

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

Species specific matters

Maintenance of the Appendices

Annotations

REPORT OF THE WORKING GROUP

1. This document has been submitted by Canada as Chair of the Standing Committee working group on annotations.\*

Background

2. At the 17th meeting of the Conference of the Parties (Johannesburg, 2016), the Conference of the Parties adopted Decisions 16.162 (Rev. CoP17) to 16.163 (Rev. CoP17) related to Annotations, as follows:

***Directed to the Standing Committee, Animals Committee, Plants Committee***

16.162 *The Standing Committee shall re-establish the working group on annotations, in close collaboration with the Animals and Plants Committees, recognizing that the Animals and Plants Committees are an important source of expertise and advice to Parties on such scientific and technical issues. The group shall include, but not be limited to, members from the Standing Committee, Animals Committee, Plants Committee, observer Parties, CITES Management and Scientific Authorities, enforcement authorities, including customs, and industry representatives. The Standing Committee shall particularly endeavour to ensure balanced representation of importing and exporting Parties. The terms of reference for the working group shall be:*

- a) *to further consider procedures for crafting annotations and develop recommendations for improving them;*
- b) *to evaluate and address issues related to the drafting, interpretation and implementation of annotations, and assist Parties in drafting future annotations, drawing on appropriate expertise from within and outside its membership;*
- c) *to conduct any relevant additional work on evaluating the existing annotations for plant taxa listed in Appendices II and III, with an emphasis on ensuring that such annotations are clear as to the types of specimens to be covered by a listing, can be readily implemented, and focus on those parts and derivatives primarily exported from the range*

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\* *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.*

*States and those commodities that dominate the trade in and demand for the wild resource;*

- d) *based on the results of the timber trade study directed to the Secretariat in Decision 15.35 (Rev. CoP16), to review the existing annotations for tree species and, if appropriate, draft amendments to those annotations and prepare clear definitions for the terms used in the annotations in order to facilitate their use and understanding by CITES authorities, enforcement officers, exporters and importers;*
- e) *in close collaboration with ongoing efforts in the Plants Committee, to continue reviewing the appropriateness and practical implementation of the annotation(s) of the agarwood-producing taxa (Aquilaria spp. and Gyrinops spp.), taking into consideration the previous work done by the range and consumer States of these species;*
- f) *to review outstanding implementation challenges resulting from the listings of Aniba rosaeodora and Bulnesia sarmientoi in the Appendices, particularly concerning trade in extracts, and propose appropriate solutions;*
- g) *to draft definitions of terms included in annotations, in cases where the terms are not easily understood or where there has been difficulty in implementing the listing as a result of confusion about what commodities are covered, and submit them to the Standing Committee for adoption by the Conference of the Parties and subsequent inclusion in the Interpretation section of the Appendices;*
- h) *to conduct any work related to annotations directed to it by the Conference of the Parties, the Standing, Animals or Plants Committee; and*
- i) *to prepare reports on progress made in addressing the issues tasked to it and submit them for consideration at the 69th and 70th meetings of the Standing Committee.*

#### **Directed to the Parties**

16.163 *At its 18th meeting, the Conference of the Parties shall review the report submitted by the Standing Committee on the outcomes of the work undertaken by its working group on annotations called for in Decision 16.162 (Rev. CoP17) and evaluate the need for continuing such a working group.*

#### Composition of the working group

3. The Standing Committee established the intersessional working group at its 69th meeting (SC69; Geneva 2017), comprising Parties and Non-Party observers as follows:

Chair: Canada

SC Member: Chair of the Standing Committee (Ms. Caceres).

PC Members: Chair of the Plants Committee (Ms. Sinclair), PC Representatives and Alternate Representatives for Africa (Ms. Koumba Pambo, Mr. Mahamane, Ms. Khayota), Asia (Mr. Lee), Central and South America and the Caribbean (Ms. Coradin), Europe (Mr. Carmo, Ms. Moser), North America (Ms. Osorno), Oceania (Mr. Leach).

Parties: Canada, Argentina, Australia, Belgium, Brazil, China, Democratic Republic of the Congo, Denmark, European Union, France, Gabon, Germany, Guatemala, Italy, Japan, Kuwait, Mexico, Namibia, Netherlands, Portugal, Republic of Korea, Russian Federation, South Africa, Spain, Sweden, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, and Zimbabwe;

IGOs and NGOs: Association Technique International des Bois Tropicaux, C.F. Martin & Co., Inc., Center for International Environmental Law, Chambre Syndicale de la Factice Instrumentale, Confédération des Industries Musicales Européennes, Environmental Investigation Agency – UK, Fender Musical Instruments Corp., Forest Based Solutions, Llc., Humane Society International, International Association of Violin and Bow Makers, International

Wood Products Association, IWMC World Conservation Trust, League of American Orchestras, Lewis & Clark – International Environmental Law Project, Madinter Trade, S.L., Species Survival Network, Taylor Guitars, TRAFFIC, World Resources Institute, and World Wildlife Fund.

5. Immediately following SC69, the working group began discussions by email. The working group identified Annotation #15, adopted at CoP17 with proposals CoP17 Prop. 55 (Include the genus *Dalbergia* in CITES Appendix II with exception to the species included in Appendix I) and CoP17 Prop. 56 (Include *Guibourtia tessmannii*, *Guibourtia pellegriniana* and *Guibourtia demeusei* in Appendix II) as its first priority for discussion, under subparagraph c) of its terms of reference.

#### Working group discussion and conclusions

Concerning Terms of Reference *Part a) to further consider procedures for crafting annotations and develop recommendations for improving them:*

6. Discussions of the working group focused on the existing guidance contained in Resolution 11.21 (Rev. CoP17) *Use of annotations in Appendices I and II*, and on the principles to be followed when drafting annotations for plants (i.e.) that controls should concentrate on those commodities that first appear in international trade as exports from range States; these may range from crude to processed material; and that controls should include only those commodities that dominate the trade and the demand for the wild resource.
7. The working group agreed that to the extent possible, annotations for plant species should include or exclude only parts and derivatives, to assist customs and enforcement officials in objectively interpreting and applying annotations. Conversely, the inclusion in annotations of external considerations such as the status in trade of a specimen or shipment, or of thresholds defined by weight or volume that affect the application of an annotation to a part or derivative, require subjective evaluation and are likely to create uncertainty with regard to their interpretation and application.
8. A fundamental requirement for generating effective recommendations for the crafting and improvement of annotations is a clear understanding of the intent of the Parties when drafting or adopting an annotation linked to a listing proposal, and, post-adoption, of the perception of Parties as to the conservation impact and regulatory effectiveness of the annotation. Absent a clear articulation by exporting Parties (who bear greatest regulatory burden for commodities that first appear in international trade as exports) of the intention of a proposed listing and of the scope of the listing required to achieve the desired conservation benefit, the improvement of annotations and procedures for crafting them cannot be adequately informed.
9. The working group recognized the importance of active participation by range States for species for which relevant annotations are under consideration in any discussions concerning the implementation and possible future amendment of the annotations. In this regard, the working group agrees with the point made in Plants Committee document PC24 Doc. 21 (African Tree Species), paragraph 18 f, where it is noted that it would be useful to invite range States of the *Guibourtia* species listed in Appendix II to share information about products exported under CITES with a view to informing on-going discussions as to the potential need to revise Annotation #15 at the 18th meeting of the Conference of the Parties (CoP18; Colombo, 2019).
10. The working group has proposed revisions to Resolution 11.21 (contained in Annex 1 of this report) relevant to these conclusions.

Concerning Terms of Reference *Part b) evaluate and address issues related to the drafting, interpretation and implementation of annotations, and assist Parties in drafting future annotations, drawing on appropriate expertise from within and outside its membership:*

11. In its deliberations, the working group reviewed and endorsed a proposal drafted by Switzerland to amend Annotation #16 “Seeds, fruits, oils and live plants”, adopted at the 17th meeting of the Conference of the Parties (Johannesburg, 2016) with the listing of *Adansonia grandidieri* in Appendix II by deleting reference to live plants. The amended annotation would read: “Seeds, fruits and oils”. This revision is consistent with the guidance contained in Resolution Conf. 11.21 (Rev. CoP17), where it states in the preamble that, “an annotated listing of an animal or plant species in any of the three Appendices always includes the whole live or dead animal or plant, as well as any specimen specified in the annotation”. In the course of that discussion, it was noted that the language contained in the Interpretation section of the CITES Appendices at paragraph 7 should be revised to emphasize and clarify the concept that the whole live or dead plant or animal is always

included with a listing in the Appendices, in addition to any parts or derivatives specified in an annotation. Accordingly, the working group agreed to propose a revision to paragraph 7 of the Appendices as follows:

When a species is included in one of the Appendices, *the whole live or dead animal or plant is included. In addition, for animal species listed in Appendix III and plant species listed in Appendix II or III*, all parts and derivatives of the species are also included in the same Appendix unless the species is annotated to indicate that only specific parts and derivatives are included. The symbol # followed by a number placed against the name of a species or higher taxon included in Appendix II or III refers to a footnote that indicates the parts or derivatives of plants that are designated as 'specimens' subject to the provisions of the Convention in accordance with Article I, paragraph (b), subparagraph (ii) or (iii).

Concerning Terms of Reference *Part c) conduct any relevant additional work on evaluating the existing annotations for plant taxa listed in Appendices II and III, with an emphasis on ensuring that such annotations are clear as to the types of specimens to be covered by a listing, can be readily implemented, and focus on those parts and derivatives primarily exported from the range States and those commodities that dominate the trade in and demand for the wild resource:*

12. The working group has discussed, at length, Annotation #15 in its current form, and the challenges to implementation, interpretation, and regulation the annotation has generated. Members agreed to explore options for amending or replacing the annotation, with attention to specimens that initially appear in international trade, and to eliminating the administrative and enforcement burden generated through regulation of finished musical instruments and cross-border movement of musical instruments containing rosewood (*Dalbergia* spp.).
13. Many working group members expressed uncertainty about the effects of adopting or revising Annotation #15, citing a lack of current information regarding chain of supply for manufacture of products in trade that include *Dalbergia* spp. and *Guibourtia tessmannii*, *G. pellegriniana* and *G. demeusei*, and the potential loss of insight into the movement of manufactured products in international trade that might occur should the scope of finished products the annotation includes be altered. The limited input of range and exporting Parties as to the intent and the effectiveness of Annotation #15 was also seen as an impediment to informed discussion, and to making decisions about potential revisions to the annotation. An additional consideration was that imports of finished *Dalbergia* and *Guibourtia* products directly from range States (including, for example, small handicrafts, knives, garden tools, eyeglass frames walking sticks, etc.) are reported by several Parties, further complicating the recommended approach to annotations for plants of focusing on first commodities in trade from the range States.
14. Ultimately, the working group has narrowed its focus to two potential approaches for addressing paragraphs a) and b) of Annotation #15.

#### Approach 1:

This approach involves revision of the existing annotation, while eliminating what were perceived as its most problematic elements. The approach retains a weight limit for excluding finished products to a given size (to be determined) and expressly excludes finished musical instruments. The proposed annotation is as follows:

#### **Annotation #X**

*All parts and derivatives are included, except:*

- a) *Leaves, flowers, pollen, fruits, and seeds;*
- b) *Finished products to a maximum weight of wood of the listed species of [X] kg, and*
- c) *Finished musical instruments and accessories.*

The working group suggests that the term "musical instruments" could be defined by Harmonized System Code Chapter 92 Musical Instruments; parts and accessories of such articles. In addition, some working group members suggested it may be useful to include reference to additional headings, such as 9705 (Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest) and 9706 (Antiques of an age exceeding 100 years).

The draft annotation has the advantage of excluding small finished products and musical instruments, but the disadvantage of retaining some elements of Annotation #15 thought to have generated regulatory and permitting burdens for permit-issuing authorities and customs and enforcement officials that followed the annotation's adoption. The working group notes that exemption from CITES controls of a commodity (musical instruments) may create a precedent for CITES, the conservation impact of which would likely require additional consideration by the Plants and Standing Committees.

The working group has incorporated in its deliberations the interpretative guidance for definitions conveyed in notification to Parties No. 2017/078, Agreed interim definitions of the terms used in paragraph b) of annotation #15. Some members of the working group expressed a preference for retaining application of the annotation to commercial, but not non-commercial trade in finished products, with the term "non-commercial" defined alternately, as follows:

b) *Non-commercial exports of a maximum total weight of 10 kg. per shipment;*

The following transactions should be considered "non-commercial":

*The cross-border movement of items (such as musical instruments)*

- a) *for purposes including, but not limited to, personal use, paid or unpaid performance, display, or competition (e.g., on a temporary exhibition), and*
- b) *when such cross-border movement will not lead to the sale of the item, and*
- c) *is retained in the country of import by pre-arranged agreement with the Management Authority of the exporting country and solely for the purposes in paragraph (a).*

However, other working group members noted that this definition, similarly to the definition adopted by the Standing Committee at SC69 as an interim measure to address immediate implementation challenges associated with Annotation #15, does not conform to definitions of the scope of "non-commercial" as defined by some Parties, which consider commercial activities to cover those that will result in economic benefit or gain, whether in case or in kind.

#### Approach 2:

This approach would replace Annotation #15 with a new annotation that includes primary wood products, transformed wood products and, reflecting concerns of many, but not all working group members, furniture. The proposed annotation is as follows:

***Annotation #X*** *Logs, sawn wood, veneer sheets, plywood, transformed wood, and furniture.*

The working group suggests that transformed wood could be defined by Harmonized System Code HS 4409 and furniture be defined by HS codes 4420, 9401 and 9403. (Descriptions of Harmonized System Codes cited are included in Annex 3 of the present document).

The draft approach has the advantage of focusing on commodities that first appear in trade and on the commodity, furniture, which was perceived to have the greatest risk to conservation of the *Dalbergia* and *Guibourtia* species that were included in Appendix II with Annotation #15. The approach has the disadvantage of including derivatives that may not be the first in trade and may be traded by non-range States. The approach has also the disadvantage of excluding a large number of other types of finished products which may have conservation impacts beyond furniture.

Several members of the working group do not support inclusion of furniture in the draft annotation, and prefer that the annotation focus strictly on control of international trade in raw wood and semi-finished products. Those members believe that a narrow focus on raw wood and semi-finished products will produce the greatest conservation benefit for the species involved, and that finished products, in particular musical instruments and furniture, are derivatives that do not appear first in international trade, are exported largely from non-range States, and so should be exempt from CITES provisions.

To address concerns that an annotation focused on raw and semi-finished products might not be sufficiently protective of the potential range of commodities in trade, it was suggested that a procedure to review any revised annotation after a specified period of time (perhaps two intersessional CoP periods) could also be

considered. Focused on adaptive management, the procedure would allow comparison of trade and enforcement challenges arising from the revised annotation and comparison with challenges associated with the current Annotation #15, to identify and optimize the list of commodities to be regulated as necessary.

At the time of the drafting of this report, the working group had not arrived at consensus as to which of these approaches (or permutations thereof) should be recommended for consideration by the Standing Committee.

#### Conclusions regarding Annotation #15

15. The working group notes that its deliberations concerning Annotation #15 and the implementation and interpretation challenges associated with it have identified three elements that require consideration for a revised annotation to be effective. The annotation must demonstrate maximum conservation benefit for the species, it must generate better understanding of international trade chains for the listed species and, it must provide relief to implementing customs and enforcement agencies from excessive administrative and enforcement burden. Some members of the working group noted that the annotation proposed in Approach 2 will provide relief to businesses that manufacture finished products from CITES-listed rosewood species, while maintaining a burden on range States and that importing countries, businesses and NGOs may wish to consider providing technical and financial support to range States in ensuring legal and sustainable trade of the species in the long-term.

The two approaches outlined above do not refer to parts c) and d) of the existing Annotation #15 i.e.

- 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.*

From a regulatory perspective, the working group agreed that all *Dalbergia* species currently listed in Appendix II should be annotated similarly. However, the working group acknowledges that range States may adopt measures associated with the trade in their native species as they so choose. Thailand, a range State for *Dalbergia cochinchinensis*, has noted specifically that illegal logging and attempts to illegally export specimens of the species are ongoing challenges and it is therefore necessary to continue to implement Annotations #15 and #4 to control international trade.

#### Discussion Regarding Revision of Annotation #5

16. The working group briefly discussed, and supports a suggestion by Belgium that it would be useful to revise or replace the annotation #5 (Logs, sawn wood and veneer sheets), used for *Pericopsis elata* (which was included in Appendix II at the 8th meeting of the Conference of the Parties (CoP8, Kyoto, 1992) but also covering other timber species), by extending the scope of the annotation to include plywood, as well as transformed wood (as defined by Harmonized System Code 4409). The intent of the revision, as above for the proposed revision to Annotation #15, would be to seek to eliminate circumvention of CITES controls through minor alteration of specimens covered by the current annotation. However, because the working group has not seen text for such a proposal, and because Annotation #5 applies to several other species currently included in Appendices II and III, some members of the working group believe it is premature to support a general revision of the annotation #5, although a revision of the annotation only for *Pericopsis elata* received support. As alternative to the revision of the annotation, some members have suggested stricter application of the definitions provided in Resolution Conf. 10.13 when clearing imports of shipments containing specimens of this species in order to avoid a fraudulent circumvention of CITES controls.

Concerning Terms of Reference *Part d)* based on the results of the timber trade study directed to the Secretariat in Decision 15.35 (Rev. CoP16), review the existing annotations for tree species and, if appropriate, draft amendments to those annotations and prepare clear definitions for the terms used in the annotations in order to facilitate their use and understanding by CITES authorities, enforcement officers, exporters and importers:

17. The working group discussed the timber trade study directed to the Secretariat in Decision 15.35 (Rev. CoP16) and considered whether any available trade data could inform working group discussions concerning amendments to annotations and definitions for terms in annotations. However, with respect to informing a potential revision of Annotation #15, the trade study, as outlined in document PC22 Doc.6.1 *Report of the Secretariat, (Decision 15.35)* addresses few of the timber species in question, does not contain

data likely to reflect current international trade patterns, and is considered by the CITES Secretariat to be preliminary and inconclusive.

18. Several working group members shared analyses of recent trade data (e.g. imports for 2017) for *Dalbergia* and *Guibourtia* species, but those data do not allow conclusions to be extended to global trade patterns. In general, it was agreed that it would be useful to the working group to have access to data describing the *Dalbergia* and *Guibourtia* spp. specimens currently traded internationally, data on the origin (both country and source) of these specimens, and a better picture of manufactured products that are imported directly from range States. The working group also noted that CITES Annual Trade Reports for 2017, as well as the new illegal trade report, are due at the end of October 2018, and the availability of those data in the CITES Trade Database are likely to facilitate analysis of the CoP17 rosewood listings.
19. Trade data, including from CoP17, Proposal 55 (to include the genus *Dalbergia* in CITES Appendix II with exception to the species included in Appendix I), were referenced in working group discussions with a focus on comparing the volume of *Dalbergia* spp. wood used in the manufacture of musical instruments versus the total estimated volume in trade. The purpose of these discussions was to attempt to characterize the impact of semi-finished or finished components of musical instrument components on the sustainability of trade in *Dalbergia* species. The working group noted (*inter alia*), that according to a UNEP-WCMC analysis for the European Union trade, guitars dominated the import of musical instruments, but comparison of the rosewood volumes reported to the total trade volumes presented in document CoP17 Prop. 55 suggests that musical instruments form only a minor part of the total trade of *Dalbergia* spp. References to trade data suggested demand for rosewood species had shifted from the tone wood industry to the production of furniture.
20. With regard to this element of its mandate, the working group concludes that better and more comprehensive trade data that captures the volumes of timber in trade (particularly *Dalbergia* and *Guibourtia* species) and the accompanying trade chains for these commodities are required in order to make informed decisions regarding the drafting or revision of annotations for tree species as well as informing future consideration of listing additional rosewood species in the CITES Appendices. The working group endorses the request made in PC23 Com. 10 (Rev. by Sec.) and in SC69 Doc. 56 *Rosewood timber species, Implementation of Decision 17.234*, for a trade study that would (*inter alia*) compile available data and information to identify information gaps on the biology, population status, management, use and trade in rosewood timber species currently listed in the CITES Appendices and assess the effect of international trade on wild populations of rosewood species listed in Appendix II.
21. The working group also notes that in document SC69 Doc.69, it was reported that as no further results had been reported from the trade study referenced in paragraph d) of Decision 16.162 (Rev. CoP17), the Standing Committee might wish to consider additional studies to characterize commodities of CITES-listed tree species in international trade.
22. The Standing Committee may also wish to consider whether establishment of a mechanism by which the effect of annotations on volumes and patterns of trade could be analysed and evaluated over time would serve to better inform consideration of the effectiveness of annotations and their contribution to species conservation.

Concerning: e) *in close collaboration with ongoing efforts in the Plants Committee, continue reviewing the appropriateness and practical implementation of the annotation(s) of the agarwood-producing taxa (Aquilaria spp. and Gyrinops spp.), taking into consideration the previous work done by the range and consumer States of these species;*

23. The working group has no recommendations to make with regard to this element of its mandate, as no new issues were identified or raised for agarwood-producing taxa. The working group endorses the conclusions of the previous annotation working group in its report to SC69 (document SC66 Doc. 25), at paragraph 38, which noted that production of a comprehensive identification manual for agarwood products, which covers all specimens referenced in Annotation #14, would have a significant positive effect on the ability of Parties to implement the agarwood listings.

Concerning: f) *review outstanding implementation challenges resulting from the listings of Aniba rosaeodora and Bulnesia sarmientoi in the Appendices, particularly concerning trade in extracts, and propose appropriate solutions;*

24. Working group members shared information regarding the interpretation, and an ongoing lack of clarity about the term “extract” in relation to both species. Consideration of whether an oil is obtained directly from a specimen of *Bulnesia* wood and is therefore an “extract”, or if it is the product of chemical treatment of materials derived from such oil (significantly altering the chemical composition of the oil, resulting in, for example, an acetate, may provide a criterion for determining the point at which an extract that is subject to the controls of CITES has been transformed into a chemical that no longer qualifies under the definition. The working group concludes that additional input from range States for these species and consultation with qualified chemists and industry researchers will be required to advance this element of the working group mandate. The working group also considered the potential benefit of merging Annotations #11 and #12, which differ only in the inclusion of the term “powder” in annotation #11. However, as the report of the annotation working group to the 65th meeting of the Standing Committee (SC65; Geneva, 2016) document (SC65 Doc.25) at paragraph 41 notes that *Bulnesia sarmientoi* is traded in powder form and *Aniba rosaeodora* is not, the working group believes it remains appropriate to maintain separate annotations for the species.

Concerning Terms of Reference *Part g) draft definitions of terms included in annotations, in cases where the terms are not easily understood or where there has been difficulty in implementing the listing as a result of confusion about what commodities are covered, and submit them to the Standing Committee for adoption by the Conference of the Parties and subsequent inclusion in the Interpretation section of the Appendices:*

25. The working group has focused largely on interpretation of existing definitions rather than suggesting new ones. However, with respect to revision of Annotation #15, the working group believes that if included in a revised Annotation #15, following past practice for wood commodity parts and derivatives in trade, the definition of the terms “transformed wood”, musical instruments” and “furniture” would best be defined using the Harmonized Item Description and Coding System. As the Harmonized Code System is an international standard maintained by the World Customs Organization and familiar to customs and enforcement agencies, it is likely to simplify identification of the commodities and products named in annotations for customs and enforcement agencies. Also following past practice, definitions of wood commodities or other terms, where appropriate, included in any annotation adopted at CoP18 and referring to an HS Code should be placed with existing definitions for parts and derivatives in Resolution 10.13 (Rev. CoP15) *Implementation of the Convention for timber species*, in paragraph 1, c) *Regarding Parts and Derivatives*.

Concerning Terms of Reference *Part h) conduct any work related to annotations directed to it by the Conference of the Parties, the Standing, Animals or Plants Committee:*

26. With regard to annotations for animal species, at the joint session of the 29th meeting of the Animals Committee and 23rd meeting of the Plants Committee (Geneva, 2017) the Animals Committee indicated it did not have any specific issues that it could direct to the working group for consideration following its formal re-establishment at SC69. However, at the joint session of the 30th meeting of the Animals Committee and the 24th meeting of the Plants Committee some Parties indicated they were considering submission of proposals to the next meeting of the Conference of the Parties aimed at development of guidance for annotations for animal species. Regarding annotations for plant species, the working group has incorporated in its deliberations the conclusions of the in-session working group established at the 23rd meeting of the Plants Committee (PC23 Com. 10 (Rev. by Sec.)), the interpretative guidance for definitions conveyed by the Plants Committee to the Standing Committee in Document SC69 Doc. 69.3 regarding the interpretation and implementation of terms in Annotation #15, and included in Notification to Parties No. 2017/078. The working group notes that the interim definitions of certain terms used in paragraph b) of Annotation #15 referenced in the notification were agreed only for the intersessional period between CoP17 and CoP18. In the event the revised annotation retains any of these terms, the guidance on interpretation will also need to be considered by the Conference of the Parties.

#### Recommendations

27. In light of the above, the working group requests that the Standing Committee consider the following matters:

Concerning paragraphs a), b) and c) of the terms of reference contained in Decision 16.162

The Standing Committee may wish to agree that the mandate contained in these three paragraphs regarding issues associated with general principles, ground rules, and guidance were addressed during the two intersessional periods of the working group since CoP16 and duly incorporated into Resolution Conf. 11.21.

The Standing Committee may consider as a follow-up to the work conducted in the implementation of this part of the mandate to recommend to the Conference of the Parties the adoption of a mechanism to conduct a periodic review of the existing annotations and a pre-review or screening process of annotations to be proposed for consideration at future meetings of the Conference of the Parties, to ensure a consistent and harmonized implementation of the guidance provided in Resolution Conf. 11.21.

Concerning paragraph d) of the terms of reference contained in Decision 16.162

The Standing Committee may wish to recognize the challenges associated with conducting timber trade studies and explore, as an alternative, the feasibility of developing an information system to process all relevant trade data related to trade transactions in specimens of CITES-listed tree species authorized under the provisions of the Convention.

Concerning Annotation #15

- i) The Standing Committee is invited to consider the two options identified for the revision or replacement of Annotation #15 and, depending on its assessment, provide guidance on the possible way forward;
- ii) Depending on the guidance provided, the Standing Committee is invited to consider the identification of any new Harmonized System code-based definitions to be included in Resolution Conf. 10.13 (Rev. CoP15) *Implementation of the Convention for timber species*; and the interim definitions of terms used in paragraph b) of Annotation #15 agreed to for the intersessional period between CoP17 and CoP18 identified in Notification to Parties No. 2017/078, in the event they need to be retained after CoP18.

Concerning the annotation applying to *Pericopsis elata*

28. The Standing Committee is invited to discuss the proposed amendment to Annotation #5 for *Pericopsis elata* as described in paragraph 16 of the present document and provide assistance to interested Parties in identifying solutions, including the potential drafting of an amendment for consideration at CoP18.

Concerning Amendments Proposed by the Working Group

29. The working group also recommends that the Standing Committee endorse the proposed amendments to Resolutions Conf. 11.21 included in Annex 1 to the present document and the proposed amendments to the Interpretation section of the CITES Appendices included in Annex 2 to the present document, and ask the Secretariat to submit a document to CoP18 proposing that the Parties adopt the amendments.

**Resolution Conf. 11.21 (Rev. CoP17)\* –  
Use of Annotations in Appendices I and II**

RECOGNIZING that annotations are increasingly used in the Appendices for a number of purposes;

AWARE that certain types of annotations are for reference only, whereas others are substantive and are intended to define the scope of the inclusion of a species;

CONSIDERING that the Parties have developed specific procedures for transfer, reporting and review for certain special cases of amendment of the Appendices, such as those relating to ranching, quotas, certain parts and derivatives, and trade regimes;

AWARE also that certain types of annotations are an integral part of a species listing, and that any proposal to introduce, amend or delete such an annotation must follow the provisions of Resolution Conf. 9.24 (Rev. CoP17), adopted by the Conference of the Parties at its ninth meeting (Fort Lauderdale, 1994) and amended at its 12th, 13th, 14th, 15th, 16th and 17th meetings (Santiago, 2002; Bangkok, 2004; The Hague, 2007; Doha, 2010; Bangkok, 2013; Johannesburg, 2016);

RECALLING that an annotated listing of an animal or plant species in any of the three Appendices always includes the whole live or dead animal or plant, as well as any specimen specified in the annotation;

RECALLING further that the Conference of the Parties had agreed at its second and fourth meetings that a listing of a plant species in Appendix II or Appendix III, and an animal species in Appendix III, without an annotation should be interpreted as including the whole live or dead animal or plant and all readily recognizable parts and derivatives, and that this view has not been changed by any subsequent decision of the Conference of the Parties;

CONSCIOUS that criteria for the submission of proposals to amend the Appendices that include annotations, and procedures for reviewing the implementation of such annotations, need to be clearly defined to avoid implementation and enforcement problems; and

RECOGNIZING that the Parties have adopted a number of definitions of terms and expressions in annotations, and that those definitions are included in several Resolutions [and in the Interpretation section of the Appendices](#);

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. AGREES that:

- a) the following are reference annotations and are for information purposes only:
  - i) annotations to indicate that one or more geographically separate populations, subspecies or species of the annotated taxon are in another Appendix;
  - ii) the annotations 'possibly extinct'; and
  - iii) annotations relating to nomenclature;
- b) the following are substantive annotations, and are integral parts of species listings:
  - i) annotations that specify the inclusion or exclusion of designated geographically separate populations, subspecies, species, groups of species, or higher taxa, which may include export quotas; and

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\* Amended at the 13th, 14th, 15th, 16th and 17th meetings of the Conference of the Parties.

- ii) annotations that specify the types of specimens or export quotas;
  - c) reference annotations may be introduced, amended or deleted by the Conference of the Parties, or by the Secretariat, as required, to facilitate the understanding of the Appendices;
  - d) substantive annotations relating to species in Appendix I or II may be introduced, amended or deleted only by the Conference of the Parties in accordance with Article XV of the Convention;
  - e) substantive annotations relating to species in Appendix III may be introduced, amended or deleted only by the Party or Parties that submitted the species for inclusion in Appendix III;
  - f) substantive annotations relating to geographically separate populations in Appendix I or II should be in compliance with the split-listing provisions contained in Resolution Conf. 9.24 (Rev. CoP17) Annex 3; and
  - g) substantive annotations used in the context of transferring a species from Appendix I to Appendix II should be in compliance with the precautionary measures contained in Resolution Conf. 9.24 (Rev. CoP17) Annex 4;
2. AGREES that no proposal for transfer of a species from Appendix I to Appendix II subject to an annotation relating to specified types of specimens shall be considered from a Party that has entered a reservation for the species in question, unless that Party has agreed to remove the reservation within 90 days of the adoption of the amendment;
3. AGREES that a proposal to include a plant species in Appendix II, or to transfer a plant species from Appendix I to Appendix II, shall be interpreted to include **the whole, live or dead plant and** all readily recognizable parts and derivatives if the proposal does not include an annotation specifying the types of specimens to be included;
4. AGREES further that, for a plant species included in Appendix II or Appendix III, and an animal species included in Appendix III, the absence of an annotation relating to that species shall indicate that all readily recognizable parts and derivatives are included;
5. ENCOURAGES Parties, when considering proposing the inclusion of a species in the Appendices with a substantive annotation, to take into account the following:
- a) an inclusionary annotation, which specifies the types of specimens to be included under the listing, should be used in cases where only a few types of specimens need to be included under the listing;
  - b) an exclusionary annotation, which specifies the types of specimens to be excluded from the listing, should be used where only a few types of specimens need to be excluded from the listing;
  - c) an annotation that is a combination of inclusionary and exclusionary language, which specifies the types of specimens to be excluded from the listing, but also references a subset of those types of specimens that are excepted from the exclusion, or which specifies the types of specimens to be included in the listing, but also references a subset of those types of specimens to be excluded, should be used as circumstances dictate; and
  - d) an annotation may not be necessary in cases where there is a risk to wild populations of the species from many types of specimens in trade or where the types of specimens in trade are easily transformed, likely to change frequently, or likely to change over time;
6. RECOMMENDS the following guidance and principles for annotations:
- a) Parties submitting proposals that contain substantive annotations:
    - i) ensure that the text is clear and unambiguous in the three working languages of the Convention;
    - ii) consider the conservation impact of excluding certain specimens from CITES provisions; and
    - iii) consider the enforceability of the annotations;

- b) two main principles be followed as standard guidance when drafting annotations for plants:
    - i) controls should concentrate on those commodities that first appear in international trade as exports from range States; these may range from crude to processed material; and
    - ii) controls should include only those commodities that dominate the trade and the demand for the wild resource;
  - c) if a proposed annotation relates to specified types of specimens, the applicable provisions of the Convention for import, export and re-export of each type of specimen should be specified;
  - d) as a general rule, Parties avoid making proposals to adopt annotations that include live animals or trophies; and
  - e) annotations that specify the types of specimens included in the Appendices should be used sparingly, as their implementation is particularly challenging, especially where there are identification problems or where the purpose of trade has been specified;
  - f) elements of an annotation should, whenever practicable, focus on specification of parts and derivatives of the taxon intended to be included in or excluded from the Appendices;
7. URGES Parties submitting proposals that contain substantive annotations to consult with the Secretariat, the Standing Committee and, as appropriate, the Animals Committee or Plants Committee, to ensure that the annotation is appropriate and can be readily implemented;
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;
  - c) the Secretariat to report to the Standing Committee, for at least four years following the adoption of a proposal to transfer species from Appendix I to Appendix II subject to a substantive annotation, any credible information it receives indicating a significant increase in the illegal trade in or poaching of such species; and
  - d) the Standing Committee to investigate any such reports of illegal trade and to take appropriate action to remedy the situation, which may include calling on the Parties to suspend commercial trade in the affected species, or inviting the Depository Government to submit a proposal to amend the annotation or to retransfer the species to Appendix I;
9. AGREES that, for species transferred from Appendix I to II with an annotation specifying that only certain types of specimens are subject to the provisions relating to species in Appendix II, specimens that are not specifically included in the annotation shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly; and
10. RECOMMENDS that the definitions of terms and expressions used in annotations in the Appendices be applied by the Parties.

### Proposed Revision to the CITES Appendices, Interpretation Section, Paragraph 7

When a species is included in one of the Appendices, the whole, live or dead, animal or plant is included. In addition, for animal species listed in Appendix III and plant species listed in Appendix II or III, all parts and derivatives of the species are also included in the same Appendix unless the species is annotated to indicate that only specific parts and derivatives are included. The symbol # followed by a number placed against the name of a species or higher taxon included in Appendix II or III refers to a footnote that indicates the parts or derivatives of animals or plants that are designated as 'specimens' subject to the provisions of the Convention in accordance with Article I, paragraph (b), subparagraph (ii) or (iii).

### Descriptions of Cited Harmonized System Codes

- 4409 Wood (including strips, friezes for parquet flooring, not assembled), continuously shaped (tongued, grooved, v-jointed, beaded or the like) along any edges, ends or faces, whether or not planed, sanded or end-jointed.
- 4420 Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles of wood; statuettes and other ornaments of wood; wooden articles of furniture not falling in chapter 94
- 92 Musical Instruments; Parts and Accessories Of Such Articles
- 9401 Seats (not those of heading no. 9402), whether or not convertible into beds and parts thereof
- 9403 Furniture and parts thereof, not elsewhere classified in chapter 94
- 9705 Collections and collectors' pieces; of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest
- 9706 Antiques; of an age exceeding one hundred years

Source: <https://www.foreign-trade.com/reference/hscodet.htm?cat=15>