

EXPLANATORY STATEMENT

(Issued by the Authority of the Minister for Sustainability, Environment, Water, Population and Communities)

Environment Protection and Biodiversity Conservation Act 1999

Amendment to List of CITES Species

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 of the Act provides for 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 (the list). 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 (9)(c) of the Act 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, include a species or a national population of a species which is subject to regulation within its jurisdiction in Appendix III of the Convention. Inclusions in Appendix III enter into force for all Parties 90 days after the Convention's Secretariat has communicated the amendment. The Convention's Notification to the Parties 2014/051 (dated 7 November 2014) has advised of the inclusion of four *Dalbergia* species (*Dalbergia calycina*, *Dalbergia cubilquitzensis*, *Dalbergia glomerat* and *Dalbergia tucurensis*) in Appendix III. The listing applies to logs, sawn wood, veneer sheets and plywood only and does not extend to manufactured products such as furniture or other carved items.

As Australia does not propose to lodge a reservation to the amendments outlined in Notification to the Parties 2014/051, the Appendix III amendments will enter into force on 5 February 2015. 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, Department of Prime Minister and Cabinet, have advised that the impact of the inclusion of the four *Dalbergia* species in the list for the purposes of the Act would be minor and that a Regulatory Impact Statement is not required.

The Convention's Notification to the Parties 2014/014 (dated 26 March 2014) announced the inclusion in Appendix III of the subspecies *Capra hircus aegagrus* at the request of Pakistan. Australia gave effect to this inclusion in the list of species for the purposes of the Act on 30 July 2014. Subsequent to the inclusion of this species on Appendix III, the Convention's Notification to the Parties 2014/044 (dated 10 October 2014) has advised of the inclusion of a notation to the existing Appendix III listing for *Capra hircus aegagrus*. The notation was included to provide further clarification on the type of specimens listed to address the confusion among some Parties to the Convention. Subsection 303CA (9)(c) provides for the list to be amended to ensure that all notations on the list of species for the purposes of the Act are consistent with the Convention.

The Minister may, through subsection 303CB (2)(a), amend the list for the purposes of the Act to have the effect of treating a specified specimen that is included on Appendix II to the Convention as if the specimen were included in Appendix I to the Convention. Australia, under the *Listing of CITES Species – Declaration of Stricter Domestic Measure* dated 10 December 2002 (F2007B00192), treats all specimens of *Loxodonta africana* (African elephant) as though they are included on Appendix I to

the Convention. The current notation to the listing of *Loxodonta africana* gives the incorrect impression that some populations are listed under Appendix II. To ensure that the list of species under the Convention for the purposes of the Act is interpreted consistent with the stricter domestic measure, the notation on the list under the Act has been amended.

The amendments to notations for *Capra hircus aegagrus* and *Loxodonta africana* provide further clarification about listing intent and the effect of the stricter domestic measure. These amendments do not change existing permitting and regulatory requirements and will therefore have minimal impact.

The purpose of this Instrument is to effect notation amendments for *Capra hircus aegagrus* and *Loxodonta africana*, as well as the inclusion of the four Dalbergia species in Appendix III.

The instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Instrument will commence on the day after registration on the Federal Register of Legislative Instruments.

Authority: sections 303CA(9)(b) and (c) of the *Environment Protection and Biodiversity Conservation Act 1999*.