

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



Fifteenth meeting of the Conference of the Parties
Doha (Qatar), 13-25 March 2010

Interpretation and implementation of the Convention

Species trade and conservation

AGARWOOD-PRODUCING TAXA

- 1 This document has been prepared by the Chair of the Plants Committee on behalf of the Plants Committee, with the support of the regional representative for Oceania and in consultation with the CITES Secretariat .
- 2 At its 14th meeting (The Hague, 2007), the Conference of the Parties adopted Decision 14.142, directed to the Plants Committee and the Secretariat as follows:

Directed to the Plants Committee and the Secretariat

In consultation with relevant intergovernmental organizations such as the Food and Agriculture Organization of the United Nations, the Plants Committee in consultation with the Secretariat should draft a definition of non-timber forest products to be considered at the 15th meeting of the Conference of the Parties.

- 3 At PC17 a working group was formed to work intersessionally. The results of the working group were presented to PC18 (PC18 Doc. 15).
- 4 At the Experts Group Meeting on Agarwood: *Capacity building Workshop for improving implementation and enforcement of the listing of Aquilaria malaccensis and other Agarwood-producing species*, held in Kuala Lumpur, Malaysia in November 2006, the issue of dealing with the regulation and permitting of increasing amounts of plantation-grown Agarwood was a major topic of discussion.
- 5 A possible solution for exempting the plantation material from CITES controls was to include plantation grown Agarwood in the definition of 'artificially propagated' in Resolution Conf 10.13 (Implementation of the Convention for timber species). Such a solution raised the subsequent issue that Agarwood was not really a timber species and workshop participants found it peculiar that a resolution relating to timber species should be utilised for Agarwood. The discussion considered the question of what was 'Agarwood' as a product, and it was in this context that the issue of a definition of non-timber products was raised with reference to the implementation of the Convention. The workshop did not consider the subtlety in the difference between a definition of non-timber products compared with non-timber *forest* products or minor *forest* products.
- 6 Agarwood can be traded in many forms from large lumps of wood to woodchips, wood powder or sawdust, leaves for tea, distilled oil and manufactured products such as incense and perfumes. It is not a high-value timber species, but commands high prices for its non-timber products. It was noted that CITES has the capacity to almost infinitely define products that are either controlled or exempted from control.

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat or the United Nations Environment Programme concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

- 7 The original problem for Agarwood that initiated this discussion was solved at CoP14 by an amendment to Resolution Conf. 10.13 (Rev. CoP14) with the inclusion of non-timber products from trees in the definition of artificially propagated specimens. Plantation-grown Agarwood from monospecific plantations in any of its traded forms can now be treated as artificially propagated.
- 8 There is potential confusion in that the title of the relevant Resolution [Res Conf10.13 (Rev. Cop14)] is "Implementation of the Convention for Timber Species" but the definition of 'artificially propagated' in the Resolution now allows non-timber products from trees to be considered under this Resolution.
- 9 The information document presented at PC17 (PC17 Inf. 1¹) demonstrated the breadth of definitions that are available for non-timber forest products. These can span from the direct products of trees to associated fauna to tourism/recreation and ecosystem services. Interventions at PC 17 indicated that some Parties preferred definitions for CITES purposes that restricted the terms to the direct products from CITES-listed species.
- 10 It was observed that there is confusion in the use of two separate terms, "non-timber products from trees" and "non-timber forest products." These are not the same, but were being used interchangeably at PC. In one instance, the artificial propagation definition would apply as for timber from plantations, but for the other it would not. For example, agarwood harvested from trees in a plantation would qualify as artificially propagated (as a non-timber product from trees), but specimens from some sort of understory plants growing under the trees in a plantation (a non-timber forest product) would only qualify if the understory plants were themselves artificially propagated in accordance with the definition contained in Res. Conf. 11.11 (Rev. CoP14).
- 11 The working group noted that a definition of non-timber products cannot expedite the permitting process, which was cited as an impetus for requesting the definition. The harvesting of "non-timber products" is not implicitly non-detrimental to the survival of wild populations. Plantation-derived "non-timber" products should be treated exactly the same as any plantation CITES timber. Permitting procedures should continue to be approached from the basis that the production of the specimens to be exported has not been detrimental to the survival of wild populations. Further, all relevant annotations still apply as these are a legally binding element of the listing.
- 12 Agarwood is an aromatic plant, not a timber species, and the discussions related to the selection of parts and derivatives of medicinal and aromatic plants for inclusion in CITES adopted at the 13th CoP are also relevant. The most pertinent one in this case refers to the "part that occurs most commonly in trade" and this applies regardless of any non-timber or non-wood forest product definition or lack thereof in CITES.

The FAO definition – Non-wood forest products

- 13 The 2006 Agarwood workshop suggested that the FAO definition was a good starting point. This definition is:

"Non-wood forest products consist of goods of biological origin other than wood, derived from forest, other wooded lands and trees outside forests".
- 14 The FAO definition of 'non-wood' excludes wood chips and hence Agarwood in this commonly traded form is excluded. However, the distilled oil would be included. 'Forest' includes plantations and so all artificially propagated material would be included. The FAO defines 'products' to exclude forest services such as ecotourism and ecosystem services. From the perspective of Agarwood, this definition divides two of the major forms of traded Agarwood (wood chips and oil) with one being included and one being excluded. Along with the inclusion of plantation material, it appears this definition probably causes more confusion from the perspective of implementation of CITES.
- 15 Ultimately, a general definition of NTFP would not be useful or meaningful in a CITES context and could have unwanted consequences. A CITES definition of NTFP, with its own set of rules would overly complicate the issue, especially due to the large number and breadth of potential definitions for NTFPs (botanical cuttings, understory vegetation, fungi, wildlife, etc.). It is of concern that a definition of NTFP (or any other derivation thereof), when taken out of context from Res. Conf. 10.13, could be applied to other CITES-listed species, such as medicinal plants, many of which are non-timber products derived from trees.

¹ This reference was amended by the Secretariat in November 2010 to remove the reference to an unpublished article that was later denounced as a plagiarism by the author of the original article.

- 16 Although paragraph g) applies to non-timber products from ALL trees, the Working Group believes that changing the title of Resolution Conf. 10.13 (Rev. CoP14), "Implementation of the Convention for timber species", would require careful consideration. Generalizing each paragraph in the Resolution to include all CITES-listed trees versus those trees that are in the timber trade could have unintended ramifications that would be detrimental to the species.

Recommendations

- 17 The Plants Committee agreed that a definition of non-timber forest products (NTFP's) is not needed and that the Decision 14.142 has been implemented. In the context of Res. Conf. 10.13, paragraph g), non-timber clearly refers to anything that is derived from a plantation-grown tree specimen that is not timber. No further definition is required.
- 18 Although the language of Resolution Conf. 10.13 is sufficiently precise and clear as to its intent, should further clarification be required. The Plants Committee recommends that the Resolution be amended using existing CITES terminology as it is proposed in the Annex.
- 19 The intersessional working group had considered proposals from Parties to delete the word 'monospecific' from the definition of artificially propagated in Res. Conf. 10.13. but did not reach consensus.
20. The issue was discussed at PC18 and the Plants Committee agreed that further consideration should be mandated through two new Decisions.
21. The Plants Committee recommends the adoption of the Decisions included in the Annex.
22. Estimated budget: 45,000 USD for the workshop and 5,000 USD for preparing a report on current definitions of artificially propagated plants and how they apply to trees in mixed species plantations.

COMMENTS FROM THE SECRETARIAT

- A. The Secretariat agrees with the amendment to Resolution conf. 10.13 (Rev. CoP14) in the Annex to the present document. The Secretariat supports the draft decisions proposed by the Plants Committee although suggests that the second should be reworded as follows:

15. XX

Directed to the Secretariat:

Subject to external funding, the Secretariat shall, in cooperation ~~will obtain funding and will liaise with the~~ agarwood range states and the Plants Committee, ~~to~~ organise a workshop to discuss management of wild and plantation-sources Agarwood.

(Words proposed to be added are underlined. Words proposed to be deleted are ~~crossed out~~.)

- B. The Secretariat supports the request of the Plants Committee regarding the budget in paragraph 22 of the present document and, recommends that the Conference of the Parties add the requested funds to the external funds column under activity 11 of the costed programme of work.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

NB: Text to be deleted is crossed out. Proposed new text is underlined.

To amend:

Resolution Conf. 10.13 (Rev. CoP14): Implementation of the Convention for timber species

Regarding the definition of 'artificially propagated'

- g) ~~timber and non-timber products~~ or other parts or derivatives of ~~derived from~~ trees grown in monospecific plantations be considered as being artificially propagated in accordance with the definition contained in Res. Conf. 11.11 (Rev. CoP14);

DRAFT DECISIONS OF THE CONFERENCE OF THE PARTIES

15.XX

Directed to the Plants Committee:

The Plants Committee shall consider current definitions of artificially propagated plants and how they apply to trees in mixed species plantations and report back to the 16th meeting of the Conference of the Parties

15. XX

Directed to the Secretariat:

The Secretariat will obtain funding and will liaise with Agarwood range states to organise a workshop to discuss management of wild and plantation-sources Agarwood.