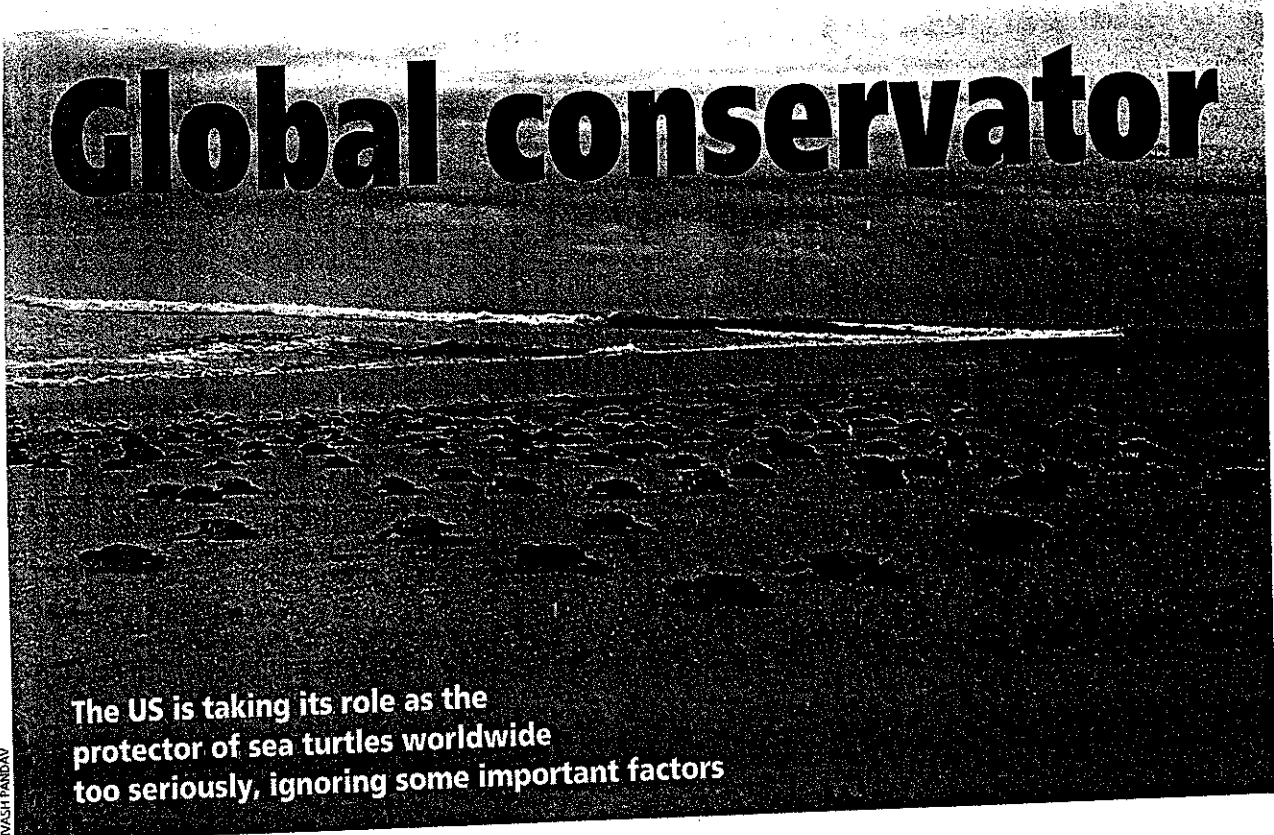


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# Global conservator



The US is taking its role as the protector of sea turtles worldwide too seriously, ignoring some important factors

BY ASH PANDAY



P MOHANTY-HEJMADI

IN LATE 1996, the US government imposed trade restrictions on import of shrimp and shrimp products on India, Pakistan, Thailand and Malaysia. This was done as a part of measures undertaken by the country to protect and conserve sea turtles, an endangered natural resource. This was based on the contention that:

- sea turtles are a shared global resource;
- they are endangered; and
- shrimp trawler nets are the largest human-induced cause of sea turtle mortality.

What brought about these restrictions? Before the late 1980s when the US government first required shrimp trawler to use turtle excluder devices (TEDs), an estimated 5,000

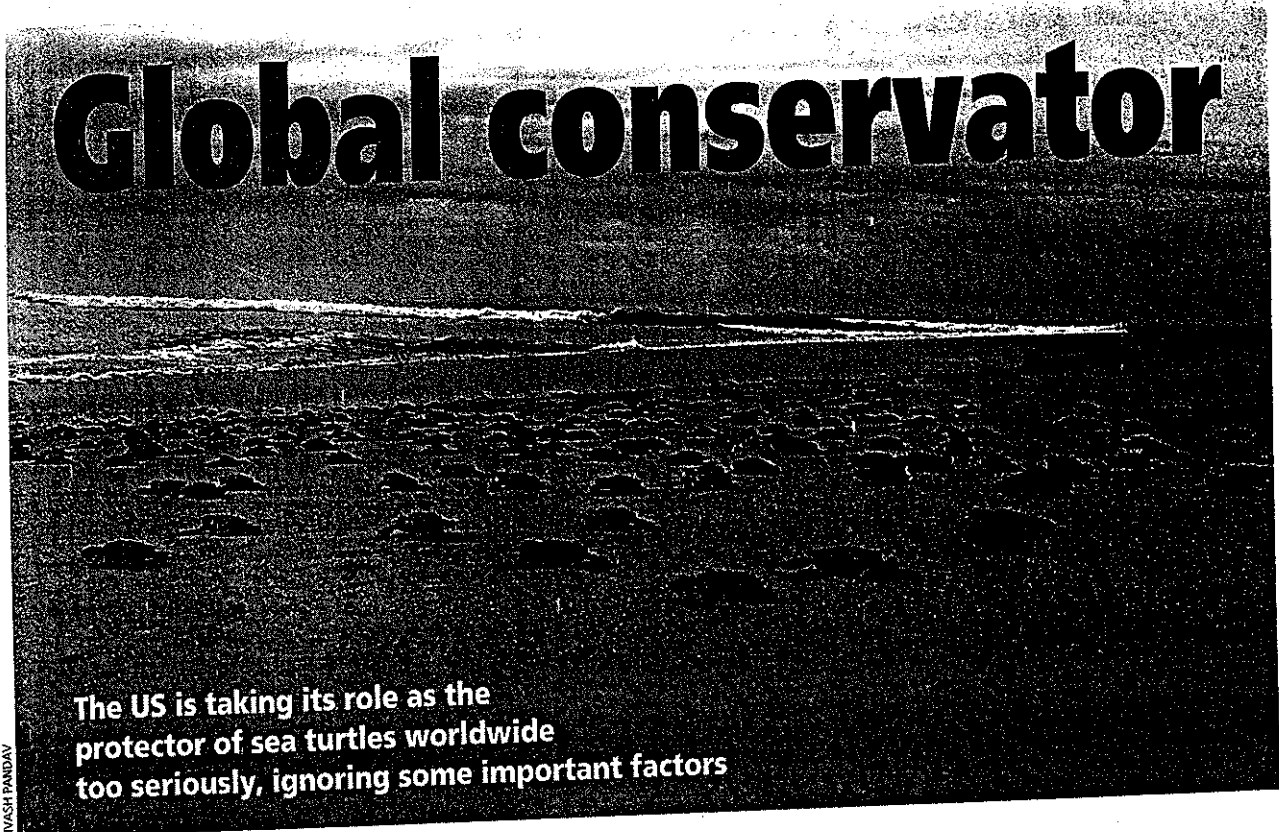
On December 29, 1995, the US Court of International Trade issued an order in response to a lawsuit brought by environmental and conservation groups requesting that section 609 be applied on a global basis as of May 1, 1996. The US government asked the court to delay its ruling for a year, which the court denied. Subsequently, the US department of state issued certain guidelines needed to apply section 609 on a global basis. This brought about the trade restrictions on the four Asian countries on grounds that the shrimp were being harvested by trawlers not using TEDs, thereby endangering sea turtles.

After the ban was imposed in November 1996, Malaysia and Thailand requested the establishment of a World Trade Organisation (WTO) panel. Pakistan and India also joined as co-complainants and requested establishment of a panel with standard terms of reference. On April 10, 1997, the dispute settlement board (DSB) established a panel at the request of

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What brought about these restrictions? Before the late 1980s when the US government first required shrimp trawler vessels to use turtle excluder devices (TEDs), an estimated 5,000 to 50,000 loggerhead turtles and 500 to 5,000 Kemp's Ridley turtles were being drowned in trawler nets. The turtles being killed were juveniles and sub-adults — the age and size most critical to the stability and recovery of sea turtle populations. The US government concluded that such accidental capture and drowning of sea turtles during fishing was a major cause of the continuing decline of turtle species despite improved beach protection measures throughout the 1970s.

In 1989 following the enactment of section 609 of the US Public Law 101-162, the US government stepped up its campaign to transfer the TED technology to other countries. By 1991, the US implemented section 609 by saying that it applied to nations in the Caribbean and the western Atlantic region. These countries were required to implement the TEDs programme as of May 1, 1994, after a grace period of three years

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After the ban was imposed in November 1996, Malaysia and Thailand requested the establishment of a World Trade Organisation (WTO) panel. Pakistan and India also joined as co-complainants and requested establishment of a panel with standard terms of reference. On April 10, 1997, the dispute settlement board (DSB) established a panel at the request of India and agreed that this panel would be consolidated with the panel established at the request of Malaysia, Thailand and Pakistan. The panel was to examine the arguments cited by the four countries contesting the ban and to assist the DSB in making a recommendation. There were two main issues in the dispute. Firstly, whether imposing the ban is in compliance with the relevant articles in the 1994 General Agreement on Tariffs and Trade (GATT). Secondly, whether the US assumption that these nations are not protecting the sea turtles simply because they are not using TEDs is acceptable.

The argument that Thailand and India put forth was quite simple. They said that the ban does not apply to natural resources located beyond the jurisdiction of the contracting parties enacting the measures. The US counters this argument by stating that sea turtles are a shared global resource. Their

range often extends to thousands of kilometres as they navigate through the coastal waters of many countries. If any one country in the range of sea turtle population adopts practices resulting in high sea turtle mortality, the population will be endangered throughout its entire range.

Thailand further argued that the ban does not classify that the animals — as natural resources to which the measure is related — may include those located in the jurisdiction of other countries. In other words, extra-jurisdictional application of a country's law with the application by a country of its laws, within its jurisdiction, in order to protect resources located outside the jurisdiction. India emphasised that it has one of the best records of turtle protection, having included them in the 1972 Wildlife Protection Act.

Turtle experts, government representatives, non-governmental organisations and conservationists of 10 countries took part in the northern Indian Ocean Sea Turtle Workshop at Bhubaneswar, Orissa, in January 1997 and drafted out a comprehensive strategy for the long-term protection of sea turtles in the Northern Indian Ocean. A strategy was also worked out for collaboration and cooperation among the countries around the northern part of the Indian Ocean.

Further, it was stressed that the record of 5,000 dead Olive Ridley turtles reported by some workers, cited by US as indication of India's failure to provide protection to sea turtles, has to be considered in its proper perspective. One has to consider that in Orissa, there was a legalised trade in eggs and adult Olive Ridley turtles till the late 1970's. Every year, 50,000 to 80,000 adults were harvested. In addition, according to the UN Food and Agriculture Organisation's 1973 estimates, 1.5 million eggs were collected. However, the trade has stopped since 1982. The core area of Gahirmatha, which represents the largest sea turtle rookery in the world, is fully protected. Protection measures of this kind in a poor country such as India has to be appreciated. Even the report of 5,000 deaths is part of a research programme where records are meticulously collected for future action. With the interest of the media, turtle issue are highlighted very often, generating a consciousness about these animals in the general public.

In order to reduce the death count further, we have also considered the use of TEDs. At the request of the late Biju Patnaik, the then chief minister of Orissa, the US state department conducted a TED technology transfer programme first at Paradeep, Orissa, in November 1997, followed by another at Cochin. But development of proper TEDs needs time. Special TEDs have to be developed for indigenous fishing priority. The fisherfolk at Paradeep were concerned about a particular variety of ribbonfish catch and whether the "Goergia Jumper" TED, demonstrated at the workshop, was suitable for ribbonfish. It may be mentioned that even in the US, a special type of TED has been developed for flounder fishing. Besides, mere installation of TED is not enough. A network has to be established to monitor proper installation and operation. Moreover, we

are not sure if TED will work in high concentration zones such as Gahirmatha. We would prefer "no fishing" in that area. Turtles also die due to entanglement in drift nets. This should also be considered for long-term protection from fishing activity. It is also not fair that a sudden ban be slapped on four Asian countries when the countries in the Caribbean were given several years of grace period. Again, such moves may be counterproductive as countries may prefer to export the shrimp to other countries and not bother about turtles at all.

It is also relevant that being a poor country we have several advantages over Western countries as far as turtle problems are concerned. We have limited beach development and the coastal zone regulation seems to be reasonably effective. Thus our beaches are relatively free from human activity and light problems that interfere severely with turtle nesting. In addition, we hardly have water sports with mechanised vessels that maul the turtles. Most of the beaches have no problem with pollution. In Gahirmatha, "no fishing zone" extends up to 20 km (now declared a marine sanctuary). Even the Indian Navy and Coast Guard patrol the core area. We may not have prevented death of turtles totally but we are not insensitive to the problem. With this background, and the fact that declining sea turtle population is a global problem, one has to devise sensitive strategies to save sea turtles.

All aspects of conservation of sea turtles have to be relative to the past practices of each country. Only dealing with current mortality, fishing practices and projecting some data or

India's efforts at conservation: a radio tag being put on a turtle in Gahirmatha



standards from developed countries to developing countries is neither desirable nor practical. Prohibition of shrimp import to the US does not necessarily save sea turtles. Protection of all stages of sea turtles (eggs, hatchlings and adults) are necessary for survival of sea turtles. We all agree that trawler-related deaths have to be reduced and there is no reluctance in using TEDs. However, development and implementation of TED takes time. And cultural differences between countries do not allow uniform policies and time-frame for implementation. ■

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