

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



Seventieth meeting of the Standing Committee
Rosa Khutor, Sochi (Russian Federation), 1-5 October 2018

Interpretation and implementation matters

General compliance and enforcement

Trade in specimens bred in captivity or artificially propagated

DEFINITION OF THE TERM 'ARTIFICIALLY PROPAGATED':
REPORT OF THE PLANTS COMMITTEE

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

Background

2. At its 17th meeting, the Conference of the Parties extended Decision 16.156, and adopted three additional decisions related to the definition of the term 'artificially propagated', as follows:

16.156 (Rev. CoP17) Directed to the Plants Committee

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 Directed to the Plants Committee

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 Directed to the Plants Committee

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.

* 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.

17.177 Directed to the Standing Committee

The Standing Committee should consider the recommendations of the Plants Committee made in accordance with Decisions 17.175 and 17.176, and make recommendations, as appropriate, for consideration at the 18th meeting of the Conference of the Parties

3. At its 23rd meeting (PC23, Geneva 2017), the Plants Committee considered two working documents on the definition of the term 'artificially propagated'. In document PC23 Doc. 19.1, the Secretariat highlighted the need to review the application of the definition of source code A for artificially propagated specimens for timber and non-tree species. Document PC23 Doc. 19.2, submitted by the PC representative of Central and South America and the Caribbean (Mr. César Beltetón), provided an overview of production systems of CITES-listed tree species, including mixed and monospecific plantations.
4. Based on discussions of these two documents, the Plants Committee established an intersessional working group on the definition of the term 'artificially propagated', with the following mandate and membership:
 - Mandate:

Develop and implement a realistic workplan 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) and Resolution Conf. 11.11 (Rev. CoP17);
 - 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); and
 - e) report back to the 24th meeting of the Plants Committee, including recommendations as appropriate.
 - Membership: 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: Belgium, Canada, China, European Union, France, Georgia, Germany, Indonesia, Netherlands, Republic of Korea, South Africa, 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, Species Survival Network and TRAFFIC.
5. Based on proposals from the working group, which met at PC23, the Plants Committee adopted the work plan and recommendations in document [PC23 Com. 6 \(Rev. by Sec.\)](#).

Progress in the implementation of Decisions 16.156 (Rev. CoP17), 17.175 and 17.176

6. The intersessional working group presented its findings and recommendations in documents PC24 Doc. 16.1 PC24 Doc. 16.2 for consideration of the Plants Committee at its 24th meeting (PC24, Geneva 2018).
7. At PC24, the Plants Committee established an in-session working group. It subsequently discussed its report, and adopted recommendations which are reflected in document PC24 Com. 6 (Rev. by Sec.), as shown in the Annex to the present document. These include the following:
 - Amendments to Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants* to integrate a proposed including:

- a) New preamble statement to reflect the addition of a new section
 - b) The replacement of the terms “seeds or spores” by “propagules” throughout Resolution Conf. 11.11 (Rev. CoP17);
 - c) Amendments to paragraph 4 to clarify the provision is for Appendix I species and to include the provision that a non-detriment finding is required; and
 - d) A new section ***Regarding the definition of ‘plant obtained through assisted production’ (‘assisted production’)***;
 - New source code Y to indicate the specimens derived through assisted production
8. The Plants Committee recognized that the new source code would need to be include in Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*. One Party suggested the following, and given that this is a matter for the Standing Committee, the Plants Committee agreed to convey this to the Standing Committee for its consideration [see document PC24 Sum. 4 (Rev. 1)]:
- Y specimens of plants that fulfil the definition for ‘assisted production’ in Resolution Conf. 11.11 (Rev. CoP18) as well as parts and derivatives thereof.*
9. Furthermore, the Plants Committee noted that Resolutions Conf. 12.3 (Rev. CoP17), Conf. 12.8 (Rev. CoP13), Conf. 16.10 and possibly others, including the CITES glossary, may need revisions in case the new source code was adopted, and requested the Secretariat to analyze the Resolutions for any consequential changes. It also agreed that the examples of “general characteristics” of controlled conditions in paragraph 1 a) of Resolution Conf. 11.11 (Rev. CoP17), and similar text proposed in document PC 24 Doc. 16.1, should not be in the Resolution, but rather included in a separate guidance document.

Recommendations

10. In compliance with Decision 17.177, the Standing Committee is invited to:
- a) Consider the recommendations of the Plants Committee for amending Resolution 11.11 (Rev. CoP18), as contained in the Annex to the present document and the new source code Y;
 - b) Consider the proposed text for the new source code “Y” in Resolution Conf. 12.3 (Rev. CoP17);
 - c) Make recommendations, as appropriate, for consideration at the 18th meeting of the Conference of the Parties concerning amendments to Resolutions Conf. 11.11 (Rev. CoP18) and Conf. 12.3 (Rev. CoP17); and
 - d) Should amendments to Resolution Conf. 11.11 (Rev. CoP17) be brought forward to CoP18, agree that consequential changes to other Resolutions based on the analysis carried out by the Secretariat as requested by the Plants Committee are also proposed to CoP18 for consideration.

RECOMMENDATIONS OF THE PLANTS COMMITTEE AT ITS 24TH MEETING

1. The Plants Committee adopted the changes to Res. Conf.11.11 as presented in the attached Annex 2.
2. It was determined that the examples of “general characteristics” of controlled conditions in Paragraph 1a) within Resolution Conf. 11.11 and similar text proposed in PC 24 Doc 16.1 referring to managed environment lacked clarity and should not be in the Resolution, but rather included in a guidance document.
3. In order to avoid confusion with both purpose and source codes, the Plants Committee has agreed to use letter Y as the source to indicate the specimens derived from assisted production plants.
4. The Plants Committee noted that Resolutions Conf. 16.10, Conf. 12.3 and Conf. 12.8 and possibly others, including the CITES glossary may need to be revised. The Plants Committee requested the Secretariat to analyze the Resolutions for any consequential changes.
5. The Plants Committee agreed that various provisions for artificial propagation found in Resolution Conf. 10.13 and Resolution Conf. 16.10 provided clarity and did not propose consolidation into a single Resolution. The issue could be addressed with better cross-referencing in Resolution Conf. 11.11 (Rev. CoP17) and information included in the guidance document.
6. The Plants Committee noted that Paragraph 4b) iii) in Resolution Conf. 11.11 requires a portion of collected seeds to be replanted in the wild. There are situations where this may not be appropriate, hence this paragraph requires further review.

The Plants Committee recommended that the Standing Committee propose to the Conference of the Parties the inclusion of a new source code Y in Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* and agreed to convey to the Standing Committee the suggestion that source code Y reads as follows:

- Y specimens of plants that fulfil the definition for ‘assisted production’ in Resolution Conf. 11.11 (Rev. CoP18) as well as parts and derivatives thereof

Conf. 11.11 (Rev. CoP1X)^{1*}

Regulation of trade in plants

Proposed revised Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants. Proposed new language is underlined and deleted text is indicated with ~~strikethrough~~.

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 that there are plant species that are propagated and grown in diverse production systems with various degrees of human intervention, that may have different levels of impact on wild populations;

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;

¹ 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;

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)²
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, for populations of Appendix-I listed species, 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 propagules~~ 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 propagules~~;
 - iii) the relevant Management Authority of that range State has determined that the collection of ~~seeds or spores propagules~~ 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:

² 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 ~~seeds or spores propagules~~ was not detrimental to the survival of the species in the wild, based on a non-detriment finding, in accordance with Article III of the Convention; 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 ~~seeds or spores propagules~~ 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 propagules~~ and thus reduce or eliminate the need to collect ~~seeds or spores propagules~~ 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
- 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*;

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 'plant obtained through assisted production' ('assisted production')

X1. ADOPTS the following definition for the terms used in this Resolution:

- a) 'assisted production' shall be used to refer to plants that:
- i) do not comply with 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) propagation material for 'assisted production' plant 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.

X2. AGREES that, for trade in specimens from 'assisted production' plants of species included in the Appendices, the provisions of Articles III, IV and V of the Convention shall continue to apply, in particular including:

- a) A Management Authority of the State of export is satisfied that the specimen to be exported was not obtained in contravention of the laws of the State for the protection of the species; and
- b) A Scientific Authority of the State of export has advised that the export will not be detrimental to the survival of the species.³

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

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

³ This does not apply for Appendix III species.

- 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*.