

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

Seventeenth meeting of the Conference of the Parties  
Johannesburg (South Africa), 24 September – 5 October 2016

**Committee II**Annotations

## DRAFT AMENDMENTS TO DECISIONS AND TO RESOLUTIONS ON ANNOTATIONS

*This document has been prepared by the Secretariat, on the basis of document CoP17 Doc. 83.1 and 83.2, after discussion and agreement in the eleventh session of Committee II (see document CoP17 Com. II Rec. 11).*

Proposed amendments to Decisions 16.162 and 16.163 regarding Annotations***Directed to the Standing Committee, in cooperation with the Animals Committee and the Plants Committee***

16.162 1. The Standing Committee shall re-establish the working group on annotations, in close (Rev.CoP17) 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 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.
2. The Standing Committee shall report to the 18th meeting of the Conference of the Parties on the implementation of this Decision, propose amendments to Resolutions and Decisions as necessary, and request the Depositary Government to make any proposals to amend the Appendices as appropriate.

***Directed to the Parties***

16.163 (Rev. CoP17)

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.

**Amend subparagraph d) under “ESTABLISHES” in the operative section of the Resolution as follows:**

- d) if the proposal includes an annotation, the recommendations should specifically cover:
  - i) the appropriateness of the proposed annotation with regard to those specimens that first appear in international trade as exports from range States and that dominate the trade and the demand for the wild resource;
  - ii) any potential problems in implementing the proposed annotation; and
  - iii) whether the proposed annotation is harmonized with existing annotations.

Proposed amendments to Resolution Conf. 9.24 (Rev. CoP16)  
on Criteria for amendment of Appendices I and II

**1. Amend the fourth “RESOLVES” in the operative section of the Resolution as follows:**

RESOLVES that annotations to proposals to amend Appendix I or Appendix II should be made in accordance with the applicable Resolutions of the Conference of the Parties, be specific and accurate as to which parts and derivatives are covered by the Convention, include those specimens that first appear in international trade as exports from range States and that dominate the trade and the demand from the wild resource, and should, to the extent possible, be harmonized with existing annotations;

**2. Amend Annex 6 on *Format for proposals to amend the Appendices, section A, paragraph under “Annotations”* as follows:**

If a specific annotation to the listing in the Appendices is proposed, the proponent should:

- ensure that the proposed annotation is in compliance with the applicable Resolutions;
- indicate the practical intent of the annotation;
- be specific and accurate as to the parts and derivatives to be covered by the annotation;
- provide clear and simple definitions of any terms in the annotation that may not be easily understood by enforcement personnel and user groups (noting that definitions should be specific to CITES and scientifically and technically precise to the extent practicable for purposes of the annotation);
- ensure that the annotation includes those specimens that first appear in international trade as exports from range States and that dominate the trade and the demand from the wild resource;
- harmonize, to the extent practicable, new annotations with existing annotations; and
- where applicable, provide identification sheets to be included in the CITES Identification Manual that illustrate the parts and derivatives covered under the annotation.

Proposed amendments to Resolution Conf 9.25 (Rev. CoP16)  
on *Inclusion of species in Appendix III*

**Amend the second “RECOMMENDS” in the operative section of the Resolution as follows:**

- d) after due consultation, and having satisfied itself that the biological status and trade status of the species justify the action, submit to the Secretariat the name of the species it wishes to include in Appendix III;
- e) ensure that its request to include a species in Appendix III specifies which readily recognizable parts and derivatives are to be included unless it intends to include all readily recognizable parts and derivatives;
- f) ensure that any proposed annotation that is part of a request to include a species in Appendix III includes those specimens that first appear in international trade as exports from its territory and that dominate the trade and the demand for the wild resource and is, to the extent practicable, harmonized with relevant existing annotations; and
- g) consult with the Secretariat, the Standing Committee and, as appropriate, the Animals Committee or Plants Committee, to ensure that any proposed annotation that is part of a request to include a species in Appendix III (and any definitions developed that define terms in the annotation, as appropriate) is clear and unambiguous, and likely to be understood by enforcement personnel and user groups;

Proposed Amendments to Resolution Conf. 11.21 (Rev. CoP16)  
on Use of Annotations in Appendices I and II

**USE OF ANNOTATIONS IN THE APPENDICES**

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. CoP16), adopted by the Conference of the Parties at its ninth meeting (Fort Lauderdale, 1994) and amended at its 12th, 13th, 14th, 15th and 16th meetings (Santiago, 2002; Bangkok, 2004; The Hague, 2007; Doha, 2010; Bangkok, 2013);

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;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

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
  - 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. CoP16) 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. CoP16) Annex 4;

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;

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 all readily recognizable parts and derivatives if the proposal does not include an annotation specifying the types of specimens to be included;

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;

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;

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.

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;

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 Depositary Government to submit a proposal to amend the annotation or to retransfer the species to Appendix I; and

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.