

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

COMMISSION REGULATION (EC) No 100/2008

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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(1) (i) and (iii), (2) and (4) thereof,

Whereas:

- (1) In order to implement certain resolutions adopted at the thirteenth and fourteenth meetings of the Conference of the Parties to CITES, further provisions should be added to 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⁽²⁾.
- (2) CITES Resolutions Conf. 9.7 (Rev. CoP13) on Transit and Trans Shipment and Conf. 12.3 (Rev. CoP13) on Permits and Certificates provide for special procedures in order to ease the cross-border movement of sample collections covered by ATA carnets as defined in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽³⁾. In order to provide economic operators within the Community with similar conditions as those of other CITES Parties for the movement of such sample collections, it is necessary to make provision for such procedures in Community legislation.
- (3) CITES Resolution Conf. 12.3 (Rev. CoP13) on Permits and Certificates allows for permits to be issued retrospectively for personal and household effects, where the Management Authority is satisfied that a genuine error was made and that there was no attempt to deceive, and requires Parties to report on such permits in the biennial reports to the Secretariat. Provision should be made to that effect in order to allow for adequate flexibility and to reduce the bureaucratic burden in relation to imports of personal and household effects.
- (4) CITES Resolution Conf. 13.6 on the implementation of Article VII, paragraph 2 of the Convention concerning 'pre-Convention' specimens provides a definition of 'pre-

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Convention' specimen and clarifies the dates that are to be taken to establish whether a specimen can be considered as 'pre-Convention'. For clarity purposes, these provisions should be implemented in Community Legislation.

- (5) CITES Resolution Conf. 13.7 (Rev. CoP14) on Control of Trade in Personal and Household Effects provides a list of species for which no document is required for the export and import of specimens that are Personal and Household Effects below a certain amount. This list includes derogations for giant clams and seahorses as well as for a reduced quantity for caviar, which should be implemented.
- (6) CITES Resolution Conf. 12.7 (Rev. CoP14) on Conservation of and Trade in sturgeons and paddlefish sets out specific conditions for Parties to allow imports, exports and re-exports of caviar. In order to reduce fraud, these provisions should be implemented in Community Legislation.
- (7) At the fourteenth meeting of the Conference of the Parties to CITES, the standard references for nomenclature, to be used to indicate scientific names of species in permits and certificates, were updated and the listing of animal species in the CITES Appendices were rearranged in order to present the orders, families and genera in alphabetical order. These changes therefore need to be reflected in Annex VIII and Annex X of Regulation (EC) No 865/2006.
- (8) The Conference of the Parties to CITES has adopted a Biennial report format for the submission of the biennial reports required under Article VIII, paragraph 7(b) of the Convention. Member States should therefore submit their biennial reports in accordance with Biennial report format, as regards information required under the Convention, and in accordance with a supplementary report format as regards the information required under Regulation (EC) No 338/97 and Regulation (EC) No 865/2006.
- (9) Experience gained in implementation of Regulation (EC) No 865/2006 has shown that the provisions therein relating to transaction-specific certificates need to be amended in order to provide greater flexibility in the use of such certificates and to allow them to be used in Member States other than the issuing Member State.
- (10) Regulation (EC) No 865/2006 should therefore be amended accordingly.
- (11) 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:

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- (1) [OJ L 61, 3.3.1997, p. 1](#). Regulation as last amended by Commission Regulation (EC) No 1332/2005 ([OJ L 215, 19.8.2005, p. 1](#)).
- (2) [OJ L 166, 19.6.2006, p. 1](#)
- (3) [OJ L 253, 11.10.1993, p. 1](#). Regulation as last amended by Regulation (EC) No 214/2007 ([OJ L 62, 1.3.2007, p. 6](#))

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