



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(2004)531 final

2004/0181(CNS)

Proposal for a

**COUNCIL DECISION**

**On the conclusion by the European Community of the Agreement on  
the Conservation of African-Eurasian Migratory Waterbirds**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

The Community is a Contracting Party to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention – CMS)<sup>1</sup>.

Article IV of the Bonn Convention provides for the conclusion of regional agreements which for Appendix II species (those with an unfavourable conservation status) should be concluded as soon as possible.

The waterbirds of the African-Eurasian flyways, which are Appendix II species, merit immediate attention in order to improve their conservation status and to gather information as a basis for sound management decisions.

Resolution 1.6 of the first meeting of the Conference of the Parties to the Bonn Convention called for the development of an Agreement for Western Palearctic *Anatidae*. From 1988 to 1991, a draft Agreement, including an Action Plan for *Anatidae* and a Management Plan was elaborated by the Government of the Netherlands, acting in agreement with the Community, in collaboration with the Convention Secretariat, IUCN, a Working Group of the CMS Scientific Council and the International Waterfowl and Wetland Research Bureau (IWRB). This was followed by an initiative from the Convention Secretariat which resulted in a new draft agreement with a larger scope including other species of migratory waterbirds.

An informal negotiating meeting took place in Nairobi from 12-14 June 1994 after the fourth meeting of the Conference of the Parties to the Bonn Convention which was held in Nairobi from 7 to 11 June 1994. The meeting was attended by representatives from the Commission.

A revised draft Agreement was prepared by the Convention Secretariat and submitted to the negotiating meeting which took place in Hague from 12-16 June 1995 as a basis for negotiations. The Agreement was finally adopted by consensus by sixty-three Range States and by the European Community. The Agreement was opened for signature from 16 October 1995.

It was signed on behalf of the Community on 1 September 1997, following a proposal from the Commission<sup>2</sup>.

The Agreement aims at creating the legal framework for a concerted conservation policy of the Range States of migratory waterbirds species and populations, individuals of which migrate in the Western Palearctic and Africa, irrespective of their current conservation status.

The Agreement covers:

- 235 species of birds ecologically dependent on wetlands for at least part of their annual cycle
- an area of 60 million square kilometres encompassing 116 Range States and covering the entire continents of Africa and Europe as well as part of Asia.

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<sup>1</sup> OJ L 210, 19.7.1982, p. 10.

<sup>2</sup> COM(1995) 444 final.

The Agreement text includes three annexes:

- a map showing the geographical area covered by the Agreement,
- a list of migratory waterbirds species covered by the Agreement,
- an action plan.

Resolution 1.9, adopted at the first Meeting of the Parties in Cape Town, South Africa in November 1999, and Resolution 2.1, adopted at the second Meeting of the Parties in Bonn, Germany in September 2002 have amended the Annexes to the agreement, including the action Plan.

The Agreement requests in particular coordinated measures to achieve and maintain a favourable conservation status for African-Eurasian Migratory Waterbirds. Article III of the Agreement provides for the conservation measures to be taken. Annex III (the Action plan) specifies actions which the Parties shall undertake in relation to priority species consistent with the general conservation measures specified in Article III of the Agreement.

The Agreement mainly refers to matters falling within Community competence which at the internal level are regulated by Council Directive 79/409/EEC on the conservation of wild birds<sup>3</sup> and 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>4</sup>.

Furthermore, the Community is a Party to the Bern Convention on the Conservation of European Wildlife and Natural Habitats<sup>5</sup> and of the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution<sup>6</sup> and to its protocols, in particular to the Protocol on Specially Protected Areas<sup>7</sup>.

Accordingly, having signed the Agreement, it is appropriate that the Community should now conclude the Agreement on the Conservation of African-Eurasian Migratory Waterbirds.

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<sup>3</sup> OJ L 103, 25.4.1979, p. 1.

<sup>4</sup> OJ L 206, 22.7.1992, p. 7.

<sup>5</sup> OJ L 38, 10.2.1982, p. 3.

<sup>6</sup> OJ L 240, 19.9.1977, p. 3.

<sup>7</sup> OJ L 68, 10.3.1984, p. 36.

Proposal for a

**COUNCIL DECISION**

**On the conclusion by the European Community of the Agreement on  
the Conservation of African-Eurasian Migratory Waterbirds**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular, Article 175 (1), in conjunction with Article 300 (2), first sentence of the first subparagraph and Article 300 (3), first subparagraph thereof, thereof,

Having regard to the proposal from the Commission<sup>8</sup>,

Having regard to the opinion of the European Parliament<sup>9</sup>,

Whereas:

- (1) The Community is a Contracting Party to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)<sup>10</sup>.
- (2) Article IV of the Bonn Convention provides for the conclusion of regional agreements which for species with an unfavourable conservation status (Appendix II species) should be concluded as soon as possible,
- (3) Article XI paragraph 5 and 6 of the Bonn Convention provides that an amendment to the Appendices shall enter into force for all Parties ninety days after the meeting of the Conference of the Parties, at which it was adopted, except if a reservation is done accordingly to paragraph 6;
- (4) The waterbirds of the African-Eurasian flyways, which are Appendix II species, merit immediate attention in order to improve their conservation status and to gather information as a basis for sound management decisions,
- (5) The first meeting of the Parties to the Bonn Convention called for the development of an Agreement for the Conservation of Western Palearctic *Anatidae*; and whereas the draft agreement has been subsequently developed so as to include other species of migratory waterbirds,

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<sup>8</sup> OJ C [...], [...], p. [...].

<sup>9</sup> OJ C [...], [...], p. [...].

<sup>10</sup> OJ L 210, 19.7.1982, p. 10.

- (6) The conservation of migratory waterbirds mainly falls within Community competence taking into account Council Directives 79/409/EEC, of 2 April 1979, on the conservation of wild birds<sup>11</sup> and 92/43/EEC of 21 May 1992, on the conservation of natural habitats and of wild fauna and flora<sup>12</sup>, both as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded<sup>13</sup>,
- (7) The Commission participated on behalf of the Community, and in accordance with the negotiating directives given by the Council on 7 June 1995, in the negotiating meeting that took place from 12 to 16 June 1995 in the Hague; and whereas this meeting adopted by consensus the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (the Agreement),
- (8) The Agreement was opened for signature from 16 October 1995,
- (9) The Agreement was signed on behalf of the Community on 1 September 1997,
- (10) The Agreement came into effect on 1 November 1999,
- (11) The Annexes to the agreement have been amended by Resolutions at the First Meeting of the Parties held in Cape Town, South Africa in November 1999 and at the Second Meeting of the Parties held in Bonn, Germany in September 2002,
- (12) It is now appropriate that the Agreement be concluded by the Community,
- (13) In concluding the Agreement there is a need to ensure unity in the international representation of the Community in negotiating and approving future amendments to the Agreement or its Action Plan

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The African-Eurasian Waterbirds Agreement is hereby approved on behalf of the Community.

#### *Article 2*

The President of the Council is authorised to designate the person or persons empowered to deposit the instrument of approval with the Government of the Kingdom of the Netherlands, being the Depositary for the Agreement, in accordance with Article XVII of the Agreement.

#### *Article 3*

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<sup>11</sup> OJ L 103, 25.4.1979, p. 1.  
<sup>12</sup> OJ L 206, 22.7.1992, p. 7.  
<sup>13</sup> OJ L 236, 23.9.2003, p. 33.

The Commission is hereby authorised to negotiate and approve, on behalf of the Community, any amendments to the Action Plan provided for by Article IV of the Agreement and the amendments of the Agreement provided for by Article X. The Commission should conduct these negotiations in consultation with a special committee designated by the Council. It shall ensure that the decisions adopted under the Agreement are consistent with the existing Community legislation and with the objectives of the Community's policies.

Done at Brussels,

*For the Council*  
*The President*

**ANNEX**  
**FINANCIAL STATEMENT**

**Policy area(s): Environment**

**Activity: Contribution to International Environmental Activities**

**TITLE OF ACTION: PARTICIPATION OF THE EUROPEAN COMMUNITY IN THE AGREEMENT ON THE CONSERVATION OF AFRICAN-EURASIAN MIGRATORY WATERBIRDS (AEWA)**

**1. BUDGET LINE(S) + HEADING(S)**

07 02 02 (formerly B7-811)

**2. OVERALL FIGURES**

**2.1. Total allocation for action (Part B): € 34,700 (2004-2006)**

**2.2. Period of application: 2004 – 2005 and subsequent years**

The budget of AEWA is established every three years at the Meeting of the Parties. The current budget has been set for 2003, 2004 and 2005 (a year with higher expenditure, as it will hold the next Meeting of the Parties). For these three years, the participation of the Community is an estimate based on a contribution of 2.5% of the overall budget. For the years 2006 and beyond, expenditure for subsequent years is just a forecast, considering expected evolution of the budget.

**2.3. Overall multiannual estimate of expenditure:**

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ thousand *(to one decimal places)*

|             | Year<br>2004 | Year<br>2005 | Year<br>2006<br>and<br>subs. | Total<br>(2004-06) |
|-------------|--------------|--------------|------------------------------|--------------------|
| Commitments | 8.5          | 16.4         | 9.8                          | 34.7               |
| Payments    | 8.5          | 16.4         | 9.8                          | 34.7               |

(b) Technical and administrative assistance and support expenditure (see point 6.1.2)

|             |      |  |  |  |
|-------------|------|--|--|--|
| Commitments | N.A. |  |  |  |
| Payments    | N.A. |  |  |  |

|              |     |      |     |      |
|--------------|-----|------|-----|------|
| Subtotal a+b |     |      |     |      |
| Commitments  | 8.5 | 16.4 | 9.8 | 34.7 |
| Payments     | 8.5 | 16.4 | 9.8 | 34.7 |

(c) Overall financial impact of human resources and other administrative expenditure (see points 7.2 and 7.3)

|                          |    |    |    |     |
|--------------------------|----|----|----|-----|
| Commitments/<br>payments | 60 | 60 | 60 | 180 |
|--------------------------|----|----|----|-----|

|             |      |      |      |       |
|-------------|------|------|------|-------|
| TOTAL a+b+c |      |      |      |       |
| Commitments | 68.5 | 76.4 | 69.8 | 214.7 |
| Payments    | 68.5 | 76.4 | 69.8 | 214.7 |

The estimative credits foreseen in this planning shall be covered within the allocations of appropriations mentioned under section 1 above and granted to the managing DGs (DG Environment, Research and others) in the framework of the annual budget procedure.

**2.4. Compatibility with financial programming and financial perspective**

Proposal is compatible with existing financial programming.

Proposal will entail reprogramming of the relevant heading in the financial perspective.

Proposal may require application of the provisions of the Inter-institutional Agreement.

**2.5. Financial impact on revenue:**

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

Proposal has financial impact – the effect on revenue is as follows:



### 3. BUDGET CHARACTERISTICS

| Type of expenditure |      | New | EFTA contribution | Contributions from applicant countries | Heading in financial perspective |
|---------------------|------|-----|-------------------|--|----------------------------------|
| Non-comp            | Diff | NO  | NO                | N.A.                                   | No [3]                           |

### 4. LEGAL BASIS

The Council decision of ratification constitutes the basic act, in the sense of Article 49 of the Financial Regulation, of the financial contributions of the Community to AEWA as a Contracting Party thereto (financial contributions to international conventions are considered as subscriptions under Article 160 of the Financial Regulation).

This action is undertaken in the framework of the Treaty establishing the European Community (in particular Articles 174 and 175). Participation in international environmental agreements is an important policy component of Decision 1600/2002/EC of the European Parliament and of the Council laying down the Sixth Community Environment Action Programme, OJ L 242, 10.9.2002, p. 1-15.

This expenditure is carried out under Budget line 07 02 02 (formerly B7-811), which is listed as an institutional prerogative of the Commission (cf. budgetary comments).

### 5. DESCRIPTION AND GROUNDS

#### 5.1. Need for Community Intervention:

The Community already has adopted internal legislation for the conservation of bird species, primarily through Council Directive 79/409/EEC. However the protection of many migratory bird species, dependent on the EU during part of their annual cycle, cannot be achieved by actions within territories of the Member States alone. For many species factors operating on the wintering grounds in Africa or in the breeding areas in Northern Russia may negate conservation action in the EU. Therefore ratifying AEWA provides a legal basis for co-operation on conservation actions elsewhere in the range of different species, to complement measures being taken within the EU under the Birds Directive.

**The objective** is to provide for co-ordinated and concerted actions for the conservation of migratory waterbirds throughout their flyways. To be achieved by implementation of the AEWA Action plan which entails species and habitat conservation measures, management of human activities, research and monitoring, education and information.

A legal and technical evaluation has been undertaken of implications of ratification, especially as regards EU Birds Directive.

## 5.2. Action envisaged and budget intervention arrangements:

The Community should become, through the Council Decision of ratification, a Contracting Party to AEWA. As a contracting party the Community will work with Member States in implementing the objectives of AEWA, including participation in the relevant international meetings of the Agreement.

Regular financial contributions to international conventions are considered as subscriptions under Article 160 of the Financial Regulation. The Community will pay in accordance with the scale of contributions decided by the Meeting of the Parties.

As for most international environmental agreements, the functioning of AEWA is also based on additional voluntary contributions from Parties for specific activities. The Community is expected, as all Parties, to provide this form of support on a case-by-case basis for some activities. This form of 'ad hoc' support in addition to the regular contribution to the general budget would not be considered as a subscription but as a direct grant, to be approved by a financing decision of the College. On an indicative basis, it is expected that the average voluntary contributions do not exceed €40.000 per year. This expenditure will be covered within the allocations of appropriations mentioned granted to the managing DG (DG Environment) under budget line 07 02 02 in the framework of the annual budget procedure.

**5.3. Methods of implementation:** As regards achievement of the objectives of AEWA in the EU the principal mechanism will be through the implementation of EU environmental legislation, especially Council Directive 79/409 on the conservation of wild birds.

## 6. FINANCIAL IMPACT

### 6.1. Total financial impact on Part B - (over the entire programming period)

*(The method of calculating the total amounts set out in the table below must be explained by the breakdown in Table 6.2. )*

#### 6.1.1. Financial intervention

Commitments (in € thousand)

| Breakdown              | 2004 | 2005 | 2006 | Total |
|------------------------|------|------|------|-------|
| Financial contribution | 8.5  | 16.4 | 9.8  | 34.7  |
| <b>TOTAL</b>           | 8.5  | 16.4 | 9.8  | 34.7  |

6.1.2. *Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)*

|              | 2004 | 2005 | 2006 | Total |
|--------------|------|------|------|-------|
|              | N.A. | N.A. | N.A. |       |
| <b>TOTAL</b> |      |      |      |       |

**6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)**

Commitments (in € million to three decimal places)

| Breakdown         | Type of outputs (projects, files ) | Number of outputs (total for years 1 to 5) | Average unit cost | Total cost (total for years 1 to 5) |
|-------------------|------------------------------------|--|-------------------|-------------------------------------|
|                   | N.A.                               | N.A.                                       | N.A.              | N.A.                                |
| <b>TOTAL COST</b> |                                    |  |                   |                                     |

**7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE**

The needs for human and administrative resources shall be covered within the allocation granted to DG Environment in the framework of the annual budget procedure.

**7.1. Impact on human resources**

| Types of post                |   | Staff to be assigned to management of the action using existing and/or additional resources |                           | Total | Description of tasks deriving from the action |
|------------------------------|---|---|---------------------------|-------|---|
|                              |   | Number of permanent posts   | Number of temporary posts |       |   |
| Officials or temporary staff | A | 0.5   |                           | 0.5   | Desk officers and management                  |
|                              | B |   |                           |       |   |
|                              | C |   |                           |       |   |
| Other human resources        |   |   |                           |       |   |
| Total                        |   | 0.5   |                           | 0.5   |   |
|                              |   |   |                           |       |   |

## 7.2. Overall financial impact of human resources

| Type of human resources                        | Amount (€) | Method of calculation * |
|--|------------|-------------------------|
| Officials                                      | 54,000 €   | 0.5 x 108,000 €         |
| Temporary staff                                |            |                         |
| Other human resources<br>(specify budget line) | 0          |                         |
| Total  | 54,000 €   |                         |

NB: the 0.5 is purely indicative and this activity will be covered by the existing staff. No additional staff would be required.

The amounts are total expenditure for twelve months.

## 7.3. Other administrative expenditure deriving from the action

| Budget line<br>(number and heading)                      | Amount € | Method of calculation  |
|--|----------|--|
| <b>Overall allocation (Title A7)</b><br>A0701 – Missions | 6,000€   | 3x1500€ (based on three 5-day missions to destinations in the Africa-Asia region, including 250€ indemnity+500€ travelling+750€ accommodation), plus 3x500€ (based on 3 missions to AEWA Secretariat at Bonn including 350€ indemnity (incl. accommodation)+150€ travelling) |
| <b>Information systems (A-5001/A-4300)</b>               |          |  |
| <b>Other expenditure - Part A (specify)</b>              |          |  |
| Total  | 6000€    |  |

The amounts are total expenditure for twelve months.

<sup>1</sup> Specify the type of committee and the group to which it belongs.

|      |   |         |
|------|---|---------|
| I.   | Annual total -administrative- (7.2 + 7.3) | 60,000€ |
| II.  | Duration of action                        | N.A.    |
| III. | Total cost of action (I x II)             | N.A.    |

## **8. FOLLOW-UP AND EVALUATION**

In the framework of the Meeting of the Parties, the European Commission participates, together with the other Contracting Parties, in the regular scrutiny of the implementation of the work plan of AEWA agreement, including its financial component, on the basis of a detailed report presented by the Secretariat.

## **9. ANTI-FRAUD MEASURES**

Financial contributions will be subject to the Commission's usual control mechanisms and therefore there is no need for supplementary anti-fraud measures. Other costs only relate to expenditure on personnel.