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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 938/97

of 26 May 1997

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 (2) thereof,

Whereas Article 21 (3) (b) of Regulation (EC) No 338/97 provides that the Commission adopt a Regulation amending Annex D into a representative list of species meeting the criteria laid down in Article 3 (4) (a) of that Regulation;

Whereas the Scientific Review Group has been consulted on the species to be included in Annex D;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 18 of Regulation (EC) No 338/97,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. The following points are inserted after point 18 of the Notes on interpretation of Annexes A, B, C and D in the Annex:

'19. In respect of fauna species listed in Annex D, the provisions, shall apply only to live specimens and whole or substantially whole, dead specimens except for taxa which are annotated as follows to show that other parts and derivatives are also covered:

#1 Any whole or substantially whole skins, raw or tanned.

#2 Any feathers or any skin or other part with feathers on it.

20. In respect of flora species listed in Annex D, the provisions shall apply only to live specimens except taxa which are annotated as follows to how that other parts and derivatives are also covered:

#3 Dried and fresh plants, including; leaves, roots/rootstock, stems, seeds/spores, bark and fruits.'

2. Annex D to Council Regulation (EC) No 338/97 is hereby replaced by Annex D to this Regulation.

Article 2

This Regulation shall enter into force on 1 June 1997.

[1] OJ No L 61, 3. 3. 1997, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 May 1997.

For the Commission

Ritt BJERREGAARD

Member of the Commission

ANNEX

'ANNEX D

FAUNA	
MAMMALIA	
CARNIVORA	
Canidae	*Vulpes vulpes griffithi* #1 (Red fox) (III IN) *Vulpes vulpes montana* #1 (Red fox) (III IN) *Vulpes vulpes pusilla* [1] #1 (Red fox) (III IN)
Mustelidae	*Mustella erminea ferghanae* #1 (Stoat) (III IN)
AVES	
CASUARIIFORMES	
Casuariidae	*Casuarius bennetti* (Dwarf cassowary) *Casuarius casuarius* #2 (Southern cassowary)
PELECANIFORMES	
Pelecanidae	*Pelecanus philippensis* (Spot-billed pelican)
CICONIIFORMES	
Ciconiidae	*Mycteria leucocephala* (Painted stork)
ANSERIFORMES	
Anatidae	*Anas melleri* (Meller's duck) *Stictonetta naevosa* (Freckled duck)
GALLIFORMES	
Megapodiidae	*Megapodius wallacei* (Moluccan scrub fowl)
Cracidae	*Penelope pileata* (White-crested guan)
Phasianidae	*Arborophila gingica* (White-necklaced partridge) *Chrysolophus amherstiae* #2 (Lady Amherst's pheasant) *Chrysolophus pictus* #2 (Golden pheasant) *Syrmaticus reevesii* #2 (Reeves's pheasant) *Tragopan temminckii* (Temminck's tragopan)
COLUMBIFORMES	
Columbidae	*Columba oenops* (Peruvian pigeon) *Ducula pickeringii* (Grey imperial-pigeon) *Gallicolumba criniger* (Mindanao bleeding-heart) *Ptilinopus marchei* (Flame-breasted fruit-dove) *Treron sieboldii* (White-bellied green-pigeon) *Turacoena modesta* (Black cuckoo-dove)
PICIFORMES	
Capitonidae	*Eubucco tucinkae* (Scarlet-hooded barbet) *Megalaima rafflesii* (Red-crowned barbet)

[1] Includes synonym *Vulpes vulpes leucopus.*

Ramphastidae	*Andigena cucullata* (Hooded mountain-toucan) *Andigena hypoglauca* (Grey-breasted mountain-toucan) *Andigena nigrirostris* (Black-billed mountain-toucan)
PASSERIFORMES	
Cotingidae	*Procnias nudicollis* (Bare-throated bellbird)
Pittidae	*Pitta angolensis* (African pitta) *Pitta brachyura* (Indian pitta) *Pitta moluccensis* (Blue-winged pitta) *Pitta nipalensis* (Blue-naped pitta) *Pitta oatesi* (Rusty-naped pitta) *Pitta sordida* (Hooded pitta) *Pitta steerii* (Azure-breasted pitta)
Pycnonotidae	*Pycnonotus jocosus* (Red-whiskered bulbul) *Pycnonotus zeylanicus* (Straw-crowned bulbul)
Bombycillidae	*Bombycilla japonica* (Japanese waxwing)
Muscicapidae	*Cinclidium frontale* (Blue-fronted robin) *Cochoa azurea* (Javan cochoa) *Cochoa purpurea* (Purple cochoa) *Copsychus malabaricus* (White-rumped shama) *Cyanoptila cyanomelana* (Blue-and-white flycatcher) *Garrulax formosus* (Red-winged laughing thrush) *Garrulax galbanus* (Yellow-throated laughing thrush) *Garrulax milleti* (Black-hooded laughing thrush) *Garrulax milnei* (Red-tailed laughing thrush) *Luscinia pectardens* [1] (Firethroat) *Niltava davidi* (Fujian niltava) *Paradoxornis heudei* (Reed parrotbill) *Stachyris whiteheadi* (Chestnut-faced babbler) *Swynnertonia swynnertoni* [2] (Swynnerton's robin) *Terpsiphone atrocaudata* (Japanese paradise-flycatcher) *Turdus dissimilis* (Black-breasted thrush) *Turdus mupinensis* (Chinese thrush) *Zoothera monticola* (Long-billed thrush)
Sittidae	*Sitta magna* (Giant nuthatch)
Nectariniidae	*Anthreptes reichenowi* (Plain-backed sunbird) *Arachnothera clarae* (Naked-faced spiderhunter)
Zosteropidae	*Zosterops palpebrosus* (Oriental white-eye)
Emberizidae	*Dacnis nigripes* (Black-legged dacnis) *Latoucheornis siemsseni* (Slaty bunting) *Sporophila falcirostris* (Temminck's seedeater) *Sporophila frontalis* (Buffy-throated seedeater) *Sporophila hypochroma* (Grey-and-chestnut seedeater) *Sporophila palustris* (Marsh seedeater) *Tangara varia* (Dotted tanager)
Icteridae	*Sturnella militaris* (Pampas meadowlark)
Fringillidae	*Carpodacus roborowskii* (Tibetan rosefinch)
Estrildidae	*Amandava formosa* (Green avadavat) *Erythrura coloria* (Red-eared parrotfinch) *Erythrura viridifacies* (Green-faced parrotfinch) *Lonchura nevermanni* (Grey-crowned munia) *Lonchura stygia* (Black munia) *Padda fuscata* (Timor sparrow) *Padda oryzivora* (Java sparrow)

[1] Also referenced as *Erithacus pectardens*.
[2] Also referenced as *Pogonocichla swynnertoni*.

Ploceidae	*Euplectes jacksoni* (Jackson's widowbird)
Sturnidae	*Sturnus erythropygius* (White-headed starling) *Sturnus sericeus* (Red-billed starling)
Corvidae	*Cissa thalassina* (Short-tailed magpie) *Cyanocorax caeruleus* (Azure jay) *Cyanocorax dickeyi* (Tufted jay) *Platysmurus leucopterus* [1] (Black-magpie)
REPTILIA	
SAURIA	
Gekkonidae	*Geckolepis maculata* (Peters' spotted gecko) *Rhacodactylus auriculatus* (New Caledonia bumpy gecko) *Rhacodactylus ciliatus* (Guichenot's giant gecko) *Rhacodactylus leachianus* (New Caledonia giant gecko) *Uroplatus* spp. namely: *Uroplatus alluaudi* (Northern flat-tail gecko) *Uroplatus ebenaui* (Nosy Be flat-tail gecko) *Uroplatus fimbriatus* (Common flat-tail gecko) *Uroplatus guentheri* (Gunther's flat-tail gecko) *Uroplatus henkeli* *Uroplatus lineatus* (Lined flat-tail gecko) *Uroplatus malahelo* *Uroplatus phantasticus* *Uroplatus sikorae* (Southern flat-tail gecko)
Agamidae	*Acanthosaura armata* (Armoured pricklenape)
Chamaeleonidae	*Brookesia decaryi* (Spiny leaf chameleon) *Brookesia ebenaui* (Northern leaf chameleon) *Brookesia minima* (Minute leaf chameleon) *Brookesia perarmata* (Antsingy leaf chameleon) *Brookesia stumpffi* (Planted leaf chameleon) *Brookesia superciliaris* (Brown leaf chameleon) *Brookesia thieli* (Domergue's leaf chameleon)
Cordylidae	*Zonosaurus karsteni* (Karsten's girdled lizard) *Zonosaurus laticaudatus* (Western girdled lizard) *Zonosaurus madagascariensis* (Madagascar girdled lizard) *Zonosaurus quadrilineatus* (Four-lined girdled lizard)
Scincidae	*Tiliqua gerrardii* (Pinktongue skink) *Tiliqua gigas* (Giant bluetongue skink) *Tiliqua scincoides* (Eastern bluetongue skink) *Tribolonotus gracilis* (Crocodile skink) *Tribolonotus novaeguineae* (New Guinea helmet skink)
SERPENTES	
Xenopeltidae	*Xenopeltis unicolor* #1 (Sunbeam snake)
Acrochordidae	*Acrochordus javanicus* #1 (Java file snake) *Acrochordus granulatus* #1 (Little file snake)
Colubridae	*Ahaetulla prasina* #1 (Oriental whip snake) *Boiga dendrophila* #1 (Mangrove-snake) *Elaphe carinata* #1 (Taiwan stink snake)

[1] Also referenced as *Platylophus leucopterus*.

	Elaphe radiata #1 (Radiated rat snake)
	Elaphe taeniura #1 (Taiwan beauty snake)
	Enhydris bocourti #1 (Bocourt's water snake)
	Enhydris chinensis #1 (Chinese water snake)
	Enhydris enhydris #1 (Rainbow water snake)
	Enhydris plumbea #1 (Yellowbelly water snake)
	Homalopsis buccata #1 (Masked water snake)
	Langaha nasuta (Northern leafnose snake)
	Leioheterodon madagascariensis (Madagascar menarana snake)
	Ptyas korros #1 (Indian rat snake)
	Rhabdophis chrysargus #1 (Specklebelly keelback)
	Rhabdophis subminiatus #1 (Redneck keelback)
	Zaocys dhumnades #1 (Cantor's rat snake)
Elapidae	*Bungarus candidus* #1 (Blue krait)
	Laticauda spp., namely:
	Laticauda colubrina #1 (Banded sea snake)
	Laticauda crockeri #1 (Crocker's sea snake)
	Laticauda laticaudata #1 (Black-banded sea krait)
	Laticauda schistorhynchus #1 (Flat-tailed sea snake)
	Laticauda semifasciata #1 (Chinese sea snake)
Viperidae	*Calloselasma rhodostoma* #1 (Malayan pit viper)
Hydrophiidae	*Hydrophis* spp., namely:
	Hydrophis atriceps #1 (Southeast Asia sea snake)
	Hydrophis belcheri #1 (Belcher's sea snake)
	Hydrophis bituberculatus #1 (Belcher's sea snake)
	Hydrophis brookei #1 (Brooke's sea snake)
	Hydrophis caerulescens #1 (Dark blue-banded sea snake)
	Hydrophis cantoris #1 (Gunther's sea snake)
	Hydrophis coggerie #1 (Cogger's sea snake)
	Hydrophis cyanocinctus #1 (Annulated sea snake)
	Hydrophis czeblukovi #1 (Czeblukov's sea snake)
	Hydrophis elegans #1 (Elegant sea snake)
	Hydrophis fasciatus #1 (Striped sea snake)
	Hydrophis geometricus #1(Geometric sea snake)
	Hydrophis gracilis #1 (Smallhead sea snake)
	Hydrophis inornatus #1 (Blue-grey sea snake)
	Hydrophis klossi #1 (Kloss's sea snake)
	Hydrophis lamberti #1 (Lambert's sea snake)
	Hydrophis lapemoides #1 (Persian Gulf sea snake)
	Hydrophis macdowelli #1 (McDowell's sea snake)
	Hydrophis mamillaris #1 (Bombay sea snake)
	Hydrophis melanocephalus #1 (Black-headed sea snake)
	Hydrophis melanosoma #1 (Black-striped sea snake)
	Hydrophis obscurus #1 (Russel's sea snake)
	Hydrophis ornatus #1 (Reef sea snake)
	Hydrophis pacificus #1 (Pacific sea snake)
	Hydrophis parviceps #1 (Smith's sea snake)
	Hydrophis semperi #1 (Garman's sea snake)
	Hydrophis spiralis #1 (Yellow sea snake)
	Hydrophis stricticollis #1 (Collared sea snake)
	Hydrophis torquatus #1 (West Coast black-headed sea snake)
	Hydrophis vorisi #1 (Kharin's sea snake)
	Lapemis curtus (1) #1 (Shaw's sea snake)
PISCES	
SYNGNATHIFORMES	
Syngnathidae	*Hippocampus* spp., namely:
	Hippocampus abdominalis (2) (Big-bellied seahorse)

(1) Includes *Lapemis hardwickii.*
(2) Includes *Hippocampus agnesiae, Hippocampus bleekeri, Hippocampus graciliformis and Hippocampus macleayina.*

	Hippocampus aimei
	Hippocampus angustus [1] (Western Australian seahorse)
	Hippocampus bargibanti
	Hippocampus bicuspis
	Hippocampus borbonensis
	Hippocampus brachyrhynchus
	Hippocampus breviceps [2] (Short-headed seahorse)
	Hippocampus camelopardalis [3] (Giraffe seahorse)
	Hippocampus capensis (Knysna seahorse)
	Hippocampus comes
	Hippocampus coronatus [4] (Crowned seahorse)
	Hippocampus erectus [5] (Lined seahorse)
	Hippocampus erinaceus
	Hippocampus fuscus [6] (Sea pony)
	Hippocampus hippocampus [7] (Short-snouted seahorse)
	Hippocampus histrix (Thorny/spiny seahorse)
	Hippocampus horai
	Hippocampus ingens [8] (Giant seahorse)
	Hippocampus japonicus (Japanese seahorse)
	Hippocampus jayakari
	Hippocampus kaupii
	Hippocampus kelloggi
	Hippocampus kuda [9] (Yellow seahorse)
	Hippocampus lichensteinii [10]
	Hippocampus minotaur (Bullneck seahorse)
	Hippocampus planifrons [11] (Low-crowned seahorse)
	Hippocampus ramulosus [12] (Long-snouted seahorse)
	Hippocampus reidi [13] (Slender seahorse)
	Hippocampus sindonis
	Hippocampus spinosissimus (Hedgehog seahorse)
	Hippocampus takakurae
	Hippocampus taeniops
	Hippocampus trimaculatus [14] (Three-spotted seahorse)
	Hippocampus tristis
	Hippocampus whitei [15] (White's seahorse)
	Hippocampus zebra
	Hippocampus zosterae [16]
FLORA	
AGAVACEAE	*Calibanus hookeri*
	Dasylirion longissimum (Beargrass)
ARACEAE	*Arisaema dracontium* (Green dragon)
	Arisaema erubescens

[1] Includes *Hippocampus elongatus* and *Hippocampus subelongatus*.
[2] Includes *Hippocampus tuberculatus*.
[3] Includes *Hippocampus subcoronatus*.
[4] Includes *Hippocampus fasciatus* and *Hippocampus mohnikei*.
[5] Includes *Hippocampus brunneus, Hippocampus fascicularis, Hippocampus hudsonius, Hippocampus kinkaidi, Hippocampus laevicaudatus, Hippocampus marginalis, Hippocampus punctulatus, Hippocampus stylifer, Hippocampus tetragonurus* and *Hippocampus villosus*.
[6] Includes *Hippocampus obscurus*.
[7] Includes *Hippocampus antiquorum, Hippocampus antiquus, Hippocampus brevirostris, Hippocampus europeaus, Hippocampus heptagonus, Hippocampus pentagonus* and *Hippocampus vulgaris*.
[8] Includes *Hippocampus ecuadorensis, Hippocampus gracilis, Hippocampus hildebrandi* and *Hippocampus ringens*.
[9] Includes *Hippocampus atterimus, Hippocampus barbouri, Hippocampus fisheri, Hippocampus hilonis, Hippocampus melanospilos, Hippocampus moluccensis, Hippocampus natalensis, Hippocampus polytaenia, Hippocampus rhyncomacer, Hippocampus taeniopterus* and *Hippocampus valentyni*.
[10] Includes *Hippocampus suezensis*.
[11] Includes *Hippocampus dahli* and *Hippocampus lenis*.
[12] Includes *Hippocampus atrichus, Hippocampus guttulatus, Hippocampus jubatus, Hippocampus longirostris, Hippocampus microcoronatus, Hippocampus microstephanus, Hippocampus multiannularis, Hippocampus rosaceus* and *Hippocampus trichus*.
[13] Includes *Hippocampus obtusus* and *Hippocampus poeyi*.
[14] Includes *Hippocampus chinensis, Hippocampus kampylotrachelos, Hippocampus manadensis, Hippocampus mannulus* and *Hippocampus sexmaculatus*.
[15] Includes *Hippocampus novaehollandiae*.
[16] Includes *Hippocampus regulus* and *Hippocampus rosamondae*.

	Arisaema galeatum *Arisaema jacquemontii* *Arisaema nepenthoides* *Arisaema sikokianum* *Arisaema speciosum* *Arisaema thunbergii* var. *urashima* *Arisaema tortuosum* *Arisaema triphyllum* (Jack-in-the-pulpit) *Biarum davisii davisii* *Biarum davisii marmarisense* *Biarum ditschianum*
COMPOSITAE (ASTERACEAE)	*Arnica montana* #3 (Mountain tobacco) *Othonna armiana* *Othonna cacalioides* *Othonna clavifolia* *Othonna euphorbioides* *Othonna hallii* *Othonna herrei* *Othonna lepidocaulis* *Othonna lobata* *Othonna retrorsa*
ERICACEAE	*Arctostaphylos uva-ursi* #3 (Bearberry)
GENTIANACEAE	*Gentiana lutea* #3 (Great yellow gentian)
LYCOPODIACEAE	*Lycopodium clavatum* #3 (Stagshorn clubmoss)
MENYANTHACEAE	*Menyanthes trifoliata* #3 (Bogbean)
PARMELIACEAE	*Cetraria islandica* #3
PASSIFLORACEAE	*Adenia fruticosa* (Desert rose) *Adenia glauca* (Desert rose) *Adenia pechuelli* (Desert rose) *Adenia spinosa* (Desert rose)
PORTULACACEAE	*Ceraria* spp., namely: *Ceraria carrissoana* *Ceraria fruticulosa* *Ceraria gariepina* *Ceraria longipedunculata* *Ceraria namaquensis* *Ceraria pygmaea* *Ceraria schaeferi*
RANUNCULACEAE	*Adonis vernalis* #3 (Yellow adonis)
TRILLACEAE	*Trillium catesbaei* (Rosy wakerobin) *Trillium cernuum* (Nodding trillium) *Trillium flexipes* (Drooping trillium) *Trillium grandiflorum* (White wakerobin) *Trillium luteum* *Trillium pusillum* *Trillium recurvatum* (Purple trillium) *Trillium rugelii* *Trillium sessile* (Wakerobin wood-lily) *Trillium undulatum* (Painted wood-lily)'