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**T-PVS (97) 2 revised**  
Or. Eng.

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Criteria for listing species in Appendices I and II  
of the Convention -  
Draft recommendation**

Secretariat Memorandum  
prepared by the  
Directorate of Environment  
and Local Authorities

## **Introduction**

At its last meeting in December 1996, the Standing Committee of the Bern Convention considered the criteria for listing species in Appendices I and II of the Convention (strictly protected species). The Secretariat presented a paper (T-PVS (96) 49) and, after discussion, the Committee asked the Secretariat to prepare a first draft listing criteria that might be used to guide future amendments.

Article 17 states that any amendment of the appendices has to be proposed by a Contracting Party (or the Committee of Ministers of the Council of Europe), notified to Contracting Parties, signatory states and states invited to adhere. Any amendment proposed is examined by the Standing Committee, which may adopt it by a two-thirds majority of Contracting Parties. The text of the amendment is forwarded to Contracting Parties and enters into force three months later for Parties that have not notified objections (unless one-third of the Parties notify objections).

As Article 17 limits in no way the amendments of appendices that Contracting Parties may make, the Secretariat has preferred to list criteria for amendments in the form of a recommendation of the Standing Committee to the Parties. A more legally binding initiative from the Standing Committee in this respect is probably unnecessary.

Convention on the Conservation  
of European Wildlife and Natural Habitats

Standing Committee

**Draft Recommendation No. .. of the Standing Committee,  
to be examined on 5 December 1997, concerning criteria to be taken  
into account while [amending] /[making proposals for amendment of]  
Appendices I and II of the Convention**

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

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

Recalling points 68 to 79 of the explanatory report concerning the convention, which record the agreements reached on the criteria to list species in Appendices I and II when the convention was negotiated;

Conscious that Appendices I and II as adopted in 1979 were the result of a compromise among different states and that the species listed then were not all that would merit strict protection under the convention but only those that were then generally acceptable;

Recalling, however, that much progress has been made in this respect by the successive amendments adopted between 1986 and 1996;

[Noting that decisions on previous amendments of appendices of the convention may have been greatly facilitated by the use of agreed criteria;]{**deletion suggested**}

[Desirous of facilitating further amendment of the appendices in a more coherent manner;]{**deletion suggested**}

*Desirous of facilitating the identification of the elements of wild flora and fauna which form the natural heritage of aesthetic, scientific cultural, recreational, economic or intrinsic value which it is convenient to preserve and transmit to future generations, as the Convention obliges;{**addition suggested**}*

Recommends Contracting Parties to take into account the following criteria while amending Appendices I and II of the convention:

1. Threat. Account will be taken of the category of threat, the vulnerability of the species to changes in its habitat, its particular link with a threatened habitat, the trends and variations in population level and its vulnerability to [a possible] commercial exploitation. **{addition suggested}** Account will be taken, in particular of whether the species is declining in the central area of its distribution, or it is only threatened in the border of its range.

2. Ecological role. Account will be taken of the ecological role of the species, such as their

position or role in the food chain (*i.e.* raptors, insectivorous species such as bats), their structural role in [threatened]{**deletion suggested**} ecosystems (*i.e.* corals, heathlands) or the fact that endangered species or endangered ecosystems may be highly dependent on them (*i.e.* marine phanerogams like *Posidonia oceanica*)[*or risk to become threatened by their exploitation*] {**addition suggested**} (like the mollusc *Lithophaga lithophaga*).

3. Symbolic or cultural role. Account will be taken of species which are not necessarily threatened in Europe but which have a symbolic, cultural or education value in nature conservation and of the intrinsic value of biodiversity (*i.e.* the stag beetle *Lucanus cervus*, the otter *Lutra lutra*, the sea-horse *Hippocampus hippocampus* or the Polar bear *Thalarctos maritimus*).

**{addition suggested}**

[4. Complementarity of International agreements Account will be taken that the legal tools of the Bern Convention may add complementary protection to European species which are listed in the annexes of other appropriate Conventions, of regional or global character.]

Contracting Parties are further recommended to:

- confine, as a general rule, the flora and fauna proposed for listing in the appendices to the taxonomic level of the species, excluding mention of subspecies, varieties or other taxonomic subordinate levels, except in cases with very good conservation reasons that must be clearly stated;
- exclude species of dubious or uncertain taxonomy and higher plant groups demonstrating reproductive anomalies;
- [• exclude non-threatened species which appear only sporadically or very marginally in the territory of the convention;]

**{alternative suggested}**

- *exclude species which are common in their normal distribution range or are not covered by other international agreements and that appear only exceptionally in the territory of the convention;*
- present a sufficiently informative data sheet with each species they may propose for amendment of the appendices.

*[Not a part of the draft recommendation]*

## APPENDIX 1

### EXPLANATORY REPORT (1979)

#### D. Appendices

68. The lists in the appendices include only those indigenous species on which general agreement could be obtained. Rather than attempting to reach agreement on *all* those species that merit strict protection under this convention it seemed preferable at this stage to confine recommendations to generally acceptable species, thereby facilitating accession to the convention, which could thus come into force without undue delay. The lists could be developed further by the Standing Committee, where there would be the opportunity for states to deepen their mutual understanding by working closely together and thus accelerate the effective working of the convention.

69. It was decided for practical reasons to confine the flora and fauna listed in Appendices I, II and III to the taxonomic level of the species, excluding mention of sub-species, varieties and other taxonomic subordinate levels (one exception being made in Appendix II, see paragraph 78), and essentially those species occurring on the territories of the states that had elaborated this convention.

70. It was agreed that the Standing Committee should extend the appendices to other groups of flora and fauna (for example invertebrate and fish species) at a later date.

71. The lists of species in Appendices II and III were, with some exceptions, based on the following authorities:

*Mammals:*

*A field guide to the mammals of Britain and Europe*, by F.H. van den Brink, Collins, London, 3rd edition, 1973.

*Birds:*

*Guide des oiseaux d'Europe*, by Peterson, Mountfort, Hollom, Géroudet, Delachaux and Niestlé, Neuchâtel, 6th edition, 1972.

*Amphibians and reptiles:*

*A field guide to the reptiles and amphibians of Britain and Europe*, by E.N. Arnold and J.A. Burton, Collins, London, 1978.

72. Several marine mammal species listed in Appendices II or III are subject to international agreements, the compatibility of which with the provisions in this convention has been provided for in Article 12.<sup>1</sup>

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<sup>1</sup> Appendix II: *Thalassarcos maritimus*, *Sibbaldus musculus*, *Megaptera novaeangliae*, *Eubalaena glacialis*, *Balaena mysticetus*.

Appendix III: *Pagophilus groenlandicus*, *Erignathus barbatus*, *Cystophora cristata*

All whales covered by the International Whaling Convention.

### *Appendix I*

#### *Strictly protected flora species*

73. In accordance with Article 5, flora species appearing in Appendix I are to be specially protected. Exceptions from this provision may only be made under the strict conditions set out in Article 9.

74. Appendix I is based on the list of species endangered in the region covered by the Council of Europe, established, at the request of the *ad hoc* committee, by IUCN's Threatened Plants Committee.

### *Appendix II*

#### *Strictly protected fauna species*

75. In accordance with Article 6, fauna species appearing in Appendix II are to be specially protected. Exceptions to this provision may only be made under the strict conditions set out in Article 9.

76. In establishing Appendix II, account was taken of the lists of mammals, birds, amphibians and reptiles threatened in Europe drawn up by the European Committee for the Conservation of Nature and Natural Resources and subject to various resolutions adopted by the Committee of Ministers of the Council of Europe.<sup>2</sup>

77. It was decided to include in Appendix II all European bats (Chiroptera) with the exception of *Pipistrellus pipistrellus*.

78. It was agreed to include in Appendix II one sub-species: *Rupicapra rupicapra ornata*.

79. Following the request of the 2nd Ministerial Conference to make particular reference to migratory birds, nearly all European migratory song-birds (Passeriformes) have been included in Appendix II, regardless of their conservation status.

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<sup>2</sup> Resolution (77) 7 on the protection of threatened mammals in Europe.  
Resolution (73) 31 on birds in need of special protection in Europe.  
Resolution (78) 22 on threatened amphibians and reptiles in Europe.