

# EXPLANATORY STATEMENT

(Issued by the authority of the delegate for the Minister for the Environment)

*Environment Protection and Biodiversity Conservation Act 1999*

## List of CITES Species Amendment (2022/073) Instrument 2022

### 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.

Subsection 303CA(1) 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 2022/073 (dated 13 October 2022) advised that the European Union requested the Secretariat to amend and include a new species for listing under Appendix III to the Convention.

The European Union has requested the inclusion of Antilles pinktoe tarantula (*Caribena versicolor*) in Appendix III to the Convention. This amendment is considered to have no practical impact for Australia. Australia did not undertake any stakeholder consultation as Australia is not a range state for the species covered by the listing request (that is, it does not occur naturally in Australia). Further, the species cannot be legally imported to Australia under the Act, as it is not listed in the List of Specimens Taken to be Suitable for Live Import made under section 303EB of the Act.

### Consultation

Australia does not propose to enter a reservation to the amendment. The action is consistent with Australia's strong commitment to the Convention and international cooperation for the protection and conservation of wildlife more generally. The Office of Impact Analysis has advised that the amendment will have minor regulatory impact.

The Antilles pinktoe tarantula amendment comes into force internationally on 11 January 2023. The legislative instrument was made prior to the Joint Standing Committee on Treaties (JSCOT) reporting on the amendment.

The Department of Foreign Affairs and Trade have been consulted on the amendment.

This update to the list of CITES species is in accordance with Australia's international commitment to implement the Convention. The amendment put into effect by this legislative instrument is considered to have little impact on Australia.

This update to the CITES list is a legislative instrument for the purposes of the *Legislation 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). Amendments to the CITES list are required in order to comply with Australia's international obligations under the Convention. Furthermore, the assessment of whether to include species on the CITES list are decisions of a technical and scientific nature.

The legislative instrument commences the day after registration. Schedule 1 of the legislative instrument commences on 11 January 2023, with the effect of including the Antilles pinktoe tarantula on the list. This aligns with the commencement of the amendment advised in the Convention's Notification to the Parties 2022/073.