CITES CoP18 — Towards New Attempts to List Polar Bears on Appendix I?

*Nikolas Sellheim**

Introduction

The 18th Conference of the Parties (CoP18) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)[1] took place from 17—28 August in Geneva, Switzerland. While originally planned to be held in Colombo, Sri Lanka, after the terror attacks in May 2019, the CoP was moved to Geneva.

On the Agenda were 57 proposals for amendments to the Appendices of the convention. To recapitulate, CITES comprises three appendices, each of which provide for different degrees of regulation of international trade in species and products from these species listed on them: Appendix I fully prohibits international trade; Appendix II requires export and import permits and a close monitoring system; Appendix III lists species for which the nation state calling for a listing asks for international help controlling the trade. Any change to the Appendices must be approved by at least a 2/3 majority of the parties.

Arguably the most controversial proposals that we tabled related to African elephants (*Loxodonta africana*), southern white rhinoceros (*Ceratotherium simum simum*), or mako sharks (*Isurus oxyrinchus* and *Isurus paucus*). It was in the context of African elephants that in the late 1990s the so-called 'split-listing' was agreed on: different populations of a species can be listed on different appendices. It is thus that the elephant populations of southern African states are listed on Appendix II (regulated trade) while all others are listed on Appendix I (no trade). At CoP18, some countries tried to move their elephant and rhino populations from Appendix I to Appendix II, while others attempted to do the opposite. Neither proposal reached the 2/3 majority. The previously unlisted mako sharks, however, were listed on Appendix II.

Polar Bears and CITES

Controversy within CITES is not a recent phenomenon. Since its coming into force in July 1975, the number of non-governmental organisations (NGOs) acting as observers has risen

* Helsinki Institute of Sustainability Science (HELSUS), University of Helsinki, nikolas.p.sellheim@gmail.com.

[1] Convention on International Trade in Endangered Species of Wild Fauna and Flora, 3 March 1973 (in force 1 July 1975) (993 UNTS 243)

continuously, a large number of which pushing for stricter trade measures, particularly of so-called 'charismatic megafauna', which is exceptionally often represented on the Appendices[2]. Whether or not this 'overabundance' of charismatic species on the Appendices is due to NGO influence is difficult to ascertain. However, it appears reasonable to assume that by and large Appendix listings occur "for political, economic, philosophical, and even emotional reasons, as well as scientific reasons"[3].

Also, at CoP18 a large number of NGOs was present, each pushing its own agenda. For instance, the International Fund for Animal Welfare (IFAW) distributed stuffed toy sharks to demonstrate its support for the Appendix II-listing of mako sharks.

Not surprisingly, Arctic species have not evaded the controversy of CITES listings: while all 'great whales', including several whale species in the Arctic, are listed on Appendix I — also subject to the moratorium on commercial whaling under the International Convention for the Regulation of Whaling[4] — the polar bear (*Ursus maritimus*) has been listed on Appendix II since 1975. It was therefore one of the first species to be listed on one of the CITES Appendices.

The listing went hand in hand with the conclusion of the Agreement on Conservation of Polar Bears (ACPB)[5] and the realisation that the polar bear is in need of protection[6]. While the ACPB is not a trade, but a management regime, both the ACPB and CITES aim to protect the polar bear through regulated hunts and regulated trade, but not through a total ban on either.

Be that as it may, polar bear hunts and trade in polar bear products went relatively unnoticed within the CITES regime and the CITES Trade Database does not indicate significant changes over the years. Attention towards the polar bear grew in 2010 at CoP15 when the first proposal to uplist the species

[2] Challender, DWS & DC MacMillan (2019) Investigating the Influence of Non-state Actors on Amendments to the CITES Appendices. *Journal of International Wildlife Law & Policy*, 22 (2): 90–114. https://doi.org/10.1080/13880292.2019.1638549, p. 92

[3] Ibid., p. 91.

[4] International Convention for the Regulation of Whaling, 2 December 1946 (in force 10 November 1948) (161 UNTS 72)

[5] Agreement on the Conservation of Polar Bears, 15 November 1973 (in force 26 May 1976) (13 ILM 13)

[6] At the time of the ACPB's and CITES' conclusion, scientific knowledge on the polar bear was not as advanced as in the present day. Major disagreement rested on the question how many polar bear populations existed in the first place. While the Soviets argued for one circumpolar population, Norwegian and US scientist described at least five sub-populations. The scientific status quo in the mid-1970s refers to five populations — to which Soviet scientists agreed — while currently nineteen sub-populations have been determined.

from Appendix II to Appendix I was tabled by the United States. The proposal thus saw a total prohibition on international trade, particularly in between Canada and the United States as well as Russia and the United States. The proposal was a direct outcome of the 2008 listing of polar bears under the US Endangered Species Act as 'threatened'. While the proposal itself did not mention international trade, but habitat loss, as the main reason for the difficulties polar bears had to face, it was nevertheless argued that sports and trophy hunts and the continuous Appendix II-listing would be detrimental to the polar bear population[7].

Whether or not polar bear populations are indeed decreasing or not is not as clear-cut as one might expect. While public discourse has made the polar bear *the* symbol for climate change in the Arctic, the Arctic Biodiversity Assessment (ABA) has found that of the 19 polar bear populations seven are declining, four are stable, one is increasing, and the status of the remaining seven is unknown[8]. International trade and overhunting are, however, not the major threat to the species, but rather, as the US proposal rightfully outlined, habitat loss due to climate change. In order to avoid discussions on the US contributions to anthropogenic climate change, then-US Interior Secretary Dirk Kempthorne made clear that the listing as 'threatened' "not be used as a tool for trying to regulate the greenhouse gas emissions blamed for creating climate change"[9].

Be that as it may, the proposal was rather quickly turned down, facing opposition from all other polar bear range states as well as the European Union. One of the main points that the opponents expressed was that international trade contributed to Inuit subsistence needs and that international trade was not a major threat to the species. In the end, 48 parties voted in favour, 62 against and 11 abstained.

---

[7] E.g. Greenemaier L (2008, May 14) U.S. Protects Polar Bears Under Endangered Species Act. Scientific American. https://www.scientificamerican.com/article/polar-bears-threatened/; An interesting side effect of denotation as 'threatened' was that the 1972 US Marine Mammal Protection Act (MMPA) was also amended to ban the importation of polar bear parts stemming from trophy hunts in Canada. This 'loophole' was inserted in 1994 during the reauthorisation process of the legislation. Since the status of 'threatened' now identified the species to be depleted under the MMPA, polar bear trophies from Canada could not longer be imported into the US. Attempts have been made to re-amend the MMPA again to make importation from Canada possible, albeit to no avail (see proposed Polar Bear Conservation and Fairness Act, 115th Congress, 2nd Session, 12 June 2018).

[8] Meltofte H (ed) (2013) Arctic Biodiversity Assessment. Status and trends in Arctic biodiversity. Conservation of Arctic Flora and Fauna, Akureyri, p. 115

[9] Greenemaier, 2008

This was not the end of the story, however. At the following CoP in 2013, the United States tabled yet another proposal to uplist the polar bear to Appendix I. While the main arguments were the same, the proposal furthermore noted that a listing of the polar bear would reduce the overall pressure on the species. While the EU proposed some amendments to the proposal, the CoP voted against an uplisting with 38 in favour, 42 against and 46 abstentions. Since then, no proposal for uplisting of polar bears has been tabled.

The Polar Bear at CoP18

As mentioned in the introduction, the focus of parties and observers rested on high-profile proposals dealing with elephants, rhinos or sharks. No proposal for changes of the Appendices related to polar bears was tabled. In other words, polar bears were not on the agenda of CoP18.

While that may be so, this does not mean that polar bears have disappeared from a CITES discourse. The German Naturschutzbund (NABU) arranged an informative, and arguably biased, side event that promoted the uplisting of polar bears. The main narrative of the event was that particularly the trade in polar bear hides emerging out of Canada constitutes one of the major threats to the species. Two documents underlined this claim: first, the NABU document 'Sold Out. Polar Bears: Caught between Skin Trade, Climate Change and Guns'[10]. The report was freely available to all delegates in printed form at the CoP. Second, the self-published book *Polar Bears & Humans* by Norwegian photographer Ole Liodden provided profound background data on the interplay between polar bear trade and conservation[11]. Liodden furthermore served as the keynote speaker in the event.

The event was well attended by both party delegates and representatives of observers. A rather straight forward narrative was applied which directly linked increasing exports of polar bear hides (and lack of control) from Canada to a declining conservation status. No differentiation was made concerning polar bear populations and it remained unclear what methodology was used to interpret the data that was presented. While increasing trade and decreasing population statuses appeared to be a logical interconnection, the lack of economic need for Inuit served as a basis on which the human dimension was presented. For instance, NABU reports that "a medium-quality polar bear skin […] retails for USD20,000 in Norway.

[10] NABU (2019) Sold Out. Polar Bears: Caught between Skin Trade, Climate Change and Guns. NABU, Berlin; Surprisingly, the report is not available in PDF, but is on file with author.
[11] Liodden, OJ (2019) *Polar Bears & Humans*. Naturfokus Forlag, no location

Native hunters may receive around CAD2,500 (USD 2,000), a mere 10% of the price said by consumers for this type"[12].

It is consequently argued that the local Inuit population does not benefit from the high-value product, thus failing to provide sufficient justification for polar bear trade. This is particularly so since several provincial government initiatives provide hunters with down payments for polar bear skins. NABU argues that since these payments had increased by more than 700% between 2006—2018, more Inuit hunters started to become involved in the polar bear trade, inevitably leading to increased hunting pressure[13].

Whether or not the allegations brought forth in the report and in the side event are true cannot be ascertained and would require significantly more research. What can be said, however, is that neither the report nor the (compressed) data of the book as presented in the event referred to polar bear skins in international trade occurring as a side product of human-polar bear interaction. Instead, international trade and the (arguably small amounts of) money that flows to Inuit hunters was presented as the primary motivator for Inuit to engage in polar bear hunting, leaving aside all considerations of sustainability.

The narrative leaves out that, first, Inuit and polar bears have interacted since time immemorial and polar bears have been an integral part of Inuit societies for centuries. Second, in the course of the ACPB, several sub-agreements have been concluded that are inherently bottom-up and thus serve human and polar bear needs. Third, even if governmental subsidies have increased, this does not automatically mean that more people hunt more polar bears. Instead, this could also be a mean to counter the downward trend on the international market, i.e. to buffer declining polar bear skin prices. Fourth, increasing numbers of polar bear skins on the international markets may not be due to more deliberate hunting, but can also stem from polar bears increasingly encroaching on human settlements[14]. Here, once again, habitat loss due to climate change may play a major role. Lastly, even if the revenues from the international polar bear trade might appear small for outsiders, they may nevertheless be the key revenue to

[12] NABU 2019, p 11

[13] Ibid.

[14] A recent prominent example was the so-called 'polar bear invasion' in Belushya Guba, Novaya Zemlya. See Stanley-Becker, I (11 Feb 2019) A 'mass invasion 'of polar bears is terrorizing an island town. Climate change is to blame. *Washington Post*, https://www.washingtonpost.com/nation/2019/02/11/mass-invasion-polar-bears-is-terrorizing-an-island-town-climate-change-is-blame/

ensure subsistence activities in a region where economic options are scarce.

Conclusion

While not officially on the agenda at CoP18, the above has shown that for the last 10 years or so, polar bears have surfaced within CITES Appendix I-contexts. In light of the side event which, to the untrained listener, did appear to be solid in both data and data interpretation, it does not appear unreasonable to assume that in the nearer future new attempts might be taken to uplist the polar bear. In how far this potential listing might be scientifically justifiable would remain to be seen. Even under the precautionary approach, the listing would be difficult since, particularly in Canada, Inuit have treaty-based rights to engage in the utilisation of polar bears and other species. CITES parties would have to justify how infringements of Inuit rights and wellbeing can be gauged against conservation concerns. After all, dangers of human deaths due to polar bears are real in the Arctic[15].

If CITES advances to uplist polar bears to Appendix I, it does run the danger of sidelining Inuit interests, leading Inuit and other peoples and stakeholders to losing faith in the institution[16]. Japan's withdrawal from the International Whaling Commission over the decades-long dispute on commercial whaling[17] as well as Namibia's announcement of a possible withdrawal from CITES in light of the ban on rhino trade[18] stand exemplary in this regard.

A listing of the polar bear on Appendix I may therefore be counterproductive and may alienate those that have served as the best experts on the Arctic environment: Inuit hunters.

[15] Frizzell S (14 Nov 2018) Inuit lives must be protected over polar bears, Nunavut community says. *CBC,* https://www.cbc.ca/news/canada/north/polar-bear-management-arviat-1.4904164

[16] Weber, DS, Mandler T, Dyck M, Van Coeverden De Groot PJ, Lee DS & Clark DA (2015) Unexpected and undesired conservation outcomes of wildlife trade bans—An emerging problem for stakeholders? *Global Ecology and Conservation* 3, 389–400

[17] IWC (2019) Statement on Government of Japan withdrawal from the IWC, https://iwc.int/statement-on-government-of-japan-withdrawal-from-t

[18] Nyaungwa N (27 Aug 2019) Namibia considers withdrawal from wildlife convention unless rhino trade eased. *Reuters*, https://www.reuters.com/article/us-namibia-cites/namibia-considers-withdrawal-from-wildlife-convention-unless-rhino-trade-eased-idUSKCN1VH1WM