**Slide Show Notes**

**Endangered Species**

Action to reduce the chances of species extinction, and to reduce abuse of a species to the point of threatening extinction, is a global public service due to the fact that biological systems' interactions cross political borders. Also, there is information in individual species and in systems that is also a public good.

CITES, the Convention on International Trade in Endangered Species, is an international institution created in response to the public-good aspects of biological diversity and the potential for cross-border commerce to intensify pressure on it.

Cooperation between sovereigns on biodiversity has created several institutions.

* CITES: the subject of this module.
* CBD: the Convention on Biodiversity, which was adopted in 1992 at the same time as the convention on climate change (UNFCCC) and it has some of the same structure. For example, parties to the CBD submit "National Biodiversity Strategies and Action Plans." Unlike parties' implementation planning under UNFCCC, however, the CBD plans are not prepared specifically as CBD submissions and don't follow a standardized format. Canada, for example, submitted its "2020 Biodiversity Goals and Targets" in place of a customized NBSAP, while Peru prepared a custom NBSAP. CBD's secretariat has about 100 staff in its headquarters in Montreal, Canada.
* CMS: the Convention on the Conservation of Migratory Species of Wild Animals, which was adopted in 1979. It is managed largely by UNEP, which provides a secretariat.
* WCPF: the 2004 Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which I encountered while working in the Philippines. This is about problems resulting from unregulated fishing, excessive fishing fleet capacity, and insufficiently selective gear, with respect to conservation of highly migratory fish stocks like tuna, billfish, and marlin. WCPF members agree on monitoring, including the ability to board vessels to ensure compliance with standards. The convention is administered by a 34-person commission that resides in Micronesia.

CITES' signature in 1973 was the result of a process that was largely led by an NGO, the International Union for the Conservation of Nature. The IUCN still publishes the "Red List of Threatened Species," which you might be interested to research further on your own.

The parties to CITES agree to regulate export and import of members of, or products made from, a species that might be threatened. A specific organizational structure is set up by each CITES member.

1. A "Scientific Authority" to advise on threats or "detrimental" affects (or potentially several scientific authorities to deal with various species).
2. A "Management Authority" to handle the import and export controls that may be required.
3. "Rescue Centers" that are designated by Management Authorities to look after the welfare of living specimens, particularly those that have been confiscated

CITES maintains two lists of species that are threatened (Appendix I) or potentially threatened (Appendix II).

Listing a species starts with a proposal by one of the parties. Then CITES' Conference of Parties (the COP) evaluates the threat and adds the species to one or the other of the appendixes (or decides not to).

For Appendix I listed species, CITES requires both export and import permits. For Appendix II listed species, only export permits are required.

In addition, individual parties may list a species in CITES' Appendix III without requiring the COP's approval. Appendix III's purpose is for the parties whose territory is part of the species' range to solicit other CITES parties' assistance in the species' conservation.

Since the commercial and legal impact of listing a species is serious, CITES' COP gives serious consideration to proposed listing in an extended process that may take years and that in the end may not agree with the party's proposal.

The appendices are on-line here: <https://cites.org/eng/app/appendices.php>.

With respect to the two tree species from Peru that are the subject of the case study that is discussed below, in 2017 one (*Swietenia macrophylla*, broad-leaf mahogany) was in Appendix II and one (*Cedrela odorata*, Spanish cedar) was in Appendix III. Subsequently, Spanish cedar was moved to Appendix II, which required approval by the COP.

The proposed change was Proposal 57 from Ecuador for the 2019 COP (<https://www.cites.org/eng/cop/18/prop/index.php> — the last item on the botton).

Ecuador's proposal was adopted by the COP's session of August 28, 2019 (<https://www.cites.org/sites/default/files/eng/cop/18/Plen/SR/E-CoP18-Plen-Rec-04-R1.pdf>), with the following mention:

"Proposal CoP18 Prop. 57 was amended to include annotation #6, with the note Populations of the Neotropics, and an implementation delay of 12 months (i.e., until 28 August 2020). This had been accepted by Committee I and the amended proposal was adopted. The United States reaffirmed that the Appendix-III listings of three species of Cedrela remained in effect until the entry into force date of the Appendix-II listing of the genus Cedrela. This included ensuring that international trade in CITES specimens of the three Appendix-III species are accompanied by the appropriate CITES documents."

(In this citation and in the Appendices, the term "Neotropics" refers to one of eight regions of the globe used in biogeography, specifically the region from southern Florida and coastal Mexico south to include all of South America. The abbreviation "spp." is used in 2019 to refer to all three of the species listed separately in 2017.)

The U.S. interest in *Cedrela* species will be explained in the Peruvian case study, below.

When CITES calls for export and import permits, it enters the area covered by WTO agreements. Members notify the WTO about CITES permit requirements and they are described in Trade Policy Reviews. However, CITES' purpose is consistent with GATT Article XX and no CITES permit requirement has ever been disputed in the WTO system.

CITES small staff of 35 is supported by the UNEP in Geneva. (This is also the case for the Convention on Migratory Species.)

The Conference of Parties for CITES is now held every third year, most recently in 2019 and soon in November 2022. (The 2019 venue was moved to Geneva when a security crisis arose in Sri Lanka.) Observers can be approved to attend, so check out whether you can join an NGO delegation, if you're interested (and especially if you can pay your way).

CITES committees deal with concerns about specific cases and regions on a continuous basis.

* The "Standing Committee" is composed of CITES member states selected to represent each of the six major geographical regions of the world (Africa, Asia, Europe, North America, Central and South America and the Caribbean, and Oceania); it governs the organization between meetings of the COP.
* The Animals Committee and the Plants Committee are composed of experts nominated from members from the six regions; they provide scientific advice and draft resolutions for the COP to consider, particularly resolutions on listing of species in the Appendices.

Take the U.S. as an example of how a party to CITES implements the convention.

The USG's contact point for CITES is the U.S. Fish and Wildlife Service (FWS) in the Interior Department. Per the convention, FWS established both a Management Authority and a single Scientific Authority for all matters under CITES. The Scientific Authority issues "non-detriment" findings (when justified) to permit import or export of listed species.

FWS provided an excellent guide to CITES implementation in its 2015 report to the COP: <https://www.fws.gov/international/pdf/implementation-report-us-cites-2013-2015.pdf>.

About half the report uses the reporting format that CITES requested. On page 5, CITES' form asks for details "of any additional measures taken," which FWS provides in the second half of its report via an annex starting on page 31. The copy of the report in Canvas is highlighted to guide you to interesting points, such as the following.

* On page 4, FWS notes that the U.S. has in many cases adopted rules that comply with CITES and that are stricter than CITES requires.
* On page 24, FWS lists USAID as one of the agencies represented in the U.S. Interagency CITES Coordinating Committee, which it says meets 3-4 times per year.
* On page 30, USG action to implement CITES listings is described (also, pages 32-35), along with initial steps on a proposal for a new listing in Appendix III.
* On page 31, the amazing Lacey Act amendment of 2008 is described. This criminalizes use by U.S. firms of imported materials where someone in the source country broke that country's law in collecting them. Every U.S. entity that transports or uses the material after it was imported has committed a U.S. crime on account of the foreign seller having broken the law in their country.
* On page 49, FWS describes the USG's internal reviews of CITES' Appendices, which are undertaken to see if the USG feels that species' listings should be changed.
* On page 50, FWS describes the USG response to a measure taken by a CITES committee.
* On page 53, FWS's non-detriment findings are described.
* On page 54, *Cedrela* comes up again in a paragraph about USG cooperation with the International Tropical Timber Organization.
* On page 58, FWS notes, "The United States continues to build capacity and strengthen efforts to implement CITES obligations through Free Trade Agreements (FTAs)." This brings us to the case of Peru.

As we saw when we looked at Peru on the map in the Climate Change module, there is a gigantic area of primary tropical forest in the country. Hardwood trees like broad-leaf mahogany and Spanish cedar are scarce in that environment and are commercially valuable.

As you may know, the tropics like Peru's Amazon forest differ from temperate areas by having a much higher number of species in a given land area. In temperate forests like Indiana's, a few tree species dominate the landscape. In contrast, in Peru's Amazon each small plot of land is home to a large number of species that depend on one another.

When you remove a few trees from a Hoosier forest, it's no big deal: there are any number of identical ones stretching away as far as you can see. But when a broad-leaf mahogany tree is removed from a primary tropical forest, there's nothing like it nearby, and there is an entire, although tiny, ecosystem that disappears with it because the other species find no support from the other trees in the vicinity. It's like removing a parent from a family.

However, these hardwoods are commercially valuable and their numbers in the forest have been dwindling for years. Aside from targeted harvesting of individuals for their wood, these species have been affected by the gradual deforestation that results from population growth and expansion of land use for farms, highways, and residences. Thus, tropical hardwoods have found their ways into CITES' Appendixes.

The combination of its tropical latitude, primary forest area, Andean mountains, and cold ocean waters helps make Peru mega-biodiverse. Note that counts of species change constantly so Peru's rank among other countries may change.

As previously noted in the module on investment agreements and ILO Convention 169, Peru has substantial indigenous populations. Some are uncontacted peoples living in isolation. Others are well organized, non-Spanish-speaking peoples trying to arrive at a *modus vivendi* with the rest of Peru.

As low-income people who draw the livelihoods from the land, conservation is not necessarily the priority of an indigenous community. But their traditional scale of exploitation is tiny compared to what an industrial society might undertake in industrial forestry, plantations, or mines. The financial potential of large-scale exploitation allows firms to tempt the indigenous to do deals permitting intensive land use whose impacts are more profound than than the indigenous expect.

At the same time, the indigenous are at a disadvantage in terms of being able to make legal claims to land and get their share of economic benefits from industrial exploitation.

The governments of the U.S. and Peru signed a bilateral commercial agreement in 2007, which they called the "Trade Promotion Agreement" (TPA). As in the case of NAFTA, Congress would not approve the agreement without changes regarding labor and the environment. In part, Congress was representing the concerns expressed by environmental NGOs who knew that commercial exploitation and exports of hardwoods were having impacts on biodiversity in the Amazon forest that seemed disproportional to the short-term commercial gains.

The U.S. administration responded to Congress's requirements by negotiating with Peru for a new forestry law-enforcement annex to the agreement. With the new annex, the TPA finally became effective in 2009. As noted in FWS's 2015 CITES report, FWS monitored U.S. hardwood imports from Peru, particularly as the 2008 Lacey Amendment had come into force by then.

In terms of monitoring Peru's enforcement of forestry and logging laws, the U.S. side was led by the agency that negotiates commercial agreements, the U.S. Trade Representative (USTR), and by NGOs who had been following this issue, particularly the Environmental Investigation Agency (an NGO despite having the term "agency" in its name).

Where there is a USAID resident mission in a country, USAID is generally tasked by the USG with assisting the other country's implementation of commercial agreements with the U.S. In the case of Peru and the TPA, USAID made grants to support labor rights programs and contracted for a range of technical assistance in trade-related areas (the "*Facilitando Comercio*" project).

The largest assistance effort, however, was for forest management relating to the TPA's forestry law-enforcement annex. USAID provided assistance to the Government of Peru's forest managers through a firm and a U.S. NGO, as well as by financing the U.S. Forest Service to field a resident advisor with a strong Peruvian team to assist their Peruvian counterpart, SERFOR (the *Servicio Forestal*). (USFS cooperates with forest-sector counterparts in 90 countries, mostly with USAID's financial support, given that USFS's in-house budget for international operations is small.)

One of the goals of the USFS-SERFOR partnership was to improve the traceability of logs coming out of the forest. Peru's logging concession-holders identify individual trees to be harvested in a plan that has to be approved by the government, following precepts for biodiversity protection. The government then has to ensure that the logs that the company harvests are actually the trees approved in the plan. But the physically remote and socially rugged terrain where logging and milling take place makes monitoring difficult.

As part of the overall effort, the government of Peru decided to decree a new forestry law. Unfortunately, the way it decreed the law exacerbated existing conflict with indigenous populations, as described in the "Investment" module that touched on ILO 169.)

TPA's forestry law-enforcement annex specifically empowers "persons" from either country to bring to the signatories' attention any issues in implementation. The environmental NGO EIA therefore undertook fieldwork to reconfirm the weaknesses in the Peruvian government's management of logging concessions.

EIA's teams slogged into the logging concessions to the places where approved plans said trees had been harvested and they found the trees were still standing. Obviously, the logs that had arrived downstream with documents saying they had come from that concession were actually logs that had come from somewhere else and the documents were counterfeit, or "laundered" (*lavados*).

Under the terms of the TPA, EIA was able to bring their results directly to USTR's attention and demand that the USG take action to prevent further commerce between Peru and the U.S. that might violate Peruvian law, the TPA, the U.S. Lacey Act, and CITES.

Hopefully, this case study — including the video by *The New York Times* and the EIA's report — is useful in seeing how international agreements may be implemented on the ground.

**Guide to References**

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* The CITES convention.
  + <https://www.cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf>
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