

## The Differences between EU and CITES Provisions in a Nutshell

The provisions in the EU Wildlife Trade Regulations go beyond CITES in a number of respects. The text below gives you an overview of where EU provisions differ from CITES. For further details please refer to the Regulation texts, the Reference Guide or contact us.

### ANNEXES

- Regulation (EC) No 338/97 has four Annexes (A-D) which contain non-CITES species.

Annex	Includes
Annex A	<ul style="list-style-type: none"> <li>• All CITES Appendix I species</li> <li>• Some CITES Appendix II and III species, for which the EU has adopted stricter domestic measures.</li> <li>• Some non-CITES species</li> </ul>
Annex B	<ul style="list-style-type: none"> <li>• All other CITES Appendix II species</li> <li>• Some CITES Appendix III species</li> <li>• Some non-CITES species</li> </ul>
Annex C	<ul style="list-style-type: none"> <li>• All other CITES Appendix III species</li> </ul>
Annex D	<ul style="list-style-type: none"> <li>• Some CITES Appendix III species for which the EU holds a reservation</li> <li>• Some non-CITES species</li> </ul>

### IMPORT CONDITIONS

For species in Annexes A and B import conditions are stricter than under CITES:

Annex	Conditions
A B	<i>Commission</i> has not established an import restriction <sup>1</sup> in accordance with Article 4.6 of Regulation 338/97.
A	<i>Management Authority</i> is satisfied that the specimens are not to be used for primarily commercial purposes i.e. will be used for purposes of which the non-commercial aspects clearly predominate
	<i>Scientific Authority</i> has advised the Management Authority of its finding (after considering possible opinion Scientific Review Group) that:
A* B*	import would not have a harmful effect on the conservation status of the species or decrease the population concerned;
A*	import is under exceptional circumstances required for the advancement of science or for essential biomedical purposes; species is the only one suitable and there are no captive bred animals;
A*	specimens are intended for captive breeding (animals) or propagation (plants) from which conservation benefits will accrue to the species concerned;
A*	specimens are intended for research or education aimed at the preservation or conservation

<sup>1</sup> Does not apply to re-imports and specimens acquired before 1 June 1947 (Council Reg. Article 4.5)

A*	of the species (Regulation (EC) 338/97 Article 4.1.a.ii, first indent); import is for other purposes that are not detrimental to the survival of the species concerned.
A B*	<i>Management Authority in consultation with the Scientific Authority</i> are satisfied that there are no other conservation factors against import.
A B*	<i>Scientific Authority</i> is satisfied that intended accommodation for live animals/plants at the place of destination is adequately equipped to conserve and care for them properly
A B	<i>Applicant</i> to provide documentary evidence that specimens were obtained in accordance with legislation on the protection of the species: for CITES specimens an export permit or re-export certificate, or copy thereof. Where a copy of an export permit or re-export certificate was the basis for the issue of an import permit, the latter shall only be valid if at the time of introduction it is accompanied by the valid original (re-) export document.

<sup>1</sup> Regulation (EC) 338/97 provides the Commission with the possibility to establish **import restrictions** with regard to certain species/countries. The procedure is as follows:

1. A Scientific Authority advises its Management Authority not to issue an import permit because it is of the opinion that one or more of the above import conditions are not met (**or** the Scientific Review Group decides at one of its meetings that this is the case).
2. The authorities in the other Member States are immediately informed of this advice and suspend the issue of import permits until a restriction is established or not. Due to the absence of internal border controls, it is essential that any import restrictions are applied throughout the Community.
3. The opinion of other Scientific Authorities of EU Member States is sought (if the case has not yet been discussed at the SRG meeting). If a non-detriment finding is made, the Scientific Review Group forms a **Positive Opinion** and imports can be resumed.

If the initial opinion is confirmed, the Scientific Review Group forms a **Negative Opinion**. For as long as this opinion is in place Member States will normally reject all permit applications for the species/countries in question.

4. On a regular basis, the Commission consults with affected range States to ask them for any new biological and trade information on the species subject to an import restriction.

If the range State provides this information, the Scientific Review Group reconsiders its decision to suspend the import. If the information leads to a non-detriment finding, the Negative Opinion is transformed into a Positive Opinion.

If there is no new information provided by the range State or other sources, or if this information is not sufficient for a non-detriment finding, the Negative Opinion will be formalised through a publication of the import suspension in the Official Journal of the European Communities. It is important to note that the published import suspensions are reversible at any moment if new information is received.

## **IMPORT PERMITS / NOTIFICATIONS**

- An **import permit** is required for **Annex A and Annex B** species, to be applied for at the competent authorities in the Member State.
- An **import notification** is required for **Annex C and D** species. An import notification is a declaration filled in by the importer and to be submitted, where appropriate together with CITES Appendix III documents from the (re-)exporting country, to the customs office of introduction into the Community. It is contained in Annex 2 to Commission Regulation (EC) 865/96 and is available from the competent authorities in each Member State.

## **HOUSING CONDITIONS**

One of the conditions for issuing a permit for import of specimens of Annex A **and** Annex B species is that “the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it properly”.

## **TRANSPORT CONDITIONS**

Regulation 338/97 and Council Directive (EEC) No 95/29/EEC on the protection of animals during transport make compliance with the IATA Live Animals Regulations for air transport and the CITES Guidelines for Transport legally binding.

The transport into, from or within the Community of specimens from Annexes A to D should be undertaken in such a way as to minimize the risk of injury, damage to health or cruel treatment and in conformity with Community legislation on the protection of animals during transport.

The Commission can also restrict imports for specimens of Annex B species subject to high transport mortality.

## **INTERNAL TRADE IN ANNEX A SPECIES**

Regulation (EC) 338/97 contains special provisions for trade within the European Community, i.e. within and between individual Member States.

The following commercial activities involving Annex A specimens are prohibited:

- purchase
- offer to purchase
- acquisition for commercial purposes
- display to the public for commercial purposes
- use for commercial gain
- sale
- keeping for sale
- offering for sale
- transport for sale

A Management Authority of a Member State can grant a specific exemption by means of a certificate on a case-by-case basis and under certain conditions. By way of example, an exemption can be granted if a specimen was acquired before the relevant legislation became applicable.

The Commission has defined general exemptions. In these cases, the procedure is easier or no certificate is needed at all. Examples would be internal trade in artificially propagated Annex A plants or trade between scientific institutions with a non-commercial purpose, i.e. for research or education.

#### **ANNEX D**

Annex D contains species listed in CITES Appendix III for which one or more EU Member States have entered a reservation as well as species for which Community imports warrant monitoring. The decision to include a species into this Annex is taken by the Management Committee on the basis of a proposal by the Commission and after consultation of the Scientific Review Group.

Data for import of Annex D species is compiled yearly by UNEP-WCMC and can be consulted on this website. If the data gives rise to serious conservation concerns, inclusion of a species into Annex B may be considered.