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Delegations will find attached document D048284/02.

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Brussels, **XXX**
D048284/02
[...](2016) **XXX** draft

COMMISSION REGULATION (EU) .../...

of **XXX**

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

COMMISSION REGULATION (EU) .../...

of **XXX**

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

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 therein¹, 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 (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 17th meeting of the Conference of the Parties to the Convention, held in Johannesburg, South Africa, from 24 September to 4 October 2016 (CoP 17), 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 genera or species were included in Appendix I to the Convention and should be included in Annex A to Regulation (EC) No 338/97: *Abronia anzuetoi* (with annotation), *Abronia campbelli* (with annotation), *Abronia fimbriata* (with annotation), *Abronia frosti* (with annotation), *Abronia meledona* (with annotation), *Cnemaspis psychedelica*, *Lygodactylus williamsi*, *Telmatobius culeus*, *Polymita* spp.
- (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: *Manis crassicaudata*, *Manis culionensis*, *Manis gigantea*, *Manis javanica*, *Manis pentadactyla*, *Manis temminckii*, *Manis tetradactyla*, *Manis tricuspis*, *Macaca sylvanus*, *Psittacus erithacus*, *Shinisaurus crocodilurus*, *Sclerocactus blainei*, *Sclerocactus cloverae*, *Sclerocactus sileri*.
- (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: *Puma concolor coryi*, *Puma concolor cougar*, *Equus zebra zebra*, *Lichenostomus melanops cassidix*, *Ninox novaeseelandiae undulata*,

¹ OJ L 61, 3.3.1997, p. 1.

Crocodylus acutus (population of the Bay of Cispatá in Colombia, with annotation), *Crocodylus porosus* (populations of Malaysia, with annotation), *Dyscophus antongilii*.

- (6) The following family, genera or species were included in Appendix II to the Convention and should be included in Annex B to Regulation (EC) No 338/97: *Capra caucasica*, *Abronia* spp. (with an annotation for *Abronia aurita*, *Abronia gaiophasma*, *Abronia montecristoi*, *Abronia salvadorensis* and *Abronia vasconcelosii*, and except the species listed in Appendix I), *Rhampholeon* spp., *Rieppoleon* spp., *Paroedura masobe*, *Atheris desaixi*, *Bitis worthingtoni*, *Lanthanotidae* spp. (with annotation), *Cyclanorbis elegans*, *Cyclanorbis senegalensis*, *Cycloderma aubryi*, *Cycloderma frenatum*, *Rafetus euphraticus*, *Trionyx triunguis*, *Dyscophus guineti*, *Dyscophus insularis*, *Scaphiophryne boribory*, *Scaphiophryne marmorata*, *Scaphiophryne spinosa*, *Paramesotriton hongkongensis*, *Carcharhinus falciformis* (with annotation), *Alopias* spp. (with annotation), *Mobula* spp. (with annotation), *Holacanthus clarionensis*, Nautilidae spp., *Beaucarnea* spp., *Dalbergia* spp. (with annotation), *Guibourtia demeusei* (with annotation), *Guibourtia pellegriniana* (with annotation), *Guibourtia tessmannii* (with annotation), *Pterocarpus erinaceus*, *Adansonia grandidieri* (with annotation), *Siphonochilus aethiopicus* (with annotation).
- (7) The following species were deleted from Appendix II to the Convention and should be removed from Annex B to Regulation (EC) No 338/97: *Bison bison athabasca*, *Tillandsia mauryana*.
- (8) Species which were so far listed in Appendix III have been removed from that Appendix following their inclusion in Appendix II and should be removed from Annex C to Regulation (EC) No 338/97.
- (9) *Abronia graminea* and *Salamandra algira* 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 and Appendix III respectively to the Convention at CoP 17.
- (10) A number of annotations relating to species or genus included in the Appendices of the Convention were adopted or amended at CoP 17 and also need to be reflected in the Annexes to Regulation (EC) 338/97 (annotations for the species *Vicugna vicugna*, *Panthera leo*, *Crocodylus moreletti*, *Bulnesia sarmientoi*, the genera *Aquilaria* spp. and *Gyrinops* spp, the genus *Dalbergia* spp., the species *Guibourtia demeusei*, *Guibourtia pellegriniana* and *Guibourtia tessmannii* and the species *Adansonia grandidieri*).
- (11) The Union has not entered a reservation in respect of any of those amendments.
- (12) At CoP 17, new nomenclatural references for animals and plants were adopted.
- (13) The following species were recently included in Appendix III to the Convention: *Salamandra algira* at the request of Algeria; *Chelydra serpentina*, *Apalone ferox*, *Apalone mutica* and *Apalone spinifera* at the request of the United States of America; *Potamotrygon* spp. (with annotation) and *Hypancistrus zebra* at the request of Brazil; *Potamotrygon constellata*, *Potamotrygon magdalenae*, *Potamotrygon motoro*, *Potamotrygon orbignyi*, *Potamotrygon schroederi*, *Potamotrygon scobina*, *Potamotrygon yepesi* and *Paratrygon aiereba* at the request of Colombia. These species should therefore be included in Annex C to Regulation (EC) No 338/97.

- (14) 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.
- (15) Regulation (EC) No 338/97 should therefore be amended accordingly.
- (16) 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.
- (17) 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,

*For the Commission
The President*