

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



Eighteenth meeting of the Plants Committee  
Buenos Aires (Argentina), 17-21 March 2009

CACTACEAE AND ORCHIDACEAE: MERGING AND AMENDMENT OF ANNOTATIONS #1 AND #4; AND  
TREE SPECIES: ANNOTATIONS FOR SPECIES INCLUDED IN APPENDICES II AND III  
(PC18 Doc. 11.1, PC18 Doc. 11.3, PC18 Doc. 11.6, PC18 Doc. 16.1.2)

Membership (as decided by the Committee)

**Co-Chair:** the representative North America (Mr Gabel) and Mexico.

**Members:** the representative Central and South America and the Caribbean (Ms Mites Cadena), the alternate representatives for Central and South America and the Caribbean (Ms Rivera Brusatin) and the alternate representative for Europe (Mr Lüthy).

**Party observers:** Argentina, Austria, Canada, China, France, Germany, Malaysia, United Kingdom and the United States of America.

**IGOs and NGOs:** UNEP-WCMC, American Herbal Products Association and Species Survival Network.

Mandate

1. Harmonize the results of documents PC18 Doc. PC18 Doc. 11.1, PC18 Doc. 11.3, PC18 Doc. 11.6 and PC18 Doc. 16.1.2;
2. Analyse the consequences of merging and amending annotations #1 and #4 for the taxa concerned;
3. Study the possibility of submitting a better definition of 'sawn wood' to the CoP;
4. Propose a revision of Decisions 14.130 and 14.148 in order to continue this work intersessionally between CoP15 and CoP16. The draft decisions shall identify the bodies in charge of the new tasks, as well as include an indication of the budget required for their implementation; and
5. Draw up a progress report on the implementation of Decisions 14.130 and 14.148 for CoP15.
6. Consider the potential risks and/or benefits of an exemption for orchid seedpods.

## Recommendations

In relation to the six points of the mandate, the recommendations are as follows:

1. The working group considered documents PC18 Doc. 11.1, PC18 Doc. 11.3, PC18 Doc. 11.4, and PC18 Doc. 16.1.2 together to achieve a harmonized result so that the merging of Annotations #1 and #4 would consider not only the elements originally contained in those two Annotations, but also the issue of finished products relative to *Euphorbia antisyphilitica* and the exemption of orchid seedpods. Document PC18 Doc. 11.6 on annotations for tree species in Appendices II and III was considered separately because it involves issues that are distinct and separate from the aforementioned documents.
2. The working group determined that a draft annotation based on the merging of Annotations #1 and #4 with amendments, as proposed, would simplify and consolidate annotations for Appendices II and III, but would be improved with the inclusion of exemptions for orchid seedpods and finished products of *Euphorbia antisyphilitica* that are packaged and ready for retail trade. Regarding seeds of Mexican cacti, Mexico agreed to accept the wording proposed by the working group at PC17. It was agreed by the working group to support the recommendation of the intersessional working group on finished products in PC18 Doc. 11.3 not to exempt finished products of *Cibotium barometz* and *Cistanche deserticola* because they are exported directly from China, which is a range State for these species; China supports this recommendation. After further discussion with the United States of America, which is the only range State for *Dionaea muscipula*, it was also decided to not exempt finished products of this species because of a low volume of trade in such specimens, which the United States does not view as problematic to regulate, and it was the view of the working group that adding an exemption for this species might create an unnecessary complication with regard to an annotation. The draft annotation resulting from these discussions is contained in the Annex to this report.

It was noted by the working group that the current Annotation #1 is applied to five species listed in Appendix III by Nepal. The working group recommends that the Plants Committee request the Secretariat, if a proposal is submitted to adopt a new annotation merging and amending Annotations #1 and #4, to consult with Nepal on this matter after submission of a proposal, and if Nepal is agreeable, have them submit in writing a request to have their listings of species in Appendix III amended to replace Annotation #1 with the new annotation, if adopted at CoP15, and to have the amendment take effect at the time amendments to Appendices I and II take effect following CoP15.

Although not part of the merging of Annotations #1 and #4, and not called for in Decision 14.130, the working group also considered the recommendation from the intersessional working group from PC17 regarding cacti 'lacking chlorophyll'. The working group concurred with the recommendation to amend Footnote 6, as reflected in the Annex to this report.

3. The working group discussed at length the issue of possibly submitting a better definition of 'sawn wood' to CoP15. Consideration was given to whether a potential way of improving interpretation of the term 'sawn wood' might be to provide more specific HS codes that are associated with this term. Currently in Resolution Conf. 10.13 (Rev. CoP14), two HS codes, 4406 and 4407, are listed with the definition of 'sawn wood'. As noted in document PC18 Doc. 11.6, Annex 2, HS code 4407 applies to 'further processed sawn wood', which is considered a 'secondary processed wood product'. The working group considered that universal HS codes include six digits, which might provide greater specificity if used for sawn wood rather than the four-digit codes currently recommended. However, it was beyond the ability of the working group to determine which six-digit codes might be applicable, and it is also not clear whether some sawn wood that might be considered 'secondary processed' should be captured in the annotation if it is among "the articles that initially appear in international trade or exports from the range States...[or] dominate the trade in and demand for the wild resource", which the Plants Committee was directed to examine in Decision 14.148. The working group therefore agreed with the recommendation contained in paragraph 10 of document PC18 Doc. 11.6, which is to seek a Decision at CoP15 to direct the Secretariat to commission a trade study, which should include a review of HS codes and associated definitions for specimens in trade, that would serve as a basis for further deliberations by the Plants Committee on this issue. A draft Decision is contained in the Annex of this report.
4. Decision 14.130 is largely fulfilled and should be repealed at CoP15. The working group agreed, however, that a new Decision is needed to direct the Plants Committee to examine additional taxa with regard to whether any additional finished products should be exempted, and it was further agreed, based on information from working group participants from Europe, that Orchidaceae should be included at the beginning of such a review as a matter of priority, because they have recently become aware of finished products in trade containing orchid extracts. A draft Decision is contained in the Annex of this report.

Regarding Decision 14.148, as stated in paragraph 3 above, a new Decision is needed to have a trade study done before the Plants Committee can make any meaningful recommendations with regard to amendments to annotations for tree species listed in Appendices II and III. A draft Decision, which is an amended version of Decision 14.148, is contained in the Annex of this report.

5. A progress report on the implementation of Decisions 14.130 and 14.148 is contained in the Annex of this report.
6. The working group considered the potential risks and/or benefits of an exemption for orchid seedpods and decided that such an exemption should be included in the new proposed annotation based on merging Annotations #1 and #4. This decision was based partly on the fact that, as a practical matter, some countries already consider such specimens to be exempt from CITES controls because seeds are already exempt. As described in document PC18 Doc. 11.4, the working group also did not believe that any conservation benefit could be derived from controlling seedpods while exempting seeds. Furthermore, it was believed that specifying such an exemption would be consistent with current practice by some Parties and would eliminate ambiguity with regard to whether the seed exemption already included in Annotations #1, or that would be included in an annotation based on the merging of Annotations #1 and #4, already implies that seedpods are similarly exempt. It was also noted that the commercial orchid industry generally transfers seed in intact seedpods to maintain the seed in sterile conditions for placement in sterile media in flasks for germination.

Proposed annotation to replace Annotations #1 and #4

Designates all parts and derivatives, except:

- a) seeds (including seedpods of Orchidaceae), spores and pollen (including pollinia) except those seeds from Cactaceae spp. exported from Mexico;
- b) seedlings or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) cut flowers of artificially propagated plants;
- d) fruits and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Vanilla* (Orchidaceae), *Opuntia* subgenus *Opuntia* (Cactaceae), *Hylocereus* and *Selenicereus* (Cactaceae);
- e) stems, flowers, and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Opuntia* subgenus *Opuntia* and *Selenicereus* (Cactaceae); and
- f) finished products of *Euphorbia antisyphilitica* packaged and ready for retail trade.

Proposed amendment to Footnote 6

Cactaceae spp. colour mutants ~~lacking chlorophyll~~, grafted on the following grafting stocks: *Harrisia* 'Jusbertii', *Hylocereus trigonus* or *Hylocereus undatus*.

DRAFT DECISIONS

Decision 15.XX - *Regarding annotations for tree species listed in Appendices II and III* (Estimated cost: USD 50,000)

***Directed to the Secretariat***

The Secretariat shall commission a trade study, subject to available funding, to be conducted by an external consultant in cooperation with the International Tropical Timber Organization, to review the trade in timber species listed in Appendices II and III to determine the types of specimens that initially appear in international trade or are exported from range States and are those which dominate the trade in and demand for the wild resource. Once the specimens that meet these criteria have been determined, the study should also determine which six-digit universal HS codes and associated definitions are applicable to these specimens. The Secretariat shall provide the results of this study to the Plants Committee.

***Directed to the Plants Committee***

- a) Based on the results of the trade study, the Plants Committee shall review the annotations for tree species listed in Appendices II and III and, if appropriate, draft amendments to the annotations and prepare clear definitions for the terms used in those annotations in order to facilitate their use and understanding by CITES authorities, enforcement officers, exporters and importers.
- b) The amended annotations shall focus on the articles that initially appear in international trade as exports from the range States and on those which dominate the trade in and demand for the wild resource.
- c) The Plants Committee shall draft, if necessary, proposals to amend Resolution Conf. 10.13 (Rev. CoP14) and/or to amend the Appendices accordingly so that the Depositary Government may submit them on its behalf for consideration at CoP16.

Decision 15.XX - *Regarding evaluation of trade in finished products* (Estimated cost: USD 20,000)

**Directed to the Plants Committee**

- a) The Plants Committee shall continue to review the trade in *Aloe* spp., *Cactaceae* spp., *Cyclamen* spp., *Galanthus* spp., *Gonystylus* spp., *Orchidaceae* spp., and *Prunus africana* to determine whether additional finished products should be exempted by amending the relevant annotations for these species. This review should initially focus on trade in finished products of *Orchidaceae* spp. Recommendations on whether to exempt additional finished products from CITES controls should be based on the same considerations reflected in PC18 Doc. 11.3 (e.g., whether finished products are exported from range States and are a significant portion of the trade). In conducting this work, the Plants Committee should consider whether a clear definition of 'finished products' should be developed.
- b) The Plants Committee shall, as appropriate, prepare proposals to amend Appendix II, based on the outcome of this review, and provide them to the Depositary Government for submission to CoP16.

Progress report on implementation of Decisions 14.130 and 14.148 for CoP15

**Decision 14.130** - The mandate of this Decision has been largely fulfilled, and a proposed new annotation to replace Annotations #1 and #4 is being submitted to CoP15. The remaining issue, to be addressed by a new proposed Decision for consideration by the CoP, is the review of trade in finished products for nine taxa to determine whether additional amendments to Appendix II might be appropriate for such specimens. [*The issue of trade in herbarium specimens was addressed by the working group specifically established for that issue and no amendment of annotations is needed for these specimens.*]

**Decision 14.148** - Although substantial effort was expended on this issue, both by the Plants Committee and the Secretariat, it was not possible to make recommendations regarding amendments to listings of tree species in Appendices II and III due to the lack of information received from Parties to facilitate the assessment of trade in these species and the complexity of issues pertaining to defining the types of specimens in trade. Therefore, it was also difficult to determine if the current annotations are sufficiently inclusive of the types of specimens that initially appear in international trade or are exported from the range States, and that dominate the trade in and demand for the wild resource. This Decision has been amended and is being submitted for consideration by the CoP. The amended Decision first directs the Secretariat to commission a trade study, subject to available funding, which will then inform the further deliberations of the Plants

Committee on this issue so that potential amendments can be considered for submission to CoP16.