

LEGISLATION ON TRADE IN
ENDANGERED SPECIES OF
WILD FAUNA AND FLORA



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INTERNATIONAL
BACKGROUND



-  Convention on the international trade in endangered species of wild flora and fauna Washington D.C. 1973

-  Council Decision (EU) 2015/451 of 6 March 2015 concerning the accession of the European Union to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

EU LEGISLATION ON
TRADE



-  CITES
-  Seals
-  Cetaceans
-  Fury animals

EU LEGISLATION



CITES:

- ☞ Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, as amended
- ☞ Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Regulation 338/97, as amended
- ☞ Commission implementing Regulation (EU) 2017/1915 prohibiting the introduction into the Union of specimens of certain species of wild fauna and flora

Regulation (EC) No 338/97



4 different protection regimes:

- ☞ Annex A - corresponds to Appendix I of CITES
- ☞ Annex B - Appendix II of CITES
- ☞ Annex C - Appendix III of CITES
- ☞ Annex D - contains species which are not listed in CITES Appendices



wider scope than CITES

Regulation (EC) No 338/97



☞ 'Specimen' shall mean any animal or plant, whether *alive or dead*, of the species listed in Annexes A to D, *any part or derivative* thereof, *whether or not contained in other goods*, as well as any other goods which appear from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be or to contain parts or derivatives of animals or plants of those species, unless such parts or derivatives are specifically exempted from the provisions of this Regulation or from the provisions relating to the Annex in which the species concerned is listed by means of an indication to that effect in the Annexes concerned.

Art. 8 of Regulation 338/97

- ☞ 1. The purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in Annex A shall be prohibited.
- ☞ 2. Exemption from the prohibitions referred to in paragraph 1 may be granted by issuance of a certificate to that effect by a management authority of the Member State in which the specimens are located, on a case-by-case basis where the specimens:
 - ☞ (a) were acquired in, or were introduced into, the Community before the provisions relating to species listed in Appendix I to the Convention or in Annex C1 to Regulation (EEC) No 3626/82 or in Annex A became applicable to the specimens; or
 - ☞ (b) **are worked specimens that were acquired more than 50 years previously**; or
 - ☞ (c) were introduced into the Community in compliance with the provisions of this Regulation and are to be used for purposes which are not detrimental to the survival of the species concerned; or
 - ☞ (d) are captive-born and bred specimens of an animal species or artificially propagated specimens of a plant species or are parts or derivatives of such specimens; or

C - 154/02

Definition of acquisition

- ☞ '*worked specimens that were acquired more than 50 years previously*' shall mean specimens that were significantly altered from their natural raw state for jewellery, adornment, art, utility, or musical instruments, more than 50 years before the entry into force of this Regulation and that have been, to the satisfaction of the management authority of the Member State concerned, acquired in such conditions. Such specimens shall be considered as worked only if they are clearly in one of the aforementioned categories and require no further carving, crafting or manufacture to effect their purpose;
- ☞ purchase of a mounted brown bear in 1998
- ☞ exemption from the prohibition - just certificate is needed if the specimen was acquired more than 50 years previously

Regulation (EC) No 338/97

- ☞ '**trade**' shall mean the introduction into the Community, including introduction from the sea, and the export and re-export therefrom, as well as the use, movement and transfer of possession within the Community, including within a Member State, of specimens subject to the provisions of this Regulation;
- ☞ '**transit**' shall mean the transport of specimens between two points outside the Community through the territory of the Community which are shipped to a named consignee and during which any interruption in the movement arises only from the arrangements necessitated by this form of traffic;

Regulation (EC) No 338/97



Introduction into the EU of specimens of species listed in Annex A

☞ Import permit:



- ☞ Export permit or re-export certificate
- ☞ Introduction would not have harmful effect on the conservation status of species
- ☞ Accommodation for a live specimen is adequately equipped
- ☞ The specimen is **not used for primarily commercial purposes**
- ☞ The risk of injury, damage to health or cruel treatment will be minimized

Regulation (EC) No 338/97



Introduction into the EU of specimens of species listed in Annex B

☞ Import permit:



- ☞ Export permit or re-export certificate
- ☞ Introduction would not have harmful effect on the conservation status of species
- ☞ Accommodation for a live specimen is adequately equipped
- ☞ The risk of injury, damage to health or cruel treatment will be minimized
- ☞ The specimen may be used **for commercial purposes!**

Regulation (EC) No 338/97



Introduction into the EU of specimens of species listed in Annex C



Sea eagle

- ☞ Import notification
- ☞ Export permit / re-export certificate / certificate of origin

Regulation (EC) No 338/97



Introduction into the EU of specimens of species listed in Annex D

import notification



Dendrolagus goodfellowi

IMPLEMENTING REGULATION (EU) 2017/1915 prohibiting the introduction into the Union of specimens of certain species of wild fauna and flora



Restrictions on the introduction to the EU:

- Macaca fascicularis from Laos;
- Kinyongia fischeri and Kinyongia tavetana from Tanzania;
- Triceros quadricornis from Cameroon;
- Hippocampus algiricus from Guinea and Senegal;
- Ornithoptera priamus from Solomon Islands (wild and ranched specimens)
- Pandinus imperator (ranched specimens) from Ghana;
- Phelsuma borai, Phelsuma gouldi, Phelsuma hoeschi and Phelsuma ravenala from Madagascar.

Regulation (EC) No 338/97



Export or re-export from the EU

Export permit/re-export certificate



Conditions:

- No harmful effect on the conservation status
- Specimens were legally obtained
- Risks of injury during the shipment are minimized
- Other requirements are met

Derogations from conditions (Art. 5(6))

Regulation (EC) No 338/97



Derogations (Art. 7)

- 1. Specimens of Annex A species born and bred in captivity or artificially propagated
➡ treated as Annex B species
- 2. Transit
- 3. Personal and household effects
- 4. Scientific institutions

Regulation (EC) No 338/97



- MS have a **duty** to prohibit the purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in **Annex A** ➡ Derogation from the prohibition based on certificate (Art. 8(3))
- The prohibition applies to Annex B species which were not acquired legally ➡ how in the light of presumed innocence, may a keeper of animals listed in Annex B prove satisfactorily that his specimens were acquired in accordance with the legislation? (C- 344/08)

Regulation (EC) No 338/97



Other requirements

- Movement of live specimens within the EU based on prior authorization (Art. 9)
- Designation of custom offices with trained staff (Art. 12)
- Notification/reporting requirements (to the Commission)
- Duty to designate management authority with primary responsibility for implementation of this Regulation and for communication with the Commission
- Duty to designate one or more scientific authorities with appropriate qualifications (Art. 13)

Regulation (EC) No 338/97



Enforcement

- ☞ duty to monitor and ensure compliance
- ☞ take appropriate measures to ensure the imposition of sanctions for infringements of the Regulation



- ☞ seizure/confiscation of specimens
- ☞ refusal to accept the shipment and return of the specimen to its place of departure
- ☞ fine
- ☞ **illegal trade in endangered species is a crime!**



SEALS REGULATION



- ☞ Council Directive 83/129/EEC concerning the importation into Member States of skins of certain seal pups and products derived therefrom
- ☞ Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products.



- ☞ harmonize existing national rules regarding the placing on the European Union (EU) market of seal products
- ☞ protection of certain seal species
- ☞ protection of seal pups against non-traditional hunting.

Regulation (EC) No 1007/2009



- ☞ **Seal** - specimens of all species of pinnipeds.
- ☞ **Seal product** - all products, either processed or unprocessed, deriving or obtained from seals, including meat, oil, blubber, organs, raw fur skins and fur skins, tanned or dressed, including fur skins assembled in plates, crosses and similar forms as well as articles made from seal fur skins.
- ☞ **Inuit** - indigenous members of the Inuit homeland, namely those arctic and subarctic areas where Inuit have aboriginal rights and interests, recognised by Inuit as being members of their people.

Regulation (EC) No 1007/2009



Prohibition of the trade in seal products



The marketing of seal products is only allowed when they:

- ☞ result from seal hunts traditionally conducted by Inuit and other indigenous people
- ☞ result from by-products of hunting that is regulated by national law, undertaken solely for the purpose of the sustainable management of marine resources.
- ☞ the placing on the market is only allowed on a non-profit basis.

Regulation (EC) No 1007/2009



The import of seal products for non-commercial reasons is allowed where:

- ☞ it is of an occasional nature and consists exclusively of goods for the personal use of travelers or their families.

Reporting requirements

WHALES REGULATION



Regulation (EEC) No 348/81 on common rules for imports of whales or other cetacean products



Conservation of cetacean species



- ☞ restrictions on international trade
- ☞ licences for products listed in the Annex
- ☞ products to be used only for non commercial purposes

EU LEGISLATION



Fury animals

- ☞ Council Regulation (EEC) No 3254/91 **prohibiting the use of leghold traps** in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards
- ☞ Commission Regulation (EC) No 35/97 of 10 January 1997 laying down provisions on the **certification of pelts and goods** covered by Council Regulation (EEC) No 3254/91

LEGHOLD TRAP REGULATION



☞ Regulation 3254/91



- ☞ to abolish the use of legholds traps to catch and kill certain species of animals
- ☞ Annex I - list of species (beaver, otter, wolf and others)
- ☞ prohibition of introduction into the EU of the pelts of the animal species listed in Annex I
