Commission Regulation (EU) 2016/2029 of 10 November 2016 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

COMMISSION REGULATION (EU) 2016/2029

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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 lists animal and plant species in respect of which trade is restricted or controlled. Those lists incorporate the lists set out in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ('the Convention'). They also incorporate other species the conservation status of which requires that trade from, into and within the Union is regulated or monitored.

(2) The following species have been included recently in Appendix III to the Convention: *Dalbergia calycina*, *Dalbergia cubilquitzensis*, *Dalbergia glomerata* and *Dalbergia tucurensis* (all with annotation) at the request of Guatemala; *Cedrela fissilis* and *Cedrela lilloi* (both with annotation) at the request of Brazil; *Pterocarpus erinaceus* (with annotation) at the request of Senegal. The species *Cairina moschata* has been deleted from Appendix III to the Convention at the request of Honduras.

(3) The amendments made to Appendix III to the Convention therefore necessitate amendments to be made to Annex C to Regulation (EC) No 338/97.

(4) With the entry into force of Commission Implementing Regulation (EU) 2016/1141 of 13 July 2016 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No 1143/2014 of the European Parliament and of the Council[(2)], the following species will be subject to its stricter legal regime: *Callosciurus erythraeus*, *Sciurus carolinensis*, *Sciurus niger*, *Oxyura jamaicensis*, *Trachemys scripta elegans*, *Lithobates catesbeianus*. In order to avoid the possibility of these species being subject to two concurrent importation regimes they should be deleted from Annex B to Regulation (EC) No 338/97.

(5) A nomenclature error regarding *Lamprotornis regius* listed in Annex D to Regulation (EC) No 338/97 should be corrected.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2016/2029. (See end of Document for details)*

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

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

(8) 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.

Done at Brussels, 10 November 2016.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2016/2029. (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.

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12. When a species is included in Annex A, B or C, all parts and derivatives of the species are also included in the same Annex unless the species is annotated to indicate that only specific parts and derivatives are included. In accordance with Article 2(t), the symbol '#' followed by a number placed against the name of a species or higher taxon included in Annex B or C designates parts or derivatives which are specified in relation thereto for the purposes of this Regulation as follows:

#1 Designates all parts and derivatives, except:

(a) seeds, spores and pollen (including pollinia);

(b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;

(c) cut flowers of artificially propagated plants; and

(d) fruits and parts and derivatives thereof of artificially propagated plants of the genus *Vanilla.*

#2 Designates all parts and derivatives, except:

(a) seeds and pollen; and

(b) finished products packaged and ready for retail trade.

#3 Designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives, such as powders, pills, extracts, tonics, teas and confectionery.

#4 Designates all parts and derivatives, except:

(a) seeds (including seedpods of Orchidaceae), spores and pollen (including pollinia). The exemption does not apply to seeds from Cactaceae spp. exported from Mexico, and to seeds from *Beccariophoenix madagascariensis* and *Neodypsis decaryi* exported from Madagascar;

(b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;

(c) cut flowers of artificially propagated plants;

(d) fruits and parts and derivatives thereof of naturalized or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;

(e) stems, flowers, and parts and derivatives thereof of naturalized or artificially propagated plants of the genera *Opuntia* subgenus *Opuntia* and *Selenicereus* (Cactaceae); and

(f) finished products of *Euphorbia antisyphilitica* packaged and ready for retail trade.

#5 Designates logs, sawn wood and veneer sheets.

#6 Designates logs, sawn wood, veneer sheets and plywood.

#7 Designates logs, wood-chips, powder and extracts.

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#8 Designates underground parts (i.e. roots, rhizomes): whole, parts and powdered.

#9 Designates all parts and derivatives, except those bearing a label 'Produced from *Hoodia* spp. material obtained through controlled harvesting and production under the terms of an agreement with the relevant CITES Management Authority of [Botswana under agreement No. BW/xxxxxx] [Namibia under agreement No. NA/xxxxxx] [South Africa under agreement No. ZA/xxxxxx]'.

#10 Designates logs, sawn wood, veneer sheets, including unfinished wood articles used for the fabrication of bows for stringed musical instruments.

#11 Designates logs, sawn wood, veneer sheets, plywood, powder and extracts.

#12 Designates logs, sawn wood, veneer sheets, plywood and extracts. Finished products containing such extracts as ingredients, including fragrances, are not considered to be covered by this annotation.

#13 Designates the kernel (also known as 'endosperm', 'pulp' or 'copra') and any derivative thereof.

#14 Designates all parts and derivatives, except:

(a) seeds and pollen;

(b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;

(c) fruits;

(d) leaves;

(e) exhausted agarwood powder, including compressed powder in all shapes; and

(f) finished products packaged and ready for retail trade, this exemption does not apply to beads, prayer beads and carvings.

13. The terms and expressions below, used in annotations in these Annexes, are defined as follows:

Extract

Any substance obtained directly from plant material by physical or chemical means regardless of the manufacturing process. An extract may be solid (e.g. crystals, resin, fine or coarse particles), semisolid (e.g. gums, waxes) or liquid (e.g. solutions, tinctures, oil and essential oils).

Finished products packaged and ready for retail trade

Products, shipped singly or in bulk, requiring no further processing, packaged, labelled for final use or the retail trade in a state fit for being sold to or used by the general public.

Powder

A dry, solid substance in the form of fine or coarse particles

Woodchips

Wood that has been reduced to small pieces