COMMISSION REGULATION (EC) No 767/98

of 7 April 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 amended by Commission Regulation (EC) No 938/97 [2], and in particular Article 19, point 4, thereof,

Whereas the 10th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, held in Harare, Zimbabwe, from 9 to 20 June 1997, adopted — with the support of the Member States that are Parties to the Convention — a number of resolutions and decisions that have direct relevance to the implementation of Regulation (EC) No 338/97; whereas it is therefore appropriate to amend certain provisions of Commission Regulation (EC) No 939/97 [3];

Whereas recommendation V.c) of Resolution Conf. 10.2, on permits and certificates, makes it necessary to amend Article 8(2) of Regulation (EC) No 939/97 in order to extend from six to 12 months the period during which certificates of origin for species listed in Appendix III to the Convention can be used for introduction of specimens into the Community;

Whereas Resolution Conf. 10.16, which further defines the definitions and conditions applicable to specimens of animal species bred in captivity, necessitates the insertion of certain definitions in Article 1 and the replacement of Article 24 of the said Regulation;

Whereas recommendation g) of Resolution Conf. 10.13, on the implementation of the Convention for timber species, extends the scope of the term 'artificially propagated' and necessitates an amendment to Article 26 of the said Regulation;

Whereas recommendation e) of Resolution Conf. 10.12, on the conservation of sturgeons, makes it necessary to amend Articles 27 and 28 of the said Regulation in order to implement the recommended exemption from controls of a maximum of 250 grams of caviar (re-)exported from or introduced into the Community as personal effects;

Whereas a Conference decision with regard to the use of units of measurement for timber specimens necessitates adaptation of Annex V to the said Regulation;

Whereas Resolution Conf. 10.22 updates the adopted list of standard nomenclatural references, which makes it necessary to replace Annex VI to the said Regulation;

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. Article 1 is replaced by the following:

'Article 1

For the purposes of this Regulation and in addition to the definitions in Article 2 of Regulation (EC) No 338/97:

(a) "date of acquisition" shall mean the date on which a specimen was taken from the wild, born in captivity or artificially propagated;

(b) "first-generation offspring (F1)" shall mean specimens produced in a controlled environment from parents at least one of which was conceived in or taken from the wild;

(c) "second-generation offspring (F2)" and "subsequent generation offspring (F3, F4, etc.)" shall mean specimens produced in a controlled environment from parents that were also produced in a controlled environment;

(d) "breeding stock" shall mean all the animals in a breeding operation that are used for reproduction;

[1] OJ L 61, 3. 3. 1997, p. 1.
[2] OJ L 140, 30. 5. 1997, p. 1.
[3] OJ L 140, 30. 5. 1997, p. 9.

(e) "a controlled environment" shall mean an environment that is manipulated for the purpose of producing animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving the controlled environment, and the general characteristics of which may include but are not limited to: artificial housing, waste removal, health care, protection from predators and the artificial supply of food.';

2. the following subparagraph is added to Article 8(2):

'However, certificates of origin for specimens of species listed in Annex C to Regulation (EC) No 338/97 may be used for introduction into the Community until 12 months from their date of issue.';

3. Article 24 is replaced by the following:

'Article 24

Without prejudice to Article 25, a specimen of an animal species shall only be considered to be born and bred in captivity when a competent scientific authority of the Member State concerned is satisifed that:

(a) it is, or is derived from, the offspring born or otherwise produced in a controlled environment 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;

(b) the breeding stock 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;

(c) 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:

(i) to prevent or alleviate deleterious inbreeding, with the magnitude of such addition 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;

(d) the breeding stock has itself produced second or subsequent generation offspring in a controlled environment, or is managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment.';

4. the following subparagraph is added to Article 26:

'Timber taken from trees grown in monospecific plantations shall be considered as being artificially propagated in accordance with the first subparagraph.';

5. the following paragraph is added to Article 27:

'4. By way of derogation from paragraphs 2 and 3, the introduction or reintroduction into the Community of a maximum of 250 grams per person of caviar of the sturgeon species (*Acipenseriformes* spp.) listed in Annex B to Regulation (EC) No 338/97 shall not require the presentation of an import permit or a (re-)export document.';

6. the following paragraph is added to Article 28:

'3. By way of derogation from paragraphs 1 and 2, the export or re-export of a maximum of 250 grams per person of caviar of the sturgeon species (*Acipenseriformes* spp.) listed in Annex B to Regulation (EC) No 338/97 shall not require the presentation of an import permit or a (re-)export document.';

7. Annex V is amended as follows:

(a) the entry in the column 'Preferred units' for sawlogs and sawn wood is replaced by:

'm^3/kg (use kg only in the case of special purpose timbers traded by weight rather than by volume, e.g. *Guaiacum* spp.)';

(b) the entry in the column 'Preferred units' for veneer is replaced by:

'm^3 for rotary veneer, m^2 for sliced veneer';

8. Annex VI is replaced by the Annex to this Regulation:

Article 2

This Regulation shall enter into force on the third day following 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, 7 April 1998.

For the Commission

Ritt BJERREGAARD

Member of the Commission

ANNEX

'ANNEX VI

Standard references for nomenclature to be used pursuant to Article 4(3)(c) to indicate scientific names of species in permits and certificates

(a) *Mammal species of the world: A taxonomic and geographic reference,* 2nd edition, (edited by D. E. Wilson and D. M. Reeder, 1993, Smithsonian Institution Press) for mammalian nomenclature

(b) *A reference list of the birds of the world* (J. J. Morony, W. J. Bock and J. Farrand Jr, 1975, American Museum of Natural History) for order and family level names for birds

(c) *Distribution and taxonomy of birds of the world* (C. G. Sibley and B. L. Monroe Jr, 1990, Yale University Press) and *A supplement to Distribution and taxonomy of birds of the world* (Sibley and Monroe, 1993; Yale University Press) for the genus and species names of birds

(d) *Reptiles del noroeste, nordeste y este de la Argentina — Herpetofauna de las selvas subtropicales, puna y pampa,* 1993 (Cei, José M. In Monografie XIV, Museo Regionale di Scienze Naturali), for the species names of the genus *Tupinambis* found in Argentina and Paraguay

(e) *Snake species of the world: A taxonomic and geographic reference: Volume 1* (Campbell, McDiamid and Touré, 1997), published under the auspices of the Herpetologists' League, for the nomenclature of snakes

(f) *Amphibian species of the world: A taxonomic and geographic reference* (D. R. Frost, 1985, Allen Press and The Association of Systematics Collections) and *Amphibian species of the world: Additions and corrections* (W. E. Duellman, 1993, University of Kansas) for amphibian nomenclature until the second edition of the former reference has been published

(g) *The plant book,* reprinted edition, (D. J. Mabberley, 1990, Cambridge University Press) for the generic names of all CITES plants, unless they are superseded by standard checklists adopted by the Conference of the Parties as referenced below in paragraphs (i) to (m)

(h) *A dictionary of flowering plants and ferns,* 8th edition, (J. C. Willis, revised by H. K. Airy Shaw, 1973, Cambridge University Press) for generic synonyms not mentioned in *The Plant Book,* unless they are superseded by standard checklists adopted by the Conference of the Parties as referenced below in paragraphs (i) to (m)

(i) *A world list of cycads* (D.W. Stevenson, R. Osborne and K. D. Hill, 1995; In: P. Vorster (Ed.), Proceedings of the Third International Conference on Cycad Biology, pp. 55-64, Cycad Society of South Africa, Stellenbosch) and its updates accepted by the Nomenclature Committee, as a guideline when making reference to names of species of Cycadaceae, Stangeriaceae and Zamiaceae

(j) *The bulb checklist* (1997, compiled by the Royal Botanic Gardens, Kew, United Kingdom) and its updates accepted by the Nomenclature Committee, as a guideline when making reference to the names of species of *Cyclamen* (Primulaceae) and *Galanthus* and *Sternbergia* (Liliaceae)

(k) *The CITES checklist of succulent euphorbia taxa* (Euphorbiaceae) (1997, published by the German Federal Agency for Nature Conservation) and its updates accepted by the Nomenclature Committee, as a guideline when making reference to the names of species of succulent euphorbias

(l) *CITES* Cactaceae *Checklist,* second edition (1997, compiled by D. Hunt, Royal Botanic Gardens, Kew, United Kingdom) and its updates accepted by the Nomenclature Committee, as a guideline when making references to names of species of Cactaceae

(m) *CITES orchid checklist,* (compiled by the Royal Botanic Gardens, Kew, United Kingdom) and its updates accepted by the Nomenclature Committee, as a guideline when making reference to the names of species of *Cattleya, Cypripedium, Laelia, Paphiopedilum, Phalaenopsis, Phragmipedium, Pleione* and *Sophronitis* (Volume I, 1995) and *Cymbidium, Dendrobium, Disa, Dracula* and *Encyclia* (Volume 2, 1997)'