COMMISSION REGULATION (EC) No 1006/98

of 14 May 1998

amending Regulation (EC) No 939/97 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,

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], as last amended by Commission Regulation (EC) No 2307/97 [2], and in particular point 2 of Article 19 thereof,

Whereas Article 7(3) of Regulation (EC) No 338/97 provides for a derogation from Articles 4 and 5 of that Regulation for personal and household effects in compliance with provisions specified by the Commission; whereas the provisions concerned were laid down in Articles 27 and 28 of Commission Regulation (EC) No 939/97 [3], as amended by Regulation (EC) No 767/98 [4]; whereas those Articles need to be amended in order to prevent abuse of their provisions;

Whereas, in order to prevent abuse, the conditions for the application of the derogation regulated by Articles 27 and 28 of Regulation (EC) No 939/97 need to be clarified by referring to the definition laid down in Article 2(j) of Regulation (EC) No 338/97, regard being had to the objectives of the latter Regulation;

Whereas goods that are introduced into and/or exported or re-exported from the Community in order to be used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale, cannot be considered to be the belongings of a private individual that form or are intended to form part of his normal goods and chattels;

Whereas 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:

Article 1

Regulation (EC) No 939/97 is hereby amended as follows:

1. The following text is inserted as the first subparagraph of Article 27(1):

   'For the purposes of the application of the derogation laid down in Article 7(3) of Regulation (EC) No 338/97 from Article 4 of that Regulation, goods that are introduced into the Community in order to be used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale cannot be considered to be personal or household effects.'

2. The following text is inserted as the first subparagraph of Article 28(1):

   'For the purposes of the application of the derogation laid down in Article 7(3) of Regulation (EC) No 338/97 from Article 5 of that Regulation, goods that are exported or re-exported from the Community in order to be used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale cannot be considered to be personal or household effects.'

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 May 1998.

For the Commission

Ritt BJERREGAARD

Member of the Commission

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[1] OJ L 61, 3. 3. 1997, p. 1.
[2] OJ L 325, 27. 11. 1997, p. 1.
[3] OJ L 140, 30. 5. 1997, p. 9.
[4] OJ L 109, 8. 4. 1998, p. 7.