

REPUBLIC OF SAN MARINO

INTERNATIONAL TRADE IN WILD FLORA AND FAUNA SPECIMENS

**We, Captains Regent
of the Most Serene Republic of San Marino**

*promulgate and order the publication of the following law approved by the
Great and General Council during its sitting of 20 July 2005.*

PART I SUBJECT AND FIELD OF APPLICATION

Art. 1

This Law implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The Recommendations included in the Resolutions and Decisions of the Conference of the Parties as referred to in Article XI of CITES form integral part of the Convention.

Art. 2

The provisions of this Law shall apply to international trade, domestic trade, possession, transport, import, export, re-export, transit, transshipment and introduction from the sea of specimens of any species of animal or plant listed in Appendices I, II and III to CITES.

Art. 3

For the purposes of this Law:

“*CITES*” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington, D.C. on 3rd March 1973 and enforced in San Marino by virtue of Decree No. 107 of 4 July 2005;

“*Conference of the Parties*” means the decision-making body of the Convention, made up of representatives of member countries as referred to in Art. XI of CITES;

“*CITES Secretariat*” means the Secretariat of CITES as referred to in Art. XII of CITES;

“*Management and Coordination Authority*” means the Ministry of Territory, Environment and Agriculture;

“*Management Authority competent to issue certificates*” means the Office for the Management of Environmental and Agricultural Resources (UGRAA), and the Veterinary Service of the Environmental Hygiene Service (SIA);

“*Scientific Authority*” means the San Marino Naturalistic Centre;

“*CITES Appendices*” means the lists of animal and plant species threatened with extinction, grouped into three categories according to their level of endangerment; such Appendices are reported in Schedule 1 to this Law;

“*Rescue Centre*” means the place or structure where a living specimen that has been confiscated is transferred;

“*Domestic trade*” means any commercial activity, carried out within the territory of San Marino, concerning specimens of species listed in Appendices I, II and III;

“*International trade*” means any, import, export, re-export and/or introduction from the sea;

“*Confiscation*” means a measure by terms of which, due to an infringement of this Law, the owner is definitively deprived of possession of the specimen concerned by the infringement;

“*Checks at the time of introduction, export, re-export and transit*” means the control of certificates and permits prescribed by this Law, which may include examination of the specimens and, where appropriate, the taking of samples for analysis or detailed scrutiny;

“*Export*” means the act of taking a specimen of a species listed in Appendices I, II or III of CITES, indigenous to a given country, out of the national territory;

“*Import*” means the act of introducing a specimen of a species listed in Appendices I, II or III of CITES, indigenous to a given country, in the national territory;

“*Introduction from the sea*” means the direct introduction in the national territory of any specimen taken from the marine environment not under the jurisdiction of any State;

“*Sale*” means any contract, either against payment or for free, to acquire ownership of or entitlement to specimens of species listed in Appendices I, II and III of CITES. For the purposes of this Law, hire or barter shall be regarded as sale;

“*Controlled environment*” means an environment that is intensively manipulated by man for the purpose of producing a selected species, that has physical boundaries designed to prevent animals, eggs or gametes of such species from entering or leaving the controlled environment;

“*Personal or household effects*” means dead specimens, parts and derivatives that belong to a private individual and are not sold or traded;

“*Country of origin*” means the country in which a specimen has been taken in the wild or born or bred in captivity or artificially propagated, or introduced from the sea;

“*Permit or Certificate*” means an official document issued by the Management Authority to authorize import, export, re-export or introduction from the sea of specimens of species listed in any of the Appendices to CITES, the form of which conforms to the model in Schedule 2;

“*Notification of import*” means a communication of import of specimens of species listed in Appendix III to CITES, the form of which conforms to the model in Schedule 3;

“*Export quota*” means the maximum number of specimens of a species that may be exported in a year from a country;

“*Re-export*” means the export of any specimen that has previously been imported;

“*Issue*” means the completion of all procedures necessary for preparing, validating and delivering a permit or certificate;

“*Primarily commercial purposes*” means all purposes whose commercial aspects predominate;

“*Species*” means any species, subspecies, or geographically separate population thereof;

“*Specimen*” means any animal or plant, whether alive or dead, of a species listed in Appendices I, II and III to CITES, or any part or derivative thereof whether or not incorporated in other goods, as well as any other good which appears from an accompanying document, the packaging or a mark or label or from any other circumstances to be a part or derivative of animals or plants of such species;

“*Specimen bred in captivity*” means an animal, including eggs, born in a controlled environment;

“*Artificially propagated specimen*” means living plants grown from seeds, cuttings, callus or other vegetal tissues, spores or other propagules under controlled conditions;

“*Transit*” means the transport of specimens to a given recipient through the territory of another State;

“*Authorized Customs Offices*” means the offices authorized to clear and control products subject to CITES regime and referred to in Decision No. 2 of 2000 of the San Marino-EC Cooperation Committee – list conforming to Schedule 9.

PART II AUTHORITIES

Art. 4

The Ministry of Territory, Environment and Agriculture, through the Office for the Management of Environmental and Agricultural Resources with respect to plant specimens, and through the Veterinary Service with respect to animal specimens, shall:

- (a) fully implement the principles set forth in CITES;
- (b) grant permits and certificates in accordance with the provisions of CITES;
- (c) keep registers of international trade in specimens and prepare an annual report concerning such trade, in accordance with Art. VIII, par. 7 of CITES;
- (d) take any action for the proper implementation of CITES;
- (e) determine export quotas for non-commercial purposes of specimens of species listed in Appendix I and/or in Appendices II and III, in consultation with the Scientific Authority;
- (f) identify one or more Rescue Centres for forfeited or confiscated living specimens;
- (g) promote administrative and/or criminal action against transgressors of this Law.

Art. 5

The San Marino Naturalistic Centre is the designated Scientific Authority and shall accomplish its functions in accordance with CITES.

The San Marino Naturalistic Centre, which in fulfilling its tasks may seek consultation with external recognized institutions, shall:

- (a) advise on the granting of export permits concerning the species listed in Appendices I or II, indicating whether or not such exports are detrimental to the survival of the indigenous species involved;
- (b) advise on the granting of import permits concerning the species listed in Appendix I, indicating whether or not the purposes of such import are detrimental to the survival of the species involved;
- (c) be satisfied that the recipient is suitably equipped to house and care for live specimens of species listed in Appendix I, imported and/or introduced from the sea, or advise the Management Authority of measures to be taken prior to the grant of permits or certificates;
- (d) monitor, in a continued and appropriate way, the situation of indigenous species listed in Appendix II as well as data on exports, and recommend, if necessary, corrective measures to limit exports;
- (e) advise the Management Authority on the disposal of confiscated or forfeited specimens;
- (f) advise the Management Authority on any matter the Scientific Authority considers relevant in the sphere of wild animal and plant species protection;
- (g) perform any task foreseen in the Resolutions of the Conference of the Parties to CITES.

PART III DOCUMENTS REQUIRED FOR INTERNATIONAL TRADE

Art. 6

The export of any specimen of species included in Appendices I, II and III requires the prior grant and presentation of an export permit.

Art. 7

The import of any specimen of species included in Appendices I and II requires the prior grant and presentation of an import permit.

The import of any specimen of species included in Appendix III requires notification of import to be submitted upon consignment.

Art. 8

The re-export of any specimen of species included in Appendices I, II and III requires the prior grant and presentation of a re-export certificate.

Art. 9

The introduction from the sea of a specimen of a species included in Appendices I, II and III requires the prior grant and presentation of a certificate of introduction from the sea.

Art. 10

The transit of specimens of species included in Appendices I and II requires the presentation of a valid export permit or re-export certificate indicating the final destination.

Art. 11

The Management Authority competent to issue certificates may grant permits or certificates for the import, export, re-export or introduction from the sea of specimens of species listed in Appendices I, II and III to CITES when:

- (a) with regard to an export permit for a specimen of a species included in Appendices I or II, the Scientific Authority has advised that the export will not be detrimental to the survival of the species concerned, or the export is within the limit of an annual export quota approved by the Management Authority;
- (b) with regard to an import permit for a specimen of a species included in Appendix I, the Scientific Authority has advised that the import will be for purposes that are not detrimental to the survival of the species concerned;
- (c) it is satisfied that the specimen concerned has not been obtained in contravention of any fauna and flora protection law in force in the country of origin;
- (d) it is satisfied that any specimen to be re-exported was previously imported in accordance with the provisions of this Law and of CITES;
- (e) it is satisfied that any living specimen to be exported or re-exported will be so prepared and shipped as to conform to CITES guidelines for the transport of live specimens and to minimize the risk of injury, illness or ill-treatment;
- (f) for export of specimens of species listed in Appendix I, an import permit was issued by the competent authority of the country of destination prior to the grant of an export permit;
- (g) with regard to an import permit or certificate of introduction from the sea for a specimen of a species listed in Appendix I, it is satisfied that the specimen will not be used primarily for commercial purposes;
- (h) with regard to the import of a specimen of species listed in Appendices II or III, it is satisfied that an export permit, a re-export certificate or a certificate of origin has been previously issued by the management authority of the exporting country in accordance with CITES.

The Management Authority may, for valid reasons, refuse to grant a permit or certificate, or grant a permit or certificate subject to certain conditions.

The Management Authority may, if it deems appropriate to do so, revoke or modify any permit or certificate it has already issued, especially when the permit or certificate has been issued on the basis of false or misleading statements by the applicant or other justified reasons.

The Management Authority may require any additional information it may need in order to decide whether to issue a permit or certificate.

Export permits and re-export certificates are valid for a period of six months from their date of issue.

Upon expiry of validity, any export permit or re-export certificate, including its corresponding import permit, is regarded as legally null and void.

Permits and certificates may not be transferred to a person other than the one named on the document.

Consignment of each specimen requires a separate permit or certificate even if the specimen forms part of the same consignment.

To be valid, all permits and certificates must be on the form prescribed by the Management Authority and in conformity with the provisions of CITES and Resolutions of the Conference of the Parties to CITES.

Specimens of animal species listed in Appendix I that have been bred in captivity for commercial purposes shall be deemed to be specimens of species listed in Appendix II and shall be subject to the Resolutions of the Conference of the Parties to CITES.

Specimens of plant species listed in Appendix I that have been artificially propagated for commercial purposes shall be deemed to be specimens of species listed in Appendix II and shall be subject to the Resolutions of the Conference of the Parties to CITES.

Specimens of animal species listed in Appendices I or II that have been bred in captivity may not be traded if they do not originate from a breeding operation registered by the Management Authority. Specimens must have been individually and permanently marked in a manner so as to render any modification by unauthorized persons as difficult as possible.

Only valid export permits, re-export certificates and certificates of origin issued by exporting countries shall be accepted to authorize the import of specimens of species listed in Appendices I, II and III.

Any permit or certificate issued in violation of the law of a foreign country, or in violation of the Convention or contrary to the Resolutions of the Conference of the Parties to CITES shall be regarded as null and void. If any condition attached to a permit or certificate has not been complied with, it shall be regarded as null and void.

The receiving of specimens resulting from a previous request for an import permit shall be promptly notified to the Management Authority by using the relevant form referred to in Schedule 4.

The Management Authority shall be satisfied that the import has been made properly and compile an assessment record as referred to in Schedule 5; in case of import of live animals, it shall also compile a form concerning the monitoring of mortality during transport, as referred to in Schedule 6.

PART IV EXEMPTIONS AND OTHER SPECIAL PROVISIONS

Art. 12

Pre-Convention specimens. Where the Management Authority has satisfactory evidence that a specimen was acquired before accession to CITES, the requirements of Articles III, IV and V of CITES may be waived if on the date of acquisition the specimen concerned was not of a species included in any of the Appendices to CITES and/or originated from a country not yet a party to CITES.

In such case the Management Authority may grant an export permit stating the pre-Convention status of the specimen concerned.

Art. 13

Personal and household effects. Where specimens of species included in Appendices I, II and III to CITES are personal or household effects, the provisions of Part III shall apply in accordance with the following:

1. Import:

- (a) import of personal effects belonging to species included in Appendix I to CITES requires the prior presentation of the prescribed CITES documentation issued by the State of origin or source;
- (b) import of specimens of species included in Appendix II does not require the prior grant of an import permit, but merely a CITES export permit or re-export certificate issued by the State of origin.

2. Export:

- (a) the general provisions apply to specimens of species listed in Appendices I and II, no derogation is envisaged. No document is required for specimens of species listed in Appendix III.

3. Re-export:

- (a) re-export of specimens of species listed in Appendices I and II merely requires copy of the previous corresponding import permit duly stamped by the Management Authority, or an equivalent declaration issued by the same Authority.

Art. 14

Specimens bred in captivity or artificially propagated. Specimens of species included in Appendix I born and bred in captivity or artificially propagated shall be regarded in accordance with the provisions applicable to specimens of species included in Appendix II.

PART V REGISTRATION

Art. 15

The requirement to register with the Management Authority shall apply to:

- (1) any person trading in specimens of any species listed in the Appendices to CITES;
- (2) any person producing captive bred animals or artificially propagated plants of any species listed in the Appendices to CITES.

Registration shall conform to the formats referred to in Schedule 7.

The persons referred to above must keep records of their stocks and of any transaction. Registers are prepared and supplied by the Management Authority to applicants upon registration and conform to the format referred to in Schedule 8.

Records and premises of such trade or production may be inspected at any time by officials responsible for the application of this Law.

PART VI UPDATES

Art. 16

Schedules to this Law as well as the amounts of administrative fines may be updated by means of *ad hoc* Regency Decrees.

PART VII SUPERVISION, CONTROLS AND PENALTIES

Art. 17

Anyone who, in contravention of this Law with respect to specimens of species listed in Appendix I to CITES:

- a) introduces from the sea, imports, exports, re-exports specimens without the required permit or certificate, or with a forged or altered or invalid permit or certificate;
- b) holds, uses for profit, buys, sells, displays or holds for commercial purposes, offers for sale, disposes of, transports for sale specimens that have been obtained in contravention of this Law;
- c) uses the specimens for purposes other than those indicated in the authorization granted upon or subsequent to the issue of the import permit;

shall be punished by terms of 3rd degree arrest or a fine ranging from EUR 4,000 to 40,000.

With regard to the preceding paragraph, in case of recurrent infringement, transgressors shall be punished by terms of 2nd degree imprisonment or a fine ranging from EUR 5,000 to 50,000. In case of recurrent infringement in the carrying on of an enterprise, 2nd degree disqualification shall also be imposed.

Import or export of personal or household effects without the prescribed documents shall be punished by terms of an administrative fine ranging from EUR 750 to 4,500.

Illegally introduced effects shall be confiscated by the Management Authority.

Except where such conduct constitutes an offence, any person who obstructs or impedes the activity of the Management Authority, alters or deletes the mark referred to in Art. 11, par. 12, used by the Management Authority to identify each single specimen, or uses a permit or certificate for a specimen other than that for which the permit or certificate has been granted, shall be punished by terms of an administrative fine ranging from EUR 2,500 to 7,500.

Art. 18

Anyone who, in contravention of this Law with respect to specimens of species listed in Appendices II and III to CITES:

- a) introduces from the sea, imports, exports, re-exports specimens without the required permit or certificate, or with a forged or altered or invalid permit or certificate;
- b) holds, uses for profit, buys, sells, displays or holds for commercial purposes, offers for sale, disposes of, transports for sale specimens that have been obtained in contravention of this Law;
- c) uses the specimens for purposes other than those indicated in the authorization granted upon or subsequent to issue of the import permit;

shall be punished by terms of 2nd degree arrest or a fine ranging from EUR 3,000 to 30,000.

With regard to the preceding paragraph, in case of recurrent infringement, transgressors shall be punished by terms of 2nd degree imprisonment or a fine ranging from EUR 4,000 to 40,000. In case of recurrent infringement in the carrying on of an enterprise, 1st degree disqualification shall also be imposed.

Import or export of personal or household effects without the prescribed documents shall be punished by terms of an administrative fine ranging from EUR 500 to 3,000.

Illegally introduced effects shall be confiscated by the Management Authority.

Except where such conduct constitutes an offence, any person who obstructs or impedes the activity of the Management Authority, alters or deletes the mark referred to in Art. 11, par. 12, used by the Management Authority to identify each single specimen, or uses a permit or certificate for a specimen other than that for which the permit or certificate has been granted, shall be punished by terms of an administrative fine ranging from EUR 1,250 to 3,750.

Art. 19

The Management Authority, that is officials of the Office for the Management of Environmental and Agricultural Resources with respect to plant specimens, and officials of the Veterinary Service of the Environmental Hygiene Service with respect to animal specimens, shall supervise and control the proper application of this Law.

In fulfilling said supervision and control functions, the Management Authority may:

- 1) promote investigations and make assessments;
- 2) adopt precautionary measures or measures for evidentiary purposes; including forfeiture of specimens, instrumentalities and things being evidence of an infringement;
- 3) have access to premises or vehicles in the presence of evidence that a specimen is contained therein in contravention of this Law;
- 4) examine stock books and records;
- 5) impose administrative fines in cases not falling under the responsibility of the Law Commissioner, and promote criminal action.

With regard to forfeiture referred to in point 2) above, a detailed and reasoned verbatim record must be compiled in two copies, one to be kept by the Management Authority, the other by the holder of the specimen.

The person affected by forfeiture may submit his or her observations in writing and a request to lift the measure to the Management Authority within twenty days from having been notified thereof in writing. After the expiry of twenty days and having made the necessary assessments, the Management Authority shall order the lifting of forfeiture of specimens which proved to be in accordance with the provisions of this Law.

Where assessed facts may substantiate grounds for a legal action as referred to in Articles 17 and 18, the Management Authority shall inform the Judicial Authority thereof, and the latter shall take measures accordingly.

Art. 20

The burden of proof of legal ownership of any specimen of species listed in Appendices I, II and III to CITES shall fall on the owner.

Art. 21

The holder of specimens shall be held liable for the infringements of this Law. Yet, public carriers or their persons in charge or agents shall not be held guilty where, having been properly and regularly designated by their customers, they allow the Management Authority to effectively bring legal suit against the real offenders.

Art. 22

Expenses incurred for the forfeiture, including keeping, transport, maintenance or final disposal of live animals and plants during the period of forfeiture shall be borne by the transgressor.

Art. 23

Infringement of this Law shall always entail confiscation of the specimens; maintenance expenses shall be borne by the person affected by confiscation.

Confiscation shall be in favour of the State; the Management Authority, in consultation with the Scientific Authority and in accordance with the Resolutions of the Conference of the Parties to CITES shall decide on the final disposal of confiscated specimens.

Art. 24

Licensed legal entities shall be held civilly liable to pay pecuniary sanctions and fulfil obligations resulting from conviction of their legal representatives, directors or managers for facts committed in the carrying on of an enterprise.

Liability shall be joint and without benefit of prior discussion.

Art. 25

This Law shall enter into force on the fifteenth day following that of its legal publication.

Done at Our Residence on 25 July 2005