Commission Regulation (EC) No 1332/2005 of 9 August 2005 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 1332/2005

of 9 August 2005

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 13th 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 Bangkok (Thailand) in October 2004, certain amendments were made to the Appendices to the Convention.

(2) The species *Orcaella brevirostris, Cacatua sulphurea, Amazona finschi, Pyxis arachnoides* and *Chrysalidocarpus decipiens* were transfered from Appendix II to the Convention to Appendix I thereto.

(3) The species *Haliaeetus leucocephalus, Cattleya trianaei* and *Vanda coerulea*, the Swaziland population of *Ceratotherium simum simum* (for the exclusive purpose of allowing international trade in hunting trophies and in live animals to appropriate and acceptable destinations), the Cuban population of *Crocodylus acutus* and the Namibian population of *Crocodylus niloticus* were transfered from Appendix I to the Convention to Appendix II thereto.

(4) The annotations for the listings in Appendix II to the Convention of the species *Loxodonta africana* (populations of Namibia and South Africa), *Euphorbia spp*., *Orchidaceae*, *Cistanche deserticola* and *Taxus wallichiana* were amended.

(5) The species *Malayemis subtrijuga, Notochelys platynota, Amyda cartilaginea, Carettochelys insculpta, Chelodina mccordi, Uroplatus spp., Carcharodon carcharias* (currently listed on Appendix III), *Cheilinus undulatus, Lithophaga lithophaga, Hoodia spp., Taxus chinensis, T. cuspidata, T. fuana, T. sumatrana), Aquilaria spp.* (except for *A. malaccensis*, which was already listed in Appendix II), *Gyrinops spp.* and *Gonystylus spp.* (previously listed in Appendix III) were included in Appendix II to the Convention.

(6) The species *Agapornis roseicollis* was deleted from Appendix II to the Convention.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1332/2005. (See end of Document for details)*

(7) Subsequent to the thirteenth session of the Conference of the Parties to the Convention, the Chinese populations of the species *Chinemys megalocephala, C. nigricans, C. reevesii, Geoemyda spengleri, Mauremys iversoni, M. pritchardi, Ocadia glyhpistoma, O. philippeni, O. sinensis, Sacalia bealei, S. pseudocellata, S. quadriocellata, Palea steindachneri, Pelodiscus axenaria, P. maackii, P. parviformis, P. sinensis* and *Rafetus swinhoei* were subsequently been added to Appendix III of the Convention at the request of China .

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

(9) The thirteenth session of the Conference of the Parties to the Convention also adopted new taxonomic references which necessitate the renaming and taxonomic reordering of some of the species listed in the Appendices to the Convention.

(10) 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.

(11) Despite the fact that the species *Haliaeetus leucocephalus* was transfered to Appendix II to the Convention, Article 6(1) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds[(2)] justifies its retention in Annex A of the Annex to Regulation (EC) No 338/97.

(12) In accordance with the requirements of Article 12(2) of Council Directive 92/43/EEC of the 21 May 1992 on the conservation of natural habitats and of wild fauna and flora[(3)], *Orcaella brevirostris* is already listed in Annex A of the Annex to Regulation (EC) No 338/97.

(13) The species *Arisaema jacquemontii, A. speciosum, A. triphyllum, Biaris davisii ssp. davisii, Othonna armiana, O. euphorbioides, O. lobata, Adenia fruticosa, A. spinosa, Ceraria gariepina, C. longipedunculata, C. namaquensis, C. pygmaea, C. schaeferi, Trillium catesbaei, T. cernuum, T. flexipes, T. grandiflorum, T. luteum, T. recurvatum and T. undulatum* - all currently included in Annex D of the Annex to Regulation (EC) No 338/97 - are not imported into the Community in such numbers as to warrant monitoring. Those species should therefore be deleted from Annex D.

(14) On the other hand, *Selaginella lepidophylla*, not currently listed in Annexes A, B, C or D of the Annex to Regulation (EC) No 338/97 is being imported into the Community in such numbers as to warrant monitoring. That species should therefore be included in Annex D of the Annex to Regulation (EC) No 338/97.

(15) The nature of the trade in *Harpagophytum spp*., currently listed in Annex D of the Annex to Regulation (EC) No 338/97, is such that the trade in dead plant material, as well as in live plants, warrants monitoring. The listing of that genus should therefore be amended by the insertion of an annotation to this effect.

(16) 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.

(17) 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 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, 9 August 2005.

For the Commission

Stavros DIMAS

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1332/2005. (See end of Document for details)*

ANNEX

‘ANNEXNotes on interpretation of Annexes A, B, C and D

1. Species included in these 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 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:

(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 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 from 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. 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 Annex B or C designates parts or derivatives which are specified in relation thereto for the purposes of the 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, and

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1332/2005. (See end of Document for details)*

(c) cut flowers of artificially propagated plants.

#2 Designates all parts and derivations, except:

(a) seeds and pollen;

(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) chemical derivatives and finished pharmaceutical products.

#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, except those from Mexican cacti originating in Mexico, and pollen;

(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; and

(e) separate stem joints (pads) and parts and derivatives therefore of naturalised or artifically propagated plants of the genus *Opuntia* subgenus *Opuntia*.

#5 Designates logs, sawn wood and veneer sheets;

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

#7 Designates logs, wood-chips and unprocessed broken material;

#8 Designates all parts and derivatives, except:

(a) seeds 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*.

#9 Designates 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”

#10 Designates all parts and derivatives, except:

(a) seeds and pollen; and