

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

Twenty-third meeting of the Plants Committee
Geneva, (Switzerland), 22 and 24-27 July 2017

Species specific matters

Rosewood timber species [Leguminosae (Fabaceae)]

INTERNATIONAL TRADE IN ROSEWOOD SPECIES

1. This document has been submitted by the European Union (EU) and developed in consultation with its Member States*.

Background

2. At the 17th meeting of the Conference of the Parties to the Convention (24 September – 4 October 2016, CITES CoP17), the following taxa were included in CITES Appendix II:
 - all rosewood and palisander species of the genus *Dalbergia*;
 - *Pterocarpus erinaceus* (kosso);

Guibourtia demeusei; *Guibourtia pellegriniana*; *Guibourtia tessmannii* (bubinga).

These decisions were adopted on the basis of the high volumes of international trade and the detrimental impact of illegal and unsustainable logging on the conservation of these species. This decision did not affect the listing of the Brazilian rosewood (*Dalbergia nigra*), which was included in Appendix I to the Convention in 1992 and remains listed in this Appendix. A number of other *Dalbergia* species¹ had already been listed in CITES Appendix II since 2013, and remain listed in Appendix II. The new listings in Appendix II adopted at CoP17 entered into force at the international level on 2 January 2017, and have been implemented at EU level through amendments to the EU Wildlife Trade Regulations². The EU wishes to share with Parties its experience in implementing these new listings since their entry into force.

3. The listing of *Pterocarpus erinaceus* (kosso) in Appendix II to the Convention is not accompanied by any annotation, meaning that all parts and derivatives of this species are covered by the provisions of the Convention. The listing of *Dalbergia* spp., as well as of *Guibourtia demeusei*, *Guibourtia pellegriniana* and *Guibourtia tessmannii* (bubinga), in Appendix II is accompanied with annotation #15, which reads as follows:

#15 All parts and derivatives are included, except:

* 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.

¹ *Dalbergia cochinchinensis*, *Dalbergia retusa*, *Dalbergia granadillo*, *Dalbergia stevensonii*, and *Dalbergia* spp. (populations of Madagascar)

² Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

- a) Leaves, flowers, pollen, fruits, and seeds;
- b) Non-commercial exports of a maximum total weight of 10 kg per shipment;
- c) Parts and derivatives of *Dalbergia cochinchinensis*, which are covered by Annotation #4;
- d) Parts and derivatives of *Dalbergia* spp. originating and exported from Mexico, which are covered by Annotation #6.

This annotation means that, with the exception of the species *Dalbergia cochinchinensis* (Siamese rosewood) and *Dalbergia* species originating and exported from Mexico, the provisions of the Convention apply to all specimens and products containing *Dalbergia* wood, or wood of the species *Guibourtia demeusei*, *Guibourtia pellegriniana* or *Guibourtia tessmannii*, except to non-commercial exports of a maximum total weight of 10 kg per shipment. This means in practice that CITES controls apply now to commercial trade in a wide range of specimens of these species, including logs, sawn wood, veneer sheets and a large variety of finished products such as musical instruments and other small items. It was also clarified during the final plenary of CoP17 that the term "exports" should be interpreted as exports from a producer country and any subsequent re-exports of a product containing *Dalbergia* wood, or wood of the species *Guibourtia demeusei*, *Guibourtia pellegriniana* or *Guibourtia tessmannii*.

Interpretation of annotation #15

4. Following the entry into force of these listings, in particular of the listing of *Dalbergia* spp. in Appendix II, EU Member States Management and Scientific Authorities have been faced with a number of questions regarding the interpretation of annotation #15. The main questions received related mainly to the following issues:

- interpretation of the term "non-commercial" in paragraph b of the annotation, and what type of transactions should be considered as non-commercial;
- interpretation of the term "10 kg per shipment" in paragraph b of the annotation, and whether this weight limit of 10 kg applies to the entire shipment, or to the portion of the shipment made of wood of the species concerned;
- interpretation of paragraphs c and d of the annotation, and the references made to annotations #4 and #6 for specific species or populations.

Additional questions were also raised regarding:

- the link with Resolution Conf. 16.8 (Rev. CoP17) on the frequent cross-border non-commercial movements of musical instruments, and whether the exemption from CITES controls for non-commercial trade foreseen under annotation #15 applies to orchestras, music ensembles and similar groups which travel with all instruments of each individual musician in one shipment as "consolidated shipment";
- trade in pre-Convention specimens of the species concerned, as well as regarding the management of pre-Convention stockpiles, and whether such stockpiles should be declared to CITES Management Authorities;
- marking requirements for international trade in the species concerned;
- whether specimens need to be identified at species or genus level on CITES permits and certificates.

A number of EU stakeholders, in particular from the musical instruments sector, have also expressed concerns about the administrative burden resulting from CITES controls, and questioned the added-value for the conservation of rosewood species of controlling commercial trade in such finished products.

5. In view of these concerns, the EU developed a "Questions and Answers" document³, providing clarifications in relation to frequently asked questions about the handling of a number of practical cases

³ See http://ec.europa.eu/environment/cites/pdf/cop17/implementation_of_cites_cop17_listing_of_rosewood_clean.pdf

in relation to the implementation of annotation #15. It was in particular suggested to adopt the following interpretation:

- interpretation of the term "non-commercial": trade for commercial purposes is generally taken to include use for commercial gain, acquisition for commercial purposes, purchase, sale, display for commercial purposes, keeping for sale, offering for sale or transport for sale. However, while it is suggested that the interpretation of what constitutes commercial or non-commercial trade should be considered on a case-by-case basis, some general guidance was provided in the EU "Questions and Answers" document to address specific situations. It was in particular suggested that the following transactions should be considered as non-commercial:
 - i) the cross-border movement of musical instruments for purposes including, but not limited to, personal use, paid or unpaid performance, display (e.g. on a temporary exhibition) or competition;
 - ii) the return to the seller or manufacturer of a product under warranty or after sale service;
 - iii) the international transport or sending of an item, such as a musical instrument, for the purpose of being repaired, in view of the fact that the item remains under the ownership of the same person and that such transport does not lead to the sale of the item;
 - iv) the sending of a shipment containing multiple items sent for one of the above purposes (e.g. a shipment of musical instruments being jointly sent for the purpose of being repaired), provided that the individual portion of these wood species present in each instrument weights less than 10 kg and would therefore, if traveling separately, qualify for the exemption;
 - v) the loan of specimens for exhibition in museums or competition purposes.

The EU "Questions and Answers" document suggested however that the international sending of items (e.g. pieces of musical instrument) for the purpose of being assembled in a third country and then re-exported to the country of initial sending should be considered as a commercial transaction, considering that the assembling of pieces is done in view of the making of an item which will be sold later on, i.e. for commercial purposes.

- interpretation of the term "10 kg per shipment": it is suggested that this 10 kg weight limit be interpreted as referring to the weight of the portion of the shipment made of wood of the species concerned. This means in practice that any shipment weighing more than 10 kg, but which contains an overall weight of wood of the species concerned of less than 10 kg, is exempted from the documentary requirements foreseen under the Convention if it is traded for non-commercial purposes. In other words, the 10 kg limit is to be assessed against the weight of *Dalbergia/Guibourtia* parts contained in the shipment, rather than against the total weight of the shipment.
- interpretation of the exemption foreseen under paragraph b of annotation #15 in the case of orchestras, music ensembles and similar groups which travel with all instruments in the form of a "consolidated shipment": in the case of travelling orchestras, music ensembles and similar groups, the EU "Questions and Answers" document suggests that the sending of musical instruments in a container, together with or prior to the travelling of the orchestra, is considered as a "consolidated shipment". In such cases, the total weight of wood of CITES species in the instruments constituting the "consolidated shipment" is likely to exceed 10 kg. Such "consolidated shipment" should nonetheless not require a CITES document, considering that the individual portion of wood of CITES species present in each instrument weights less than 10 kg and would therefore, if travelling separately, qualify for the exemption. However, if the weight of wood of CITES species subject to annotation #15 present in any individual instrument exceeds 10 kg, this specific instrument would require a CITES document.
- identification of specimens at species or genus level on CITES permits and certificates: the EU "Questions and Answers" document suggests that specimens should, as far as possible, be identified at species level (e.g. *Dalbergia melanoxylon*) on CITES permits and certificates⁴. As a result, EU Member States' CITES Management Authorities have requested to applicants information regarding the identification of the relevant products at species level. However, in the absence of such

⁴ In line with Resolution Conf. 12.3 (Rev. CoP17) on permits and certificates

information and in exceptional cases, it was suggested that specimens may be identified on CITES permits and certificates at genus level (*Dalbergia* spp.), in particular in the case of worked items such as musical instruments or in the case of pre-Convention specimens. It was nonetheless advised that, when the specimen is identified at the genus level, it should be indicated on such documents that the specimens concerned do not contain wood of the species *Dalbergia nigra* when this is actually the case.

- marking requirements: the EU "Questions and Answers" document recognizes that there are no marking requirements applying to international trade in products of these species. It recognizes also that many musical instruments are identified through a unique serial number, even though old - and sometimes very valuable - musical instruments often have no serial number, and adding one could damage the instrument. It was therefore suggested that this number, or other marks of identification, may be indicated on the corresponding CITES permit or certificate with a view to facilitating identification of the instrument linked to the permit or certificate.
6. In parallel to the work done in the EU to implement the new listings of rosewood species included in Appendix II to the Convention at CoP17, the Standing Committee Working Group on annotations has actively started its preparatory work on the basis of its mandate defined in Decision 16.162 (Rev. CoP17). The Working Group identified the issue of timber annotations as a priority and agreed to give specific consideration to the interpretation and improvement of annotation #15.
 7. In light of the interpretation issues presented above, the EU believes that annotation #15 may benefit from some review and possible streamlining, with a view to facilitating future implementation. The deletion of the term "non-commercial" in paragraph b of the annotation may in particular simplify implementation and address interpretation issues relating to commercial vs. non-commercial transactions. It may also be useful to further assess whether paragraphs c and d of annotation #15 are warranted. Those issues would benefit from further considerations in the CITES context in view of the 18th meeting of the Conference of the Parties. It is also suggested that further research and studies may be warranted to get a better understanding of species, products and volumes in trade, as well as regarding the impact of international trade on the conservation status of these species.

Recommendations

8. To assist Parties in implementing the listing of rosewood species in Appendix II adopted at CoP17, the EU invites the Plants Committee, based on its experience with trade in rosewood species, to:
 - a) provide its views and guidance on the interpretation of annotation #15 as suggested under paragraph 5 of this document;
 - b) provide its views and guidance on the suggestions for amending annotation #15, as provided in paragraph 7 of this document, and;
 - c) share its conclusions with the Standing Committee, in particular with the Standing Committee Working Group on annotations.