

## Explanatory Statement 3 of 2023

### *Environment Protection and Biodiversity Conservation Act 1999*

#### Amendment to the list of CITES species for the purposes of the Act

##### Practical and legal effect

1. The treaty action is the amendment of Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention) following the Secretariat's Notification to Parties 2023/011 dated 3 February 2023 of a request by Israel and Notification to Parties 2023/018 dated 20 February 2023 of a request by the European Union. Israel has requested the inclusion of the Palestine viper (*Daboia palaestinae*) in Appendix III of the Convention. The European Union has requested the inclusion of the small Réunion swallowtail (*Papilio phorbanta*) in Appendix III of the Convention.
2. Under the Convention, Parties may list species on Appendix III that need the cooperation of other countries to prevent unsustainable or illegal exploitation. Listing on Appendix III requires other CITES Parties to assist in the regulation of international trade of those species. Unlike amendments to Appendices I and II, amendments to Appendix III can be made unilaterally and do not require agreement by the Conference of the Parties.
3. *Daboia palaestinae* and *Papilio phorbanta* do not occur in Australia, nor does Australia trade in specimens of these species. Neither the viper nor butterfly species can be legally imported to Australia under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act). The Office of Impact Analysis have advised that these amendments will have minor regulatory impacts (IDs 04297 and 04443). There are no other regulatory impacts.

##### Nature and timing of proposed treaty matter

4. Under Article XVI, paragraph 1 of the Convention, a Party may at any time submit to the Secretariat a list of species identified as being subject to regulation within its jurisdiction for the purposes of Article II, paragraph 3 of the Convention. Each list so submitted shall be communicated to the Parties as soon as possible after receiving it and the list shall take effect as part of Appendix III, 90 days after the date of notification.
5. As the Secretariat notified Parties on 3 February 2023 (for *Daboia palaestinae*) (Notification to the Parties 2023/011) and 20 February 2023 (for *Papilio phorbanta*) (Notification to the Parties 2023/018), the amendments will automatically enter into force on 4 May 2023 (for *Daboia palaestinae*) and 21 May 2023 (for *Papilio phorbanta*) for all States Parties that do not enter a reservation to them. Australia does not propose to enter a reservation to the amendments and, as such, will be bound by them.

## **Reasons for Australia to take the proposed action relating to the treaty matter**

6. The treaty action is consistent with Australia's strong commitment to the Convention and to international cooperation for the protection and conservation of wildlife more generally.

## **Implementing Legislation**

7. 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.
8. Section 303CA provides that the Minister must, by legislative instrument, establish a list of species 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. The list will be updated to reflect the amendments.

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Submitted to JSCOT

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