



United States Department of the Interior



FISH AND WILDLIFE SERVICE
International Affairs
5275 Leesburg Pike, MS: IA
Falls Church, VA 22041-3803

IN REPLY REFER TO:
FWS/DMA/PLA 7-17

May 12, 2023

Dear U.S. Importer / Exporter / Re-exporter of specimens, parts, and/or products containing CITES-listed plant species:

This letter is addressed to possible U.S. importers, exporters, and re-exporters of dietary supplements and personal care products containing plant species included in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention). There have been a large number of recent seizures in Europe of products containing CITES-listed plant species, which were exported or re-exported from the United States in violation of CITES requirements. Seized products included the following species: *Hoodia* (*Hoodia gordonii*), orchids (e.g., *Orchis mascula*) and *Pygeum* (*Prunus africana*).

Hoodia gordonii, most species of orchids, and *Prunus africana* are included in Appendix II of CITES, meaning that they may be traded internationally as long as the shipments are accompanied by the required permits and certificates, issued by the relevant national CITES office, and all inspection and clearance processes have been followed. Please note that additional CITES-listed plant species that may be used in the manufacture of dietary supplements and personal care products. A link to the full CITES Appendices can be found at: <https://cites.org/eng/app/appendices.php> and you can query specific species in the CITES Checklist of Species at: <https://checklist.cites.org/#/en>.

Hoodia

All species in the genus *Hoodia* spp., including *Hoodia gordonii*, have been included in CITES Appendix II since January 12, 2005. The CITES listing of *Hoodia* spp. includes live and dead plant specimens, as well as all parts, products, and derivatives made from any species of *Hoodia*, with the exception of material produced from controlled harvesting and production schemes under the terms of an agreement with the CITES Management Authority of Botswana, Namibia, or South Africa and bearing the approved label from the respective country of export (**Note:** No such approved schemes currently exist).

Pygeum

The species *Prunus africana*, also called *Pygeum* or African cherry, has been included in CITES Appendix II since February 16, 1995. The CITES listing is subject to Annotation #4 and includes live and dead plant specimens of *Prunus africana*, as well as all parts, products, and

derivatives except seeds and seedling or tissue culture obtained *in vitro* transported in sterile containers. For example, the listing also includes bark and any products made from the bark.

***Orchis mascula* and other Appendix-II listed orchid species**

The orchid family, Orchidaceae, has been included in the CITES Appendices since July 1, 1975. The Appendix-II orchid species are subject to Annotation #4 and include live and dead plant specimens of Appendix-II orchids, as well as all parts, products, and derivatives of Appendix-II orchid species except as follows:

- a) seeds (including seedpods of Orchidaceae), spores and pollen (including pollinia). The exemption does not apply to seeds from Cactaceae spp. exported from Mexico, and to seeds from *Beccariophoenix madagascariensis* and *Dyopsis decaryi* exported from Madagascar;
- b) seedling or tissue cultures obtained *in vitro* transported in sterile containers;
- c) cut flowers of artificially propagated plants;
- d) fruits, and parts and derivatives thereof, of naturalized or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;
. . . [Annotation #4, paragraphs e) and f) omitted here as they are not applicable to orchids]; and
- g) finished products derived from artificial propagation, packaged and ready for retail trade of cosmetics containing parts and derivatives of *Bletilla striata*, *Cynoches cooperi*, *Gastrodia elata*, *Phalaenopsis amabilis* or *Phalaenopsis lobbii*.

The countries that are parties to CITES (also called CITES Parties) have adopted the following definition of the term “Finished products packaged and ready for retail trade:” Products, shipped singly or in bulk, requiring no further processing, packaged, labelled for final use or the retail trade in a state fit for being sold to or used by the general public. Additionally, the CITES Party countries have adopted the following definition of “Cosmetics:” 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, odourise, 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.

For Appendix-II orchid species included as ingredients in dietary supplements, personal care products, or medicinal products, unless the product qualifies for the exemption contained in paragraphs d) and g) above, it must be accompanied by a CITES document in international trade and import, export, and re-export must follow all applicable inspection and clearance processes (See below for more information on inspection and clearance processes for CITES-listed plants).

Imports of CITES-listed plant species into the United States

In order for a shipment of any CITES-listed plant species, including all covered parts, products, and derivatives to be legally imported into the United States, it must be accompanied by a CITES Appendix-II permit or certificate issued by the CITES Management Authority of the exporting country, or in the case of a re-export to the United States, by the CITES Management Authority in the re-exporting country. Such shipments must be imported through a U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) designated port for

plants and be inspected and cleared prior to being allowed to enter the United States. Contact information for foreign CITES authorities can be found at: <https://cites.org/eng/parties/country-profiles/national-authorities>.

Exports and re-exports of CITES-listed plant species from the United States

In order for a shipment of any CITES-listed plant species, including all covered parts or products, to be legally exported or re-exported from the United States, it must be accompanied by a U.S. CITES Appendix-II permit or certificate issued by this office, the U.S. CITES Management Authority. You can download the application forms for U.S. CITES permits and certificates from our website at: <https://fws.gov/epermits> (Application Form: 3-200-32). Such shipments must be exported or re-exported through an APHIS designated port for plants and be inspected and cleared prior to export/re-export. If you are in the business of importing, exporting, or re-exporting CITES-regulated plants and plant products, USDA regulations (found at 7 CFR Part 355) require that you possess a valid USDA Protected Plant Permit. If you have questions regarding the application process for the Protected Plant Permit or PPQ Form 621 (Application for Protected Plant Permit to Engage in the Business of Importing, Exporting or Re-exporting Terrestrial Plants), please call (301) 851-2046 or email: PPQCITESESAPermits@usda.gov

The attachment to this letter includes additional background on international trade in CITES-listed species. The United States is committed to effectively implementing CITES and your compliance with all CITES requirements is appreciated. If you have any questions regarding this issue, please contact us at: email: managementauthority@fws.gov.

Sincerely,

Naimah Aziz, Head
Division of Management Authority

Cc: American Herbal Products Association
Personal Care Products Council

Cc: CITES Secretariat
CITES Management Authority of Belgium
CITES Management Authority of the Netherlands
CITES Management Authority of Switzerland

Additional background on international trade in CITES-listed plant species

General

For CITES Appendix-II listed plants, trade in whole plants, whether alive or dead, and any readily recognizable part, product, or derivative must be accompanied by CITES permits or certificates issued by the country of export or re-export, unless certain parts, products, or derivatives are excepted by an annotation. Importers are urged to communicate with their trade partners to ensure that shipments are in compliance with CITES requirements and accompanied by the required CITES document.

CITES is implemented in the United States through the Endangered Species Act. See 16 U.S.C. §§ 1532(4), 1537a, 1538(c)(1) (making it unlawful “to engage in any trade in any specimens contrary to the provisions of [CITES], or to possess any specimens traded contrary to the provisions of [CITES]”), 1538(g), 1539(g), 1540. U.S. CITES implementing regulations can be found at 50 CFR Part 23. The Secretary of the Interior is designated the U.S. Management Authority and U.S. Scientific Authority for CITES purposes, and the respective functions of each are carried out by the U.S. Fish and Wildlife Service. 16 U.S.C. § 1537a; 50 C.F.R. § 23.6.

When applying for a CITES document, or otherwise claiming the benefit of a permit or exception, it is the burden of the person engaging or seeking to engage in trade to provide sufficient information to demonstrate that all requirements are met. See, e.g., 16 U.S.C. § 1539(g); 50 C.F.R. §§ 23.33, 23.92(b).

Foreign CITES documents

For more information on obtaining CITES documents from a foreign country to import CITES-listed specimens of these species into the United States, please contact the CITES Management Authority of the relevant CITES member country. Contact information can be found on the CITES website at: <https://cites.org/eng/parties/country-profiles/national-authorities>. (Note: some countries designate more than one Management Authority, each with specific responsibilities related to permitting, plant or timber trade, etc.)

U.S. export permits

U.S. CITES export permits are issued by this office, the U.S. CITES Management Authority. The requirements for issuance of a U.S. CITES export certificate can be found at 50 CFR § 23.36.

U.S. re-export certificates

U.S. CITES re-export certificates are also issued by the U.S. CITES Management Authority. The requirements for issuance of a U.S. CITES re-export certificate can be found at 50 CFR § 23.37.

U.S. certificates for artificially propagated plants

U.S. CITES certificates for artificially propagated plants are also issued by the U.S. CITES Management Authority. The requirements for issuance of a U.S. CITES re-export certificate can be found at 50 CFR § 23.40.

Designated port requirements

All shipments of CITES-listed plant specimens exported, or re-exported into or out of the United States must be cleared through a port designated for the import and export of CITES-listed plants by APHIS per 50 CFR § 24.12.

APHIS is responsible for inspection and clearance of all living CITES-listed plant specimens entering the United States and for all exports/re-exports of living and non-living CITES plant specimens (e.g., logs, sawn wood, orchid cut flowers, herbs and herbal products, etc.) from the United States. The U.S. Department of Homeland Security's Customs and Border Protection (CBP) is responsible for inspection and clearance of non-living CITES-listed plant specimens into the United States.

Definitions of key terms used in annotations

A number of the CITES annotations include terms for which the CITES Parties have agreed to definitions that are intended to ensure a shared understanding and application of the term and uniform implementation. Please note that these definitions are specific to CITES and may not be applicable in other contexts. Definitions for key terms can be found in the *Interpretation* section of the Appendices (located at the beginning of the Appendices at <https://cites.org/eng/app/appendices.php>) and in relevant CITES Resolutions, including Resolution Conf. 11.11 (Rev. CoP18) on *Regulation of trade in plants*.