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NATIONAL ENVIRONMENTAL (PROTECTION OF ENDANGERED SPECIES IN INTERNATIONAL TRADE) REGULATIONS 2011



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S. I. No. 16 of 2011

NATIONAL ENVIRONMENTAL (PROTECTION OF ENDANGERED SPECIES IN INTERNATIONAL TRADE) REGULATIONS 2011

In exercise of the powers conferred on me by section 7 of the Endangered Species (Control of International Trade and Traffic) Act, CAP E9, Laws of the Federation of Nigeria 2004, and section 34 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 and all other powers enabling me in that behalf, I Mr. JOHN ODEY, Honourable Minister, Federal Ministry of Environment, do hereby make the following regulations :

[28th Day of April, 2011]

Commence-
ment.

PART I—GENERAL PROVISIONS

1. These regulations shall apply to specimen of wildlife species listed in *Appendix I, II or III* to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or the Convention) domesticated by the Endangered Species (Control of International Trade and Traffic) Act, CAP E19, Laws of the Federation of Nigeria, 2004 (the Act), (and shall include wildlife species included by the Convention after the coming into force of these Regulations) and also those listed in the Schedules I and II to the Act.

Scope.

2.—(1) The Federal Ministry of Environment is designated as the CITES Management Authority for Nigeria, whose duties are as specified under the Convention and the Act.

Authorities.

(2) The following Agencies are designated as the CITES Scientific Authorities for Nigeria and their functions are as specified under the relevant provisions of the Convention and the Act :

- (a) Forestry Research Institute of Nigeria (FRIN) ;
- (b) National Institute of Oceanography and Marine Research (NIOMR) ;
- (c) National Institute of Freshwater Fishery Research (NIFFR) ;
- (d) National Park Service (NPS) ;
- (e) National Horticulture Research Institute (NIHORT) ;
- (f) Nigerian Conservation Foundation (NCF).

(3) The National Environmental Standards and Regulations Enforcement Agency is designated as the Agency with authorization to enforce CITES, the provisions of the Act and these Regulations.

Prohibition
of import,
introduction
from sea,
export, re-
export and
possession.

PART II—PROHIBITIONS

3.—(1) Unless the requirements in this Part are met, or any of the exceptions in this Part is applicable, it shall be unlawful for any person to commit, attempt to commit, solicit another to commit, or cause to be committed any of the acts described under sub-regulation (2) (a)-(e) of this regulation.

(2) It is unlawful :

(a) to import into the Federal Republic of Nigeria any specimen of a wildlife species listed in *Appendix I*, II or III of the Convention or Schedule I and II to the Act from any foreign country ;

(b) to introduce directly into the Federal Republic of Nigeria any specimen of a wildlife species listed in *Appendix I* or II of the Convention or Schedules I and II of the Act taken in the marine environment not under the jurisdiction of any country ;

(c) to export from the Federal Republic of Nigeria any specimen of a wildlife species listed in *Appendix I*, II or III of the Convention or Schedules I and II of the Act ;

(d) to re-export from the Federal Republic of Nigeria any specimen of a wildlife species listed in *Appendix I*, II or III of the Convention or Schedules I and II to the Act ; and

(e) for any person to possess any specimen of a wildlife species listed in *Appendix I*, II or III of the Convention or Schedules I and II to the Act imported into the Federal Republic of Nigeria, or exported or re-exported from the Federal Republic of Nigeria contrary to the provisions of the Convention and the Act.

4.—(1) In order to import into the Federal Republic of Nigeria any specimen of a wildlife species listed in :

(a) *Appendix I* of the Convention from any foreign country, an import permit issued pursuant to Section 3 of the Act, and a valid foreign re-export permit issued by the country of origin or a valid foreign re-export certificate issued by the country of re-export must be obtained and presented prior to such importation.

(b) *Appendix I* of the Convention taken in the marine environment not under the jurisdiction of any country, certificate of introduction from the sea issued pursuant to section 3 of the Act must be obtained prior to such introduction.

(c) *Appendix II* of the Convention or Schedule II to the Act from any foreign country, a valid foreign export permit issued by the country of origin, or a valid foreign re-export certificate issued by the country of re-export, must be obtained and presented prior to such importation.

Require-
ments for
import
introduction
from sea,
export and
re-export.

(d) *Appendix II* of the Convention or *Schedule II* to the Act taken in the marine environment not under the jurisdiction of any country, an introduction from the sea certificate issued pursuant to the provisions of the Act and these Regulations must be obtained prior to such introduction.

(e) *Appendix III* of the Convention from a foreign country that has listed such specimen of a wildlife in *Appendix III* of the Convention, a valid foreign export permit or re-export certificate issued by such country must be obtained prior to such importation.

(f) *Appendix III* of the Convention from a foreign country that has not listed such specimen of a wildlife species in *Appendix III* of the Convention, a valid foreign certificate of origin or foreign re-export certificate must be obtained prior to such importation.

(2) In order to export or re-export from the Federal Republic of Nigeria any specimen of a wildlife species listed in—

(a) *Appendix I* or *II* of the Convention, an export permit or re-export certificate, issued pursuant to Section 3 of the Act must be obtained prior to such exportation or re-exportation ;

(b) *Appendix III* of the Convention or *Schedule II* to the Act, an export permit issued pursuant to section 3 of the Act, must be obtained prior to such exportation or re-exportation ; and

(c) *Appendix III* of the Convention that has not been listed by the Federal Republic of Nigeria, a certificate of origin, issued pursuant to section 3 of the Act, must be obtained prior to such exportation ;

(3) In order to re-export from the Federal Republic of Nigeria any specimen of wildlife listed in *Appendix III* of the Convention, a certificate issued pursuant to the provisions of the Act and these Regulations that the specimen was processed in the Federal Republic of Nigeria or is being re-exported must be obtained prior to such re-exportation.

5.—(1) The prohibitions in regulation 3 of these Regulations concerning importation, exportation and re-exportation shall not apply to :

Exemptions
and Special
Procedures.

(a) specimens of a wildlife species listed in *Appendices I, II or III* of the Convention or *Schedules I and II* to the Act that are being transhipped through the Federal Republic of Nigeria provided such specimen or species remain in the Nigeria Custom's custody and is accompanied by valid CITES documentation or comparable documentation, issued by a foreign Country ;

(b) specimen of a wildlife species when a certificate has been issued by the Management Authority (referred to as the Authority) of the country of origin or the country of re-export to the effect that the specimen of a wildlife species was acquired prior to the date the Convention applied to it ;

(c) legally acquired specimen of a wildlife species that are accompanying personal baggage or part of a shipment of the household effects of persons moving their residences to or from the Federal Republic of Nigeria: Provided that this exception shall not apply to :

(i) importation by Nigerian residents of specimens of species listed in *Appendix I* of the Convention or Schedule I to the Act that were acquired outside the Federal Republic of Nigeria ; or

(ii) importation by Nigerian residents of specimens of species listed in *Appendix II* of the Convention or Schedule II to the Act that were taken from the wild in a foreign country, if that country requires the prior grant of export permits before any export of such specimens and no export permit is presented.

(2) Specimen of a wildlife species listed in *Appendix I* of the Convention or Schedule I to the Act that have been bred in captivity or artificially propagated, for commercial purposes, shall be treated as if listed in *Appendix II* of the Convention and Schedule II to the Act.

(3) The prohibitions in regulation (3) of these Regulations concerning importation, exportation and re-exportation shall not apply to :

(a) any specimen of a wildlife species that was bred in captivity or artificially propagated, or is a part of such wildlife or plant or was derived there from and which is accompanied by a certificate to that effect when a certificate has been issued by the Authority of the country of export to the effect that the wild animal or plant was bred in captivity or artificially propagated, or was part of or derived therefrom ;

(b) herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material when they are imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions that have been registered by the Authority of their country, and when a label issued or approved by the Authority is clearly affixed to the package or container or approval of labels ; and

(c) movement of specimens which form part of a traveling zoo, circus, menagerie, plant exhibition or other traveling exhibition, provided that :

(i) the exporter or importer registers full details of such specimens with the Authority ;

(ii) the specimens are covered by a pre-Convention certificate ; or

(iii) a certificate showing that they were bred in captivity or artificially propagated and the Authority is satisfied that any living specimen will be so transported and cared for in a manner that minimizes the risk of injury, damage to health or cruel treatment.

6.—(1) Any person desiring to trade in specimens of any species listed in Appendix I of the Convention and the Schedules to the Act shall be registered with the Authority.

Registration of persons engaged in trading, captive breeding and artificial propagation of wildlife.

(2) Any person desiring to produce captive bred animals and artificially propagated plants for commercial purposes of any species listed in Appendix I of the Convention and the Schedules to the Act shall be registered with the Authority.

(3) Any person registered with the Management Authority for captive breeding of animals or artificial propagation of plants shall keep records of their stocks and any transactions thereof which records shall be submitted bi-annually to the Authority and the Enforcement Agency.

(4) The Authority may inspect the premises and records of persons registered by the Authority at any time.

PART III—OFFENCES AND PENALTIES

7.—(1) It shall be an offence under these Regulations to import, export, re-export, or introduce from the sea, or attempt to import, export, re-export or introduce from the sea, any specimen listed in Appendices I, II and III to the Convention and the Schedules to the Act and these Regulations without a valid permit or certificate.

Offences and Penalties.

(2) Any person found guilty of contravening the provisions of sub-regulation (1) of this regulation shall, on conviction be liable to a fine not exceeding 5 million Naira (N5m) and to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) It shall be an offence under these Regulations for any person to have in his possession or under his control, or to offer or expose for sale or display to the public, any specimen of the species listed in Appendices I, II, and III of the Convention or the Schedules to the Act and these Regulations, which was acquired in contravention of the provisions of the Convention, the Act and/or these Regulations.

(4) Any person found guilty of contravening the provisions of sub-regulation 3 of this regulation shall be guilty of an offence and shall on conviction be liable to a fine not exceeding 5 million Naira (N5m) and to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(5) It shall be an offence under these Regulations to make or attempt to make either oral or written false or misleading statements in connection with an application for a permit or certificate or registration.

(6) Any person found guilty of contravening the provisions of sub-regulation 5 of this regulation shall on conviction be liable to a fine not exceeding 3 million Naira (N3m) and to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

(7) It shall be an offence under these Regulations to obstruct or otherwise hinder an officer in the performance of his duties.

(8) A person found guilty of contravening the provisions of sub-regulation 7 of this regulation shall on conviction be liable to a fine not exceeding 1 million Naira (N1m) and to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

(9) It is an offence under these Regulations for any unauthorised person to alter, deface or erase a mark used by the Authority to individually and permanently identify specimens.

(10) Any person found guilty of contravening the provisions of sub-regulation 9 of this regulation shall on conviction be liable to a fine not exceeding 2 million Naira (N2m) and to imprisonment for a term not exceeding 2 years and to both such fine and imprisonment.

(11) Where a body corporate is found guilty of contravening any of the provisions of these regulations, such body corporate, or any person who was purporting to act in any such capacity, shall on conviction be liable to a fine not exceeding 20 million Naira (N20m) and its principal officers liable to a term of imprisonment not exceeding 7 years, or to both such fine and imprisonment.

(12) Expenses incurred as a result of seizure, including custody costs, the costs of transporting and disposing of specimens or of maintaining live animals and plants during the time of seizure shall be recoverable from the offender.

PART 4—ENFORCEMENT

Enforce-
ment.

8.—(1) If an authorised officer is satisfied that there is reasonable evidence of an offence, he or she may order the arrest of the person suspected and seize any item related to the suspected offence.

(2) An authorized person may :

(a) seize anything which he reasonably suspects is the object of or evidence of an offence under these regulations ;

(b) enter premises [including seaports, airports and free ports] or vehicles he reasonably suspects, and seize a specimen in violation of the provisions of these Regulations ;

(c) examine what he reasonably suspects to be a specimen transported, acquired or traded in violation of the provisions of these Regulations ;

(d) examine any record held relating to specimens referred to under sub-regulation 2 (a) and (b) of this regulation ; and

(e) take photos or samples of the specimens.

(3) In all cases, the specimens that are the subject of an offence shall be confiscated pending the trial of the offender.

(4) When a person is convicted of an offence against these Regulations, any cage, container, boat, aeroplane, vehicle, or other article and equipment in respect of or by means of which the offence was committed shall be forfeited to the Federal Republic of Nigeria. Such forfeiture may be in addition to any other penalty to which such contravention applies.

(5) The specimens confiscated according to the provisions of these Regulations, (except living specimens which shall be entrusted to the Scientific Authority) remain the property of the Enforcement Authority, which in consultation with the Authority and Scientific Authority shall decide upon their final disposal.

9.—(1) Seized and confiscated living or dead specimens shall be properly documented and placed under the care of Rescue Centers pending rehabilitation or repatriation, etc.

Custody
and
disposal of
specimens.

(2) The preferred Rescue Centres are those established by the Authority, however, facilities provided by the National Park Service and the Forestry Research Institute of Nigeria will be considered in the absence of specially established Rescue Centers.

(3) Seized and confiscated trophies, products and derivatives shall be properly documented and kept in custody of the Enforcement Authority or the Authority.

PART V—MISCELLANEOUS

10. In these Regulations—

“Act” means the Endangered Species (Control of International Trade and Traffic) Act, Cap. E9, Laws of the Federation of Nigeria, 2004 ;

“Acquired” means, in relation to a specimen, taken from the wild or the point at which it was born in captivity or artificially propagated ;

“Acquired unlawfully” means acquired contrary to the provisions of the Convention, the Act and these Regulations ;

“Agency” means the National Environmental Standards and Regulations Enforcement Agency (NESREA) Establishment Act, 2007 ;

Interpreta-
tion.

"Animal" means any member of the Animal Kingdom, including the young or eggs thereof other than human being ;

"Authorized person/officer" means a person duly authorized in writing by the Director-General of the Agency for the purposes of these Regulations ;

"Appendices" means the species covered by the Convention and listed in three Appendices, according to the degree of protection they need. Appendix I include species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. *Appendix II* includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. *Appendix III* contains species that are protected in at least one country, which has asked other, CITES Parties for assistance in controlling the trade. Changes to *Appendix III* follow a distinct procedure from changes to *Appendices I* and *II*, as each Party is entitled to make unilateral amendments to it.

"Artificially propagated" means only plants grown under controlled conditions from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that either are exempt or have been derived from cultivated parental stock ;

"Bred in captivity" means offspring, including eggs, born or otherwise produced in a controlled environment of parents that mated or otherwise transmitted their gametes in a controlled environment, as defined in Resolutions of the Conference of the Parties ;

"Certificate of origin" means the documents that allow the export of specimens of species listed in *Appendix III* when the specimens originated in a non-listing country which did not list the species in *Appendix III* ;

"CITES" means the Convention on International Trade in Endangered Species of Wild Fauna (animal) and Flora (plant), concluded in Washington, D.C. on 3rd March 1973, as amended in Bonn on 22 June 1979 ;

"CITES Secretariat" means the Secretariat of CITES as referred to in Article XII of CITES ;

"Conference of the Parties" means the Conference of the Parties as referred to in Article XI of CITES ;

"Controlled environment" means environment that is manipulated for the purpose of producing plants or animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving the environment, and the general characteristics of which may include but are not limited to artificial housing; waste removal; health care; protection from predators; and artificially supplied food ;

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

"Court" means the Federal or State High Court ;

"Cultivated parental stock" means the ensemble of plants grown under controlled conditions that are used for reproduction, and which must have been, to the satisfaction of the designated CITES authorities of the exporting country established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild and maintained in sufficient quantities for propagation so as to minimize or eliminate the need for augmentation from the wild, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the cultivated parental stock ;

"Derivative" means any part, tissue or extract, of an animal, plant or other organism, whether fresh, preserved or processed, and includes any chemical compound derived from such part, tissue or extract ;

"Domestic trade" means commercial activity, including, sale, purchase and manufacture, within territory under the jurisdiction of Nigeria ;

"Endangered species" means species threatened by extinction whose numbers are so few or are declining so quickly that the animal, plant or other organism may soon become extinct) ;

"Enforcement Authority" means the National Environmental Standards and Regulations Enforcement Agency (NESREA) ;

"Enforcement officer" means officer of the Agency ;

"Export" means the act of taking any specimen out of any place under the jurisdiction of the Federal Republic of Nigeria ;

"Extinction" means when there are no surviving individuals of a particular plant or animal species that are able to reproduce and create a new generation ;

"Fauna" means animal and *"Flora"* means plant and *"fauna"* and *"flora"* shall be construed accordingly ;

"Import" means to land on or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the Federal Republic of Nigeria other than transit and transshipment any specimen of species included in the Appendices of CITES ;

"Imported unlawfully" means introduced into the Country contrary to the provisions of the Endangered Species Act ;

"Introduction from the sea" means transportation into the Federal Republic of Nigeria of specimens of any species which were taken from

the marine environment not under the jurisdiction of any State, including the air space above the sea and the sea-bed and subsoil beneath the sea ;

"*International trade*" means any export, re-export, or import covered by the Customs Regulations and introduction from the sea ;

"*Invasive alien species*" means species introduced deliberately or unintentionally outside their natural habitats where they have the ability to establish themselves, invade, outcompete natives and take over the new environments ;

"*Label*" means piece of paper, card, or other material bearing the acronym 'CITES' and issued or approved by a Management Authority for the identification of contents as herbarium specimens, preserved, dried or embedded museum specimens or live plant material for scientific study. They shall include the name and address of the sending institution and the codes of the exporting and importing institutions over the signature of a responsible officer of that registered scientific institution ;

"*Legal acquisition finding*" means a finding by the Management Authority of the State of export determining whether specimens were acquired consistent with national laws. The applicant is responsible for providing sufficient information to show that specimen was legally acquired ;

"*Management Authority*" means a national administrative body designated in accordance with *Article IX*, paragraph 1(a), of the Convention, and in this case, the Federal Ministry in charge of Environment ;

"*Non-detriment finding*" means a finding by the Scientific Authority advising that a proposed export or introduction from the sea of *Appendix I* or *II* specimens will not be detrimental to the survival of the species and that a proposed import of an *Appendix I* specimen is not for purposes that would be detrimental to the survival of the species ;

"*Offering for sale*" means offering for sale or any action that may reasonably be interpreted as such, including advertising or causing to be advertised for sale and invitation to negotiate ;

"*Parts*" means distinct portion of a animal body or of a plant ;

"*Person*" means natural or juristic personality ;

"*Permit or Certificate*" means the official document used to authorize import, export, re-export, or introduction from the sea of specimens of species listed in any of the *Appendices* of CITES and shall conform to the requirements of CITES and Resolutions of the Conference of the Parties or otherwise shall be considered invalid ;

"*Personal or household effects*" means dead specimens, parts and derivatives that are the belongings of a private individual and that form or are intended to form part of his normal possessions ;

"*Pre-convention Certificate*" means the pre-convention date for a specimen may vary depending on when a Party joined CITES or on a country's stricter national legislation ;

"*Premises*" means any place, and, in particular, includes any vehicle, vessel, aircraft, cargo, tent or movable structure ;

"*Primarily commercial purposes*" means all purposes whose non-commercial aspects do not clearly predominate ;

"*Quota*" means prescribed number or quantity of specimens that can be harvested, exported or otherwise used over a specific period of time ;

"*Readily recognizable part or derivative*" means any specimen 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 an animal or plant of a species included in the *Appendices*, unless such part or derivative is specifically exempted from the provisions of the Convention ;

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

"*Registered veterinary surgeon*" means a person who is registered in the register of veterinary surgeons ;

"*Rescue Centre*" means institution designated to look after the welfare of living specimens, particularly those that have been confiscated ;

"*Sale*" means any form of sale. For the purposes of this Act, hire, barter or exchange shall be regarded as sale; related expressions shall be similarly interpreted ;

"*Scientific Authority*" means national scientific body(ies) designated in accordance with Article IX of CITES ;

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

"*Specimen*" means an individual example of a species of a wild animal or plant ;

(i) any animal or plant, whether alive or dead of specimens of a species included in *Appendices I, II and III* of CITES.

(ii) any part, product, trophy or derivative which appears from an accompanying document, the packaging or a mark or label or from any other circumstances to be a part, product, trophy or derivative of an animal or plant of species included in *Appendices I, II and III* of the Act, unless such part, product, trophy or derivative is specifically exempted from the provisions of CITES or the Act.

“*Seizure and Confiscation*” means take temporary possession of as a security by legal authority ;

“*Tags*” means piece of material for the identification of specimen entering international trade from the countries of origin ;

“*Transit*” means the transit procedures as defined by the customs regulations of (name of the country) ;

“*Transshipment*” means the transshipment procedures as defined by the customs regulations of (name of the country) ;

“*Trophy*” means any horn, ivory, tooth, tusk, claw, hoof, hide, skin, hair, feather, egg or other durable portion whatsoever of any animal, whether processed or not, which is recognizable as a durable portion of such animal ;

“*The Minister*” means the Minister responsible for matters relating to Environment ;

“*Under controlled conditions*” means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilizer application, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather ;

“*Wildlife (wild animal and plant)*” means any undomesticated or cultivated plants or animals.

Citation.

11. These Regulations shall be cited as National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011.

MADE at Abuja this 28th day of April, 2011.

MR. JOHN ODEY
Honourable Minister,
Federal Ministry of Environment