

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Seventeenth meeting of the Plants Committee
Geneva (Switzerland), 15-19 April 2008

Hybrids and cultivars under the Convention

SUMMARY OF COP14 DECISIONS ON HYBRIDS AND CULTIVARS

1. This document has been submitted by the Regional Representative for North America at the request of the Plants Committee.

Background

2. At the 14th meeting of the Conference of the Parties (CoP14), two proposals had been submitted to annotate the listing of *Taxus cuspidata* in Appendix II to exclude hybrids and cultivars. One proposal was submitted by the United States of America (CoP14 Prop. 36) and the other by Switzerland, as the Depositary Government on behalf of the Standing Committee. At the meeting, the United States withdrew its proposal, and the proposal from Switzerland was adopted. Consequently, the listing of *Taxus cuspidata* in Appendix II is now annotated as follows:

Artificially propagated hybrids and cultivars of Taxus cuspidata, live, in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

3. During discussion of the proposals at CoP14, IUCN, also speaking on behalf of TRAFFIC, questioned the use of the term 'cultivar', which is not defined for the Convention, and they also asserted that, according to the International Code of Botanical Nomenclature, cultivars cannot be distinguished from their species, and therefore their exclusion from a listing did not conform to the provisions of the Convention. However, the botanist of the Nomenclature Committee explained that the term 'cultivar' was only recognized by the International Code of Botanical Nomenclature when the taxon in question could be readily recognized.
4. As a consequence of these discussions, the United States proposed and the Conference of the Parties adopted Decision 14.147, Directed to the Plants Committee, which states:

The Plants Committee shall discuss hybrids and cultivars, and other entities recognized in horticulture (e.g. forms and varieties), and provide recommendations to the Conference of the Parties at its 15th meeting regarding their treatment under the Convention, particularly with regard to Article I, paragraph (b).

During discussions in Committee I, Senegal had sought clarification of the word 'entities', and it was agreed that the Plants Committee could address this query.

Hybrids

5. The Convention itself is silent with regard to the treatment of hybrids, so the Conference of the Parties has agreed to a common approach for dealing with hybrids, which is captured in Resolution Conf. 11.11 (Rev. CoP14) on *Regulation of trade in plants*, as follows:

- a) *hybrids shall be subject to the provisions of the Convention even though not specifically included in the Appendices if one or both of their parents are of taxa included in the Appendices, unless the hybrids are excluded from CITES controls by a specific annotation in Appendix II or III; and*
- b) *regarding artificially propagated hybrids:*
 - i) *plant species or other taxa included in Appendix I shall be annotated (in accordance with Article XV) if the provisions relevant to the most restrictive Appendix are to apply;*
 - ii) *if a plant species or other taxon included in Appendix I is annotated, an export permit or re-export certificate shall be required for trade in specimens of all artificially propagated hybrids derived from it; but*
 - iii) *artificially propagated hybrids derived from one or more unannotated Appendix-I species or other taxa shall be regarded as being included in Appendix II and entitled therefore to all exemptions applicable to artificially propagated specimens of species included in Appendix II.*

For *Taxus cuspidata*, paragraph a) above has been interpreted as allowing the listing of the species to be annotated in a manner that would provide for the inclusion or exclusion of whole live plants of hybrids, regardless of whether readily recognizable parts or derivatives are included or excluded. This differs from the provisions of the Convention for species, which require that all listings include whole live or dead specimens and allow that only readily recognizable parts and derivatives may be excluded by annotation.

6. Given that Resolution Conf. 11.11 (Rev. CoP14) already contains this guidance with regard to hybrids, the Plants Committee needs to consider whether any further guidance is required, and if so, whether this should be accomplished by amending Resolution Conf. 11.11 (Rev. CoP14).

Cultivars and other nomenclatural designations below subspecies

7. The text of the Convention uses the term 'species' in referring to the plants and animals to which the provisions of the Convention are applied, and for the purposes of the Convention, the term 'species' has been defined as referring to any species, subspecies or geographically separate population thereof (Article I). Thus, there is no mention of taxonomic designations below the level of subspecies, although a geographically separate population may or may not coincide with the distribution of organisms that constitute a discrete grouping that qualifies for some designation below subspecies.

8. The International Code of Botanical Nomenclature (Vienna Code; found at <http://ibot.sav.sk/icbn/main.htm>) allows and contains rules for infraspecific epithets below the level of species other than subspecies, although it refers to the International Code of Nomenclature for Cultivated Plants (see <http://www.ishs.org/sci/icracpco.htm>) because these designations are typically used for special categories of plants used in agriculture, forestry and horticulture, and which may be naturally occurring or developed in cultivation.

9. The International Code of Nomenclature for Cultivated Plants contains a glossary that includes the following definitions of infraspecific taxa or other designations below the level of species:

- Cultivar – an assemblage of plants that has been selected for a particular attribute or combination of attributes and that is clearly distinct, uniform, and stable in these characteristics and that when propagated by appropriate means retains those characteristics;
- Form or *forma* – the category in the nomenclatural hierarchy below the rank of *varietas*;

- Subspecies – the category in the nomenclatural hierarchy between species (*species*) and variety (*varietas*);
 - Variant – a plant or group of plants which shows some measure of difference from the characteristics associated with a particular taxonomic unit;
 - Variety or *varietas* – the category in the nomenclatural hierarchy between species and form (*forma*); also, the term used in some national and international legislation to denominate one clearly distinguishable taxonomic unit below the rank of species from others: generally, in such legislative texts, a term exactly equivalent to cultivar.
10. The Plants Committee needs to consider how these infraspecific taxa and other designations should be appropriately treated under the Convention to provide appropriate guidance to the Conference of the Parties at its 15th meeting. The Committee should especially take note of how any treatment of these taxonomic units conforms to the provisions of the Convention and whether the Parties may encounter difficulties in implementing and enforcing the Convention when such taxonomic units are afforded special treatment.