

COMMISSION IMPLEMENTING REGULATION (EU) 2021/2281**of 16 December 2021****amending Implementing Regulation (EU) No 792/2012 as regards the addition of a new source code for plants from assisted production and related changes**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁽¹⁾ and in particular Article 19(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 792/2012 ⁽²⁾ should be aligned with the content of relevant resolutions adopted or amended at the eighteenth meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ('the Convention'), held from 17 to 28 August 2019 (CoP 18).
- (2) In particular, CoP 18 amended Resolution Conf. 12.3 by inserting a new code to indicate the source of certain plant specimens that do not conform to any of the existing codes. That new source code should be included in Implementing Regulation (EU) No 792/2012.
- (3) In order to improve reporting and facilitate trade analysis, the import notification form in Annex II to Implementing Regulation (EU) No 792/2012 should enable the inclusion of information on the source of the specimens traded. To facilitate the efficient use of resources, Management Authorities should be able to make use of existing stocks of import notification forms for a limited transition period.
- (4) Implementing Regulation (EU) No 792/2012 should therefore be amended accordingly.
- (5) Implementing Regulation (EU) No 792/2012 ensures the uniform implementation of Commission Regulation (EC) No 865/2006 ⁽³⁾, in particular by laying down models to which permits, certificates and other documents foreseen in that Regulation must correspond. This amending Regulation should therefore be applied in conjunction with the Regulation amending Commission Regulation (EC) No 865/2006 ⁽⁴⁾, and both amending Regulations should apply as of the same day.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora,

⁽¹⁾ OJ L 61, 3.3.1997, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and amending Commission Regulation (EC) No 865/2006 (OJ L 242, 7.9.2012, p. 13).

⁽³⁾ Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 166, 19.6.2006, p. 1).

⁽⁴⁾ Commission Regulation (EU) 2021/2280 of 16 December 2021 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 (see page 1 of this Official Journal).

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 792/2012 is amended as follows:

(1) In Article 2(2), the following second subparagraph is added:

‘Until 19 January 2023 import notifications may instead be drawn up using the forms set out in Annex II in the version in force on 18 January 2022.’

(2) Annexes I, III and V to Implementing Regulation (EU) No 792/2012 are amended in accordance with Annex 1 to this Regulation.

(3) Annex II to Implementing Regulation (EU) No 792/2012 is replaced by the text in Annex 2 to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX 1

The annexes to Implementing Regulation (EU) No 792/2012 are amended as follows:

(1) Annex I, 'Permit/Certificate', is amended as follows:

(a) in point 13 of the 'Instructions and explanations' referring to '1 – Original', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006 ⁽¹⁾, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(b) in point 13 of the 'Instructions and explanations' referring to '2 – Copy for the holder', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(c) in point 13 of the 'Instructions and explanations' referring to '3 – Copy for return by customs to the issuing authority', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(d) in point 13 of the 'Instructions and explanations' referring to '4 – Copy for the issuing authority' and to '5 – Application', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(2) Annex III, 'Travelling-exhibition certificate', is amended as follows:

(a) in point 14 of the 'Instructions and explanations' referring to 'Original', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(b) in point 14 of the 'Instructions and explanations' referring to 'Copy for the issuing authority' and to 'Application', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

⁽¹⁾ Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 166, 19.6.2006, p. 1).

(3) Annex V, 'Certificate – Not for use outside the European Union', is amended as follows:

(a) in point 9 of the 'Instructions and explanations' referring to 'Original', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

(b) in point 9 of the 'Instructions and explanations' referring to 'Copy for the issuing authority' and to 'Application', the following row is added:

'Y Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production'.

ANNEX 2

ANNEX II

EUROPEAN UNION		Annex II			
ORIGINAL	1 1. Importer	IMPORT NOTIFICATION		No	
		Council Regulation (EC) No 338/97 and Commission Regulation (EC) No 865/2006 on the protection of species of wild fauna and flora by regulating trade therein			
	2. Member State of import	3. Date of import			
	4. Country of origin	5. Country of (re)-export			
	A	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source
			10. Scientific name of species		11. CITES Appendix
			12. Common name of species		13. EU Annex
	1 B	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source
			10. Scientific name of species		11. CITES Appendix
			12. Common name of species		13. EU Annex
C	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source	
		10. Scientific name of species		11. CITES Appendix	
		12. Common name of species		13. EU Annex	
D	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source	
		10. Scientific name of species		11. CITES Appendix	
		12. Common name of species		13. EU Annex	
E	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source	
		10. Scientific name of species		11. CITES Appendix	
		12. Common name of species		13. EU Annex	
F	6. Description of specimens (incl. (re)-export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source	
		10. Scientific name of species		11. CITES Appendix	
		12. Common name of species		13. EU Annex	
14. For specimens above which are of species listed in Appendix III to CITES, I attach the necessary documents from the (re)-exporting country.		15. Official stamp of border customs office:			
Signature of importer or his authorised representative					

Instructions and explanations

1. Enter full name and address of importer or authorised representative.
4. The country of origin is the country where the specimens were taken from the wild, born and bred in captivity or artificially propagated.
5. Only applies where the country from which the specimens are imported is not the country of origin.
6. Description must be as precise as possible.
9. Use one of the following codes to indicate the source:

W	Specimens taken from the wild
R	Specimens of animals reared in a controlled environment, taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood
D	Annex A animals bred in captivity for commercial purposes in operations included in the Register of the CITES Secretariat, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Annex A plants artificially propagated for commercial purposes in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof
A	Annex A plants artificially propagated for non-commercial purposes and Annexes B and C plants artificially propagated in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof
C	Animals bred in captivity in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof.
F	Animals born in captivity, but for which the criteria of Chapter XIII of Regulation (EC) No 865/2006 are not met, as well as parts and derivatives thereof
I	Confiscated or seized specimens ⁽¹⁾
O	Pre-convention ⁽¹⁾
U	Source unknown (must be justified)
X	Specimens taken in the marine environment not under the jurisdiction of any State
Y	Plant specimens obtained from assisted production, which are considered not to be "artificially propagated" as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production.

⁽¹⁾ To be used only in conjunction with another source code.

10. The scientific name must be the name used in Annexes C or D to Regulation (EC) No 338/97.
11. Enter III for species listed in Appendix III to CITES.
13. Enter the letters (C or D) of the Annex to Regulation (EC) No 338/97 in which the species is listed.
14. The importer has to submit the signed original (form 1) and "copy for the importer" (form 2), where appropriate together with CITES Appendix III documents from the (re-)exporting country to the customs office of introduction into the Union.
15. The customs office shall send the stamped original (form 1) to the management authority of his country and return the stamped "copy for the importer" (form 2) to the importer or his authorised representative.

EUROPEAN UNION						
COPY for the importer	2	1. Importer	IMPORT NOTIFICATION		No	
		Council Regulation (EC) No 338/97 and Commission Regulation (EC) No 865/2006 on the protection of species of wild fauna and flora by regulating trade therein				
		2. Member State of import	3. Date of import			
		4. Country of origin	5. Country of (re)-export			
	A	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source	
			10. Scientific name of species		11. CITES Appendix	
			12. Common name of species		13. EU Annex	
	2	B	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source
				10. Scientific name of species		11. CITES Appendix
				12. Common name of species		13. EU Annex
C	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source		
		10. Scientific name of species		11. CITES Appendix		
		12. Common name of species		13. EU Annex		
D	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source		
		10. Scientific name of species		11. CITES Appendix		
		12. Common name of species		13. EU Annex		
E	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source		
		10. Scientific name of species		11. CITES Appendix		
		12. Common name of species		13. EU Annex		
F	6. Description of specimens (incl. (re-)export document number for CITES Appendix III species)	7. Net mass (kg)	8. Quantity	9. Source		
		10. Scientific name of species		11. CITES Appendix		
		12. Common name of species		13. EU Annex		
14. For specimens above which are of species listed in Appendix III to CITES, I attach the necessary documents from the (re-)exporting country.		15. Official stamp of border customs office:				
Signature of importer or his authorised representative						

Instructions and explanations

1. Enter full name and address of importer or authorised representative.
4. The country of origin is the country where the specimens were taken from the wild, born and bred in captivity or artificially propagated.
5. Only applies where the country from which the specimens are imported is not the country of origin.
6. Description must be as precise as possible.
9. Use one of the following codes to indicate the source

W	Specimens taken from the wild
R	Specimens of animals reared in a controlled environment, taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood
D	Annex A animals bred in captivity for commercial purposes in operations included in the Register of the CITES Secretariat, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Annex A plants artificially propagated for commercial purposes in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof
A	Annex A plants artificially propagated for non-commercial purposes and Annexes B and C plants artificially propagated in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof
C	Animals bred in captivity in accordance with Chapter XIII of Regulation (EC) No 865/2006, as well as parts and derivatives thereof
F	Animals born in captivity, but for which the criteria of Chapter XIII of Regulation (EC) No 865/2006 are not met, as well as parts and derivatives thereof
I	Confiscated or seized specimens ⁽¹⁾
O	Pre-convention ⁽¹⁾
U	Source unknown (must be justified)
X	Specimens taken in the marine environment not under the jurisdiction of any State
Y	Plant specimens obtained from assisted production, which are considered not to be “artificially propagated” as set out in Article 56 of Regulation (EC) No 865/2006, and also not considered to be taken from the wild because they are propagated or planted in an environment with some level of human intervention for the purpose of plant production.

⁽¹⁾ To be used only in conjunction with another source code.

10. The scientific name must be the name used in Annexes C or D to Regulation (EC) No 338/97.
 11. Enter III for species listed in Appendix III to CITES.
 13. Enter the letters (C or D) of the Annex to Regulation (EC) No 338/97 in which the species is listed.
 14. The importer has to submit the signed original (form 1) and ‘copy for the importer’ (form 2), where appropriate together with CITES Appendix III documents from the (re-)exporting country to the customs office of introduction into the Union.
 15. The customs office shall send the stamped original (form 1) to the management authority of his country and return the stamped ‘copy for the importer’ (form 2) to the importer or his authorised representative.’
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