

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



Twenty-fourth meeting of the Plants Committee
Geneva (Switzerland), 20, 21 and 23-26 July 2018

Interpretation and implementation matters

Trade control and traceability

Definition of the term 'artificially propagated'

REPORT OF THE INTERSESSIONAL WORKING GROUP

1. This document has been submitted by the representative of Oceania (Mr. Leach) and the alternate representative of Asia (Ms. Setijo Rahajoe) as co-chairs of the intersessional working group.*

Background

2. At its 17th meeting (CoP17, Johannesburg 2016), the Conference of the Parties adopted the following three Decisions directed to the Plants Committee:

16.156 (Rev. CoP17)

The Plants Committee shall consider the current production systems of tree species, including mixed and monospecific plantations, and assess the applicability of the current definitions of artificial propagation in Resolution Conf. 10.13 (Rev. CoP15) on Implementation of the Convention for timber species and Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants respectively, and report back at the 18th meeting of the Conference of the Parties.

17.175 *The Plants Committee shall review current production systems for artificial propagation and cultivation of non-tree-plant taxa listed in the Appendices and assess the applicability and utility of the current definitions of 'artificial propagation' and 'under controlled conditions' in Resolution Conf. 11.11 (Rev. CoP17).*

17.176 *The Plants Committee, following the review under Decision 17.175, shall consider if Resolution Conf. 11.11 (Rev. CoP17) and other relevant Resolutions need to be revised, and as appropriate, propose such amendments for consideration to the 70th meeting of the Standing Committee.*

3. At its 23rd meeting (PC23, Geneva 2017) the Plants Committee established an intersessional working group on the definition of the term 'artificially propagated' (agenda item 19) with the following mandate:

* *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.*

Develop and implement a realistic work plan that will:

- a) give an overview of the evolution of Resolution Conf. 11.11 (Rev. CoP17) and perspective on the original intent of the Resolution guiding the definition of artificial propagation in order to inform debate regarding possible amendment of Resolution Conf. 11.11 (Rev. CoP17);
 - b) provide an overview of the relevant work completed and conclusions thus far in the Plants Committee and the Conference of Parties regarding production systems;
 - c) enable consideration of the current production systems of tree species, including mixed and monospecific plantations; and assess the applicability of the definition of 'artificial propagation' in Resolution Conf. 10.13 (Rev. CoP15), Resolution Conf. 11.11 (Rev. CoP17) and Resolution Conf. 16.10;
 - d) review current production systems for artificial propagation and cultivation of non-tree plant taxa listed in the Appendices and assess the applicability and utility of the definitions of 'artificial propagation' and 'under controlled conditions' in Resolution Conf. 11.11 (Rev. CoP17);
 - e) explore a definition of plantation; and
 - f) report back to the 24th meeting of the Plants Committee, including recommendations as appropriate.
4. The composition of the working group is as follows: Co-chairs: the representative of Oceania (Mr. Leach) and the acting representative of Asia (Ms. Setijo Rahajoe); Members: the representatives of Central and South America and the Caribbean (Mr. Beltetón Chacón), and Europe (Mr. Carmo), and the nomenclature specialist (Mr. McGough); and the alternate representative of Asia (Ms. Al-Salem); Parties: Australia, Belgium, Canada, China, Estonia, European Union, France, Georgia, Germany, Indonesia, Netherlands, Republic of Korea, South Africa, Spain, Thailand, United Kingdom of Great Britain and Northern Ireland and United States of America; and IGOs and NGOs: UNEP-WCMC, American Herbal Products Association, Center for International Environmental Law, Indonesian Agarwood Association, Species Survival Network, TRAFFIC and USA/United Plant Savers. The Chair of PC and the Secretariat were included in working group emails.
5. The working group met at PC23 and drafted the following work plan which was agreed to by the PC:
1. The United States of America will share the document they have prepared before the 17th meeting of the Conference of the Parties (CoP17) with the overview of the evolution of Resolution Conf. 11.11 (Rev. CoP17) and original intention of the Resolution.
 2. Canada will continue developing the notes on past considerations by the Plants Committee on production systems arising from the discussion between the Chair of the Plants Committee and the Co-chairs of this working group and circulate to the working group members.
 3. Case studies were offered from some countries within the working group (China, Georgia, Indonesia, South Africa, Thailand, and the United States of America.). The case studies should consist of a short summary of the current production system, source of material, any observed impact on wild populations, how the system is currently managed, which source code is used now and what the Parties expect from this process that will resolve their concerns. This information should be submitted to the co-chairs by the end of October 2017. 4. The working group agreed that revising and recirculating the questionnaire on tree production systems was not necessary.
 5. The Secretariat is requested to circulate a Notification seeking Parties that could submit additional case studies describing plant production systems.
 6. South Africa and the United States of America will draft a document that explores a possible new source code, keeping in mind non-detriment findings and legal acquisition requirements, which covers cultivation systems that fall between strict artificial propagation and wild harvest. The document will include a definition and criteria for this code. This work should be done by mid-January 2018.

7. The working group should comment on the document prepared by United States of America and South Africa by mid-February 2018.
 8. The Co-Chairs of this working group will review the document and working group comments to prepare a consolidated paper by May to be submitted to the 24th meeting of the Plants Committee.
6. At the request of the co-chairs the Secretariat issued Notification 2017/061 'Production Systems for Plant Species' to the Parties seeking case studies on plant production systems within its territory which should include a short summary of the current production system, the source of material, any observed impact on wild populations, how the system is currently managed, which source code is used now and any concerns that Parties may have about the way that trade in specimens from such production systems are currently regulated under the Convention.
 7. China, Italy, Mexico, Canada, Peru, Georgia, Thailand, Belgium, Brazil, United States of America and the Philippines responded to the Notification with examples covering trees, parasitic plants, cacti, orchids, cycads and perennial herbs. The working group also had the information from PC23 Doc. 19.2 on *Report on production systems for CITES-listed tree species, plantations, and definition of 'artificially propagated'* with responses from 7 Parties.
 8. The case studies were analysed to better understand the issues and associated problems that were identified and this analysis is presented in Annex 1.
 9. The WG conducted a Dashboard trade study to better understand the plant species and Parties that were most heavily involved in trade under source code A. The results of this study are presented as an Inf. Doc. Further information was sought from several Parties and responses were received from Turkey and The Netherlands.
 10. The United States of America submitted a document to the working group in response to item 1) of the mandate to the working group and is presented as an Inf. Doc. Canada submitted a document to the working group in response to item 2) of the mandate to the WG and this is presented as an Inf. Doc.
 11. With the information and documents referred to in paragraphs 7 to 10, the working group had a solid context and background for consideration of the issues concerning the definitions of artificial propagation. The working group focused on the issues of development of an intermediate source code, the definitions relating to artificial propagation in 3 Resolutions (9.19, 10.13, and 16.10), and the term 'plantation' relative to monospecific and mixed species plantations.

Development of a new source code

12. A number of working group members had proposed that many of the identified issues might be solved if an additional source code that was intermediate between A and W was devised. South Africa and the United States of America submitted their document to the WG in response to item 6 of the work plan on an intermediate source code covering production systems that fell between strict A and W. This was revised after extensive comment by the working group and forms the substance of this report as presented in Annex 2. Views expressed by many in the working group indicated that the adoption of such a code addressed issues such as:
 - a) Where Parties have developed production systems that clearly reduce pressure on wild sourced plant material but this is not reflected if the Source Code W is used;
 - b) Where Parties in using the Source Code W for material from managed production systems are not properly recognised for their efforts in developing alternative sustainable production systems;
 - c) Where the use of Source Code W for plant material that comes from managed production systems reduces scientific accuracy and misrepresents the trade data;
 - d) Where the declaration that plant material is from the wild can cause consumer and marketing issues which are really irrelevant to material from a managed production system;
 - e) Situations where propagation should be encouraged but if the resultant material falls under Source Code W because of definitional problems then this creates disincentives;

- f) Where exports of species harvested outside their natural range which does not fit logically under W or A;
 - g) Plant material that is artificially propagated, then plants are grown under natural conditions, thus they are neither A nor W; and
 - h) Would require an NDF and legal acquisition finding, therefore assurance that impact on the wild population and possible conservation concerns are addressed.
13. Should the intermediate source code be recommended by the PC, draft text for amendment of Resolution Conf. 11.11 (Rev. CoP17) is presented in Annex 3. Pending further discussion on this matter by the PC, this text was not finalised by the working group. A recommendation for a new source code and amendment to Resolution Conf. 11.11 (Rev. CoP17) as proposed would impact on Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes*, Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species* and Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* and depending on options preferred by the PC could require changes to these Resolutions.
14. In addition, The Netherlands proposed an alternative option to expand the definition of artificially propagated, source code 'A' to accommodate alternative production systems rather than creating a new intermediate source code. Although this idea was not fully discussed or endorsed by the WG, it is presented in Annex 4 for consideration by the Plants Committee.

Definition of artificially propagated in Resolution Conf. 11.11 (Rev. CoP17)

15. With regard to paragraph 4 of the Resolution Conf. 11.11, which allows specimens to be deemed as artificially propagated if grown from wild-collected seeds or spores under certain circumstances, the working group suggested draft text for an intermediate source code would resolve this anomaly from the definition of artificially propagated. This anomaly was also noted at the last meeting of Standing Committee (SC69, Geneva 2017), in SC69Doc.32 prepared by the Secretariat, which stated it is "rather incongruous that paragraph 4 of the Resolution permits specimens taken from the wild to be described as artificially propagated under certain circumstances." Further, the document goes on to express the view "As in the case of the definition of 'bred in captivity', guidance on legal acquisition would be beneficial and it may be wise to explore the possibility of simplifying the definition, particularly by removing exceptions from general provisions". Therefore, the working group's suggested amendments in Annex 3 propose the deletion of subparagraphs 4 a) and 4 b) relative to the proposed text for an intermediate source code. As such, subparagraph 4 c) is left orphaned without the conditions of the previous 2 subparagraphs. Subparagraph 4 c) specifically concerns operations propagating Appendix-I species for commercial purposes in accordance to Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes*. Therefore, the following options are proposed:
- Delete all of paragraph 4 and amend Resolution Conf. 9.19 (Rev. CoP15) as appropriate to deal with Appendix-I wild collected seeds/spores that are propagated in registered nurseries, or
 - Retain all of paragraph 4 but amend it so that it clearly applies only to national populations of Appendix-I listed taxa as designated in Resolution Conf. 9.19 (Rev. CoP15).

Definition of 'artificially propagated' relative to Resolution Conf. 10.13 (Rev. CoP15) and Resolution Conf. 16.10

16. Currently, the application of the definition of 'artificially propagated' as defined in Resolution Conf. 11.11 (CoP17) is cross-referenced in two other Resolutions relating to trade in plant specimens. With regard to paragraph g) of Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species*, the working group sees value in maintaining the definition of 'artificially propagated' as it applies to trees grown in monospecific plantation, in particular for its clarity and that specimens intended for export are traded using source code A. As proposed, the new intermediate source code would cover specimens derived from 'mixed species' plantations. Therefore, as appropriate, Resolution Conf. 10.13 would need to be amended to include language concerning the definition of the new source code with cross-reference to Resolution Conf. 11.11 (Rev. CoP17).
17. Resolution Conf. 16.10 is relatively new and the Plants Committee under Decision 16.157 (Rev. CoP17) is directed to:

The Plants Committee shall monitor the implementation of Resolution Conf. 16.10 on Implementation of the Convention for agarwood-producing taxa to assess any potential conservation impacts to the long-term survival of agarwood-producing species and possible problems arising from the implementation, and shall report on these issues at the 18th meeting of the Conference of the Parties.

It would seem premature for the Committee to consider modifying Resolution Conf. 16.10 while such an assessment is being undertaken for reporting to CoP18. This matter is agenda item PC24 Doc. 17. It is suggested the assessment could include a consideration of definitions currently in this Resolution and whether they could be moved to Resolution Conf. 11.11 (Rev. CoP17).

Plantations

18. A document exploring the definition of 'plantations' in the context of CITES was prepared by the working group. This responds to paragraph e) of the mandate. Discussion of this document is presented as a separate agenda item.

Guidance

19. An issue raised in the working group is that there is a lack of guidance to clearly understand and apply some of the requirements around artificial propagation. Rather than change wording in Resolution Conf. 11.11 (Rev. CoP17), it was suggested that guidance should be prepared to facilitate a better understanding in particular of 'cultivated parental stock', 'under controlled conditions' and the new intermediate source code should it be adopted. Therefore, a draft decision is proposed, as follows:

18.XX Decision directed to the Secretariat

- a) The Secretariat shall, subject to available resources, organise a consultancy to prepare guidance materials for the Parties on aspects of artificial propagation including the terms 'under controlled conditions', 'cultivated parental stock' and the new source code or such terms as may be adopted at CoP18.
- b) report to the Plants Committee at its 25th meeting on progress with the consultancy.

Recommendation to the Plants Committee

20. The Plants Committee is invited to:
 - a) discuss the information presented by the intersessional working group, in particular the options for a new source code OR an expanded source code 'A' and recommend a preferred option;
 - b) if the new source code is supported then the Committee should comment on the proposed draft text to amend Resolution Conf. 11.11 (Rev. CoP17) in Annex 3 and note whether other Resolutions, in particular Resolution Conf. 9.19 (Rev. CoP15) *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes*, Resolution Conf. 10.13 (Rev. CoP15) *Implementation of the Convention for timber species* and Resolution Conf. 12.3 (Rev. CoP17) *Permits and certificates* need to be revised as directed in Decision 17.176;
 - c) discuss the options for consolidation of some of the definitions into Resolution Conf. 11.11 (Rev. CoP17) in paragraphs 15-17 and determine any actions required;
 - d) note the consideration of the term 'plantation' presented under agenda item PC24 Doc. 16.2 and determine whether any further action is necessary [as per (e) of the mandate];
 - e) consider the draft Decision in paragraph 19 seeking support to prepare guidance for Parties on several issues concerning 'artificial propagation'; and
 - f) decide how to report the results and recommendations to the SC70 as directed in Decision 17.176.

SYNOPTIC ANALYSIS OF THE SUBMITTED CASE STUDIES

1. The spreadsheet included as part of this Annex presents a synoptic compilation of the case studies submitted to the WG.
2. The aim was to identify the problems shown in the case studies. This table covers all case studies brought to the attention of this Working Group, evaluates them and asks possible follow-up questions for the WG.
3. The table distinguishes between the three different Resolutions (11.11, 10.13 and 16.10) that have been applied in the case studies.
4. Not all case studies have identified problems in applying the existing art prop provisions of these Resolutions. A traffic light colour coding was applied to highlight whether problems with the current definitions have been reported actively (red), could be deduced from what was reported (yellow) or have not been reported (green). Regarding cultivation systems the exercise tried to simplify and distinguish only between three different types of systems: non-natural environment (e.g. greenhouses, arable fields, etc.), semi-natural environment and natural environment.
5. Observations and comments from this exercise are these aspects:
 - i) Problems in implementing existing art prop provisions have only been identified in a limited number of case studies.
 - ii) There is obviously an option for an additional source code, comparable to ranching. This source code would require an NDF.
 - iii) In those production systems which take place in (semi-)natural habitats CITES can address the fact that such systems may have a harmful effect on these habitats through the NDF requirement.
 - iv) With 3 Resolutions in place covering artificial propagation provisions the working group may wish to consider whether it is clear to Parties which Resolution should be applied in particular cases.
 - v) The working group could consider whether having definitions relating to artificial propagation contained in three separate Resolutions is desirable and whether this could be simplified.

INTERMEDIATE SOURCE CODE FOR THE PRODUCTION OF SPECIMENS OF CITES-LISTED PLANT SPECIES

There are production systems and cultivation methodologies being used to grow plants of CITES-listed plant species that do not meet the definition of 'artificially propagated' as defined in Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*, wherein:

plants grown 'under controlled conditions' in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production; and that, propagules are either exempt from the provisions of the Convention or have been derived from cultivated parental stock, or grown from wild-collected seeds or spores under certain conditions.

There is a range of alternative production methods that do not meet the criteria of 'artificially propagated,' and therefore, the plant specimens are regulated under the Convention as specimens of wild origin.

Alternative production methods can provide economic alternatives to the commercial production of 'artificially propagated' plants in countries of origin, and reduce the collecting pressure on wild populations. Thus, the trade in plant specimens grown in such production systems can contribute to the conservation of species in the wild. Also, recognizing that for many species, such as tree species, the establishment of a cultivated parental stock presents significant difficulties in practice because plants take a long time to reach reproductive age.

Acknowledging that for nearly 20 years the Plants Committee and Parties have discussed issues and concerns regarding the development of an intermediate source code for the trade in cultivated specimens that do not meet the definition of 'artificially propagated.' Therefore, we propose now to address this issue and put forward a definition and guidelines for a new source code that recognizes an intermediate source code to regulate the trade in cultivated specimens.

Based on a review of the country case studies submitted by Parties concerning the cultivation of plants of CITES-listed plant species that do not meet the definition of 'artificially propagated,' the primary features are as follows:

- cultivated parental stock is limited or not easy to maintain (e.g., seeds with low viability, late reproductive species, monocarpic species);
- propagation material is derived from cultivated plants or from plants/propagules in semi-natural or natural environments; and
- plants are grown in diverse managed environments (e.g., cultivated fields, semi-natural, natural) under various levels of human manipulation.

The following draft definition is proposed for the production of 'cultivated' plant specimens that do not meet the definition of 'artificially propagated':

'Cultivated' – a plant specimen that is propagated and/or grown in a managed environment with some level of human intervention for the purpose of plant production.

Guidelines for the definition of 'cultivated' are as follows:

'cultivated' plant specimens do not comply with the definition of 'artificially propagated,' nor are such specimens wild as plants are grown in a managed environment with human intervention for the purpose of plant production.

- the source of propagation material may be derive from artificially propagated plants (as defined in Resolution Conf. 11.11 (Rev. CoP17)) or from plants grown in a 'managed environment' or from plants collected sustainably from wild populations; and

- the ‘managed environment’ is manipulated with some level of human intervention for the purpose of plant production. Examples of managed environments include, but not limited to, cultivated fields, gardens, plantations (monospecific or mixed species), semi-natural and natural habitats.

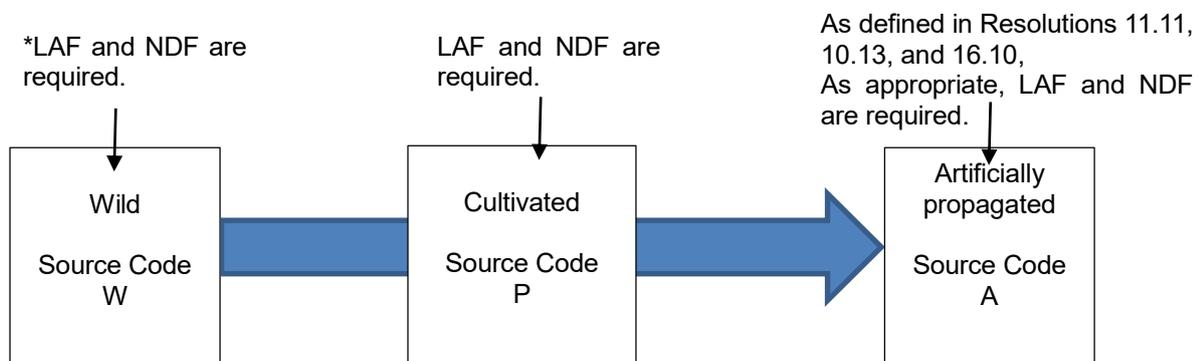
Regarding the export of ‘cultivated’ plant specimens:

- sourcing of plant material and the establishment of the production system is in accordance with relevant national laws of the country of origin;
- the relevant CITES Management Authority of the country of export is satisfied that the specimen was not obtained in contravention of relevant national laws for the protection of the species (i.e., legal acquisition finding (LAF)) (in accordance with Article IV (2)(b) of the Convention for Appendix II-listed species; and
- the relevant CITES Scientific Authority of the country of export makes a non-detriment finding (NDF) (in accordance with Resolution Conf. 16.7 on *Non-detriment findings*, and Article IV (2)(a) of the Convention for Appendix II-listed species).
- to safeguard against the trade of wild-collected plant specimens as ‘cultivated’ specimens, identification materials of the species and types of ‘cultivated’ specimens in trade need to be developed for custom and enforcement officials.

Countries may voluntarily choose to develop science-based management plans, set harvest quotas, and/or monitoring and reporting protocols for species internationally traded as ‘cultivated’ plant specimens. These measures can be part of making the non-detriment finding.

NOTE: Since the CITES Source Code “C” is used for animals bred in captivity in accordance with Resolution Conf. 10.16 (Rev.), a new source code would be necessary to regulate the trade of ‘cultivated’ plant specimens (intermediate code). The letter “P” is tentatively suggested as a possible source code for ‘cultivated’ plant specimens.

Schematic of proposed continuum from wild to cultivated to artificially propagated plant specimens with applicable Convention provisions



* Legal acquisition finding (LAF); non-detriment finding (NDF).

Country case studies of CITES-listed plant species

Examples of the three categories, above: wild; cultivated; and artificially propagated as presented in the country case studies submitted, are as follows:

Wild (Source Code "W")

- *Panax quinquefolius* (American ginseng) wild-harvested – United States of America

Cultivated (proposed new intermediate source code "P")

- *Cistanche deserticola* – China
- *Dendrobium catenatum* – China
- *Galanthus woronowii* – Georgia
- Orchids (Tayabas Orchids) – Philippines

Artificially propagated (Source Code "A")

- *Panax quinquefolius* (American ginseng) farm-field cultivated – United States of America and Canada
- Cactus, orchid, and cycad species – Italy
- Cactus and orchid species – Peru
- Cacti and succulent species – Spain

Conf. 11.11

(Rev. CoP17)*

Regulation of trade in plants

Proposed revised Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants. Proposed new language is in underline font and deleted language is in strikeout font. Comments from the working group are in square brackets and bold font.

RECALLING Resolution Conf. 9.18 (Rev.), adopted by the Conference of the Parties at its ninth meeting (Fort Lauderdale, 1994) and amended at its 10th meeting (Harare, 1997), relating to the implementation of CITES for plants;

AWARE that the Convention provides measures for international cooperation for the protection of certain species of wild plants against over-exploitation through international trade;

AWARE that the text of the Convention and several of the Resolutions of the Conference of the Parties on plants may not or could not have been drafted in the light of modern developments in plant propagation and of the trade in artificially propagated plants;

RECALLING the many specific problems the Parties to the Convention have faced and still face in implementing the Convention for plants;

RECOGNIZING that there are unique aspects of the plant trade and plant biology, such as those related to flaked orchid seedlings, that are not considered analogous to those for animals and that a different approach for plants is sometimes necessary;

RECOGNIZING that the control of the trade in flaked seedlings of orchids from closed nursery systems generally is not considered to be relevant to the protection of the natural populations of orchid species;

RECOGNIZING that many of the problems associated with regulating international trade in plants under the Convention involve artificially propagated specimens;

RECOGNIZING also that the provisions of Article III of the Convention remain the basis for permitting trade in specimens of Appendix-I species of plants that do not qualify for the exemptions of paragraphs 4 and 5 of Article VII;

NOTING that import of wild-collected specimens of Appendix-I plant species for purposes of establishing a commercial operation for artificial propagation is precluded by Article III, paragraph 3 (c), of the Convention, as explained further in Resolution Conf. 5.10 (Rev. CoP15), adopted by the Conference of the Parties at its fifth meeting (Buenos Aires, 1985) and amended at its 15th meeting (Doha, 2010);

OBSERVING that certain Parties that authorize export of large quantities of artificially propagated plants need to find ways of reducing paperwork while maintaining protection for wild plants, and helping exporters of artificially propagated plants to understand and to comply with the requirements of the Convention;

AWARE that plant specimens may legally enter international trade under exemptions from the provisions of CITES, provided by an annotation, and that the qualification for such an exemption may cease outside the country of origin;

AWARE that such specimens need CITES permits or certificates for subsequent international trade;

* Amended at the 13th, 14th, 15th and 17th meetings of the Conference of the Parties, and corrected by the Secretariat following the 16th meeting.

RECOGNIZING that, in the absence of an export permit issued in the country of origin, it may be difficult to issue such CITES permits or certificates;

RECOGNIZING that ... **[WG comment – Preamble language would need to be added for ‘cultivated’ specimens.]**

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

Regarding the definition of ‘artificially propagated’

1. ADOPTS the following definitions for terms used in this Resolution:
 - a) ‘under controlled conditions’ means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather;
 - b) ‘cultivated parental stock’ means the ensemble of plants grown under controlled conditions that are used for reproduction, and which must have been, to the satisfaction of the designated CITES authorities of the exporting country:
 - i) established 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; and
 - ii) maintained in sufficient quantities for propagation so as to minimize or eliminate the need for augmentation from the wild, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the cultivated parental stock; and
 - c) ‘cultivar’ means, following the definition of the 8th edition of the *International Code of Nomenclature for Cultivated Plants*, an assemblage of plants that (a) has been selected for a particular character or combination of characters, (b) is distinct, uniform, and stable in these characters, and (c) when propagated by appropriate means, retains those characters (but see Article 9.1 Note 1)¹
2. DETERMINES that the term ‘artificially propagated’ shall be interpreted to refer to plant specimens:
 - a) grown under controlled conditions; and
 - b) grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that either are exempt from the provisions of the Convention or have been derived from cultivated parental stock;
3. DETERMINES that plants grown from cuttings or divisions are considered to be artificially propagated only if the traded specimens do not contain any material collected from the wild; and
4. ~~RECOMMENDS that an exception may be granted and specimens deemed to be artificially propagated if grown from wild-collected seeds or spores only if, for the taxon involved:~~
 - a) ~~i) the establishment of a cultivated parental stock presents significant difficulties in practice because specimens take a long time to reach reproductive age, as for many tree species;~~
 - ~~ii) the seeds or spores are collected from the wild and grown under controlled conditions within a range State, which must also be the country of origin of the seeds or spores;~~
 - ~~iii) the relevant Management Authority of that range State has determined that the collection of seeds or spores was legal and consistent with relevant national laws for the protection and conservation of the species; and~~
 - ~~iv) the relevant Scientific Authority of that range State has determined that:~~

¹ Article 9.1 Note 1 states that no new taxon of cultivated plants (including a cultivar) can be regarded as such until its category name and circumscription have been formally published.

- ~~A. collection of the seeds or spores was not detrimental to the survival of the species in the wild; and~~
- ~~B. allowing trade in such specimens has a positive effect on the conservation of wild populations;~~
- ~~b) at a minimum, to comply with subparagraphs 4 a) iv) A. and B. above:~~
 - ~~i) collection of seeds or spores for this purpose is limited in such a manner such as to allow regeneration of the wild population;~~
 - ~~ii) a portion of the plants produced under such circumstances is used to establish plantations to serve as cultivated parental stock in the future and become an additional source of seeds or spores and thus reduce or eliminate the need to collect seeds or spores from the wild; and~~
 - ~~iii) a portion of the plants produced under such circumstances is used for replanting in the wild, to enhance recovery of existing populations or to re-establish populations that have been extirpated; and~~

[WG Comment – Recommend deleting paragraph 4 a) and b) as the definition & criteria for the proposed new source code ‘cultivated’ override the conditions of paragraph 4, thus making it redundant.]

- c) in the case of operations propagating Appendix-I species for commercial purposes under such conditions they are registered with the CITES Secretariat in accordance with Resolution Conf. 9.19 (Rev. CoP15) on *Guidelines for the registration of nurseries exporting artificially propagated specimens of Appendix-I species*;

[WG comment – Paragraph 4 c) is connected to the preceding two paragraphs and also links to Resolution Conf. 9.19 (Rev. CoP15) and so cannot be left as it is. One option is to delete all of paragraph 4 and amend Resolution Conf. 9.19 (Rev. CoP15) as appropriate to deal with Appendix-1 wild collected seeds/spores that are propagated in registered nurseries. A second option would be to retain all of paragraph 4 but amend it so that it clearly applies only to national populations of Appendix-1 listed taxa.]

Regarding grafted plants

5. RECOMMENDS that:

- a) grafted plants be recognized as artificially propagated only when both the root-stock and the graft have been taken from specimens that have been artificially propagated in accordance with the definition above; and
- b) grafted specimens consisting of taxa from different Appendices be treated as specimens of the taxon included in the more restrictive Appendix;

Regarding hybrids

6. DETERMINES that:

- 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;

Regarding cultivars

7. DETERMINES that cultivars shall be subject to the provisions of the Convention unless excluded by a specific annotation in Appendix I, II or III;

Regarding flaked seedlings of Appendix-I orchids

8. RECOMMENDS that flaked seedlings of orchid species included in Appendix I obtained *in vitro*, in solid or liquid media, and transported in sterile containers, be interpreted as being exempt from CITES control only if they have been artificially propagated in accordance with the definition provided above, taking into account the provisions of Article VII, paragraph 4, and Article I, paragraph (b) (iii), and agreeing to a derogation from Resolution Conf. 9.6 (Rev. CoP16)² for this exemption;

Regarding the definition of 'cultivated'

X1 DETERMINES that 'cultivated' plant specimens do not comply with the definition of 'artificially propagated' nor are such specimens wild as plants are grown in a managed environment with human intervention for the purpose of plant production.

X2 RECOGNIZING that for many species, such as tree species, the establishment of a cultivated parental stock presents significant difficulties in practice because plants take a long time to reach reproductive age.

X3 ADOPTS the following definitions for the term 'cultivated' used in this Resolution:

- a) 'cultivated' plant specimens means plants that are propagated and grown in a managed environment with some level of human intervention for the purpose of plant production.
- b) 'managed environment' means an environment that is manipulated by human intervention for the purpose of plant production. Examples of 'managed environments' include, but not limited to, cultivated fields, gardens, plantations (monospecific or mixed species), semi-natural and natural habitats.

[WG comment – Although monospecific plantations can be considered an example of a 'managed environment', through application of Resolution Conf. 10.13 (Rev. CoP15) specimens are treated as source code A. Probably needs clarification or cross referencing.]

- a) General characteristics of managed environment may include but are not limited to irrigation, tillage, fertilization, weed control, pest control, , thinning, pruning or other management practices; and
- b) propagation material can be derived from 'artificially propagated' plants or from plants grown in a 'managed environment' or from plants collected sustainably from wild populations.

X4 DETERMINES that the term 'cultivated' shall be interpreted to refer to plant specimens:

- a) grown in a 'managed environment;' and
- b) grown from seeds, spores, cuttings, divisions, callus tissue or other plant tissue, or other propagules that either are exempt from the provisions of the Convention or have been derived from artificially propagated plants, from cultivated plants in a managed environment or from plants collected sustainably from wild populations.

[WG Comment – May want to consider whether any of the conditions of paragraph 4 (e.g., b) (i-iii)) need to be included for 'cultivated' specimens.]

² Corrected by the Secretariat following the 16th meeting of the Conference of the Parties: originally referred to Resolution Conf. 9.6 (Rev.).

X5 DETERMINES that:

- a) sourcing of plant material and the establishment of production systems for 'cultivated' plants is in accordance with relevant national laws of the country of origin;
- b) the relevant CITES Management Authority of the country of origin is satisfied that the specimens were not obtained in contravention of relevant laws for the protection of the species; and
- c) the relevant CITES Scientific Authority of the country of origin makes a non-detriment finding (NDF) (in accordance with Resolution Conf. 16.7 on *Non-detriment findings*) to determine whether the export of specimens is detrimental to the survival of the species.

Regarding plant specimens in international trade under exemptions

9. DETERMINES that specimens that cease to qualify for an exemption from the provisions of CITES, under which they were legally exported and imported, are deemed to originate in the country in which they cease to qualify for the exemption;

Regarding enforcement for plants

10. RECOMMENDS that Parties ensure that:
- a) enforcement officers are adequately informed of CITES requirements, procedures governing inspection and clearance of CITES plant specimens, and procedures necessary for the detection of illegal trade;
 - b) enforcing agencies obtain access to materials and expertise enabling identification of plant specimens in trade, including whether the specimens are of wild or artificially propagated origin;
 - c) enforcing agencies utilize annual reports, plant health documents, nursery catalogues and other sources of information to detect possible illegal trade;
 - d) enforcing agencies maintain close liaison with the Management and Scientific Authorities for the purpose of setting and implementing enforcement priorities; and
 - e) material in trade is carefully checked in order to improve enforcement and in particular that plants declared to have been artificially propagated are checked both on import and on export;

Regarding trade in salvaged plant specimens

11. RECOMMENDS that:
- a) whenever possible, Parties ensure programmes of environment modification do not threaten the survival of plant species included in the CITES Appendices, and that protection of Appendix-I species in situ be considered as a national and international obligation;
 - b) Parties establish salvaged specimens in cultivation where concerted attempts have failed to ensure that such programmes do not put at risk wild populations of species included in the CITES Appendices; and
 - c) international trade in salvaged specimens of Appendix-I plants, and of Appendix-II plants whose entry into trade might otherwise have been considered detrimental to the survival of the species in the wild, be permitted where all of the following conditions are met:
 - i) such trade would clearly enhance the survival of the species, albeit not in the wild;
 - ii) import is for the purposes of care and propagation of the species; and
 - iii) import is by *bona fide* botanic garden or scientific institution; and

Regarding education about plant conservation through CITES

12. RECOMMENDS that:

- a) Parties routinely provide updates of information on all aspects of CITES implementation for plants for publication in scientific, horticultural or plant trade journals and in the publications of plant associations;
- b) Parties regularly provide updates of information on all aspects of CITES implementation to botanic gardens, tourist organizations and relevant non-governmental organizations for further dissemination to the general public;
- c) Parties develop and maintain a good liaison with national plant-trade organizations, to inform them about all aspects of the implementation of CITES for plants;
- d) the Secretariat develop and maintain a good liaison with international plant-trade organizations and botanic garden associations (in particular with the International Association of Botanic Gardens and Botanic Gardens Conservation International); and
- e) the Secretariat distribute information on the potential conservation benefits that may be derived from artificial propagation and, where appropriate, encourage artificial propagation as an alternative to the removal of specimens from the wild; and

13. REPEALS Resolution Conf. 9.18 (Rev.) (Fort Lauderdale, 1994, as amended at Harare, 1997)– *Regulation of trade in plants*.

A NOTE FROM THE CITES SCIENTIFIC AUTHORITY OF THE NETHERLANDS
ON THE NEED FOR A NEW SOURCE CODE BETWEEN W AND A

Ronald van den Berg & Pieter Joop, March 9, 2018

The Dutch CITES SA has had to deal with import applications of *Galanthus* material from Georgia that did not conform strictly to the Resolution Conf. 11.11 definition. After discussion in the SRG it was decided that these imports could be admitted if sufficient information on the production method was provided by the exporting country, while awaiting the results of the working group on the definition of Artificial Propagation. Recently Ford & Pfab suggested a draft definition of a new source code intermediate between W(ild) and A(rtificial Propagated) which found favor within the working group although also some critical comments were offered. Without wanting to frustrate this development the Dutch SA would like to briefly discuss the alternative: expanding the present definition of A.

We want to emphasize three points:

1. Plant material that is in trade is either wild or artificially propagated

W material can be sustainably harvested as long as the offtake is smaller than the carrying capacity of the ecosystem. To allow trade a NDF is necessary and quota should be set. In all other cases the traded material is A (here taken to be a broader category than the 11.11 definition allows). As soon as man influences plant material with the intention of plant production the circumstances of this material become artificial.

2. There is a continuum of different situations of A.

At one extreme there are the completely controlled circumstances in modern horticultural production systems. These are separated from the original ecosystems and do not necessitate management plans to be sure of the sustainability. The same holds for those cases where the plant production takes place outside the range of the species (e.g. cacti mass-produced in China). These are the only instances that conform fully to the current 11.11.

The *Galanthus* case mentioned above was resolved by demanding enough information about the production process (information on number, size, locality and production of the plots, need to augment from the wild etc.)

Other situations might necessitate even more detailed information to minimize the risk of laundering W material and/or the use of too much W motherstock. We have tried to show this in the 'demands on management plans', increasing from right to left in the scheme on the next page.

3. The continuum should not be divided by arbitrary boundaries but the different situations might be arranged according to the demands on the management plans

Distinguishing three categories instead of one will lead to problems in delineating those categories, might exacerbate enforcement issues, and could enable laundering of W material as 'cultivated'. We are unsure how Germany's suggestion 'to delimit the new source code by defining it as "non-A" and "non-W"' will work out in practice. We would be in favor of avoiding difficult definition issues by distinguishing only two categories, W and A, acknowledging that plant production practices have resulted in many different situations that are all "non-W" while new practices will be introduced in the coming decennia.

The following scheme illustrates our concept in comparison with that in the Draft definition of managed wild-cultivated plant specimens.

