

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



Eighteenth meeting of the Conference of the Parties
Colombo (Sri Lanka), 23 May – 3 June 2019

Species-specific matters

Maintenance of the Appendices

ANNOTATIONS

1. This document has been submitted by the Standing Committee.*

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) on *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 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*

* *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.*

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.

3. At its 68th meeting (Johannesburg, 2016), the Standing Committee agreed that Canada and Namibia would lead on the issue of annotations. In February 2017, the Chairs of the working group were directed to engage members of the previous Standing Committee Annotations Working Group in advance of the 69th meeting of the Standing Committee (SC69, Geneva, 2017), to continue discussions relating to the work included in the working group terms of reference contained in Decision 16.162 (Rev. CoP17). The ad hoc working group met informally on the margins of the 23rd meeting of the Plants Committee (PC23; Geneva, 2017) and, at SC69, submitted a report on progress of its discussions, and recommendations for the Standing Committee's consideration. These recommendations can be found in Document SC69 Doc. 69.1.
4. At the 69th meeting of the Standing Committee (SC69, Geneva, November 2017) the Working Group on Annotations was formally established, comprising Party 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 Internationale 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. At the 70th meeting of the Standing Committee (Sochi, 2018) Canada, as Chair of the Working Group on Annotations, submitted Document SC70 Doc.67.1, which contained recommendations for the Standing Committee, as follows:

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

The Standing Committee was asked 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 following CoP16 and duly incorporated into Resolution Conf. 11.21.

Additionally, the Standing Committee was asked to 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 was asked to recognize the challenges associated with conducting timber trade studies and to 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 was invited to consider two options, as identified in Document SC70 Doc.67.1, for the revision or replacement of Annotation #15 and, depending on the Committee's assessment, to provide guidance on a possible way forward;
- ii) Depending on the guidance provided, the Standing Committee was 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*

The Standing Committee was invited to discuss the proposed amendment to Annotation #5 for *Pericopsis elata* as described in paragraph 16 of Document SC70 Doc.67.1, 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

The Standing Committee was asked to 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 to ask the Secretariat to submit a document to CoP18 proposing that the Parties adopt the amendments.

6. The Standing Committee's decisions in response to the recommendations contained in the report of the Working Group on Annotations are reflected in the relevant summary record (SC70 Sum 6 (Rev. 1)) and were as follows:

*The Standing Committee noted the general support for the proposed amendment to Annotation #5 for *Pericopsis elata* as described in paragraph 16 of document SC70 Doc. 67.1 and invited interested Parties to draft an amendment for consideration at CoP18, if they so wish.*

- a) *The Standing Committee agreed to submit to the Conference of the Parties the proposed amendments to Resolution Conf. 11.21 (Rev. CoP17) included in Annex 1 to document SC70 Doc. 67, the proposed amendments to the Interpretation section of the CITES Appendices included in Annex 2 to document SC70 Doc. 67.1.*

The Standing Committee established an in-session working group on Annotation #15 with the following mandate to:

- a) *consider the two options identified for the revision or replacement of Annotation #15 in document SC70 Doc. 67.1, taking into account the changes proposed to option 1) by Peru on behalf of Central and South America and the Caribbean, and provide guidance on the possible way forward;*
- b) *consider paragraphs b) to i) of Decision 16.162 and propose new draft decisions should the work in these paragraphs be continued;*
- c) *review and finalize draft decisions on a mechanism to conduct a periodic review of the existing annotations and a pre-review or screening process of annotations and on 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.*

7. The Standing Committee's decisions in response to the recommendations of the In-session Working Group on Annotation #15 (as contained in SC70 Com. 17) are reflected in the relevant summary record (SC70 Sum 12 (Rev 1) and were as follows:

The Standing Committee recommended the following approach for the revision of the existing Annotation #15:

All parts and derivatives, except:

- a) *Leaves, flowers, pollen, fruits, and seeds;*
- b) *Finished products to a maximum weight of wood of the listed species of 500g per item;*
- c) *Finished musical instruments, finished musical instrument parts and finished musical instrument accessories.*

8. At the conclusion of the plenary discussion of Annotations, the Standing Committee was informed by Canada that it intended to work with interested Parties to draft a proposal to revise Annotation # 15 in accordance with the Standing Committee's recommendation, and that Canada would submit the proposal for adoption at the 18th meeting of the Conference of the Parties.

Recommendations

9. The Standing Committee invites the Conference of the Parties to adopt:
 - a) the proposed amendment to Resolution Conf. 11.21 (Rev. CoP17) on *Use of annotations in Appendices I and II* contained in Annex 1;
 - b) the proposed revision to Paragraph 7 of the Interpretation Section of the CITES Appendices contained in Annex 2;
 - c) the proposed amendments to Decision 16.162 (Rev. CoP17) contained in Annex 3; and
 - d) the proposed draft decisions contained in Annex 4.

COMMENTS OF THE SECRETARIAT

**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;¹
- 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

* 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;
- h) annotations that include time limits or other references that may with time cease to apply should, on a regular basis, be considered for deletion or revision by the Standing Committee and as appropriate, by the Animals Committee or Plants Committee.

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; ~~and~~
- 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 Depositary 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).

Decision 16.162 (Rev. CoP18)

Directed to the Standing Committee, Animals Committee, Plants Committee

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 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), AND to review 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;~~
- ea) 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;
- fb) 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;
- c) to review, in close cooperation with the Standing Committee, the implementation challenges linked to the orchids annotations;
- gd) 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;
- e) consider ~~and~~ the preparation of clear definitions for terms used in the annotations, including, for example, the terms “musical instruments” and “transformed wood”, in order to facilitate their use and understanding by CITES authorities, enforcement officers, exporters and importers;
- hf) to conduct any work related to annotations directed to it by the Conference of the Parties, the Standing, Animals or Plants Committee; and
- lg) to prepare reports on progress made in addressing the issues tasked to it and submit them for consideration at the ~~69~~ 73th and ~~70~~ 74th meetings of the Standing Committee.

Draft decision 18.AA

Directed to the Standing Committee

The Standing Committee shall, in collaboration with the Animals and Plants Committees, determine requirements for development and adoption by the Conference of the Parties of:

- a) a mechanism for undertaking a periodic review of existing annotations; and
- b) a mechanism for the a priori review of annotations proposed for consideration at meetings of the Conference of the Parties, to support consistent implementation of the guidance on annotations provided in Resolution Conf. 11.21 (Rev. CoP17).

Draft decision 18.BB

Directed to the Standing Committee

The Standing Committee shall explore the feasibility of, and the requirements for developing an information system for the purpose of processing trade data associated with transactions in specimens of CITES-listed tree species authorized under the provisions of the Convention.

TENTATIVE BUDGET AND SOURCE OF FUNDING
FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP16) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding. The Secretariat proposes the following tentative budget and source of funding.