

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



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CONSIDERATIONS FOR IMPLEMENTATION OF ANNOTATION #15

Introduction

1. This document is submitted by Canada and the European Union* and pertains to Proposal 52, which proposes to amend annotation #15 for *Dalbergia* spp., *Guibourtia demeusei*, *Guibourtia pellegriniana* and *Guibourtia tessmannii*. This information document recommends the development of definitions for terms in the amended annotation that could be used from the time the amended annotation #15 comes into force, if adopted at CoP18.
2. CoP17 in September/October 2016 adopted a new listing for rosewood species, and a new annotation to accompany the listing. The listing came into force in January 2017. In late 2017, based on challenges associated with interpretation of the annotation, the 69th meeting of the Standing Committee agreed upon a set of interim definitions for the terms in the existing Annotation #15. These were communicated to Parties in Notification No. 2017/078, nearly a year after the listings came into force.
3. At SC70, the Standing Committee reached consensus on text for a revised annotation, indicated in Document SC70 Com. 17 (Report of the In-session Working Group). Subsequently, Canada and the European Union submitted Proposal CoP18 Prop. 52 for consideration of the Parties at the 18th meeting of the Conference of the Parties (CoP18).
4. CoP18 Doc. 101 recommends that the Standing Committee develop or refine definitions of terms in annotations (including the term “musical instruments”), and submit them to CoP for subsequent inclusion in the Interpretation section of the Appendices. This means that if CoP18 Prop. 52 is adopted, definitions resulting from Standing Committee discussions would only be available at the earliest in 2020. Having agreed upon definitions for terms in the amended annotation # 15 before 2020 would facilitate consistent implementation.
5. To support the discussions, we propose the following definitions for new terms used in the annotation, including “item”, “finished musical instruments”, “finished musical instrument parts” and “finished musical instrument accessories.” We also provide additional considerations regarding the revised annotation and the proposed definitions, based on discussions with other Parties.

Definitions for terms used in paragraphs b and c of the proposed amendment:

6. Canada and the European Union suggest, when reviewing proposal 52, that Parties consider the following definitions, which may support implementation of the proposal.

* *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.*

– item:

An individual article or unit, including one that is part of a list, collection, or set and that requires no further processing or alteration and may only require packaging to be ready for retail sale.

– finished musical instruments:

a musical instrument (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) that is ready to play or needs only the installation of parts to make it playable. This term includes antique instruments (as defined by the Harmonized System codes 97.05 and 97.06; Works of art, collectors' pieces and antiques).

– finished musical instrument parts:

a part (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) of a musical instrument that is ready to install and is specifically designed and shaped to be used explicitly in association with the instrument to make it playable.

– finished musical instrument accessories:

a musical instrument accessory (as referenced by the Harmonized System of the World Customs Organization, Chapter 92; musical instruments, parts and accessories of such articles) that is separate from the musical instrument, and is specifically designed or shaped to be used explicitly in association with an instrument, and that requires no further modification to be used.

9. These proposed definitions include reference to the relevant tariff classifications of the Harmonized System of the World Customs Organization. We note that in SC70 Doc. 67.1, para. 8, the SC Annotations Working Group recommended to the SC70 that harmonized system codes could be considered for definitions because use of such codes is likely to facilitate enforcement of the annotation, if adopted.
10. Any definitions agreed to by the Parties should be considered for inclusion in the Interpretation section¹ of the Appendices of the Convention or Resolution Conf. 10.13 (Rev. CoP15).

Additional considerations and explanations

11. To support Parties' review of the revised annotation in CoP18 Prop. 52, we provide the following considerations based on our experience in implementation of the listing, and from our discussions with other Parties from CoP17 until now.
- a) Rationale for the amended annotation*: Parties are invited to refer to SC70 Doc. 67.1, which formed the basis for the Standing Committee recommendation, as it provides a rationale for the amendments of Annotation #15 that were recommended by SC70 and presented in CoP18 Prop. 52.
- b) Exemption of items made of rosewood under the Personal and Household Effects provisions contained in Resolution Conf. 13.7 (Rev. CoP17)*: small items containing wood of the listed species could be exempted under the Personal and Household Effects provisions contained in Resolution Conf. 13.7 (Rev. CoP17), through an amendment to Resolution Conf. 13.7 (Rev. CoP17) instead of through the annotation. However, as the personal and household effects exemption in Res. Conf. 13.7 (Rev. CoP17) is not used by all Parties, we consider it prudent to specifically reference an exclusion in the revised annotation.
- c) List of musical instruments*: A list of musical instruments could provide useful guidance for interpretation of the new paragraph c) of the revised annotation. While recognizing that such a list may facilitate future implementation of the annotation, compiling such a list could take a long time and result in an incomplete list due to the large number of varied musical instruments found worldwide. We recommend that definitions be developed and implemented expediently, and that a list, if thought necessary, could be

¹ CoP17 noted that definitions of terms in annotations should be permanently included in the Interpretation section of the Appendices. Some definitions may also be reflected in relevant Resolutions, such as Resolution Conf. 10.13 (Rev. CoP15), as relevant.

developed as a second step to aid implementation. Such a list should be considered illustrative rather than comprehensive.

12. Annotation #15 interim definitions for the intersessional period between CoP17 and Cop18: at its 69th meeting (Geneva, November 2017), the Standing Committee agreed upon a set of interim definitions for the terms used in paragraph b) of the existing Annotation #15, which were communicated to Parties in Notification No. 2017/078. This Notification was to be applied to the period up to CoP18. In the event that an amended annotation #15 is not adopted by the Conference of the Parties, the existing validity of Notification No. 2017/078 should be extended.