EXPLANATORY MEMORANDUM TO

THE TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (COUNCIL REGULATION (EC) NO 338/97) (AMENDMENT) REGULATIONS 2021

2021 No. 54

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the retained EU law version of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein ("Regulation 338/97"). That regulation implements the Convention on International Trade of Endangered Species of Wild Fauna and Flora ("CITES") in relation to Great Britain including through controls on import and export of species listed in the Annex. Those controls vary according to the part of the Annex in which the species are listed (i.e. Annex A, Annex B, Annex C or Annex D).

2.2 This instrument is being made to include additional species on Annex C following submissions by Japan and Sri Lanka to include these species on Appendix III of CITES. This will enable the UK CITES Management Authority to issue the necessary CITES documents for these species once the global CITES listing takes effect on 14 February 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom. However, this instrument will only have practical application in Northern Ireland in relation to import or (re-)export to or from Great Britain.

5. European Convention on Human Rights

5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Following the UK's departure from the EU, and the end of the Transition Period, EU legislation implementing CITES has become retained EU law, with amendments made by the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (SI 2020/1395) and the Trade in Endangered Species of Wild Fauna and Flora (Commission Regulation (EC) No 865/2006) (Amendment) Regulations 2020 (SI 2020/1668).

6.2 Article 19(5) of the retained EU law version of Regulation 338/97 gives the Secretary of State powers to amend the list of species in the Annex to that Regulation.

6.3 This instrument implements the additions made to the list of species in Appendix III of CITES notified by Japan and Sri Lanka, by making corresponding amendments to Annex C to the retained EU law version of Regulation 338/97. The amendments will come into force on 14 February 2021. A listing on Annex C will mean certain CITES documents will need to be issued and checks done to control (re-)exports and imports of specimens of the listed species. Updating the Annex will enable the UK to implement obligations under CITES in relation to these newly listed species.

7. Policy background

What is being done and why?

7.1 CITES is an international environmental agreement which protects wild animals and plants from unsustainable international trade. CITES regulates international trade (effectively cross-border movements) in specimens of listed species through a system of documents, including import and export permits. The UK plays a leading role in international efforts to address threats to endangered species and CITES is a key part of our approach to this work.

7.2 The animal and plant species covered by CITES are listed on three Appendices according to the level of protection they receive (species listed on Appendix I have the highest level of protection). Species may be added or removed from the Appendices or moved between them. Appendices I and II may only be amended by the Conference of the Parties to CITES at its triennial meetings. However, CITES Parties can submit amendments to Appendix III for their own populations of species at any time to seek international assistance on regulating species of domestic conservation concern. Once notified to other Parties those amendments take effect within 90 days. Parties can make reservations after the notification.

7.3 Japan and Sri Lanka have submitted for inclusion in Appendix III 14 species of lizard and newt native to their respective countries to obtain assistance from the international community in regulating species of domestic conservation concern and build an understanding of trade levels to determine whether stronger measures (e.g. Appendix I or II listings) are needed in the future. This was communicated to all CITES Parties by the CITES Secretariat on 16 November 2020. These amendments to Appendix III will take effect and become legally binding on Parties on 14 February 2021, save for those Parties that make reservations.

7.4 This instrument will amend Annex C of the retained EU law version of Regulation 338/97 to implement these amendments to CITES Appendix III.

7.5 Under the Protocol on Ireland/Northern Ireland, EU legislation implementing CITES will still operate in Northern Ireland, including EU Regulation 338/97. The European

Commission will be making corresponding amendments to Annex C of that Regulation to implement the amendments to Appendix III of CITES.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 Defra does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 No public consultation was undertaken as these amendments derive from the unilateral submissions of Japan and Sri Lanka. We have informed the Devolved Administrations of these amendments, although CITES is fully reserved.

11. Guidance

11.1 No new guidance will be produced.

12. Impact

12.1 The impact on business, charities or voluntary bodies will be limited as the amendments only relate to the Japanese and Sri Lankan populations of 14 species of lizard and newt which are not widely in trade in the UK. Traders of these species would need to obtain CITES documents from the Animal and Plant Health Agency if they wish to export these species which may incur fees, for example a re-export permit currently costs £37.

12.2 The impact on the public sector will be limited. The Animal and Plant Health Agency may need to issue a limited number of additional permits but a cost recovery model in is operation for CITES documents.

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on the private, voluntary or public sector is foreseen.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses. We have already informed the industry of these amendments and we will use our existing channels to communicate when the changes will come into force.

14. Monitoring & review

14.1 Existing monitoring of CITES permits and certificates applied for and issued in the UK will be used to understand the implications of these amendments.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Rt Hon Lord Goldsmith has made the following statement:

"These amendments derive from the unilateral submissions of Japan and Sri Lanka as CITES Parties to list these species on Appendix III of CITES. The UK seeks to

support Japan and Sri Lanka in their conservation efforts. Accordingly, we are amending the relevant legislation to implement the CITES listings."

15. Contact

15.1 Kristopher Blake at the Department for Environment, Food and Rural Affairs Telephone: 0208 02 63500, email: kristopher.blake@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Sally Waples/Eleanor Schuricht, jointly Deputy Directors for ODA Management, Funds, and Wildlife, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Lord Goldsmith, Minister of State for Pacific and the Environment at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.