

COMMISSION REGULATION (EC) No 834/2004
of 28 April 2004
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) Council 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 annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter 'the CITES Convention'.
- (2) Annex A of Council Regulation (EC) No 338/97 includes the species listed in Appendix I to the Convention for which the Member States have not entered a reservation and consequently *Varanus nebulosus* should be included on that Annex.
- (3) Amendments to Appendix III to the Convention made in accordance with the provisions of Article XVI of the Convention should be reflected in Annex C of Council Regulation (EC) No. 338/97 and in the 'Notes on interpretation of Annexes A, B, C and D'. In particular, it is necessary to list Argentina, Australia, Indonesia, Mexico, New Zealand and Peru as range States of species included in Appendix III to the Convention.
- (4) The annotation relating to some coral species needs to be adapted in order to incorporate some of the terms of CITES Resolution Conf. 11.10 concerning definitions of coral sand and coral fragments, in accordance with the

definition of 'specimens' given by Article 2(t) of Regulation (EC) No 338/97; the annotation regarding *Aloe* spp. needs to make an explicit reference to the species listed in Annex A; and the annotation to *Guaiaacum* spp. needs to be changed in order to designate the parts and derivatives decided upon at the 12th Conference.

- (5) The Scientific Review Group has established, on the basis of the criteria set out in Article 3(4)(a) of Regulation (EC) No 338/97, that certain species must be withdrawn from the list of animals whose importation into the Community should, on account of the volume involved, be monitored, whilst certain other species must be added to that list.
- (6) Regulation (EC) No 338/97 should therefore be amended accordingly.
- (7) 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 of Regulation (EC) No 338/97,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) 338/97 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twenty-first 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, 28 April 2004.

For the Commission
Margot WALLSTRÖM
Member of the Commission

⁽¹⁾ OJ L61, 3.3.1997, p. 1. Regulation as last amended by Commission Regulation (EC) No 1497/2003 (OJ L 215, 27.8.2003, p. 3).

ANNEX

The Annex to Regulation (EC) No 338/97 is amended as follows:

1. In Note No 9 of the 'Notes on interpretation of Annexes A, B, C and D', the following entries are inserted:

- (a) 'AR (Argentina)' and 'AU (Australia)' before the entry 'BO (Bolivia)';
- (b) 'ID (Indonesia)' after the entry 'IN (India)';
- (c) 'MX (Mexico)' after the entry 'MU (Mauritius)';
- (d) 'NZ (New Zealand)' and 'PE (Peru)' after the entry 'NP (Nepal)'

2. the column entitled 'Annex A' is amended as follows:

the Kingdom: FAUNA Phylum: CHORDATA, Class: REPTILIA, Order: SAURIA is amended as follows:

with reference to the family 'Varanidae', the entry '*Varanus nebulosus*' is added following the entry '*Varanus komodoensis*'

3. the column entitled 'Annex B' is amended as follows:

(a) in the Kingdom: FAUNA

Phylum: CNIDARIA (Corals, Fire Corals, Sea Anemones) the words '(fossils are not subject to the provisions of this Regulation)' are replaced throughout by the following:

'The following are not subject to the provisions of this Regulation:

Fossils

Coral sand, that is to say material consisting entirely or in part of finely crushed fragments of dead coral no larger than 2 mm in diameter and which may also contain, amongst other things, the remains of Foraminifera, mollusc and crustacean shell, and coralline algae.

Coral fragments (including gravel and rubble), that is to say unconsolidated fragments of broken finger-like dead coral and other material between 2 and 30 mm in diameter.'

(b) the Kingdom: FLORA is amended as follows:

(i) with reference to the family 'LILIACEAE', the text in brackets after the entry 'Aloe spp.' is replaced by the following:

'(Except for the species included in Annex A and except *Aloe vera*; also referenced as *Aloe barbadensis*, which is not included in the Annexes to this Regulation) #1'

(ii) with reference to the family 'ZYGOPHYLLACEAE', the entry '*Guaiaacum* spp. #1' is replaced by '*Guaiaacum* spp. #2'.

4. In the column entitled 'Annex C', in the Kingdom: FAUNA the following is added preceding the Phylum CNIDARIA:

Phylum: ECHINODERMATA (Starfish, Brittle Stars, Sea Urchins and Sea Cucumbers)

Class: HOLOTHUROIDEA (Sea Cucumbers)

Order: ASPIDOCHIROTIDA (Beche de mer, Trepang etc.)

Family: Stichopodidae (Sea Cucumbers)

Isostichopus fuscus (synonym: *Stichopus fuscus*) (III EC) Sea cucumber'

5. The column entitled 'Annex D' is amended as follows:

(a) the Kingdom: FAUNA Phylum: CHORDATA, Class: REPTILIA, Order: SAURIA is amended as follows:

- (i) with reference to the family 'Gekkonidae', the entry '*Gekko maculata*' is deleted;
- (ii) with reference to the family 'Agamidae', the entry '*Acanthosaura armata*' is deleted;

- (iii) with reference to the family 'Cordylidae', the entries '*Zonosaurus laticaudatus*' and '*Zonosaurus madagascariensis*' are deleted;
 - (iv) with reference to the family 'Scincidae', the entries '*Tiliqua gerrardii*', '*Tiliqua gigas*' and '*Tiliqua scincoides*' are deleted;
 - (b) the Order: SERPENTES is amended as follows:
 - (i) with reference to the family 'Xenopeltidae', the entry '*Xenopeltis unicolor* §1' is deleted;
 - (ii) with reference to the family 'Acrochordidae', the entry '*Acrochordus granulatus* §1' is deleted;
 - (iii) with reference to the family 'Colubridae', the following entries are deleted:
 - Ahaetulla prasina* §1
 - Boiga dendrophila* §1
 - Enhydris chinensis* §1
 - Enhydris enhydris* §1
 - Enhydris plumbea* §1
 - Rhabdophis chrysargus* §1
 - Zaocys dhumnades* §1
 - (iv) with reference to the family 'Elapidae', the following entries are deleted:
 - Bungarus candidus* §1
 - Laticauda colubrine* §1
 - Laticauda crockery* §1
 - Laticauda laticaudata* §1
 - Laticauda schisorhynchus* §1
 - Laticauda semifasciata* §1
 - (v) with reference to the family 'Hydrophiidae', the following entries are deleted:
 - Hydrophis atriceps* §1
 - Hydrophis belcheri* §1
 - Hydrophis bituberculatus* §1
 - Hydrophis brookii* §1
 - Hydrophis caeruleus* §1
 - Hydrophis cantoris* §1
 - Hydrophis coggeri* §1
 - Hydrophis cyanocinctus* §1
 - Hydrophis czeblukovi* §1
 - Hydrophis elegans* §1
 - Hydrophis fasciatus* §1
 - Hydrophis geometricus* §1
 - Hydrophis gracilis* §1
 - Hydrophis inornatus* §1
 - Hydrophis klossi* §1
 - Hydrophis lamberti* §1
 - Hydrophis lapemoides* §1
 - Hydrophis maddowelli* §1
 - Hydrophis mamillaris* §1
 - Hydrophis melanocephalus* §1
 - Hydrophis melanosoma* §1
 - Hydrophis obscurus* §1
 - Hydrophis ornatus* §1
 - Hydrophis pacificus* §1
 - Hydrophis parviceps* §1
 - Hydrophis semperi* §1
 - Hydrophis spiralis* §1
 - Hydrophis stricticollis* §1
 - Hydrophis torquatus* §1
 - Hydrophis vorisi* §1.
 - (c) in the Kingdom: FLORA, the following entry is added preceding the family PORTULACACEAE:
 - 'Family: PEDALIACEAE (Sesame, Devil's claw) *Harpagophytum* spp. (Devil's claw)'
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