

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

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

Amend the annotation “#16 Seeds, fruits, oils and living plants” to the listing of *Adansonia grandidieri* in Appendix II by deleting reference to live plants, so as to read: #16 Seeds, fruits and oils.

B. Proponent

Switzerland\*

C. Supporting statement

1. Taxonomy

1.1 Class: Rosidae

1.2 Order: Malvales

1.3 Family: Malvaceae

1.4 Genus, species or subspecies, including author and year: *Adansonia grandidieri* Baillon (1893)

1.5 Scientific synonyms:

1.6 Common names:	English	Baobab, bottletree
	French:	Baobab
	Spanish:	Baobab

1.7 Code numbers:

2. Overview

At its 17th meeting (Johannesburg, 2016), the Conference of the Parties adopted a proposal (CoP17. Prop. 58) submitted by Madagascar, to include in Appendix II the species *Adansonia grandidieri* with an annotation (Annotation #16):

*Seeds, fruits, oils and living plants.*

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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.

The listing and annotation were agreed to during the meeting (as indicated in document CoP17 Com. I Rec. 9) stating: Proposal CoP17 Prop. 58, to include *Adansonia grandidieri* in Appendix II for seeds, fruits, oils and living plants, was accepted by consensus.

The purpose of the present proposal is to correct the text of the annotation, which is in error in that it explicitly includes live plants. The inclusion in such an annotation of 'live plants' is contrary to the Convention for the following reasons:

1. In accordance with Article I, paragraph (b), plants, whether alive or dead, are always subject to the provisions of the Convention. This was confirmed, at CoP17, through revision of Resolution Conf. 11.21 (Rev. CoP17) including insertion of a paragraph in the preamble to the Resolution "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."
2. The explicit reference to "living plants" included the text of Annotation #16 is therefore redundant and potentially misleading. First it suggests that, contrary to the text of the Convention, whole dead plants are not covered by the provisions of the Convention for the annotated taxon. Second, it suggests, or at least may be interpreted, as meaning that, for other plant taxa listed in Appendices II and III with an annotation # followed by a number, live plants are not so covered.
3. Live and dead plants may not be considered as parts or derivatives and, therefore, may not be subject to an annotation # followed by a number. Such annotations are defined, in paragraph 7 of the Interpretation of the current Appendices I, II and III, as follows: "*When a species is listed in one of the Appendices, 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 and derivatives of plants that are designated as 'specimens' subject to the provisions of the Convention in accordance with Article I, paragraph (b), subparagraph (iii).*"
4. In addition, the word 'also' in the first sentence of paragraph 7 of the Interpretation clearly indicates that live and dead plants are always covered by the provisions of the Convention.

As such, it is proposed that reference to "living plants" in Annotation #16 as currently composed be deleted and the annotation amended as indicated in paragraph A.

### 3. Additional proposal

When Annotation #16 was considered in the ad hoc WG on annotations, an observer for Canada, in an email dated 12 May 2017, suggested it would be preferable to retain the words "live plants" in the annotation, because the words clarified interpretation. It was also suggested that a reference to "live plants" should be included in all other hashtag inclusion annotations, because many front line officers charged with implementing CITES are not necessarily familiar with the Convention or with its Resolutions. Should interpretation of an annotation be open to question, officers are likely to refer to the text of annotation, and therefore not realize that live plants are by definition always included in CITES. As there are already examples where reference information is provided in annotations for clarity of implementation, including the words "live plants" in hashtag annotations would be consistent with established practice.

However, the inclusion of a reference to live plants in each hashtag annotation (which are substantive text of the Convention) would require a proposal to amend the listing of each species in Appendix II that is subject to a hashtag annotation. Each proposal would likewise need to specify that dead plants are similarly covered.

Understanding that it is fundamentally important that Customs and Enforcement Officers, when interpreting annotations, are aware that live or dead plants, or animals, are always covered by the provisions of the Convention and that the preamble of Resolution Conf. 11.21 (Rev. CoP17) was amended specifically to emphasize this concept, it is here proposed that the most efficient and workable means to ensure awareness of this concept is to revise paragraph 7 of the interpretation section of the Appendices to read as follows:

When a species is included in one of the Appendices, all parts and derivatives of the species, in addition to live and dead plants, 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 plants that are designated as 'specimens' subject to the provisions of the Convention in accordance with Article I, paragraph (b), subparagraph (iii).