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

Nineteenth meeting of the Conference of the Parties
Panama City (Panama), 14 – 25 November 2022

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

Amend the annotation to the listing of Orchidaceae included in Appendix II.

Amend Annotation #4, with the addition of new paragraph g), to read: '(g) finished products packaged and ready for retail trade of cosmetics containing parts and derivatives of *Bletilla striata*, *Cycnoches cooperi*, *Gastrodia elata*, *Phalaenopsis amabilis* or *Phalaenopsis lobbii*'.

B. Proponent

Switzerland*

C. Supporting statement

1. Taxonomy

1.1 Class: Magnoliopsida

1.2 Order: Orchidales

1.3 Family: Geomydidae

1.4 Genus, species or subspecies, including author and year: *Bletiilla striata* (Thunb. ex A.Murray) Rchb.f.
Cycnoches cooperi Rolfe
Gastrodia elata Blume
Phalaenopsis amabilis (L.) Blume
Phalaenopsis lobbii (Rchb.f.) Sweet

1.5 Scientific synonyms: See Species+ for synonyms

1.6 Common names: English:
French:
Spanish:

1.7 Code numbers:

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* *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.*

2. Overview

At the 17th meeting of the Conference of the Parties (CoP17, Johannesburg 2016), the Parties adopted Decisions 17.318 and 17.319 on *Annotations for Appendix II orchids*, which directed the Plants Committee to re-establish a working group on Annotations for Appendix II orchids with the mandate to develop a questionnaire to consider the potential conservation impact of exempting orchid products from CITES controls; consider actions, such as further case studies, to enable a full analysis of the potential conservation impact of orchid exemptions; analyse the risks of trade in orchid products to conservation and provide its conclusions about such risks; review the current annotation for Appendix II-listed orchids, and suggest such amendments as it considers appropriate, if any; and consider and highlight the knowledge gaps of the orchid species in trade.

At the 23rd meeting of the Plants Committee (PC23, Geneva, 2017) Switzerland submitted Document PC23 Doc. 32, in which it presented five in-depth case studies (*Vanda coerulea, Vanda tessellata, Papilionanthe teres* (*Vanda teres*), *Cypripedium parviflorum* var. *pubescens, Gastrodia elata* and additional overviews on salep and chikanda and the use of orchid species in the cosmetic and personal care product trade, including flower and vibrational essences and fragrances. All case studies examined the size and stability of wild populations, the conservation status of the various species, the extent of artificial propagation and the different products in and size of international trade. Recognising that considerable research had been carried out on the use of orchids by the cosmetic and personal care industries, an in-session working group at PC23 agreed that, as a first step, the working group would concentrate on this sector, and this approach was agreed by the Plants Committee.

At the 24th meeting of the Plants Committee (PC24, Geneva, 2018) Switzerland submitted an in-depth case study of *Cymbidium* species used in the cosmetic and personal care industry, an overview of several other genera identified as being used by this sector and reported on the results of the questionnaire outlined in Decisions 17.318 and 17.319. In addition, Switzerland invited the Plants Committee to endorse a draft definition for the term 'cosmetics' for inclusion in the *Guidelines for the preparation and submission of the CITES annual trade repor*t and in the *Guidelines for the preparation and submission of the CITES annual illegal trade report* to enable clear and accurate reporting. At the 70th meeting of the Standing Committee (SC70, Sochi, 2018) the definition of 'cosmetics' was included in the aforementioned Guidelines.

At the 18th meeting of the Conference of the Parties (CoP18, Geneva, 2019), the Parties adopted Decisions 18.327 to 18.330 on *Annotations for Appendix II orchids*, which directed the Secretariat, *inter alia*, to assess the potential conservation impact of exempting orchid products and derivatives (wild and artificially propagated) from CITES controls, thereby completing the work already initiated on orchids used in the production of cosmetics and personal care products, and considering orchids used in other commodities (e.g. medicinals).

Switzerland completed case studies on the following genera and species used by the cosmetic and personal care industry: *Anacamptis*; *Cycnoches*; *Cymbidium*; *Cypripedium*; *Dactylorhiza; Gastrodia elata*; *Orchis*; *Papilionanthe teres*; *Phalaenopsis*; *Vanda coerulea*; and *Vanda tessellata*. In addition, overviews of the trade in chikanda, salep, flower and vibrational essences and in all species used in cosmetics have also been completed by Switzerland. The Chinese Scientific Authority had also concluded a review of the harvest and trade of *Bletilla striata*.

At the 25th meeting of the Plants Committee (PC25, Geneva, 2020) Switzerland noted its intention to submit a proposal to the 19th Meeting of the Conference of the Parties (Panama City, 2022) to exclude finished cosmetic products packaged and ready for retail trade containing parts and derivatives of artificially propagated specimens of *Bletilla striata*, *Cycnoches cooperi*, *Gastrodia elata*, *Phalaenopsis amabilis* and *Phalaenopsis lobbii*. In depth research on these species indicated that all were artificially propagated in large numbers to supply the cosmetic and personal care industry, and there was no evidence that wild harvested plants were used in the manufacture of these products and that the wild populations of these species would not be detrimentally affected by the exemption suggested. See summary in Annex 1 to this document. Full case studies are available from the Swiss Management Authority.

It was suggested that the method of production of these parts and derivatives would have to conform to the either source code A (artificially propagated) or the source code Y used for assisted production adopted at CoP18, as noted in Resolution Conf. 11.11 (Rev. CoP18) on *Regulation on trade in plants*: a) 'assisted production' shall be used to refer to plant specimens that: i) do not fall within the definition of 'artificially propagated', and ii) are considered not to be 'wild' because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production; b) material used to produce plant specimens from 'assisted production' systems can be derived from plant material that is exempt from the

provisions of the Convention, or derived from artificially propagated plants, or derived from plants grown in an environment with some level of human intervention or derived from plant materials collected sustainably from wild populations in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild".

At the 74th meeting of the Standing Committee (SC74, Lyon, 2022) the Working Group on Annotations proposed small textual revisions to the wording of the amendment and suggested that the packaging of the products and the accompanying shipping documents should include both the full scientific name of the species together with a declaration of "artificially propagation"

Further outreach to the cosmetic and personal care industry concluded that such an requirement would be impracticable to implement, due to current cosmetic regulations (UK Cosmetics Regulation (Schedule 34 of the Product Safety and Metrology Statutory Instrument) and the EU Cosmetic Products Regulation (1223/2009), which state that ingredients are labelled on the product packaging by their International Nomenclature of Cosmetic Ingredients (INCI) names. INCI names are set out in the EU Glossary (Commission Decision (EU) 2022/677). Therefore, within the UK and EU, the way that ingredients are described in the ingredient list on cosmetic product packaging is strictly defined by the cosmetics legislation and scientific names cannot be used if they are not already used in the Glossary to describe the ingredients. For example, the Glossary already provides for listing *Bletilla striata*, *Cycnoches cooperi*, *Gastrodia elata*, *Phalaenopsis amabilis* and *Phalaenopsis lobbi* with these specific names in the INCI list on the product label. Including information regarding artificial propagation is likely to lead to an increase in the size of the product label, especially as many cosmetic product packs are multi-lingual and the information would require translation into multiple languages. Increased product label size is concerning from an environmental point of view. If such a requirement was introduced for these orchid species, it sets a precedent for other ingredients which could result in unfeasible labelling requirements.

Conclusion

As noted above, the research carried out on the use of these species indicates that it is highly unlikely that any wild-harvested specimens of these species are used by this industry, which relies heavily on a regular and consistent supply of specimens of uniform quality, and this can only be achieved with large scale artificial propagation. Artificially propagated orchids are globally traded on an enormous scale and pose no conservation risk to the species in the wild; the unnecessary administrative burden placed on both enforcement authorities and industry stakeholders by continuing to regulate cosmetic and personal care products containing the orchid species named above delivers no conservation benefit to the wild resource.

Switzerland considers that it is unnecessary for the proposed amendment to the annotation to reference "artificially propagated specimens of...". Switzerland also considers that referencing artificially propagated specimens in the exemption would be challenging to implement because the strict regulation of labelling by INCI allows only very limited flexibility in its application.

Switzerland therefore believes that it would be more appropriate for the new proposed amendment to Annotation #4 para g) to read "finished products packaged and ready for retail trade of cosmetics containing parts and derivatives of specimens of *Bletilla striata*, *Cycnoches cooperi*, *Gastrodia elata*, *Phalaenopsis amabilis* or *Phalaenopsis lobbii*."

The proponents request that the Conference of the Parties adopt this proposal to amend annotation #4 related to orchid species. Such an amendment would be consistent with the recommended guidance and principles for annotations, as set down in Resolution Conf. 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II*, which notes the following:

a) Parties submitting proposals that contain substantive annotations:

i) ensure that the text is clear and unambiguous in the three working languages of the Convention;

ii) consider the conservation impact of excluding certain specimens from CITES provisions; and iii) consider the enforceability of the annotations;

b) two main principles be followed as standard guidance when drafting annotations for plants:

i) controls should concentrate on those commodities that first appear in international trade as exports from range States; these may range from crude to processed material; and

ii) controls should include only those commodities that dominate the trade and the demand for the wild resource.

Brief summaries/conclusions for species selected for possible exemption from CITES regulations

1) *Bletilla striata*

Bletilla striata is a terrestrial orchid which produces small, pink/purple flowers in late spring. It is distributed in China and central and south Japan and is widely cultivated globally. The Chinese CITES Management Authorities have conducted a survey on the trade of *Bletilla striata* (Bai Ji) and have concluded that the entire cosmetics market is supplied with artificially propagated material. This is confirmed by other information that has been gathered, including the following from Joseph Brinckmann, a medicinal plants specialist: "January 2020 brief report1 on the topic of overstock conditions of selected medicinal plants at end of 2019. Section 9 (Price of Bai Ji plummets – market remains in the doldrums) discusses the situation with Bai Ji, indicating that the commercial supply had 'previously' been dependent on wild collected material. In 2010 the average market price for wild collected material was 100 CNY per kg, but as supply became scarcer, market prices steadily increased year-after-year, until reaching an all-time high in 2017 of 850 CNY/kg. Such high market prices motivated farmers to collect seeds and plant baiji, leading to the development of large-scale plantations and a drop in the average market price. In 2019, due to cost support, the cultivated Bai Ji market was maintained at an average price at least 100 CNY/kg (back to what the market price for wild Bai Ji was ten years ago). Currently, artificial propagation of Bai Ji is still huge. The projected yields over the next few years are considerable, and therefore the market situation of excess capacity and oversupply will continue." Additionally, in Europe Bletilla striata is cultivated specifically for Pharma/Cosmetics by Phytesia: http://www.phytesia.com/en/pharma-cosmetics-natural-extract-orchids.php

2) *Cycnoches cooperi*

Cycnoches cooperi is a pseudobulb epiphyte with a distribution range from northern Brazil to northern Peru and is the only species in the genus used by the cosmetics and personal care industry. It is traded under a variety of names, such as Cycnoches Cooperi (Flower/Leaves) Extract, Black Orchid and Orchid Extract and is used as an antioxidant, emollient and general skin conditioner in creams, serums, shampoos and shower gels. Records from the CITES trade database show that all trade is artificially propagated. Cosmetics, derivatives, extracts and oil all originate from France, and our research strongly indicates that the raw material for such products comes from artificially propagated plants grown in nurseries in non-range State France and are re-exported by Germany and Switzerland. There are no indications of wild harvest for this species in general and research indicates that it is highly unlikely that wild material is used in the cosmetic and personal care industry. We therefore conclude that exempting *C. cooperi* in finished cosmetics and personal care products is unlikely to have a detrimental effect on wild populations.

3) *Gastrodia elata*

Gastrodia elata (Tian Ma) is endemic to eastern Asia. This species is cultivated on a large scale in PR China and Republic of Korea and is collected from the wild in PR China, mainly from Yunnan Province. No data were found on wild collection in Japan, Democratic People's Republic of Korea, Republic of Korea and Russian Federation. Importers of *G. elata* ingredients of Chinese origin (Hong Kong SAR, Japan, Malaysia, Republic of Korea, Taiwan Province of China, Australia, New Zealand, and Canada) appear to use it mainly in the manufacture of medicinal products. It is used by French and Chinese cosmetic companies but apart from that there is very little evidence found for *G. elata* ingredients or finished products in European commerce. The price of wild-collected Tian Ma is far higher than that of cultivated specimens coming from medium- to large-scale farming operations and it is considered highly unlikely that the cosmetic and personal care industry, acting in such a competitive market, would include wild-collected specimens in their products. Barnabas Seyler of Sichuan University notes "we agree that for *Bletilla striata* and *Gastrodia elata*, the use of these two species for cosmetics is not derived from wild-collected sources due to the prevalence and low-cost of the artificially produced stock (oversupply discourages their wild-collection). There may be some minimal cross-border import of wild-collected specimens, but we do not think these two species are of concern for wild-collection even for the medicinal trade. In Nepal, the area where *G. elata* grows naturally is relatively small, so even if a few specimens are being collected for sale, the sheer volume of trade in China of sustainably propagated *G. elata* make this not economically viable (even for medicinal uses). We believe the same is true of *Bletilla*, due to the oversupply of artificially propagated stock."

4) Phalaenopsis amabilis and 5) *Phalaenopsis lobbii*

The genus *Phalaenopsis* is distributed from tropical and subtropical Asia to North Eastern Australia. Based on information from the CITES trade database (2008-2018), online research and information provided by cosmetics and extraction companies, it seems that the *Phalaenopsis amabilis*, P*. lobbii* and *Phalaenopsis* hybrids are currently the only *Phalaenopsis* species used in cosmetics. *P. amabilis* extract is used in creams, deodorants, handwash, eye masks, serums and shower gels as humectant and *P. lobbii* extract is used in creams and mascaras for its whitening effect. Suppliers of finished and unfinished products containing *Phalaenopsis* extracts were identified in Germany, France, Poland and the United States of America. Research shows that all plants used for cosmetics, derivatives and extracts appear to be artificially propagated in Belgium, France, Switzerland and the Netherlands. Large amounts of live plants are imported from range States and surrounding countries, but *Phalaenopsis* is one of the most commonly cultivated orchids and there are large companies and clusters of companies involved in the propagation and trade of the plants. Although surveys performed in Southern China and Thailand show that illicit wild orchid trade is taking place in these areas, it appears that *Phalaenopsis* is not among the main targeted genera. There are no indications that an exemption of finished cosmetic and personal care products containing *P. amabilis* and *P. lobbii* is likely to have a detrimental effect on wild population.

3. Species characteristics

    3.1 Distribution

    3.2 Habitat

    3.3 Biological characteristics

    3.4 Morphological characteristics

    3.5 Role of the species in its ecosystem

4. Status and trends

    4.1 Habitat trends

    4.2 Population size

    4.3 Population structure

    4.4 Population trends

    4.5 Geographic trends

5. Threats

6. Utilization and trade

    6.1 National utilization

    6.2 Legal trade

    6.3 Parts and derivatives in trade

    6.4 Illegal trade

    6.5 Actual or potential trade impacts

7. Legal instruments

    7.1 National

    7.2 International

8. Species management

    8.1 Management measures

    8.2 Population monitoring

    8.3 Control measures

        8.3.1 International

        8.3.2 Domestic

    8.4 Captive breeding and artificial propagation

    8.5 Habitat conservation

    8.6 Safeguards

9. Information on similar species

10. Consultations

11. Additional remarks

12. References