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## CITES - Overview, Importance, and Relevance

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*The contemporary generation is such where love and affection towards flora and fauna are slowly decreasing. The illegal trade and businesses running at the stake of slowly depleting varied species of animals and plants. The root cause of this depleting biodiversity can be attributed to various humankind activities including deforestation and trophy hunting. This study aims to understand the impact of CITES (Convention of International Trade in Endangered Species of Wild Fauna and Flora) in banning illegal trade across member states and also wishes to understand how realistic the objective has been. Having discussed the various articles in the convention and their drawbacks, this paper aims to raise awareness about the harms of this trade given the fact of how dependent human lives and biodiversity are upon each other.*

**Keywords:** CITES, illegal trade, right of reservation, enforcement.

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### INTRODUCTION

CITES stands for the Convention on International Trade in Endangered Species of Wild Fauna and Flora,<sup>1</sup> which came into force on the 1st of July, 1975, 12 years after it was drafted as the result of a resolution that was adopted in a meeting of the IUCN (The World Conservation

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<sup>1</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975

Union). The aim of CITES is to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species.<sup>2</sup>

The need for CITES arises from a seemingly obvious proposition that International borders don't govern the limits of the various ecological systems that inhabit our planet and unilateral action without taking all the stakeholders into confidence can damage these systems irreparably. At the same time, wildlife management and conservation are not bound to any one ecological system and take place simultaneously on land, water, and air. In addition to this international wildlife trade is estimated to be around billions of dollars and includes thousands of plant and animal specimens. The trade is so diverse that it ranges from living animals and plants to a wide variety of wildlife products derived from them, which include not only food products, timber, exotic leather goods, tourist curios, and medicines but also leads to high levels of exploitation of some animal and plant species which coupled with the trade-in them and other factors, such as habitat loss, is capable of erasing their populations and even bringing some species close to extinction. According to the CITES website, "Many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future."

There are 183 contracting parties to the Cites Convention which are collectively referred to as the Conference of the Parties to CITES that meet every two to three years to assess and review the implementation of the CITES convention, the last time they met was the 18th meeting of the Conference of Parties to CITES (COP 18) which took place in Geneva, Switzerland from the 17th to the 28th of August, 2019.

## REVIEW OF LITERATURE

1. James G. Njogu<sup>3</sup> argues how CITES is perhaps the largest and the single most important invention in the world with respect to the threat that International Wildlife plants and animals are subjected to, owing to the international wildlife trade. The same research paper goes on to

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<sup>2</sup> *Ibid*

<sup>3</sup> James Njogu, 'Wildlife Management and Conservation in View of International Conventions. The George Wright Forum' (*JSTOR*, 1 November 2012) <<http://www.jstor.org/stable/43598983>> accessed 08 June 2021

discuss how CITES uses a permitting system to regulate trade rather than prohibiting it altogether. The two primary objectives that CITES wishes to achieve through this approach is as follows<sup>4</sup>:

- A. Negate the impact of International Trade that has happened over the years.
- B. Control the international trade to prevent any further loss to species of animals or plants about to reach the brink of extinction.

2. Allan B. Martin in his research paper<sup>5</sup> assesses the different compliance procedures of the different bodies associated with CITES. This paper wishes to achieve the objective of how different bodies are tasked with different works at every COP (Conference of Parties) and how their importance can be attributed to the success of CITES every COP.<sup>6</sup> Various tasks of the standing committee have been discussed in detail and how their body stands above the others in the implementation of the overall obligations of the convention, advising and assisting parties, and verifying various information ceded during the happening of COP.

3. Billie Walsh discusses in his research paper<sup>7</sup> how the success of CITES depends upon the member nations and their conformity to the convention. The research paper also talked about how the USA happened to be the largest exporter and importer of wildlife products in the Global trade in Wildlife constituting a market of \$ 300 billion and how this country being a signatory to the convention worked to reduce trade almost by 70% in just three decades.

## RESEARCH METHODOLOGY

Descriptive research was carried out through primary and secondary data to understand the relevance of CITES in modern times. Both quantitative and qualitative data were collected to ensure accurate findings. A survey and an interview were conducted to gather primary data,

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<sup>4</sup> *Ibid*

<sup>5</sup> Cambridge University Press, 'Convention On International Trade In Endangered Species Of Wild Fauna And Flora (Cites) Compliance Procedures' (*JSTOR*, 13 September 2007) <<http://www.jstor.org/stable/20695776>> accessed 09 June 2021

<sup>6</sup> *Ibid*

<sup>7</sup> Barry Walsh, 'Convention on International Trade in Endangered Species of Wild Fauna and Flora: A CITES Timeline' (*JSTOR*, 26 January 2005) <<http://www.jstor.org/stable/41760179>> accessed 08 June 2021

understand the concepts further, and confirm the reasons behind any findings.<sup>8</sup> The survey was conducted online through google forms, and the convenience sampling method was used to reach students easily and practically when colleges were not open. The survey included a trichotomous-scale and 4-5-point Likert scale questions. Through the survey, we were able to collect data with respect to people's awareness about CITES and its relevance.

## CITES - FINDINGS AND DISCUSSION

Convention on International Trade in Endangered Species of Wild Fauna and Flora or popularly known as CITES is an international convention that was entered into force in July 1975 and, has currently 183 sovereign member countries as parties to the convention. The Treaty was drafted with the aid of IUCN (International Union for the Conservation of Nature and Natural Resources) and the USA in 1973 at which over 40 countries attended. In the year 1975, the Treaty came into force after the ratification made by 10 of the signatory members. The primary purpose of the convention is to deal, prevent and control the illegal movements of wild plants and animals (either alive or dead) either in parts or in whole, to protect the endangered species from reaching the brink of extinction. Henceforth birds like Imperial Eagle, Shells of Sea Turtles, Elephant Tusks, the fur of Leopard, Skin of Crocodiles, Whales, and Primates, all come under strict regulation through CITES as a matter of prevention of illegal trade between different countries across the globe.<sup>9</sup>

CITES in this regard does not provide protection to a species of animals/plants that are suffering threats of extinction instead, just controls and regulates the international business or trade with respect to important parts of such animals/plants or the animal/plant itself. A CITES permit is required to import such animals in a country legally which is subject to the situation of the number of species in the exporting country that will be left after the removal.<sup>10</sup> CITES has dedicated three such appendices based on the level of protection that the species of

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<sup>8</sup> *Ibid*

<sup>9</sup> David Favre, 'Brief Summary of Convention on Trade in Endangered Species (CITES)' (*Animal Legal & Historical Center*, 5 July 2002) <<https://www.animallaw.info/article/brief-summary-convention-trade-endangered-species-cites>> accessed 20 June 2021

<sup>10</sup> *Ibid*

animals/plants are in need of. The member countries meet every two years to discuss and fulfill their obligations towards the Treaty and the wildlife and their preservation.<sup>11</sup> The meeting of the parties is also known as the Conference of Parties (COP) where every Conference of Parties may have as high as 1200 delegates across Various member countries. Every conclusion goes through translations in three different languages, that is, English, French, and Spanish. Every country is also given a single vote to represent their choice of belief which also becomes the voice of that country as well. Two committees run parallel for the successful completion of the said conference where the first committee (Committee 1) deals with listing or unlisting of species from the three appendices, however, the second committee (Committee 2) deals with adoption and implementation of newer policies with respect to the administration of the provisions in the Treaty.<sup>12</sup>

## ARTICLES UNDER THE CONVENTION AND THEIR DRAWBACKS

While ratification, the member parties agree to abide by the provisions of the convention and protect the beautiful forms of irreplaceable parts of wildlife flora and fauna, not just for the current generation but for many generations to come next (Principle of Intergenerational Equity).<sup>13</sup> Due to this, the convention was brought into the picture to mandate the member states to work for protecting the said species of animals /plants which are at the brink of extinction.<sup>14</sup>

Article 1 of the Convention defines Species, Sub- Species, Specimens, Trade, Export, and Re-export, Introduction to the Sea,<sup>15</sup> Management Authority, and Scientific Authority. Article 1 (b)

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<sup>11</sup> Linda Kramer, 'Biodiversity and Wildlife trafficking' (*Academy for Wildlife Trafficking*, 4 Nov 2012) <[https://www.era-comm.eu/Biodiversity\\_and\\_Wildlife\\_Trafficking/module\\_1/1\\_Chapter\\_13\\_success.html#:~:text=The%20CITES%20Convention%20has%20the,species%20by%20restricting%20trade%20therein.&text=The%20CITES%20is%20also%20successful,ITTO%2C%20FAO%2C%20ICWC%20etc](https://www.era-comm.eu/Biodiversity_and_Wildlife_Trafficking/module_1/1_Chapter_13_success.html#:~:text=The%20CITES%20Convention%20has%20the,species%20by%20restricting%20trade%20therein.&text=The%20CITES%20is%20also%20successful,ITTO%2C%20FAO%2C%20ICWC%20etc)> accessed 08 June 2021

<sup>12</sup> *Ibid*

<sup>13</sup> Michael Kiehn and Hesiquio Benítez-Díaz, 'International Trade In Endangered Plant Species In The Context Of The Convention On International Trade In Endangered Species Of Wild Fauna And Flora And The Global Strategy For Plant Conservation' (*JSTOR*, 27 December 2013) <http://www.jstor.org/stable/42703720>> accessed 13 June 2021

<sup>14</sup> *Ibid*

<sup>15</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 1

(ii)<sup>16</sup> specifies that species include not just animals or plants facing extinction but also the valuable parts of their body which could be a source of international trade.

Article 2 enlists the Fundamental Principles leading to the formation of the three appendices with the following method of classification<sup>17</sup>:

- Appendix 1<sup>18</sup>: Species of animals and plants extremely threatened by international trade and are at the brink of extinction of the trade Is not immediately controlled.
- Appendix 2<sup>19</sup>: This appendix contains the names of those species of plants and animals which may suffer the danger of extinction if an immediate step to control their illegal trade is not taken and to regulate the trade practices in order to avoid utilisation incompatible with their survival.
- Appendix 3<sup>20</sup>: The third appendix has the names of species that are not facing extinction threats globally, but has been proposed by member countries individually due to a decreasing population of species in that particular country.

The placement of endangered species under Appendix 1 or Appendix 2 is subject to a group decision voting which is exercised by the member parties where no species is either added or deleted without the total number of votes touching or crossing, the two-third majority of the member parties present and voting. A Right of Reservation (which is dealt with under Article 23 of the CITES Convention<sup>21</sup>) gives individual member parties the right to disagree with the decision of the entire voting committee within 90 days of the conduction of the vote.<sup>22</sup> However, this Right of Reservation is not mostly exercised by the parties, since firstly, the vote of the entire committee is always given precedence and also because of the customary practices which make member parties mostly agree to the decision of the voting committee

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<sup>16</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 1(b)(ii)

<sup>17</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 2

<sup>18</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, appendix 1

<sup>19</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, appendix 2

<sup>20</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, appendix 3

<sup>21</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 23

<sup>22</sup> Freek J Vonk & Wolfgang Wüster, 'Roles of CITES in Protecting New Species. Science' (*JSTOR*, 18 August 2006)

<<http://www.jstor.org/stable/3846957>> accessed 16 June 2021

(Committee 1) on the whole. The burden of proof lies upon the proposing members trying and assisting to list the species as under either of the appendices to prove and make the committee aware as to how that particular species is threatened by international trade.<sup>23</sup>

## **DRAWBACKS OF THE DISCUSSED ARTICLES**

CITES although may seem to do good with the protection of the species facing the threat of extinction, but one of the limitations of this convention is that there are many species running the risk of extinction but are not listed in any of the three appendices owing to the fact that the countries in which these species are found are not a party to the convention. For Example, many birds found in the Hawaiian Islands of the US are running the risk of extinction but are not a part of the international trade regulation and are hence, not listed under CITES.

Also, a couple of subsequent drawbacks could be that there is no system of appeals against an adopted judgement of Committee 1 in Conference of Parties and mostly, member states accept the majority vote and do not take a reservation despite the Right of Reservation clause mentioned under Article 23 of the Convention.<sup>24</sup> Another major drawback could be that once a particular species of animal/plant is listed under the first two appendices, all the member states have to compulsorily and immediately take steps to prevent illegal trade of the species which, significantly triggers the protection of the Treaty since all member states cannot immediately, begin to prohibit the transboundary movement of newly added species.<sup>25</sup> Also, there is no International Policing System to ensure the halt of illegal trade between two different countries.<sup>26</sup> Moreover, there is also a lack of a proper Court-based system to file petitions or appeals to either restrain or demand injunctions with regards to any judgment taken by either of the Committees in the Conference of Parties.<sup>27</sup>

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<sup>23</sup> *Ibid*

<sup>24</sup> Rachel Nuwar, 'How well does this treaty prevent wildlife trafficking?' (*Ensia*, 4 October 2018) <<https://ensia.com/features/cites/>> accessed 08 June 2021

<sup>25</sup> *Ibid*

<sup>26</sup> Kofi Ernest Abotsi and others, 'Wildlife Crime and Degradation In Africa: An Analysis Of The Current Crisis And Prospects For A Secure Future' (*JSTOR*, 3 May 2016) <<http://www.jstor.org/stable/26195903>> accessed 17 June 2021

<sup>27</sup> *Ibid*

Other than that Article 3,<sup>28</sup> 4<sup>29</sup> , and 5<sup>30</sup> of the convention discusses upon the regulation of trade practices with respect to Appendix 1, 2, and 3 respectively. Article 6 of the convention, however,<sup>31</sup> deals with Permits and Certificates that have to be issued compulsorily before an export shall happen for the species listed under the three appendices. The said Article also marks 6 months to be the deadline for such an export happening from the date of issuance of a permit by the Management Authority of the exporting state post which, a new certificate will have to be issued again.

Article 7<sup>32</sup> of the Convention, on the other hand, comes out to be a controversial one due to the exemption it offers with regards to the species listed under the three appendices.

Following are the few exceptions: -

1. Specimens in transit within the specified country despite staying under the control of the Customs Department.
2. Specimens required by individuals before the species were added under the Appendices of the Convention.
3. Specimens that are of personal or household effects.
4. Where the Management Authority of the two different nations have pre-existing treaties of friendship to import / export species for scientific research and training or for display in Museum purposes.
5. Specimens that have received the permit from the Management Authority of the exporting state to be transferred to a Zoo, Circus Menagerie, or A Plant Exhibition of the importing state, given the fact that there is no significant reduction in the number of the exported species after removal from the exporting state.

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<sup>28</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 3

<sup>29</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 4

<sup>30</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 5

<sup>31</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 6

<sup>32</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 7



The controversy on the commercial use of species under the Appendices arises when there come two different opinions for the same act.<sup>33</sup> On the one hand, some member states argue that economic utilization of species under Appendix 1 and Appendix 2 would be useful for political and geographical motivation with regards to the protection of the species.<sup>34</sup> These parties contend that a country not taking proper care of an endangered species should be made to transfer the species to a different location or habitat where they may grow and breed exponentially.<sup>35</sup> Where the second dissenting opinion is that the importing countries (mostly developed countries) can block the trade for exporting countries (mostly developing countries),<sup>36</sup> once the number of endangered species flourish and grow, violating the Principles of Common but Differentiated Responsibilities.<sup>37</sup> The same anomaly can be done away with, through an amendment to the Convention (whose provisions are mentioned under Article 17 of the Convention<sup>38</sup>) but is unlikely to occur owing to the dissent that the developed countries will display.<sup>39</sup>

Article 16<sup>40</sup> and Article 17 of the Convention talk about the Conference of Parties (COP) and The Secretariat in place, respectively. It is also to be noted that The CITES Secretariat is administered by the United Nations Environment Program's (UNEP) Executive Director. Article 17 of the Convention also talks about the functions of the Secretariat some of which are listed below: -

- Playing a Coordinating, Advisory, and Servicing Tole in working of the Convention.

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<sup>33</sup> 'Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)' (*Sustainable Development Knowledge Platform*, April 2006)  
<<https://sustainabledevelopment.un.org/index.php?page=view&type=30022&nr=650&menu=3170>> accessed 16 June 2021

<sup>34</sup> *Ibid*

<sup>35</sup> Kate Bradford, 'What is CITES and why it is important?' (*PADI IDC*, 10 August 2001),  
<<https://idckohtao.com/blog/what-is-cites-and-why-it-is-important/>> accessed 12 June 2021

<sup>36</sup> *Ibid*

<sup>37</sup> Rachel Fobar, 'What is the Convention on International Trade in Endangered Species' (*National Geographic*, 3 July 2019)  
<<https://www.google.com/amp/s/api.nationalgeographic.com/distribution/public/amp/animals/article/convention-on-international-trade-in-endangered-species>> accessed 16 June 2021

<sup>38</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 17

<sup>39</sup> Fobar (n 37)

<sup>40</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora 1975, art 16

- Assisting with Communication and Monitoring the Implementation of the Convention to ensure that its provisions are respected.
- Organising meetings of Conference of Parties and Permanent Committees at regular intervals.<sup>41</sup>
- Providing assistance in the fields of Legislation, Enforcements, Science, and Training.<sup>42</sup>

## LIMITATIONS IN ENFORCEMENTS

The more recent Conversations and Treaties are doing better than CITES in the areas of enforcement and the obligations they create upon the member parties.<sup>43</sup> However, CITES cannot be blamed for the archaic approach either,<sup>44</sup> since there was no prevalent mode of ensuring enforcements back in the 1970s, other than that of absolute faith upon the conduct of the parties.<sup>45</sup> However, we also need to see that there is no International Court where a member state can sue/bring a petition for a grievance or appeal against any other member state for non-performance of the obligations under CITES.<sup>46</sup> The only belief that holds CITES and its provisions good is that the same absolute belief and the public pressure that may be expected upon member states for non-compliance of the provisions of the Convention.<sup>47</sup>

In addition to the above limitations CITES can also face limitations with respect to member states on the basis of: -

- Lack of adequate domestic laws.
- Lack of adequate literacy in the state.

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<sup>41</sup> Fobar (n 37)

<sup>42</sup> *Ibid*

<sup>43</sup> Arthur G Blundell & Michael B Mascia, 'Discrepancies in Reported Levels of International Wildlife Trade' (*JSTOR*, 5 July 2005) <<http://www.jstor.org/stable/3591225>> accessed 12 June 2021

<sup>44</sup> *Ibid*

<sup>45</sup> Botanic Garden Conservation International, 'The Convention on International Trade in Endangered Species of Wild Fauna and Flora' (*JSTOR*, 2 Jun 1999) <<http://www.jstor.org/stable/24753838>> accessed 12 Jun 2021

<sup>46</sup> Times of Malta, 'The importance of CITES' (*Times of Malta*, 8 October 2006) <<https://www.google.com/amp/s/timesofmalta.com/articles/view/the-importance-of-cites.800871.amp>> accessed 15 June 2021

<sup>47</sup> *Ibid*

- Lack of Scientific Experts and number of Government Employees working for enforcement.
- Lack of support from Local Police, Agencies, and Courts in the state.

We need to understand the fact that CITES is still doing good despite the limitation and that can be attributed to the importance it has developed over the years. The party states have organized themselves into operational committees which meet and consider issues in the Conference of Parties.<sup>48</sup> The Animal and Plant Committees are science-based and consider issues relating to which species should be on which appendix. The Standing Committee of CITES has a complex structure of regional representation and meets twice a year to deal with ongoing administrative issues and all this constitutes CITES which works for the advancement and preservation of endangered species of plants and animals.

## SUGGESTIONS

CITES despite its innumerable successes, has various drawbacks which need to be resolved before the convention can be called a perfect one. The uplisting or downlisting of a particular species of plants or animals happens through the two-third majority voting under Committee 1 and these votes are mostly, obtained through scientific data as to how many individuals of the threatened species are left in the wild, how urgent the listing of that species is and the immediate threats to their survival.<sup>49</sup> Firstly, the said conference happens every two years, so member states need to wait for two years before introducing a resolution which, at times, might need immediate attention. Secondly, the experts working under CITES may take up unreasonable time to ascertain the answer to the questions mentioned above.<sup>50</sup>

The series of suggestions could be to conduct the conference every year and set up a committee to address immediate attention requests from member states which should also have the power to grant an interim injunction on the illegal trade of such species if the requests

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<sup>48</sup> *Ibid*

<sup>49</sup> William Billing, 'CITES - Fish and Wildlife Service' (*US Fish and Wildlife Services*, 4 September 2003) <<https://www.fws.gov/international/cites/what-is-cites.html>> accessed 10 June 2021

<sup>50</sup> *Ibid*

are found considerate.<sup>51</sup> Also setting up an International Policing System in compliance with the provisions under CITES would do just the thing that CITES has been in need of, for quite some time.<sup>52</sup> This Policing Authority can also be vested with the task to observe and ensure compliance with recent decisions by member states.<sup>53</sup>

## LIMITATIONS AND FUTURE SCOPE

A paucity of time and resources due to the pandemic posed a challenge to the study. Further research can be conducted when the current situation subsides. Another limitation was in terms of the survey conducted, which included 143 students consisting of only university-going students in urban areas. The survey was conducted online. Thus, the penetration of the survey to reach samples that do not have access to the internet or electronic devices is low.

There is a future scope for this paper as the survey conducted was on Under-Graduate students at Symbiosis Law School, Pune. The survey can be improved by physically contacting students who do not have adequate access to the internet and similar technical resources in rural areas. The survey can also be conducted upon the other adults and Environmentalists to determine their choices and opinions with regards to CITES and its better implementation especially in times of COVID-19 where the loss of businesses may take up the surge in Illegal Trading of Wild Fauna and Flora and also at a time when Japan has quit The International Whaling Commission (IWC) to restore fishing of Whales.

## CONCLUSION

CITES is the only convention that we have, at this moment, for the protection of the illegal trade of wild fauna and flora. The drawbacks are worth considering but with respect to the success it has gained in all these years has been much greater and indispensable. The CITES Convention has the undisputed merit of bringing together all leading wildlife traders, at a platform in the unbiased attempt to protect the endangered species and consequently,

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<sup>51</sup> Leigh Henry, 'CITES' (*World Wide Fund*, 13 Mar 2013) <<https://www.worldwildlife.org/pages/cites>> accessed 13 June 2021

<sup>52</sup> *Ibid*

<sup>53</sup> *Ibid*

preserve human dependence upon biodiversity. CITES can also be considered a huge success owing to the efforts made to establish cooperation with numerous International Organisations like ITTO, FAO, and ICCWC, etc. in addition to various Governmental and Non-Governmental Organisations and Research Institutes and various other bodies both at the local and international level. This helps CITES to better coordinate between member states, timely enforce the new additions of species in the appendices, better protect the endangered species, increase the capability of developing member states and increase mass awareness over the endangered species. The coordination that CITES has with local Police and Customs Authorities is indispensable in determining the success it achieves through a strategic halt on transboundary trade activities. CITES has also compelled the member states to establish various Scientific and Expert Committees at the local level, tasked with the duty to ensure vigilant ban on illegal trade and ensure compliance of the state through submitting annual and bi-annual reports. Overall, it can be said that it is through the constant efforts of CITES that we were able to prevent endangered species from getting extinct, which eventually helps in maintaining the ecological balance in the biodiversity that surrounds us all.