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European Union

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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the submission, on behalf of the European Union,  
of a proposal for amending Annexes 2 and 3 to the Agreement on the  
Conservation of African-Eurasian Migratory Waterbirds

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**COUNCIL DECISION (EU) 2018/...**

**of ...**

**on the submission, on behalf of the European Union,  
of a proposal for amending Annexes 2 and 3  
to the Agreement on the Conservation  
of African-Eurasian Migratory Waterbirds**

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) The Agreement on the Conservation of African-Eurasian Migratory Waterbirds ('the Agreement') was concluded by the Union by Council Decision 2006/871/EC<sup>1</sup> and entered into force on 1 October 2005. The Agreement aims to conserve migratory waterbirds and their habitats across Africa, Europe, the Middle East, Central Asia, Greenland and the Canadian Archipelago.
- (2) As a Party to the Agreement, the Union may make proposals for amendment of the Annexes to the Agreement. Annex 2 includes the waterbird species to which the Agreement applies. Annex 3 includes the Action Plan, which specifies actions which the Parties have to undertake in relation to priority species, such as species conservation, habitat conservation, management of human activities, research and monitoring, education and information, and implementation, consistent with the general conservation measures specified in Article III of the Agreement.
- (3) Croatia and Italy have proposed that the Union submit a proposal for amending Annex 2 to the Agreement by adding the Shag (*Phalacrocorax aristotelis*).

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<sup>1</sup> Council Decision 2006/871/EC of 18 July 2005 on the conclusion on behalf of the European Community of the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (OJ L 345, 8.12.2006, p. 24).

- (4) Croatia and Italy have also proposed that the Union submit a proposal for amending Annex 3 to the Agreement by listing the non-EU (Barents Sea) population of *Phalacrocorax aristotelis aristotelis* and the EU population (East Mediterranean – Croatia, Adriatic Sea) of *Phalacrocorax aristotelis desmarestii* in Column A of Table 1 of that Annex in categories 2 and 1c, respectively.
- (5) Luxemburg has proposed to move all populations of the following three species to Column A of Table 1 of Annex 3 to the Agreement: Curlew Sandpiper (*Calidris ferruginea*), Atlantic Puffin (*Fratercula arctica*) and Razorbill (*Alca torda*). While Luxemburg has not proposed any specific category for these three species, according to the criteria established in Table 1 of Annex 3 to the Agreement, the Curlew Sandpiper (*Calidris ferruginea*) and the Razorbill (*Alca torda*) qualify for category 4 and the Atlantic Puffin (*Fratercula arctica*) qualifies for category 1b.

- (6) The amendments to Annexes 2 and 3 proposed by Croatia, Italy and Luxembourg would make all populations of the Shag (*Phalacrocorax aristotelis*), Curlew Sandpiper (*Calidris ferruginea*), Atlantic Puffin (*Fratercula arctica*) and Razorbill (*Alca torda*) subject to the requirement of Section 2.1.1 of Annex 3 to the Agreement, which establishes the species conservation legal measures applicable to populations of species listed in Column A of Table 1 of Annex 3. In particular, for populations listed in Column A of Table 1, the Parties to the Agreement are to prohibit the taking of birds and eggs of those populations occurring in their territory and prohibit deliberate disturbance in so far as such disturbance would be significant for the conservation of the population concerned. By way of exception for those populations listed in Categories 2 and 3 in Column A and which are marked by an asterisk, and those populations listed in Category 4 in Column A, hunting may continue on a sustainable use basis. This sustainable use is to be conducted within the framework of an international species action plan through which Parties will endeavour to implement the principles of adaptive harvest management.
- (7) The Italo-Croatian and the Luxemburgish proposals are well-founded. They are compatible with and complementary to Union law, in particular Directive 2009/147/EC<sup>1</sup>.
- (8) The proposals are science-based, in line with the Union's commitment to international cooperation for the protection of biodiversity.

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<sup>1</sup> 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 of 26.1.2010. p. 7).

- (9) The species are already covered by Directive 2009/147/EC and the Shag (*Phalacrocorax aristotelis*) is also listed in Annex I to that Directive. Therefore, the proposed amendments would not require any change in Union law.
- (10) The Union should therefore submit those proposals to the Secretariat of the Agreement on the Conservation of African-Eurasian Migratory Waterbirds, in view of the seventh Meeting of the Parties, which will take place on 4 to 8 December 2018 in South Africa,

HAS ADOPTED THIS DECISION:

### *Article 1*

1. The Union shall submit the following proposals for amending Annexes 2 and 3 to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds:
  - (a) adding the Shag (*Phalacrocorax aristotelis*) to Annex 2 of the Agreement;
  - (b) listing the non-EU (Barents Sea) population of *Phalacrocorax aristotelis aristotelis* and the EU population (East Mediterranean – Croatia, Adriatic Sea) of *Phalacrocorax aristotelis desmarestii* in Column A of Table 1 of Annex 3, in categories 2 and 1c, respectively;
  - (c) moving all populations of the Curlew Sandpiper (*Calidris ferruginea*), Atlantic Puffin (*Fratercula arctica*) and Razorbill (*Alca torda*) to Column A of Table 1 of Annex 3 to the Agreement, in categories 4, 1b, and 4, respectively.
2. The Commission shall communicate the proposal on behalf of the Union to the Secretariat of the Agreement on the Conservation of African-Eurasian Migratory Waterbirds.

*Article 2*

This Decision is addressed to the Commission.

Done at ...,

*For the Council*

*The President*

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