

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 X

**CERTIFICATES PROVIDED FOR IN ARTICLES 5(2)(b),
5(3), 5(4), 8(3) AND 9(2)(b) OF REGULATION (EC) No 338/97**

Article 46

Issuing authority

Certificates provided for in Articles 5(2)(b), 5(3), 5(4), 8(3) and 9(2)(b) of Regulation (EC) No 338/97 may be issued by the management authority of the Member State in which the specimens are located, on receiving an application in accordance with Article 50 of this Regulation.

Article 47

**Certificates provided for in Article 5(2)(b), (3) and (4) of Regulation
(EC) No 338/97 (certificates required for export or re-export)**

The certificates provided for in Article 5(2)(b), (3) and (4) of Regulation (EC) No 338/97 shall indicate which of the following statements apply in the case of the specimens covered:

- (1) they were taken from the wild in accordance with the legislation of the Member State of origin;
- (2) they were abandoned or had escaped and were recovered in accordance with the legislation of the Member State where the recovery took place;
- (3) they were acquired in, or introduced into the Community, in accordance with Regulation (EC) No 338/97;
- (4) they were acquired in, or introduced into the Community, before 1 June 1997 in accordance with Regulation (EEC) No 3626/82;
- (5) they were acquired in, or introduced into, the Community before 1 January 1984 in accordance with the Convention;
- (6) they were acquired in, or introduced into, the territory of a Member State before the Regulations referred to in points (3) or (4) or the Convention became applicable to them, or became applicable in that Member State.

Article 48

Certificate provided for in Article 8(3) of Regulation (EC) No 338/97 (certificate for commercial use)

1 A certificate for the purposes of Article 8(3) of Regulation (EC) No 338/97 shall state that specimens of species listed in Annex A thereto are exempted from one or more of the prohibitions laid down in Article 8(1) of that Regulation for any of the following reasons:

- a they were acquired in, or introduced into, the Community before the provisions relating to species listed in Annex A to Regulation (EC) No 338/97, or in Appendix I to the Convention, or in Annex C1 to Regulation (EEC) No 3626/82 became applicable to them;
- b they originate in a Member State and were taken from the wild in accordance with the legislation of that Member State;
- c they are, or are parts of, or are derived from animals born and bred in captivity;
- d they are authorised to be used for one of the purposes referred to in Article 8(3)(c) and (e) to (g) of Regulation (EC) No 338/97.

2 The competent management authority of a Member State may deem an import permit acceptable as a certificate for the purposes of Article 8(3) of Regulation (EC) No 338/97 upon presentation of, the 'copy for the holder' (form 2), if that form states that, as provided for in Article 8(3) thereof, the specimens are exempted from one or more of the prohibitions laid down in Article 8(1) of that Regulation.

Article 49

Certificate provided for in Article 9(2)(b) of Regulation (EC) No 338/97 (certificate for movement of live specimens)

A certificate for the purposes of Article 9(2)(b) of Regulation (EC) No 338/97 shall state that the movement of live specimens of a species listed in Annex A thereto, from the prescribed location indicated in the import permit, or in a previously issued certificate, is authorised.

Article 50

Application 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

1 The applicant 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 shall, where appropriate, complete boxes 1, 2 and 4 to 19 of the application form and boxes 1 and 4 to 18 of the original and all copies.

Member States may, however, 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 form shall be submitted to a management authority of the Member State in which the specimens are located, together with the necessary information and the documentary evidence that that authority deems necessary so as to enable it to determine whether a certificate should be issued.

The omission of information from the application must be justified.

Where an application is made for a certificate relating to specimens for which such an application has previously been rejected, the applicant shall inform the management authority of that fact.

Article 51

Amendments to permits, notifications and certificates

1 Where a shipment, covered by a ‘copy for the holder’ (form 2) of an import permit, or a ‘copy for the importer’ (form 2) of an import notification, or a certificate, is split or where, for other reasons, the entries in those documents no longer reflect the actual situation, the management authority may take either of the following actions:

- a it may make the necessary amendments to those documents in accordance with Article 4(2).
- b it may issue one or more corresponding certificates for the purposes referred to in Articles 47 and 48.

For the purposes of point (b), the management authority must first establish the validity of the document to be replaced, where necessary in consultation with the management authority of another Member State.

2 Where certificates are issued to replace a ‘copy for the holder’ (form 2) of an import permit, or a ‘copy for the importer’ (form 2) of an import notification, or a previously issued certificate, that document shall be retained by the management authority issuing the certificate.

3 A permit, notification or certificate that has been lost, stolen or destroyed may be replaced only by the authority which issued it.

4 Where, for the purposes of paragraph 1, a management authority consults a management authority of another Member State, the latter shall respond within a period of one week.