Commission Regulation (EU) 2015/870 of 5 June 2015 amending, as regards the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97

COMMISSION REGULATION (EU) 2015/870

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein[(1)], and in particular Article 19(2), (3) and (4) thereof,

Whereas:

(1) In order to implement certain Resolutions adopted at the sixteenth meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (3 – 14 March 2013), hereinafter 'the Convention', certain provisions should be amended and further provisions should be added to Commission Regulation (EC) No 865/2006[(2)].

(2) In particular, in line with CITES Resolution Conf. 16.8, specific provisions designed to simplify the non-commercial cross-border movement of musical instruments should be inserted.

(3) Experience gained in the implementation of Regulation (EC) No 865/2006, in conjunction with Commission Implementing Regulation (EU) No 792/2012[(3)], has shown that some provisions therein should be amended in order to ensure that the Regulation is implemented in a harmonised and efficient manner within the Union. This is the case in particular in relation to the first introduction into the Union of hunting trophies of specimens of some species or populations listed in Annex B to Regulation (EC) No 338/97, for which there are concerns as to the sustainability of trade in hunting trophies or for which there are indications of significant illegal trade. In such cases, more stringent control of imports into the Union is necessary and the derogation set out in Article 7(3) of Regulation (EC) No 338/97 for personal and household effects should therefore not apply. Experience in implementing Regulation (EC) No 865/2006 has also shown that it was necessary to clarify that import permits should not be issued by Member States in cases where, despite a request to this end, they do not obtain satisfactory information from the exporting or re-exporting country as to the legality of the specimens to be imported into the EU.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/870. (See end of Document for details)*

(4) At the sixteenth meeting of the Conference of the Parties to the Convention, the standard references for nomenclature were updated. These references are used to indicate scientific names of species in permits and certificates. Those changes should be reflected in Annex VIII to Regulation (EC) No 865/2006.

(5) Regulation (EC) No 865/2006 should be amended accordingly.

(6) As this Regulation should be used in conjunction with Implementing Regulation (EU) No 792/2012, it is important that both Regulations apply as of the same day.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora.

(8) Commission Regulation (EU) 2015/56[(4)] has been adopted without submission of the draft measure for scrutiny to the Council. In order to remedy this omission, the Commission repeals Regulation (EU) 2015/56 and replaces it by the present Regulation which was submitted in draft for scrutiny to the European Parliament and the Council. Acts adopted under Regulation (EU) 2015/56 remain valid,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 865/2006 is amended as follows:

(1) Article 1 is amended as follows:

(a) point (1) is replaced by the following:

(1) "date of acquisition" means the date on which a specimen was taken from the wild, born in captivity or artificially propagated, or, if such date is unknown, the earliest provable date on which it was possessed by any person;;

(b) point (6) is replaced by the following:

(6) "travelling exhibition" means a sample collection, circus, menagerie, plant exhibition, orchestra or museums exhibition that is used for commercial display for the public;.

(2) In Article 4(1), the second subparagraph is replaced by the following:

However, applications for import and export permits, for re-export certificates, for the certificates provided for in Articles 5(2)(b), 5(3), 5(4), 8(3) and 9(2)(b) of Regulation (EC) No 338/97, for personal ownership certificates, for sample collection certificates, for musical instrument certificates and for travelling exhibition certificates as well as import notifications, continuation sheets and labels may be completed in manuscript, provided this is done legibly, in ink and in block capitals..

(3) In Article 7, the following paragraph 6 is added:

6. Export permits and re-export certificates issued by third countries shall be accepted only if the competent authority from the third country concerned provides, where requested to do so, satisfactory information that the specimens were obtained in accordance with the legislation on the protection of the species concerned..

(4) Article 9 is replaced by the following:

Article 9

Shipments of specimens

Without prejudice to Articles 31, 38, 44b, 44i and 44p, a separate import permit, import notification, export permit or re-export certificate shall be issued for each shipment of specimens shipped together as part of one load..

(5) Article 10 is amended as follows:

(a) the title is replaced by the following:
Article 10

Validity of import and export permits, re-export certificates, travelling exhibition certificates, personal ownership certificates, sample collection certificates and musical instrument certificates;

(b) paragraph 3 is replaced by the following:

3. The period of validity of the travelling exhibition certificates, personal ownership certificates and musical instrument certificates issued in accordance with Articles 30, 37 and 44h respectively shall not exceed three years.;

(c) paragraphs 5 and 6 are replaced by the following:

5. Travelling exhibition certificates, personal ownership certificates or musical instrument certificates shall cease to be valid if the specimen is sold, lost, destroyed or stolen, or if ownership of the specimen is otherwise transferred, or, in the case of a live specimen, if it has died, escaped or been released to the wild.

6 The holder shall, without undue delay, return to the issuing management authority the original and all copies of any import permit, export permit, re-export certificate, travelling exhibition certificate, personal ownership certificate, sample collection certificate or musical instrument certificate, which has expired or which is unused or no longer valid..

(6) Article 11 is amended as follows:

(a) in paragraph 1, point (c) is replaced by the following:

(c) where specimens referred to therein have been lost, destroyed or stolen;;

(b) in paragraph 2, point (c) is replaced by the following:

(c) where specimens referred to therein have been lost, destroyed or stolen;.

(7) In Article 14, the second paragraph is replaced by the following:

However, certificates of origin for specimens of species listed in Annex C to Regulation (EC) No 338/97 may be used for the introduction of specimens into the Union until 12 months from their date of issue and travelling exhibition certificates,

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/870. (See end of Document for details)*

personal ownership certificates and musical instrument certificates may be used for the introduction of specimens into the Union and for the purpose of applying for respective certificates in accordance with Articles 30, 37 and 44h of this Regulation until three years from their date of issue..

(8) The following Chapter VIIIb is inserted after Article 44g:

CHAPTER VIIIb

MUSICAL INSTRUMENT CERTIFICATE

Article 44h

Issue

1 Member States may issue a musical instrument certificate for non-commercial cross-border movement of musical instruments for purposes including, but not limited to, personal use, performance, production (recordings), broadcast, teaching, display or competition, where such instruments meet all of the following requirements:

a they are derived from species listed in Annexes A, B or C of Regulation (EC) No 338/97, other than specimens of species listed in Annex A of Regulation (EC) No 338/97 acquired after the species was included in Appendices to the Convention;

b the specimen used in the manufacture of the musical instrument has been legally acquired;

c the musical instrument is appropriately identified.

2 A continuation sheet shall be attached to the certificate for use in accordance with Article 44m.

Article 44i

Use

The certificate may be used in either of the following ways:

(a) as an import permit in accordance with Article 4 of Regulation (EC) No 338/97;

(b) as an export permit or re-export certificate in accordance with Article 5 of Regulation (EC) No 338/97.

Article 44j

Issuing authority

1 The management authority of the State of usual residence of the applicant shall be the issuing authority for a musical instrument certificate.

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2 The musical instrument certificate shall include the following text in box 23 or in an appropriate annex to the certificate:

Valid for multiple cross-border movements. Original to be retained by holder.

The musical instrument covered by this certificate, which permits multiple cross-border movements, is for non-commercial use for purposes including, but not limited to, personal use, performance, production (recordings), broadcast, teaching, display or competition. The musical instrument covered by this certificate may not be sold or possession of it transferred whilst it is outside the State in which the certificate was issued.

This certificate must be returned to the management authority of the State which issued the certificate before the expiration of the certificate.

This certificate is not valid unless accompanied by a continuation sheet, which must be stamped and signed by a customs official at each border crossing..

Article 44k

Requirements for specimens

Where a specimen is covered by a musical instrument certificate, the following requirements shall be met:

(a) the musical instrument must be registered by the issuing management authority;

(b) the musical instrument must be returned to the Member State in which it is registered before the date of expiry of the certificate;

(c) the specimen may not be sold or possession of it transferred whilst outside the applicant's State of usual residence except subject to the conditions provided for in Article 44n;

(d) the musical instrument must be appropriately identified.

Article 44l

Applications

1 An applicant for a musical instrument certificate shall provide information as set out in Articles 44h and 44k and, where appropriate, complete boxes 1, 4 and 7 to 23 of the application form and boxes 1, 4 and 7 to 22 of the original and all copies of the certificate.

Member States may provide that only an application form is to be completed, in which case such an application may be for more than one certificate.

2 The duly completed application form shall be submitted to a management authority of the Member State of usual residence of the applicant together with the necessary information and the documentary evidence that that authority deems necessary in order for it to determine whether a certificate should be issued.

Any omission of information from the application must be justified.