

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



Sixty-ninth meeting of the Standing Committee
Geneva (Switzerland), 27 November – 1 December 2017

Species specific matters

Maintenance of the Appendices

Annotations

INTERPRETATION OF ANNOTATION #15

1. This document has been submitted by the Chair of the Plants Committee and the Secretariat.*

Background

2. At the 17th meeting of the Conference of the Parties (CoP17, Johannesburg, 2016), the following rosewood and palisander species were included in CITES Appendix II:

Dalbergia spp. (except for the species listed in Appendix I, i.e. *Dalbergia nigra*)

Guibourtia tessmannii, *Guibourtia pellegriniana* and *Guibourtia demeusei*

Pterocarpus erinaceus

3. *Pterocarpus erinaceus* is included without an annotation, and in accordance with paragraph 3 of Resolution Conf. 11.21 (Rev. CoP17), this means that all parts and derivatives of this species are covered by the provisions of the Convention.
4. The listing *Dalbergia* spp., *Guibourtia demeusei*, *G. pellegriniana* and *G. tessmannii* in Appendix II is subject to annotation #15, as follows:

#15 All parts and derivatives are included, except:

- 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.
5. Following the entry into force of these listings, in particular of the listing of *Dalbergia* spp. in Appendix II, many Parties and the Secretariat received questions from the regulated industries and individuals regarding

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the interpretation of annotation #15. The questions related mainly to the interpretation of the terms "non-commercial", "exports", and "total weight of 10 kg per shipment" in paragraph b) of the annotation.

6. Differences in the interpretation of these terms in paragraph b) of annotation #15 appeared among trading countries and are causing implementation difficulties for the Management Authorities, the regulated industries and other users of specimens of *Dalbergia* spp.
7. In these instances, Resolution Conf. 11.21 (Rev. CoP17) on *Use of annotation in Appendices I and II*, in paragraph 8, directs:
 - a) *the Standing Committee, in consultation with the Animals Committee or the Plants Committee, to agree on interim definitions between meetings of the Conference of the Parties in cases where significant differences in the interpretation of terms in annotations exist among trading countries and are causing implementation difficulties, and then include these definitions in its report to the Conference of the Parties for adoption;*
 - b) *the Secretariat to issue a Notification to the Parties on any the interim definitions of terms in annotations agreed by the Standing Committee;*
8. At its 23rd meeting (PC23, Geneva, July 2017), the Plants Committee discussed document [PC23 Doc. 22.2](#) on international trade in rosewood species, submitted by the European Union, which addressed the interpretation of annotation #15. A number of observers at the Plants Committee also intervened on the issue, including those representing the musical instruments sector. The document and the interventions highlighted the differences in the interpretation of several terms used in annotation #15, and the practical implementation challenges this presented. It requested the Plants Committee to formulate views and guidance in this regard. The Plants Committee established a working group on annotation #15 to consider the issue.
9. At PC23, the Secretariat advised that the preconditions for applying the procedures outlined in paragraph 8 of Resolution Conf. 11.21 (Rev. CoP17) were met for interpreting terms in annotation #15, and that there was a need for the Standing Committee, in consultation with the Plants Committee, to agree on interim definitions of the terms in annotation #15 that would be applicable between CoP17 and the 18th meeting of the Conference of the Parties (CoP18, 2019).

Interpretation and implementation of annotation #15

10. Based on proposals formulated by the working group on annotation #15 that convened at PC23, the Plants Committee agreed on the following recommendations concerning interim definitions for terms used in annotation #15 between CoP17 and CoP18 of [see document [PC23 Com. 2 \(Rev. by Sec\)](#)]:

Regarding interpretation of the term "non-commercial"

- a) It is recommended that the following transactions be considered "non-commercial":
 - i) the cross-border movement of musical instruments for purposes including, but not limited to, personal use, paid or unpaid performance, display, or competition (e.g. on a temporary exhibition), and when the instrument is returned to the country where the instrument is normally held.

Regarding i) it is recommended to explore further options with respect to display when the instrument returns to the country of export (e.g. for tradeshows)
 - ii) the cross-border movement of an item (such as a musical instrument), for the purpose of being repaired is considered as a non-commercial transaction, in view of the fact that the item will remain under the ownership of the same person and that such transport will not lead to the sale of the item. The return to the seller or manufacturer of a product under warranty after sale service should also be considered as a non-commercial transaction.
 - iii) the cross-border movement 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 *Dalbergia/Guibourtia* species present in each

item weighs less than 10 kg and would therefore, if traveling separately, qualify for the exemption;

- iv) the loan of specimens for exhibition in museums, competition or performance purposes.

Regarding interpretation of the term "10 kg per shipment"

- b) For shipments for non-commercial purposes, it is suggested that this 10 kg weight limit be interpreted as referring to the weight of the portions of the items in the shipment made of wood of the species concerned. In other words, the 10 kg limit is to be assessed against the weight of *Dalbergia/Guibourtia* portions contained in the items of the shipment, rather than against the total weight of the shipment.

Regarding interpretation of the terms in 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"

- c) The cross-border movement 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 *Dalbergia/Guibourtia* 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 *Dalbergia/Guibourtia* species present in each instrument weighs less than 10 kg and that the related instrument would therefore, if travelling separately, qualify for the exemption. However, if the weight of wood of *Dalbergia/Guibourtia* species subject to annotation #15 present in any individual instrument exceeds 10 kg, this specific instrument would require a CITES document.

Regarding identification of specimens at species or genus level on CITES permits and certificates

- d) Specimens should, as far as possible, be identified at species level (e.g. *Dalbergia melanoxylon*) on CITES permits and certificates. However, in the absence of such 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.

Regarding marking requirements

- e) Any existing number, or other marks of identification, should be indicated on the corresponding CITES permit or certificate with a view to facilitating identification of the instrument linked to the permit or certificate.

11. The Plants Committee recommended that the above definitions be submitted for consideration by the Standing Committee, in particular the Standing Committee's working group on annotations. The Standing Committee may note that paragraph 7 of document PC23 Com. 2 (Rev. by Sec) recommended that the Committee "discuss further the need to indicate on CITES documents when the specimens do not contain wood of the species *Dalbergia nigra* when this is actually the case", but this is not required for agreeing on interim definitions of annotation # 15 at the present meeting.

Recommendations

12. Pursuant to Resolution Conf. 11.21 (Rev. CoP17), paragraph 8, the Standing Committee is invited to:
 - a) agree with the proposed interim definitions of certain terms used in paragraph b) of annotation #15 for the intersessional period between CoP17 and CoP18, as set out in paragraph 10 above;
 - b) request the Secretariat to issue a Notification to the Parties, communicating these interim definitions to the Parties;

- c) encourage all Parties to use the interim definitions of certain terms in paragraph b) of annotation #15 during the intersessional period between CoP17 and CoP18; and
- d) resolve that these interim definitions are agreed for the exclusive purpose of interpreting certain terms in paragraph b) of annotation #15, and do not constitute a precedent for the interpretation of these terms in any other annotation, Decision or Resolution applying to any other specimen of a CITES-listed species.