

Implementation of CITES for Flora in Thailand

Wichar Thitiprasert¹

ABSTRACT

Thailand was one of the pioneer countries in signing the Convention on International Trade in Endangered Species of Wild Fauna and Flora on March 1973. Ten years later the Royal Thai Government ratified the Convention in January 21, 1983. In compliance with the Convention provision on flora the Plant Act (No.2) B.E. 2535(1992) was approved and passed into law in March 1992. The Management and Scientific Authority were established dealing with Convention regulation for flora. The revised Act and Notification concerning conserved plant, plant under Convention listed, were discussed in detail. Prosecution of those who violated the law was given as an example.

Key words : CITES, endangered species, wild flora

Introduction

CITES is an abbreviation of the International Convention namely Convention on International Trade in Endangered Species of Wild Fauna and Flora. It was established in 1973 and came into force on the first of July 1975 after the tenth ratification. It involves international cooperation to protect and preserve human resources for present and future generation. Its main function is to regulate international trade in wild

fauna and flora which are threaten with extinction. At present there are 145 member parties.

Background History

Thailand was one of the pioneer countries in signing the Convention on March 3,1973. However, the Royal Thai Government ratified the Convention 10 years later in January 21, 1983. Moreover, the Royal Thai Government designated three agencies namely Royal

¹ Plant Introduction and Conservation of Wild Flora Sub-Division, Agricultural Regulatory Division, Department of Agriculture, Bangkok 10900

Forestry Department, Department of Fisheries and Department of Agriculture to implement Convention provision on terrestrial animals, fish and flora respectively. To strengthen Convention activity, the Ministry of Agriculture and Cooperatives set up a CITES Committee Board to give advice and set up policy guidelines for implementation by the authorities concern.

In compliance with the Convention provision on flora, the Department of Agriculture set up a drafting committee on Endangered Plant Species Act B.E.... in 1990. The draft Act was submitted to the Ministry of Agriculture and Cooperatives for consideration and approval in March 1991. However, due to the decision made by the Standing Committee on April 22, 1991 recommending member parties of the Convention to prohibit trade in species listed under the Convention with Thailand. One of the most important reasons for the Standing Committee to lay down such strong recommendation was that no legislation and regulation had been enacted since Thailand ratified the Convention. In solving the problem the Royal Thai Government ordered the Royal Forestry Department and the Department of Agriculture to speed up the enactment of the legislation concerning implementation of Convention. Furthermore, the National Legislative Assembly in February and March

1992 approved and passed into law, the Wild Animal Reservation and Protection Act and Plants Act (No.2) B.E.2535 (1992) respectively. These newly enacted laws have expanded their scope which comply with the Convention regulation in governing trade of specimens under CITES lists. Being assigned as an authority dealing with the Convention regulation for flora, the DOA established a unit namely Plant Introduction and Conservation of Wild Flora Sub-Div. in the Agricultural Regulatory Division as the Management Authority for Flora. Moreover, a group of scientists were appointed as a Scientific Authority for flora. It comprises of nine scientists from various agencies. Since then, the new sub-div. has issued export and import permits and certificates for flora in order to control and monitor the exportation of plant species under the Convention. Furthermore, the Director-General of DOA also authorized officers at the PQ station at Chiang Mai, Had Yai and Phuket International Airport in issue export permits of plant species listed under the Convention.

Plants Act (No.2) B.E.2535(1992)

The revised act has two main objectives relating to implementation of the Convention for flora follows ;

1. to comply with the Convention regulation.

2. to strengthen the controlling measures for export, import and re-export of plant species under the Convention lists (conserved plants as of the Plant Act 1992).

Following are provisions in the Plants Act (No.2) B.E.2535 (1992) relating to CITES.

Section 3 In the Act,

“conserved plant” means a plant listed in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora prescribed by the Minister as a conserved plant.

“artificial propagation” means propagation of plants which is not natural propagation according to rules and method prescribed by the Director-General ;

“import” means to bring or order into the Kingdom ;

“export” means to take or send out of the Kingdom ;

“transit” means taking or sending through the Kingdom by unloading or trans-shipment.

“place” means any area, building or part of a building and includes compounds of such a place ;

“committee” means the Plants committee ;

“competent official” means a person appointed by the Minister for execution of this Act ;

“Director-General” means the Director-General of the Department of Agriculture ;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 6 There shall be a committee called the “Plants Committee” consisting of the Permanent Secretary of the Ministry of Agriculture and Cooperatives as a chairman, Director-General of the Department of Agriculture, Director-General of the Department of Agricultural Extension, a representative of the Royal Forestry Department, a representative of the Customs Department and not more than nine qualified persons appointed by the Minister as members with the Director of the Agricultural Regulatory Division as a member and secretary.

Section 10 The Committee have the power to appoint a sub-committee for the purpose of study, research or performance in connection with plants as may be entrusted by the Committee and the provision of Section 9 shall apply mutatis mutandis to the Meeting of the sub-committee.

Section 11 The Committee shall have the power and duties as follows :

(1) to submit opinion to the Minister on the control, promotion and notification issue with respect of plants ;

(2) to give advise or recommendation to the Minister in respect of plants.

Section 29 (bi.) Plants listed in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora prescribed by the Minister in the Government Gazette as **conserved plants**.

Section 29 (tri.) A person shall not import, export or take in transit **conserved plants** and their derivatives without permission from the Director-General or officer appointed by the Director-General.

The application for any issue of permission or performance in connection with import, export and transit of **conserved plants** shall be in accordance with the rules, procedures and conditions prescribed by the Director-General in the Government Gazette.

Permission to import, export or transit **conserved plants** are valid for six months from the date of issue.

Section 29 (qua.) Any persons wishing to artificially propagate **conserved plants** for commercial purpose shall submit the application form for nursery registration of **conserved plants** to the Department of Agriculture.

The application for and registration shall be in accordance with the rules, procedures and conditions prescribed by the Director-General in the Government Gazette.

The nursery registration certificate of **conserved plants** is valid for five years from the date of issue.

Section 39 In the performance of duties, a competent official shall have the power to issue a written order requiring the presence of any person to give statement or to deliver any document or material for supplementing his consideration and shall have the power to enter a place for collection of controlled seeds for commercial purpose or nursery of **conserved plants** during its working hours, or to enter a vehicle carrying seeds or **conserved plants** and in the case where there is reasonable ground to suspect that an offence under this Act has been committed, with a view to

(1) examining seeds, **conserved plants**, containers, labels, book of accounts or any document in respect of seeds or conserved plants ;

(2) taking an appropriate quantity of seed or substance suspected of being deteriorated seeds or adulterated seeds or **conserved plants** as a sample for testing, examination or analysis ;

(3) searching, seizing or attaching seeds, **conserved plants**, containers, labels, books of accounts or any document in respect of seeds of **conserved plants**.

In the performance of duties under paragraph one the licensee and person

concerned shall provide him with appropriate facilities.

Section 39 (tri.) The competent official is empowered to seize, re-export **conserved plants** illegally imported in violation of this Act. In the case of conserved plants seizure, such plants shall be accepted by the exporting country and the cost of transportation shall be borne by the country. If the exporting country refuses and will not pay for the cost of transportation then the said **conserved plants** shall become the property of the Department of Agriculture.

Section 42. Before commencing a search in a place or vehicle under Section 39, 39(bi.) the competent official making the search must manifest his honesty and shall conduct the search in the presence of the licensee, permittee, occupier of the place, person working therein, or occupier of the vehicle or, failing that, in the presence of at least two other persons requested by the competent official to attend as witnesses.

Section 45. If the owner of possessor of seed, **conserved plant**, containers, labels, books of accounts, or any document seized or attached under 39(3) is not found, or the public prosecutor has given the final order of non-prosecution or the Court in its final judgment does not confiscate them and the owner of possessor has not applied for their return thereof within ninety days from

the date of seizure, attachment, knowledge of the final order of non-prosecution of passing the final judgment by the Court, as the case may be, they shall become the property of the Department of Agriculture to be managed as it thinks fit.

Section 61(bi.) Any person who violates Section 29 (tri.) or fails to comply with Section 29 (qua.) shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding three thousand Baht or both.

Section 66 (bi.) Any person who obstructs, does not provide the competent official with appropriate facilities in the performance of his duties under Section 39 (bi.) shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand Baht or both.

Regulations and Notifications

To comply with article IX, 1(b) of the Convention the Plant Introduction and Conservation of Wild Flora Sub-Division was established on May 12, 1992. The new Sub-Division which is under Agricultural Regulatory Division has been responsible for CITES activity for plants in Thailand since then. In addition, a group of officers from government agencies were assigned by the Director-General of DOA to act as a Scientific Authority on Conserved Plants, such as to

give advise to the Management Authority on the appropriate conservation measures for conserved plants and near extinct plant species since August 18,1993. Since the revised Act has come into effective in 1992, a number of regulations have been proclaimed such as

1. Notification of the Ministry of Agriculture and Cooperatives.

Re : Conserved Plant of 1997.

Plant species listed in the Appendices of the Convention were prescribed as Conserved Plants. They were categorized into three groups namely App. I, App.II and App.III such a *Paphiopedilum* spp., *Nepenthes* spp. and *Gnetum montanum* respectively.

2. Notification of the Department of Agriculture

Re : Rules, Procedures and Conditions for Import, Export and Bringing in Transit of Conserved Plants. No.1 of 1993, revised by No. 2 1995 and No.3 of 1998.

- Any person who imports conserved plants shall submit the application form for importation and hand in the plants to plant inspector at the port of entry. The imported plants must be accompanied with export permits from country of origin.

- Any person who intends to export artificially propagated conserved plants of App.I must submit the application form and indicate the propagation method used

and the original plant or nursery registration to an officer concerned for approval. On the other hand, exportation of wild collected conserved plants of App.I is prohibited except for scientific purposes with approval from the scientific and management authority.

- Any person who intends to export App. II and III plants must submit an application form for exportation to the officer concerned at the Agricultural Regulatory Division or at designated Plant Quarantine Station at the port of exportation. In addition, any person who want to export wild collected App. II and III plants has to submit a document to show that the plant was not collected from any area under forest law (this measure has been enforce since December 1998).

- Any person transiting conserved plants shall submit the application form, accompanied with an export permit from the country of origin to a plant inspector at the point of entry for permission. Furthermore, the importer shall submit the import permit accompanying the imported plants to the P.Q. officer at the port of exportation for inspection and permission to re-export.

3. Notification of the Department of Agriculture

Re : Rules, Procedures and Conditions for Nursery Registration of Conserved Plants. No.1 of 1993, revised on 6 October 1998.

- Any person who intends to artificially propagate plants for commercial purposes shall submit the application form for registration of nursery to the authority at Agricultural Regulatory Division. The Department of Agriculture will issue the certificate after the application is thoroughly examined and found compliance with all the conditions prescribed under the Notification.

- The owner of the registered nursery shall submit an annual inventory report by the end of the year to the DOA.

Law enforcement

According to Section 29 (tri.) of the Plant Act (No.2) 1992, the Director General of the DOA and officers appointed by the DG of the DOA are authorized to issue import, export and re-export permits of conserved plants. To strengthen the control measure, the DG has appointed plant quarantine officers at the PQ border stations to act as an authority under Section 29(tri.) There are thirty four PQ Stations throughout the country. From the year 1994 until present, the DOA has prosecuted those who violated Section 29 (tri.) eight cases, for example ;

> On 24 January 1994, Mr.Akihito Mitoya was found guilty of attempting to export wild taken App.1, *Paphiopedilum* spp. without permission. He was fined 3,000 Baht and sentenced to one month imprisonment, suspended for one year.

> On 3 September 1994, plant inspectors of the DOA intercepted an exporting parcel which contained 762 plants of wild taken *Paphiopedilum* spp. without permits. In addition, some of the plants are endemic in foreign countries or near extinct particularly *Paphiopedilum sanderianum*. Furthermore, the Police Department has issued an arrest warrant for one suspect of German nationality.

> On November 1997, a plant inspector and a plant quarantine officer, at the General Post Office Bangkok intercepted imported cactus plants without valid export permit form the USA. The Director General of the DOA by recommendation of the Director of Law Division has notified the police that the importer made a false statement and used a fake document. The case is now under the investigation by the Police Office.