Commission Regulation (EU) 2019/2117 of 29 November 2019 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

COMMISSION REGULATION (EU) 2019/2117

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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(5) thereof,

Whereas:

(1) Regulation (EC) No 338/97 regulates trade in animal and plant species listed in the Annex to the Regulation. The species listed in the 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 18th meeting of the Conference of the Parties to the Convention, held in Geneva, Switzerland, from 17 to 28 August 2019 (CoP 18), certain amendments were made to the Appendices to the Convention. These amendments should be reflected in the Annexes to 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: *Ceratophora erdeleni*, *Ceratophora karu*, *Ceratophora tennentii*, *Cophotis ceylanica*, *Cophotis dumbara*, *Gonatodes daudini*, *Achillides chikae hermeli* and *Parides burchellanus*.

(4) The following species were transferred from Appendix II to Appendix I to the Convention and should be removed from Annex B and included in Annex A to Regulation (EC) No 338/97: *Aonyx cinerea*, *Lutrogale perspicillata*, *Balearica pavonina*, *Cuora bourreti*, *Cuora picturata*, *Mauremys annamensis* and *Geochelone elegans*. *Malacochersus tornieri* was transferred from Appendix II to Appendix I; the species is already included in Annex A and only the reference to the relevant Appendix should be changed.

(5) The following taxa were transferred from Appendix I to Appendix II to the Convention and should be removed from Annex A and included in Annex B to Regulation (EC) No 338/97: *Vicugna vicugna* (population of the Province of Salta, Argentina, with annotation), *Leporillus conditor*, *Pseudomys fieldi praeconis* (with nomenclature change to *Pseudomys fieldi*), *Xeromys myoides*, *Zyzomys pedunculatus*, *Dasyornis*

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broadbenti litoralis, *Dasyornis longirostris* and *Crocodylus acutus* (population of Mexico, with annotation).

(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: *Giraffa camelopardalis*, *Syrmaticus reevesii*, *Ceratophora aspera* (with annotation), *Ceratophora stoddartii* (with annotation), *Lyriocephalus scutatus* (with annotation), *Goniurosaurus* spp., (with annotation), *Gekko gecko*, *Paroedura androyensis*, *Ctenosaura* spp. (four species of this genus were included in Appendix II previously and have now become part of the genus listing), *Pseudocerastes urarachnoides*, *Echinotriton chinhaiensis*, *Echinotriton maxiquadratus*, *Paramesotriton* spp. (one species of this genus was included in Appendix II previously and has now become part of the genus listing), *Tylototriton* spp., *Isurus oxyrinchus*, *Isurus paucus*, *Glaucostegus* spp., Rhinidae spp., *Holothuria fuscogilva* (with delayed implementation), *Holothuria nobilis* (with delayed implementation), *Holothuria whitmaei* (with delayed implementation), *Poecilotheria* spp., *Widdringtonia whytei*, *Pterocarpus tinctorius* (with annotation), *Cedrela* spp. (with annotation and with delayed implementation).

(7) *Syrmaticus reevesii*, *Ctenosaura quinquecarinata*, *Paramesotriton* spp. and *Tylototriton* spp., which were so far listed in Annex D to Regulation (EC) No 338/97, should be removed from that Annex following their inclusion in Appendix II to the Convention at CoP 18.

(8) The interpretation section of the Appendices was amended, and a number of annotations relating to several taxa included in the Appendices of the Convention were adopted or amended at CoP 18 and also need to be reflected in the Annexes to Regulation (EC) No 338/97.

(a) The following annotations were included:

— an annotation for the species *Saiga tatarica* and *Saiga borealis* listed in Appendix II, and

— the annotation #17 (to replace Annotation #5) for the species *Pericopsis elata* listed in Appendix II.

(b) The following annotations were amended:

— the annotation for the species *Vicugna vicugna* listed in Appendix II,

— the annotation #4 f) for the species *Aloe ferox* listed in Appendix II,

— the annotation #16 for the listing of *Adansonia grandidieri* in Appendix II, and

— the annotation #15 for the listing in Appendix II of the genus *Dalbergia* spp. and the species *Guibourtia demeusei*, *Guibourtia pellegriniana*, *Guibourtia tessmannii*.

(9) Definitions of the terms ‘Finished musical instruments’, ‘Finished musical instrument accessories’, ‘Finished musical instrument parts‘, ‘Shipment’ and ‘Transformed wood’

should be included in the 'Notes on interpretation of Annexes A, B, C and D', as those definitions were adopted at CoP 18.

(10) The following species were recently included in Appendix III to the Convention: *Sphaerodactylus armasi*, *Sphaerodactylus celicara*, *Sphaerodactylus dimorphicus*, *Sphaerodactylus intermedius*, *Sphaerodactylus nigropunctatus alayoi*, *Sphaerodactylus nigropunctatus granti*, *Sphaerodactylus nigropunctatus lissodesmus*, *Sphaerodactylus nigropunctatus ocujal*, *Sphaerodactylus nigropunctatus strategus*, *Sphaerodactylus notatus atactus*, *Sphaerodactylus oliveri*, *Sphaerodactylus pimienta*, *Sphaerodactylus ruibali*, *Sphaerodactylus siboney*, *Sphaerodactylus torrei*, *Anolis agueroi*, *Anolis baracoae*, *Anolis barbatus*, *Anolis chamaeleonides*, *Anolis equestris*, *Anolis guamuhaya*, *Anolis luteogularis*, *Anolis pigmaequestris*, *Anolis porcus*, all at the request of Cuba. These species should therefore be included in Annex C to Regulation (EC) No 338/97.

(11) The following species were recently removed from Appendix III to the Convention: *Galictis vittata*, *Bassaricyon gabbii*, *Bassariscus sumichrasti*, *Cabassous centralis*, *Choloepus hoffmanni*, *Sciurus deppei* and *Crax rubra* (only the population of Costa Rica), all at the request of Costa Rica. The reference to Costa Rica in the listing of *Crax rubra* and these other species should therefore be removed from Annex C to Regulation (EC) No 338/97.

(12) The Union has not entered a reservation in respect of any of those amendments.

(13) At CoP 18, new nomenclatural references for animals and plants were adopted, which relate in particular to a number of species of the genus *Ovis* and several species belonging to the family Felidae. These changes need to be reflected in the Annexes to Regulation (EC) No 338/97, while maintaining the currently applicable stricter EU measures for imports of the species previously described as *Ovis ammon*, in line with Annex XIII to Commission Regulation (EC) No 865/2006[(2)].

(14) Certain species names (both English and Latin) should be corrected to reflect the current practice in their use.

(15) Further corrections should be made in existing annotations, in particular the annotation '(possibly extinct)' should be removed from the listing of four species, in line with amendments made at CoP 17.

(16) In view of the extent of these amendments it is appropriate, for reasons of clarity, to replace the Annex to Regulation (EC) No 338/97 in its entirety.

(17) Regulation (EC) No 338/97 should therefore be amended accordingly.

(18) Article XV.1(c) of the Convention states that 'amendments adopted at a meeting [of the Conference of the Parties] shall enter into force 90 days after that meeting for all Parties'. In order to meet that deadline and 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.

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(19) 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 set out 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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2019/2117. (See end of Document for details)*

ANNEX

Notes on interpretation of Annexes A, B, C and D

1. Species included in Annexes A, B, C and D are referred to:

(a) by the name of the species; or

(b) as being all of the species included in a higher taxon or designated part thereof.

2. The abbreviation 'spp.' is used to denote all species of a higher taxon.

3. Other references to taxa higher than species are for the purposes of information or classification only.

4. Species printed in bold in Annex A are listed there in consistency with their protection as provided for by Directive 2009/147/EC of the European Parliament and of the Council[(3)] or Council Directive 92/43/EEC[(4)].

5. The following abbreviations are used for plant taxa below the level of species:

(a) 'ssp.' is used to denote subspecies;

(b) 'var(s).' is used to denote variety (varieties); and

(c) 'fa.' is used to denote forma.

6. The symbols '(I)', '(II)' and '(III)' placed against the name of a species or higher taxon refer to the Appendices to the Convention in which the species concerned are listed as indicated in notes 7, 8 and 9. Where none of these annotations appears, the species concerned are not listed in the Appendices to the Convention.

7. (I) against the name of a species or higher taxon indicates that the species or higher taxon concerned is included in Appendix I to the Convention.

8. (II) against the name of a species or higher taxon indicates that the species or higher taxon concerned is included in Appendix II to the Convention.

9. (III) against the name of a species or higher taxon indicates that it is included in Appendix III to the Convention. In this case the country with respect to which the species or higher taxon is included in Appendix III is also indicated.

10. 'Cultivar' means, following the definition of the 8th edition of the *International Code of Nomenclature for Cultivated Plants*, an assemblage of plants that (a) has been selected for a particular character or combination of characters, (b) is distinct, uniform, and stable in these characters, and (c) when propagated by appropriate means, retains those characters. No new taxon of a cultivar can be regarded as such until its category name and circumscription has been formally published in the latest edition of the International Code of Nomenclature for Cultivated Plants.

11. Hybrids may be specifically included in the Appendices but only if they form distinct and stable populations in the wild. Hybrid animals that have in their previous four generations of the lineage one or more specimens of species included in Annexes A or B shall be subject to this Regulation just as if they were full species, even if the hybrid concerned is not specifically included in the Annexes.

12. When a species is included in Annex A, B or C, the whole animal or plant, whether alive or dead, and all parts and derivatives thereof are also included. Regarding animal species