

# Global Cheetah Conservation Policy: A Review of International Law and Enforcement

*Kristin Nowell\**, *Tatjana Rosen\*\**

\*Cat Action Treasury and World Conservation Union (IUCN) Red List Programme, Cape Neddick, ME, United States

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## INTRODUCTION

### Influence of the World's First Environmental Treaty on National Policies for Cheetahs Today

One of the first attempts at international environmental policy for Africa was drawn up in London in 1900 by colonial powers for African wildlife, the Convention for the Preservation of Wild Animals, Birds, and Fish in Africa (London Convention). Although it never entered into force (as it was not signed by every negotiating party), its principles have resonated through African history and have inspired the establishment of the first nature reserves, and lists of species subject to different levels of protection. Although most large predators (lion *Panthera leo*, leopard *Panthera pardus*, spotted hyena *Crocuta crocuta*, and African wild dog *Lycaon pictus*) were placed on

schedule 5 (Harmful animals desirable to be reduced in number, within sufficient limits), the cheetah (*Acinonyx jubatus*) was given a higher level of protection on schedule 4 (Animals to be protected from hunting and destruction, except in limited numbers). The cheetah was included under its older common and scientific name “the Cheetali (*Cynalurus*)” in the original London Convention of 1900, but was omitted from the updated version of 1933 (Mitchell, 2016a,b).

This level of protection is still evident in national policies covering the cheetah, which is fully protected throughout most of its extant range (Durant et al., 2015). However, in practice this protection has not prevented widespread offtake—by people seeking to protect livestock (Chapter 13), by direct hunting for their skins or for illegal trade (Chapter 14), or by indirect capture in snares set for wild meat. Several southern African countries (Botswana, South Africa and Zimbabwe)

protect cheetahs but also allow problem animals to be captured or killed by private citizens under a permit system (Purchase et al., 2007). In Namibia, since 1975 cheetahs may be killed or captured in defense of life and livestock “whilst the life of such livestock is actually being threatened” without a permit, but the person doing so must report this to the nearest government authority within 10 days, and must apply for a permit if the skin or live animal is to be retained. In 1996, permits issued for cheetah removals were analyzed for a National Namibia Conservation Strategy (Table 21.1; Nowell, 1996). Table 21.1 shows that the level of reported removals has been very high in the preceding decades, averaging 827 cheetahs per year from 1978 to 1985, and declining to an average of 297 from 1986 to 1995. These figures do not include cheetahs killed illegally without permits, or killed legally without application for a permit to retain the animal or the skin, and thus may under-represent the true level of removals.

Trophy hunting is allowed, in limited numbers under international (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES) and national law (as envisaged in the London Convention), in just two countries: Namibia and Zimbabwe. Namibia is the main exporter; trophy hunting of cheetah was legalized there under national law in 1982 (Nowell, 1996), and Namibia has argued that legally taking a regulated number of wild cheetahs for export (so that national policy thus enters the realm of international law under the CITES treaty which regulates wildlife trade between nations) benefits their conservation on private lands. “In Namibia the cheetah is viewed as the single most important predator on livestock on both commercial and communal farms[...]. Trophy hunting and export of live cheetah have been encouraged in Namibia in an attempt to curb the number of cheetah shot as predators of livestock, and to change the attitude of the farmers toward the cheetah from ‘kill at all cost’ to one where cheetah would be tolerated and accepted. By providing some form

of financial return for the losses caused, farmers are now encouraged to utilize the cheetah on a sustainable basis, rather than implement total eradication” (Govt. of Namibia, 1992).

The policy framework of southern African countries differs from that of most other African range countries in that landowners are granted legal ownership of wildlife species occurring on their land if certain regulations are met, unlike many other countries where wildlife is the property of the government. The increased economic benefits accruing to landowners from wildlife can also have negative impacts for cheetahs, in that owners may persecute cheetahs perceiving them as a net loss to other more valuable trophy antelope species (Johnson et al., 2013). In Namibia, killing of cheetahs by humans is the top known cause of cheetah mortality outside protected areas (Marker and Dickman, 2004). However, interviews with land owners reveal that approximately 50% see cheetahs as a desirable species to have on their land, even though 87% reported financial losses to cheetah (Lindsey et al., 2013), suggesting that limited legal offtakes for the export trade can help constrain illegal and unlimited offtake of cheetahs.

### The Current Role of International Environmental Agreements in Cheetah Conservation

Several aspects of cheetah ecology lead international law to have a particularly important role in conservation of the species. As the most wide-ranging of the big cats (Chapter 8), viable cheetah populations require large areas of habitat, which in many cases are most readily provided when governments put together transboundary protected areas. Such areas require communication and cooperation for their effective management. Cheetahs typically occur at lower densities than sympatric large carnivores, thus lending them an intrinsic rarity. The diplomacy involved in the functioning of international wildlife treaties is an important

**TABLE 21.1** Number of Permits Issued to Citizens to Remove Cheetahs by the Namibian Ministry of Environment and Tourism, 1978–95 (Nowell, 1996)

Year	No. of cheetah removal permits				Total
	Permit category <sup>a</sup>				
	2	3	4	5	
1978	234	0	711 <sup>b</sup>	0	945
1979	125 <sup>b</sup>	1	711 <sup>b</sup>	0	836
1980	125 <sup>b</sup>	0	623	0	748
1981	125 <sup>b</sup>	0	669	0	794
1982	125 <sup>b</sup>	0	907 <sup>c</sup>	0	1032
1983	88	0	725 <sup>c</sup>	12	825
1984	107	0	633 <sup>c</sup>	7	747
1985	117	0	552 <sup>c</sup>	21	690
1986	79	0	318	17	414
1987	84 <sup>b</sup>	0	317	12 <sup>c</sup>	413
1988	95	0	272	20	387
1989	132	21	271	17	441
1990	84 <sup>b</sup>	2	301	24 <sup>c</sup>	411
1991	54	1	145	40	240
1992	95	0	34	35	164
1993	44	0	105	20	169
1994	32	0	111 <sup>d</sup>	20	146
1995	50	0	116	20	186
<i>Total</i>	<i>1795</i>	<i>25</i>	<i>7521</i>	<i>265</i>	<i>9588</i>

<sup>a</sup>Since 1975, the Permit Office of the government agency now known as Namibia's Ministry of Environment and Tourism has issued permits for removal of cheetahs over the years under the following categories:

1. Capture, keeping, and selling of game by game dealers. (Permit category 1 is not included in Table 21.1 to eliminate the possibility of double-counting, as game dealers would more frequently purchase and keep cheetahs captured by farmers rather than run their own capture operations for this species.)

2. Capture, keeping, and selling of game by nongame dealers.

3. Shooting of game in communal areas and other State land.

4. Possession of skins of protected and specially protected game.

5. Trophy hunting of cheetah.

A new system was put in place in 1994. Category 4 is subsumed into category 2, but it is still possible to distinguish between the two as the notation "live" versus "skin" is usually appended. Data on cheetah permits issued under these categories were collected from Permit Office annual reports and computerized databases. For category 5 more permits may have been issued than cheetahs actually removed, but for other categories the number of cheetahs removed likely exceeds the number of permits issued (Nowell, 1996).

<sup>b</sup>Permit category data are not broken down by species in this year's annual government Permit Office report; figure given is an average for the previous, surrounding or consecutive 5-year-period as appropriate.

<sup>c</sup>Number in the Permit Office annual report differed from figure given in Namibia's CITES Appendix I proposal (Govt. of Namibia, 1992); figure given is an average of the two.

<sup>d</sup>Figure given is an average of years 1993 and 1995.

element in motivating range country governments to prioritize conservation actions for rare and threatened species. Because monetary values for cheetahs are highest outside Africa (as trophies, zoo animals, and, illegally, as exotic pets), a functioning international framework is necessary to regulate legal export and import, alongside international law enforcement cooperation to detect and combat illegal trade.

International legal agreements bring signatory national governments (legally described as contracting Parties) together to address global and regional problems. Once national governments ratify an international treaty by officially recognizing their participation in it in their domestic law, its contents become binding upon them (although of all the agreements reviewed here, only CITES is considered binding in that there are consequences for noncompliance, including trade sanctions). At regular meetings (Conferences of the Parties, or COPs), a huge array of annexes, initiatives, decisions, and recommendations have been adopted around the international environmental treaties. Implementation and enforcement of internationally agreed policy depends entirely upon the contracting Parties, which means that international policy solutions are only as effective as national governments make them. National governments are often motivated to action at the behest of a wide range of non-governmental organization (NGO) stakeholders which follow the regular meetings and documents of the international conventions quite closely, and lobby governments to introduce strengthened policy and to enforce these policies. In some cases, national policies take precedence over international ones, such as the United States' stricter domestic measures for cheetah (which is listed as Endangered under the United States' Endangered Species Act) precluding the import of hunted trophies (which for some species listed as Endangered may be allowed if shown to enhance its conservation). Specifically, the US Fish and Wildlife Service has not allowed the import of sport-hunted cheetahs

from Namibia and Zimbabwe because it has not found that current hunting and management programs enhance the survival of cheetahs, although the United States did support the granting of an export quota for cheetah trophies in 1992 under CITES (Nowell, 1996).

As shown in Table 21.2, there are eight international environmental agreements which directly affect cheetah conservation. Five are concerned primarily with *in situ* conservation; the other three exclusively with wildlife trade controls and their enforcement. This chapter describes their general nature briefly, focuses on provisions which pertain to cheetah conservation, and suggests ways they could be employed for greater effect. The most space will be devoted to CITES, the international forum which has devoted the greatest amount of attention to the cheetah specifically, and is currently of the most direct relevance to cheetah conservation, through (1) regulating legal trade in wild cheetahs, thus facilitating national policies of consumptive sustainable use in both Namibia and Zimbabwe; (2) regulating legal trade in captive cheetahs, thus facilitating global *ex situ* conservation; and (3) working to stop illegal trade in cheetahs (a problem discussed in detail in Chapter 14).

## INTERNATIONAL AGREEMENTS PRIMARILY RELEVANT TO *IN SITU* CHEETAH CONSERVATION

### The African Convention on the Conservation of Nature and Natural Resources

The African Convention has been described as “the youngest and most modern among the oldest environmental conventions” (IUCN, 2004) because its roots trace back to the 1900 London Convention, while it has been extensively revised to reflect contemporary environmental stewardship practices. As African nations gained independence, the need for a new nature

**TABLE 21.2** International Environmental Agreements of Relevance to Cheetahs

Name and primary nature	Known as	Commencement <sup>a</sup>	Cheetah range countries which have ratified or acceded to the agreement <sup>b</sup>	Reference
<b>Conservation agreements</b>				
African Convention on the Conservation of Nature and Natural Resources (Revised, 2003)	African Convention	2017 <sup>c</sup>	Angola, Benin, Burkina Faso, Chad, Mali, Niger, and South Africa	<a href="#">AU (2017)</a>
Convention on Biological Diversity	CBD	1992	All cheetah range countries	<a href="#">CBD (2016)</a>
Convention on the Conservation of Migratory Species of Wild Animals	CMS	1983	<sup>d</sup> Algeria, Angola, <i>Benin</i> , Burkina Faso, Chad, <i>Ethiopia</i> , <i>Iran</i> , Kenya, Mali, Mozambique, <i>Niger</i> , Somalia, <i>South Africa</i> , <i>Tanzania</i> , <i>Uganda</i> , and Zimbabwe	<a href="#">CMS (2016a,b)</a>
Southern African Development Community Protocol on Wildlife Conservation and Law Enforcement	SADC Protocol	2003	Botswana, Mozambique, Namibia, South Africa, Tanzania, Zambia, and Zimbabwe	<a href="#">Ecolex (2016b)</a>
Convention concerning the Protection of the World Cultural and Natural Heritage	World Heritage Convention	1972	All cheetah range countries except Somalia	<a href="#">Ecolex (2016c)</a>
<b>Trade agreements</b>				
Convention on International Trade in Endangered Species of Wild Fauna and Flora	CITES	1975	All cheetah source, transit, and destination countries except South Sudan	<a href="#">CITES (2016c)</a>
Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora	Lusaka Agreement Task Force	1994	Kenya, Tanzania, Uganda, and Zambia	<a href="#">Ecolex (2016d)</a>
African Common Strategy on Combatting Illegal Exploitation and Trade in Wild Fauna and Flora in Africa	African Common Strategy	2015	Endorsed by the Executive Council of the African Union at its 27th meeting <sup>e</sup>	<a href="#">TRAFFIC (2016)</a>

<sup>a</sup>Denotes the year the agreement was accepted by the United Nations as having legal force.

<sup>b</sup>Accession has the same legal effect as ratification, and refers to when a country accepts the opportunity to become party to a treaty already signed by other nations.

<sup>c</sup>Official confirmation from the African Union regarding the Revised Convention's apparent entry into force in March 2017 had not been received by the time this chapter went to press.

<sup>d</sup>Range countries which have included some information about cheetah in their triannual national reports are in italic.

<sup>e</sup>The Strategy is a nonbinding Declaration of the African Union not requiring ratification by member countries.

conservation treaty was recognized, one that moved away from protecting animals and plants for utilitarian purposes and toward a shared African responsibility for sustainable development. Under the auspices of the Organization of African Unity (now the African Union, AU), the African Convention entered into force in 1969 and was ratified by 31 countries as of December 2001 (Van der Linde, 2002). It is credited with motivating the writing and adopting of national environmental legislation in a number of African countries (Lyster, 1993). There were significant omissions in the document; however, among them provisions for institutional structures to facilitate implementation by Party nations, as well as mechanisms to encourage compliance and enforcement. Through a series of meetings and consultations, the treaty was extensively revised, and adopted by the AU in 2003 (Ecolex, 2016a). Among the notable changes is the exclusion of reservations, thus requiring Parties to formulate common solutions to common problems, with no opting out by individual countries.

Article IX of the revised convention requires Parties to adopt legislation ensuring that all forms of taking or harvest of flora and fauna are sustainably managed, and to employ scientific monitoring of populations. Article X compels contracting governments to identify and eliminate the factors causing the depletion of threatened species. These are suggested (but not prescribed) to be defined according to the IUCN Red List criteria, which would include the cheetah. Article XI requires Parties to regulate trade, possession, and transport of these species to ensure that they are taken or obtained in accordance with both domestic legislation and international law, and enact appropriate penal sanctions and confiscation practices. This addresses a weakness of CITES that Party nations often lack robust national implementing legislation. Article XI also calls for Parties to cooperate through bilateral and subregional agreements to control illegal wildlife trade. Article XII encourages Parties to establish protected areas

identified by competent international organizations for the preservation of threatened species.

The Revised Convention is seen as being much stronger than the original and having great potential for African wildlife conservation (Erinosho, 2013; IUCN, 2004; Lubbe, 2015; Van der Linde, 2002). However, after adoption by the African Union in 2003, it has taken much longer than anticipated to receive the minimum number of ratifications by African countries (15) for it to take effect. The Revised Convention appears to have finally awoken from its “sleeping treaty” status in March 2017 with little fanfare: the AU provides this date for adoption of the Revised Convention (AU, 2017), but this likely refers instead to entry into force (A. Lukacs, Ecolex, and N. Lubbe, North-West University, South Africa, personal communication), with 16 signatories including six cheetah range countries as shown in Table 21.1. The conservation community must now partner with and motivate signatory governments to undertake the treaty’s long-awaited implementation, including encouraging the participation of the remaining cheetah range countries.

### Convention on Biological Diversity

The Convention on Biological Diversity (CBD) aims broadly at the conservation and sustainable use of biological diversity. Although its text does not identify any species of particular concern, many of its obligations are relevant to the cheetah and other large carnivores, but its language has been described as insufficient to establish “in practice a clear boundary between compliance and violation” (Trouwhorst, 2015). Perhaps the chief value of this treaty is in providing a high-profile forum for the development and adoption of nonbinding but authoritative guidance, of which the most relevant for the cheetah are two biodiversity targets adopted by the CBD Strategic Plan for 2011–20 in Aichi, Japan, known as Aichi Targets 11 and 12. Target 11 calls for 17% of terrestrial ecosystems to be protected by 2020; a 2012 analysis of the World Protected Areas Database

estimated the coverage at 13% (Woodley et al., 2012). Yet, a recent analysis has found that, even if the 17% target should be achieved, this would likely protect less than 25% of the range of large carnivores, including the cheetah (Di Minin et al., 2016). Target 12 calls for the improvement of the conservation status of threatened species in decline by 2020, and similar to the African Convention suggests (but does not prescribe) that “threatened species” be defined according to IUCN Red List criteria (Critically Endangered, Endangered and Vulnerable) (CBD, 2010). Improvement of conservation status (which could be measured by an improvement in Red List category) will be a particular challenge for large carnivores in sub-Saharan Africa, where human populations and habitat loss are projected to increase substantially by 2050 (Visconti et al., 2015), and where loss of savanna landscapes is accelerating (Riggio et al., 2013). With these challenges of projected range loss, and because it is unlikely that protected status can be conferred on enough of their range to reverse projected population declines (Di Minin et al., 2016), the establishment of a Large Carnivore Initiative under CBD with focus on the development of conservation solutions outside protected areas would be highly beneficial. This would broadly benefit biodiversity, as well as specifically addressing the unique problems of large predator conservation. A volume of the CBD Technical Series should be dedicated to provide guidance and best practices for the conservation of large carnivores (Trouwhorst, 2015).

### Convention on the Conservation of Migratory Species of Wild Animals

The Convention on the Conservation of Migratory Species of Wild Animals (CMS) defines “migratory species” as species “whose members cyclically and predictably cross one or more national jurisdictional boundaries” (Article I). As noted by Trouwhorst (2015); however, “the term has subsequently been interpreted by the CMS COP in a remarkably flexible manner,

as actually encompassing any species whose range extends across more than one country,” and is evolving into an instrument for the conservation of transboundary populations in addition to those that regularly undertake long-distance movements. In 2009, the cheetah was included in CMS Appendix I, which extends the highest degree of protection to “endangered” species, with the exception of the populations of Botswana, Namibia, and Zimbabwe (cheetah populations in these three countries are not listed under the convention, for reasons discussed later). Range countries, which are contracting Parties to the Convention, agree to conserve and restore the habitat of species listed on Appendix I, as well as prohibit their taking (e.g., hunting or other form of removal from the wild) except under strict circumstances (e.g., scientific).

The CMS provisions against taking and recommendations for habitat conservation generally have no “teeth” or enforcement mechanism. For instance, CMS cheetah range states are obliged to submit national reports every 3 years (6 months before each regular Conference of the Parties) to provide information on protection measures, but similar to many other CMS-listed species, the submission of reports has been spotty, the information in the reports is often of dubious utility, and few have reported specifically on cheetahs (Table 21.2). When they have, it is in an abbreviated format and there is no independent review to verify information submitted (such as whether their population is increasing or decreasing). There is no mechanism for penalties for either failing to report or to fulfill their obligations to prevent cheetah taking, conserve cheetah habitat, and remove obstacles to transboundary movement.

However, CMS should not be viewed as ineffective. It provides a political platform for discussing conservation threats and, in the words of one expert: “the Convention is ‘soft’ [law], in such a way that no state need be reluctant to ratify it, yet it encourages and guides Parties to undertake practical and effective ‘hard’ work

under specific regional Agreements” (Osterwoldt, 1989). These subsidiary agreements are widely viewed as successful implementation process for CMS. A number of these agreements have matured into “sophisticated regimes in their own right, complete with an effective institutional structure and the political will to adopt measures to protect the species for which they are responsible” (Caddell, 2005). The existence of small quotas for international trade in wild cheetah specimens under CITES for Botswana, Namibia, and Zimbabwe, as discussed later in detail, led to the CMS decision to exclude cheetah populations of these countries from Appendix I. Inclusion of these populations in Appendix II (species with an unfavorable conservation status whose conservation requires international cooperation) is an option that was discussed by the Scientific Council at its 16th meeting in 2010 (CMS, 2010), but no action was taken, as neither Botswana nor Namibia is currently party to CMS (other non-Party range states include the Central African Republic, Sudan, South Sudan, and Zambia). Appendix II listing would have obliged exploration of a subsidiary legal agreement for these populations.

These CMS subsidiary agreements and memoranda of understanding provide a vehicle for multinational and regional cooperation tailored to specific groups of animals, particularly birds and marine species (Caddell, 2005). Although originally envisioned to improve the conservation of species only partially protected under national law (and listed on CMS Appendix II), these agreements and related initiatives may also extend to Appendix I species, and are also open to the participation of non-Party countries. Cheetah populations may be already benefiting from two CMS subsidiary agreements: the Saharo-Sahelian Megafauna Action Plan, focused on gazelles in 14 North African countries, and the Central Eurasian Aridland Mammals Concerted Action, which spurred the Central Asian Mammals Initiative (CAMI), and includes Iran and its cheetah population. The cheetah has been recommended

as a target species for the development of a CMS Agreement and for the Convention to, thus, play a more active role in transboundary cheetah conservation (Trouwborst, 2015). And in 2017, the formation of a new joint CMS-CITES African Carnivore Initiative was announced, to include the cheetah along with the leopard, lion and African wild dog. The primary focus will be on “promoting coexistence, sustainable land management and maintaining connectivity for all carnivores,” with a 3 year budget estimated at US \$53 million (CITES, 2017).

Similar to CBD and CITES, when CMS governments meet at COPs, they can adopt recommendations. Unlike the Convention text itself or subsidiary agreements, recommendations are nonbinding, but do carry weight by communicating shared priorities and drawing international attention. The ninth CMS COP, held in Rome in 2008, adopted a recommendation on Tigers and other Asian Big Cats, which included the Asiatic cheetah population in Iran (CMS, 2008). As that population is not transboundary, the most relevant part of this recommendation for the Iranian cheetah is its call for increased financial support from donor countries and organizations. CMS has appointed under the CAMI an Asiatic cheetah focal point, responsible for advising CMS on activities related to the conservation of the species.

### Southern African Development Community (SADC) Protocol on Wildlife Conservation and Law Enforcement

The primary objective of the Protocol is to establish, within the framework of the respective national laws of each party, common approaches to the conservation and sustainable use of wildlife resources, and to assist with the effective enforcement of laws governing those resources. There are many measures to be standardized, including species and habitat protections, regulation of taking and trade, and powers granted to wildlife officers, among others (Cirelli and Morgera, 2010). The Protocol



does not identify any species of concern and thus does not extend any specific protections to the cheetah. It does allow for its governing Council to determine sanctions to be taken against any Party government which undertakes action that undermine the Protocol, or persistently fails to execute its obligations under the Protocol without good reason (Article 12). Two recent significant developments to emerge from the Protocol for the cheetah include the SADC Program on Transfrontier Conservation Areas (SADC TFCA) and the SADC Law Enforcement and Anti-Poaching Strategy 2016–21 (SADC LEAP, 2015). The TFCA Program has an active infrastructure of support, including a Steering Committee and a membership Network of practitioners; 18 existing and potential transboundary protected areas are in the process of being developed (SADC TFCA, 2016), all representing important landscapes for cheetah conservation, with the most active being the Kavango-Zambezi TFCA (KAZA, 2016) and the Great Limpopo Transfrontier Park (GLTP, 2016). The SADC LEAP Strategy urges every member country to create a national task force to coordinate wildlife-related law enforcement and antipoaching issues, and establishes a SADC Wildlife Crime Prevention and Coordination Unit to coordinate the efforts of the national task forces (WWF, 2015).

### Convention Concerning the Protection of the World Cultural and Natural Heritage

Contracting governments are committed to doing everything within their power to ensure the “identification, protection, conservation, presentation, and transmission to future generations” of the natural heritage situated on their territories (Article 4). It should be noted that the Convention defines “natural heritage” to include, but not be limited to, sites on the World Heritage List (Trouwhorst, 2015), currently over 1000. A number of important large protected areas for cheetah are World Heritage sites, including the Okavango Delta (Botswana) and

the Serengeti National Park (Tanzania). Some indication of the value of this recognition is that less than 5% of listed sites are currently considered “in danger” according to Article 4 (World Heritage Convention, 2016). One of the selection criteria for sites on the List is that they “contain the most important and significant natural habitats for *in situ* conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation,” and thus for the cheetah the Convention has the potential to assist in the preservation of priority sites through their nomination for World Heritage.

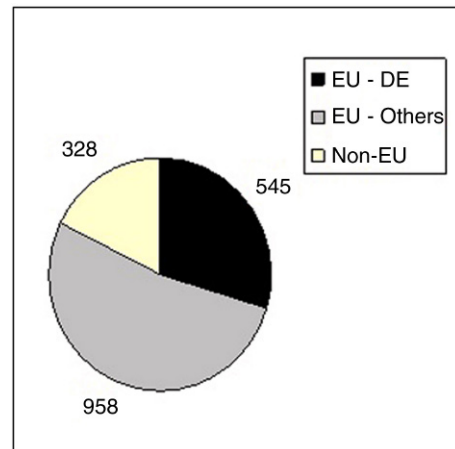
## INTERNATIONAL AGREEMENTS EXCLUSIVELY FOCUSED ON WILDLIFE TRADE CONTROL

### Convention on International Trade in Endangered Species of Wild Fauna and Flora

CITES is best known for its appendices. No commercial trade is permitted for species listed on Appendix I, regulated commercial trade is permitted for species listed on Appendices II and III, and trade in unlisted species is not regulated under the Convention. Parties must, each, designate a Management Authority (MA) and a Scientific Authority (SA), and before any legal trade of species or specimens listed under Appendix II may take place, the range state Party has to conduct a nondetriment finding (NDF) exercise prior to export. The cheetah was first listed in 1975 on Appendix I, which 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,” according to Article III of the Convention text. In practice, exceptional circumstances have been interpreted as not for primarily commercial purposes; in other words,

a transaction not for resale (such as the movement of private household effects), or for scientific or educational purposes (CITES, 2010). CITES requires permits from both the country of import and export which approve any trade in Appendix I species. A key cheetah range country, Namibia, acceded to the Convention in 1990 and entered a reservation for the species, meaning that the country would be treated as a non-Party to CITES concerning cheetah trade. As the Convention does allow for trade with non-Party nations, this allowed Namibia to export wild cheetahs without permits (although CITES encourages the use of alternative permits when trading with non-Parties), which it did from the 1960s up until 1975, when it was the main supplier to zoos (Marker-Kraus, 1997). In 1992, Namibia explained at the 8th meeting of the Conference of the Parties in Kyoto, Japan, that it had entered a reservation intending to continue cheetah exports because attaching a commercial value to their populations was considered “a prime means for the species conservation” (CITES, 1992a). Namibia submitted a proposal to list cheetah populations of southern African countries on Appendix II (Govt. of Namibia, 1992), which would have allowed commercial trade with export permits. The proposal was withdrawn after a compromise was worked out between various Parties to CITES, resulting in an annotation to the Appendix I listing allowing annual export quotas for Namibia, Zimbabwe, and Botswana. As a result, Namibia also withdrew its reservation on the cheetah. The Appendix I quotas allow the annual export of both live animals and hunting trophies with the following limits: Namibia (150), Zimbabwe (50), and Botswana (5) (CITES, 1992b).

Most of the CITES trade under this quota system has been in hunting trophies, mainly to EU Member States and particularly to Germany, with Namibia the primary exporter (90% of total net trophy exports shown in Fig. 21.1). Zimbabwe has exported an average of fewer than 10 trophies per year, and Botswana, which does not permit the



**FIGURE 21.1** Total net imports of cheetah trophies grouped by importer, 1993–2012, from records of the CITES Trade Database (Nowell, 2014). DE, Germany; EU, European Union.

trophy hunting of cheetah, has not used its quota at all. CITES Trade Database records indicate that Namibia’s exports exceeded its quota of 150 in both 2008 and 2009. There may be recording errors because figures provided by the Namibia government (Nowell, 2014) of trophy exports for 2009 do not correspond to the WCMC-UNEP CITES Trade Database records for that year. Nevertheless, the Namibian government enacted a 1-year moratorium on cheetah trophy hunting in April 2009 (Anon, 2009) to investigate the system, and since then, Namibian exports do not appear to have exceeded its allocated quota.

Cheetah trophy hunting lacks the appeal of “the Big Five” trophy animals although, as just discussed, the CITES quota is mainly trophies and is largely filled annually. One interview survey found 37% of American hunters expressed an interest in hunting cheetahs, but cheetah trophies cannot, currently, be imported into the United States under American national law (Lindsey et al., 2006). South Africa’s CITES SA recently undertook a preliminary NDF concerning the possibility of establishing a national trophy hunting quota for cheetah, and found that “there are insufficient data available on

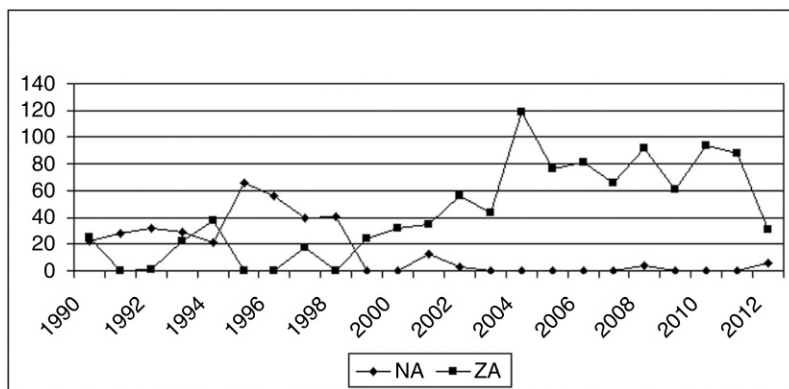
population size and trend and inadequate information on the scale of illegal hunting to advise on a sustainable quota” (Nowell, 2014).

The international CITES Appendix I quotas apply solely to wild cheetahs. Wild-born live animals were included in the quota because, in the early 1990s, it was still considered difficult to breed cheetahs in captivity, and most animals in the captive population were wild-caught from Namibia (CITES, 1992c). Since that time; however, improved management and knowledge of the cheetah’s unusual mating and reproductive parameters have led to greater success in captive breeding, although only in a few facilities (Chapters 22 and 27). The number of live cheetah imports recorded as captive-bred has increased markedly over the last decade to an average of 88 per year, with South Africa being the major exporter (Nowell, 2014). Namibia exported live wild animals in the 1990s, but has since allocated its quota almost exclusively to hunting trophies; in the 2000s, South Africa’s exports of captive cheetahs grew (Fig. 21.2). According to records of the South African CITES MA, 786 live cheetahs were exported from 2002 to 2011 (Nowell, 2014), and now rivals the trophy trade in terms of economic value.

Captive-bred cheetahs are treated differently than wild cheetahs under CITES, in that

commercial trade is allowed. Article VII, paragraph 4, of the Convention states that “Specimens of an animal species included in Appendix I bred in captivity for commercial purposes[...] shall be deemed to be specimens of species included in Appendix II.” In Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*, the Conference of the Parties to the Convention has agreed to an interpretation of the provision, as follows: “Parties shall restrict imports for primarily commercial purposes[...] of captive-bred specimens of Appendix-I species to those produced by operations included in the Secretariat’s Register and shall reject any [export] document granted[...] if the specimens concerned do not originate from such an operation and if the document does not describe the specific identifying mark applied to each specimen.” The same Resolution notes that import of specimens of Appendix I species bred in captivity *not* for commercial purposes, and covered by a certificate of captive breeding, may be authorized for import whether or not the purpose is commercial.

South Africa is the only country which has registered with the CITES Secretariat Appendix I captive breeding operations authorized to export cheetahs for commercial purposes: DeWildt (now Ayn van Dyk) Cheetah and Wildlife



**FIGURE 21.2** Net exports of live cheetahs by major exporter, 1990–2012, according to records of the CITES Trade Database (Nowell, 2014). NA, Namibia—wild cheetahs exported under Appendix I quota; ZA, South Africa—cheetahs certified as bred in captivity.

Centre and Hoedspruit Endangered Species Centre. The South Africa CITES MA (Nowell, 2014) notes that “the majority of live cheetah exported from South Africa originate from captive facilities not necessarily registered with CITES,” but which are registered according to national legislation with provincial authorities. Less than 5% of South Africa’s cheetah exports were coded as commercial in the CITES Trade Database; the purpose of most transactions was reported as Z (zoo), and under Article III of the Convention, this type of trade is considered noncommercial and exporting facilities need not be registered with the CITES Secretariat. Under South African CITES implementation legislation, provinces administer certificates for international trade in listed species, and bred-in-captivity specimens can only be exported by facilities which have registered with their provincial government according to regulations under this law. Although only about 20 facilities are licensed by provincial authorities to breed cheetahs, a survey of captive facilities suggests that more are attempting to breed (Marnewick, 2012). Cheetah experts suspect that some facilities in South Africa may not have mastered the challenge of breeding cheetahs and are instead making false bred-in-captivity declarations for live-captured wild animals, illegally captured in South Africa, as well as neighboring countries (Nowell, 2014).

Concerns raised by conservation NGOs about illegal trade, primarily illicit movement of northeast African wild-caught cheetah cubs to the Gulf states (Chapter 14), but also potential fraudulence in the legal captive live cheetah trade, were instrumental in drawing CITES’ attention to the problem. This led to a detailed study (Nowell, 2014) and a recommendation of the CITES Animals Committee to hold an international workshop (CITES, 2014a). Although the Gulf states initially questioned the reliability of information on illegal trade (CITES, 2013a), in 2015 the problem was acknowledged and the government of Kuwait hosted an international workshop convened by the CITES Secretariat

and a CITES intersessional working group composed of governments and NGOs. The Workshop on Illegal Trade in Cheetahs brought together representatives from CITES authorities and enforcement agencies from 13 Parties [Algeria, Bahrain, Botswana, Jordan, Kenya, Kuwait, Qatar, Saudi Arabia, Somalia, South Africa, Sudan, United Arab Emirates (UAE), and Zimbabwe], the Chair of the Animals Committee, and cheetah experts from international and non-governmental organizations (CITES, 2016a,b). The 66th meeting of the CITES Standing Committee in January 2016 adopted the workshop recommendations, and submitted a number of decisions which were adopted at the Convention’s 17th COP in Johannesburg in September, 2016. The Decisions include the compilation of a CITES Trade Resource kit for use in law enforcement, including protocols to be followed in case of seizures and guidance on the immediate and long-term disposal of live animals; and the establishment of a Cheetah Forum on the CITES website for Parties, experts, NGOs, and other stakeholders to exchange and share information on cheetahs and illegal trade in cheetah. The COP also called for the Secretariat to report to the Parties on the implementation of all the recommendations, including those adopted by the Standing Committee calling for countries to strengthen their national and regional enforcement actions concerning cheetah (IISD RS, 2016).

At the Kuwait workshop, South Africa presented a number of government interventions being undertaken to strengthen its regulation of cheetah breeding, including development of a DNA database for captive cheetahs to prove parental ancestry, as well as two microchips and photo identification (Tjiane, 2015). After the workshop, a stringent ban on the keeping of exotic animals as pets was announced by the UAE (Anon, 2016), one of the main importers of South African captive cheetahs, and the CITES Party where smuggled cheetah cubs are most frequently confiscated (Nowell, 2014). At the time of this writing, UAE is still working on relevant draft legislation.

## Other International Agreements to Combat Illegal Wildlife Trade

Two other international agreements could play a greater role in addressing the illegal trade in cheetahs. This issue was first drawn to international attention (CITES, 2013b) by the Coalition Against Wildlife Trafficking, a public-private partnership with 15 NGO members (including one cheetah-specific NGO, the Cheetah Conservation Fund) and 6 governments (although none in Africa). One prominent government member, the United States, was instrumental in drafting the CITES Animals Committee recommendation that “Parties include cheetahs as a species of priority in their strategies to counter wildlife trafficking” (CITES, 2014a). The Lusaka Agreement Task Force has participated in several coordinated international global enforcement operations resulting in many arrests and seizures of a variety of wildlife, including cheetah skins (CITES, 2014b). With three East African countries as members, the Task Force could play more of a leadership role in helping range states to step up efforts to combat the illegal export to the Gulf States. The newest agreement, the African Common Strategy on Combatting Illegal Exploitation and Trade in Wild Fauna and Flora in Africa, adopted by the AU in 2015, may hold greater potential for effective action because all African countries are members (except Morocco, which is not a cheetah range state). Although it contains nothing specific to cheetahs, it embodies a new and unprecedented level of political will. “There has never been so much high level political momentum in Africa to tackle transnational organized wildlife crime: now there is a plan to turn this into action,” declared one NGO observer (TRAFFIC, 2016).

## CONCLUSIONS

Environmental treaties are often considered “paper tigers” that do not live up to their full potential. Perhaps their greatest benefit is their

convening power: the CITES experience of countries discussing and planning actions against illegal cheetah trade has shown that these fora have the capability for constructive and focused action planning to address specific problems and issues. The NGO cheetah conservation community must continue to motivate CITES and the other environmental bodies described in this chapter, through participation in meetings and provision of researched recommendations, to take targeted actions to protect cheetahs in their natural habitats and undertake intelligence-led enforcement to prevent their smuggling across national borders.

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