

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



Fourteenth meeting of the Conference of the Parties
The Hague (Netherlands), 3-15 June 2007

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

1. Deletion of the annotation to *Taxus chinensis*, *Taxus fuana* and *Taxus sumatrana* in Appendix II that reads:

Whole artificially propagated plants in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

and

2. Amendment of the annotation to *Taxus cuspidata* to read:

*Artificially propagated hybrids and cultivars of *Taxus cuspidata* in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.*

B. Proponent

Switzerland, as Depositary Government, at the request of the Standing Committee.

C. Supporting statement

1. Taxonomy

- 1.1 Class: Pinopsida
- 1.2 Order: Taxales
- 1.3 Family: Taxaceae
- 1.4 Genus and species: *Taxus chinensis*
Taxus cuspidata
Taxus fuana
Taxus sumatrana

2. Background

At its 13th meeting (CoP13, Bangkok, 2004), the Conference of the Parties adopted a proposal (CoP13 Prop. 48) to include in Appendix II the species *Taxus chinensis*, *Taxus cuspidata*, *Taxus fuana* and *Taxus sumatrana* and all infraspecific taxa of these species with an annotation stating:

Whole artificially propagated plants in pots or other small containers, each consignment being accompanied by a label or document stating the name of the taxon or taxa and the text 'artificially propagated', are not subject to the provisions of the Convention.

It was subsequently concluded by the Secretariat that this annotation is contrary to the Convention, as explained in Notification to the Parties No. 2004/073 of 19 November 2004, and in document SC53 Doc. 37 presented at the 53rd meeting of the Standing Committee (Geneva, June – July 2005).

3. Specimens that are covered by CITES

All trade in 'specimens' of species included in Appendices I, II and III is subject to the provisions of the Convention. This is clear from the first paragraph of each of the Articles III, IV and V, which are identical except that they refer to Appendix I, II or III respectively.

Article IV, paragraph 1, of the Convention states:

All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

Article I of CITES contains definitions of certain terms used in the text of the Convention. In its paragraph (b), this Article provides the following definition of the term 'specimen':

- (i) *any animal or plant, whether alive or dead;*
- (ii) *in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species;*

and

- (iii) *in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species.*

This definition is the legal basis for specifying the kinds of parts and derivatives that are considered as CITES 'specimens' in which trade must therefore be conducted in accordance with the provisions of the Convention. In cases where the Conference of the Parties has decided that only certain parts and derivatives of a species are subject to these provisions, the parts and derivatives that are covered are indicated in section 7 of the Interpretation section of the Appendices. The parts and derivatives that are excluded are not considered as CITES 'specimens'.

Although Article I, paragraph (b), of the Convention, provides the possibility to specify certain parts and derivatives of Appendix-II and Appendix-III plant species (and Appendix-III animal species) as included in the Appendices, and thus to exclude certain others, it does not provide the possibility to include certain whole animals or plants and exclude others, nor the possibility to exclude artificially propagated specimens. On the contrary, it is clear from subparagraph (i) of paragraph (b) that "ny animal or plant, whether alive or dead" is considered as a 'specimen' and therefore subject to the provisions of the Convention.

This does not always apply in the case of hybrids because the Conference of the Parties has determined, in Resolution Conf. 11.11 (Rev. CoP13) [in paragraph a) under 'Regarding hybrids'] that:

hybrids shall be subject to the provisions of the Convention even though not specifically included in the Appendices if one or both of their parents are of taxa included in the Appendices, unless the hybrids are excluded from CITES controls by a specific annotation in Appendix II or III.

Moreover, the Conference of the Parties has treated cultivars as equivalent to hybrids, for example in the annotation relating to Cactaceae spp. in Appendix II.

For these reasons, the annotation adopted at CoP13 is contrary to the Convention.

4. Correction to the Annotation

As the annotation is a substantive annotation, it may, as stated in Resolution Conf. 11.21 (Rev. CoP13), be amended or deleted only by the Conference of the Parties in accordance with Article XV of the Convention.

At the 54th meeting of the Standing Committee (Geneva, October 2006), the Secretariat presented, in document SC54 Doc. 18, a draft proposal to delete the amendment, including the above explanation of why it was contrary to Convention.

However, the Committee noted that a simple deletion of the current annotation would not solve the problem that the Conference of the Parties was trying to address when it was adopted. The issue is as follows:

- a) Artificial propagation, cultivation and horticultural use of certain *Taxus* species has been practiced in Japan, Europe and North America for more than 200 years. Cultivars of *Taxus cuspidata* (Japanese yew), and of the artificially propagated hybrid *T. x media* = *T. baccata* (English yew) x *T. cuspidata* are particularly common landscape plants in North America and Europe, and constitute the greater part of horticultural trade in artificially propagated *Taxus* specimens.
- b) These taxa are well known and relatively easily identified. Specimens used for horticultural purposes do not closely resemble the traded commodity for which for CITES Appendix-II controls are intended (i.e. loose semi-refined plant biomass consisting of leaves and twigs harvested from wild *Taxus* plants). International trade in artificially propagated specimens of *T. cuspidata* cultivars and hybrids has no impact on wild populations but, if not exempted, would place significant permit and regulation demands on CITES authorities and on plant producers.
- c) At CoP13, Canada cooperated with the proponents of proposal CoP13 Prop. 48 (China and the United States of America) and with the European Union in the drafting and introduction of the annotation to the proposal. The intent of the annotation was to facilitate the effective application of CITES Appendix-II regulations by exempting from Appendix II artificially propagated *Taxus* used in horticulture (as landscape plants) and in plantations producing biomass for pharmaceutical production.

5. Conclusion

In view of the above considerations, and in order to try to reflect the intent of the Conference of the Parties at CoP13, the Standing Committee requested the Depositary Government to submit, for consideration at CoP14, a proposal to delete the current annotation with regard to *Taxus chinensis*, *Taxus fuana* and *Taxus sumatrana* and to amend the annotation regarding *Taxus cuspidata* in order to refer only to artificially propagated hybrids or cultivars of this species.