EXPLANATORY MEMORANDUM TO

THE TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (COUNCIL REGULATION (EC) NO 338/97) (AMENDMENT) REGULATIONS 2024

2024 No. 1093

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 His Majesty.

2. Declaration

2.1 Daniel Zeichner, Minister of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 William Lockhart, Deputy Director for International Biodiversity and Wildlife, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Kristopher Blake at the Department for Environment, Food and Rural Affairs Telephone: 07880 441679 or email: cites.ukma@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the assimilated Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein ("Regulation 338/97") which was retained as domestic law (now known "assimilated law") at the end of the Transition Period. 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 which are contained within the Annex).

4.2 The purpose of the instrument is to update the species listed within the Annex in accordance with amendments notified by the CITES Secretariat and other Contracting Parties to the Convention. This will enable the UK CITES Management Authority to implement appropriate controls and issue the necessary CITES documentation once the latest CITES listing comes into effect on 25 November 2024.

Where does the legislation extend to, and apply?

4.3 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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. Policy Context

What is being done and why?

5.1 The UK is a contracting party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") an international environmental agreement which protects wild fauna and flora from unsustainable trade. CITES regulates international trade (effectively cross-border movements) through a system of documents, including import and export permits. The Appendices to CITES list endangered species, and the Convention regulates international trade in specimens of these species to conserve them.

5.2 CITES Appendices I and II (approximately equivalent to UK Annexes A and B) are amended by the Conference of the Parties to CITES at its triennial meetings, with the CITES Secretariat notifying parties of any corrections necessary at other times (e.g. due to omissions or errors). Species are included on CITES Appendix III (approximately equivalent to UK Annexes C and D) at the request of at least one CITES Party. A listing on Appendix III is intended to assist Parties in understanding and controlling trade in support of domestic conservation efforts and is often a precursor to a proposal for inclusion on Appendix I or II.

5.3 This instrument implements one amendment to Appendix I due to a historical omission, one amendment to Appendix III due to a previous taxonomic error, and several additional species listings to Appendix III at the request of three Parties to the Convention (the European Union, Israel, and the Seychelles).

What was the previous policy, how is this different?

5.4 As a contracting party to CITES, we are required to implement CITES listings, including Appendix III listings, to support international efforts to regulate trade in endangered species. This instrument is in line with this previous policy to bring recent CITES listing amendments into force.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the lists of species in scope of UK CITES controls in respect of import, export, re-export and domestic commercial use. The animal and plant species covered by UK CITES controls are listed on four annexes according to the level of protection they receive (species listed on Annex A have the highest level of protection). Species may be added or removed from the annexes or moved between them, depending on the level of protection required.

6.2 This instrument implements the additions and amendments made to the species listed in CITES Appendices I and III as notified by the CITES Secretariat on 3 February 2023, 20 February 2023, and 27 August 2024. The amendments to the Appendices notified on 3 February 2023 and 20 February 2023 came into force and became legally binding on Parties on 4 May 2023 and 21 May 2023 respectively, save for those Parties that make reservations. The UK entered reservations at the time for these listings, which the UK will be able to withdraw once this statutory instrument comes

into effect. The amendment to Appendix III notified on 27 August 2024 will come into force and become legally binding on Parties on 25 November 2024, save for those Parties that make reservations. This instrument will also allow the UK to implement this most recent listing ahead of the CITES implementation deadline of 25 November 2024.

Why was this approach taken to change the law?

6.3 Following the UK's departure from the EU and the end of the Transition Period, EU legislation implementing CITES became retained EU law, with amendments made by the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395) and the Trade in Endangered Species of Wild Fauna and Flora (Commission Regulation (EC) No 865/2006 (Amendment) Regulations 2020 (S.I. 2020/1668). Further amendments were made in SI 2021, SI 2022 and SI 2023.

6.4 The Secretary of State has the function of amending Annexes A to D, under Council Regulation (EC) No 338/97, as amended by the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 (S.I. 2019/473). This requires a statutory instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has taken place as these are standard amendments required under an existing international agreement. We have informed the devolved governments of these amendments, although CITES is fully reserved.

8. Applicable Guidance

8.1 No new guidance will be produced, however online resources[1] will be updated where necessary and industry notified of these amendments.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntarily bodies is variable. Traders of the species amended or newly listed would need to comply with CITES controls for the additional species being added by this instrument, including obtaining a relevant permit or certificate. Traders can obtain CITES documents from the Animal and Plant Health Agency.

9.3 The legislation does impact small or micro businesses if they participate in the international trade of the species amended or newly listed by this instrument. No specific action is proposed to minimise regulatory burden on small or micro businesses as no significant impact is foreseen.

[1] Primarily found at https://www.gov.uk/guidance/cites-controls-import-and-export-of-protected-species.

9.4 The impact on the public sector is negligible. The Animal and Plant Health Agency may need to issue additional permits, but a cost recovery model is in operation for CITES documents.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

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

10.2 The instrument does not include a statutory review clause because it makes necessary amendments to an existing international agreement. When additional species are amended/added to the CITES Appendixes, further statutory instruments will be required to implement them.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Daniel Zeichner, Minister of State, has made the following statement regarding Human Rights:

"In my view the provisions of the Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (''relevant European Union Acts''). It does however relate to the withdrawal of the United Kingdom from the European Union because it is made in exercise of powers previously held by the European Commission now transferred to the Secretary of State.