtained legally or illegally. Either way, the carved ivory easily entered the international wholesale and retail markets.²²

The most important factor contributing to the growth of ivory demand was the unparalleled income growth occurring in East Asia, especially in Japan and now in China.²³ Ivory has been a culturally valued substance in Asia for many centuries, but Japan's new-found wealth after World War II led to increased consumption. Japanese incomes increased faster and more constantly than any other in the world. And the Japanese taste for ivory increased even faster. According to one study, between 1960 and 1985, each 10 percent increase in Japanese annual income resulted in a 15 percent increase in annual spending on ivory. To illustrate the impact of this spending

¹⁴ Favre, 1989, p. 121.

¹⁵ Early this century, there were approximately 50,000 billiard rooms in the United States and more than 300,000 tables in use. To supply these tables 60,000 balls were needed annually requiring more than 10,000 elephants to be killed. Tusks suitable for making billiard balls must be taken from elephants from 30 to 100 years of age. An official of the world's largest billiard ball manufacturing company offered a reward of \$50,000 to anyone who could produce a substitute for ivory. Illustrated World. 1920.

¹⁶ Milikin, 1985, p. 43.

¹⁷ Chadwick, 1991, p. 44.

¹⁸ Milikin, 1985, p. 43.

¹⁹ Chadwick, 1991, p. 44.

²⁰ Chadwick, 1991, p. 44.

²¹ Ivory Trade Review Group, 1989, p. 15.

²² Ivory Trade Review Group, 1989, p. 14.

²³ Ivory Trade Review Group, 1989, p. 19.

behavior, when world consumption of ivory increased by 100 percent between 1960 and 1985, Japanese consumption increased by 200 percent.²⁴

China emerged as a significant ivory consumer in the late 1990s. The expansion of the ivory market in China is due in large part to the growth of China's private retail sector, increasing purchasing power of Chinese consumers, and weak enforcement of ivory trade regulations within China.²⁵ The trend of expanding consumption in China is illustrated by the growth in retail sales for jewelry (the most relevant category for ivory for which retail sales statistics are available): jewelry expenditures in China increased from approximately \$360 million US dollars in 1994 to over \$1.85 billion in 2000.²⁶

From an economic perspective, the ivory trade has probably not benefited most producer countries. African producer states have often argued that ivory export earnings were badly needed to support their struggling economies. Yet revenues obtained from ivory between 1979 and 1987 amounted to less than 2 percent of total merchandise export earnings for all but seven African states.²⁷ Only the Central African Republic and the Congo earned significant revenues (over 5% of earnings) from trading ivory.²⁸ Other than Zimbabwe, most African nations sell their ivory at 10 to 20 percent of the prevailing selling

price in Hong Kong. Consequently, in the 1980s Africa got only a fraction (\$10-20 million) of the \$50 million gross ivory revenue per annum. Some of this revenue was lost to shipping costs, but approximately \$30-40 million was captured by Asian exporters and stockpilers.²⁹ As a result, the actual value of the ivory trade to Africa was not as great as it appeared. The benefits were primarily garnered by non-Africans.

The economic rents—that is, the difference between the value received from the sale of ivory and the initial cost of harvesting the ivory—are dispersed among many types of individuals, including poachers, local traders, local chieftains, domestic officials and foreign traders. The states (the “owners” of the resource) receive almost nothing, other than revenues from confiscated ivory. This dissipation of rents, combined with the uncertainty and risk involved in not harvesting ivory, creates an incentive to harvest ivory as quickly as possible.

Of the ivory-producing countries, only Zimbabwe brought in a level of revenue (\$63-\$76/kg) close to the value of raw ivory earned in Japan (\$85-\$99/kg). For other producer states, the revenues ranged from \$6-\$15/kg. Zimbabwe, unlike the other states, had actively managed elephants during the 1980s, marketing ivory in such a manner to gain the largest proportion of rents possible.

Not only did producer countries gain little from the ivory trade, they may have lost revenues as tourism declined. Kenya alone has 250,000 to 300,000 tourists annually who indicate an interest in

²⁴ Barbier, Edward B., Joanne C. Burgess, Timothy Swanson, and David Pearce, 1990.

²⁵ Caitlin O'Connell Rodwell and Rob Parry-Jones, 2002, *An Assessment of China's Management of Trade in Elephants and Elephant Products*, TRAFFIC Online Report Series No. 3, TRAFFIC East Asia

(http://www.traffic.org/publications/china_report.pdf)

²⁶ Rodwell and Parry-Jones, 2002, p. v.

²⁷ Ivory Trade Review Group, 1989, p. 23.

²⁸ Ivory Trade Review Group, 1989, p. 23.

viewing elephants. In one survey in the 1980s, tourists indicated they would travel elsewhere if Kenya experienced continued elephant population decline. Should tourism decline, Kenya could lose between \$50 and \$80 million annually, up to one half its total tourist industry revenue.³⁰

Elephants are a major force in maintaining biological diversity in the African savanna and forests. As elephants browse in woody vegetation, debarking and pushing over trees and saplings, they disperse seeds and block bush invasion in savannas and woodlands, thereby creating a more productive flora for grazing ungulates and grassland species. Likewise, elephants play a major role in the dynamic savanna-woodland balance. After the elephants leave a savanna, it grows into scrub for a host of browsing animals and then, once more, becomes woodland, to which elephants will return and repeat the cycle.³¹ Many forest animals prosper from the elephants' presence. Mongooses, velvet monkeys and baboons feed on seeds and insects found in elephant droppings. Beetles roll and bury balls of elephant dung as a food supply for their larvae which honey badgers later dig up and feast upon.³² Some argue that commercial livestock also benefit from healthy elephant herds because the elephants expand grasslands and reduce the incidence of the tsetse fly.

The first international response to declining elephant populations occurred when Ghana listed the African elephant on Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1976. This listing afforded the elephant minimal protection. (See below Appendix A—CITES.)

As elephant populations continued to plummet, the CITES Conference of the Parties of 1978 "uplisted" the species to Appendix II, conferring additional protection. This did little to halt the elephant's decline, though, and in 1985 several African nations asked the Parties to establish a system of export quotas.

The ivory quota system went into effect in 1986 and was overseen by the CITES Secretariat and managed by a special Ivory Trade Unit. The system called for each African state wishing to export raw ivory to communicate to the Secretariat its intended export volume, expressed in maximum number of tusks, for the following year. These volumes constituted the "quotas." The Secretariat had no mandate to unilaterally alter or reject the volume submitted by sovereign states. The Secretariat also had to rely on producer states to ensure that the quotas did indeed help conserve elephant populations. The system's effectiveness over a four-year period was the subject of considerable debate among governmental, inter-governmental and non-governmental organizations.

The Secretariat argued, for example, that, despite some early problems, procedural changes made in 1988 improved the export system's overall effectiveness and efficiency. By entering tusk data on computer as soon as those data were received from an exporting

²⁹ Ivory Trade Review Group, 1989, p. 23.

³⁰ Ivory Trade review Group, 1989, p. 26.

³¹ Chadwick, 1991, p. 25.

³² Chadwick, 1991, p. 25.

country, detection of forged or previously used permit and tusk identification numbers could be recognized before the tusks were actually exported. In the past, tusk data had not been entered immediately thus allowing infractions to occur.³³

TRAFFIC, a non-governmental, international flora and fauna trade monitoring network affiliated with the World Wildlife Fund, on the other hand, insisted that the computerized system was no match for the widespread bribery and corruption which resulted in forged and falsified permits.³⁴

A second issue of debate was the degree to which the control system contributed to the decline in trade. According to the Wildlife Trade Monitoring Unit (WTMU—a CITES organization) the total trade in raw ivory fluctuated between 600 and 1160 tons per year from 1979 to 1986, declined sharply to 370 tons in 1987 and then dropped to 153 tons in 1988. Although the decline occurred since the

³³ CITES Secretariat, Interpretation and Implementation of the Convention: Trade in Ivory from African Elephants, Doc. 7.21, 9 to 20 October 1989, p. 2.

³⁴ Through reports and other data analysis, the TRAFFIC network assesses international wildlife trade for international and national government agencies, private non-governmental organizations and the CITES Secretariat. Its goal is to stop illegal wildlife trade and monitor legal wildlife trade. The TRAFFIC network, although a program of the World Wildlife Fund, is often listed as an independent NGO. As of the early 1990s, there were eleven TRAFFIC offices worldwide, located in Australia, Austria, Belgium, Germany, France, Italy, Japan, the Netherlands, the United Kingdom, the United States and Uruguay. WWF funds the individual TRAFFIC offices, but TRAFFIC is also closely associated with the IUCN and other experts from other organizations who work to control the international wildlife trade. It sends its own representatives to the biennial CITES meetings. World Wildlife Fund Factsheet, 3/89, "Monitoring Wildlife Trade—The TRAFFIC Network"; TRAFFIC-USA newsletter, Vol. 11, Number 2, January 1992. According to Michael O'Connell of WWF, TRAFFIC maintains contacts with traders and shippers and asks them directly for information. In the ivory case, legal ivory in Hong Kong and elsewhere could almost always be traced back to illegal sources in Africa. Interview, 1991.

introduction of the control system in 1986, WTMU argued that, at the time, it was too early to draw firm conclusions as to the true impact of the CITES ivory export system. CITES' documents, nonetheless, linked the reduction in ivory trade volume, the drop in demand for ivory, and the decline in carving industry revenue to the ivory quota system.³⁵

After a three-year study of trade practices, the Ivory Trade Review Group, an ad hoc group of specialists mostly from and funded by environmental NGOs including TRAFFIC and the World Wildlife Fund (WWF) concluded in 1989 that CITES controls were not fully responsible for the decline in total ivory trade volume. Rather, smuggling, stockpiling, population reductions and changing public attitudes were major contributing factors. Although some information from industries in the consuming countries indicated a relatively high degree of compliance with the CITES regulations, these groups criticized the CITES system as one easily evaded.³⁶

Perhaps the greatest reproach of the quota system came from WWF, which contended that most quotas were set arbitrarily and with little regard for the actual status of individual elephant populations.

³⁵ CITES Doc. 7.21, p. 14.

³⁶ Ivory Trade Research Group, 1989, p. 22. Evasion of the monitoring system was facilitated, somewhat paradoxically, by disrupting the traditional trade routes through non-CITES nations. There are only two means by which ivory can be tracked in international trade: CITES data submitted by exporting countries and customs data of importing countries. Discrepancies between the two kinds of data indicate illegal trade. As more states joined CITES and their customs data were made coincident with data submitted to CITES, it became more difficult to determine which trade evaded CITES. Furthermore, some ivory avoided CITES controls by being worked in non-party states such as the UAE before being re-exported. Yet, the CITES Secretariat

For example, the government of Somalia once announced its intent to export 8,000 Somali elephant tusks despite the fact that Somalia had fewer than 4,500 elephants. As a result of this and other violations, WWF denounced the quota system for failing to protect the elephant's future.

The CITES Secretariat admitted that some trade had occurred outside the quota system but cautioned that the system was not designed to eliminate poaching within national boundaries. Anti-poaching efforts are the responsibility of the states' enforcement agencies, for which CITES is no substitute. Thus, in its 1989 evaluation of the quota system, the Ivory Trade Unit concluded that some of the most fundamental problems such as inadequate resources for elephant protection and management programs reside at the national level. If legal trade in ivory was to continue, the Trade Unit argued, attention had to focus on the implementation of strict trade controls with uniformly high standards.³⁷

At the national level in the late 1980s both producing and consuming countries pursued more drastic measures to save the elephant. In Kenya, for example, anthropologist Richard Leakey was appointed as director of Kenya's Wildlife Services. Leakey immediately began weeding out corrupt officials and raised park rangers' wages. He also implemented a shoot-to-kill anti-poaching campaign providing his wardens with automatic rifles and helicopter

asserted that these loopholes continued to close as more and more joined the Convention (CITES Doc. 7.21, p. 19).

³⁷ CITES Doc. 7.21, p. 19.

gunships. Tanzania followed suit, rounding up 1,800 ivory poachers and middlemen in just a few months.³⁸

In the United States,³⁹ a major lobbying campaign by environmental NGOs resulted in the passage of the African Elephant Conservation Act of 1988 (AECA). Designed to halt the flow of illegal ivory into the United States, the AECA required the Secretary of the Interior to conduct an investigation of all ivory-producing states to determine what states had effective elephant protection programs. For those states lacking effective programs, U.S. import moratoriums would be placed on their ivory. Import criteria were also applied to intermediary states. Although the Act did not call for a trade ban, it did give the U.S. the authority to institute selective moratoriums against deviant countries.⁴⁰ This possibility was enough to push up ivory prices and accelerate poaching. The Act also complemented the NGO publicity campaigns by heightening public awareness and concern for the elephant. It contributed to the move for a total trade ban on ivory.⁴¹

³⁸ Chadwick, 1991, p. 26.

³⁹ The federal Endangered Species Act of 1973 (ESA) prohibited U.S. importation of any "endangered" species listed on the ESA register. Since 1978, the elephant was listed as a "threatened species," permissible for importation. However, such imports were restricted to ivory arriving from CITES Party states. The regulations further required that imported ivory be accompanied by an export permit from the country of origin, even if the ivory had entered the market from an intermediary country where it was worked into a finished product. ESA 16 USC 1538, cited in Glennon, 1990, p. 13.

⁴⁰ Interview, Susan Lieberman, U.S. Fish and Wildlife Service (FWS), 1991.

⁴¹ Environmental NGOs were instrumental in pushing the bill through Congress. FWS, for example, received 75,000 postcards. The NGOs were also effective in getting funds directed to elephant conservation. When Congress failed to appropriate the funds authorized in the Act, the NGOs got \$4 million of USAID's \$18 million biodiversity program earmarked for elephant conservation. Interview, Kenneth Stansell, U.S. FWS, 1991. NGOs are also prominent in the FWS's hearings to prepare the U.S. position for upcoming CITES meetings. These hearings amount to information exchanges more than formal hearings. The entire public process including

On May 23, 1989, Britain joined the call for a ban. Zaire, Gabon and Gambia followed soon after. The International Union for the Conservation of Nature (IUCN) and the WWF pointed out, however, that poaching could accelerate in anticipation of the upcoming 1989 CITES meeting in Lausanne, Switzerland, where a ban would be proposed. So these two NGOs encouraged trading states to declare immediate, unilateral bans on ivory trade. On June 1, 1989, the Ivory Trade Review Group (ITRG) released the findings of a study commissioned by the African Elephant and Rhino Specialist Group of IUCN. The study was funded by Wildlife Conservation International, WWF, U.S. F&WS, and was carried out by TRAFFIC, the CITES Secretariat, and the African Wildlife Foundation. The ITRG report produced “further evidence of the chaotic, uncontrolled conditions of the international ivory trade today. For example, it found that poaching had become so prevalent that the legal (i.e.. government controlled) and the illegal trades have become virtually indistinguishable’ and that ‘exploitation of elephants to supply ivory, as currently practiced throughout most of (Africa) is quite unsustainable.”⁴²

On June 9, 1989, the United States announced a unilateral moratorium on the importation of all ivory. France, West Germany and the European Community declared similar bans.

Such unilateral measures were not duplicated in Asia. Hong Kong banned only imported worked ivory, as opposed to raw ivory. Japan

banned raw and worked ivory but not from African countries party to CITES. Japan also continued its trade with countries such as South Africa and Zimbabwe that had effective elephant management programs and that opposed the ban on the grounds that a ban would curtail revenue needed for wildlife management.

With unilateral bans multiplying, attention shifted to the Seventh Meeting of the Conference of the Parties, held in Lausanne, Switzerland, October 1989. The meeting was covered by almost 160 journalists and 16 television networks. More than 70 percent of the resulting articles dealt with the African elephant.⁴³

Although many expected a worldwide ban to be implemented, others—most notably the CITES Secretariat and the southern African states—were determined to head off such a drastic move. The Secretariat argued for adequate financial support for the control system and strengthening of the range states’ elephant conservation programs.⁴⁴ The southern African states strenuously objected to a blanket ban. In their region, governments, rather than private traders, had been conducting the ivory trade. With stable, even growing, elephant populations, these countries (in particular, South Africa, Zimbabwe and Botswana) felt they would be unduly penalized for the inadequacies of other producer countries. When an amendment from these southern African states to allow lawful sale of ivory from their

the publishing of the U.S. position in the Federal Register is unique to the U.S., however. Interview, Susan Lieberman, U.S. Fish and Wildlife Service, 1991. Abroad, WWF and the Africa Wildlife Federation conducted extensive publicity campaigns in developing countries and Japan. Interview, Michael O’Connor, WWF, 1991.

⁴² FWS, Federal Register, June 9, 1989, pp. 24758-24761.

⁴³ CITES, 14th Annual Report of the Secretariat, p. 13.

⁴⁴ CITES Doc. 7.23, “Interpretation and Implementation of the Convention: Trade in Ivory from African Elephants, Strengthening of the Ivory Trade Control System.”

region failed by a vote of 20 in favor, 70 against, and 1 abstention,⁴⁵ they threatened to take “reservations”⁴⁶ and continue selling ivory. Botswana even hinted at withdrawing altogether from CITES. The often rancorous debate among the CITES Parties, then numbering 108, eventually resulted in an uplisting of the African elephant to Appendix I. The vote was 76 in favor, 11 against, and 4 abstentions.

South Africa, Zimbabwe, Zambia, Botswana and Malawi filed for reservations and announced they would continue to sell ivory. Botswana, in fact, ordered an immediate culling of some 2,500 to 3,000 elephants out of their northern herd numbering over 67,000 which, the government said, was causing widespread damage to vegetation in the Chobe National Park.⁴⁷ China entered a reservation concerning ivory imports and Britain entered a reservation on behalf of Hong Kong that allowed the colony a six-month trade extension. Japan initially abstained from the vote in Lausanne but later agreed to abide by it.⁴⁸

The demand for ivory began to drop within a year of the ban's implementation. Poachers found it difficult to sell ivory and dealers were not giving poachers their usual advances to acquire as much ivory as possible. Ivory became less valuable as the demand from the

rest of the world fell. Consequently, prices fell or remained stable throughout most of the world.⁴⁹ Prior to the unilateral ivory trade bans of 1988, wholesale prices of ivory had reached \$200 a kilo.⁵⁰ After the ban, prices in Zaire dropped by more than half and in the Congo by 20 to 50 percent.⁵¹

Preliminary data revealed significant changes in Central and East African countries where poaching had been heavy. Kenyan officials reported that the price of illegal ivory collapsed there. Ivory dealers apprehended on the Somali border were attempting to sell tusks at \$5-\$7 per kilogram. Prices in Somalia were even lower, \$2-\$4 per kilogram, and “there were no takers.”⁵²

In the United Arab Emirates (U.A.E.), a key entrepot and processing center, factories were shut down and ivory sales banned. The local economic impact was minimal. There was no evidence of smuggling. Moreover, UAE joined CITES in May 1990.⁵³

The U.S. moratorium on ivory imports was dramatically successful in shutting down the U.S. market. Dealers reported that wholesale prices for jewelry and simple carvings, which traditionally accounted for most of the U.S. market, were discounted up to 70 percent. One major ivory trader in New York said that price was irrelevant in the U.S. market because demand for ivory was nonexistent and trading did not occur at any price.

⁴⁵ CITES Proceedings, October 8-20, 1989.

⁴⁶ CITES has a “reservation” clause allowing Parties to exempt themselves from trade controls on any species listed in the Appendices. Reasons for taking reservations need not be given. Parties taking a reservation on a species are treated as non-Parties for all issues regarding that species. In 1985, 15 of the then 87 Parties had such reservations in effect. Japan led all others with 13 reservations. Lyster, 1985, pp. 9-10, 262-263.

⁴⁷ U.S. Department of State, Telegram from American Embassy, Gaborone, Botswana to Department of State, Feb. 12, 1990.

⁴⁸ L.A. Times, cited in Glennon, 1990.

⁴⁹ Thornton, 1990, p. 43.

⁵⁰ Cater, 1989, p. 45.

⁵¹ Thornton, 1990, p. 43.

⁵² O'Connell and Sutton, 1990, p. 18.

⁵³ U.S. Department of State, telegram, American Embassy. Abu Dhabi, UAE to Department of State, May 16, 1990.

In Asia, China and South Korea continued to import ivory. Although China did institute a complete ban on raw and worked ivory in 1991, South Korea remained active. Much of the South Korean ivory was shipped to illicit markets in Japan. After an initial surge following the uplisting, prices and demand eventually declined in Japan.

As of the late 1990s, the trade ban appeared to have had a negligible impact on the overall economies of most elephant range countries. However, the southern African states claimed that the inability to sell ivory products had a detrimental effect on wildlife conservation by eliminating one source of income for wildlife management programs. U.S. government sources reported that Zimbabwe estimates it will lose up to \$9 million in general revenues as a result of the trade bans. Yet, South African sources indicated that while trade bans had an effect on their elephant population management efforts, the overall influence on the nation's economy is insignificant.⁵⁴

The benefits of the ban to elephants are clearer, though. Poaching decreased by as much as 80% throughout Africa and was virtually eliminated in some areas as ivory prices plummeted due to the ban. Retail sales in Japan fell by 50%, and ivory shops in Hong Kong closed by the dozens. So, while the ivory ban did nothing to lessen the long-term threat to elephants from habitat loss, it did provide some breathing space by largely eliminating the immediate threat of poaching.

The increasing use of ivory substitutes may further reduce the demand for ivory.⁵⁵ Steinway and Yamaha, major piano manufacturers in the U.S. and Japan, announced they will use synthetic ivory in their keyboards. Hippo teeth, bone and palm "ivory" are naturally occurring ivory substitutes. Mammoth ivory was being substituted by ivory craftsmen in the U.S., Japan and elsewhere. Walrus ivory is another possible substitute for elephant ivory and officials in Alaska were on guard against walrus poaching since the ban on elephant ivory went into effect. Livestock horn, wood, stone and ceramic can also be used for Japanese signature seals.⁵⁶

Elephant populations in some southern African nations did indeed grow. By 1997, Botswana, Namibia and Zimbabwe felt that their elephant populations had recovered sufficiently to support limited trade. They proposed at the 1997 CITES meeting to temporarily downlist their elephant populations to Appendix II and allow "one-off" (one-time) sales from their existing legal stockpiles of raw ivory. These legal stockpiles, which were collected as the result of natural elephant deaths and government efforts to control problem animals, contained approximately 5,446 tusks and weighed about 55 tons. The proposal was approved by the majority of the CITES parties, and the ivory was sold to Japan in 1999 for USD \$5 million. Botswana, Namibia and Zimbabwe utilized these funds for elephant conservation

⁵⁴ O'Connell and Sutton, June 1990, pp. 26-27.

⁵⁵ O'Connell and Sutton, June 1990, p. 28.

⁵⁶ Chadwick, 1991, p. 44.

activities.⁵⁷ Elephant populations in these nations have retained the Appendix II listing, allowing for a limited take of elephants through safaris and other sport hunting activities. Further ivory sales, however, have not been allowed.

The decision to loosen the ban by allowing one-time sales of ivory stockpiles was a controversial one. While each nation's proposal had slight variations in the amount of opposition and support it received, the proposals for one-time sales were supported by about 75 nations, and opposed by about 20, with about 20 nations abstaining. Conservation organizations, in particular, opposed the proposals. In a response to the 1997 vote, Defenders of Wildlife Vice President James Wyerman said, "We fear that the huge impacts of today's vote will extend beyond the borders of Zimbabwe, Botswana, and Namibia. With elephant populations in many African nations still unable to recover from decades of unsustainable trade, the threat of renewed poaching could have terrible consequences for elephant conservation."⁵⁸

As Wyerman's comments illustrate, much of the controversy centered around speculation over how one-time sales would affect the market demand for ivory. At the heart of the debate was a single question: Does the legal sale of government stocks of ivory stimulate

the ivory market in a way that would lead to increases in illegal poaching?

To gather reliable data on poaching and smuggling that would help answer that question, CITES launched two long-term monitoring systems: MIKE (Monitoring Illegal Killing of Elephants), which seeks to identify and monitor trends in elephant poaching in Africa and Asia; and ETIS (Elephant Trade Information System), a monitoring system that tracks illegal trade in elephant products.

The MIKE system, only recently implemented on a broad scale, has not yielded significant data. ETIS, however, has provided some preliminary insights into the illegal trade in ivory and its causes. Based on data gathered from seizures of traded ivory, initial studies by ETIS show a decline in the volume of illegal trade worldwide from 1989 to 1994, a period of stability from 1994-1998, and an increasing trend in illegal trade from 1998 to the 2002.⁵⁹ The study concludes that the influence of the emerging Chinese market for ivory is the single most important reason for the upward trend beginning in 1998. Furthermore, the study "has not been able to detect that change in the listing of elephant populations in the CITES appendices and the one-off legal trade in ivory under CITES are important explanatory variables for the trend."⁶⁰

⁵⁷ James Gorman, 2002, "UN Group to Allow Sale of Ivory Trove By 3 Countries," *The New York Times*, Nov. 13, p. A8.

⁵⁸ Defenders of Wildlife press release, 1997, "Ivory Ban Lifted; Other Top Issues Decided at CITES Conference," <http://www.defenders.org/releases/pr1997/pr061997.html>

⁵⁹ *Summary Report on the Elephant Trade Information System: Illegal Trade in Ivory and Other Elephant Specimens*, 2002, Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CoP12 Doc. 34.1, p. 4.

⁶⁰ *Summary Report of the Elephant Trade Information System*, 2002, p. 4.

The results of a single study, however, leave others skeptical, particularly in the absence of any meaningful data on poaching activities from MIKE. Anecdotal evidence from range states suggests that since 1997 elephant poaching and illegal ivory trade have increased, old illegal ivory trade routes have reopened, and the black market price for ivory has increased. Many fear another loosening of the ban would result in further assaults on African elephant populations as well as increased poaching of Asian elephants, whose range extends through much of India, Sri Lanka, Myanmar, Indonesia, and Thailand.

Whether as a result of increasing purchasing power in China or market stimulation resulting from the 1997 one-time sales, the issue of increasing demand for ivory as well as illegal trade must be addressed at the next CITES Conference.

At this conference, an opportunity exists to strengthen the ban, allow the one-time sales, reconsider instituting annual quotas, reintroduce a trade regulation regime, or find a more creative means of ensuring the African elephant's survival. Thus, the CITES Secretariat has called an emergency meeting of a few key countries and observers. The Secretariat hopes to reach a consensus policy among these representatives which can then be presented to the plenary conference. Representatives from Japan, China, South Korea (not a Party to CITES), Democratic Republic of Congo, Zimbabwe, Kenya, the World Wildlife Fund, India, the United States, and the Environmental Investigation Agency have been invited to attend.

The procedures for this meeting will be decided at the table. Caucuses may be necessary to work out the details of substantive proposals. There are no other predetermined rules of procedure.

This is not a formal meeting that would result in a binding agreement. In this context, participants cannot necessarily commit one's nation or organization to a particular outcome. The objective is to devise proposals that would contribute to the creation of a new and more effective elephant management program, taking current problems of illicit trade, enforceability and under investment into account.⁶¹

⁶¹ For example, some countries may be reluctant to push for environmental protection if it puts them at a competitive disadvantage in their trade relations.

APPENDIX A-Brief History of IUCN and WWF

The origins of CITES can be traced to the inter-war period when two major international NGOs—the International Committee for Bird Protection and the International Office for the Protection of Nature (IOPN)—were established. A major focus of IOPN activity by British and American naturalists was British East Africa. In fact, one report estimated that the elephant could not survive more than fifty years at the current rate of destruction.⁶² Concern for dwindling populations of many species led to the signing in London in 1933 of the Convention for the Protection of the Fauna and Flora of Africa. The Convention's aims were largely limited to creating national parks in colonial territories.

After the war, a number of prominent naturalists including P. G. van Tienhoven, president of IOPN in the inter-war period, Charles Bernard, president of the Swiss League for the Protection of Nature, Max Nicholson, director general of the Nature Conservancy in Britain, and the British biologist Julian Huxley debated whether to strengthen or replace IOPN. While some conservationists sought to build on the IOPN's structure, in the climate of the post-war period, many urged institutional innovation. At a meeting in Basle, Switzerland in 1946, the question of whether the organization should be inter- or non-governmental was left unresolved concluding that, “. . . it is desirable that there should be an active international organization, widely international and representative in character, adequately financed and with adequate terms of reference.”⁶³

Huxley, the first Director-General of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), pushed for a nature protection organization. Delegates to a second international conference, this time in Brunnen in 1947, were wary of the newly formed UNESCO which had among its tasks the job of setting up non-governmental or semi-governmental organizations. Heading off an increased role for UNESCO, the delegates instead created a provisional International Union for the Protection of Nature (IUPN). UNESCO was concerned about the degree of governmental participation in the formation of the Union so in a 1948 report called for the creation of an international non-governmental organization for

the preservation of nature rather than an intergovernmental organization proposed by the Brunnen Conference.”⁶⁴ In preparation for a third conference, the French government stepped in with its own plans to upstage UNESCO. A compromise was eventually reached in which France and UNESCO jointly invited governments to send representatives to the conference while the provisional IUPN invited private bodies.⁶⁵

Voting powers of the proposed union became the main issue at the resulting conference in Fontainebleau. Governments feared allowing private groups in a country to outvote their own government. The question was resolved by giving government members two votes in the union and private groups combined one vote in general assemblies. Shortly after Fontainebleau, UNESCO signed a contract with IUPN giving it financial support. IUPN had four categories of membership: governments, agencies of governments, inter-national inter- and non-governmental organizations, and national non-governmental organizations. Among its objectives was the drawing up of a worldwide convention for the protection of nature.

From the start, the International Union for the Conservation of Nature (WCN; renamed in 1956) suffered from financial problems and an inability to respond to urgent conservation needs. Out of concern for IUCN's inadequacies and especially for increasing threats to east African wildlife, Max Nicholson and others created the World Wildlife Fund in 1961. With support from wealthy individuals and corporations and the endorsement of members of the royal family, the launch of WWF was marked by a six-page “shock issue” of the London Daily Mirror with a picture of the doomed black rhino and the now famous panda logo.⁶⁶ Heading off other efforts to save African wildlife at a time of rapid decolonization, Nicholson argued that “Europe had to be the home for the new organization because both the scientists and the possibilities for raising money were there”⁶⁷

⁶⁴ Quoted in Boardman, 1981, p. 42.

⁶⁵ Boardman, 1981.

⁶⁶ A few years later, Americans set up a U.S. branch. Unlike most national affiliates which contribute up to a third of its funds to WWF International, the U.S. group contributes none of its income. Nicholson explained in a recent interview that the American branch “has always tried to go its own way....the Americans didn't see the point in a global organization or a world fund.” Pearce, 1991, p. 7.

⁶⁷ Interview in Pearce, 1991, p. 7.

⁶² Boardman, 1981, p. 34.

⁶³ Quoted in Boardman, 1981, p. 37.

Nevertheless, WWF did attempt to gain the support of Africa's new leaders. In doing so, it often appealed to the financial benefits of conservation such as hunting and tourism. Over the years, the promotion of hunting hindered fundraising but the promotion of tourism in national parks became a mainstay.⁶⁸

WWF was extremely effective at raising funds. Before long it became evident that WWF was interested in more than just financing the activities of the IUCN. WWF soon surpassed IUCN in prestige, influence and resources. By 1969, only 9% of WWF's expenditures went to IUCN. WWF directed its funding toward five categories: individual species, wilderness areas, support for existing organizations, conservation, education and miscellaneous conservation matters. By 1967 it had supported a total of 183 conservation projects (65 in Africa) totaling \$2.2 million. These projects included scientific research by IUCN as well as the establishment and improvement of national parks.⁶⁹

In 1963, IUCN met in Nairobi to discuss international wildlife trade of threatened species. The meeting resulted in a call for an international convention to establish worldwide controls over trade in endangered wildlife and wildlife products. At its 1969 meeting in Delhi, the IUCN listed the species it believed should be controlled by the comprehensive convention called for in 1963. Included in this list was the African elephant. The IUCN prepared several drafts of such a convention. After several agencies within IUCN examined the first draft and a second was reviewed at its 1966 Assembly, a third version was circulated to governments in 1967. Thirty nine governments and eighteen international organizations sent back comments. During the circulation of another draft in 1971, the United States said it would be willing to convene an intergovernmental conference. Several prominent American conservationists including Secretary of the Interior Stewart Udall and the Council on Environmental Quality chairman, Russell Train, who had strong IUCN ties, supported the effort. They argued that a trade convention would strengthen the 1969 U.S. Endangered Species Act. The resulting convention was held in Washington, D.C. and was led by a large U.S. delegation headed by Train and including officials of many conservation NGOs. On March

3, 1973, the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) was signed by 21 of the 80 participating nations. CITES entered into force after 10 states ratified it on July 1, 1975.⁷⁰

[IUPN's trade monitoring arm, the Survival Service Commission established in the 1940s, became formalized as TRAFFIC with headquarters in London. TRAFFIC acted as a data bank on trade in wildlife through a consultancy agreement concluded in 1978 with the CITES Secretariat.⁷¹]

APPENDIX B—CITES

Under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) Article I, a "Party" is defined as "a state for which the present convention has entered into force." Parties are voting members who must demonstrate a positive willingness to be bound by the treaty. A state may "accede" to the convention as a Party at any time and may unilaterally decide to remove itself from the obligation of the treaty.

CITES Article XI provides for non-party states and national or international organizations to attend as non-voting participants. They fall into three categories:

- 1) Non-Party States and the United Nations—non-voting participants who attend as a matter of right;
- 2) Qualified International Organizations—non-voting participants who may attend with notice from the Secretariat but are subject to exclusion; and
- 3.) Qualified National Organizations—non-voting participants who may attend with permission from the Secretariat and approval of their national government and also are subject to exclusion.

All entities in attendance at a CITES meeting who are not representing a Party State are designated "observers." An observer may attend and speak at the formal plenary sessions and meetings but attendance at the less formal sessions is at the discretion of the chairperson of that session.⁷² NGOs may be refused admittance,

⁷⁰ Boardman, 1981, p. 88-92.

⁷¹ Boardman, 1981, p. 93.

⁷² Favre, David S., *International Trade in Endangered Species: A Guide to CITES*, Martinus Nijhoff Publishers, Boston, 1989, p. 271.

⁶⁸ Pearce, 1991, p. 73.

⁶⁹ Boardman, 1981, p. 80.

however, upon the objection of at least one-third of the Parties. Representatives of the Parties meet every two years to review the convention and its implementation.

The Secretariat was originally funded by the United Nations Environment Programme (UNEP), but the Parties themselves now contribute to its budget. The Secretariat consists of a Secretary General, three full-time conservation professionals and three full-time secretaries, as well as part-time staff and consultants.

Under CITES, endangered species are listed in one of three appendices, each of which corresponds to the degree of threat posed. Appendix I provides the highest level of protection intended for “all species threatened with extinction which are or may be affected by trade.”⁷³ Species listed in this appendix are only permitted for export if a scientific authority of the exporting state [chosen by . . .] determines that exportation is not detrimental to the survival of that species. Imports are allowed only if they are accompanied by a permit from the original producing country. Given the strict guidelines of this Appendix I directed towards producer, intermediary and consumer countries alike, the intended effect is to halt international trade in the species.

Appendix II protects “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.”⁷⁴ For species listed in Appendix II, trade is permitted but closely regulated. Compared to Appendix I, limitations governing imports are less strict since no import permit is required. The African elephant was placed on Appendix II in 1977.

Appendix III provides minimal protection for “all species, which any Party identifies as being subject to regulation within its jurisdiction for the purposes of preventing or restricting exploitation.”⁷⁵ As such, the limitations are established according to domestic laws of the existing state.

CITES incorporates two provisions that allow Parties to bypass the regulations applicable to species listing in the appendices. First, Article VII (2) of CITES provides that, when a management authority

of a State of export or re-export determines that a specimen was acquired before the provisions of the present Convention applied to the specimen, a pre-Convention specimen certificate may be issued so that the specimen can be traded. In practice, traders have abused this provision by stockpiling large quantities of specimens that soon may be listed in the appendices or uplisted to a higher level of protection.⁷⁶

Secondly, CITES permits a Party to take a “reservation” from the convention for listed species either at the time of that Party’s ratification or upon amendment of the species to an appendix. In the case of additions to Appendices I and II, a reserving Party has ninety days after the amendment to register its reservation with Switzerland, the Depository Government, whereas reservations to Appendix III listings may be taken at any time. Reserving Parties are treated as nonParties with regard to trade in the designated species or its parts or derivatives. This allows the reserving Parties to trade with actual non-Parties and other Parties taking matching reservations unfettered by CITES requirements.⁷⁷

The reservation clauses seem contradictory to the general goals of CITES and their operation can cause detrimental effects on listed endangered species. Although the original hope was that reservations would be used sparingly, the number of Parties taking reservations and the quantity of reservations taken has been significant. As of 1987, Japan alone has entered 14 reservations on Appendix I species.⁷⁸

With respect to elephant protection, CITES has had one fundamental goal: to develop and implement a system that would allow limited, lawful trade in raw and worked ivory and, at the same time, greatly reduce, if not eliminate, illegal trade such that African elephant populations can recover.

⁷⁶ See Inskipp and Wells, *International Trade in Wildlife*, Earthscan, London, 1979.

⁷⁷ Favre, 1989, CITES Arts. XV(3), XVI(2) and XXIII(3).

⁷⁸ Lyster, S., *International Wildlife Law*, 1985, p. 253 254 cited in Sands and Bedecarre, p. 805.

⁷³ Favre, 1989, CITES Art. II[1].

⁷⁴ Favre, 1989, CITES Art. II [2] [a].

⁷⁵ Favre, 1989, CITES Art. II [3].

APPENDIX C—**Elephant Management Programs**

Elephants are unable to digest rough forage efficiently. To maintain their health, elephants must constantly seek out the highest quality foods. As a result, to ensure the elephant's long-term survival, it won't be enough merely to set aside a minimum acreage for elephant habitat. Ideally, the acreage should include varied ranges with migration corridors between them.⁷⁹

The competition between humans and elephants needs to be worked out for an elephant management program to be effective and meaningful. Lightly populated by people, Botswana contains approximately 68,000 elephants. Here, elephants have the room to live much as they always have, migrating over circuits as long as 300 miles with little but wilderness in their path. This is not the case in smaller and more crowded Zimbabwe, with at least 50,000 elephants roaming about. Mark Butcher of the Forestry Commission was arresting more than 350 poachers a year when he realized that conservation enforced through the barrel of a gun was at best a holding action.⁸⁰

Butcher explains, "Most of the people in this country are communal farmers and herders who see elephants as dangerous pests and a hindrance to development. If they don't want elephants around, we don't have them in the future. If they do, we will. It's that simple. The question is how to help them understand the value of wildlife." Some think the answer, for now, is to make it more profitable than anything else, including poaching.⁸¹

Private ranch owners have found a way to making more money which actually benefits the elephants. Rather than raising cattle, which tend to graze arid pastures to dust, ranchers have turned to raising game for hunting safaris. Consequently, livestock fences have come down around key parks, expanding the total range available to wildlife.⁸²

To minimize changes to the social structure and the genetic makeup of elephant groups from trophy hunting, biologist limit the take of bulls to half of one percent of the population. In the meantime,

some game ranchers are moving on to photography and natural history safaris which has proven financially worthwhile.⁸³

In some areas, communal farmers have been given similar privileges that private ranchers enjoy. In the late 1980s, the Zimbabwe government gave communal people authority over wildlife on their lands, provided they first set up a management plan. Through a program named CAMPFIRE, money from safaris is directed toward constructing schools and hospitals, compensating for wildlife damage to crops and livestock and improving the water supply. In 1991(?), CAMPFIRE allocated \$200 to each household in one northern district. This figure is roughly equal to the average annual income for the region.

If enough communal farmers join existing game ranches, elephants could regain their old dry-season migration route north from Hwange toward the Zambezi River on the border with Zambia. With 5,5000 square-miles Hwange already connected to elephant range in Botswana, this could reawaken an immense regional ecosystem.⁸⁴

Culling excess elephants in particular concentrated regions has proven to be an efficacious, albeit controversial, way of managing elephant populations. Zimbabwe, South Africa and Botswana practice it. The objective is to keep the elephants in balance with native vegetation, though no one is exactly sure what the correct balance actually should be.⁸⁵ Culling teams shoot entire families, leaving no survivors to spread fear among the rest of the herd.

APPENDIX D—The 1992 CITES Convention

The eighth biennial CITES convention was held in Kyoto, Japan from March 2-13, 1992. During the year preceding the conference, several southern African states worked hard to reopen the trade in ivory. In June 1991, Zimbabwe, Zambia, Botswana, Namibia, and Malawi agreed to establish the Southern African Center for Ivory Marketing (SACIM). The main purpose of this center was to keep control over the sale of ivory produced in member states, cutting out the middlemen who had taken such a huge cut from the ivory trade.

⁷⁹ Chadwick, 1991, p. 38.

⁸⁰ Chadwick, 1991, p. 42.

⁸¹ Chadwick, 1991, p. 42.

⁸² Chadwick, 1991, p. 42.

⁸³ Chadwick, 1991, p. 43.

⁸⁴ Chadwick, 1991, p. 42.

⁸⁵ Chadwick, 1991, p. 43.

South Africa, while not a member, proposed its own independent ivory trading center.

Though some conservationists saw SACIM as at least a first step in the right direction, most found flaws with the system which would undermine any chance of being helpful to the elephant. SACIM had no reliable mechanism to identify the origin of ivory, so poached ivory could easily enter the market--providing an obvious incentive for more poaching.

By early 1992, it became clear that the united front the southern African states had once shown on the ivory ban was beginning to crumble. The first sign of division came from South Africa, where the head of the country's National Park Service announced his opposition to lifting the ban and his intention to persuade his government to reverse its position.⁸⁶

In January, the new government in Zambia split from SACIM by withdrawing its support for the downlisting of the elephant, ending its reservation to Appendix I listing, and burning tons of confiscated ivory and poachers' weapons. Zambia's government argued that elephants are simply worth more alive than dead, as they draw huge amounts of tourist revenues.⁸⁷

Almost all of the other African "range states" (those that have a native population of elephants) opposed any lifting of the ivory ban, though some governments did support allowing some trade in other elephant products.

The 1989 decision to ban the trade in ivory included a mechanism to review future proposals from member states to downlist their elephant populations to Appendix II. Conference Document 7.9 established criteria and terms of reference which a "Panel of Experts" would use in evaluating the status and management of a specific elephant population:

Management:

1. The viability and sustainability

⁸⁶ Orenstein, "Africa's Elephants Could Be Under the Gun Again," *Christian Science Monitor*, February 1992.

⁸⁷ Under Fire: Elephants on the Front Line. (A report by the Environmental Investigation Agency, 1992), p. 5.

2. The affected range state's demonstrated ability to monitor the subject population.
3. The effectiveness of current anti-poaching measures.

The terms included:

1. The scientific evidence regarding elephant numbers and trends.
2. The practices of conservation and management of these populations and threats to their status.
3. The adequacy of ivory trade controls.

Enforcement:

1. Whether total levels of off-take from both legal and illegal killing are sustainable.
2. Whether control of ivory stock is adequate to prevent the mixing of legal and illegal ivory.
3. Whether enforcement is effective.
4. Whether enforcement and controls are sufficient to ensure that no significant controls are sufficient to ensure that no significant amounts of ivory taken or traded illegally from other countries are traded within or through the territory of affected range states.⁸⁸

The final report presented by the Panel of Experts was highly controversial. After listing many serious flaws in the enforcement of the ivory ban in southern Africa, they nonetheless concluded that South Africa, Zimbabwe, and Botswana had met the criteria of Conference 7.9 and should be allowed to downlist their elephant populations.⁸⁹

While a majority of environmental non-governmental organizations (NGOs) staunchly opposed downlisting elephants, a few influential organizations were more flexible. WWF, TRAFFIC and WCN, for example, supported listing the elephants of the southern African range states in Appendix II for non-ivory products, while

⁸⁸ Under Fire, p. 6.

⁸⁹ ECO Newsletter, Issue 4 (March 1992).

maintaining the moratorium on the ivory trade, a position favored by the *CITES* Secretariat.⁹⁰

The United States arrived at the Kyoto conference with no clear position regarding the ivory ban. Though the U.S. Fish and Wildlife Service (USWS) was well aware of the public support of the ban, many within the service, including Director John Turner, supported SACIM's position. Turner favored the "sustainable use" of wildlife over strict preservationist measures. Lobbied intensely by Zimbabwe and allegedly by influential trophy hunters, USWS stated before the convention that Zimbabwe's elephant management was "superior" and should be rewarded.⁹¹

It was clear almost from the beginning of the convention, though, that any proposal to downlist the elephant would face overwhelming opposition. Other than Switzerland, no other delegation officially supported the SACIM states. Seeing little hope for their original proposals, the SACIM delegations amended them to include a moratorium on the trade in ivory, other than for hunting trophies and tourist souvenirs. This was quickly defeated by the other delegates who felt that any effective control of a tourist trade would be impossible.⁹²

Under intense pressure from environmental groups, members of Congress and other delegates, the U.S. delegation backed away from supporting the SACIM position, a move which all but ensured that the elephant would remain on Appendix I.

The committee meeting dealing with the proposed downlisting occurred on March 10. With the exception of the SACIM states, South Africa, and Switzerland, every speaker opposed the proposal. These included important range states such as Kenya, Tanzania and the Central African Republic, the European Community, and the U.S. Even Burundi, a notorious trader in illegal ivory throughout the 1980s, opposed downlisting the elephant. Zambia's delegate stressed the lack of effective enforcement, charging that those tasked with policing the ivory ban could barely tell the difference between raw ivory and bananas.

⁹⁰ WWF, TRAFFIC, IUCN, and CITES position statements.

⁹¹ Orenstein.

⁹² CITES Committee I Minutes, March 10, 1992.

There was a general consensus for rejecting the downlisting proposals:

"it was premature because the necessary trade controls were not in place; elephant populations ... had not recovered adequately; elephants move across international borders and so populations which cross the boundaries between countries should which be treated together; any trade ... would stimulate illegal hunting elsewhere;...international cooperation in law enforcement ... is inadequate; and the majority of the states within the range of the species opposed the proposal."⁹³

Faced with certain defeat, the SACIM states withdrew their proposal, though not without firing some parting shots. Botswana's delegate asserted that these states had met the criteria agreed upon at the 1989 meeting, but that now "the goalposts have been moved." The countries of southern Africa, he said, had been led to believe that successful conservation measures would be rewarded. He warned that many of these states would now consider trading ivory on their own, perhaps even leave CITES.⁹⁴

USFWS Director Turner warned that the delegates had missed an opportunity to "provide honest encouragement for stewardship of wildlife resources by sustained and wise use for the lasting benefit" of local peoples. He claimed that certain environmental groups were trying to turn developing countries into wildlife "museums."⁹⁵

Since the Kyoto conference, the southern African states have continued their efforts to turn SACIM into a viable operation. There have been reports of attempts to renew the ivory trade with individual purchaser nations, such as Japan. In spite of repeated threats, though, none of the SACIM states have yet left CITES. In the face of such fierce resistance, though, the future of the ivory ban is uncertain.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Steven Weisman, "Bluefin Tuna and African Elephant Win Some Help at Global Meeting." *The New York Times*, March 10, 1992.

APPENDIX E—Sample List of Observers (with number of representatives) Seventh Meeting of the Conference of the Parties, 1989, CITES*

All Japan Association of Reptiles Skin and Leather Industries (12)
American Association of Zoological Parks and Aquariums (2)
American Federation of Aviculture, Inc. (5)
American Fur Industry (1)
Animal Air Transportation (1)
Animal Legal Defense Fund (USA) (2)
Animal Welfare Institute (USA) (3)
Bat Conservation International (2)
Birds International (Philippines) (1)
Defenders of Wildlife (USA) (2)
Environmental Investigation Agency (UK) (14)
European Communities Association of Zoos and Aquaria (1)
European Orchid Committee (2)
Fauna and Flora Preservation Society (2)
Federation of Hunting Associations of the EEC (1)
Game Conservation International (1)
Greenpeace International (8)
Hong Kong & Kowloon Ivory Manufacturers' Association Ltd. (4)
International Association for Falconry and Conservation of Birds of Prey (1)
International Council for Bird Reservation (1)
International Exotic Leather Council (24)
International Foundation for the Conservation of Game (1)
International Fund for Animal Welfare (2)
International Fur Trade Federation (2)
International Marine Animal Trainer's Association (4)
International Pet Trade Organization (3)
International Primate Protection League (3)
International Professional Hunters Association (1)
International Shooting and Hunting Alliance (1)
International Society for Animal Rights (1)
International Union of Directors of Zoological Gardens (1)
International Wildlife Coalition (2)
International Wildlife Coalition (2)

Japan General Merchandise Importers' Association (Ivory Division) (8)
Monitor Consortium (2)
National Audubon Society (USA) (2)
National Geographic Society (USA) (1)
National Rifle Association (USA) (1)
Natural Resources Defense Council (USA) (1)
Pet Industry Joint Advisory Council (6)
Ringling Bros. & Barnum & Bailey Circus (USA) (1)
Royal Society for the Prevention of Cruelty to Animals (UK) (1)
Safari Club International (3)
Singapore Reptile Skin Trade Association (5)
The Humane Society of the United States (2)
TRAFFIC International (19)
Wildlife Conservation International (3)
World Conservation Monitoring Centre (6)
World Society for the Protection of Animals (5)
World Wide Fund for Nature (26)

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