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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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 eleventh meeting of the Conference of the Parties

COUNCIL DECISION

of ...

**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 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/EEC¹ 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) With a view to the eleventh meeting of the Conference of the Parties to the Convention, which will take place in Quito, Ecuador, from 4 to 9 November 2014, the Union communicated to the Secretariat of the Convention proposals^{2*} for an amendment to Appendix I to the Convention in order to include the species *Coracias garrulus* and the Mediterranean subpopulation of the species *Ziphius cavirostris*, and for an amendment to Appendix II to the Convention to include the species *Alopias superciliosus*, *Alopias vulpinus* and *Alopias pelagicus*.

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).

² Proposals as adopted by Council Decision of 5 June 2014 authorising the Commission to submit, on behalf of the 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.

* Delegations: see document ST 10036/14.

- (3) 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.
- (4) Those proposals are science-based, in line with Union legislation¹, and therefore the Union should support them.
- (5) The listing of additional species in the Convention's Appendices will help to fulfil the Union's commitment to international cooperation for the protection of biodiversity in accordance with Article 5 of the UN Convention on Biological Diversity² and to decisions taken by the Conference of the Parties to the Convention on Biological Diversity, in particular with Target 12 agreed at the tenth meeting of that Conference of the Parties, which provides that, 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 sustained³.
- (6) The whale *Ziphius cavirostris* is included in Annex IV to Directive 92/43/EEC. Hence adding this species to Appendix I to the Convention would not require any change in Union law.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7); Council Regulation (EC) No 338/97 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); Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), (OJ L 164, 25.6.2008, p. 19); 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).

² Convention on Biological Diversity (OJ L 309, 13.12.1993, p. 3)

³ Decision UNEP/CBD/COP/DEC/X/2 of 29 October 2010 adopted by the Conference of the Parties to the Convention on Biological Diversity at its tenth meeting.

- (7) The mammals *Ursus maritimus*, *Panthera leo* (all subspecies other than *Panthera leo persica*), and *Kobus kob* are not present in the Union. Hence adding these species to Appendix II to the Convention would not require any change in Union law.
- (8) The mammal *Eudorcas rufifrons* is not present in the Union. Hence adding this species to Appendix I to the Convention would not require any change in Union law.
- (9) The mammal *Panthera leo persica* is not present in the Union. The Union should support adding this species to Appendix I to the Convention if certain conditions are met. Adding this species to Appendix I to the Convention would not require any change in Union law.
- (10) The bird *Otis tarda* 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 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 of this species is already included in Appendix II to the Convention.
- (11) The birds *Calidris pusilla*, *calidris tenuirostris* and *Cardellina canadiensis* are not present in the Union except for overseas territories which fall outside the scope of Directive 2009/147/EC. Hence adding these species to Appendices 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. 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 Union's common fisheries policy (CFP) which offers the appropriate instruments for the Union to contribute to managing their protection when these species are added to Appendix II to the Convention.
- (14) The saw fishes *Anoxypristis cuspidate*, *Pristis clavata*, *Pristis pectinata*, *Pristis zijsron*, *Pristis pristis*, and 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 Union to contribute to managing their protection when these species are added to Appendices I and II to the Convention.
- (15) The reef manta *Manta alfredi* falls under the CFP which offers the appropriate instruments for the Union to contribute to manage its protection when this species is added to Appendices I and II to the Convention. This species has been identified as a species separate from the *Manta birostris* shortly after the latter had been added, in 2011, to Appendices I and II to the Convention.

- (16) The European eel, *Anguilla anguilla*, is a fish species falling under the CFP which offers the appropriate instruments for the Union to contribute to managing its protection. Council Regulation (EC) No 1100/2007¹ 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 Regulation (EC) No 1100/2007. Article IV of the Convention could also encourage further international agreements which for Member States are not to result in lower protection than is required under 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 to the Convention. Furthermore, including *Anguilla anguilla* in Appendix II to the Convention would be consistent with the inclusion of this species both in Appendix II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora following the Community's proposal in 2007 as well as in the 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 to protect the species as it is considered particularly vulnerable in the North East Atlantic Ocean. A new international agreement under the Convention for this species is not foreseen. Conservation measures would rather consist of concerted actions that would benefit the conservation of the species.

¹ Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel (OJ L 248, 22.9.2007, p.17).

- (17) To the extent that the Convention 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 to the Convention, with a view to 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 Convention"), the Commission, on behalf of the Union and as regards matters falling within Union's competence, shall support the following proposals to amend Appendices I and II to the Convention:

(1) the addition to Appendix I of the following species:

(mammals)

(a) *Ziphius cavirostris*

(b) *Eudorcas rufifrons*

(birds)

(c) *Otis tarda*

(d) *Calidris pusilla*

(e) *Calidris tenuirostris*

(f) *Coracias garrulus*

(fish)

(g) *Anoxypristis cuspidate*, *Pristis clavata*, *Pristis pectinata*, *Pristis zijsron*,
Pristis pristis

(h) *Mobula mobular*, *Mobula japonica*, *Mobula thurstoni*, *Mobula tarapacana*,
Mobula eregoodootenkee, *Mobula kuhlii*, *Mobula hypostoma*, *Mobula rochebrunei*,
Mobula munkiana

(i) *Manta alfredi*;

(2) 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 canadensis*

(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*;
- (3) the addition to Appendix I of the *Panthera leo persica* if the following information is made available before the Conference of the Parties decides on this proposal:
- (a) movements of the population that confirm that such movements are or were transboundary and migratory; and
 - (b) conservation benefits for this subspecies expected to arise from its addition to Appendix I.

The position of the range State(s) should also be taken into account.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President
