Measures to Protect the Tibetan Antelope under the CITES Framework

By: Aaron Schwabach and Liang Qinghua
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Liang Qinghua* & Aaron Schwabach**

I. THE TIBETAN ANTELOPE

The Tibetan antelope, or chiru in Tibetan (Pantholops hodgsonii), is an unusual, almost unbelievable animal. The long straight horns of the adult males and the behavior of the herds give the strange impression that a bit of Africa has somehow been transported to the stark Tibetan Plateau, three miles above sea level. The chiru, actually more closely related to goats than to other species of antelope, is the only large mammal endemic to the Plateau. As an adaptation to its harsh environment, it has developed an undercoat of extremely fine wool. While this helps it survive the Plateau’s weather, it is also so prized by humans that it may have doomed the entire species.

Shahtoosh, the “king of wools,” is a very fine, very light wool made from the undercoat of the chiru. There is no practical way to harvest shahtoosh other than by killing the chiru. However, this has only been realized fairly recently. The shahtoosh industry has attempted to conceal the source of the wool, first by claiming it came from ibex, wild goats, or, improbably, Siberian geese, and later by claiming that all the shahtoosh used in the industry was gathered from trees against which chiru had rubbed—a remarkable claim for such a treeless region.

The Tibetan Plateau lies mostly within China, but also overlaps the borders of Bhutan, India, Nepal, and Pakistan.

* Lecturer, Zhejiang University School of Law. I would like to extend special thanks to the colleagues of Qinghai Kekexili Nature Reserve Bureau who worked with me during my volunteer service.

** Professor of Law, Thomas Jefferson School of Law, aarons@tjsl.edu. I would like to thank the faculty and students of Zhejiang University School of Law for the discussions that gave rise to this paper, and most of all for making me aware of the disaster facing the chiru.
the beginning of the 20th century, there were an estimated one million chiru on the Plateau.\(^1\) By the end of the 20th century, at most 75,000 (and probably far fewer) remained.\(^2\) This dramatic decrease in population—more than 90%—is almost entirely due to illegal hunting.\(^3\)

The chiru has been protected from hunting in China since the 1970s. However, the vastness of the Plateau and the inaccessibility of much of the chiru’s range have hampered law-enforcement efforts, and the shahtoosh market provides a continuing incentive to poachers.

International environmental law has attempted to suppress the shahtoosh trade for thirty years. In 1975, the chiru was listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), making a permit necessary for trade in chiru products. In 1979, protection of the chiru under CITES was upgraded; the chiru was listed in Appendix I, effectively making all international commercial trade in chiru products illegal.

For a quarter of a century after the chiru’s original listing on Appendix II, however, the Indian government continued to allow shahtoosh manufacturing in the state of Jammu and Kashmir. And in the late 1980s and early 1990s, the Kekexili gold rush brought a new threat: tens of thousands of miners swarmed into the Kekexili region of Qinghai province. Kekexili, where the chiru’s summer calving grounds lie, is China’s least densely populated region, nearly as empty as Antarctica; about half of the region lies within a nature reserve, and the presence of the gold miners was illegal. However, Kekexili also covers an area of 30,000 square miles (about the size of Maine) with an average altitude of 15,000 feet (higher than the highest point in the continental United States). It is impossible to patrol effectively, and miners who were unable to find gold slaughtered enormous numbers of chiru instead. Until June of 2000, poachers could easily sell chiru hides across the border in the

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Indian state of Jammu and Kashmir, the only place in the world where the trade remained legal.\textsuperscript{4}

The hunting in Kekexili is horrendously wasteful. While poachers previously hunted adult males when they had their full winter coats, in the Kekexili calving grounds they hunted pregnant females and females who had just given birth, dooming the calves (as well as the mothers) at a time when the females’ coats are thinnest. A chiru pelt brings the poacher less than $100; three pelts provide enough shahtoosh for a women’s shawl, or five for a man’s. The shawls sell for up to $15,000.\textsuperscript{5} At the current rate of poaching, the chiru may be extinct within two years.\textsuperscript{6}

II. INTERNATIONAL EFFORTS

In China and internationally, efforts to protect the chiru continue at many levels. In 1989, China listed the chiru as a Class I protected animal, making all chiru hunting and trade in chiru products illegal.\textsuperscript{7} Efforts at the international level included the work of the Antelope Specialist Group of the International Union for Conservation of Nature and Natural Resources (IUCN)’s Species Survival Commission.\textsuperscript{8} In 1996 the IUCN classified the Tibetan Antelope as “vulnerable” (VU-A1c)\textsuperscript{9} in its 1996 Red List of Threatened Species. In 1999, as the seriousness of the threat to the chiru population was realized, the IUCN listed the chiru on the Red List as endangered (EN-A2d);\textsuperscript{10} it

\textsuperscript{4} Ching-ching Ni, Heroes of China’s Wasteland, Los Angeles Times, Aug. 29, 2000, at 1.

\textsuperscript{5} Id.

\textsuperscript{6} According to the estimate of the State Forestry Administration of China, 20,000 chiru are killed annually. See State Forestry Administration of China, Current Status of Tibetan Antelope Protection in China (White Book) (1998).

\textsuperscript{7} See Lists of Wildlife under Special State Protection, China, 1989.

\textsuperscript{8} The IUCN is one of the world’s oldest and most influential international environmental organizations. Its membership includes national governments as well as non-governmental organizations (NGOs). See generally AARON SCHWABACH, INTERNATIONAL ENVIRONMENTAL DISPUTES: A REFERENCE HANDBOOK 252-62 (2006); IUCN website, http://www.iucn.org.


remains listed as EN-A2d on the most recent Red List. The governments of China, India, and Nepal have also reached an agreement to control the shahtoosh smuggling route. Concern among international environmental non-governmental organizations (NGOs) is also growing; global NGOs, like the International Fund for Animal Welfare, have publicized the plight of the chiru and the role of the shahtoosh trade, as have grassroots efforts to protect the chiru in China.

A. Xining Declaration and Recommendation for Action

To promote international co-operation among the chiru's range country (China), the consumer countries, the countries manufacturing shahtoosh products (especially India), and countries on the wool smuggling route (especially China, India, and Nepal), the CITES Secretariat convened the International Workshop on the Conservation of and Control of Trade in Tibetan Antelope in Xining, China from October 12 to 14, 1999. The Xining Workshop issued the Xining Declaration and Recommendation for Action. Attendees concluded that shahtoosh shawls in the international consumer market were made exclusively from the chiru's underfur, leading to large-scale poaching of the wild populations of Tibetan antelope. The Declaration stated that the total eradication of production of and markets for shahtoosh was the key to survival of the chiru. Participants appealed to all countries involved to ban internal trade in shahtoosh and to instigate registration schemes for already existing stocks in compliance with domestic legislation.

The Recommendations for Action urged consumer countries “to improve co-ordination of information through INTERPOL and WCO by using the existing enforcement
networks to increase the profile of the shahtoosh trade within
enforcement agencies;”15 to arrange training seminars by
national-level CITES Management Authorities to provide
background on the shahtoosh trade and train law enforcement
authorities in the identification of shahtoosh;16 and perhaps most
importantly, “to highlight the destructive nature of the trade and
urge people not to use shahtoosh products, while efforts can be
made to popularize alternatives to shahtoosh . . . .”17

The Recommendations also contained provisions affecting
manufacturing countries. At the time of the Xining Declaration,
“manufacturing countries” meant “India.” The
Recommendations urged “the Indian Government to ban
processing of shahtoosh throughout the country at the earliest
opportunity”18 but also anticipated the possibility of the industry
moving to another country in response to Indian regulation. All
countries were urged to “exercise vigilance to ensure that no
illegal processing of shahtoosh either now or in the future is
carried out in their [territory].”19

The Declaration and Recommendations call for trilateral
law enforcement cooperation along the shahtoosh smuggling
route among China, Nepal, and India. The geographic and
linguistic barriers to such cooperation are formidable;
nonetheless, the three countries agreed to:

1. Identify crucial illegal trade routes and methods used by
smugglers.

2. Exchange . . . information on smuggling (such as routes,
methods, etc.,) between China, India and Nepal on a regular
basis . . . .

3. [Identify] Customs and wildlife officers . . . at critical border
points for direct contact for any emergency action.

4. [Conduct] Periodic confidential meetings between the
Customs, wildlife and other enforcement agencies for
exchange of information and strategic planning of action.

5. [Adopt a tri-lateral agreement for co-ordinated efforts for
protection and conservation of Tibetan antelope and control

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15. Id. at § I(A)(1).
16. Id. at § I(A)(2).
17. Id. at § I(B)(1); see also id. I(B)(2)-(6).
18. Id. at § II(A)(1).
19. Id. at § II(A)(4).
of the illegal trade in its parts and derivatives, especially shahtoosh . . . .20

The Recommendations also urge the range country (China) to strengthen its anti-poaching and anti-smuggling measures, to develop a national conservation plan for the chiru, and to enhance public awareness of the importance of the chiru and of existing laws protecting it.21

B. Resolution Conf. 11.8 (Rev. CoP 12)

The Xining Declaration and Recommendations provided a basis for a later binding CITES resolution. In accordance with the urging of the Xining Declaration, the Conference of the Parties (COP) addressed the plight of the chiru at its eleventh meeting (held in Gigiri, Kenya in 2000).22 The COP adopted Resolution 11.8 on the Conservation of and Control of Trade in Tibetan Antelope, later amended by the twelfth COP (held in Santiago, Chile in 2002) and the thirteenth COP (held in Bangkok, Thailand in 2004).23

The Resolution commends China for its “serious effort to stop poaching and smuggling of the Tibetan antelope and has also established nature reserves for the species,” and other countries for their effort to suppress the shahtoosh trade.24 It then recommends that:

a) all Parties and non-Parties, especially consumer and range States, adopt comprehensive legislation and enforcement controls as a matter of urgency, with the aim of eliminating commercial trade in Tibetan antelope parts and derivatives, especially shahtoosh . . .;

b) all Parties treat any product claimed to be ‘shahtoosh’ or claimed to contain Tibetan antelope specimens as a readily recognizable part or derivative of the Tibetan antelope . . . and enact legislation, where it does not exist, to fully implement these provisions for such products;

20. Id. at § II(B).
21. See generally id. at § III.
22. Gigiri is a well-to-do suburb of Nairobi that houses United Nations offices.
24. Id.
c) all Parties adopt penalties adequate to deter illegal trade and measures to enhance public awareness of the actual origin of the products and of the status of the Tibetan antelope; and
d) all Parties and non-Parties in whose territory stocks of Tibetan antelope parts and raw materials exist, adopt a registration system and national measures to prevent such stocks from re-entering into trade.\(^{25}\)

In addition, the Resolution includes directives to the CITES Secretariat “to provide funding and technical assistance to the range States of the Tibetan antelope in order to improve anti-poaching efforts, to carry out population censuses, to formulate a conservation strategy, and to prevent trade in Tibetan antelope parts and derivatives;” and to the CITES Standing Committee “to undertake a regular review of . . . enforcement measures.”\(^{26}\) True protection of the chiru can never be achieved, however, without the full cooperation of India, the country in which chiru fur is processed into shahtoosh shawls; the Resolution urges “the processing countries . . . to continue their efforts to ban the processing of Tibetan antelope wool.”\(^{27}\) It also follows the lead of the Xining Declaration in urging the creation of an international law enforcement “network to assist in the control of illegal trade in Tibetan antelope parts and derivatives, particularly shahtoosh, and, where appropriate to make full use of the ECO-MESSAGE of ICPO-Interpol and existing law enforcement networks, including the World Customs Organization.”\(^{28}\)

C. The Exchange of Information

In accordance with CITES Article VIII (7),

Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:

(a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and

(b) a biennial report on legislative, regulatory and administra-

\(^{25}\) Id.

\(^{26}\) Id.

\(^{27}\) Id.

\(^{28}\) Id.
At the 45th meeting of the Standing Committee, the CITES Secretariat noted that the illegal shahtoosh trade had received widespread attention from media, and that a number of governmental and non-governmental organizations including the Metropolitan Police of the United Kingdom, TRAFFIC, the International Fund for Animal Welfare (IFAW), and the World Wide Fund for Nature (WWF) had launched large-scale public awareness campaigns to reject shahtoosh consumption. To some extent, however, anti-shahtoosh efforts had been a victim of their own success. Measures by the Indian government to suppress the shahtoosh trade had led to the establishment of illegal facilities for the manufacture of shahtoosh shawls elsewhere; this information had been passed to the related country, the ICPO-Interpol and the World Customs Organization (WCO). The Secretariat recommended to the main consumer States, the ICPO-Interpol, and the WCO, a paper on identification techniques for the wool of chiru in the journal of the Forensic Science Society to aid in curbing the smuggling of shahtoosh.

The 53rd meeting of the Standing Committee streamlined the information gathering process, agreeing “that the most effective way to undertake reviews . . . would be to rely upon regional representatives, the Parties, the Secretariat or other relevant organizations to bring to its attention matters of concern . . . . This appeared to be more productive than seeking specific reports from . . . range and consumer States.” Further international cooperation, involving eleven Central and South Asian states, was achieved at the CITES Silk Road Implementation and Enforcement Seminar in Urumqi, China, in August 2005. Law enforcement officials from the eleven countries met to discuss a coordinated response to cross-border
smuggling of chiru products. The Interpol Wildlife Crime Working Group members have conducted a number of national surveys with a view to detecting illicit sales of shahtoosh shawls.

**D. Technical and Financial Assistance**

Most shahtoosh wools are mixed during smuggling with a similar, but legal, wool called pashmina. It is difficult for law enforcement agencies to distinguish the shahtooosh-pashmina mixture from pashmina alone. The 1999 Xining Recommendations for Action urged consumer countries to produce shahtoosh identification kits, including shahtoosh and raw fiber samples from confiscated contraband, CITES Identification Manual sheets, microscopes and slides, and information on how to proceed and obtain expert identification assistance. In 2002, the Metropolitan Police Service of the United Kingdom (UK)—working with NGOs, the UK CITES Management Authority, and the CITES Secretariat—created such a kit which contained information about the illicit trade in chiru wool, details of microscopic and DNA identification techniques, and a sample of chiru wool. The UK made this kit available to all CITES parties, and has provided kits to the India Ministry of Agriculture and Fisheries.

Firearms have played a significant role in the poaching of chiru. From 1990 to 1999, the forest public security agencies in China confiscated over 300 guns and 150,000 rounds of ammunition from poachers. In 2002, the U.S. Fish and Wildlife Service’s Clark R. Bavin National Fish and Wildlife Forensics Laboratory, in a Memorandum of Understanding with the CITES Secretariat, offered to act as an international repository

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34. See supra notes 13-21 and accompanying text.
for ballistic evidence. Parties were encouraged to send to the laboratory any rounds of ammunition that were recovered from the scenes of poaching incidents related to CITES Appendix-I species for examination for ballistic evidence and for future reference.38

The COP-13 revision of Resolution 11.8 contemplates international financial support for China in its chiru-protection efforts. After conducting an enforcement needs assessment in August, 2003, the Secretariat prepared a report incorporating a number of recommendations which recommended that a logistical support was needed and China might require donor assistance in implementing the Convention. Governments, NGOs, and other donors were encouraged to provide assistance to China.39 The Secretariat specifically recommended:

A. The acquisition of computer software for crime-recording and crime analysis [and possibly] for species population monitoring and conservation planning and management;
B. The use of global positioning system (GPS) equipment . . . ;
C. The acquisition of infra-red, heat-seeking equipment . . . to detect, over long distances, the presence of persons or vehicles in the open terrain of the Tibetan Plateau . . . ;
D. The acquisition of night-vision equipment; and
E. The acquisition of light aircraft. The use of light aircraft would require feasibility studies, especially since it would have to operate at high altitudes and perhaps in inclement weather.40

The need for improved equipment struck one of the authors, Professor Liang, when she worked as a volunteer in the Kekexili Nature Reserve:

When I arrived at Golmud, Kekexili Nature Reserve Bureau's locus, in July, 2002, the anti-poaching patrol task force (which was composed of three units, with 15 team members and four

40. Id.
jeeps) had just retreated from above Kekexili, where the average altitude was about 4,600 metres [over 15,000 feet]. By watching the patrol video, I saw their jeeps were trapped into mud when they endeavored to cross the Chumaer river. They jumped into the icy river and spent 3 hours to pull the jeeps back onto the land. As a result, four patrollers got pneumonia. They told me it was difficult to patrol throughout the 450,000,000-hectare area. . . . Owing to its harsh weather, they were prone to being trapped into quicksand and morasses in summer and lost in snowstorms in winter. They got high altitude sickness and other more serious diseases, including pulmonary edema, arthritis, gastritis, and high altitude heart disease. They expressed their hope that there could be alternative patrolling means, for example aircraft to assist the ground patrol. I thought it was necessary to map the key patrol route first. I asked the captain of the patrol task force if they kept documents of the poaching sites and drew a map to guide the patrolling; he said “no.” I thought that sooner or later this work must be done; the patrol needs to computerize its materials and improve its efficiency.41

E. Law Enforcement Training

In August 2003, John Sellar, Senior Enforcement Officer of the CITES Secretariat, conducted an enforcement needs assessment mission in the Kekexili Nature Reserve. Subsequently the CITES Management Authority of China and the Secretariat jointly organized the Workshop on Enforcement of Tibetan Antelope, sponsored by IFAW, in Lhasa. Participants discussed various issues including international and national wildlife law, wildlife law enforcement and intelligence techniques, and collaboration with other international law enforcement agencies and national agencies. However, Sellar told the participants that international and national initiatives have done little to stop the poaching of the Tibetan antelope and the illegal trade in its parts.42

III. UNFULFILLED TASKS

The countries of the world have acted admirably, setting aside many differences to cooperate in international information-gathering, law-making, and enforcement efforts. However, these efforts may come too late to save the chiru, a unique and beautiful creature. The illegal chiru trade continues; as long as there are people who will pay for shahtoosh, there will be others who will kill chiru for money. A recent crackdown on the shahtoosh trade in the United Arab Emirates, for example, served in part to demonstrate how widespread the trade is: On a single day in July 2004, police in Dubai confiscated 108 shahtoosh shawls (and three fakes) from three shops.43

In Kekexili, one encouraging sign is the formation of volunteer civilian patrols to protect the chiru. These patrols are formed by grassroots cooperation between Han Chinese and ethnic Tibetans (and sometimes persons of other ethnicities); the members patrol Kekexili and other poaching grounds at the risk of their lives, both from poachers’ guns and from the dangerous conditions of the Plateau itself. They risk health (from the cold and, for those not used to it, the altitude) and welfare (they are paid no salary, but are supported by donors moved by the plight of the chiru). One volunteer relates that, while he was on a fund-raising trip to Beijing and Tianjin, “[a] 6-year-old girl told [him] she loves animals and donated her entire savings of $365.”44

The volunteer patrols are not free from controversy; to some they seem like vigilantes, and in the beginning they sold confiscated chiru skins to fund their efforts—a practice that has long since been abandoned.45 The inherent drama in their actions, though, has provided the basis for a movie, Mountain Patrol: Kekexili.46 The movie, which won national awards in

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44. Ni, supra note 4.
45. Id.
46. Kekexili (movie)(Huayi 2004)(in Mandarin and Tibetan), released in U.S. as Mountain Patrol: Kekexili by National Geographic Films. The movie was filmed on location in Kekexili, where high altitude sickness and other illnesses took a toll on the moviemakers, and an accident claimed the life of
Taiwan and Japan as well as in China, exhibits a rugged environmental ethic that Edward Abbey would have appreciated; its popularity in China and throughout East Asia may have done more to educate consumers about the harm done by the shahtoosh industry than all the well-meaning CITES and NGO outreach efforts of the past decade. While CITES has provided the beginning of protection, outside the framework of CITES, there is much more work to do.
