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Subject:	COMMISSION REGULATION (EU) .../... of XXX amending Council Regulation (EC) No 338/97 to reflect the amendments adopted at the 19th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

Delegations will find attached document D088187/2.

Encl.: D088187/2



Brussels, XXX
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[...] (2023) XXX draft

COMMISSION REGULATION (EU) .../...

of XXX

amending Council Regulation (EC) No 338/97 to reflect the amendments adopted at the 19th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

COMMISSION REGULATION (EU) .../...

of **XXX**

amending Council Regulation (EC) No 338/97 to reflect the amendments adopted at the 19th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

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 therein¹, and in particular Article 19(5) thereof,

Whereas:

- (1) Regulation (EC) No 338/97 regulates trade in animal and plant species listed in the Annex to that Regulation. The species listed in that Annex include the species set out in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) ('the Convention') as well as species whose conservation status requires that trade from, into and within the Union be regulated or monitored.
- (2) At the 19th meeting of the Conference of the Parties to the Convention, held in Panama City (Panama), from 14 to 25 November 2022 (CoP19), amendments were made to the Appendices to the Convention. Those amendments should be reflected in Regulation (EC) No 338/97.
- (3) The following taxa were included in Appendix I to the Convention and should be included in Annex A to Regulation (EC) No 338/97: *Tiliqua adelaidensis*, *Kinosternon cora* and *Kinosternon vogti*.
- (4) The following species were transferred from Appendix II to Appendix I to the Convention and should be deleted from Annex B to Regulation (EC) No 338/97 and included in Annex A to that Regulation: *Pycnonotus zeylanicus* (with delayed implementation), *Batagur kachuga*, *Cuora galbinifrons*, *Nilssonia leithii*.
- (5) The following taxa were transferred from Appendix I to Appendix II to the Convention and should be deleted from Annex A to Regulation (EC) No 338/97 and included in Annex B to that Regulation: *Ceratotherium simum simum* (population of Namibia, with annotation), *Cynomys mexicanus*, *Branta canadensis leucopareia*, *Phoebastria albatrus*, *Caiman latirostris* (population of Brazil, with annotation),

¹ OJ L 61, 3.3.1997, p. 1.

Crocodylus porosus (population of Palawan Islands, Philippines, with annotation). *Chilabothrus inornatus*, which was also transferred from Appendix I to Appendix II to the Convention and should be deleted from Annex A to Regulation (EC) No 338/97, is now included in Annex B to Regulation (EC) No 338/97 under the listing for Boidae spp.

- (6) The following family, genera and species were included in Appendix II to the Convention and should be included in Annex B to Regulation (EC) No 338/97: *Copsychus malabaricus*, *Physignathus cocincinus*, *Cyrtodactylus jeyporensis*, *Tarentola chazaliae*, *Phrynosoma* spp., *Chelus fimbriatus* (includes *Chelus orinocensis*), *Macrochelys temminckii*, *Chelydra serpentina*, *Graptemys barbouri*, *Graptemys ernsti*, *Graptemys gibbonsi*, *Graptemys pearlensis*, *Graptemys pulchra*, *Rhinoclemmys* spp., *Claudius angustatus*, *Kinosternon* spp. (except species in Annex A), *Staurotypus salvinii*, *Staurotypus triporcatus*, *Sternotherus* spp., *Apalone* spp. (except subspecies in Annex A), Centrolenidae spp., *Agalychnis lemur* (with annotation), *Laotriton laoensis* (with annotation), Carcharhinidae spp. (with delayed implementation), Sphyrnidae spp., *Potamotrygon albimaculata*, *Potamotrygon henlei*, *Potamotrygon jabuti*, *Potamotrygon leopoldi*, *Potamotrygon marquesi*, *Potamotrygon signata*, *Potamotrygon wallacei*, Rhinobatidae spp., *Hypancistrus zebra* (with annotation), *Thelenota* spp. (with delayed implementation), *Handroanthus* spp. (with annotation and delayed implementation), *Roseodendron* spp. (with annotation and delayed implementation), *Tabebuia* spp. (with annotation and delayed implementation), *Rhodiola* spp. (with annotation), *Azelia* spp. (African populations, with annotation), *Dipteryx* spp. (with annotation and delayed implementation), *Pterocarpus* spp. (African populations, with annotation), *Khaya* spp. (African populations, with annotation).
- (7) The following genera and species, which were so far listed in Annex D to Regulation (EC) No 338/97, should be deleted from that Annex following their inclusion in Appendix II to the Convention at CoP19: *Physignathus cocincinus*, *Laotriton laoensis*, *Handroanthus* spp. (with delayed implementation), *Tabebuia* spp. (with delayed implementation), *Roseodendron* spp. (with delayed implementation), *Rhodiola* spp. and *Khaya* spp..
- (8) The interpretation section of the Appendices to the Convention was amended, and a number of annotations relating to several taxa included in those Appendices were adopted or amended at CoP19, which need to be reflected in the Annexes to Regulation (EC) No 338/97.
- (9) In particular, the following annotations were included in the Appendices to the Convention:
- an annotation for *Ceratotherium simum simum* (population of Namibia);
 - an annotation for *Caiman latirostris* (population of Brazil);
 - an annotation for *Crocodylus porosus* (population of the Palawan Islands, Philippines);
 - an annotation for *Agalychnis lemur*;
 - an annotation for *Laotriton laoensis*;

- an annotation for *Hypancistrus zebra*;
 - annotation #17 for *Handroanthus* spp., *Roseodendron* spp. and *Tabebuia* spp.;
 - annotation #2 for *Rhodiola* spp.;
 - annotation #17 for *Afzelia* spp. (African populations);
 - annotation #17 for *Dipteryx* spp.;
 - annotation #17 for *Pterocarpus* spp. (African populations);
 - annotation #17 for *Khaya* spp. (African populations).
- (10) In particular, the following annotations were amended in the Appendices to the Convention:
- the annotations #1, #4, #10 and #14;
 - the parenthetical annotation for *Orchidaceae* species listed in Appendix I;
 - the annotation for *Pterocarpus tinctorius* and inclusion of this taxon and of *Pterocarpus erinaceus* under the listing for *Pterocarpus* spp. (African populations) with annotation #17.
- (11) It is also necessary to amend notes 12, 13 and 14 of the notes on interpretation of Annexes A, B, C and D to Regulation (EC) No 338/97, including as regards the definitions for ‘10 kg per shipment’ and ‘transformed wood’, to reflect the changes adopted at CoP19.
- (12) The following species were included in Appendix III to the Convention: *Daboia palaestinae* at the request of Israel; *Caribena versicolor* and *Papilio phorbanta* at the request of the Union; *Melopyrrha nigra* and *Tiaris canorus* at the request of Cuba; *Conophytum* spp., *Mestoklema tuberosum*, *Raphionacme zeyheri*, *Crassosonna clavifolia*, *Othonna armiana*, *Othonna cacalioides*, *Othonna euphorbioides*, *Othonna retrorsa*, *Tylecodon bodleyae*, *Tylecodon nolteei*, *Tylecodon reticulatus*, *Monsonia herrei*, *Monsonia multifida*, *Monsonia patersonii*, *Pelargonium crassicaule*, *Pelargonium triste*, *Adenia spinosa*, *Portulacaria pygmaea*, all at the request of South Africa; *Ctenophorus* spp., *Intellagama* spp., *Tympanocryptis* spp., *Carphodactylus* spp., *Nephrurus* spp., *Orraya* spp., *Phyllurus* spp., *Saltuarius* spp., *Strophurus* spp., *Underwoodisaurus* spp., *Uvidicolus* spp., *Egernia* spp., *Tiliqua multifasciata*, *Tiliqua nigrolutea*, *Tiliqua occipitalis*, *Tiliqua rugosa*, *Tiliqua scincoides intermedia* and *Tiliqua scincoides scincoides*, at the request of Australia; and *Holacanthus limbaughi* at the request of France. These species should therefore be included in Annex C to Regulation (EC) No 338/97.
- (13) *Othonna retrorsa*, which was so far listed in Annex D to Regulation (EC) No 338/97, should be removed from that Annex following its inclusion in Appendix III to the Convention at the request of South Africa. *Echinotriton andersoni*, which was included in Annex C to Regulation (EC) No 338/97 on 16 December 2021 following

its inclusion in Appendix III to the Convention on 13 February 2021 by Japan, should also be removed from Annex D to Regulation (EC) No 338/97.

- (14) The Scientific Review Group has concluded that *Dipteryx* spp. (except *D. panamensis*) should be included in Annex D to Regulation (EC) No 338/97 with an annotation delimiting which types of specimens are covered by the listing (annotation §5), until the entry into effect of the listing in Annex B to that Regulation.
- (15) The Union has not entered a reservation in respect of any of those amendments.
- (16) At CoP19, new nomenclatural references for animals and plants were adopted.
- (17) As a result, it is necessary to change the names of the following species and subspecies: *Allochrocebus solatus*, *Antigone canadensis*, *Antigone canadensis nesiotus*, *Antigone canadensis pulla*, *Antigone vipio*, *Aonyx cinereus*, *Chilabothrus inornatus*, *Chilabothrus monensis*, *Chilabothrus subflavus*, *Chondrohierax wilsonii*, *Hypotaenidia sylvestris*, *Leucogeranus leucogeranus*, *Montivipera wagneri*, *Protothrops mangshanensis*, *Psephotellus chrysopterygius*, *Psephotellus dissimilis*, *Psephotellus pulcherrimus*, *Python molurus*, *Sclerophrys channingi* and *Sclerophrys superciliaris*.
- (18) The following species and subspecies were included in Appendix I to the Convention due to nomenclatural changes and should therefore be included in Annex A to Regulation (EC) No 338/97: *Equus hemionus luteus*, *Pachypodium windsorii*, *Pezoporus flaviventris* and *Pongo tapanuliensis*. The following species and genus were included in Appendix II to the Convention due to nomenclatural changes and should therefore be included in Annex B to Regulation (EC) No 338/97: *Agalychnis terranova*, *Malayemys khoratensis*, *Paruwrobates andinus*, *Paruwrobates erythromos*, *Philantomba maxwellii*, *Sericopelma angustum*, *Sericopelma embrithes* and *Tilitocatl* spp. While the following species were included in Appendix II to the Convention due to nomenclatural changes, they should be included in Annex A to Regulation (EC) No 338/97 as the species from which they were split are listed in Annex A to that Regulation: *Circus hudsonius*, *Phoenicopterus roseus*, *Piliocolobus bouvieri* and *Piliocolobus epieni*.
- (19) The following species were deleted from Appendix I to the Convention due to nomenclatural changes and should therefore be deleted from Annex A to Regulation (EC) No 338/97: *Alouatta coibensis* (due to synonymisation of *Alouatta coibensis* with *Alouatta palliata*) and *Falco pelegrinoides* (due to the synonymisation of *Falco pelegrinoides* with *Falco peregrinus*). The following species were deleted from Appendix II due to nomenclatural changes and should therefore be deleted from Annex B to Regulation (EC) No 338/97: *Aphonopelma albiceps* (due to a genus transfer to *Brachypelma*) and *Manta* spp. (due to the synonymisation of the genus *Manta* with the genus *Mobula*).
- (20) In view of the extent of the amendments necessary to the Annex to Regulation (EC) No 338/97, it is appropriate, for reasons of clarity, to replace that Annex in its entirety.
- (21) Regulation (EC) No 338/97 should therefore be amended accordingly.
- (22) In accordance with Article XV.1(c) of the Convention, amendments adopted at a meeting of the Conference of the Parties are to enter into force 90 days after that

meeting for all Parties. In order to ensure the timely entry into force of the changes to the Annex to this Regulation, the entry into force of this Regulation should be on the third day following that of its publication.

- (23) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora established pursuant to Article 18(1) of Regulation (EC) No 338/97,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 338/97 is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third 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,

For the Commission
The President