

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



Twentieth meeting of the Plants Committee
Dublin (Ireland), 22-30 March 2012

Proposals for possible consideration at CoP16

Proposals to amend the Appendices

Annotations

TREE SPECIES: ANNOTATIONS FOR SPECIES INCLUDED IN APPENDICES II AND III
[DECISIONS 14.49, 15.35 AND 14.148 (REV.COP15)]
REPORT OF THE INTERSESSIONAL WORKING GROUP

1. This document has been prepared by the co-chair of the intersessional working group on annotations (Canada – Mr. Farr).*

Background

2. At its 15th meeting (Doha, Qatar 2010) The Conference of the Parties adopted Decision 14.148 (Rev. CoP15), relating to annotations for tree species included in Appendices II and III:

Directed to the Plants Committee

- a) *Based on the results of the trade study, the Plants Committee shall review the annotations for tree species listed in Appendices II and III and, if appropriate, draft amendments to the annotations and prepare clear definitions for the terms used in those annotations in order to facilitate their use and understanding by CITES authorities, enforcement officers, exporters and importers.*
 - b) *The amended annotations shall focus on articles that initially appear in international trade as exports from range States and those which dominate the trade in and demand for the wild resource.*
 - c) *The Plants Committee shall draft, if necessary, proposals to amend Resolution Conf. 10.13 (Rev. CoP15) and/or to amend the Appendices accordingly so that the Depositary Government may submit them on its behalf for consideration at the 16th meeting of the Conference of the Parties.*
3. The purpose of the trade study referenced in Decision 14.148 (Rev. CoP15) is to review trade in timber species listed in Appendices II and III, to determine the types of specimens that initially appear in international trade or are exported from range States and regarding those specimens which dominate the trade in and demand for the wild resource.

* *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.*

4. During the 19th meeting of the Plants Committee (PC19, Geneva, 2011), the observer from Canada introduced document PC19 Doc. 11.5 *Tree species: annotations for species included in Appendices II and III*. The document had three Annexes: Annex 1 listed tree species included in Appendices II and III that are or may be used as timber; Annex 2 identified secondary processed timber products and corresponding World Customs Organization Harmonized System (HS) codes; and Annex 3 listed examples of wood products not qualifying as secondary processed wood products but not included in most current annotations of timber species included in Appendices II and III.
5. The Plants Committee took note of document PC19 Doc. 11.2, and established a working group (PC19 W06) chaired by the observer from Canada and comprised of Asia, Australia, Chile, Europe, Guatemala, Mexico, the Netherlands, Peru, the Republic of Korea and the United States, the European Commission, UNEP-WCMC, TRAFFIC International, and the American Herbal Products Association.
6. The Plants Committee noted the recommendations of working group PC19 WG06. Recognizing the need for further work in order to fulfill the mandates of working groups PC19 WG04, PC19 WG06 and PC19 WG12, the Plants Committee created an intersessional working group on annotations, to be coordinated by the Vice-Chair of the Plants Committee, and co-chaired by the chairs of three sub-working groups, as follows:
 - a) Meaning of 'packaged and ready for retail trade' and other terms used in the annotations (Vice-Chair of the Committee).
 - b) *Aniba rosaeodora* and *Bulnesia sarmientoi* (European Union – Mr. Valentini).
 - c) Tree species: annotations for species included in Appendices II and III (Canada – Mr. Farr).

Mandate

7. The mandate of the intersessional working group for tree annotations was that of PC19 Working Group 06:
 - a) *Consider Annexes 1, 2 and 3 of document PC19 Doc. 11.5;*
 - b) *Consider whether specimens described as "finished products packaged and ready for retail trade", (intended to refer to medicinal plant products), can or should be applied to timber products for species that are used for both purposes and listed with Annotation #2, or can or should be excluded from timber products of *Aniba rosaeodora* listed with Annotation #12;*
 - c) *Consider addressing the increasing number of Appendix-II and Appendix-III tree annotations that reference non-fibre wood products, including essential oil and extracts. It may, for example, be possible to adopt specific HS code definitions for such products as "essential oil" (HS 3301) "gums, resins, and other vegetable saps and extracts" (HS 1301) and "powders" (HS 3304), and to include these definitions in Resolution Conf. 10.13 (Rev. CoP15); and*
 - d) *Assess, based on elements presented in document PC19 Doc. 11.5, the need to amend current annotations relating to tree species.*

Actions taken

8. With a view to building on the recommendations of PC19 WG06, the intersessional working group (IWG) considered the annexes of document PC19 Doc.11.5, discussed the form and interpretation of existing annotations, and examined models for potential development of new annotations.
9. Regarding Part (b) of the IWG mandate, the IWG noted the conclusion of PC19 WG06 that the intent of the reference "excluding finished products packaged and ready for retail trade" in Annotations #2 and #12 had been to exclude medicinal products, but not timber products. The IWG discussed the potential for the exclusion to be interpreted as applying to finished and packaged timber products (for example, to packaged wooden musical instruments) and concluded that Annotations #2 and #12 as currently drafted treat finished, packaged timber products and finished, packaged medicinal products equivalently and that regulatory differentiation cannot readily be made between the two commodity types.

10. Regarding Part (c) of the IWG mandate the IWG reaffirmed Recommendation 4 of PC19 WG06 which states that the definitions proposed by PC19 WG04 for “essential oil, “extract” and “powder” were useful additions to CITES lexicon and should be considered in any future revisions of annotations for CITES-listed tree species.
11. Regarding Part (d) of the IWG’s mandate, the IWG noted that Recommendation 6 in the report of PC19 WG06 suggested focusing “on creating a reduced number of general annotations that correspond to broad product types (e.g. timber, medicinal, edible products) and append relevant HS codes as required for particular species”. The IWG discussed the implications of such a model, where product-based annotations would be selected from a “shopping list” with HS codes applied alone or in combination to suit the particular requirements of a species listing. While acknowledging certain advantages to the approach, the IWG also noted the complexity inherent in attempting to apply annotations not directly linked to a listing proposal and the potential to generate unintended outcomes by requiring, *a priori*, selection of an appropriate combination of exemptions that was neither overly broad nor restrictively narrow to effectively regulate international trade in the species.
12. The IWG also considered an approach of adjusting existing timber annotations to better address the range of timber products entering trade. The model would require a series of annotations that increased stepwise in scope, starting with an annotation limited to primary timber products and progressing to an annotation addressing primary, secondary and semi-finished wood products. A separate annotation addressing non-fibre products derived from tree species might also be included. (Descriptions and relevant HS codes for primary, secondary and semi-finished wood products have been considered previously and were included in Annexes 2 and 3 of PC19 Doc. 11.5).
13. The IWG concluded that the drafting process, the inclusion of multiple commodity types in single annotations and the use of ambiguous language has produced annotations that are often difficult to interpret and, when applied, can generate outcomes that are largely unpredictable. As such, the IWG reaffirms the recommendation of PC19 WG06 that there is a need to amend current annotations relating to tree species.

Recommendations to the Plants Committee

14. The Plants Committee may wish to:
 - a) Consider the conclusions of the Intersessional Working Group with respect to the need to amend annotations for tree species.
 - b) Consider whether Annotations #2, #11 and #12 require specific clarification given the apparent range of interpretations applied by Parties.
 - c) Identify the conclusions of this working group and of previous timber annotation working groups as potentially useful guidance for amending tree species annotations.
 - d) Encourage participation of the Plants Committee, enforcement officers and other regulatory experts in the evaluation of any new listings and annotations for timber species.