Commission Regulation (EC) No 318/2008 of 31 March 2008 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

COMMISSION REGULATION (EC) No 318/2008

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amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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(3) thereof,

Whereas:

(1) At the 14th session of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter 'the Convention', held in The Hague (The Netherlands) in June 2007, certain amendments were made to the Appendices to the Convention.

(2) The species *Agave arizonica* was deleted from Appendix I to the Convention.

(3) The species *Pereskia* spp., *Pereskiopsis* spp., *Quiabentia* spp. and *Shortia galacifolia* were deleted from Appendix II to the Convention.

(4) The Brazilian population of *Melanosuchus niger* and the species *Nolina interrata* were transferred from Appendix I to the Convention to Appendix II thereto.

(5) The species *Nycticebus* spp. and *Heloderma horridum charlesbogerti* were transferred from Appendix II to the Convention to Appendix I thereto.

(6) The species *Gazella cuvieri* (previously listed in Appendix III), *Gazella leptoceros* (previously listed in Appendix III) and *Pristidae* spp. (except *Pristis microdon*) were included in Appendix I to the Convention.

(7) The species *Anguilla anguilla* (with entry into force on 13 March 2009), *Caesalpinia echinata* (with annotation) and *Pristis microdon* (with annotation) were included in Appendix II to the Convention.

(8) The annotations for the listings in Appendix II to the Convention of the species *Loxodonta africana* (populations of Botswana, Namibia, South Africa and Zimbabwe), *Vicugna vicugna* (population of Bolivia), *Adonis vernalis, Agave victoriaereginae, Aloe* spp., *Anacampseros* spp., *Aquilaria* spp., *Avonia* spp., *Beccariophoenix madagascariensis, Bowenia* spp., *Caryocar costaricense, Cibotium barometz, Cistanche deserticola, Cyathea* spp., *Cycadaceae* spp., *Cyclamen* spp.,

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Dicksonia spp., Didiereaceae spp., *Dionaea muscipula, Dioscorea deltoidea, Euphorbia* spp., *Fouquieria columnaris, Galanthus* spp., *Gonystylus* spp., *Guaiacum* spp., *Gyrinops* spp., *Hedychium philippinense, Hydrastis canadensis, Lewisia serrata, Nardostachys grandiflora, Neodypsis decaryi, Nepenthes* spp., Orchidaceae spp., *Oreomunnea pterocarpa, Orothamnus zeyheri, Pachypodium* spp., *Panax ginseng, Panax quinquefolius, Picrorhiza kurrooa, Platymiscium pleiostachyum, Podophyllum hexandrum, Protea odorata, Prunus africana, Pterocarpus santalinus, Rauvolfia serpentina, Sarracenia* spp., *Sternbergia* spp., *Swietenia humilis, Taxus chinensis, Taxus fuana, Taxus cuspidata, Taxus sumatrana, Taxus wallichiana, Tillandsia harrisii, Tillandsia kammii, Tillandsia kautskyi, Tillandsia mauryana, Tillandsia sprengeliana, Tillandsia sucrei, Tillandsia xerographica, Welwitschia mirabilis*, Zamiaceae spp. and the annotations for the listings in Appendix III to the Convention of the species *Gnetum montanum, Magnolia liliifera* var. *obovata, Meconopsis regia, Podocarpus neriifolius, Tetracentron sinense* were amended.

(9) Prior to the 14th session of the Conference of the Parties to the Convention, the following species have been added to Appendix III to the Convention: *Haliotis midae* at the request of South Africa, *Macrochelys temminckii* and *Graptemys* spp. at the request of the USA, *Dipteryx panamensis* at the request of Nicaragua (currently in Appendix III at the request of Costa Rica). After the 14th session of the Conference of the Parties to the Convention, the following species have been added to Appendix III to the Convention: *Bulnesia sarmientoi* (with annotation) at the request of Argentina, *Cervus elephus barbarus and Gazella dorcas* at the request of Algeria and *Dalbergia* species and *Cedrela odorata* (with annotations) at the request of Guatemala.

(10) Prior to the 14th session of the Conference of the Parties to the Convention, the following species have been deleted from Appendix III to the Convention: *Pelodiscus sinensis* at the request of China, and at the request of Ghana the species *Epixerus ebii, Anomalurus beecrofti, Anomalurus derbianus, Anomalurus pelii, Idiurus macrotis, Hystrix cristata, Mellivora capensis, Hyemoschus aquaticus, Damaliscus lunatus, Tragelaphus eurycerus, Tragelaphus spekii, Ardea goliath, Bubulcus ibis, Casmerodius albus, Egretta garzetta, Ephippiorhynchus senegalensis, Leptoptilos crumeniferus, Bostrychia hagedash, Bostrychia rara, Threskiornis aethiopicus, Alopochen aegyptiacus, Anas acuta, Anas capensis, Anas clypeata, Anas crecca, Anas penelope, Anas querquedula, Aythya nyroca, Dendrocygna bicolor, Dendrocygna viduata, Nettapus auritus, Plectropterus gambensis, Pteronetta hartlaubii, Agelastes meleagrides, Columba guinea, Columba iriditorques, Columba livia, Columba unicincta, Oena capensis, Streptopelia decipiens, Streptopelia roseogrisea, Streptopelia semitorquata, Streptopelia senegalensis, Streptopelia turtur, Streptopelia vinacea, Treron calva, Treron waalia, Turtur abyssinicus, Turtur afer, Turtur brehmeri, Turtur tympanistria, Psittacula krameri, Corythaeola cristata, Crinifer piscator, Musophaga violacea, Serinus canicapillus, Serinus leucopygius, Serinus mozambicus, Amadina fasciata, Amandava subflava, Estrilda astrild, Estrilda caerulescens, Estrilda melpoda, Estrilda troglodytes, Lagonosticta rara, Lagonosticta rubricata, Lagonosticta rufopicta, Lagonosticta senegala, Lagonosticta vinacea, Lonchura bicolor, Lonchura cantans, Lonchura cucullata, Lonchura*

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fringilloides, Mandingoa nitidula, Nesocharis capistrata, Nigrita bicolor, Nigrita canicapilla, Nigrita fusconota, Nigrita luteifrons, Ortygospiza atricollis, Parmoptila rubrifrons, Pholidornis rushiae, Pyrenestes ostrinus, Pytilia hypogrammica, Pytilia phoenicoptera, Spermophaga haematina, Uraeginthus bengalus, Amblyospiza albifrons, Anaplectes rubriceps, Anomalospiza imberbis, Bubalornis albirostris, Euplectes afer, Euplectes ardens, Euplectes franciscanus, Euplectes hordeaceus, Euplectes macrourus, Malimbus cassini, Malimbus malimbicus, Malimbus nitens, Malimbus rubricollis, Malimbus scutatus, Pachyphantes superciliosus, Passer griseus, Petronia dentata, Plocepasser superciliosus, Ploceus albinucha, Ploceus aurantius, Ploceus cucullatus, Ploceus heuglini, Ploceus luteolus, Ploceus melanocephalus, Ploceus nigerrimus, Ploceus nigricollis, Ploceus pelzelni, Ploceus preussi, Ploceus tricolour, Ploceus vitellinus, Quelea erythrops, Sporopipes frontalis, Vidua chalybeata, Vidua interjecta, Vidua larvaticola, Vidua macroura, Vidua orientalis, Vidua raricola, Vidua togoensis, Vidua wilsoni, Trionyx triunguis, Pelomedusa subrufa, Pelusios adansonii, Pelusios castaneus, Pelusios gabonensis, Pelusios niger.

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

(12) Following the adoption by the Conference of the Parties at its 14th session of decisions to change the nomenclatural references and to rearrange the listing of animal species in the Appendices so that the orders, families and genera are presented in alphabetical order, the species listed in the Appendices to the Convention have been renamed and reordered.

(13) The amendments made to Appendices I, II and III to the Convention therefore necessitate amendments to Annexes A, B and C of the Annex to Regulation (EC) No 338/97.

(14) The species *Agelastes meleagrides, Corythaeola cristata, Crinifer piscator, Musophaga violacea, Columba caribaea, Anthreptes pallidigaster, Anthreptes rubritorques, Liolaemus gravenhorstii, Dromicus chamissonis, Crotalus willardi* — all currently included in Annex B of the Annex to Regulation (EC) No 338/97 — are not subject to levels of international trade that might be incompatible with their survival and should therefore be deleted from Annex B.

(15) The species *Gazella dorcas* — currently included in Annex B of the Annex to Regulation (EC) No 338/97 — is not subject to levels of international trade that might be incompatible with its survival but is included in Appendix III to the Convention at the request of Tunisia and should therefore be transferred from Annex B to Annex C of the Annex to Regulation (EC) No 338/97.

(16) The species *Dendrolagus dorianus, Dendrolagus goodfellowi, Dendrolagus matschiei, Crax alector, Pauxi unicornis, Lophura bulweri, Lophura diardi, Lophura hoogerwerfi, Lophura inornata, Lophura leucomelanos, Didunculus strigirostris, Baronia brevicornis, Papilio grosesmith* and *Papilio maraho* — all of which are currently included in Annex B of the Annex to Regulation (EC) No 338/97 — are not subject to levels of international trade that might be incompatible with their survival,

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but warrant monitoring of trade levels and should therefore be transferred from Annex B to Annex D of the Annex to Regulation (EC) No 338/97.

(17) The species *Pterapogon kauderni, Cedrela fissilis, Cedrela lilloi, Cedrela montana, Cedrela oaxacensis, Cedrela odorata* (except for the populations of Colombia and Peru which are included in Annex C*), Cedrela salvadorensis, Cedrela tonduzii, Dalbergia retusa, Dalbergia granadillo* and *Dalbergia stevensonii* — all of which are currently not listed in Annexes A, B, C or D of the Annex to Regulation (EC) No 338/97 — are being imported into the Community in such numbers as to warrant monitoring. These species should therefore be included in Annex D of the Annex to Regulation (EC) No 338/97.

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

(19) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora,

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 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, 31 March 2008.

For the Commission

Stavros DIMAS

Member of the Commission

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ANNEX

ANNEX Notes on interpretation of Annexes A, B, C and D1.Species included in these Annexes A, B, C and D are referred to:by the name of the species; oras 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 Council Directive 79/409/EEC (Birds Directive) or Council Directive 92/43/EEC (Habitats Directive).5.The following abbreviations are used for plant taxa below the level of species:“ssp.” is used to denote subspecies;“var(s).” is used to denote variety (varieties); and“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 of the Convention in which the species concerned are listed as indicated in notes 7 to 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.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 the provisions of this Regulation just as if they were full species, even if the hybrid concerned is not specifically included in the Annexes.11.When a species is included in Annexes 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) of this Regulation, the symbol “#” followed by a number placed against the name of a species or higher taxon included in Annexes B or C designates parts or derivatives which are specified in relation thereto for the purposes of the Regulation as follows:#1Designates all parts and derivatives, except:seeds, spores and pollen (including pollinia);seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers;cut flowers of artificially propagated plants; andfruits and parts and derivatives thereof of artificially propagated plants of the genus Vanilla.#2Designates all parts and derivations, except:seeds and pollen; andfinished products packaged and ready for retail trade.#3Designates whole and sliced roots and parts of roots.#4Designates all parts and derivatives, except:seeds, except those from Mexican cacti originating in Mexico, and pollen;seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers;cut flowers of artificially propagated plants;fruits and parts and derivatives thereof of naturalised or artificially propagated plants; andseparate stem joints (pads) and parts and derivatives therefore of naturalised or artifically propagated plants of the genus Opuntia subgenus Opuntia.#5Designates logs, sawn wood and veneer sheets.#6Designates logs, sawn wood, veneer sheets and plywood.#7Designates logs, wood-chips, powder and extracts.#8Designates underground parts (i.e. roots, rhizomes): whole, parts and powdered.#9Designates all parts and derivatives, except those bearing a label “Produced from Hoodia spp. material obtained through controlled harvesting and production in collaboration with the CITES Management Authorities of Botswana/Namibia/South Africa under agreement No BW/NA/ZA xxxxxx”.#10Designates logs, sawn wood, veneer sheets, including unfinished wood articles used for the fabrication of bows for stringed musical instruments.#11Designates logs, sawn wood, veneer sheets, plywood, powder and extracts.12.As none of the species or higher taxa of FLORA included in Annex A is annotated to the effect that its hybrids shall be treated in accordance with the provisions of Article 4.1 of the Regulation, this means that artifically propagated hybrids produced from one or more of these species or taxa may be traded with a certificate of artificial propagation, and that seeds and