


Procedure file

Basic information		
SYN - Cooperation procedure (historic)	1991/0370(SYN)	Procedure completed
Protection of wild fauna and flora: control of trade of species Amended by 2008/0042(COD) Amended by 2018/0205(COD) Subject 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ENVI Environment, Public Health and Consumer Protection		27/07/1994
		PSE VAN PUTTEN Maartje J.A.	
	Former committee responsible		27/07/1994
	ENVI Environment, Public Health and Consumer Protection		
		PSE VAN PUTTEN Maartje J.A.	
	Former committee for opinion		21/11/1995
	JURI Legal Affairs, Citizens' Rights		
		ELDR PELTTARI Seppo Viljo	
Council of the European Union	Council configuration	Meeting	Date
	Environment	1978	09/12/1996
	Agriculture and Fisheries	1904	26/02/1996
	Environment	1861	22/06/1995
	Environment	1765	08/06/1994

Key events			
06/12/1991	Legislative proposal published	COM(1991)0448	Summary
10/02/1992	Committee referral announced in Parliament		
10/06/1993	Vote in committee		Summary
10/06/1993	Committee report tabled for plenary, 1st reading/single reading	A3-0193/1993	
21/06/1993	Debate in Parliament		Summary
24/06/1993	Decision by Parliament	T3-0389/1993	Summary

24/11/1993	Vote in committee		
24/11/1993	Committee report tabled for plenary confirming Parliament's position	A3-0365/1993	
02/12/1993	Decision by Parliament	T3-0683/1993	Summary
21/01/1994	Modified legislative proposal published	COM(1993)0599	Summary
08/06/1994	Debate in Council	1765	Summary
05/08/1995	Amended legislative proposal for reconsultation published	09457/1995	Summary
11/08/1995	Formal reconsultation of Parliament		
21/11/1995	Vote in committee		Summary
21/11/1995	Committee report tabled for plenary, reconsultation	A4-0299/1995	
15/12/1995	Decision by Parliament	T4-0650/1995	Summary
26/02/1996	Council position published	04367/1/1996	Summary
23/05/1996	Committee referral announced in Parliament, 2nd reading		
03/09/1996	Vote in committee, 2nd reading		Summary
03/09/1996	Committee recommendation tabled for plenary, 2nd reading	A4-0262/1996	
17/09/1996	Debate in Parliament		Summary
18/09/1996	Decision by Parliament, 2nd reading	T4-0459/1996	Summary
30/10/1996	Modified legislative proposal published	COM(1996)0517	
09/12/1996	Act adopted by Council after consultation of Parliament		
09/12/1996	End of procedure in Parliament		
03/03/1997	Final act published in Official Journal		

Technical information

Procedure reference	1991/0370(SYN)
Procedure type	SYN - Cooperation procedure (historic)
Procedure subtype	Legislation
	Amended by 2008/0042(COD) Amended by 2018/0205(COD)
Legal basis	EC before Amsterdam E 130S-p1
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/4/07641

Documentation gateway

Legislative proposal		COM(1991)0448 OJ C 026 03.02.1992, p. 0001	06/12/1991	EC	Summary
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Economic and Social Committee: opinion, report	CES0632/1992 OJ C 223 31.08.1992, p. 0019	26/05/1992	ESC	Summary
Committee report tabled for plenary, 1st reading/single reading	A3-0193/1993 OJ C 194 19.07.1993, p. 0005	10/06/1993	EP	
Text adopted by Parliament, 1st reading/single reading	T3-0389/1993 OJ C 194 19.07.1993, p. 0201-0289	24/06/1993	EP	Summary
Reconsultation	COM(1993)0570	10/11/1993	EC	
Committee final report tabled for plenary, 1st reading/single reading	A3-0365/1993 OJ C 342 20.12.1993, p. 0003	24/11/1993	EP	
Text adopted by Parliament confirming position adopted at 1st reading	T3-0683/1993 OJ C 342 20.12.1993, p. 0015-0033	02/12/1993	EP	Summary
Modified legislative proposal	COM(1993)0599 OJ C 131 12.05.1994, p. 0001	21/01/1994	EC	Summary
Amended legislative proposal for reconsultation	09457/1995	05/08/1995	CSL	Summary
Committee final report tabled for plenary, reconsultation	A4-0299/1995 OJ C 339 18.12.1995, p. 0004	21/11/1995	EP	
Text adopted by Parliament after reconsultation	T4-0650/1995 OJ C 017 22.01.1996, p. 0419-0430	15/12/1995	EP	Summary
Council position	04367/1/1996 OJ C 196 06.07.1996, p. 0058	26/02/1996	CSL	Summary
Commission communication on Council's position	SEC(1996)0500	22/03/1996	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	A4-0262/1996 OJ C 320 28.10.1996, p. 0003	03/09/1996	EP	
Text adopted by Parliament, 2nd reading	T4-0459/1996 OJ C 320 28.10.1996, p. 0065-0077	18/09/1996	EP	Summary
Modified legislative proposal	COM(1996)0517	30/10/1996	EC	
Implementing legislative act	32003R0349 OJ L 051 26.02.2003, p. 0003-0018	25/02/2003	EU	Summary
Implementing legislative act	32006R0865 OJ L 166 19.06.2006, p. 0001-0069	04/05/2006	EU	Summary

Additional information

European Commission

[EUR-Lex](#)

Final act

[Regulation 1997/338](#)
[OJ L 061 03.03.1997, p. 0001](#) Summary

Protection of wild fauna and flora: control of trade of species

This proposal is intended to replace Regulation 3626/82/EEC on the implementation in the EC of the Convention on International Trade in

Endangered Species of Wild Fauna and Flora (CITES) because the existing Regulation is perceived as having a number of limitations. A major disadvantage of the existing Regulation is that it is limited to species listed in the CITES Appendices. This has meant that there has been a serious impact on the EC's ability to take measures with regard to the numerous animal and plant species which - although not covered by CITES - require that threats posed to their conservation status by trade are prevented or brought under effective control. The proposal, therefore, provides for the possibility to list any species of wild fauna and flora in its Annexes in accordance with its conservation status and a matching level of protection. The proposal also allows for amendments to the Annexes to be made through a Commission Regulation in accordance with a committee procedure and thereby guarantees that appropriate conservation action can be taken quickly. It also contains provisions with regard to restrictions and the control of the possession of and trade in specimens of species of wild fauna and flora within the EC. This is considered necessary to safeguard an adequate protection of the species concerned as well as a proper functioning of the internal market. Furthermore, it contains provisions for prohibiting, restricting or monitoring the impact from and the export and re-export to third countries. The measures concerned provide the uniform principles for the common commercial policy in the domain covered by the Regulation.

Protection of wild fauna and flora: control of trade of species

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Protection of wild fauna and flora: control of trade of species

The Committee on the Environment, Public Health and Consumer Protection adopted the draft report by Mr Muntingh (PSE, NL). One hundred and eight extremely complex amendments were adopted, 95 of them tabled by the rapporteur himself. The only other amendments adopted were 5, 10 and 12 (in part), 21 and 28 by the Committee on Economic and Monetary Affairs and Industrial Policy and 99, 104 and 105 by Mr Chanterie. It should be noted that practically all the amendments which sought to diminish the protection afforded by the proposal were rejected by a large majority. ?

Protection of wild fauna and flora: control of trade of species

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Protection of wild fauna and flora: control of trade of species

Parliament adopted the report by Mr Hemmo Muntingh, tabling no fewer than 102 amendments to the report adopted by the Committee on the Environment, Public Health and Consumer Protection. The main thrust of the amendments was to strengthen the measures designed to protect wild flora and fauna, specifically by making it easier to implement the proposed regulation. ?

Protection of wild fauna and flora: control of trade of species

The Commission modified its proposal to take account of a number of amendments by Parliament: - it re-examined the criteria for the inclusion of species covered by existing Community law on the conservation of wild flora and fauna, hence the sizeable reduction in the number of species listed in Annexes A and B; - similarly, to avoid duplication and ensure transparency in Community law, it proposed withdrawing a number of rules setting common standards for imports of whales and cetacean products and amending the previously amended wild birds and habitats directives; - it deleted the provisions which required Member States to list indigenous species under threat in an Annex E and, in addition, introduced an article allowing Member States to adopt stricter national rules in regard to the ban on possession of specimens of these species; - it simplified the provisions on the various methods of introducing such species into the Community, exports and re-exports from the Community, possession and trading within the Community, and derogations. Parliament's other amendments were not upheld, notably those on penalties, Parliament's participation in the committee procedure, or tropical essences.?

Protection of wild fauna and flora: control of trade of species

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Protection of wild fauna and flora: control of trade of species

The Council noted that the proposed measures were primarily designed to protect and improve the environment rather than to guarantee the operation of the internal market. It therefore considered that Article 130s of the Treaty (and not Articles 100a and 113) was the appropriate legal basis. The Council was therefore seeking Parliament's opinion on this change in the legal basis.?

Protection of wild fauna and flora: control of trade of species

Protection of wild fauna and flora: control of trade of species

In adopting the report by Mr Van PUTTEN (PSE, NL), the European Parliament approved the new legal basis for this regulation (Article 130s(1) of the TEU). ?

Protection of wild fauna and flora: control of trade of species

The common position adopted unanimously by the Council takes over - verbatim, in substance or in part - most of the EP amendments which the Commission incorporated into its amended proposal. It differs in a number of important ways from the Commission's amended proposal. This is due mainly to the fact that the emphasis has been shifted from the trade aspects of the Regulation to the conservation aspects, requiring inter alia, the alteration of the Regulation's legal basis (Art. 130s(1) of the EC Treaty). The common position also reflects the wish of the Member States to concentrate efforts and resources on the protection of the most vulnerable species and to get rid of less relevant aspects regarding implementation and enforcement which represent an unnecessary administrative burden. As set out in the common position the Regulation comprises a system of four annexes, each affording a given degree of protection, in ascending order from Annex D (simple statistical monitoring) to Annex A (total ban on trade). The species covered are those appearing in the annexes to the CITES Convention, plus a number of priority species. Both the degree and scope of the protection afforded within the Community will therefore exceed those provided under the Convention. The various species will be entered into the appropriate annex on the basis of 'objective' criteria. The restrictions placed on imports into the Community of the various species will depend on the degree to which they are threatened by extinction. Such imports shall be subject to completion of the necessary checks and presentation of an import permit issued by the accredited management authority of the Member State of designation. Special attention is paid to the re-export of specimens of the species listed and to controls on the trade in such specimens. The common position also deals with infringements of the regulation in respect of which Member States shall be required to provide for sanctions, and the obligation on the part of Member States to provide the information necessary for implementing the Regulation. ?

Protection of wild fauna and flora: control of trade of species

The Commission was highly satisfied with the common position which, it considered, represented a significant improvement on Regulation (EEC) No 82/3626, especially as far as implementation and application were concerned. It also considered that an urgent decision was needed on the regulation. It was crucial to implement and apply this instrument by 1 January 1997 in order to preserve species. As far as comitology was concerned, the Commission regretted that the Council had opted for a type IIIb regulatory committee for certain measures to be adopted during the implementation of the regulation as this type of committee would not ensure, in its opinion, that the necessary decisions were adopted in all cases.?

Protection of wild fauna and flora: control of trade of species

Significant improvements to the protection of some 30 000 animals and plants threatened with extinction worldwide were approved today by the Environment Committee in a trade regulation measure which will be of great interest to environmental groups, animal welfare organizations, pet-lovers, zoos and large-scale plant growers. Animal species covered include the snow leopard and the northern hairy-nosed wombat. Plants include certain types of agave and aloe. Under the cooperation procedure, the committee approved with amendments the Council's common position on changes proposed by the Commission to the way in which the European Union implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the CITES Convention). In the light of its amendments, it is recommending approval at second reading by the Full House. The committee's recommendation included accepting a proposal to divide the endangered species into four categories with varying levels of protection ranging from an outright trade ban to monitored trading. In the face of opposition from the Commission, however, the committee amended the common position to include bird species "in relation to which it has been established that live specimens in trade are unlikely to survive shipment or are unlikely to survive in captivity for a considerable proportion of their potential life span". Trade in such species, the committee considers, should require prior authorization by Member State authorities. The committee also adopted an amendment which foresees the possibility of sanctions "if the standards for caring for live specimens during transport and quarantine are not complied with". It is calling on the Commission to submit a report to Parliament every two years. ?

Protection of wild fauna and flora: control of trade of species

In declaring that the illegal trade in species of wild fauna and flora was now on a scale similar to that of the drugs and arms market, the rapporteur, Mrs van Putten, welcomed the new regulations as an improvement on the previous situation. She approved the new legal basis (Article 130s replacing Article 100a) and welcomed the new powers of sanction provided for in the proposal and the introduction of an Annex D affording protection to other species, whereas the Washington Convention contained no such annex. Commissioner Bjerregaard pointed to the improvements that had been made to the new proposal, especially regarding conditions of transport for the species in question. As far as Amendment No 5 was concerned, however, she pointed out that while she personally shared Parliament's opinion, she thought that by retaining this amendment there was a risk that the Council would have to have its say in the matter as part of the cooperation procedure.

Protection of wild fauna and flora: control of trade of species

In adopting the report by Mrs Maartje van PUTTEN (PSE, NL), Parliament amended the common position relating to the protection of species of wild fauna and flora by regulating trade therein. In its amendments Parliament called for: - better protection of bird species in relation to which it has been established that live specimens placed on the market have little chance of survival in transit or face a considerable shortening of their potential life span in captivity; - the competent scientific authority to ensure that the accommodation is suited to the natural behavioural patterns of the species, that the animal does not face a shorter life span in captivity, and that it can reproduce. Parliament also called for the Commission to be required to ensure free access to the information it receives pursuant to the Regulation. Finally, it proposed the setting up of a Subgroup within the committee under the title 'Working Party on Implementation', composed of representatives of Member States' competent authorities charged with enforcing the provisions of the Regulation, and chaired by a Commission representative. ?

Protection of wild fauna and flora: control of trade of species

OBJECTIVE: to protect species of wild fauna and flora by regulating trade therein. COMMUNITY MEASURE: Council Regulation No (EC) 338/97 on the protection of species of wild fauna and flora by regulating trade therein. CONTENT: the regulation has a system of four annexes which correspond to an increasing level of protection from Annex D (simple statistical monitoring) to Annex A (total ban on trade). The species referred to are those which are listed in the annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), supplemented by a number of priority species. The level and scope of the protection in the Community which will result will thus exceed that of the Convention. These species are entered in the appropriate annex on the basis of "objective" criteria. Depending on the extent to which they are endangered, the regulation establishes more or less restrictive conditions for the introduction into the Community of the species in question. In practical terms, the necessary checks must be carried out and an import permit must be presented to the relevant management authority of the Member State of destination. Provisions also allow checks to be carried out on the conditions of housing of the specimens. Furthermore, specific provisions are provided for specimens born in captivity or artificially propagated. Special attention is paid to checks on re-exports of specimens of the species referred to and also checks on commercial activities involving such specimens. The regulation also deals with infringements to the regulation for which the Member States must impose sanctions and the obligations to provide information on the part of the Member States in order to allow the implementation of the regulation. ENTRY INTO FORCE: 3 March 1997. The regulation is applicable with effect from 1 January 1997.?

Protection of wild fauna and flora: control of trade of species

ACT : Commission Regulation 349/2003/EC suspending the introduction into the Community of specimens of certain species of wild fauna and flora.

CONTENT : the introduction of certain species into the Community may be restricted by the Commission in accordance with the conditions laid down in 338/97/EC.

A list of species, for which the introduction into the Community is suspended, was last established in Commission Regulation 2087/2001/EC. The present Regulation amends the list in light of the most recent available information. For reasons of clarity Regulation 2087/2001/EC should be repealed accordingly and replaced by this Regulation.

ENTRY INTO FORCE : 01/03/2003.

Protection of wild fauna and flora: control of trade of species

ACT : [Commission regulation 865/2006/EC laying down detailed rules concerning the implementation of Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade therein.](#)

CONTENT : provisions are required to implement Regulation 338/97/EC and to ensure full compliance with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). In order to ensure the uniform implementation of Regulation 338/97/EC, it is necessary to lay down detailed conditions and criteria for the consideration of permit and certificate applications and for the issue, validity and use of such documents. It is therefore appropriate to lay down models to which those documents must correspond.

It is further necessary to lay down detailed provisions relating to the conditions and criteria for the treatment of specimens of animal species that are born and bred in captivity and of specimens of plant species that are artificially propagated in order to ensure the common implementation of the derogations applicable to such specimens. The derogations for specimens that are personal and household effects provided for in Article 7(3) of Regulation 338/97/EC require that provisions be specified to ensure compliance with paragraph 3 of Article VII of the Convention. In order to ensure that general derogations from the internal trade prohibitions contained in Article 8(1) of Regulation 338/97/EC are uniformly applied, it is necessary to lay down conditions and criteria with regard to their definition.

In addition, it is necessary to establish procedures for the marking of certain specimens of species in order to facilitate their identification and ensure enforcement of the provisions of Regulation 338/97/EC.

Provisions should be laid down regarding the contents, form and submission of the periodic reports provided for in Regulation 338/97/EC. In order for future amendments to the Annexes to Regulation 338/97/EC to be considered all relevant information should be available, particularly on the biological and trade status of species, their use and methods of controlling trade.

In view of the administrative burden entailed by the regulation of the export and import of live captive born and bred and personally owned animals and of personally owned animals introduced into the Community before Regulation 338/97/EC, Council Regulation 3626/82/EEC of 3 December 1982 on the implementation in the Community of the Convention on international trade in endangered species of wild fauna and flora or national legislation implementing the Convention became applicable, and of the fact that such exports and imports do not pose an obstacle to the protection of species of fauna in the wild, a special certificate should be created for those purposes.

Commission Regulation 1808/2001/EC of 30 August 2001 laying down detailed rules concerning the implementation of Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade therein therefore needs to be substantially amended. In view

of the scope of those amendments and in the interests of clarity, that Regulation should be replaced in its entirety.

This is the aim of the present Regulation.

ENTRY INTO FORCE : 9 July 2006.