

FWS-HQ-IA-2021-0008

BEFORE
THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

COMMENTS OF THE
AMERICAN HERBAL PRODUCTS ASSOCIATION

ON THE
REQUEST FOR INFORMATION AND RECOMMENDATIONS
ON SPECIES PROPOSALS FOR CONSIDERATION
AT THE 19TH CONFERENCE OF THE PARTIES TO CITES

May 3, 2021

The American Herbal Products Association (AHPA) is the national trade association and voice of the herbal products industry. AHPA is comprised of domestic and foreign companies doing business as growers, collectors, processors, manufacturers, marketers, importers, exporters and distributors of herbs and herbal products.

On March 2, 2021 the Fish and Wildlife Service of the U.S. Department of the Interior (FWS) published a notice in the *Federal Register* (the March 2 Notice)¹ in which that agency solicited, among other details, recommendations on amending Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, or the Convention) at the nineteenth regular meeting of the Conference of the Parties (CoP19), tentatively scheduled to be convened in March 2022.

AHPA's members are engaged in the commerce of herbs and herbal products. In the course of this commerce many plant species, including both wild-harvested and cultivated plants, are traded as bulk commodities or as ingredients in plant extracts and finished products such as teas, dietary supplements, and cosmetics. AHPA's members therefore have an interest in the subject of the March 2 Notice as that notice relates to plant species.

These comments are therefore submitted on behalf of AHPA's members to provide information and recommendations relevant to the March 2 Notice on plant species that may be used as ingredients in food products, teas, dietary supplements and cosmetics. No consideration was given in preparation of these comments to other plant species or to any animal species.

Recommendations for amending CITES Appendix II

The March 2 Notice states that one of its purposes is to solicit information and recommendations on animal and plant species for which the United States should consider submitting proposals to amend Appendices I and II of CITES at CoP19.

AHPA requests by these comments that the United States recommend at CoP19 that the annotation for *Panax quinquefolius* (hereinafter either the Latin name or the common name, American ginseng) be revised to establish that specimens marked and identified as artificially propagated *Panax quinquefolius* grown under

¹ 86 Fed. Reg. 12199-12202, March 2, 2021.

artificial shade are not subject to the provisions of the Convention. AHPA further requests, as an alternative only if the U.S. decides to not accept the initial request just stated, that the U.S. recommend at CoP19 that the annotation for *Panax quinquefolius* be revised to exclude sliced roots of the plant.

At this time, AHPA is providing no information or recommendations for any other plant species for which the United States should consider submitting proposals to amend Appendices I or Appendix II of CITES at CoP19.

Recommendation to exempt cultivated American ginseng from CITES' provisions

The native range of *Panax quinquefolius* is limited only to the United States and Canada. The species was added to CITES Appendix II in 1995. The listing has borne several different annotations, and is currently annotated as follows:

“Whole and sliced roots and parts of roots, excluding manufactured parts or derivatives, such as powders, pills, extracts, tonics, teas and confectionery.”

AHPA recommends and requests that the United States propose at CoP19 that this annotation be replaced with the following annotation:

“Specimens marked and identified as artificially propagated *Panax quinquefolius* grown under artificial shade are not subject to the provisions of the Convention.”²

AHPA notes that the Ginseng Board of Wisconsin (GBW) has submitted comments in response to the March 2 Notice, and therein made the same recommendation and request; AHPA joins the comments submitted by GBW in this matter.

In the comments submitted by GBW, there are several examples in which the listing of a plant species or genus in CITES Appendix II is annotated to entirely exclude from the provisions of the Convention artificially propagated specimens of

² The identification of several criteria for this requested annotation is deliberate, such that it should only apply to American ginseng that is (1) artificially propagated, (2) grown under artificial shade, and (3) marked and identified as meeting the first two criteria. The annotation would therefore not apply to “wild-simulated” American ginseng, which is currently subject to annual advice on export under the authority of FWS; or to “woodsgrown” American ginseng, which is not grown under artificial shade but is instead grown in a woodland setting.

such taxa. Thus, such broad exemptions currently exist for artificially propagated specimens of the following:

- Cultivars of *Euphorbia trigona*;
- Crested, fanshaped or colour mutants of *Euphorbia lactea*, when grafted on artificially propagated root stock of *Euphorbia neriifolia*;
- Cultivars of *Euphorbia* ‘Mili’ under certain specified conditions;
- Hybrids of several genera of orchids (Orchidaceae) under certain specified conditions, including that subject specimens “are readily recognizable as artificially propagated and do not show any signs of having been collected in the wild;”
- Cultivars of *Cyclamen persicum*, except this exemption does not apply to such specimens traded as dormant tubers;
- Live hybrids and cultivars of *Taxus cuspidata* under certain conditions, including that each consignment of such live plants is accompanied by a label or document stating the name of the taxon or taxa and the text “artificially propagated.”

Thus, there are numerous examples of plant species listed in CITES Appendix II in which cultivated populations of those species are completely exempted from CITES’ provisions, with or without certain specific conditions, such as cultivated plants that are “readily recognizable” as artificially propagated and labeling to identify specimens as “artificially propagated.” The rationale for this broad exemption for *Euphorbia trigona* may have particular relevance to the request in these comments to apply the same annotation to *Panax quinquefolius*, as explained by Gough et. al, as follows:

“Artificially propagated specimens of cultivars of *Euphorbia trigona* (left) are excluded from the *Euphorbia* listing [in Appendix II] because they are propagated in huge numbers and bear no threat or indeed resemblance to the wild plants.”³

These same two criteria apply to American ginseng root, as it too is propagated in huge numbers and bears no resemblance to wild American ginseng root.

³ Gough HN et al. 2004. CITES and Succulents: An introduction to succulent plants covered by the Convention on International Trade in Endangered Species; page 38 (referencing Slide 36). London: Royal Botanic Gardens, Kew.

Both of these factors are addressed in the above-cited comments submitted by GBW in response to the March 2 Notice:

- With regard to the number of cultivated American ginseng plants currently under propagation, GBW reports that annual production just within the state of Wisconsin is about one million pounds, and estimates that there are currently approximately 1.3 billion cultivated plants on the state's 2,700 acres of artificially propagated American ginseng. These numbers do not include cultivated production of *Panax quinquefolius* in Canada or in China, both of which also produce significant quantities of American ginseng under artificial shade and other agricultural conditions quite similar to those in place in Wisconsin.⁴
- With regard to physical appearance of cultivated specimens of American ginseng root as compared to wild specimens of American ginseng root, the GBW comments provides both photographic images and verbal descriptions that clearly show that cultivated and wild American ginseng roots are readily differentiated.

Another factor specifically relevant to American ginseng roots is the price differential between wild and cultivated materials in commerce. According to FWS, prices paid for wild and wild-simulated American ginseng root varied during the 2019 harvest “from \$400-\$700 per pound, to as high as \$1,500 per pound late in the season for high quality roots.”⁵ On the other hand, cultivated American ginseng root grown under artificial shade is currently selling for about \$15 per pound.⁶ There is therefore a significant financial disincentive for anyone to attempt to misrepresent wild American ginseng root as cultivated, just to try to take

⁴ GBW's comments to the March 2 Notice reports that 95% of the cultivated American ginseng root produced in the United States is grown in Wisconsin. A simple calculation suggests that the other 5% of U.S. domestic production of cultivated American ginseng root represents a plant population of in excess of 65 million additional individuals on U.S. ginseng farms.

⁵ Memo dated September 18, 2020 to the FWS Chief, Branch of Permits, Division of Management Authority and from the FWS Chief, Branch of Monitoring and Consultations, Division of Scientific Authority: “General Advice for the export of wild and wild-simulated American ginseng (*Panax quinquefolius*) roots legally harvested during the 2020 harvest season in the 19 States and Tribe with an approved CITES Export Program for American ginseng.”

⁶ Personal communication: Jackie Fett, Executive/Marketing Director, GBW; May 3, 2021.

advantage of the exemption requested in the revised annotation proposed in these comments and the comments in this matter submitted by GBW.

Alternative recommendation to exempt sliced roots of American ginseng from CITES' controls

AHPA repeats here its request, as also made by GBW, for the U.S. to recommend at CoP19 that the annotation for *Panax quinquefolius* be amended as described above, to completely remove for the Convention's provisions specimens of American ginseng marked and identified as artificially propagated and grown under artificial shade.

In the event that FWS and the U.S. determine to refrain from making such recommendation, however, AHPA requests that the U.S. recommend at CoP19 that the annotation for *Panax quinquefolius* be amended to remove sliced American ginseng roots from CITES controls.

In each of the past four years, FWS has reported the quantity of harvested wild and wild-simulated American ginseng root in the United States in a range of from 32,000 to 42,000 pounds (dry weight). The primary market for this material is in Asian cities, and a premium is paid for whole, intact roots with the rhizome or "neck" still attached. No one who exports wild American ginseng roots would even consider slicing these roots because to do so would significantly reduce their value for these essential Asian customers.

In comparison, cultivated American ginseng root is produced annually in much greater quantities and is sold – also primarily through exports to Asia – at a much lower cost. It is not at all uncommon for producers of this entirely separate commercial commodity to slice the roots of cultivated American ginseng into cross-sectional slices 1-2 mm thick.

Thus, any sliced American ginseng root subject to export or import is certainly cultivated material. There is therefore no need to make nondetriment findings for sliced American ginseng root, since any such material can be recognized as derived from artificially propagated crops.

AHPA therefore recommends, should the U.S. refrain from taking the initial and preferred recommendation presented in these comments, that the annotation for this species be amended to remove sliced American ginseng roots from CITES

controls, by revising the current annotation to read as follows, where the words in strikethrough font are suggested for removal and those in bold for addition:

“Whole ~~and sliced~~ roots and parts of roots, excluding manufactured parts or derivatives, such as **slices**, powders, pills, extracts, tonics, teas and confectionery.”

Conclusions

AHPA is requesting by these comments that the United States propose at the 19th Conference of the Parties of CITES, tentatively scheduled for March 2022, that the annotation for *Panax quinquefolius* be amended to exclude from CITES' provisions any specimens of this plant marked and identified as artificially propagated and grown under artificial shade; or alternatively, that the annotation be amended to exclude sliced roots of American ginseng from CITES export and import controls.

Respectfully submitted,



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