Commission Regulation (EU) No 1320/2014 of 1 December 2014 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

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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 (CITES) (the Convention).

(2) The following species have been included recently in Appendix III to the Convention: *Dalbergia tucurensis* (with annotation) at the request of Nicaragua; *Antilope cervicapra*, *Boselaphus tragocamelus*, *Capra hircus aegagrus*, *Capra sibirica*, *Gazella bennettii*, *Pseudois nayaur*, *Axis porcinus*, *Herpestes edwardsi*, *Herpestes javanicus*, *Hyaena hyaena*, *Lophura leucomelanos*, *Pavo cristatus*, *Pucrasia macrolopha* at the request of Pakistan; *Quercus mongolica* and *Fraxinus mandshurica* (both with annotation) at the request of the Russian Federation.

(3) None of the Member States has entered a reservation in respect of any of those amendments.

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

(5) *Lygodactylus williamsi* is assessed as 'Critically Endangered' on the IUCN Red List and endemic to a small area in Tanzania. Collection for the international pet trade is reported to directly affect the species at a scale likely to threaten the population. The species is known to be traded within the Union, mainly as wild-sourced specimens, and is evidently in demand. *Lygodactylus williamsi* appears therefore to meet the criteria for listing in Annex B to Regulation (EC) No 338/97 in accordance with Article 3(2)(c)(i) of that Regulation. The Commission consulted with the United Republic of Tanzania regarding the potential inclusion of the species into Annex B to Regulation (EC) No 338/97. *Lygodactylus williamsi* should therefore be included in Annex B to that Regulation.

(6) *Bradypus pygmaeus* was split from *Bradypus variegatus* in 2001. Due to an oversight, that species was not included in Appendix II to the Convention. That omission has been corrected on 20 November 2013, and *Bradypus pygmaeus* should now be included in Annex B to Regulation (EC) No 338/97.

(7) *Lophura leucomelanos* should be deleted from Annex D as the species was included in Annex C.

(8) Definitions of the terms 'Extract', 'Finished products packaged and ready for retail trade', 'Powder' and 'Woodchips' should be included in the 'Notes on interpretation of Annexes A, B, C and D', as those definitions were agreed at the 16th meeting of the Conference of the Parties to the Convention in March 2013.

(9) The footnote for *Agalychnis* spp. should be deleted as the adoption of the Taxonomic Checklist of Amphibians listed in the Convention rendered the footnote superfluous.

(10) The annotation for corals should be updated to make it consistent with the Appendices to the Convention.

(11) Some editorial amendments have been made to the Annexes for reasons of clarity.

(12) In view of the extent of the amendments it is appropriate, for reasons of clarity, to replace the Annex to that Regulation in its entirety.

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

(14) 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, 1 December 2014.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 1320/2014. (See end of Document for details)*

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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[(2)] or Council Directive 92/43/EEC[(3)].

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, all parts and derivatives of the species are also included in the same Annex unless the species is annotated to indicate that only specific

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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 naturalised or artificially propagated plants of the genus *Vanilla* (Orchidaceae) and of the family Cactaceae;

(e) stems, flowers, and parts and derivatives thereof of naturalised 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, woodchips, powder and extracts.

#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