

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

Thirteenth meeting of the Conference of the Parties
Bangkok (Thailand), 2-14 October 2004

Interpretation and implementation of the Convention

Trade control and marking issues

PLANT SPECIMENS SUBJECT TO EXEMPTIONS

1. This document has been submitted by Switzerland.

Background

2. Several exemptions allow international trade without permits in live plant specimens of CITES-listed species that would otherwise have to be traded under the provisions of the Convention. Such specimens may be re-exported but in certain cases and at a certain point, they may no longer qualify for the exemption under which they have been traded previously. After specimens no longer qualify for an exemption, it may be impossible to issue a permit in a proper way as there is no previous permit on which it could be based, even if there is evidence of legal acquisition, because an export permit of the country of origin is lacking. Examples of exemptions are given below.
 - a) *In vitro* specimens in sterile containers [annotations #1 b), 2 b), 4 b) and 8 b)]: as soon as specimens are taken from the sterile containers for further cultivation, the qualification for the exemption under which they had been in international trade previously no longer applies.
 - b) Orchidaceae spp. in Appendix II are annotated with a footnote that allows for an exemption of artificially propagated *Phalaenopsis* hybrids under certain conditions, *inter alia* a minimum quantity of 100 specimens per hybrid is required. If such a shipment is divided up into smaller lots outside the country of origin, the specimens no longer qualify for the exemption in case of re-export.
 - c) Cultivars of *Cyclamen persicum* are annotated with a footnote that exempt them from the provisions of CITES, if tubers are not in dormant state, but specimens may eventually become dormant after export.
3. Evidence for the legal origin of specimens has in any case to be provided by applicants for permits. This situation is comparable with issuing certificates for pre-Convention specimens and hence the same principles may apply.
4. Switzerland therefore recommends the revision of Resolutions Conf. 11.11 and Conf. 12.3 as outlined in the Annex.

COMMENTS FROM THE SECRETARIAT

- A. This document clearly shows how difficult it is to trade properly in currently exempted plant specimens of CITES-listed species. The Secretariat supports the proposed amendments to Resolution Conf. 11.11 on Regulation of trade in plants and Resolution Conf. 12.3 on Permits and certificates.
- B. The Secretariat recommends however that the proposed new text for Resolution Conf. 11.11 refer to CITES 'permits or certificates', rather than only to 'permits'.
- C. If the Conference decides to adopt these two new texts, it will also have to specify where exactly they should be inserted.

DRAFT RESOLUTIONS OF THE CONFERENCE OF THE PARTIES

NB: Proposed new text is underlined.

Revision of Resolution Conf. 11.11 on Regulation of trade in plants

To avoid complications with export of specimens that legally entered international trade under exemptions from the provisions of the Convention, the following text is proposed to be included in Resolution Conf. 11.11:

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 for subsequent international trade; and

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

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

Regarding plant specimens in international trade under exemptions

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.

Revision of Resolution Conf. 12.3 on Permits and certificates

It is further proposed to revise the definition of 'country of origin' in Resolution Conf. 12.3, Annex 2 (standard CITES form, instructions and explanations of block 12), and to add to the end of the first sentence:

, except in the case of plant specimens that cease to qualify for an exemption from the provisions of CITES. In such instances, the country of origin is deemed to be the country in which the specimens cease to qualify for the exemption;

Finally, it is proposed to add a corresponding text in Resolution Conf. 12.3, under section II (Regarding export permits and re-export certificates):

AGREES that in the case of plant specimens that cease to qualify for an exemption from the provisions of CITES, under which they were exported from their country of origin, the country of origin is deemed to be the first country in which the specimens cease to qualify for the exemption;

AGREES FURTHER that Parties may in such instances, and if considered useful, add the following text in block 5 of permits: 'Legally imported under an exemption from the provisions of CITES'.