Commission regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

COMMISSION REGULATION (EC) No 865/2006

of 4 May 2006

laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

[[F1]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) Provisions are required to implement Regulation (EC) No 338/97 and to ensure full compliance with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), hereinafter 'the Convention'.

(2) In order to ensure the uniform implementation of Regulation (EC) No 338/97, it is necessary to lay down detailed conditions and criteria for the consideration of permit and certificate applications and for the issue, validity and use of such documents. It is therefore appropriate to lay down models to which those documents must correspond.

(3) It is further necessary to lay down detailed provisions relating to the conditions and criteria for the treatment of specimens of animal species that are born and bred in captivity and of specimens of plant species that are artificially propagated in order to ensure the common implementation of the derogations applicable to such specimens.

(4) The derogations for specimens that are personal and household effects provided for in Article 7(3) of Regulation (EC) No 338/97 require that provisions be specified to ensure compliance with paragraph 3 of Article VII of the Convention.

(5) In order to ensure that general derogations from the internal trade prohibitions contained in Article 8(1) of Regulation (EC) No 338/97 are uniformly applied, it is necessary to lay down conditions and criteria with regard to their definition.

(6) It is necessary to establish procedures for the marking of certain specimens of species in order to facilitate their identification and ensure enforcement of the provisions of Regulation (EC) No 338/97.

(7) Provisions should be laid down regarding the contents, form and submission of the periodic reports provided for in Regulation (EC) No 338/97.

Changes to legislation: *There are outstanding changes not yet made to Commission regulation (EC) No 865/2006. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(8) In order for future amendments to the Annexes to Regulation (EC) No 338/97 to be considered all relevant information should be available, particularly on the biological and trade status of species, their use and methods of controlling trade.

(9) At the 12th session of the Conference of the Parties to the Convention, held in Santiago (Chile) from 3 to 15 November 2002, a number of Resolutions were adopted concerning; *inter alia*; simplified procedures for the issue of permits and certificates, a special certificate to facilitate the movement of certain categories of specimens that are part of a travelling exhibition, additional derogations regarding personal effects, updated requirements regarding the labelling of containers of caviar, and other measures of a routine and technical nature, including the alteration of the codes used in permits and certificates and amendments to the list of standard references used for determining the names of species listed in the Appendices to the Convention, and it is therefore necessary to take those Resolutions into account.

(10) In view of the administrative burden entailed by the regulation of the export and import of live captive born and bred and personally owned animals and of personally owned animals introduced into the Community before Regulation (EC) No 338/97, Council Regulation (EEC) No 3626/82 of 3 December 1982 on the implementation in the Community of the Convention on international trade in endangered species of wild fauna and flora[(2)] or national legislation implementing the Convention became applicable, and of the fact that such exports and imports do not pose an obstacle to the protection of species of fauna in the wild, a special certificate should be created for those purposes.

(11) Commission Regulation (EC) No 1808/2001 of 30 August 2001 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein[(3)] therefore needs to be substantially amended. In view of the scope of those amendments and in the interests of clarity, that Regulation should be replaced in its entirety.

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

HAS ADOPTED THIS REGULATION:

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

***Changes to legislation:** There are outstanding changes not yet made to Commission regulation (EC) No 865/2006. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

CHAPTER I

DEFINITIONS

Article 1

Definitions

For the purposes of this Regulation, in addition to the definitions laid down in Article 2 of Regulation (EC) No 338/97, the following definitions shall apply:

(1) **[**[F2]‘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;**]**

(2) ‘second-generation offspring (F2)’ and ‘subsequent generation offspring (F3, F4, and so on)’ means specimens produced in a controlled environment from parents that were also produced in a controlled environment, as distinct from specimens produced in a controlled environment from parents at least one of which was conceived in or taken from the wild (first-generation offspring (F1));

(3) ‘breeding stock’ means all the animals in a breeding operation that are used for reproduction;

(4) ‘controlled environment’ means an environment that is manipulated for the purpose of producing animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving, and the general characteristics of which may include but are not limited to artificial housing, waste removal, health care, protection from predators and the artificial supply of food;

(4a) **[**[F3]‘cultivated parental stock’ means the ensemble of plants grown under controlled conditions that are used for reproduction, and which must have been, to the satisfaction of the competent management authority, in consultation with a competent scientific authority of the Member State concerned:

(i) established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild; and

(ii) maintained in sufficient quantities for propagation so as to minimise or eliminate the need for augmentation from the wild, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the cultivated parental stock;

(4b) ‘hunting trophy’ means a whole animal, or a readily recognisable part or derivative of an animal, specified on any accompanying CITES permit or certificate that fulfils the following conditions:

(i) is raw, processed or manufactured;

(ii) was legally obtained by the hunter through hunting for the hunter's personal use;

(iii) is being imported, exported or re-exported by or on behalf of the hunter, as part of the transfer from its country of origin, ultimately to the hunter's State of usual residence;**]**

Changes to legislation: *There are outstanding changes not yet made to Commission regulation (EC) No 865/2006. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) 'a person normally residing in the Community' means a person who lives in the Community for at least 185 days in each calendar year because of occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living;

(6) **[**[F2]'travelling exhibition' means a sample collection, circus, menagerie, plant exhibition, orchestra or museums exhibition that is used for commercial display for the public;**]**

(7) **[**[F4]'transaction-specific certificates' means certificates issued in accordance with Article 48 that are valid only for one or more specified transactions;**]**

(8) 'specimen-specific certificates' means certificates issued in accordance with Article 48, other than transaction-specific certificates**[**[F4];**]**

(9) **[**[F5]'sample collection' means a collection of legally acquired dead specimens, parts and derivatives thereof, that are transported across borders for presentation purposes;

(10) 'pre-Convention specimen' means a specimen acquired before the species concerned was first included in the Appendices to the Convention.**]**

Textual Amendments

F2 Substituted by 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.

F3 Inserted by Commission Regulation (EU) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

F4 Substituted by Commission Regulation (EC) No 100/2008 of 4 February 2008 amending, as regards sample collections and certain formalities relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

F5 Inserted by Commission Regulation (EC) No 100/2008 of 4 February 2008 amending, as regards sample collections and certain formalities relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

CHAPTER II

FORMS AND TECHNICAL REQUIREMENTS

[F6]Article 2

[[F6]**Forms**

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Textual Amendments

F6 Deleted by Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation

***Changes to legislation:** There are outstanding changes not yet made to Commission regulation (EC) No 865/2006. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and amending Commission Regulation (EC) No 865/2006.

[F6 Article 3

Technical specifications with regard to forms]

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Textual Amendments

F6 Deleted by Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and amending Commission Regulation (EC) No 865/2006.

Article 4

Completion of forms

[[F4][F1]1 Forms referred to in Article 2 of Commission Implementing Regulation (EU) No 792/2012[(4)] shall be completed in typescript.**]**

[[F2]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.**]]**

[[F1]2 Forms 1 to 4 of Annex I provided for in Implementing Regulation (EU) No 792/2012, forms 1 and 2 of Annex II provided for in Implementing Regulation (EU) No 792/2012, forms 1 and 2 of Annex III provided for in Implementing Regulation (EU) No 792/2012, forms 1 and 2 of Annex V provided for in Implementing Regulation (EU) No 792/2012, the continuation sheets referred to in Article 2(4) of Implementing Regulation (EU) No 792/2012 and the labels referred to in Article 2(6) of Implementing Regulation (EU) No 792/2012 may not contain any erasures or alterations, unless those erasures or alterations have been authenticated by the stamp and signature of the issuing management authority. In the case of the import notifications as referred to in Article 2(2) of Implementing Regulation (EU) No 792/2012 and the continuation sheets referred to in Article 2(4) of Implementing Regulation (EU) No 792/2012, erasures or alterations may also be authenticated by the stamp and signature of the customs office of introduction.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

F2 Substituted by 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.