Assessment of the International Ban on the Trade of Ivory in Light of Sustainable Development Principles

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Abstract

The African elephant (Loxodanta africana) is regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and as a rule, international trade of it and of its parts such as ivory is banned. Throughout this study, the international ban on the trade of ivory is critically assessed as to whether it is consistent with the principles of sustainable development. The definition, scope and principles of sustainable development are already controversial in environmental politics. In this paper, the principles of sustainable development are regarded as sustainable use, equity, common but differentiated responsibilities, participation, good governance, integrity and precautionary principles in line with New Delhi Declaration of Principles of International Law Relating to Sustainable Development. In this paper, it is argued that the international ban on the trade of ivory is not consistent with these principles since it disregards sustainable use of natural resources, equity, needs and participation of local people, necessity of good governance and integration of different policy areas. While resorting to a trade ban might seem feasible as an alternative to taking environmental risks within the framework of the precautionary principle, this principle alone does not constitute the sole basis for a trade ban.

Keywords: Ivory, international trade, sustainability

Fildişi Ticaretindeki Uluslararası Yasağın Sürdürülebilir Kalkınma İlkeleri Işığında Değerlendirmesi

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Özet

Afrika fili (Loxodanta africana), Nesli Tehlike Altında Olan Yabani Hayvan ve Bitki Türlerinin Uluslararası Ticaretine İlişkin Sözleşme kapsamında düzenlenmektedir ve genel bir kural olarak fildişi gibi parçaları da dahil olmak üzere uluslararası ticareti yasaklanmıştır. Çalışma boyunca, fildişi ticaretine getirilen uluslararası yasağın sürdürülebilir kalkınma ilkeleriyle tutarlı olup olmadığı

eleştirel bir şekilde değerlendirilmektedir. Sürdürülebilir kalkınmanın tanımı, kapsamı ve ilkeleri çevre siyasetinde halihazırda tartışmalıdır. Bu yazıda sürdürülebilir kalkınma ilkeleri; Yeni Delhi Sürdürülebilir Kalkınmaya İlişkin Uluslararası Hukuk İlkeleri Bildirgesi doğrultusunda sürdürülebilir kullanım, eşitlik, ortak ancak farklılaştırılmış sorumluluklar, katılım, iyi yönetişim, bütünlük ve ihtiyatlılık ilkeleri olarak kabul edilmiştir. Bu yazıda, doğal kaynakların sürdürülebilir kullanımını, eşitliği, yerel halkın ihtiyaçlarını ve katılımını, iyi yönetişim gerekliliğini ve farklı politika alanlarının entegrasyonunu göz ardı ettiği için fildişi ticaretine ilişkin uluslararası yasağın bu ilkelerle tutarlı olmadığı savunulmaktadır. İhtiyatlılık ilkesi çerçevesinde çevresel risk almak yerine ticaret yasağına başvurmak makul gibi görünse de bu ilke de ticaret yasağı için tek başına dayanak oluşturmaz.

Anahtar Kelimeler: Fildişi, uluslararası ticaret, sürdürülebilirlik

1. Introduction

Along with the improvements in the industry after the outset of the industrial revolution, natural resources have been consumed more rapidly compared to the pre-industrial era. Moreover, industrialization has not remained limited to Western European countries and has spread across the globe. This has prompted people to consider the limits of natural resources, recognizing that they are not unlimited, and that industrial development may deplete them. In the end, as discussed in this paper, the idea of sustainable development has become one of today's international political issues.

Some of the natural resources that humans consume rapidly are animal and plant species and their parts, such as ivory. As a result of human activities and rapid development, some species face the risk of extinction. Therefore, conservation and restoration of the ecosystem are important pillars of sustainability works (Robertson, 2014, p.121). Since ancient times, wild animals have been utilized for their skins, plumage or other parts as luxury commodities or components of several medicines and perfumes. Considerable efforts can be traced back to at least Roman times to protect the population of certain animals against extinction (Reid, 2002, p.300). However, these efforts seem to be systematic and placed in a policy framework aftermath of the industrial revolution and sustainable development views. Inspired first by Victorian reactions against over-exploitation, perceptions towards the value of wild plants and animals, and their protection have become desired policy objectives justified by moral, religious arguments, aesthetic concerns, as well as utilitarian views (Reid 2002, p.1).

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as 'CITES'), signed in 1973, is an essential international legal instrument to protect wildlife (CITES, 2022). CITES aims to protect wild flora and fauna against over-exploitation through international trade by regulating or prohibiting their cross-border trade, and thousands of species of plants and animals are subject to CITES today (Sands et al, 2018, p.409-410). The African elephant (Loxodanta africana) is regulated under CITES, and as a general rule, its international trade, including its parts such as ivory, has been prohibited.

The international ban on the trade of ivory has been controversial among scholars as well as representatives of states under CITES negotiations. In fact, regarding the regulation of international trade of endangered species, protectionists and sustainable use supporters come face to face (Reeve, 2002, p.14). This is evident in the ivory case. During the debates under CITES regarding the imposition of the international ban on the trade of ivory, the status of the African elephant was controversial about whether its long-term conservation is best served by a ban on the trade of ivory or the continuation of limited and controlled trade (Reid, 2009, p.309). From a conservative view, Bennett (2015) asserts that legal ivory trade is conducted along with the illegal ivory trade since ivories

harvested by illegal methods and traded by poachers cannot be distinguished from legal ivories, and poachers are able to obtain required certifications by means of bribery. Furthermore, Lee and Lindsay (2016) claim that CITES gives a strong impression that ivory trade is potentially acceptable and propose stricter measures, such as listing all African elephants in Appendix I of CITES, closing domestic markets, destruction of stockpiles, ending decision-making mechanisms under CITES and prohibiting the exportation of live elephants completely. On the other hand, Jenkins (2000) argues that the trade ban on ivory does not recover the population of elephants and, more importantly, does not hinder illegal poaching, as a trade ban does not affect the demand for ivories. Likewise, Martin (2000) suggests supporting sustainability rather than banning trade and criticizes the system generally prescribed by CITES. Therefore, the issue should be assessed with all its dimensions within the framework of sustainable development principles. The purpose of this paper is to discuss the international ban on the trade of ivory in light of principles of sustainable development.

In this vein, after examining the evolution and context of the trade ban, the concept of sustainable development with its scope and content will be discussed. Thereafter, it will be critically assessed as to whether the international ban on the trade of ivory is consistent with the principles of sustainable development. This paper argues that the international ban on the trade of ivory is not consistent with the principles of sustainable development because it disregards the sustainable use of natural resources, equity, needs and participation of local people, the necessity of good governance, and integration of different policy areas, which are certain elements of sustainable development. In addition, the precautionary principle, as a part of sustainable development, does not provide a basis for a complete ban.

2. CITES Convention and International Ban on Trade of Ivory
2.1. General Framework of CITES
CITES is based on an appendix system and is composed of three appendices. In the appendix system of CITES, Appendix I includes all species threatened with extinction that are or may be affected by trade. Species in this category may be traded only for non-commercial purposes and under certain conditions, with export and import permits provided by scientific and management authorities in exporting and importing countries (Article II/1, III). On the other hand, Appendix II includes species that may become threatened with extinction unless their trade is strictly regulated, and other species that must be subject to regulation for effective control of trade (Article II/2). Species covered in Appendix II can be traded under strict rules, only with export certificates provided by the scientific and management authorities of the exporting country (Article IV). Reeder (2002) classifies Appendix I as a 'blacklist' because trade in Appendix I species for primarily commercial purposes is prohibited. Trade for non-commercial purposes, such as scientific or educational purposes, is subject to both import and export permits under certain requirements. Appendix II is classified as a 'grey list' because trade in species listed under it is controlled, but an import permit is not required. However, it is important to note that the absence of an import permit requirement does not imply a lack of control by the importing country, as Article IV/4 stipulates that the prior presentation of either an export permit or a re-export certificate is required at the time of importation. Double-checks by both importing and exporting countries are important pillars of CITES (Klem and Shine, 1993, p.117). Finally, Appendix III includes species which any Party identifies as being subject to regulation within its jurisdiction and co-operation of other Parties in the control of trade is needed, and it requires export permits issued by authorities of exporting country.

In line with the explanations on the CITES appendices system above, the distinction between Appendix I (blacklist) and Appendix II (grey list) is essential, as the rules for the appendices differ in international trade. Finally, specimens of captive-bred animals listed under Appendix I are deemed to

fall under Appendix II (Article VII/4). Therefore, ivories harvested by captive-bred elephants are subject to Appendix II rules even if they are listed under Appendix I.

2.2. Evolution of the International Trade on the Trade of Ivory

Ivory has been used as a precious material, employed in sculpture and jewelry, as well as a raw material. Ivories have been transported to carving centers, traditionally in Japan and Hong Kong, and subsequently to consumers of worked ivory, mainly in the US and European countries (Barbier et al, 1990, p. 8). Moreover, it seems that the US and China are currently the main importers of unworked ivory, classified under the harmonized system code of 050710 (TradeMap, 2023). The trade in wildlife generally flows from developing countries rich in biodiversity to affluent developed countries, especially European countries, the US, and Japan (Reeve, 2002, p.9). It is hardly surprising that the international movement of ivory occurs from developing or least-developed African or Asian countries to developed countries.

The African elephant, along with its parts, including ivory, was originally listed in Appendix II of CITES. This listing was backed by the Management Quota System, designed to ensure trade within the context of planned domestic management programs in 1985. Finally, in 1989, African elephants were transferred to Appendix I (Barbier et al, 1990, p. 8). While major western environmental groups supported the complete ban, and the majority of CITES parties voted for the listing of African elephants in Appendix I, eight African countries opposed this listing, arguing that they had the capacity to regulate the trade. However, their opposition was disregarded in the end (Sos-Rolfes, 2000, p.76). The process was initiated by the African Elephant Conservation Act, adopted unilaterally by the US upon the failure of the CITES ivory-quota system. The Appendix I listing for African elephants was proposed by a range of countries, including the US, Austria, Kenya, and Tanzania. Four countries, including Japan, abstained from voting while southern African

countries and China (subsequently withdrew its reservation) registered reservations to the listing (Mofson, 2000). After several failed attempts by some African states, especially by South Africa, to downlist its elephant into Appendix II, in 1997, Botswana, Namibia and Zimbabwe finally achieved having their elephant populations transferred to Appendix II (Sos-Rolfes, 2000, p.76-77). As of 2022, African elephant populations in Botswana, Namibia, South Africa and Zimbabwe are listed in Appendix II under certain conditions. Therefore, it seems that parties had different views and interests during the debates over listing of African elephants under CITES.

The geographical distinction among species regulated in CITES, including elephants, is worth assessing. Under CITES, split-listing different populations of the same species based on geographical origin is possible and has become common, as in the case of African elephants (Reeve, 2002, p.32; Reid, 2009, p.309). In fact, Article I of CITES defines species as any species, subspecies, or geographically separate population. In this regard, African elephants (Loxodanta africana) are treated differently from Asian elephants (Elephas maximus), which have been included in Appendix I since the inception of CITES. Secondly, African elephants in Botswana, Namibia, South Africa and Zimbabwe are treated differently from other African elephants and deemed to be under Appendix II.

3. The Principles of Sustainable Development

Sustainable development has become a crucial topic in today's global environmental discourse, and its scope and principles need to be addressed properly. Although concerns about the limits of natural resources have made people contemplate sustainability since ancient times, international efforts to balance economic, social and environmental policies and address natural resource exploitation have gained momentum over the past two decades. The World Commission on Environment and Development, also known as 'Our Common Future' or 'the Brundtland Report,' played a pivotal role in popularizing the term

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of sustainable development globally (Cordonier Segger and Khalfan, 2006, p.15).

The UN, in the Brundtland Report (1987, p.41), defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Until the 1980s, the dominant idea was that continuous economic growth could not be environmentally sustainable, which was later replaced by the concept of sustainable development. Therefore, it can be assumed that the definition of sustainable development in the Brundtland Report emphasizes the necessity of development in a sustainable way to meet the needs of generations.

Critics argue that this definition is inherently complex and ambiguous, as the 'needs' of people can vary across time and societies. While the concept of sustainable development adopted at the Rio Summit is not legally binding, it holds a significant place in international soft law (Cordonier Segger and Khalfan, 2006). Thus, it is essential to analyze the international ban on the trade of ivory in light of the principles of sustainable development.

Various principles can be deduced from the definition and perception of sustainable development. Lafferty (1996) highlights the four elements of sustainable development as physical sustainability concerning the limits of nature and ecological balance, global equity, generational equity, and the precautionary principle. Gladwin et al (1995) argue that sustainability is closely related to democracy, liberty, equality, and security, outlining the components as inclusiveness, connectivity, equity, prudence, and security. Sands et al (2018) assess the elements of sustainable development as the principle of intergenerathe principle of intra-generational equity, the principle of sustainable use, and the principle of integration.

Lastly, the New Delhi Declaration of Principles of International Law Relating to Sustainable Development (United Nations, 2002) outlines the principles of sustainable development as follows: sustainable use of natural resources, equity and the eradication of poverty, common but differentiated responsibilities, precautionary approach, public participation and access to information and justice, good governance, and integration and interrelationship. In this study, the international ban on the trade of ivory is critically assessed in light of these principles.

4. International Ban on Trade of Ivory Under Sustainable Development Principles

4.1. Sustainable Use of Resources and International Ban on Trade of Ivory

Sustainable use of resources is arguably the most crucial principle of sustainable development. In this context, it is appropriate to categorize resources into two types: renewable and non-renewable. Following the principles of sustainable development, renewable resources must be utilized at rates lower than, or at least equal to, the rate at which they regenerate to ensure availability for future generations. Concurrently, the consumption of non-renewable resources must be minimized, and substitutes should be developed (Reid, 1995). International legal documents refer to the concept of 'sustainable use' by mentioning conservation measures or plans that are 'rational,' 'wise,' 'sound,' 'appropriate,' or a combination of these concepts (Sands et al, 2018, p.224). As an example of this, the African Nature Convention of 1968 stipulates ensuring the wise use of faunal resources under Article VII, which is relevant to the scope of this study.

In the sustainable use dimension, it can be argued that elephants cannot be sustainably utilized for their ivories. Research indicates that elephant mortality rates are unsustainable,

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and the decline in elephant populations is evident across the continent (Wattmeter et al, 2014; Yu et al, 2016). Lussa and Lee (2017) also find that the sustainability space is very small compared to the demand for ivory. However, Moore (2011) contends that sustainable use of ivories can be seen as an aspect of a neo-liberal approach, and the trade ban reduces the value of elephants, thus deprives of revenue that could be used for protection. Instead of resorting to a total ban on the international trade of ivory, ways and methods to ensure the wise use of ivory should be explored in light of sustainable use of natural resources.

It is argued that CITES aims to prevent unsustainable use rather than promoting sustainable use over non-use (Reeve, 2002, p.29). However, the need to promote sustainable use of natural resources cannot be completely disregarded in today's world. At the seventh meeting of the Conference of the Parties to the Convention on Biological Diversity, the Addis Ababa Principles and Guidelines for the Sustainable use of Biodiversity were adopted. The document stipulates, "Although CITES does not have a definition of sustainable use, the case studies show that the elements of the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity that are generally relevant to CITES are either already implicit in the language of CITES or are promoted by CITES." Therefore, the regime under CITES cannot be indifferent towards the need for sustainable use of natural resources, including wildlife. Finally, sustainable use has been a fundamental principle of sustainable development, and hindering sustainable use would not be consistent with the concept of sustainable development.

Furthermore, the ivories of naturally dead elephants could be traded and utilized in light of the principle of sustainable use. While a simplistic notion supports the destruction of ivories and claims that trade in ivory stored in stockpiles would fuel poaching and illegal ivory trade, it is argued that legal ivories could decrease the value of illegal ivories (Sas-Rolfes et al, 2014). In light of sustainable use of natural resources, bad governance to con-

trol the ivory trade should not be an excuse for prohibition of the utilization of ivories and the destruction of ivory stockpiles. International trade in legally stockpiled ivories should be permissible to meet societal needs since it does not directly lead to the decline in the population of elephants.

Thus, the trade ban on ivory does not seem to be consistent with the principle of sustainable use of natural resources. Plans and methods to promote sustainable use should be explored instead of resorting to a total ban on the trade of ivory. Promoting the sustainable use of ivories could contribute to conservation efforts by increasing the value of the African elephant.

4.2. Principles of Equity, Common But Different Responsibilities and International Ban on Trade of Ivory

Equity, defined as the fair and just distribution of resources, gains, and losses within and between generations, is considered a central dimension of sustainable development (Gladwin et al, 1995; Beder, 2006). The concept regarding that states have an obligation to ensure a just allocation between past, present, and future generations forms the core of intergenerational equity, while intra-generational equity involves ensuring a fair distribution of resources among the members of present generations (Cordonier Segger and Khalfan, 1996, p.124-125). Aligned with the principle of sustainable use, resources should be utilized in accordance with the needs of future generations.

On the other hand, Agyeman (2007) argues that intra-generational equity has a limited place on the sustainability agenda compared to intergenerational equity. He emphasizes the gap between the green agenda of the global North and the brown agenda focused on poverty alleviation and infrastructural development in the global South, highlighting intra-generational equity and justice. Sustainability, according to this perspective, ensures a better quality of life for all present and future generations in both the global

North and South by providing a just allocation of resources.

Common But Differentiated Responsibilities (CBDR), closely related to the equity principle, is a crucial aspect of sustainable development. It refers to the common responsibility of states for environmental protection, considering their different circumstances, especially their historic contributions to evolving environmental problems (Cordonier Segger and Khalfan, 1996, p.124-125). While addressing specific environmental problems, such as the protection of endangered species, it should be emphasized that the environment belongs to the common heritage, and all of humanity has a responsibility to protect it. However, countries bear different historical responsibilities and possess diverse capabilities to tackle environmental issues.

The trade ban should be evaluated in light of equity, particularly intra-generational equity, and common but differentiated responsibilities, as they are essential elements of sustainable development.

As demonstrated above, the trade predominantly flows from the global South to the global North. According to TradeMap (2023) statistics, nine of the top ten exporters of unworked ivory, classified under the 050710 harmonized system code, are developing countries. Mainly, developing countries in Africa, such as South Africa, Tanzania, Kenya, Ethiopia and Congo, have been hosting African elephants. Swanson (2000) argues that the trade ban punishes the users of wildlife, treating the sustainable alongside the unsustainable, resulting in unequal treatment towards countries where elephant populations are increasing, and ivory is required for economic purposes.

Therefore, it is crucial to establish equity between different societies on the international stage and avoid disregarding the needs and respective capabilities of countries. Supporting the sustainable use of ivories could contribute to equity and CBDR between developed and developing countries. Collaboration

among developed and developing countries is essential to share best practices and promote the sustainable use of ivories to address the needs and concerns of developing countries.

4.3. Principle of Participation and International Ban on Trade of Ivory

Participation, a crucial aspect of sustainable development, encompasses the right to information and, beyond this, public involvement in decision-making processes (Beder, 2006). It is argued that sustainable development is not solely the concern of governments, and the most effective planning emerges through a participatory process that allows diverse social groups, including women, young people, indigenous people, workers, and NGOs, to discuss the opportunities and challenges in reconciling development and the environment (Reid, 1995). As asserted by Cordonier Segger and Khalfan (1996, p.164), "Neither environmental nor developmental strategies are likely to be sustainable unless all affected actors, both State and non-State, and particularly those with special dependencies on the resources at issue, are involved in decision-making." In other words, the participation of both states and non-state actors plays a crucial role in the decision-making process regarding sustainable development issues.

The needs and participation of local people are also essential during the process of implementing a trade ban, as the involvement of people is a cornerstone of sustainable development. CITES is criticized for its listing process, which has been seen as neglecting the needs of local people while imposing trade restrictions (Cooney and Abensperg-Traun, 2013). In the case of ivory, it is argued that the support of local people is crucial for protecting the elephant population. The utilization of elephants might serve as an incentive for them to participate in conservation efforts rather than collaborating with poachers (Barbier et al, 1990; Sinclair-Brown, 2003). However, the international trade ban on ivory deprives

local people of utilizing elephants and governments of support from the local community. Therefore, the participation of local people has not been ensured during this process.

In other words, it should have ensured the participation of various segments of the population, particularly local people in East and South Africa, where the African elephant is predominantly located. This approach would be consistent with the principles of sustainable development. Furthermore, the support of local people could have been secured in the fight against poaching and illegal ivory trade if this approach had been adopted.

4.4. Principle of Good Governance and International Ban on Trade of Ivory

Good governance, as a pillar of sustainable development, refers to reliable and effective decision-making and the respect for the rule of law (Cordonier Segger and Khalfan, 1996, p.166). The United Nations identifies eight characteristics of good governance: "It is participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law" (UN-ESCAP, 2009).

The transfer of African elephants to Appendix I of CITES is an outcome of the lack of good governance in the implementation of CITES. Although the design of CITES aims to regulate and control species listed in Appendix II (grey list), it is argued that species listed in Appendix II are at the mercy of exporting countries, as no import license is required. The only solution is regarded as transferring to Appendix I (total ban) in the absence of effective implementation (Jenkins, 2000). In other words, in the case of ivory, the international community failed to control and regulate the international trade of ivory sustainably and found a solution towards a total ban by preventing the sustainable use of ivories. This approach, however, is likely controversial in light of the requirement for good governance, which is among the principles of sustainable development. Moreover, since the participation of local people is not assured, it is scarcely feasible to regard the

trade ban as participatory and consensus-oriented. Accordingly, the process lacks important characteristics of good governance.

Nevertheless, a new system should have been developed and implemented instead of listing African elephants in Appendix II, which would jeopardize the population of African elephants, or in Appendix I, which means a total ban on international trade. In this system, participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive control of trade should have been assured. In this process, the participation of stakeholders should have been granted, and this mechanism should have been funded in accordance with the financial power of the countries. The market and price of ivory could have been controlled so that poachers are excluded from the system.

Therefore, ways to promote the sustainable use of ivory should be provided to ensure good governance in the international trade of wildlife. To achieve this, the control on Appendix II species under CITES should be developed, and an effective control regime should be introduced instead of resorting to a total ban on ivory trade.

4.5. Principle of Integrity and International Ban on Trade of Ivory

The principle of integrity underscores the integration of economic, environmental, and social aspects within the concept of sustainable development. Sustainable development goals should be achieved by considering relevant socio-economic dimensions, such as addressing the specific needs of local people or other vulnerable groups before implementing conservation projects (Cordonier Segger and Khalfan, 1996, p.103-104). Gladwin (1995, p.879) draws attention to the "connectivity" dimension of sustainable development by emphasizing that sustainable development is systematically interconnected and interdependent with global issues like poverty alleviation, population stabilization, or the distribution of economic opportunities. In fact environmental challenges and their solutions

encompass intricate socio-economic aspects, and the success of policies relies on the proper consideration of relevant policy priorities. This complexity necessitates public participation and good governance, as discussed above.

The reasons behind the decline in the population of African elephants, potential effects of a trade ban, the respective capabilities and needs of countries and local people should have been assessed with an integrated approach. A system that controls and monitors international ivory trade should have been implemented as an example of good governance practice. Instead, the international community opted for a complete ban on international ivory trade.

4.6. Precautionary Principle and International Ban on Trade of Ivory

Sustainable development is rooted in the equitable and sustainable use of resources. However, the inherent uncertainty and unpredictability in the pursuit of sustainable development necessitate precaution, safety margins, and preparedness for unwelcome surprises. Prudence, in this context, refers to care and prevention (Gladwin et al, 1995). The precautionary principle, which has been regarded as a tool to prevent sovereign states from using scientific uncertainty as an excuse for inaction, focuses on taking actions to avoid or diminish scientifically plausible but uncertain harm (World Commission on the Ethics of Scientific Knowledge (COMEST), 1995, p.14).

The precautionary principle comprises the components of threat of harm, uncertainty of impact and causality, and precautionary response, although their levels are contentious (Gardener, 2006). Controversies surround the precautionary principle, including its content and boundaries. Carolan (2008) argues that environmental problems inherently involve uncertainty, and a precautionary attitude is valuable, especially for endangered species that cannot afford to wait for scientific results. On the other hand, Sunstein (2005) contends that the precautionary principle may not be

maximin principle and could impede rational priority. He emphasizes the importance of careful consideration even in the face of catastrophic risks under uncertainty, as some steps could lead to significant and unexpected costs with little or no gain.

While not explicitly included in the text of CITES, the parties endorsed the precautionary principle in 1994 (Cordonier Segger and Khalfan, 2006, p.147). However, resorting to the precautionary principle is problematic and subject to criticism. Dickson (2000) highlights the ambiguity surrounding the meaning and scope of the precautionary principle and asserts that it does not preclude consideration of different policy options and other reasons for the extinction of species. Cooney (2003) also argues that the precautionary principle does not provide sufficient guidance to restrict international trade within the framework of CITES. In the case of ivory, while it might seem feasible to avoid environmental risks and implement a complete ban in light of the precautionary principle, it should be noted that the scope of this principle is already controversial, and the potential effects of a trade ban should have been assessed in any case.

Furthermore, the effects of a trade ban should be comprehensively reevaluated, considering that the ban may have negative impacts on the conservation efforts for the African elephant. This is because the trade ban reduces the value of the elephant, as explained above.

5. Conclusion

In this paper the international ban on the trade of ivory is critically assessed in the context of sustainable development principles and the guidelines outlined in the New Delhi Declaration of Principles of International Law Relating to Sustainable Development. Aligned with the principle of sustainable use of natural resources, sustainable development advocates exploring avenues for the wise use of ivory rather than opting for a complete ban. In addition, the multifaceted causes of African elephant extinction suggest that the ivory

trade might contribute positively to conservation efforts. The trade ban appears to neglect considerations of equity among states, the specific needs and capacities of states, the participation of local communities, and principles of good governance.

In conclusion, a comprehensive evaluation of the ban is essential by reflecting the integrated approach mandated by sustainable development, which demands cohesion across social, environmental, and economic dimensions. Furthermore, while the precau-

tionary principle urges action in the face of uncertain environmental harm, it does not preclude the exploration of alternative policy options beyond a complete ban and addressing various reasons for elephant extinction. Policymakers should refrain from using the precautionary principle as a shield, carefully analyze the overall effects of the trade ban on the African elephant population and avoid its rationalization solely through the precautionary principle, which is already contentious in scope and meaning.

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