

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 FOR APPENDIX-II ORCHIDS

1. This document has been submitted by the Standing Committee.\*
2. At the 17th meeting of the Conference of the Parties (CoP17; Johannesburg, 2016), the following Decisions were adopted on *Annotations for Appendix-II orchids*:

***Directed to the Plants Committee***

17.318 *The Plants Committee shall:*

- a) *Re-establish a working group on Annotations for Appendix II Orchids. The working group shall be chaired by a member of the Plants Committee and work on the basis of the following terms of reference:*
  - i. *The working group shall develop a questionnaire taking into consideration previous discussions and work on this topic, to seek information on the trade in orchid parts and derivatives (wild and artificially propagated) in consideration of the potential conservation impact of exempting orchid products from CITES controls.*
    - A. *The questionnaire should invite Parties to provide available information on: the trade in orchid products from source to final product, including the identification of the major industry sectors involved in the trade; how NDFs are made; traceability along the trade chain; and trade reporting. It should also request information on orchid parts and derivatives used in products, sectors involved (cosmetics, nutritional supplements, traditional medicine, foodstuffs – in particular flours -etc.), and conservation concerns for wild populations.*
    - B. *The questionnaire should be transmitted to the Parties via a Notification and should emphasize the importance of responses from range States, with a sufficient deadline for responding.*
  - ii. *Subject to the availability of funding, the working group may also consider actions to enable a full analysis of the potential conservation impact of orchid exemptions. These may include developing case studies on key orchid species identified in trade as finished products, including the 39 species identified in the Annex of document*

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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.*

PC22 Doc. 22.1, as well as the two cases of orchid foodstuffs outlined in PC22 Inf. 6, workshop(s), or a study on trade data sources.

- iii. *Based on the information obtained from Parties in their responses to the questionnaire, as well as other information from the potential actions identified above, and other appropriate sources, the working group shall analyse the risks of trade in orchid products to conservation and provide its conclusions about such risks. Based on the findings and the analyses, the working group shall review the current annotation for Appendix II-listed orchids, and suggest such amendments as it considers appropriate, if any.*
  - iv. *The working group shall also consider and highlight the knowledge gaps of the orchid species in trade, i.e., consider identification, nomenclature and distributional information gaps where these are found to exist, and highlight these to the wider orchid research community and traders during trade events and forthcoming international meetings and workshops.*
  - v. *The working group will conduct its work via electronic means.*
  - vi. *The working group will report its findings to the Plants Committee;*
- b) *consider the results of the working group; and*
  - c) *report its findings and recommendations to the Standing Committee for its consideration.*

#### **Directed to the Standing Committee**

17.319 *The Standing Committee shall consider the findings and recommendations of the Plants Committee together with the results of its working group on annotations, and provide the results of the work and its recommendations to the 18th meeting of the Conference of the Parties.*

#### Implementation of Decisions 17.318 and 17.319

3. Switzerland submitted document [PC23 Doc. 32](#), in which it presented five in-depth case studies (*Vanda coerulea*, *Vanda tessellata*, *Papilionanthe teres* (*Vanda teres*), *Cypripedium parviflorum* var. *pubescens*, *Gastrodia elata*) and additional overviews on the use of orchids species in the cosmetic and personal care product trade (Salep, Chikanda, flower and vibrational essences, orchids and fragrances). All case studies examined the size and stability of wild populations, the conservation status of the various species, the extent of artificial propagation and the different products in and size of international trade. Summaries of all case studies were included in annex 2 to that document. It also reported a significant increase in permitting requests to the Swiss CITES Management Authority from the cosmetic industry as a result of targeted outreach efforts with regard to CITES-listed orchid species used in the cosmetic industry.
4. The Plants Committee, at its 23rd meeting (PC23, Geneva, July 2017) re-established an intersessional working group on orchids (see document [PC23 Com. 8](#)) with the following mandate:
  - a) discuss the work carried out so far (in-depth case studies and overviews), including identification of knowledge gaps and conclusions thus far;
  - b) develop a work plan, including liaison with the Standing Committee working group on annotations;
  - c) draft the questionnaire; and
  - d) identify possible funding sources for further in-depth studies.

Its membership was decided as follows:

Chair: the acting representative of Europe (Ms. Moser);

Parties: Canada, China, Cuba, Czech Republic, European Union, France, Germany, Ireland, Italy, Latvia, Mexico, Netherlands, Peru, Republic of Korea, Slovakia, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland and United States of America; and

IGOs and NGOs: International Trade Centre (ITC), United Nations Conference on Trade and Development (UNCTAD), UNEP-WCMC, IUCN, American Herbal Products Association, FTS Botanics, Species Survival Network, and TRAFFIC.

5. [PC24 Doc 28](#) reported the progress of the intersessional working group, focusing on whether finished products of any orchid species or higher taxonomic groups of orchids could be exempted from CITES regulation, based on the principles outlined in Resolution Conf. 11.21 (Rev. CoP17) on *Use of annotations in Appendices I and II*, namely that CITES controls should concentrate on those commodities that first appear in international trade as exports from range States, and should include those commodities that dominate the trade and the demand for the wild resource.
6. Further, in-depth work had been commissioned by the Swiss Management Authority on *Cymbidium* species, summarized in Annex 2 of document [PC24 Doc 28](#). The document also reported on the results of a questionnaire developed by the intersessional working group which was distributed to Parties in Notification to the Parties [No. 2018/004](#) of 15 January 2018. The document highlighted the need for a definition of the term 'cosmetic' in CITES annual reports to better track the use of orchid products by the cosmetic industry, which are currently reported under 'derivatives'. An in-session working group agreed to propose a draft definition for inclusion in the *Guidelines for the preparation and submission of the CITES annual trade report* and the *Guidelines for the preparation and submission of the CITES annual illegal trade report*. The in-session working group also elaborated draft decisions to be proposed to CoP18. Crucially, these entailed a change of the title of such decisions to 'products containing specimens of Appendix II orchids'. These outcomes were referred to the Standing Committee in document [SC70 Doc 67.2](#), for further consideration.
7. The Standing Committee at its 70th meeting (SC70, Sochi, October 2018) noted these proposals and agreed to submit the following draft definition of 'cosmetics' to CoP18 as follows:

*Any product or mixture of products which is applied to an external part of the body only (e.g. skin, hair, nails, genitals, lips or teeth or the mucous membranes of the oral cavity) with the intent to clean, odorise, change the appearance or protect. Cosmetics may include the following: make-up, perfume, skin cream, nail polish, hair colourants, soap, shampoo, shaving cream, deodorant, sunscreens, toothpaste.*

8. SC70 further agreed to submit draft decisions to CoP18, as detailed in Annex 1.

#### Recommendations:

9. The Conference of the Parties is invited to:
  - a) adopt the draft definition of the term 'cosmetics', as proposed in paragraph 6 of the present document, for inclusion in the *Guidelines for the preparation and submission of the CITES annual trade report* and the *Guidelines for the preparation and submission of the CITES annual illegal trade report*; and
  - b) adopt the proposed decisions on products containing specimens of Appendix-II orchids found in Annex 1 to the present document.

### COMMENTS OF THE SECRETARIAT

#### *Regarding the draft decisions proposed in Annex 1*

- A. The Secretariat appreciates the focus of the analysis on the conservation impacts of orchid exemptions. It therefore welcomes the proposed change of the title of the draft decisions to *Products containing specimens of Appendix II orchids*.

- B. The Secretariat notes that some of the proposed provisions in the draft decisions seem duplicative and might introduce ambiguities. For example, the analysis of conservation impacts of orchid exemptions is proposed in Decision 18.AA a), c) and d). Yet, only 18.AA c) specifies that such work would be subject to external funding. Furthermore, there seems to remain significant overlap with the work on annotations led by the Standing Committee, noting that document CoP18 Doc. 101 on *Annotations* recommends instructing the Standing Committee to reinstate an intersessional working group with a mandate that includes to *review.....the implementation challenges linked to the orchids' annotations*. Thus, the Secretariat proposes to consult with the working group regarding potential changes in orchid annotations.
- C. Draft decision 18.AA requires the Plant Committee to seek information and undertake analyses. Draft decision 18.DD requires Parties to *submit to the Plants Committee, through the Secretariat, information on the trade in orchid products from source to final products*. However, draft decision 18.CC, directed to the Secretariat, only instructs the Secretariat to *provide support to the Plants Committee for implementation of Decision 18.AA*. It thus remains unclear what form this support should take, and whether the Secretariat should be responsible for any support other than forwarding information that was submitted by Parties.
- D. Finally, the Secretariat notes that the draft decisions propose one or several technical studies, extensive data collection and analysis, but leaves open who should implement them. The Secretariat is aware of a few instances in which a national CITES Authority commissioned such work on behalf of the Plants Committee, but this remains an exceptional course that is highly dependable on the Party's capacity to assume these responsibilities. To render the process more solid, and in line with other draft decisions, the Secretariat proposes that the responsibility for commissioning this work be allocated to the Secretariat, subject to available external resources.
- E. Therefore, the Secretariat suggests alternative draft decisions in Annex 2 that take into account the observations mentioned above. The Secretariat recommends the Conference of the Parties adopt the draft decisions as presented in Annex 2 and to delete the current Decisions 17.318 and 17.319.
- F. The Secretariat acknowledges that some of the proposed actions in draft decisions 18.AA to 18.DD (Annex 2) can be accommodated within the Secretariat daily work. However, others, such as technical studies, would require external funding as specified in Annex 3. No external funding sources have currently been identified.

*Regarding the proposed definition of cosmetics*

- G. The Secretariat notes that the Standing Committee recommended that the definition of cosmetics (paragraph 6) be adopted by the Conference of the Parties for inclusion in the *Guidelines for the preparation and submission of the CITES annual trade report and the Guidelines for the preparation and submission of the CITES annual illegal trade report*. However, the maintenance of these Guidelines is in the hands of the Standing Committee itself, since paragraphs 1 and 3 of Resolution Conf. 11.17 (Rev. CoP17) on *National reports* indicate that both guidelines may be amended with the concurrence of the Standing Committee. It remains unclear why this recommendation was proposed for consideration by the Conference of the Parties. Thus, the Secretariat recommends that the Conference of the Parties delegates the adoption of this definition to the Standing Committee.
- H. The Secretariat acknowledges the effort of reaching a clear and unambiguous definition of cosmetics. However, there seems to remain potential overlap between cosmetics and externally applied medicinals. This might lead to ambiguities in the categories of products that are included in, or excluded from, the proposed definition. The Secretariat therefore recommends to monitor the use of the definition in annual reports to adapt the list of specific categories that are included in the definition (*Cosmetics may include the following: make-up, perfume, skin cream, nail polish, hair colourants, soap, shampoo, shaving cream, deodorant, sunscreens, toothpaste*), or to add a list of categories that are excluded from the definition, if required.

**Draft decisions on *Products containing specimens of Appendix-II orchids***

***Directed to the Plants Committee***

18.AA The Plants Committee shall:

- a) seek information on the trade in orchid parts and derivatives (wild and artificially propagated) in consideration of the potential conservation impact of exempting orchid products from CITES controls, completing the work already initiated on orchids used in the production of cosmetics and personal care products and then considering orchids used in other commodities (e.g. medicinals and foodstuffs), subject to the availability of funding;
- b) seek information from Parties and relevant other stakeholder groups, including industry, on: the trade in orchid products from source to final product, including the identification of the major industry sectors involved in the trade; how non-detriment findings and legal acquisition findings are made; traceability along the trade chain; and trade reporting. It should also request information on orchid parts and derivatives used in products, sectors involved, and conservation concerns for wild populations;
- c) undertake an analysis of the potential conservation impact of orchid exemptions, subject to the availability of funding. This may include developing case studies on key orchid species identified in trade as finished products, including but not limited to, the species identified in the Annex to document PC22 Doc. 22.1, Annex 2 to document PC23 Doc. 32, and Annex 3 to document PC24 Doc. 28, as well as the two case studies of orchid foodstuffs outlined in information document PC22 Inf. 6, workshop(s), or a study on trade data sources;
- d) based on the information obtained from Parties, as well as from other sources, analyse the risks of trade in products containing parts or derivatives of orchids to conservation and provide its conclusions about such risks. Based on the findings and the analyses, the working group shall highlight any knowledge gaps, review the current annotation for Appendix II-listed orchids, and suggest amendments, as it considers appropriate;
- e) where relevant, work in close consultation with the Standing Committee, including its working group on annotations; and
- f) report its findings and recommendations to the Standing Committee for its consideration.

***Directed to the Standing Committee***

18.BB The Standing Committee shall consider the findings and recommendations of the Plants Committee and provide the results of the work and its recommendations to the 19th meeting of the Conference of the Parties.

***Directed to the Secretariat***

18.CC The Secretariat shall:

- a) provide support to the Plants Committee for implementation of Decision 18.AA; and
- b) seek funding to implement Decision 18.AA.

***Directed to the Parties***

18.DD Parties are encouraged to:

- a) submit to the Plants Committee, through the Secretariat, information on the trade in orchid products from source to final products; and

- b) provide funding for Decision 18.AA, and provide assistance to the Secretariat in reaching out to other stakeholders and user groups that may be able to provide funding to support this work.

**Draft decisions on *Products containing specimens of Appendix-II orchids***

**Alternative draft decisions proposed by the Secretariat**

***Directed to the Secretariat***

18.AA Subject to available resources, the Secretariat shall:

- a) assess the potential conservation impact of exempting orchid products and derivatives (wild and artificially propagated) from CITES controls, thereby completing the work already initiated on orchids used in the production of cosmetics and personal care products, and considering orchids used in other commodities (e.g. medicinals);
- b) where necessary and appropriate to complement the assessment under paragraph a), seek pertinent information from Parties and relevant stakeholder groups, including industry, such as
  - i) on the trade in orchid products from source to final product, including the identification of the major industry sectors involved in the trade;
  - ii) how non-detriment findings and legal acquisition findings are made;
  - iii) traceability along the supply and value chains; and
  - iv) conservation concerns for wild populations; and
- c) analyse the information received under paragraphs a) and b) with a view towards potential conservation impacts of trade in products containing orchids and derivatives of orchids, highlight any knowledge gaps, and report to the Plants Committee.

***Directed to the Parties***

18.BB Parties are encouraged to:

- a) submit pertinent information as requested in Decision 18.AA to the Secretariat; and
- b) provide assistance to the Secretariat in reaching out to other stakeholders and user groups that may be able to support this work.

***Directed to the Plants Committee***

18.CC The Plants Committee shall:

- a) consider the outcomes of Decision 18.AA;
- b) in consultation with the Standing Committee, as appropriate, review the current annotation for Appendix II-listed orchids, and suggest amendments; and
- c) make recommendations to the Standing Committee.

***Directed to the Standing Committee***

18.DD The Standing Committee shall consider the recommendations of the Plants Committee and make recommendations to the 19th meeting of the Conference of the Parties.

## 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 authors of this document propose the following tentative budget and source of funding.

The Secretariat proposes the following tentative budget and source of funding for the draft decisions proposed in Annex 2:

### Secretariat:

Specific aspects of the work proposed in draft decision 18.AA may be accommodated with the existing staff time of the Secretariat. A comprehensive coverage of all proposed aspects would require commissioning external studies. From past experiences, a study as is being proposed can cost in the range of USD 40,000 to 60,000 when based on desk research, or more if requiring fieldwork or empirical data collection. No funding source has currently been identified.

### Plants Committee:

Since the number of reports and topics envisaged in draft decision 18.AA is high, analysing these reports and integrating their findings might require considerable effort and time by the Committee.

### Parties:

Parties, and other stakeholders are expected to provide information and funding to enable the proposed activities.