



EUROPEAN COMMISSION

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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 for amending Appendices I and II to the Convention on the conservation of migratory species of wild animals at the tenth 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.
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 tenth meeting of the Conference of the Parties to the Convention will take place in Bergen (Norway) from 20 to 25 November 2011. For this meeting, Parties to the Convention have presented proposals to give protection to several new species by amending Appendices I and II of the Convention.
6. Two of these proposals have been made by the European Union and submitted to the Secretariat of the Convention as required by Council Decision². It had already been assessed that these proposals are in line with the objectives of the Birds Directive³ and the Regulation on the protection of species of wild fauna and flora by regulating trade therein⁴. Therefore, the Union should actively support adoption of these proposals it submitted itself.
7. Other Parties to the Convention submitted six proposals for amendments of Appendices I and II. None of these proposals regarding bird or mammal species would require any change in Union law. The proposals regarding the fish species *Manta birostris* would require a change to Union legislation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy in order to guarantee protection to this species. The Union should support these proposals on the basis of the following considerations: (1) the inclusion of such species is science-based; (2) for reasons of consistency between its internal

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, 24.6.1982, p. 10.

² Council Decision authorising the European Commission to submit, on behalf of the European Union, a proposal for amendment to Appendix I to the Convention on the conservation of migratory species of wild animals with a view to the tenth meeting of the Conference of the Parties (adopted on 23 June 2011 by written procedure) (doc. 11078/11 ENV 432).

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, p. 7.

⁴ Regulation 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 61, 3.3.1997, p. 1.

and external action; and (3) the Union is committed to international cooperation for the protection of biodiversity.

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 at the tenth meeting of the Conference of the Parties with regard to proposals for amendment.

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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 Commission⁵,

Whereas:

- (1) As a Party to the Convention on the conservation of migratory species of wild animals⁶, the European Union may make proposals for amendment of the Appendices to the Convention which list the species to be conserved;
- (2) 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 amend Appendices I and II to the Convention;
- (3) 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;
- (4) With a view to the tenth meeting of the Conference of the Parties, that will take place in Bergen (Norway) from 20 to 25 November 2011, the Union communicated to the Secretariat of the Convention proposals⁷ for amendment of Appendix I to include the species *Falco cherrug* and *Falco vespertinus*;
- (5) Other Parties to the Convention have also presented proposals to give protection to several new species by amending Appendices I and II to the Convention;

⁵ OJ C [...], [...], p. [...].

⁶ 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, 24.6.1982, p. 10.

⁷ Proposals as adopted by Council Decision authorising the European Commission to submit, on behalf of the European Union, a proposal for amendment to Appendix I to the Convention on the conservation of migratory species of wild animals with a view to the tenth meeting of the Conference of the Parties (adopted on 23 June 2011 by written procedure) (doc. 11078/11 ENV 432).

- (6) The Union should support these 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 Biological Diversity⁸ and decisions taken at the Conference of the Parties, 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) None of the proposals for amendments regarding bird or mammal species would require any change in Union law;
- (8) The proposals regarding the fish species *Manta birostris* would require a change to Union legislation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy in order to guarantee protection to this species;
- (9) 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, in view of aiming for unity in the international representation of the Union.

HAS ADOPTED THIS DECISION:

Sole Article

At the tenth 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:
 - (a) *Falco cherrug*;
 - (b) *Falco vespertinus*;
 - (c) *Numenius madagascariensis*;
 - (d) *Numenius tahitiensis*;
 - (e) *Manta birostris*;
- (2) the Commission is hereby authorised to support the addition to Appendix II of the following species
 - (a) *Ovis ammon*;

⁸ Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity, OJ L 309, 13.12.1993, p. 1.

(b) *Dolichonyx oryzivorus*;

(c) *Manta birostris*.

Done at Brussels,

*For the Council
The President
[..]*