

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

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BILL

to give effect to the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora.

WHEREAS, Pakistan is a party to the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora.

AND WHEREAS, it is expedient to enable the Federal Government to give effect to the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

It is hereby enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Trade Control of Wild Fauna and Flora Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Convention” means the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 including such amendments made therein, which are accepted by Pakistan;

(b) “designated authority” means a management authority designated by the government of a State, other than Pakistan, for the purposes of the Convention;

(c) “exotic” means a wild animal or plant species introduced to an area outside of its natural occurrence;

(d) “export” means taking out of Pakistan by land, sea or air;

(e) “indigenous” means a wild animal or plant species native to a specified area, a country or a region, but not introduced from an area of its natural occurrence;

(f) “Management Authority” means the authority constituted under section 15;

(g) “NCCW” means National Council for Conservation of Wildlife, Government of Pakistan;

(h) “person” includes legal or natural person, a company, association, a body of individuals whether incorporated or not; and

- (i) "Scientific Authority" means the Authority designated under section 16.
- (j) Then expressions used but not defined herein shall have the same meanings as are assigned to them in the Convention.

3. Prohibition of export, re-export and import and punishment for contravention.—(1) No person shall export or re-export out of or import into Pakistan any specimen included in any Appendix of the Convention, except as provided under section 5, 6, 7 and 9. Such export, re-export or import shall be through a customs port of exit or entry, and subject to any other law relating to control on export, re-export and import for the time being in force.

(2) Any person who attempts or abets to do anything which is prohibited under this Act rules made hereunder shall be liable to the same punishment as that of the offence under this Act.

(3) A person who presents, possesses or uses a false license or certificate shall be guilty of the offence specified in sub-section (2) and be liable for the same punishment as provided in sub-section (5).

(4) Where an offence under this Act has been committed by a body corporate, and it is proved that such offence has been committed with the consent or connivance of or, to be attributable to any neglect on part of a director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Any person who,—

- (a) contravenes or resists or interferes with the enforcement of the provisions of this Act or any rule or order made there under; or
- (b) in an application or in any proceedings under this Act furnishes or abets the furnishing of any information which he knows or has reason to believe to be false, or fraudulently conceals or misrepresents facts, or abets such concealment or misrepresentation,

shall be punished with imprisonment for a term which shall not be less than one year or more than two years or with fine which shall not be less than 0.500 million rupees or more than 1.000 million rupees.

4. Cognizance of Offence.—No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by a duly authorized officer of department or an officer designated by the Federal Government.

5. Export from Pakistan.—The export from Pakistan of any specimen included in any Appendix shall require valid export permit issued by the Management Authority. An export permit shall be granted on fulfill of the following conditions, namely:—

- (a) the Scientific Authority has advised that such export shall not be detrimental to the survival of that species and to other species of fauna and flora;
- (b) the Management Authority is satisfied that the specimen was not obtained in contravention of the laws of Pakistan for the protection of fauna and flora;
- (c) the Management Authority is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
- (d) the Management Authority is satisfied that an import permit or no objection certificate has been granted for the specimen by the designated authority.

6. **Import into Pakistan.**—(1) The import into Pakistan of any specimen included in any Appendix shall require the following, namely:—

- (a) the export permit on a re-export certificate issued by a designated authority; and
- (b) an import permit or no objection certificated issued by the Management Authority.

(2) An import permit shall be granted on fulfilment of the following conditions, namely:—

- (a) the Scientific Authority has advised that the import shall be for purposes which are not detrimental to the survival of the species involved and to other indigenous species of fauna and flora;
- (b) the Scientific Authority is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- (c) the Management Authority is satisfied that the specimen is not to be used primarily for commercial purposes.

7. **Re-export from Pakistan.**—The re-export from Pakistan of any specimen included in any Appendix shall require valid a re-export certificate issued by the Management Authority and a re-export certificate shall be granted on fulfilment of the following conditions, namely:—

- (a) the Management Authority is satisfied that the specimen was imported in accordance with the provisions of this Act;
- (b) the Management Authority is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment;
- (c) the Scientific Authority is satisfied that the proposed recipient of a living

specimen is suitably equipped to house and care for it; and

- (d) the Management Authority is satisfied that an import permit has been granted for such specimen by the designated authority.

8. **Introduction from the sea.**—The introduction from the sea of any specimen of a species included in any Appendix shall require the prior grant of a certificate by the Management Authority. A certificate shall be granted on fulfilment of the following conditions, namely:—

- (a) the Scientific Authority has advised that the introduction will be for purposes which are not detrimental to the survival of the species involved and to other indigenous species of fauna and flora;
- (b) the Scientific Authority is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it;
- (c) the Management Authority is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment; and
- (d) the Management Authority is satisfied that the specimen is not to be used primarily for commercial purposes.

9. **Export or re-export to or import from a state not a party to the convention.**—Where export or re-export from Pakistan to or import into Pakistan is from a State not a Party to the Convention, comparable documentation issued by the competent authorities in that State, which substantially conforms with the requirements of the Convention for permits and certificates, may be accepted by the Management Authority in place of the required documents.

10. **Transit or trans-shipment of specimens.**—The provisions of sections 3 to 9 shall not apply to the transit or trans-shipment of specimens through or in Pakistan while the specimens remain in Customs control.

11. **Specimens that are personal or household effects.**—The provisions of sections 3 to 9 shall not apply to specimens that are personal or household effects but this exemption shall not apply where,—

- (a) in the case of specimens included in Appendix I, they were acquired by the owner outside Pakistan, and are being imported into Pakistan; or
- (b) in the case of specimens included in Appendix II, if—
 - (i) they were acquired by the owner outside Pakistan and in a State where removal from the wild occurred;
 - (ii) they are being imported into Pakistan; and
 - (iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens unless the Management Authority is satisfied that the specimens were acquired

before the coming into force of the Convention and this Act.

12. **Export and import of specimens bred in captivity or artificially propagated.**—Where the Management Authority or the designated authority or competent authority is satisfied for the purposes of export from or import into Pakistan that a specimen of an animal or plant species was bred in captivity or was artificially propagated, or is a part of such an animal or plant or was derived there-from, the Management Authority shall,-

- (a) issue a certificate to this effect; and
- (b) accept similar certificate issued by a designated authority or a competent authority in lieu of any of the permits and certificates required under sections 3 to 9 of this Act.

13. **Non commercial loan, exchange etc.**—The provisions of sections 3 to 9 shall not apply to the non-commercial loan, donation or exchange, between scientists or scientific institutions registered by the Management Authority or a designated authority or a competent authority, of specimens which carry a label issued or approved by the Management Authority or the designated authority.

14. **Waiver of requirements.**—The Management Authority may waive the requirements of sections 3 to 9 and allow the movement, subject to conditions as it may deem appropriate without permits or certificates, of such specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that,—

- (a) the exporter or importer registers full details of such specimens with the Management Authority;
- (b) the specimens are in either of the categories specified in sections 11,12 and 13 of this Act; and
- (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

15. **Management Authority.**—The Pakistan National Council for the Conservation of Wildlife (NCCW) shall be the Management Authority and the Federal Government may, by notification in the official Gazettes, designate one or more management authorities.

16. **Scientific authorities.**—The Federal Government, on the recommendation of the Management Authority, shall designate one or more scientific authorities, as deemed appropriate from time to time or on case to case basis, to render advice on plants and animals. The final decision on all matters related to the Convention shall rest with the Management Authority.

17. **Entry and release of wild exotic fauna and flora.**—The Federal Government may, by notification in the official Gazette, make rules to regulate entry into and release of exotic fauna and flora in Pakistan.

18. **Confiscation or return of specimens unlawfully traded.**—The specimens

included in the Appendices traded in violation of the laws of the State of export and this Act shall be liable to confiscation by the Federal Government and there-after, if so desired, return to the State of export.

19. **-Confiscation of specimens possessed unlawfully.**—Any specimen included in the Appendices found in possession of a person without legal permit or certificate shall be confiscated and the person shall be punished as provided under section 3.

20. **Animals and plants etc., to be Government property.**—(1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of this Act, the specimens, the trade and possession of which has been prohibited under this Act or rules made there under shall, upon confiscation, be the property of the Federal or the Provincial Governments, as the case may be.

(2) Any person who obtains, by any means, the possession of the Government property as mention in sub-section (1) shall, within forty-eight hours from obtaining such possession, handover such property to such officer as designated by the Federal Government.

(3) No person shall, without the previous permission in writing of the Management Authority or the designated department or officer,—

- (a) acquire or keep in his possession, custody or control, or
- (b) transfer to any person, whether by way of gift, sale or otherwise; or
- (c) destroy or damage the property of the Government.

21. **Arrangements for feeding and safe keeping.**—The Management Authority shall make suitable arrangements for feeding and safe keeping of the specimens confiscated under this Act so that the living specimens are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

22. **Maintenance of records.**—The Management Authority shall maintain the following records of trade in specimens included in Appendices, namely:-

- (a) the names and addresses of traders including the exporters and importers;
- (b) the number and type of permits and certificates granted;
- (c) the State with which such trade occurred;
- (d) the numbers or quantities and types of specimens;
- (e) names of species as included in Appendices; and
- (f) where applicable, the size and sex of the specimens in question.

23. **Officers to be public servants.**—The officers or persons authorized under any provisions of this Act to do certain thing or act in certain manner shall be deemed to be public servant within the meaning section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

24. **Power to delegate.**—The Federal Government may by notification in the official

Gazette delegate, subject to such conditions as may be specified in the notification, any of its or of a Federal agency's powers and functions under this Act and the rules made there under to any Provincial Government.

25. **Bar of jurisdiction.**—No court shall grant any injunction or make any order, nor shall any court entertain any proceeding, in relation to anything done under this Act, except the court or tribunal designated by the Federal Government. Such court or tribunal shall have the authority to exercise powers and functions as provided under the relevant laws, necessary for the implementation of the provisions of this Act.

26. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against Federal Government or any person for anything which is in good faith done or intended to be done under this Act.

27. **Act to override other laws.**—The provisions of this Act or rule made there under shall have effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

28. The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

29. **Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, not inconsistent with the provisions of this Act, give such directions as it may consider necessary for the removal of such difficulties.

STATEMENT OF OBJECTS AND RESONS

Pakistan ratified the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) during April, 1976. The Convention controls and regulates the international trade in species of wild fauna and flora that are endangered due to international trade. As a Party to the CITES, the Government of Pakistan is required to provide for and regulate (through issuance of permits and certificates) the import into and export from Pakistan and possession of the covered species of animals and plants. Pakistan has endeavoured to meet its international obligations through, inter alia, Trade Policy. However, the Conference of the Parties, at its fourteenth session held in The Hague (Netherlands) June, 2007, has resolved that each Party must have its domestic legislation to enforce the provisions of the Convention. There is no such legislation in Pakistan to enforce the provisions of the Convention.

The Bill provides for control of trade in endangered species of wild fauna and flora with the active participation of the Federal and Provincial Governments.

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Member-in-Charge