

DUTIES OF THE CITES SCIENTIFIC AUTHORITIES AND SCIENTIFIC REVIEW GROUP UNDER REGULATIONS 338/97 AND 865/2006.

| ARTICLE | DUTY |
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| REGULATION 338/97 | |
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| ESTABLISHMENT | |
| Article 13.2 | Designation of one or more scientific authorities with appropriate qualifications whose duties are separate from those of any designated management authority. |
| Article 17.1 | SRG established consisting of representatives of each Member State's scientific authority or authorities and chaired by the Commission. |
| Article 17.2 (a) | SRG to examine any scientific question relating to the application of the Regulation - in particular Arts 4.1(a), 4.2(a) and 4.6 - raised by the chairman either on his own initiative or at the request of the members of the SRG/Committee. |
| Article 17.2(b) | Commission to convey the opinions of the SRG to the Committee. |

| IMPORT/EXPORT PERMITS | | |
|-----------------------|--|-------------------------|
| ANNEX A-IMPORTS | | |
| | | Relevant considerations |
| Article 4.1(a)(i) | Advise that introduction into the Community would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species. | Attachment A |
| Article 4.1(a)(ii) | Advise that introduction into the Community is taking place for: -the advancement of science, where the species proves to be the only one suitable and where no captive-bred specimens are available -breeding or propagation purposes from which conservation benefits will accrue to the species -research or education aimed at the preservation or conservation of the species -other purposes which are not detrimental to the conservation of the species. | Attachment B |
| Article 4.1(c) | Be satisfied that the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it properly. | Attachment C |
| Article 4.1(e) | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the import permit. | Attachment D |
| ANNEX B-IMPORTS | | |
| Article 4.2(a) | Advise, after examining available data, that introduction into the Community would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species, taking account of current or expected levels of trade. | Attachment A |
| Article 4.2 (c) | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the import permit. | Attachment D |
| ANNEX A-EXPORTS | | |
| Article 5.2 (a) | Advise, in writing, that the capture or collection of the specimens in the wild or their export will not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species | Attachment A |
| Article 5.2 (d) | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export permit. | Attachment D |

| ANNEX B-EXPORTS | | |
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| Article 5.4 | Advise, in writing, that the capture or collection of the specimens in the wild or their export will not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species | Attachment A |
| | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export permit. | Attachment D |
| ANNEX C-EXPORTS | | |
| Article 5.4 | Advise, in writing, that the capture or collection of the specimens in the wild or their export will not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species | Attachment A |
| | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export permit. | Attachment D |
| ANNEX A-RE-EXPORT | | |
| Article 5.3 | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export certificate. | Attachment D |
| ANNEX B-RE-EXPORT | | |
| Article 5.4 | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export certificate. | Attachment D |
| ANNEX C-RE-EXPORT | | |
| Article 5.4 | Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the export certificate. | Attachment D |

| SRG VIEW ON PROPOSED COMMISSION IMPORT RESTRICTIONS | | |
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| ANNEX A-IMPORTS | | |
| | | Relevant considerations |
| Article 4.6 (a) | Restrictions because the introduction into the Community would have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species. | Attachment A |
| Article 4.6 (a) | Restrictions because there are other factors relating to the conservation of the species which militate against issuance of the import permit. | Attachment D |
| ANNEX B-IMPORTS | | |
| Article 4.6 (b) | Restrictions because after examining available data, the introduction into the Community would have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species, taking account of current or expected levels of trade. | Attachment A |
| Article 4.6 (b) | Restrictions because there are other factors relating to the conservation of the species which militate against issuance of the import permit. | Attachment D |
| Article 4.6 (c) | Restrictions on live specimens because the species concerned has a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential life span. | Attachment E |
| ANY SPECIES-IMPORTS | | |
| Article 4.6 (d) | Restrictions on live specimens because it has been established that their introduction into the Community presents an ecological threat to wild species of fauna and flora. | Attachment F |

| CONFISCATIONS | | |
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| | | Relevant considerations |
| Article 16.3 (a) | Advise the competent authority about the placement or disposal of confiscated specimens. | |

| REGULATION 865/2006 | | |
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| | | Relevant considerations |
| Article 54 | Advise MA that a specimen of an animal species is born and bred in captivity, specifically in relation to: - import of Annex A and B specimens (Article 4.1(a)(i) and (e), Art. 4.2(a) and (c), Art. 7.1 of Regulation 338/97). - export of Annex A and B specimens (Article 5.2(d) And Art. 5.4) - certificates (Art. 8.3 (d) of Regulation 338/97/Art. 48.1 (c)(d) of Regulation 865/2006/Article 59.2 Regulation 865/2006). | Criteria in Article 54 of Regulation 865/2006. Attachment G |
| Article 56 | Be satisfied that a given specimen is artificially propagated, specifically in relation to: -import of Annex A species (Art. 7.1 of Regulation 338/97). | Criteria in Article 56 of Regulation 865/2006 |
| Article 59.2 | Be satisfied that the exemption for specimens referred to in Article 8.3(d) of Regulation (EC) No. 338/97 have been satisfied, specifically in relation to: - exemption certificates issued to captive-bred and artificially propagated specimens (Article 24, 25 and 26) | Criteria in Article 54, 55 and 56 of Regulation 865/2006 |
| Article 59.3 | Be satisfied that the exemptions referred to in Article 8(3) (e) to (g) have been satisfied, specifically in relation to: - imports of Annex A specimens (Article 4.1(a)(ii) - certificates issued to Annex A specimens under Article 10 to allow commercial use - imports of Annex B specimens subject to an Article 4(6) import restriction (Article 71.4(b) EC Regulation 865/2006 - | Attachment B |
| Article 60 | Advise MA that scientific institutions applying for a certificate exempting Annex A specimens held in their collection from the prohibitions of Article 8(1) are intended for captive breeding or artificial propagation from which conservation benefits will accrue to the species, or for research or education aimed at the preservation or conservation of the species. | Attachment H |
| Article 70 | Advise MA on any amendments that the Commission proposes making to the species listed in Annexes B, C or D. | Criteria in Article 3 of Regulation 338/97 |

SRG opinions given in relation to the advice on IMPORTS OF ANNEX B SPECIES under Attachment A remain valid for subsequent import permit requests as long as the conservation and trade status have not changed significantly. To ensure that adequate monitoring takes place and that trade into the EU doesn't contribute to the decline of any species in the wild, Management Authorities are encouraged to keep their SAs informed of permits issued so that they can determine when circumstances have changed or a 'non-detriment finding' is in need of review.

CONTEXT

Advise that introduction into, or export from, the Community would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species

Article 4.1(a)(i) - Annex A imports

Article 4.2(a) - Annex B imports

Article 5.2 (a) - Annex A exports

Article 5.4 - Annex B exports

Article 4.6 (a) - Annex A Commission import restrictions

Article 4.6 (b) - Annex B Commission import restrictions

The following factors should be considered, although emphasis will vary depending on whether it is Annex A or Annex B species which are being advised on:

Species characteristics

- life history characteristics
- distribution
- habitat adaptability
- migratory/shared
- risk of mortality after capture and before export (for species where the trade is primarily in live specimens)

Biological status

- abundance
- present distribution
- trend
- quality of data

Harvest characteristics

- types
- volumes
- segment of population
- trends
- data quality

Management regime

- land types
- tenure
- effectiveness
- % harvested vs. effectively protected
- aims

Conservation benefits

- species/habitat
- other conservation benefits
- local benefits
- other benefits

Monitoring programmes

- population
- off take (including market make-up and demand)
- feedback

Current or expected anticipated trade levels (imports of Annex B species only)

- past trade history
- existence off any voluntary export quotas set by exporting countries
- predicted or perceived demand in the European Community
- level of demand for replacement specimens of those species with a poor survival rate in captivity

CONTEXT

Advise on the purposes of the introduction into the Community are either one of those specified in Regulation 339/97 or another which is not detrimental to the survival of the species concerned.

Article 4.1(a)(ii) - Annex A imports

The purposes of introduction into the Community must be:

1. the advancement of science, where the species proves to be the only one suitable and where no captive-bred specimens are available; or

The following factors should be considered:

- 1.1. The importance of the science concerned, as endorsed (or not) by the relevant independent technical body in the scientific field concerned.
- 1.2. The possibility of using alternative species for the objective sought.
- 1.3. The availability of captive bred specimens elsewhere in the world [applicability of this possibility for plants was apparently not considered in Regulation 338/97]

2. breeding or propagation purposes from which conservation benefits will accrue to the species; or

The following factors should be considered:

- 2.1. The conservation need for a captive breeding/artificial propagation project, taking account of similar activities elsewhere in the world and *in situ* conservation efforts or lack thereof
- 2.2. The existence of captive/nursery specimens elsewhere in the world which could be used in place of wild-taken ones.
- 2.3. The views of the exporting countries' Scientific Authority.
- 2.4. The views of the relevant international and national studbook keeper or botanical gardens co-ordinator, where such exists.
- 2.5. The views of the relevant IUCN Species Survival Specialists Group or other experts where such exist.
- 2.6. The presentation of the case in terms of identification of objectives, planning and research prior to, importation.
- 2.7. The output of the project in terms of co-operation with others in the field and published material on propagation, breeding, husbandry and biology.
- 2.8. The applicant's track record of captive breeding/artificial propagation generally and with the species in question in particular and the long-term viability of the project. Official/institutional support for the project.
- 2.9. Existence of any spin-off benefits from removal of specimens from the wild in the range state.

These are not presented in any order of priority and the degree to which any one of them will need to be considered will vary from case to case.

3. research or education aimed at the preservation or conservation of the species; or

The following factors should be considered:

- 3.1. The conservation need for a research or education project, taking account of similar activities elsewhere.
- 3.2. The existence of captive/nursery specimens elsewhere which could be used in place of wild-taken ones.
- 3.3. The views of the exporting countries' Scientific Authority.
- 3.4. The views of relevant research or education authorities, where such exists.
- 3.5. The views of the relevant IUCN Species Survival Specialists Group or other experts where such exist.
- 3.6. The presentation of the case in terms of identification of objectives and planning.
- 3.7. The output of the project in terms of co-operation with others in the field and published material on research or education.
- 3.8. The applicant's track record of research or education generally and with the species in question in particular and the long-term viability of the project. Official/institutional support for the project.
- 3.9. Existence of any spin-off benefits from removal of specimens from the wild in the range state.

4. other purposes which are not detrimental to the conservation of the species.

This article was not intended to undermine the fundamental principle that trade in specimens of Annex A species must only be authorized in exceptional circumstances. The task of the Scientific Authority is to determine whether the purpose of an import, other than those which are obviously primarily commercial, is detrimental to the survival of the species or not. There are no specific resolutions on the subject and no specific guidance within the Regulation. The SRG have determined that the only obvious case of an importation not being detrimental to the survival of the species is if it is clearly beneficial to its survival, .i.e. if it produces significant and tangible conservation benefits for the species, or if it is clearly benign.

Some examples of purposes that might meet these conditions are:

e.g. Hunting trophies

Trophy hunting should be part of a careful species management plan that should, as appropriate;

- be based on sound biological data collected from the target population(s)
- clearly demonstrate that harvest levels are sustainable
- be monitored by professional biologists
- be promptly modified if necessary to maintain the conservation aims
- demonstrate that illegal activities are under control
- produce significant and tangible conservation benefits for the species
- provide benefits to, and be in co-operation with, the local people who share the area with or suffer by the species concerned

e.g. Re-introductions

The translocation of 'surplus' specimens from one wild population to re-stock a population in another country or to restore a species, by re-introduction, to a part of its range from which it has been extirpated. Such programmes should be assessed against the IUCN re-introduction guidelines (<http://www.iucnsscrg.org/images/English.pdf>).

CONTEXT

Be satisfied that the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it properly

Article 4.1(c) -Annex A imports

To be considered:

- environmental, nutritional and behavioural needs of the species
- bona fides and experience of the permit applicant

CONTEXT

Be satisfied that there are no other factors relating to the conservation of the species which militate against issuance of the import permit.

Article 4.1(e) -Annex A imports

Article 4.2 (c) -Annex B imports

Article 5.2 (d) -Annex A exports

Article 5.4 -Annexes B and C exports

Article 5.3 -Annex A re-exports

Article 5.4 -Annexes B and C re-exports

Article 4.6 (a) -proposed Commission restrictions on Annex A imports

Article 4.6 (b) -proposed Commission restrictions on Annex B imports

A full list of all conceivable factors would be impossible to compile, but examples are:

- recommendations from the Animals Committee
- serious concerns about the veracity of statements on the export permit
- unbelievable claims relating to the length of time that the specimens are said to have been in a third country prior to re-export
- unrealistic captive-breeding claims and/or discrepancies in details of captive breeding

CONTEXT

Comment on Commission proposals to restrict imports of live specimens because the species concerned has a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential life span

Article 4.6 (c) -Annex B imports

live specimens subject to high mortality during shipment

comment on Commission import restriction proposals to respond to and implement recommendations arising from Conference Resolution 10.21.

- evaluate information collected under Article 69.3 of Regulation 865/2006.
- definition of "high" mortality

live specimens for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential life span.

Comment on Commission import restriction proposals to be made on the basis of:

- determination of the potential life span of the species concerned – where this information is available
- comparison of rates of mortality between captive and wild specimens at different stages of their life history – where this information is available
- examination of any available evidence that the species is unlikely to survive in captivity for a considerable proportion of its potential lifespan – if known

CONTEXT

Comment on Commission proposals for import restrictions on live specimens because it has been established that their introduction into the Community presents an ecological threat to wild species of fauna and flora

Article 4.6 (d) -species from any Annex

Comment on Commission proposals to be based on examination of the evidence of ecological threat to other native wild species of fauna and flora such as:

- evidence about invasive species from other sources e.g. Global Invasive Species Programme (GISP), Berne Convention studies.
- interactions with native species through predation, competition, parasitisation, hybridisation or as a vector of disease etc
- likelihood of escape or deliberate release
- risk of establishment of specimens in the wild and geographical extent of the threat within the Community
- impact on animal and plant species of Community interest/species to be subject to special conservation measures (Directive 92/43/EEC, Annexes II and IV and Directive 79/409/EEC Annex I).
- likely efficacy of any restrictions adopted
- possible knock-on effects of restrictions established (e.g. replacement species in trade)

CONTEXT

Be satisfied that a specimen of an animal species is born and bred in captivity in accordance with Article 54 of 685/2006

A specimen¹ of an animal species shall only be considered to be born and bred in captivity when a competent management authority in consultation with a competent scientific authority of the Member State concerned is satisfied that:

- (1) It is, or is derived from, the offspring, born or otherwise produced in a controlled environment² either of parents that mated or had gametes otherwise transferred in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual
- (2) the breeding stock³ was established in accordance with the legal provisions applicable to it at the time of acquisition and in a manner not detrimental to the survival of the species concerned in the wild;
- (3) the breeding stock is maintained without the introduction of specimens from the wild, except for the occasional addition of animals, eggs or gametes in accordance with the legal provisions applicable and in a manner not detrimental to the survival of the species concerned in the wild for the following purposes⁴ only:
 - i. to prevent or alleviate deleterious inbreeding, the magnitude of such addition being determined by the need for new genetic material;
 - ii. to dispose of confiscated animals in accordance with Article 16(3) of Regulation (EC) No. 338/97; or
 - iii. exceptionally, for use as breeding stock;
- (4) The breeding stock has itself produced second or subsequent generation offspring in a controlled environment, or is managed in a manner⁵ that has been demonstrated to be capable of reliably producing second generation offspring in a controlled environment.

¹ These criteria also apply to specimens of Annex B species.

² “a controlled environment” means an environment that is intensively manipulated by man, which may include artificial housing, waste removal, health care, protection from predators and artificially supplied food, for the purpose of producing specimens of the species in question. The boundaries should be designed to prevent animals, eggs or gametes of the species from entering or leaving the controlled environment.

³ “breeding stock” means all the animals in a breeding operation that are used for reproduction.

⁴ it should not be possible for a commercial captive breeding operation to import wild-taken specimens of Annex A species as these cannot be imported for primarily commercial purposes.

⁵ it is not necessary for a breeder to actually produce second-generation offspring himself, but must demonstrate that they are using a breeding method that is known to lead to the production of second-generation offspring. Each application needs to be assessed on its own merits on a case-by-case basis, taking into account the number of individuals in the breeding stock, access to unrelated F1 specimens, genetic management, previous breeding success, sex ratio, age at sexual maturity, species rarity in captivity, etc

CONTEXT

Be satisfied that scientific institutions applying for a certificate exempting Annex A specimens held in their collection from the prohibitions of Article 8(1) are intended for captive breeding or artificial propagation from which conservation benefits will accrue to the species, or for research or education aimed at the preservation or conservation of the species.

Article 60 certificate – 865/2006

The minimum standards expected of scientific institutions holding an Article 60 certificate are as follows (based on Res. Conf. 11.15 Rev. CoP12):

- collections of animal or plant specimens, and records ancillary to them, permanently housed and professionally curated;
- all accessions properly and permanently recorded;
- permanent records maintained for loans and transfers to other institutions holding an Article 60 certificate;
- specimens acquired primarily for purposes of captive-breeding or artificial propagation from which conservation benefits will accrue to the species, or for research aimed at the preservation or conservation of the species that is to be reported in scientific publication, or for purposes of education aimed at the conservation of the species;
- live specimens must be housed in accommodation that is adequately equipped to conserve and care for them properly;
- museum and herbarium specimens must be prepared and collections arranged in a manner that ensure their utility;
- all live Annex A animal specimens covered by the Article 60 certificate should be permanently marked with a uniquely identifying microchip, closed ring, tag or tattoo, etc. unless this is against veterinary advice, in accordance with Chapter XVI of Regulation (EC) No.865/2006;
- acquisition and possession of specimens accord with the laws of the State in which the scientific institution is located; and
- the certificate only covers those specimens of species included in Annex A centrally housed under the direct control of the scientific institution, and managed in a manner to preclude the use of such specimens for decoration, trophies or other purposes incompatible with the principles of Article 60.

IMPORT PERMIT REQUESTS - ANNEX B SPECIES.

[Note: Other requirements must also be met - no Article. 4.6 restrictions in place, need sight of export permit etc.]

