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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

Standing Committee

21<sup>st</sup> meeting  
Strasbourg, 26-30 November 2001

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**FILE**

**Exploitation and commerce of  
*Lithophaga lithophaga* in Spain**

**Report of the Secretariat**

*Secretariat Memorandum  
prepared by  
the Directorate of Culture and Cultural and Natural Heritage*

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The Standing Committee is invited to examine the enclosed document and, if appropriate:

- ? adopt the draft recommendation in appendix 1 to this document;
- ? take note that Spain has changed its legislation to fit the requirements of the Convention concerning the species *Lithophaga lithophaga*;
- ? close the file.

## **Exploitation and commerce of *Lithophaga lithophaga***

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*The purpose of the « files » is to find a satisfactory solution to problems encountered in implementating the Convention and to monitor as effectively as possible the means chosen to resolve them.*

### **I. Introduction**

In an electronic message of 18<sup>th</sup> December 1999, Mr Ramón Alvarez Halcón, a Spanish malacologist, informed the Secretariat that the species *Lithophaga lithophaga* (a mollusc listed in Appendix II to the Convention) was subject to exploitation and commerce in Spain, its capture being regulated by the Spanish Ministry of Agriculture, Fisheries and Food, in apparent ignorance of its protected status. Mr Alvarez Halcón provided the Secretariat in the following months a most abundant information on the issue. In connection with the Spanish Society of Malacology, he agreed that it was this society that would present the complaint on this issue.

On 5<sup>th</sup> January 2000, the Secretariat wrote to the Ministry of Environment of Spain requesting information on the issue. On 27<sup>th</sup> April, an informal contact with the Ministry informed the secretariat that the necessary coordination was being searched with the Ministry of Agriculture, Fisheries and Food and a small study on the issue was being planned.

The Ministry of Environment replied on 23<sup>rd</sup> August 2000, informing the Secretariat that it was conducting a research report aimed to formulate concrete proposals for the conservation of the species, which is widely exploited in parts of Spain.

The report proposes to give full protection status to the species by including it in the National Catalogue of Threatened Species, to urge Regional Government to prohibit the capture of the species and to take other research and awareness measures.

### **II. The facts and arguments submitted**

*Lithophaga lithophaga* is a marine bivalve mollusc species which belongs to the Mytilidae family. Its habitat are the inner calcareous rocks of the Mediterranean coasts; being a high ecological element within the rocky marine ecosystem. Its capture implies the direct and irreversible destruction of its habitat. Some of its populations have been reduced in a great extend during these last years due to a demand of this product (as sea fruit) and due to the use of pneumatical hammers and other damaging percussion methods, including in some cases the use of explosives.

*L. lithophaga* was included in the Appendix II of the Bern Convention – “Strictly protected fauna species” in Mediterranean sea populations – by an amendment that entered in force on the 6<sup>th</sup> of March 1998. Spain ratified the Bern Convention in 1986 (BOE n°235, 1/10/1986) and no objection was submitted to the amendment on *L. lithophaga*.

*L. lithophaga* is specifically and strictly protected by international law according to its inclusion in the following catalogues:

- Appendix II of the Bern Convention (mentioned above);
- Appendix IV of the HABITAT Directive (Directive 92/43/CEE) “Fauna and flora species of Communitarian interest that require a strict protection”;
- Appendix II “List of endangered or threatened species” of the Barcelona Convention (Barcelona, 10<sup>th</sup> of June 1995).

The general protection of wild species in Spain is regulated by the Natural Areas Conservation Law 4/1989, 12<sup>th</sup> of March. In its article 26.4 it states that it is prohibited to intentionally kill, damage, or disturb wild animals, specially those included in any of the categories listed in the “Endangered Species Catalogue”. It also prohibits the “in vivo” capture of any of these species and the possession, trade or commerce of the individuals (alive or dead) or its parts. The non observance of this law is typified as offence against fauna in article n°334 of the Penal Code.

The European Community, in its Regulation (CE) n°1626/94, 27<sup>th</sup> of June, established some technical measures in order to promote the conservation of the fishing resources in the Mediterranean sea. In this article 2.2 it specifically prohibits the use of pneumatical hammers or other percussion methods to collect *litophags*. The capture of *L. lithophaga* using any of these methods is typified as offence against fauna in the article n°336 of the Penal Code.

Additional laws that specifically prohibit the fishing of this specie are:

- Law 9/1998, 15<sup>th</sup> of December, on Sea Fishing in the Valencia Community (BOE n°18, of 21/1/1999);
- Enactment 109/1995, 24<sup>th</sup> of March, on the Regulation of Recreational Sea Fishing in Catalonia (DOGC n° 2040, 21<sup>st</sup> of April 1995);
- Order of 26<sup>th</sup> of February 1999 of the Ministry for Agriculture, Fishing and Food.

The non-complying of these legislation implies a grave non observance of the Law 14/1998, 1<sup>st</sup> of June, which establishes the regime of control of the fishing resources.

Paradoxically, the Ministry for Agriculture, Fishing and Food advertised in year 2000 *L. lithophaga* production areas, expressly authorised in the Autonomic Communities of Catalonia and Balearic Islands (BOE n° 125, 26<sup>th</sup> of May 1999), without mentioning the strict prohibition of its fishing and trade, and likewise, without mention of the few cases where there could be an exception to this prohibition according to environment legislation.

### III. Discussion of the issue by the Standing Committee

The issue was discussed at the 20<sup>th</sup> meeting of the Standing Committee, in December 2000.

At the meeting the representative of Spain informed the Committee that her government was taking this matter seriously. Although the species is protected through the legal adaptation of the Bern Convention and the Habitats Directive, the Ministry of Agriculture and Fisheries had authorised its capture. This was to be corrected soon. Actually the exploitation was very limited both in geographical extent (Balearic Islands) and the numbers collected. Traditional methods were used for collection. The main problem was widespread human consumption of imported specimens (from Morocco). As the species was also protected by the Barcelona Convention, Spain was considering a possible proposal for listing in CITES. Spain did not object to the opening of a file, which it was hoped would be solved in conformity with the obligations under the Convention.

The Committee decided to open a file.

On February 2001, the Secretariat was informed that, by Order of 19 January 2001, the Ministry of Agriculture and Fisheries adopted an order defining exploitation areas for the species, while, at the same time, recognising that the species is strictly protected by the Habitats Directive. As the terms of such order were far from clear, the Secretariat wrote on 6 April 2001 to the government of Spain asking for clarification.

By letter of 24 April the Spanish government informed the Secretariat that a new “order” of 6 March 2001 had definitely excluded *Lithophaga lithophaga* from the list of species in the Balearic Islands for which “production areas” were designed. This implied the prohibition of their exploitation on the territory of Spain.

The Bureau examined the file and concluded that Spain had fulfilled its obligation concerning the exploitation of the species, but that trade and consumption of the species were still possible in Spain and other states, mainly through the importation of specimens from Morocco. As Morocco had recently signed the Convention, the Bureau found important that the species may be also protected from exploitation and trade in that state.

The Bureau requested the Secretariat to prepare a draft recommendation on this species, to be examined at the 21<sup>st</sup> meeting of the Committee (see appendix 1 of this document).



## Appendix 1

### Convention on the Conservation of European Wildlife and Natural Habitats

#### Standing Committee

#### **Draft Recommendation No. ... (2001) of the Standing Committee (adopted on 30 November 2001) on the conservation of *Lithophaga lithophaga***

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, acting under Article 14 of the convention,

Having regard to the aims of the convention, which are to conserve wild flora and fauna and their natural habitats;

Recalling that Article 1, paragraph 2, of the convention requires Parties to give particular emphasis to the conservation of endangered and vulnerable species;

Noting that the Mediterranean populations of *Lithophaga lithophaga* are threatened by unregulated exploitation and trade;

Desirous to avoid a further loss of biological diversity in Europe;

Recalling that *Lithophaga lithophaga* was listed in Appendix II of the convention so as to protect it from exploitation;

Recalling that exploitation of *Lithophaga lithophaga* usually requires very intensive extraction methods, including hammers and pneumatic drills, which results in habitat degradation;

Recalling that Article 6 of the convention prohibits, for species listed in Appendix II:

- all forms of deliberate capture and keeping;
- the deliberate damage to or destruction of breeding sites;
- the possession of and internal trade in these animals, [...] where this would contribute to the provisions of this article,

Recommends concerned Contracting Parties:

1. to adapt as a matter of urgency their legislation so as to prohibit the exploitation of the species;
2. to stop any trade in *Lithophaga lithophaga*, as well as keeping for sale, transport for sale or offering for sale of the species.