



EUROPEAN
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Proposal for a

COUNCIL DECISION

establishing the position to be adopted on behalf of the European Union with regard to proposals from various parties to the Convention on the conservation of migratory species of wild animals for amendments to the Appendices of the Convention at the eleventh meeting of the Conference of the Parties

EXPLANATORY MEMORANDUM

1. The Convention on the conservation of migratory species of wild animals (also known as the CMS or Bonn Convention) aims to conserve terrestrial, marine and avian migratory species throughout their range. It is an intergovernmental treaty, concluded under the aegis of the United Nations Environment Programme, concerned with the conservation of wildlife and habitats on a global scale. The European Union has been a Party to the CMS since 1 November 1983¹.

2. The migratory species to be conserved are listed in Appendices I (endangered species) and II (species to be the subjects of agreements) to the Convention. Article III to the Convention stipulates that Appendix I shall list migratory species which are endangered and provides that Parties that are Range States of the species concerned shall endeavour to take various conservation measures and shall prohibit the taking of animals belonging to such species. Article IV to the Convention stipulates that Appendix II shall list migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement.

3. The Conference of the Parties is the decision-making body of the Convention with powers to assess the conservation status of migratory species and, subsequently, to amend Appendices I and II to the Convention.

4. In accordance with Article XI of the Convention, proposals for amendment may be made by any Party. An amendment to the Appendices enters into force for all Parties ninety days after the meeting of the Conference of the Parties at which it is adopted, except for those Parties which make a reservation.

5. The eleventh meeting of the Conference of the Parties to the Convention will take place in Quito (Ecuador) from 4 to 9 November 2014. For this meeting, the Union proposed to amend Appendix I to the Convention to add the Mediterranean subpopulation of *Ziphius cavirostris*, and the bird species *Coracias garrulus*, and to amend Appendix II to the Convention to add three species of thresher sharks, namely *Alopias superciliosus*, *Alopias vulpinus* and *Alopias pelagicus*.

6. Other Parties to the Convention have submitted proposals to amend Appendices I and II to the Convention for the species *Ursus maritimus*, all subspecies of the *Panthera leo*, *Kobus kob*, *Eudorcas rufifrons*, *Otis tarda*, *Calidris pusilla*, *calidris tenuirostris*, *Cardellina canadensis*, *Carcharhinus falciformis*, *Sphyrna lewini*, *Sphyrna mokarran*, *Anoxypristis cuspidate*, *Pristis clavata*, *Pristis pectinata*, *Pristis zijsron*, *Pristis pristis*, *Mobula mobular*, *Mobula japonica*, *Mobula thurstoni*, *Mobula tarapacana*, *Mobula eregoodootenkee*, *Mobula kuhlii*, *Mobula hypostoma*, *Mobula rochebrunei* and *Mobula munkiana*, *Manta alfredi* and *Anguilla Anguilla*.

7. The Union should support all proposals because they are science-based, in line with Union legislation and with the Union's commitment to international cooperation for the protection of biodiversity. Adding these species to Appendix I or II to the Convention, as proposed, would not require any change in Union law;

¹ Council Decision 82/461/EEC of 24 June 1982 on the conclusion of the Convention on the conservation of migratory species of wild animals, OJ L 210, 19.7.1982, p. 10.

8. It is therefore necessary for the Council to take a decision for the purpose of establishing the position to be adopted on behalf of the Union with a view to the eleventh meeting of the Conference of the Parties with regard to proposals for amendment.

Proposal for a

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establishing the position to be adopted on behalf of the European Union with regard to proposals from various parties to the Convention on the conservation of migratory species of wild animals for amendments to the Appendices of the Convention at the eleventh meeting of the Conference of the Parties

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Council Decision 82/461/EEC of 24 June 1982² the Union is a Party to the Convention on the conservation of migratory species of wild animals ("the Convention"). The Conference of the Parties is the decision-making body of the Convention and the powers conferred upon it include the capacity to assess the conservation status of migratory species and subsequently to amend Appendices I and II to the Convention which list the species to be conserved;
- (2) In accordance with Article XI of the Convention, an amendment to the Appendices enters into force for all Parties ninety days after the meeting of the Conference of the Parties at which it is adopted, except for those Parties which make a reservation;
- (3) The eleventh meeting of the Conference of the Parties is to take place in Quito (Ecuador) from 4 to 9 November 2014;
- (4) With a view to that meeting, the Union submitted to the Secretariat of the Convention a proposal to amend Appendix I to the Convention to include the species *Coracias garrulus* and the Mediterranean subpopulation of the species *Ziphius cavirostris* and to amend Appendix II to the Convention to include the species *Alopias superciliosus*, *Alopias vulpinus* and *Alopias pelagicus*³;
- (5) Other Parties to the Convention have also submitted proposals to amend Appendices I and II to the Convention;
- (6) The Union should support all proposals because they are science-based, in line with Union legislation and with the Union's commitment to international cooperation for the protection of biodiversity in accordance with Article 5 of the UN Convention on

² Council Decision 82/461/EEC of 24 June 1982 on the conclusion of the Convention on the conservation of migratory species of wild animals, (OJ L 210, 19.7.1982, p. 10).

³ Council Decision of 5 June 2014 authorising the European Commission to submit, on behalf of the European Union, a proposal for amendments to the Appendices to the Convention on the conservation of migratory species of wild animals with a view to the eleventh meeting of the Conference of the Parties

Biological Diversity and decisions taken at the Conference of the Parties under that Convention, in particular with the global target agreed at the Tenth meeting: "By 2020 the extinction of known threatened species has been prevented and their conservation status, particularly of those most in decline, has been improved and sustained";

- (7) The whale *Ziphius cavirostris*, is included in Annex IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁴. Hence adding this species to the Appendix I to the Convention would not require any change in Union law;
- (8) The mammals *Ursus maritimus*, all subspecies of the *Panthera leo* other than *Panthera leo persica*, and *Kobus kob* do not occur in the EU. Hence adding these species to Appendix II to the Convention would not require any change in Union law.
- (9) The mammals *Panthera leo persica* and *Eudorcas rufifrons* do not occur in the EU. Hence adding these species to Appendix I would not require any change in Union law.
- (10) The bird *Otis tarda* is included in Annex I to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds⁵. Hence adding this species to Appendix I to the Convention would not require any change in Union law. The middle-European population of the *Otis tarda* is already included in Appendix I to the Convention and covered by the Memorandum of Understanding on the Conservation and Management of the Middle-European Population of the Great Bustard (*Otis tarda*) to which 12 Member States are a party. In addition, the entire global population is already included in Appendix II to the Convention;
- (11) The birds *Calidris pusilla*, *calidris tenuirostris* and *Cardellina canadiensis*, do not occur in the EU except for overseas territories which fall outside the scope of the Directive 2009/147/EC. Hence adding these species to Appendix I and II to the Convention would not require any change in Union law.
- (12) The bird *Coracias garrulus* is included in Annex I to Directive 2009/147/EC. Hence adding this species to Appendix I to the Convention would not require any change in Union law. The conservation needs are most pressing for the European population of this species;
- (13) The populations of the sharks *Alopias superciliosus*, *Alopias vulpinus*, *Alopias pelagicus*, *Carcharhinus falciformis*, *Sphyrna lewini* and *Sphyrna mokarran* fall under the European Union's common fisheries policy (CFP) which offers the appropriate instruments for the Union to contribute to managing their protection when adding these species to Appendix II to the Convention.
- (14) The saw fishes *Anoxypristis cuspidata*, *Pristis clavata*, *Pristis pectinata*, *Pristis zijsron*, *Pristis pristis*, the mobula rays *Mobula mobular*, *Mobula japonica*, *Mobula thurstoni*, *Mobula tarapacana*, *Mobula eregoodootenkee*, *Mobula kuhlii*, *Mobula hypostoma*, *Mobula rochebrunei* and *Mobula munkiana* fall under the CFP which offers the appropriate instruments for the EU to contribute to managing their protection when adding these species to Appendix I and II to the Convention.
- (15) The reef manta *Manta alfredi* falls under the CFP which offers the appropriate instruments for the EU to contribute to manage its protection when adding this species to Appendix I and II to the Convention. The species has been identified as a species

⁴ OJ L206, 22.7.1992, p. 7.

⁵ OJ L20, 26.1.2010, p. 7.

separate from the *Manta birostris* shortly after that species had been added to Appendices I and II to the Convention in 2011.

- (16) The European eel, *Anguilla anguilla*, is a fish species falling under the CFP which offers the appropriate instruments for the EU to contribute to managing its protection. Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel⁶ provides for measures to protect the European eel, including the possibility for Member States to develop Eel Management Plans jointly with countries outside the Union with whom they share eel habitats. Article IV of the Convention encourages international agreements for putting in place protection measures and thereby also encourages agreements on joint Eel Management Plans pursuant to Council Regulation (EC) No 1100/2007. Article IV of the Convention may also encourage further international agreements which for EU Member States may not result in lower protection than is required under Council Regulation (EC) No 1100/2007. Article XII(3) of the Convention allows parties to adopt stricter domestic measures concerning the conservation of migratory species listed in Appendices I and II. Furthermore, including *Anguilla anguilla* in Appendix II to the Convention would be consistent with the inclusion of this species in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora following the Community's proposal in 2007 and Decision of 25 June 2014 by the Commission established by Article 10.1 of the Convention for the Protection of the marine Environment of the North-East Atlantic (the 'OSPAR Convention') to protect the species as it is considered particularly vulnerable in the North East Atlantic Ocean.⁷ A new international agreement under the CMS for this species is not foreseen. Conservation measures would rather consist in concerted actions that would benefit the conservation of the species.
- (17) To the extent that the Convention on the conservation of migratory species of wild animals falls both within the competence of the Union and the competence of the Member States, the Commission and the Member States should cooperate closely for the adoption of the amendments to the Appendices of the Convention, aiming for unity in the international representation of the Union.

HAS ADOPTED THIS DECISION:

Article 1

At the eleventh meeting of the Conference of the Parties to the Convention on the conservation of migratory species of wild animals, the Commission shall present the following position of the Union in respect of the proposals to amend Appendices I and II to the Convention:

- (1) the Commission is hereby authorised to support the addition to Appendix I of the following species:
- (mammals)
- (a) *Ziphius cavirostris*
- (b) *Panthera leo persica*
- (c) *Eudorcas rufifrons*

⁶ OJ L 248, 22.9.2007, p.17.

⁷ Decision adopted at the OSPAR Commission meeting of 23 to 27 June 2014.

(birds)

- (d) *Otis tarda*
- (e) *Calidris pusilla*
- (f) *Calidris tenuirostris*
- (g) *Coracias garrulus*

(fish)

- (h) *Anoxypristis cuspidate, Pristis clavata, Pristis pectinata, Pristis zijsron, Pristis pristis*
- (i) *Mobula mobular, Mobula japonica, Mobula thurstoni, Mobula tarapacana, Mobula eregoodootenkee, Mobula kuhlii, Mobula hypostoma, Mobula rochebrunei, Mobula munkiana*
- (j) *Manta alfredi*;

(2) the Commission is hereby authorised to support the addition to Appendix II of the following species

(mammals)

- (a) *Ursus maritimus*
- (b) *Panthera leo (all subspecies other than Panthera leo persica)*
- (c) *Kobus kob leucotis*

(birds)

- (d) *Cardellina canadiensis*

(fish)

- (e) *Anguilla anguilla*
- (f) *Alopias superciliosus, Alopias vulpinus, Alopias pelagicus*
- (g) *Anoxypristis cuspidate, Pristis clavata, Pristis pectinata, Pristis zijsron, Pristis pristis*
- (h) *Carcharhinus falciformis*
- (i) *Sphyrna lewini and Sphyrna mokarran*
- (j) *Mobula mobular, Mobula japonica, Mobula thurstoni, Mobula tarapacana, Mobula eregoodootenkee, Mobula kuhlii, Mobula hypostoma, Mobula rochebrunei, Mobula munkiana*
- (k) *Manta alfredi*.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*