EUROPEAN COMMISSION

Brussels, 7.2.2012
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2012/0021 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be adopted on behalf of the European Union with regard to the proposals for amending Annexes II and III to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean at the seventeenth meeting of the Contracting Parties

EXPLANATORY MEMORANDUM

(1) The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) aims to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that area so as to contribute towards its sustainable development. It is an intergovernmental treaty adopted as a Regional Seas Programme under the aegis of the United Nations Environment Programme. Since 1977 the European Union has been a Party to the Barcelona Convention[1] and in 1999 it concluded the Protocol concerning specially protected areas and biological diversity in the Mediterranean and the annexes thereto (Protocol)[2].

(2) The meeting of the Contracting Parties is the decision-making body of the Convention with powers to adopt, review and amend as required the annexes to the Convention or to its protocols, on the basis of amendments proposed by Contracting Parties. A number of proposals have been made to amend Annexes II and III to the Protocol. These proposals were submitted for evaluation to the meeting of the National Focal Points held in Marseille (France) from 17 to 20 May 2011, with a view to being adopted at the seventeenth meeting of the Contracting Parties to the Barcelona Convention and its Protocols, which will take place in Paris, France, from 8 to 10 February, 2012.

(3) In accordance with Article 17 of the Convention and Article 14(1) of the Protocol, an amendment to the annexes to the Protocol will become effective for all Contracting Parties to the Protocol on the expiry of a period determined by the Contracting Parties concerned when adopting the amendment, except for those Contracting Parties which have opted out by notifying the Depositary. It is therefore necessary for the Council to take a decision based on Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) for the purpose of establishing the positions to be adopted on behalf of the Union at the seventeenth meeting of the Contracting Parties. The Convention Secretariat has tabled a proposal to upgrade ten shark species from Annex III to Annex II during its focal point meeting in 2011, in Marseille (France). From these ten species, two (*Galeorinus galeus* and *Isurus oxirhincus*) should remain within annex III, as ICCAT will review their stock status during its next annual meeting. Moreover, the remaining two skate species (*Leucoraja circularis* and *L. melitensis*) should also be kept in Annex III but would deserve special attention. Measures should be taken to collect more data on skates in order to have accurate scientific advice in view of a revision of their possible upgrade to Annex II at a later stage.

(4) The proposals for amendments would not require any change in Union law. They do not conflict with the Birds[3] and the Habitats[4] Directives or the Common Fisheries

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1 Council Decision 77/585/EEC of 25 July 1977 concluding the Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, OJ L 240, 19.9.1977, p. 1.

2 Council Decision 1999/800/EC of 22 October 1999 on concluding the Protocol concerning specially protected areas and biological diversity in the Mediterranean, and on accepting the annexes to that Protocol (Barcelona Convention), OJ L 322, 14.12.1999, p. 1.

3 Council Directive 2009/147/EC of 30 Nov 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, p. 7-25.

Policy (CFP)[5]. The Union should support these proposals on the basis of the following considerations: (1) they are scientifically sound; (2) for reasons of consistency between its internal and external action; and (3) the EU is committed to international cooperation for the protection of biodiversity, in accordance with Article 5 of the UN Convention on Biological Diversity, the agreements made during the last CBD Conference of the Parties in Nagoya, 2010, and the target agreed at the World Summit on Sustainable Development "to significantly reduce the current rate of biodiversity loss by 2010".

In view of the above, at the seventeenth meeting of the Contracting Parties to the Barcelona Convention, the Union should support the adoption of the amendment to the annexes.

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4 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.

5 Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L 358, 31.12.2002, p. 59.

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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 European Commission[6],

Whereas:

(1) The EU is a Contracting Party to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean[7] (hereinafter referred to as 'the Barcelona Convention') and a Party to the Protocol concerning specially protected areas and biological diversity in the Mediterranean and the annexes thereto[8] (hereinafter referred to as 'the Protocol').

(2) The meeting of the Contracting Parties is the decision-making body of the Convention, and the powers conferred upon it include the capacity to amend as required the annexes to the Convention and to its protocols. In accordance with Article 17 of the Barcelona Convention and Article 14(1) of the Protocol, an amendment to the Annexes of the Protocol shall become effective for all Contracting Parties to the Protocol on expiry of a period determined by the respective Contracting Parties when adopting the amendment, except for those that have notified in writing the Depositary that they are unable to approve the amendment.

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6 OJ C […], […], p. […].

7 Council Decision 77/585/EEC of 25 July 1977 concluding the Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, OJ L 240, 19.9.1977, p. 1.

8 Council Decision 1999/800/EC of 22 October 1999 on concluding the Protocol concerning specially protected areas and biological diversity in the Mediterranean, and on accepting the annexes to that Protocol (Barcelona Convention), OJ L 322, 14.12.1999, p. 1.

(3) For the seventeenth meeting of the Contracting Parties to the Barcelona Convention and its Protocols, which will take place in Paris (France) from 8 to 10 February 2012, The Secretariat of the Convention has presented proposals to provide greater protection to several additional species by amending Annexes II and III to the Protocol.

(4) The proposals for amendments would not require any change in Union law.

(5) The EU should support some of these proposals because they are scientifically sound, consistent with Union legislation and with the Union's commitment to international cooperation for the protection of biodiversity, and are in accordance with both Article 5 of the UN Convention on Biological Diversity[9] and the target agreed at the Convention on Biological Diversity in 2010 to significantly reduce the current rate of biodiversity loss by 2020,

HAS ADOPTED THIS DECISION:

Article 1

At the seventeenth meeting of the Contracting Parties to the Barcelona Convention and its Protocols, the European Commission shall present the following position of the European Union at the voting on the proposals for giving protection to several species by upgrading them from Annexes III to Annex II to the Protocol.

The European Commission shall support the addition of the following species to Annex II to the Protocol and their respective deletion from Annex III:

(a) *Lamna nasus (*Bonnaterre*, 1788)*;

*(b) Rhinobatos cemiculus (*Saint-Hilaire, *1817);*

*(c) Rhinobatos rhinobatos (*Linnaeus, *1758);*

(d) *Sphyrna lewini* (Griffith & Smith, 1834);

(e) *Sphyrna mokarran* (Rüppell, 1837);

(f) *Sphyrna zygaena* (Linnaeus, 1758).

[9] 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.

Article 2

This Decision shall enter into force on [....].

Done at Brussels, 7.2.2012

For the Council
The President
[...]