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**COVER NOTE**

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From:	European Commission
date of receipt:	25 September 2014
To:	General Secretariat of the Council
No. Cion doc.:	D035814/01
Subject:	Commission Regulation (EU) No .../.. of XXX 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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Delegations will find attached document D035814/01.

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Encl.: D035814/01



Brussels, **XXX**  
D035814/01  
[...](2014) **XXX** draft

**COMMISSION REGULATION (EU) No .../..**

**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) No .../..

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 therein<sup>1</sup>, 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

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<sup>1</sup> OJ L 61, 3.3.1997, p. 1.

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 16<sup>th</sup> 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,

*For the Commission  
The President*