



Strasbourg, 12 February 2025

T-PVS/Inf(2025)04

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

## **Working Group on exploring mechanisms to guide amendments to the appendices of the Bern Convention**

**Existing criteria and procedures for amending lists of  
features in other Conventions and Multilateral  
Environmental Agreements**

To inform the discussions of the Working Group on exploring mechanisms to guide amendments to the appendices of the Bern Convention, a mapping of existing criteria and procedures for amending lists of features in other Conventions and Multilateral Environmental Agreements has been prepared.

➤ **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

CITES is a multilateral treaty to protect endangered plants and animals from the threats of international trade. CITES has a protected species list. There are three categories which are reflected in the appendices of the agreement.

Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilisation incompatible with their survival.

The Conference of the Parties (CoP), which is the supreme decision-making body of the Convention and comprises all its Parties, has agreed in [Resolution Conf. 9.24 \(Rev. CoP17\)](#) on a set of biological and trade criteria to help determine whether a species should be included in Appendices I or II. At each regular meeting of the CoP, Parties submit proposals based on those criteria to amend these two Appendices. Those amendment proposals are discussed and then submitted to a vote. The Convention also allows for amendments by a postal procedure between meetings of the CoP (see Article XV, paragraph 2, of the Convention), but this procedure is rarely used.

Appendix III contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade. Changes to Appendix III follow a distinct procedure from changes to Appendices I and II, as each Party's is entitled to make unilateral amendments to it.

Plants/Animals Committee

- [Committees made up of individual regional representatives](#)
- [No thematic councillors](#)
- [Tasks assigned by COP](#)

➤ **The Convention on Migratory Species of Wild Animals (CMS)**

The CMS has a protected species list for migratory species, which is divided into two categories.

Appendix I lists migratory species which are endangered. A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered. A migratory species may be removed from Appendix I when the Conference of the Parties determines that: a) reliable evidence, including the best scientific evidence available, indicates that the species is no longer endangered, and b) the species is not likely to become endangered again because of loss of protection due to its removal from Appendix I.

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 co-operation that could be achieved by an international agreement. If the circumstances so warrant, a migratory species may be listed both in Appendix I and Appendix II.

Appendices I and II may be amended at any ordinary or extraordinary meeting of the Conference of the Parties. Amendments consist of migratory species or their populations being added to or removed from the Appendices. Proposals for amendment may be made by any Contracting Party.

**Commented [A1]:** Evidence-based mechanisms?

**Commented [A2]:** Its not just the criteria that we are interested in, but also the scientific bodies under these MEAs as they provide the scientific scrutiny of papers, often including listing proposals. It might be helpful to create two tables, one outlining the different listing proposal criteria across the MEAs so we can see the commonalities and differences, and another outlining the structure/role/processes related to the scientific bodies under the different MEAs

**Commented [A3]:** It would be useful to set out the process under Bern first

**Commented [A4]:** CITES also very political due to the fact it concerns trade, perhaps not a good example to follow. Proposals to list/de-list do not go through a science/technical committee - straight to COP with a vote. Similar issues to Bern.

**Commented [A5R4]:** Lots of review by scientific bodies ahead of COP

The text of any proposed amendment and the reasons for it, based on the best scientific evidence available, shall be communicated to the Secretariat at least one hundred and fifty days before the meeting and shall promptly be communicated by the Secretariat to all Parties. Any comments on the text by the Parties shall be communicated to the Secretariat not less than sixty days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Parties all comments submitted by that day. Amendments shall be adopted by a two-thirds majority of Parties present and voting. The Conference of the Parties decides whether to accept or reject a proposal, taking into account the advice of the CMS Scientific Council. [Resolution 11.33](#) provides guidelines for assessing proposals for the amendment of the Appendices.

Proposals for amendment of the Appendices have to be compiled according to a standard format. The format for proposals can be downloaded on [this site](#). In addition, the site shows the final version of all proposals submitted to meetings of the Conference of the Parties since COP1.

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 for those Parties that make a reservation. During the period of ninety days before the entry into force of an amendment, any Party may by notification in writing to the Depositary make a reservation with respect to the amendment. A reservation to an amendment may be withdrawn by written notification to the Depositary (the Foreign Ministry of the German Federal Republic) and thereupon the amendment shall enter into force for that Party ninety days after the reservation is withdrawn.

#### Scientific Council

- [Each Party is entitled to appoint a qualified expert as a member of the Scientific Council \(Party-appointed Councillors\)](#)
- [The Council notably makes recommendations to the Conference of the Parties on such issues as research on migratory species, specific conservation and management measures in relation to threats to migratory species, the inclusion of migratory species in the Appendices and designation of species for Concerted Actions under the Convention.](#)

#### Sessional Committee

- [for each intersessional period between two consecutive meetings of the Conference of the Parties, a representative selection of the membership of the Scientific Council, known as the Sessional Committee of the Scientific Council, is elected, composed of:](#)
  - (a) [nine COP-appointed Councillors with expertise in taxonomic and thematic](#)
  - (b) [fifteen Party-appointed Councillors selected from within the Standing Committee's geographic regions, three from each of the regions: Africa, Asia, Europe, Oceania and South and Central America and the Caribbean.](#)
- [The Sessional Committee is primarily responsible for the implementation of the mandate assigned to the Scientific Council by the Conference of the Parties for the intersessional period. All outputs of the Sessional Committee are considered outputs of the Scientific Council.](#)

#### ➤ **The Convention on Biological Diversity (CBD)**

The CBD is a multilateral treaty that focuses on the conservation of biological diversity, sustainable use of its components, and fair sharing of benefits from genetic resources. The CBD does not have its own protected species list. Instead, the CBD provides a framework for biodiversity conservation and sustainable use, while leaving the specific implementation to individual countries and other international organizations.

The CBD encourages its member countries to develop their own National Biodiversity Strategies and Action Plans (NBSAPs) to implement the Convention's objectives at the national level. More information on the NBSAPs can be found [here](#). Parties to the CBD are required by [Article 26](#) of the

**Commented [A6]:** No mention of SBSTA (Subsidiary Body for Scientific and Technological Advice). Understanding the governance/role of SBSTA more useful to include?

Convention to submit national reports to the Conference of the Parties on measures taken for the implementation of the Convention and their effectiveness in meeting the objectives of the Convention.

For identifying areas of importance for biodiversity conservation, the CBD does provide some general ecological criteria, which include:

1. Presence of threatened or declining species
2. Areas with vulnerable or fragile habitats
3. Breeding grounds or juvenile areas for important species
4. Feeding or rest areas and migratory routes for significant species
5. Areas of genetic diversity

It's important to note that while the CBD provides these general guidelines, it relies on other international bodies and scientific expertise for more specific criteria related to species protection. For example, the IUCN Red List of Threatened Species is widely recognized and used in conjunction with CBD objectives to assess species' conservation status.

Data from The IUCN Red List are used to calculate the Red List Index (RLI), which is one of the biodiversity indicators used by the CBD to monitor progress towards achieving the [Kunming-Montreal Global Biodiversity Framework](#) (GBF) targets for 2030.

#### ➤ [The EU Birds and Habitats Directives](#)

#### ➤ [Convention for the Protection of the Marine Environment of the North-East Atlantic \(OSPAR\)](#)

The OSPAR Convention aims to protect the marine environment of the North-East Atlantic. Under Annex V of the Convention, OSPAR developed a Strategy on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area. The OSPAR Commission developed a set of criteria to assess which species and habitats need to be protected, called the [Texel/Faial Criteria](#). The purpose of the [OSPAR List of Threatened and/or declining species and habitats \(Agreement 2008-06\)](#) (the OSPAR List) is to guide the OSPAR Commission in setting priorities for its further work on the conservation and protection of marine biodiversity in implementing Annex V to the OSPAR Convention. The species and habitats on the OSPAR list are also presented [here](#).

The OSPAR List is subject to further development and modification. Species and habitats will be added to or removed from the list, in the light of changes to their conservation status and to the threats they face and in the light of the latest scientific assessments. [Guidelines for the revision of the OSPAR list of threatened and/or declining species and habitats and associated documents \(Agreement 2019-04\)](#) outlines the procedural steps to be undertaken when modifying the OSPAR List.

#### ➤ [International Convention for the Regulation of Whaling \(ICRW\)](#)

The Convention established an international whaling commission. The International Whaling Commission has a list over all the whale species and their populations' status (i.e. how endangered they are). The IWC's population status assessment process is science-based, using data-driven population estimates and, when possible, a computer-modelling approach. These assessments represent the [Scientific Committee's](#) best judgments about the status of whale stocks and provide a unique, detailed view of status. The process of amendment is laid out in Article 5 of the [Convention](#).

Article 5:

**Commented [A7]:** This is not an MEA so is not relevant and this should be deleted.

**Commented [A8]:** Key to mention that OSPAR runs uses consensus decision-making

**Commented [A9]:** A similar approach would be useful to Bern and we suggest this is summarised.

**Commented [A10]:** An overview of this process would be helpful to understand if its largely led by evidence/science.

**Commented [A11]:** More detail needed on the Scientific Committee and their role/structure.

The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilisation of whale resources, fixing (a) protected and unprotected species; (b) open and closed seasons; (c) open and closed waters, including the designation of sanctuary areas; (d) size limits for each species; (e) time, methods, and intensity of whaling (including the maximum catch of whales to be taken in any one season); (f) types and specifications of gear and apparatus and appliances which may be used; (g) methods of measurement; and (h) catch returns and other statistical and biological records.

These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilisation of the whale resources; (b) shall be based on scientific findings.

In practice, amendments to the Schedule are almost always agreed at the Commission's biennial meetings.

- ~~The International Union for Conservation of Nature (IUCN) Red List of Threatened Species (IUCN Red List)~~
- **Agreement on the Conservation of African-Eurasian Waterbirds (AEWA)**

The Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) is an intergovernmental treaty dedicated to the conservation of migratory waterbirds and their habitats across Africa, Europe, the Middle East, Central Asia, Greenland and the Canadian Archipelago. Developed under the framework of the Convention on Migratory Species (CMS) and administered by the United Nations Environment Programme (UNEP), AEWA brings together countries and the wider international conservation community in an effort to establish coordinated conservation and management of migratory waterbirds throughout their entire migratory range.

AEWA covers 255 species of birds ecologically dependent on wetlands (the list can be found [here](#)) for at least part of their annual cycle. Parties have the right to propose amendments to the Agreement text or any Annex to the Agreement. Annex 2 is where the list of species lies. The process of amendment follows from the [Agreement text](#), and is outlined below. Article 5 is of particular importance for the amendment of the annexes.

#### Amendment of the Agreement

1. This Agreement may be amended at any ordinary or extraordinary session of the Meeting of the Parties.
2. Proposals for amendment may be made by any Party.
3. The text of any proposed amendment and the reasons for it shall be communicated to the Agreement secretariat not less than one hundred and fifty days before the opening of the session. The Agreement secretariat shall transmit copies forthwith to the Parties. Any comments on the text by the Parties shall be communicated to the Agreement secretariat not less than sixty days before the opening of the session. The Secretariat shall, as soon as possible after the last day for submission of comments, communicate to the Parties all comments submitted by that day.
4. An amendment to the Agreement other than an amendment to its annexes shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for those Parties which have accepted it on the thirtieth day after the date on which two thirds of the Parties to the Agreement at the date of the adoption of the amendment have deposited their instruments of acceptance of the amendment with the Depositary. For each Party which deposits an instrument of acceptance after the date on which two thirds of the Parties have deposited their instruments of acceptance, the amendment shall enter into force on the thirtieth day after the date on which it deposits its instrument of acceptance.

**Commented [A12]:** We do not think it is useful to include IUCN as it is not an MEA. MEA's use it as an authoritative evidence source.

**Commented [A13]:** Would be helpful to mention the role of AEWA technical committee. AEWA also has a conservation status review every 6 years which is largely the basis for listing proposals - it would be helpful to explain how this works. Data quality can still be an issue.

**Commented [A14R13]:** AEWA also uses flyway/population level data (more biologically relevant for conservation management than global population data).

5. Any additional annexes and **any amendment to an annex** shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for all Parties on the ninetieth day after the date of its adoption by the Meeting of the Parties, except for Parties which have entered a reservation in accordance with paragraph 6 of this Article.

6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may by written notification to the Depositary enter a reservation with respect to an additional annex or an amendment to an annex. Such reservation may be withdrawn at any time by written notification to the Depositary, and thereupon the additional annex or the amendment shall enter into force for that Party on the thirtieth day after the date of withdrawal of the reservation.

#### Ramsar

- Doesn't have species listings, but does have range assessments
- Science and technical review panel composed of subject and range experts (18 people from Range States and respected organisations)
- Inter-organisational partners provide additional scrutiny and evidence.

#### Raptors MOU

- While not legally binding has technical advisory group (TAG)

#### Eurobats

- Has advisory committee

**Commented [A15]:** We suggest inclusion of Ramsar, Raptors MOU, Eurobats.