

Medicinal Products from CITES-Listed Plants

1.1 Scenario Overview

In 2023, Sue N. Aptite purchased a medicinal product, "GordoniaFit," while traveling in South Africa, a product well known for its appetite-suppressing properties. She bought it in a health food store. As part of a promotional offer, she also received a live *Hoodia gordonii* plant. She was so happy, since it was a plant that she remembered from her childhood home and it reminded her about her parents. What she didn't know was that *Hoodia gordonii* is CITES-listed, in Appendix II.

Ms. Aptite returned to Euronovia in 2024. Upon arrival the Customs were very interested in the plant she was carrying in a bag. Ms Aptite happily told the Customs officer in duty, Mr. Gideon Thorncroft, that she got the plant together with the medical product and advised him to try to get it (the product) on the internet; it would make also him fit in no time.

If she had a CITES/EU permit to show him? For some pills and a small plant? He must be joking, so first she laughed. Then she became mad. She has never ever heard the word "CITES" and she bought the GordoniaFit in proper store – not on a shady back street. Of course, it is legal! What's the problem?

After consulting his colleague, customs officer Mr. Thorncroft confiscated both items, explaining to Ms. Aptite that *Hoodia gordonii* is listed under CITES Appendix II, and that she had no CITES/EU permits for the importation. Under Euronovia's Criminal Code, importing CITES-listed species without the necessary permits is punishable by confiscation of the goods, a fine of up to €150,000, or imprisonment for up to five years.

The very upset Ms Aptite told him that the products were for her personal health use, not for trade. If she had bought them for trade, wouldn't have suggested him to go to the internet to buy them; she would have offered him to buy.

She wants her souvenirs back!

2. The roles

More specific information under each role is only given to the specific group. All questions and statements are for inspiration **only**. You create your own roles and put forward the arguments that you believe will lead to the desired legal result. If you need the witnesses, the Customs Inspector comes from the Prosecutor group (also if the defence wants to hear him). The biochemist comes from the defence-group (also if the defence wants to hear him).

2.1 Prosecution

Argues that Sue N. Aptite has violated both CITES and Euronovia laws by importing the medicinal product and live *Hoodia gordonii* plant without the necessary permits.

Witness (if you think it is needed): Customs Inspector Gideon Thorncroft

2.2 Defense: The lawyer representing Sue N. Aptite and Ms. Aptite herself

Argues that the confiscation of the medicinal product and plant was unjustified because Sue N. Aptite had no idea about the CITES-rules, that she didn't know that the plant was protected in any way, the medical product is not a plant, she imported the product for personal health use, not for trade, and the plant as a souvenir. Exemptions under CITES regulations may apply.

Witness (if you think it is needed): The biochemist, Dr. Syllas Verdant who can tell that there is actually not a trace from the plant in the product.

2.3 Judges

...do what judges do.

3. Structure of the Role-Play:

3.1 Introduction (10 min)

3.2 Time to prepare in groups (30 min)

3.3 The proceedings (30 min)

3.4 Discussions about the outcome (15 min)

4. Instruction and inspiration to the prosecution

Main goal: Demonstrate that Sue N. Aptite failed to comply with CITES and Euronovia's regulations and that the confiscation of the items was lawful. You will need to demonstrate that Sue N. Aptite imported CITES-listed products without the necessary permits and that Sue N. Aptite's personal use of the medicinal product does not negate the requirement to obtain a permit. This involves showing that both the medicinal product and the live *Hoodia gordonii* plant fall under regulated categories and are not exempted from permit requirements.

You also will have to answer and argue about the Ms. Aptite's claims that:

- There is no legal basis for the confiscation.
- She had no intention to do anything unlawful.
- The confiscated items were only for "personal use".
- There are exemptions under the CITES-regulation that applies to either the plant or the medicinal product.
- GordonianFit does not even contain *Hoodia gordonii*. The defence has made laboratory tests of the product and it is fake.

5. Instruction and inspiration to the defence

Main Goal: Secure the return of the confiscated items by demonstrating that Sue N. Aptite

- was in compliance with CITES-rules,
- had not intention and that it's therefor not possible to hold her liable to anything (and certainly not to confiscate her belongings), and
- showing that the penalties imposed were disproportionate.

These arguments are for inspiration – there might be others that you come up with. You must check if the arguments are “valid” and put as much weight in the arguments as you find relevant.

- Argue that the confiscation of the medicinal product and plant was unjustified because Sue N. Aptite had no idea about the CITES-rules, that she didn't know that the plant was protected in any way.
- Argue that Sue N. Aptite's actions were not motivated by commercial gain but by personal health needs, and therefore, the importation does not fall under the scope of CITES permit requirements.
- Argue that recent changes in CITES regulations, particularly for medicinal products like GordoniaFit, exempt the product from requiring a permit. Provide evidence to support that the product was sourced and manufactured under conditions that meet the exemption criteria.
- GordoniaFit does not even contain *Hoodia gordonii*. The defence has made laboratory tests of the product and it is fake.
- If the court finds Sue N. Aptite guilty, argue for a reduced penalty based on her lack of intent to violate the law and the personal nature of the items.

6. Instruction and inspiration to the Judges

Chose a presiding judge to lead the proceedings or split the task between you.

You lead the proceedings, preferably as similar as possible, as if they were held in your (the presiding judge's) country.

Deliberate (in camera) and announce your decision.

You will render a well-reasoned judgment based on the arguments and evidence presented, determining whether Sue N. Aptite's actions were in violation of CITES (and domestic law) and if so: issue a proportionate penalty.

You will probably have to deal with and rule on the following questions:

- Personal use vs. commercial trade:
- Sue N. Aptite's ignorance of the both the rules and that it was a plant covered by CITES
- Evaluate the validity of the exemption claim. Determine whether the medicinal product qualifies for an exemption under recent changes to CITES regulations – and also determine if that is of any relevance to the case.
- Does it matter if Ms Aptite proves that GordoniaFit does not contain *Hoodia gordonii*?

If you decide to rule in favour of the prosecution, decide on an appropriate penalty. Consider whether confiscation alone suffices or if additional penalties such as a fine or imprisonment should be imposed. Under Euronovia's Criminal Code, the importation of endangered species and their derivatives without the required permits is punishable by fines of up to €150 000 or up to five years of imprisonment.