

Regulation of the People's Republic of China on the Administration of the Import and Export of Endangered Wild Fauna and Flora

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Order of the State Council
(No. 465)

The Regulation of the People's Republic of China on the Administration of the Import and Export of Endangered Wild Fauna and Flora, which was adopted at the 131st executive meeting of the State Council on April 12, 2006, is hereby promulgated and shall come into force as of September 1, 2006.

Premier Wen Jiabao
April 29, 2006

Regulation of the People's Republic of China on the Administration of the Import and Export of Endangered Wild Fauna and Flora

Article 1 The present Regulation is formulated in order to intensify the administration on the import and export of endangered wild fauna and flora as well as the products thereof, protect and utilize, in a reasonable manner, the resources of wild fauna and flora and perform the Convention on the International Trade of Endangered Species of Wild Fauna and Flora (hereinafter referred to as the Convention).

Article 2 Where the import/export convention restricts the import or export of endangered fauna and flora as well as the products thereof, it shall be governed by the present Regulation. As to the endangered fauna and flora as well as the products thereof under the focused protection of our country, the relevant provisions of the present Regulation on the export of endangered fauna and flora as well as the products thereof shall be applied.

Article 3 The administrative departments of forestry and agriculture (fishery) of the State Council (hereinafter referred to as the administrative department of endangered fauna and flora under the State Council) shall, according to their work division and duties, take charge of the administration of the import and export of endangered fauna and flora as well as the products thereof throughout the country and do a good job in the relevant work relating to the performance of the Convention. Any other relevant departments of the State Council shall, according to the provisions of relevant laws and administrative regulations, do well within their respective functions and duties.

Article 4 The state administrative organ in charge of the import and export of endangered species shall perform the Convention on behalf of the Chinese Government and shall produce, upon verification, a Certification on Import/Export Permission for key wild fauna and flora as well as the products thereof under state protection whose export has been approved by the administrative department of endangered fauna and flora under the State Council as well as the endangered wild fauna and flora as well as the products thereof whose import or export has been restricted by the import/export convention yet approved by the administrative department of endangered fauna and flora under the State Council.

Article 5 The state scientific institution for the import and export of endangered species shall, according to the present Regulation, organize the relevant experts as specialized in terrestrial wild animals, aquatic wildlife and wild plants to engage in the scientific consulting on the import and export of endangered wild fauna and flora as well as the products thereof.

Article 6 It is prohibited to import or export any endangered wild fauna and flora as well as the products thereof whose import or export is prohibited by the Convention for any purpose of commercial trade. Where any import or export is required for such special reasons as scientific research, domestication and propagation, artificial cultivation and cultural exchange, it shall be subject to the approval of the administrative department of endangered fauna and flora under the State Council. Where any matter shall be subject to the approval of the State Council according to the relevant provisions, it shall be reported to the State Council for approval.

It is prohibited to export any wild fauna and flora or any product thereof whose name is yet to be decided or which is newly found to be of important value or to export the relevant wild fauna and flora whose export has been prohibited by the State Council or the administrative department of endangered fauna and flora under the State Council.

Article 7 The import or export of endangered fauna and flora as well as the products thereof whose import and export is restricted by the Convention, or the export of wild fauna and flora as well as the products thereof that has been restricted by the State Council or the administrative department of endangered fauna and flora under the State Council shall be subject to the approval of the administrative department of endangered wild fauna and flora under the State Council.

Article 8 An import of endangered wild fauna and flora as well as the products thereof shall meet the following requirements:

- (1) The utilization of endangered wild fauna and flora as well as the products thereof meeting the relevant state provisions;
- (2) Having effective control measures as well as meeting the requirements for ecological security;
- (3) The materials as provided by the relevant applicant being authentic and effective; and
- (4) Meeting any other requirement as publicized by the administrative department of endangered fauna and flora under the State Council.

Article 9 An import of endangered wild fauna and flora as well as the products thereof shall meet the following requirements:

- (1) Meeting the requirements for ecological security as well as public interest;
- (2) Having legal origin;
- (3) The materials as provided by the relevant applicant being authentic and effective;
- (4) Not falling within the prohibited category of export as prescribed by the State Council or the administrative department of endangered fauna and flora under the State Council; and
- (5) Meeting any other requirement as publicized by the administrative department of endangered fauna and flora under the State Council.

Article 10 As to any import or export of endangered wild fauna and flora as well as the products thereof, an applicant shall file an application with the administrative department of wild fauna and flora of the province, autonomous region or municipality directly under the Central Government where it is located and submit the following materials as well:

- (1) An Import/Export Contract;
- (2) The names, varieties, quantity and purpose of use of endangered wild fauna and flora as well as the products thereof;
- (3) Instructions on the facilities for loading and transporting live endangered wild fauna and flora as well as the products thereof; and
- (4) Any other material that shall be submitted, as is publicized by the administrative department of endangered fauna and flora under the State Council.

The relevant administrative department of wild fauna and flora of the province, autonomous region or municipality directly under the Central Government shall, within 10 workdays as of receiving an application, produce its opinion and transfer all the application materials to the administrative department of endangered fauna and flora under the State Council.

Article 11 The administrative department of endangered fauna and flora under the State Council shall, within 20 workdays as of receiving an application, make a decision on approval or disapproval and notify the relevant applicant in written form. Where the said administrative department fails to make a decision within 20 workdays, the relevant term may, upon the approval of the principal thereof, be extended for 10 workdays, and the extended term and relevant explanations thereon shall be informed to the relevant applicant.

Article 12 Where an applicant obtains the relevant approval documents for import or export from the administrative department of endangered fauna and flora under the State Council, it shall, within the effective time limit as prescribed in the approval documents, apply with the state administrative organ in charge of the import and export of endangered wild fauna and flora for verifying and issuing a Certification on Import/Export Permission.

The following materials shall be submitted when applying for verifying and issuing a Certification on Import/Export Permission:

- (1) An Application Form for a Certification on Import/Export Permission;
- (2) Approval Documents for Import or Export; and
- (3) An Import / Export Contract.

As to the import of any endangered wild fauna and flora or any product thereof whose import or export is restricted by the Convention, an applicant shall also submit the relevant certification materials on export permission as verified and issued by the administrative department of endangered wild fauna and flora of the export country (region). As to the export of any endangered wild fauna and flora or any product thereof whose import or export is restricted by the Convention for any purpose of commercial trade, an applicant shall also submit the relevant certification materials on import permission as verified and issued by the administrative department of endangered wild fauna and flora of the import country (region). As to any re-export of endangered wild fauna and flora as well as the products thereof that have been imported, an applicant shall also submit the relevant declaration form of imported goods as produced by the customs as well as certification on import permission as signed by the customs.

Article 13 The administrative organ in charge of the import and export of endangered wild fauna and flora shall, within 20 workdays as of receiving an application, make a decision on examination. Where the application materials are complete, meet the provisions of the present Regulation as well as the requirements of the Convention, a Certification on Import/Export Permission shall be issued upon verification. In the case of disapproval for issuing a Certification on Import/Export Permission upon verification, the disapproval shall be notified to the applicant and the administrative department of endangered fauna and flora under the State Council in written form and the relevant explanations shall be given. Where a decision cannot be made within 20 workdays, the relevant term may, upon the approval of the principal of the administrative organ in charge of the import and export of endangered wild fauna and flora, be extended for 10 workdays and the extended term and the relevant explanations thereon shall be notified to the relevant applicant.

When the administrative organ in charge of the import and export of endangered wild fauna and flora carries out an examination, if any application material fails to meet the relevant requirements, all the contents that shall be supplemented and corrected shall be notified to the applicant in a one-off manner.

Article 14 Where the state administrative organ in charge of the import and export of endangered wild fauna and flora needs, in the process of verifying and issuing a Certification on Import/Export Permission, to consult the opinions of the state scientific institution for the import and export of endangered wild fauna and flora or needs to confirm the relevant contents of the certification materials on import/export permission with the relevant overseas institutions, it shall, within 5 workdays as of receiving an application, transfer the relevant materials to the state scientific institution for the import and export of endangered wild fauna and flora for consulting or to the relevant overseas institutions for confirming the relevant contents. The time for consulting opinions as well as confirming contents shall not be calculated into the workdays for the verification and issuance of the Certification on Import/Export Permission.

Article 15 The administrative department of endangered fauna and flora under the State Council, the administrative department of wild fauna and flora of provinces, autonomous regions and municipalities directly under the Central Government as well as the state administrative organ in charge of the import and export of endangered wild fauna and flora shall, when conducting examination and approval of endangered wild fauna and flora as well as the products thereof, not collect any fee other than the fees as prescribed by the state.

Article 16 Where any import or export of endangered wild fauna and flora or any product thereof casts or may cast any serious injury or negative impact on the resources of wild fauna and flora, or ecological security, the administrative department of endangered fauna and flora under the State Council shall put forward the relevant measures for temporarily prohibiting or restricting the import/export of endangered wild fauna and flora as well as the products thereof, and implement them after reporting them to the State Council for approval.

Article 17 As to any endangered wild fauna and flora or any product thereof that is obtained from a sea area, which falls within no country's jurisdiction, and enters into the territory of China, it shall be governed by the relevant provisions of the present Regulation.

Article 18 Where any import of endangered wild fauna and flora as well as the products thereof involves the administration of foreign species, or where any export of endangered wild fauna and flora as well as the products thereof involves any management of seed resources, it shall be governed by the relevant state provisions.

Article 19 The import or export of endangered wild fauna and flora as well as the products thereof shall be carried out at the ports that are designated by the administrative department of endangered fauna and flora under the State Council, in coordination with the General Administration of Customs as well as the State Administration of Quality Supervision, Inspection and Quarantine, and are approved by the State Council.

Article 20 Any import or export of endangered wild fauna and flora as well as the products thereof shall be concluded according to the varieties, quantity, port and time limit as prescribed on the relevant Certification on Import/Export Permission.

Article 21 As to any import or export of endangered wild fauna and flora as well as the products thereof, the relevant importer or exporter shall submit to the customs a Certification on Import/Export Permission, be subject to customs surveillance and shall, within 30 days as of customs release, submit to the state administrative organ in charge of the import and export of endangered species a duplicate copy of the Certification on Import/Export Permission that has been examined by the customs for archival filing.

Any departure from the territory, transit or transshipment of endangered wild fauna and flora as well as the products thereof shall be subject to customs surveillance throughout the period from the time of arrival in the territory to the time of departure from the territory.

Any endangered wild fauna and flora or any product thereof that goes into or out of any specific customs surveillance zone or bonded place such as bonded zone and export processing zone shall be subject to customs surveillance and shall go through the relevant formalities for import or export according to the provisions of the General Administration of Customs as well as state administrative organ in charge of the import and export of endangered species.

Any import or export of endangered wild fauna and flora as well as the products thereof shall be declared to the entry inspection and quarantine organ on the strength of the relevant Certification on Import/Export Permission and shall be subject to its inspection and quarantine.

Article 22 The state administrative organ in charge of the import and export of endangered species shall report the relevant materials, based on which a Certification on Import/Export Permission is verified and issued, as well as an annual import/export summary of endangered wild fauna and flora as well as the products thereof to the administrative department of

endangered fauna and flora under the State Council as well as other administrative departments in a timely manner.

Article 23 The approval documents for import or export shall be uniformly printed and formulated under the organization of the administrative department of endangered fauna and flora under the State Council. The Certification on Import/Export Permission and the Application Form thereof shall be uniformly printed and formulated under the organization of the state administrative organ in charge of the import and export of endangered species.

Article 24 Where any functionary of the administrative department of endangered wild fauna and flora or the state administrative organ in charge of the import and export of endangered species takes advantage of his duties and functions to accept any other's property or secure any other interest by failing to approve the relevant import or export or to verify and issue a Certification on Import/Export Permission according to the provisions of the present Regulation, in the case of serious circumstances and if a crime has been constituted, he shall be subject to criminal liabilities according to law. Where a crime is not constituted, he shall be given a sanction according to law.

Article 25 Where any functionary of the state scientific institution for the import or export of endangered species takes advantage of his functions and duties to accept any other's property or secure any other interest by producing any false opinion, in the case of serious circumstances and if a crime has been constituted, he shall be subject to criminal liabilities according to law. Where a crime is not constituted, he shall be given a sanction according to law.

Article 26 Where any endangered wild fauna and flora or any product thereof is illegally imported or exported or smuggled in any other way, the violator shall be given a punishment according to the relevant provisions of the Customs Law. In the case of serious circumstances and if a crime has been constituted, he shall be subject to criminal liabilities according to law.

The articles as fined and confiscated shall be transferred to the administrative department of wild fauna and flora for legal disposal. Where any fined and confiscated article shall be subject to quarantine according to law, it shall be disposed of after passing the quarantine. Where any fined and confiscated article shall be returned to its original export country (region), it shall be transferred by the administrative department of wild fauna and flora to the state administrative organ in charge of the import and export of endangered species for disposal according to the relevant provisions of the Convention.

Article 27 Where any approval document for import or export or any Certification on Import/Export Permission is fabricated, sold for profits or transferred, the administrative department of wild fauna and flora or the administrative department for industry and commerce shall give the violator a punishment in respect of their functions and work division according to law. In the case of serious circumstances and if a crime has been constituted, the violator shall be subject to criminal liabilities according to law.

Article 28 The present Regulation shall come into force as of September 1, 2006.