

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

CHAPTER III

ISSUE, USE AND VALIDITY OF DOCUMENTS

Article 8

Issue and use of documents

1 Documents shall be issued and used in accordance with the provisions and under the conditions laid down in this Regulation and in Regulation (EC) No 338/97, and in particular in Article 11(1) to (4) of the latter Regulation.

In order to ensure compliance with those Regulations and with the provisions of national law adopted for their implementation, the issuing management authority may impose stipulations, conditions and requirements, which shall be set out in the documents concerned.

2 The use of documents shall be without prejudice to any other formalities relating to the movement of goods within the Community, to the introduction of goods into the Community or to their export or re-export therefrom, or to the issue of the documents used for such formalities.

3 Management authorities shall decide on the issue of permits and certificates within one month of the date of submission of a complete application.

However, where the issuing management authority consults third parties, such a decision may be taken only after the satisfactory completion of such consultation. Applicants shall be notified of significant delays in processing their applications.

Article 9

Shipments of specimens

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.

Article 10

Validity of import and export permits, re-export certificates, travelling exhibition certificates, and personal ownership certificates

1 The period of validity of import permits issued in accordance with Articles 20 and 21 shall not exceed 12 months. An import permit shall, however, not be valid in the absence of a valid corresponding document from the country of export or re-export.

2 The period of validity of export permits and re-export certificates issued in accordance with Article 26 shall not exceed six months.

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

4 After their expiry, the permits and certificates referred to in paragraphs 1, 2 and 3 shall be considered as void.

5 Travelling exhibition certificates or personal ownership 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 or personal ownership certificate which has expired or which is unused or no longer valid.

Article 11

Validity of used import permits and of the certificates referred to in Articles 47, 48, 49, 60 and 63

1 Copies for the holder of used import permits shall cease to be valid in the following cases:

- a where live specimens referred to therein have died;
- b where live animals referred to therein have escaped or have been released to the wild;
- c where specimens referred to therein have been destroyed;
- d where any of the entries in boxes 3, 6 or 8 no longer reflects the actual situation.

2 The certificates referred to in Articles 47, 48, 49 and 63 shall cease to be valid in the following cases:

- a where live specimens referred to therein have died;
- b where live animals referred to therein have escaped or have been released to the wild;
- c where specimens referred to therein have been destroyed;
- d where any of the entries in boxes 2 and 4 no longer reflects the actual situation.

3 Certificates issued in accordance with Articles 48 and 63 shall be transaction-specific unless the specimens covered by such certificates are uniquely and permanently marked.

The management authority of the Member State in which the specimen is located may also, in consultation with the relevant scientific authority, decide to issue transaction-specific certificates where it is considered that there are other factors relating to the conservation of the species that militate against the issuance of a specimen-specific certificate.

4 The certificates referred to in Article 48(1)(d) and Article 60 shall cease to be valid where the entry in box 1 no longer reflects the actual situation.

Such documents shall, without undue delay, be returned to the issuing management authority which, where appropriate, may issue a certificate reflecting the required changes in accordance with Article 51.

Article 12

Documents cancelled, lost, stolen, destroyed or expired

1 Where a permit or certificate is issued to replace a document that has been cancelled, lost, stolen or destroyed, or that, in the case of a permit or re-export certificate, has expired, the number of the replaced document and the reason for the replacement shall be indicated in the box for 'special conditions'.

2 Where an export permit or re-export certificate has been cancelled, lost, stolen or destroyed, the issuing management authority shall inform the management authority of the country of destination and the Secretariat of the Convention thereof.

Article 13

Time of application for import and (re)-export documents and assignation to a customs procedure

1 Import permits, export permits and re-export certificates shall, taking account of Article 8(3), be applied for in sufficient time to allow their issue prior to the introduction of specimens into or their export or re-export from the Community.

2 The assignation of specimens to a customs procedure shall not be authorised until after presentation of the requisite documents.

Article 14

Validity of documents from third countries

In the case of the introduction of specimens into the Community, the requisite documents from third countries shall be considered valid only where they have been issued for export or re-export from that country and used for that purpose prior to their last day of validity and are used for introduction of specimens into the Community no later than six months from their date of issue.

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 Community until 12 months from their date of issue and travelling exhibition certificates and personal ownership certificates may be used for the introduction of specimens into the Community and for the purpose of applying for respective certificates in accordance with Articles 30 and 37 of this Regulation until three years from their date of issue.

Article 15

Retrospective issue of certain documents

1 By way of derogation from Article 13(1) and Article 14 of this Regulation, and provided that the importer or (re-)exporter informs the competent management authority on arrival or before departure of the shipment of the reasons why the required documents are not available, documents for specimens of species listed in Annex B or C to Regulation (EC)

No 338/97, as well as for specimens of species listed in Annex A to that Regulation and referred to in Article 4(5) thereof, may exceptionally be issued retrospectively.

2 The derogation provided for in paragraph 1 shall apply where the competent management authority of the Member State, in consultation with the competent authorities of a third country where appropriate, is satisfied that any irregularities which have occurred are not attributable to the importer or the (re-)exporter, and that the import or (re-)export of the specimens concerned is otherwise in compliance with Regulation (EC) No 338/97, the Convention and the relevant legislation of the third country.

3 Documents issued pursuant to paragraph 1 shall clearly indicate that they have been issued retrospectively and the reasons for such issue.

In the case of Community import permits, Community export permits and Community re-export certificates, that information shall be indicated in box 23.

4 The Secretariat of the Convention shall be notified of export permits and re-export certificates issued in accordance with paragraphs 1, 2 and 3.

Article 16

Specimens in transit through the Community

Articles 14 and 15 of this Regulation shall apply *mutatis mutandis* to specimens of species listed in Annexes A and B to Regulation (EC) No 338/97 which are in transit through the Community where that transit is otherwise in accordance with the latter Regulation.

Article 17

Phytosanitary certificates

1 In the case of artificially propagated plants of the species listed in Annexes B and C to Regulation (EC) No 338/97 and of artificially propagated hybrids produced from the unannotated species listed in Annex A thereto, the following shall apply:

- a Member States may decide that a phytosanitary certificate is to be issued instead of an export permit;
- b phytosanitary certificates issued by third countries shall be accepted instead of an export permit.

2 Where a phytosanitary certificate as referred to in paragraph 1 is issued, it shall include the scientific name at the species level or, if this is impossible for those taxa included by family in the Annexes to Regulation (EC) No 338/97, at the generic level.

However, artificially propagated orchids and cacti listed in Annex B to Regulation (EC) No 338/97 may be referred to as such.

Phytosanitary certificates shall also include the type and quantity of specimens and bear a stamp, seal or other specific indication stating that 'the specimens are artificially propagated as defined by CITES'.

Article 18

Simplified procedures with regard to certain trade in biological samples

1 In the case of trade that will have no impact on the conservation of the species concerned or only a negligible impact, simplified procedures on the basis of pre-issued permits and certificates may be used for biological samples of the type and size specified in Annex XI, where those samples are urgently required to be used in the manner specified in that Annex and provided that the following conditions are satisfied:

- a each Member State must establish and maintain a register of the persons and bodies that may benefit from simplified procedures, hereinafter ‘registered persons and bodies’, as well as of the species that they may trade under such procedures, and must ensure that the register is reviewed by the management authority every five years;
- b Member States must provide registered persons and bodies with partially completed permits and certificates;
- c Member States must authorise registered persons or bodies to enter specific information on the face of the permit or certificate where the management authority of the relevant Member State has included the following items in box 23, or in an equivalent place, or in an annex to the permit or certificate:
 - (i) a list of the boxes that registered persons or bodies are authorised to complete for each shipment;
 - (ii) a place for the signature of the person who completed the document.

If the list referred to in point (c)(i) includes scientific names, the management authority shall include an inventory of approved species on the face of the permit or certificate or in an annex thereto.

2 Persons and bodies may be entered in the register for a particular species only after a competent scientific authority has advised in accordance with Articles 4(1)(a), 4(2)(a), 5(2)(a) and 5(4) of Regulation (EC) No 338/97 that multiple transactions involving the biological samples listed in Annex XI to this Regulation will not have a harmful effect on the conservation status of the species in question.

3 The container in which biological samples referred to in paragraph 1 are shipped shall bear a label that specifies ‘Muestras biológicas CITES’, or ‘CITES Biological Samples’, or ‘Échantillons biologiques CITES’, as well as the number of the document issued in accordance with the Convention.

Article 19

Simplified procedures with regard to export or re-export of dead specimens

1 In the case of the export or re-export of dead specimens of species, including any parts or derivatives thereof, listed in Annexes B and C to Regulation (EC) No 338/97, Member States may provide for the use of simplified procedures on the basis of pre-issued export permits or re-export certificates, provided that the following conditions are satisfied:

- a a competent scientific authority must advise that such export or re-export will have no detrimental impact on the conservation of the species concerned;
- b each Member State must establish and maintain a register of the persons and bodies that may benefit from simplified procedures, hereinafter ‘registered persons and bodies’, as

well as of the species that they may trade under such procedures, and must ensure that the register is reviewed by the management authority every five years;

- c Member States must provide registered persons and bodies with partially completed export permits and re-export certificates;
- d Member States must authorise registered persons or bodies to enter specific information in boxes 3, 5, 8 and 9 or 10 of the permit or certificate provided that they comply with the following requirements:
 - (i) they sign the completed permit or certificate in box 23;
 - (ii) they immediately send a copy of the permit or certificate to the issuing management authority;
 - (iii) they maintain a record which they produce to the competent management authority on request and which contains details of the specimens sold, including the species name, the type of specimen, the source of the specimen, the dates of sale and the names and addresses of the persons to whom they were sold.

2 The export or re-export referred to in paragraph 1 shall otherwise be in accordance with Article 5(4) and (5) of Regulation (EC) No 338/97.