

LAW ON THE REGULATION OF FOREIGN TRADE IN ENDANGERED ANIMAL AND PLANT SPECIES AND DERIVATIVES THEREOF

7 November 2002

Ulaanbaatar

SECTION ONE. General Provisions

Article 1. Purpose of the Law

1. The purpose of this Law is to regulate relations associated with the implementation of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (hereinafter "the Convention"), and the granting of licenses for the international sale of animals and plants listed in the appendix of the Convention or derivatives thereof to citizens and economic entities.

Article 2. Legislation Concerning the Regulation of Foreign Trade in Endangered Animal and Plant Species and Derivatives Thereof

1. The legislation concerning the regulation of foreign trade in endangered animal and plant species and derivatives thereof consists of the *Law on Wildlife*, the *Law on Hunting*, the *Law on Customs*, this Law, and other legislation which is consistent with them.

2. If an international treaty to which Mongolia is a party is inconsistent with this Law then the provisions of the international treaty shall prevail.

Article 3. Scope of the law

1. This law applies only to the international trade in globally endangered plants and animals listed in the appendix to the Convention, the materials derived therefrom, and the products made thereof (hereinafter "derivatives").

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SECTION TWO. Organization Responsible for Implementing the Convention

Article 4. Organization Responsible for Implementing the Convention

1. An Administrative Council and Scientific Council with responsibility for the implementation of the Convention shall operate under the authority of the central government organization responsible for environmental issues, and shall be constituted of non-salaried members.
2. Procedures for the appointment and dismissal of members of the Administrative Council and Scientific Council and for the operations of the Councils must be ratified by the member of government responsible for nature and environment.
3. The membership of the Administrative Council shall include representatives from the central government organizations responsible for nature and environment, industry, trade, food and agriculture; the state administrative organizations responsible for customs and professional inspections; and environmental sector non-governmental organizations.

Article 5. Administrative Council

1. The Administrative Council has the following rights and responsibilities:
 - 1) Organizing actions to implement the Convention in Mongolia;
 - 2) Presenting amendments to the appendices to the Convention to relevant authorities to obtain decisions on whether to accept, reject or make additional comments on such amendments;
 - 3) Developing and transmitting to the Government recommendations for amendments to the appendices to the Convention, points of discussion for a meeting of the conference of the parties and draft resolutions;
 - 4) Issuing and cancelling licenses for the export and import across customs-controlled borders of endangered animal and plant species and derivatives thereof which are included in the appendices of the Convention;
 - 5) Providing certificates for the re-export or introduction from the sea of any animal and plant species and derivatives thereof which are included in the appendices of the Convention, and for the export of any animal and plant species and derivatives thereof which were obtained prior to Mongolia's joining the Convention;

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- 6) Communicating with the Scientific Council to produce the evaluations and descriptions indicated in article 6.1 of this Law;
- 7) Submitting an annual report on the implementation of the Convention to the Secretariat of the Convention;
- 8) Coordinating the sale, destruction or return to nature of animals, plants and derivatives thereof which have been seized in compliance with the relevant legislation;
- 9) Cooperating with other organizations on issues related to the implementation of this Law.

Article 6. Scientific Council

1. The Scientific Council is responsible for producing the following assessments and descriptions:
 - 1) Assessments of the threat to the survival of animals and plants listed in appendices I and II of the Convention and derivatives thereof, due to their export or introduction from the sea;
 - 2) Indications of whether parties wishing to import animals listed in appendix I of the Convention have established appropriate conditions for the caring for such animals;
 - 3) Assessments to identify domesticated animals or cultivated plants listed in appendix I of the Convention or derivatives thereof that were obtained prior to Mongolia's joining the Convention;
 4. Assessments of whether environmental damage would result from the international trade in animals or plants listed in appendices I and II of the Convention, or derivatives thereof.
2. The Scientific Council shall submit recommendations concerning the following issues to the Administrative Council:
 - 1) Regarding the need to limit the export of animals and plants listed in appendix II of the Convention, taking their numbers into account;
 - 2) Regarding evaluations of activities related to the issuance of licenses to export or import animals and plants listed in appendix II of the Convention, or derivatives thereof.
3. In the event that the Administrative Council does not accept the recommendations indicated in article 2 of this Law, and if the Scientific Council

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remains of the view that such recommendations require adoption, the issue must be submitted to the member of government responsible for nature and environment for final decision.

SECTION THREE. Regulation of Foreign Trade in Endangered Animals, Plants and Derivatives Thereof

Article 7. Foreign Trade in Plants and Animals Listed in the Appendices to the Convention, and Derivatives Thereof

1. The sale for profit of animals or plants listed in appendix I of the Convention or of derivatives thereof is prohibited.
2. Animals and plants listed in appendix I of the Convention or derivatives thereof may be traded internationally only for the purposes of research and study, keeping in a museum or zoo, or circus performance.
3. The sale for profit of animals and plants listed in appendix II of the Convention or of derivatives thereof is permitted.
4. The international trade in animals and plants listed in the appendices of the Convention or of derivatives thereof, according to the provisions of items 2 and 3 of this article, must be conducted according to special procedures in order to ensure that no threat is made to the survival of the animal or plant species in question, and that no harmful use will be made in the future.
5. The procedures indicated in article 7.4 of this Law must be ratified jointly by the members of government responsible for nature and environment and for customs issues.
6. The international sale of animals or plants listed in the appendices of the Convention or of derivatives thereof, in contravention of this Law, is prohibited.

Article 8. Licenses and certificates

1. Applications by citizens or economic entities for licenses to export or import plants or animals listed in the appendices of the Conventions or derivatives thereof, or for certificates to re-export or introduce from the sea must be submitted to the Administrative Council.
2. The Administrative Council shall receive such applications and decide on the issuing of licenses and certificates.
3. The format of licenses and certificates must be ratified by the member of government responsible for nature and environment.

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4. Licenses and certificates shall remain valid for 6 months following their date of issuance.
5. The transmission of licenses or certificates to a third party is prohibited.

Article 9. Issuance and denial of licenses and certificates

1. The Administrative Council shall issue licenses and certificates based on the following conditions:
 - 1) Whether the assessments and descriptions indicated in articles 6.1.1, 6.1.2 and 6.1.3 of this Law have been obtained;
 - 2) When providing export licenses for animals or plants listed in appendices I or II of the Convention or derivatives thereof, if considered necessary, whether the assessment indicated in article 6.1.4 of this Law has been obtained;
 - 3) Notice from the relevant local administrative body and officer indicating that the animal(s), plant(s) or derivative(s) thereof have been obtained in compliance with the legislation;
 - 4) Whether animals, plants or derivatives thereof for which permission to re-export is being sought were originally imported in compliance with this Law and appropriate licenses;
 - 5) Whether the appropriate procedures have been followed and necessary conditions established for the transport of the animals or plants;
 - 6) When issuing licenses to export plants or animals listed in appendix I of the Convention or derivatives thereof, whether an import license has been obtained in advance by the importer from the relevant national authorities;
 - 7) Documents attesting to the payment of the fees stipulated in the *Law on Rates for the Use of Game Resources and Fees for Hunting Licenses* and the *Law on Fees for the Use of Natural Flora* at the time of obtaining the animals or plants in question or derivatives thereof.
2. The Administrative Council shall deny licenses under the following conditions:
 - 1) The conditions indicated in article 9.1 of this Law have not been fulfilled;
 - 2) It is determined that false documents have been used.
3. Licenses or certificates that have been transferred to a third party or whose period of validity has expired must be considered invalid.

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Article 10. Exemptions

1. Animals or plants that are listed in appendix I of the Convention and that have been domesticated or cultivated by citizens or economic entities are considered as belonging to the category of animals and plants listed in appendix II of the Convention, and licenses and certificates for their international sale may be granted according to the procedures indicated in this Law.
2. Citizens of Mongolia, foreign citizens and stateless persons shall not require a license to import their own, personal-use items pertaining to the animals and plants listed in the appendix to the Convention and derivatives thereof, or to export such items unless the importing country requires a license.
3. The list of personal-use items pertaining to the animals and plants listed in appendix II to the Convention and derivatives thereof must be established by the central government organization responsible for environmental issues, in consultation with the central government organization responsible for customs issues.
4. No license is required for the carrying in transit of animals or plants listed in the appendix to the Convention or of derivatives thereof.
5. Scientists and scientific organizations who are registered with the Secretariat of the Convention may import animals or plants listed in the appendix to the Convention or derivatives thereof without a license for their non-profit temporary use, presentation as a gift or donation, exchange or conservation in a museum.

SECTION FOUR. Other provisions

Article 11. Authorized Ports of Entry

1. Ports of entry into the territory of Mongolia for animals or plants listed in the appendix to the Convention or derivatives thereof shall be determined by the central government organization responsible for customs issues, based on the recommendation of the Administrative Council.

Article 12. Amendments to the Convention and its Appendices

1. The Administrative Council shall produce opinions on the acceptance, rejection or additional comments to any amendments to the Convention or its appendices, and submit these to the Government within 14 days.
2. The Government shall discuss this issue and submit relevant draft decisions to the Parliament of Mongolia within 30 days.

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3. The Administrative Council shall develop proposals for amendments of the Convention and its appendices and submit these to the Government.

4. The Government shall discuss this issue and consult with the relevant Standing Committee of the Parliament of Mongolia, and submit its conclusions to the Secretariat of the Convention.

Article 13. Monitoring of the implementation of the legislation

1. The central government organization responsible for nature and environment, the customs agency and relevant local bodies shall monitor the implementation of this Law within the scope of their respective authority.

Article 14. Rewards for Citizens who Identify or Report on Infractions

1. Citizens who have identified or reported on parties infringing on the legislation concerning the regulation of the foreign trade of endangered animals, plants or derivatives thereof shall, in the event that the reported information has been confirmed, be provided a monetary reward, of a value up to 20 percent of the fines and damage restitution obtained from the guilty party, by the central government organization responsible for nature and environment.

Article 15. Liability for Breach of Legislation

1. Persons in breach of legislation concerning the regulation of foreign trade in endangered animal and plant species and derivatives thereof shall, if not held criminally liable, be subject to the following penalties determined by judges, customs inspectors or state environmental inspectors:

1) A maximum fine of 50 000 MNT for citizens, 60 000 MNT for public officials or 250 000 MNT for economic entities guilty of international trade of animals or plants listed in the appendix of the Convention or derivatives thereof without an appropriate license, in contravention of article 7.6 of this Law.

2) The seizure as state property of animals, plants or derivatives thereof which were obtained by illegal means and a maximum fine of 50 000 MNT for citizens or 250 000 MNT for economic entities guilty of infraction of the provisions of article 8.5 of this Law, or who have made use of an expired or counterfeit license or certificate.

CHAIRMAN OF THE PARLIAMENT OF MONGOLIA

S. TÖMÖR-OCHIR

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