

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

Sixteenth meeting of the Conference of the Parties
Bangkok (Thailand), 3-14 March 2013

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

To delete annotation to the listing of *Aquilaria* spp. and *Gyrinops* spp. in Appendix II, and replace it with a new annotation with new number as follows:

All parts and derivatives, except:

- a) seeds and pollen;
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) fruits;
- d) leaves;
- e) mixed oil containing less than 15% of agarwood oil, attached with labels of following words "Mixed oil containing xx% of agarwood obtained through controlled harvesting and production in collaboration with the CITES Management Authorities of XX (name of the export state) "; samples of the labels and list of relevant exporters should be communicated to the Secretariat by export states and then inform all parties through a notification;
- f) exhausted argawood powder, including compressed powder in all shapes;
- g) finished products packaged and ready for retail trade, this exemption does not apply to beads, prayer beads and carvings.

The difference between the proposed new annotation and the current annotation #4 is shown below. The added words are underlined, while the deleted words were strike out.

All parts and derivatives, except:

- a) seeds ~~(including seedpods of Orchidaceae), spores and pollen (including pollinia). The exemption does not apply to seeds from Cactaceae spp. exported from Mexico, and to seeds from *Beccariophoenix madagascariensis* and *Neodypsis decaryi* exported from Madagascar;~~
- b) seedlings or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;
- c) ~~cut flowers of artificially propagated plants;~~
- d) ~~fruits and parts and derivatives thereof of naturalized or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;~~
- d) leaves;

- e) mixed oil containing less than 15% of agarwood oil, attached with labels of following words "Mixed oil containing xx% of agarwood obtained through controlled harvesting and production in collaboration with the CITES Management Authorities of XX (name of the export state) "; samples of the labels and list of relevant exporters should be communicated to the Secretariat by range states and then inform all parties through a notification stems, flowers, and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Opuntia* subgenus *Opuntia* and *Selenicereus* (Cactaceae); and
- f) exhausted argawood powder, including compressed powder in all shapes;
- ~~f.g) finished products of *Euphorbia antisiphilitica* packaged and ready for retail trade, this exemption does not apply to beads, prayer beads and carvings~~

B. Proponent

China, Kuwait, Indonesia *

C. Supporting statement

1. Taxonomy

- 1.1 Class: Magnoliopsida
- 1.2 Order: Malvales
- 1.3 Family: Thymelaeaceae (Aquilariaceae)
- 1.4 Genus, species or subspecies: *Aquilaria* spp., and *Gyrinops* spp.
- 1.5 Scientific synonyms: N/A
- 1.6 Common names: a-ga-ru, agarwood, agur, alim, aloewood, Bois d'aigle, calambac, eaglewood, gaharu, halim, karas, kareh, kritsanaa, lign-aloes, madera de Agar, mai hom
- 1.7 Code numbers: see the CITES Wiki Identification Manual on the following website: <http://citeswiki.unep-wcmc.org/IdentificationManual/tabid/56/language/en-US/Default.aspx>

2. Overview

The main aim of the proposal is to delete the current annotation #4 to the listing of *Aquilaria* spp. and *Gyrinops* spp. in Appendix II, and replace it with a new annotation with new number. The new annotation will improve the implementation of CITES on these species, to cover the principal commodities in trade and the primary commodities traded from the range States, while exclude the specimens without conservation merits, such as: mixed oil, exhausted powder (including compressed powder in all shapes), and some kinds of finished products packaged and ready for retail trade. This exemption does not apply to patent medicine, beads, prayer beads and carvings.

3. Species characteristics

3.1

At the 9th meeting of the Conference of Parties (CoP9, Fort Lauderdale, 1994), a proposal of India to include *Aquilaria malaccensis* in CITES Appendix II was adopted (CoP9 Prop.115). At the 13th meeting of the Conference of Parties (CoP13, Bangkok, 2004), Indonesia proposed to list *Aquilaria* spp. and *Gyrinops* spp. in CITES Appendix II (CoP13 Prop. 49). After the proposal was

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discussed, the Parties agreed to include *Aquilaria* spp. and *Gyrinops* spp. in CITES Appendix II with annotation #1:

- #1** Designates all parts and derivatives, except:
- a) seeds, spores and pollen (including pollinia);
 - b) seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers; and
 - c) cut flowers of artificially propagated plants;

3.2

At the 15th meeting of the Conference of Parties (Qatar, 2010), the Parties adopted proposal CoP15 Prop. 25 to delete annotations #1 and #4 and replace them both with a new annotation #4. This new annotation #4 includes the listings of *Aquilaria* spp. and *Gyrinops* spp, as follows:

- #4** All parts and derivatives, except:
- a) seeds (including seedpods of Orchidaceae), spores and pollen (including pollinia). The exemption does not apply to seeds from Cactaceae spp. exported from Mexico, and to seeds from *Beccariophoenix madagascariensis* and *Neodypsis decaryi* exported from Madagascar;
 - b) seedlings or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers;
 - c) cut flowers of artificially propagated plants;
 - d) fruits and parts and derivatives thereof of naturalized or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;
 - e) stems, flowers, and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Opuntia* subgenus *Opuntia* and *Selenicereus* (Cactaceae); and
 - f) finished products of *Euphorbia antisiphilitica* packaged and ready for retail trade."

3.3

At CoP14 (the Hague, Netherlands, 2007), the Parties adopted the following Decisions relating to agarwood, of which two were subsequently revised at CoP15 (Qatar, 2010), as well as a new Decision adopted:

Agarwood producing taxa:

Directed to Parties involved in agarwood trade and to the Secretariat

- 14.137 Parties involved in trade in agarwood should, in consultation with the Secretariat, identify funds and produce identification materials for all forms of traded products under CITES control.
- 14.138 (Rev. CoP15) Parties concerned should identify and agree on which agarwood products and quantities should be exempted from CITES controls. Once agreed, Parties concerned should agree which range State will prepare and submit a proposal for amendment of the current annotation for agarwood-producing species to be considered at the 16th meeting of the Conference of the Parties.
- 14.140 Parties involved in agarwood trade shall prepare a glossary with definitions that illustrate the content of the amended annotations, the terms used and their practical application during enforcement and border controls. The Secretariat should facilitate the preparation and production of these materials, and strategies for incorporating

them in training material.

Directed to the Secretariat

14.144 (Rev. CoP15) The Secretariat shall assist in obtaining funding from Parties, intergovernmental and non-governmental organizations, exporters, importers and other stakeholders to support a workshop aimed at strengthening the capacity of Parties to implement agarwood-related Decisions before the 16th meeting of the Conference of the Parties.

15.95 Subject to external funding, the Secretariat shall, in cooperation with the agarwood range States and the Plants Committee, organize a workshop to discuss management of wild and plantation-source agarwood.

3.4

In accordance with these Decisions and supported by external funding, a workshop on 'Implementation of CITES for Agarwood-producing species' was held in Kuwait, 3-6 October 2011 (PC20 Inf.1, PC20 Doc. 15.1). A second Asian Regional Workshop on 'Agarwood: Management of Wild and Plantation-Grown Agarwood' was held in Bangka Tengah, Indonesia 22-24 November, 2011 (PC20 Doc. 17.2.1). More than twenty parties from Asia, Representatives of Asia (China, Indonesia, Kuwait), and Representative Oceania (Australia) of PC participated the workshops. During the Kuwait Workshop, Mr. Manit Jaichagun from Thailand generously contributed his own work on a glossary of agarwood products as the basis of discussion. This glossary includes almost all possible products of agarwood with relevant photos and is a very clear presentation of the products in trade for the non-specialist. The workshop adopted the glossary with amendment, and also discussed which products should be exempted from the Convention and which should not. The Indonesia workshop further discussed the glossary and the scope of products which may be exempted.

3.5

The 20th meeting of the Plants Committee (PC20, Dublin, 2012) established a working group on agarwood to discuss the outcome of these workshops. The working group was co-chaired by the representatives of Asia (Ms Zhou) and Oceania (Mr Leach) and the alternate representative of Asia (Ms Al-Salem). Its members included: the representative of Asia (Mr Partonihardjo), Australia, Belgium, Canada, China, Germany, Indonesia, Italy, Poland, Qatar, Republic of Korea, Malaysia, Saudi Arabia, South Africa, Switzerland, United Republic of Tanzania, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, European Union, Ajmal Perfumes, Assam Agarwood Traders Association. The report of this working group (PC20 WG6 Doc.1) was adopted by the Plants Committee with some amendments.

3.6

At PC20, Ms. ZHOU Zhihua from China, as the representative of Asia, drafted a revised annotation for agarwood producing species, which was based on the current annotation #4. The proposed annotation uses terms included in the above mentioned glossary, and the outcomes of the Kuwait and Indonesia workshops. The annotation was discussed by the working group and plenary as part of document PC20 WG6 Doc.1.

3.7

Different opinions were expressed around the products of mixed oil and exhausted powder during the discussion at PC20. Some people also raise concern about beads, prayer beads, and carvings in the e-mail discussion following PC20.

3.8

The industry believes that mixed oil containing less than 15% of agarwood oil has no conservation merit and should be exempted from the Convention. This idea received support from some Parties.

But it is also argued by others that, since the purpose of CITES annotations is to cover the principal commodities in trade and the primary commodities traded from the range States, it is in doubt whether mix oil with less than 15% of agarwood oil has conservation concern or not. At PC20, the Plants Committee suggested a definition of "Extract": *Any substance obtained directly from plant material by physical or chemical means regardless of the manufacturing process. An extract may be solid (crystals, resin, fine or coarse particles), semi-solid (gums, waxes), or liquid (solutions, tinctures, oil and essential oils). Finished products containing such extracts as ingredients are not considered to be included in this definition.* In accordance with this, mixed oil is a kind of extract. However, the boundary between extract and finished products is still controversial.

3.9

Considering the difficulty of enforcement regarding mix oil,, the proponents suggested the following words: Mixed oil containing less than 15% of agarwood oil, attached with labels of the following words "Mixed oil containing xx% of agarwood obtained through controlled harvesting and production in collaboration with the CITES Management Authorities of XX (name of the export state) ". Similar annotation can be found for *Hoodia* spp. Of course, such exemption relies on the registration and labeling system of export countries. Until now, the label system of *Hoodia* spp. is not in place, while labels for Orchids had been used. So it is suggested that Asian range states establish such a system and communicate the sample of the authorized labels to the Secretariat and then published by a notification. Several suggestions were contributed to facilitate enforcement, including, 1) the label process considers whether there is a need for a "seal" on oil containers to ensure shipments are not adulterated after approval; 2) the balance 85% may be from a list of generally used solvents or some essential oil for which reference can be obtained easily for proper identification; 3) Export countries may register all exporters and communicate the list to Secretariat. The proponents welcome these very helpful suggestions and consider to include them into a resolution regarding agarwood producing species.

3.10

The identification problem of exhausted powder was also questioned by some Parties and organizations. Exhausted agarwood powder is the resulting powder after the distillation and extraction process removes the oil from the agarwood. According to the information from range states and industry, since agarwood is of high value, generally unexhausted powder will be directly traded as powder instead of being compressed into diverse shapes (such as small statues, fragrant prayer-sticks etc.) typical of exhausted powder. The color of unexhausted powder is near black while the exhausted powder is lighter in color. So it can be readily identified by visual appearance and odor. Some people suggest include these characteristics into the annotation. Some raised concern about the possibility of making non-exhausted powder into shapes to circumvent CITES regulations.

3.11

Since beads, prayer beads, and carvings play an important role among all agarwood products and had some conservation concern if they are made from wild harvested agarwood, the proponents prefer these products to be controlled by the Convention. The 20th meeting of the Plants Committee suggested following definition of "Finished product packaged and ready for retail trade": *Products, shipped singly or in bulk, requiring no further processing, packaged, labeled for final use or the retail trade in a state fit for being sold to or used by the general public.* In accordance with this, the beads, prayer beads, and carvings, generally packaged for retail trade, will be considered as "Finished product packaged and ready for retail trade". Paragraph g) of proposed annotation clarified this position. It is suggested that the Resolution Conf. 13.7 (Rev. CoP14), *Control of trade in personal and household effects*, to be revised accordingly to exempt certain quantity of such products for personal purpose.

3.12

Some people also suggested avoid a "double exemption" based on their experience with annotations. The proponents fully agree with this opinion and looking forward for inspiring suggestions in the interest of simplifying annotations and their interpretation.

3.13

The document CoP16. Doc. XX regarding agarwood producing species is explicitly linked with this document. According to the suggestion of PC20, Parties interested in this issue will compile and publish a brochure to help enforcement officials for implementing the proposed annotation.

4. Consultations

4.1

As mentioned above, the annotation amendment was proposed in accordance with the outcome of two workshops, which invited more than twenty Asian countries. And then it was discussed during PC20. Three drafts of this document were delivered on 19 June, 5 July, and 1 August 2012 to all members of the agarwood working group of PC, and participants of two workshops. Responses were received from the Oceania Representative of PC (Dr. Leach), Canada, Germany, Indonesia, Kuwait, Switzerland, Thailand, UAE, UK, the USA, and the Secretariat. The proponents also invited comments from Parties informally during the 62nd meeting of the Standing Committee. The proponents found the discussion very helpful and fruitful, and would like to express their sincere thanks to all of them.

4.2

The document was revised accordingly, aiming to combine all comments as much as possible. However, since it was difficult to make sure that Parties or representatives who participated in the e-mail discussion had reached consensus, the proponents are eagerly looking forward to further discussion during the 16th meeting of the Conference of Parties of CITES.

5. Conclusions

5.1

The proponents invite the 16th meeting of the Conference of Parties of CITES to consider and adopt the proposal.

6. Additional remarks

None

7. References

7.1

For further information, please refer to document PC20 Inf.1, PC20 Doc. 15.1, PC20 Doc. 17.2.1, PC20 WG6 Doc.1 of CITES.