

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



Fifty-fourth meeting of the Standing Committee
Geneva (Switzerland), 2-6 October 2006

Interpretation and implementation of the Convention

Review of Resolutions, Decisions and the Appendices

ANNOTATION OF VARIOUS *TAXUS* SPECIES

1. This document has been prepared by the Secretariat.

Background

2. At its 13th meeting (Bangkok, 2004), the Conference of the Parties adopted a proposal (CoP13 Prop. 48) to include in Appendix II the species *Taxus chinensis*, *Taxus cuspidata*, *Taxus fuana* and *Taxus sumatrana* and all infraspecific taxa with an annotation agreed during the meeting stating:

Whole artificially propagated plants in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

3. The Secretariat believes that this annotation is contrary to the Convention and has explained why in Notification to the Parties No. 2004/073, of 19 November 2004, and in document SC53 Doc. 37, presented at the 53rd meeting of the Standing Committee (Geneva, June – July 2005).
4. At that meeting, the Committee noted the Secretariat's intention to prepare a document for consideration at the present meeting. The Committee asked the Secretariat to liaise with the Chairman of the Plants Committee's Working Group on Annotations of Plants Listed in Appendices II and III, in order to avoid any duplication. The Secretariat has reviewed the documents from that Working Group for consideration by the Plants Committee and it is clear that they do not relate to the issue that has been raised by the Secretariat. However, the Secretariat has informed the Chairman of the Plants Committee's Working Group about the preparation of the present document.
5. As the annotation referred to in paragraph 2 above is a substantive annotation, it may, as stated in Resolution Conf. 11.21 (Rev. CoP13), be amended or deleted only by the Conference of the Parties in accordance with Article XV of the Convention. The Secretariat has therefore prepared a draft proposal to amend Appendix II of the Convention (annexed to the present document), for consideration by the Conference of the Parties. It contains the justification for amending the Appendices but, as this is not a usual proposal, it does not follow the usual format.

Recommendation

6. The Secretariat recommends that the Standing Committee request the Depositary Government to submit the attached proposal for consideration at the 14th meeting of the Conference of the Parties, and to request that, if there is any opposition to the proposal, the Depositary Government not withdraw the proposal but leave the Conference of the Parties to decide by a vote.

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

To delete the annotation to *Taxus chinensis*, *Taxus cuspidata*, *Taxus fuana* and *Taxus sumatrana* in Appendix II that reads:

Whole artificially propagated plants in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

B. Proponent

Switzerland, acting as Depositary Government, at the request of the CITES Standing Committee.

C. Supporting statement

1. Taxonomy

- 1.1 Class: Pinopsida
- 1.2 Order: Taxales
- 1.3 Family: Taxaceae
- 1.4 Genus and species: *Taxus chinensis*
Taxus cuspidata
Taxus fuana
Taxus sumatrana

2. Text of the Convention

2.1 All trade in 'specimens' of species included in Appendices I, II and III is subject to the provisions of the Convention. This is clear from the first paragraph of each of the Articles III, IV and V, which are identical except that they refer to Appendix I, II or III respectively.

Article IV, paragraph 1, of the Convention states:

All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

2.2 Article I of CITES contains definitions of certain terms used in the text of the Convention. In its paragraph (b), this Article provides the following definition of the term 'specimen':

'Specimen' means:

- (i) *any animal or plant, whether alive or dead;*
- (ii) *in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and*
- (iii) *in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily*

recognizable part or derivative thereof specified in Appendices II and III in relation to the species.

2.3 This definition is the legal basis for specifying the kinds of parts and derivatives that are considered as CITES 'specimens' in which trade must therefore be conducted in accordance with the provisions of the Convention. In cases where the Conference of the Parties has decided that only certain parts and derivatives of a species are subject to these provisions, the parts and derivatives that are covered are indicated in section 7 of the Interpretation section of the Appendices. The parts and derivatives that are excluded are not considered as CITES 'specimens'.

2.4 Although Article I, paragraph (b), of the Convention, provides the possibility to specify certain parts and derivatives of Appendix-II and Appendix-III plant species (and Appendix-III animal species) as included in the Appendices, and thus to exclude certain others, it does not provide the possibility to include certain whole animals or plants and exclude others. On the contrary, it is clear from subparagraph (i) of paragraph (b) that "any animal or plant, whether alive or dead" is considered as a 'specimen' and therefore subject to the provisions of the Convention.

2.5 This does not always apply in the case of hybrids because the Conference of the Parties has determined, in Resolution Conf. 11.11 (Rev. CoP13) [in paragraph a) under 'Regarding hybrids'] that:

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.

3. Thirteenth meeting of the Conference of the Parties (CoP13, Bangkok, 2004)

3.1 At CoP13, China and the United States of America submitted a proposal (CoP13 Prop. 48) to include in Appendix II the species *Taxus chinensis*, *T. cuspidata*, *T. fuana*, *T. sumatrana* and all infraspecific taxa of these species, with the following annotation:

Designates all parts and derivatives, except:

- a) seeds and pollen; and*
- b) finished pharmaceutical products.*

3.2 During the discussion of this proposal, an amendment was agreed (indicated in document CoP13 Com. I Rep. 10) to add an annotation stating:

Whole artificially propagated plants in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

3.3 The proposal, as amended, was adopted by the Conference of the Parties.

4. Conclusion

Since all live plants (and dead ones) of species included in Appendix II are in fact subject to the provisions of the Convention, the text of the above annotation is clearly contrary to what is stated in the text of Convention itself and should be deleted. As the annotation is a substantive annotation, it may, as stated in Resolution Conf. 11.21 (Rev. CoP13), be amended or deleted only by the Conference of the Parties in accordance with Article XV of the Convention.