

EXPLANATORY STATEMENT

(Issued by the Authority of the Minister for the Environment)

Environment Protection and Biodiversity Conservation Act 1999

List of CITES Species Amendment (2021/026) Instrument 2021

Legislative Authority

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) provides for the protection of the environment, including wildlife that may be adversely affected by trade, and the implementation of Australia's international environmental responsibilities.

Section 303CA provides that the Minister must, by legislative instrument, establish a list of species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention) for the purposes of the Act. Under subsection 303CA(3) of the Act, the list must include all species from time to time included in any of Appendices I, II and III to the Convention. Subsections 303CA(9)(b) and (c) of the Act together provide that the Minister may amend the list, as necessary, so that it includes all species required to be included in the list under subsection 303CA(3) and so that the notations in the list are consistent with the Convention.

Under Article XVI, paragraph 1 of the Convention, Parties may at any time, submit to the Secretariat, a list of species which has been identified as being subject to regulation within its jurisdiction for the purposes of Article II, paragraph 3 of the Convention. Each list submitted under Article XVI, paragraph 1 of the Convention shall be communicated to the Parties as soon as possible after receiving it and the list shall take effect as part of the Appendix III 90 days after the date of communication.

Purpose of the instrument

The purpose of this legislative instrument is to update the list of CITES species for the purposes of the Act to include the below amendments.

The Convention's Notification to the Parties 2021/026 (dated 24 March 2021) advised that Seychelles and Ukraine requested the Secretariat to amend and include new species for listing under Appendix III.

The Seychelles has requested an amendment to an existing listing of a species of palm tree in Appendix III to CITES (*Lodoicea maldivica*; double coconut, or coco de mer) to amend the current listing to clarify that the kernel is also known as endosperm, pulp, or copra and to specify that the kernel for this species is on the CITES list except finished products packaged and ready for retail trade. This species does not occur in Australia nor does Australia trade in specimens of this species.

Ukraine has requested the inclusion of Ukrainian populations of 31 bird species and one turtle species in Appendix III to CITES.

Australia does not propose to enter a reservation to the amendments. The action is consistent with Australia's strong commitment to the Convention and to international cooperation for the protection and conservation of wildlife more generally. The Office of Best Practice Regulation have advised that these amendments will have minor regulatory impacts (ID 44018).

The CITES Secretariat has also noted that *Altiphrynoides* spp. was incorrectly inserted in the Appendices after *Amietophrynus superciliaris* and that when publishing the new version of the Appendices the CITES Secretariat will place *Altiphrynoides* spp. in the correct alphabetical order under Bufonidae. This error in ordering has been amended in the legislative instrument.

These amendments have been referred to the Joint Standing Committee on Treaties (JSCOT). As Australia is obliged to reflect the amendments in the EPBC Act and the amendments come into force internationally on 22 June 2021, this legislative instrument was lodged prior to JSCOT reporting on the amendments. The updates to the list of CITES species is consistent with Australia's strong commitment to the Convention and to international cooperation for the protection and conservation of wildlife more generally. The amendments put into effect by this legislative instrument are considered to have little impact on Australia.

Four of the bird species listed by Ukraine occur within Australia. Consultation revealed that only one bird species is exported from Australia (*Carduelis*; European goldfinch) by one exporter. The impact on trade will be minimally time consuming for the exporter. Further, the species cannot be legally imported to Australia under the Act. There are no other perceived regulatory impacts besides the above that will impact the ability of Australia to conduct legal trade in the species listed.

This update to the CITES list is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Section 42 of the *Legislation Act 2003* (disallowance of legislative instruments) does not apply (see *Legislation (Exemptions and Other Matters) Regulation 2015*, section 10, item 15).

The legislative instrument is to commence on 22 June 2021 to align with the Convention's Notification to the Parties 2021/026.