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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Council Decision on the position to be taken on behalf of the European Union on submitting proposals for amendment of Appendices II and III of the Convention on the Conservation of European wildlife and natural habitats with a view to the meeting of the Standing Committee of the Convention - Guidance for further work

I. INTRODUCTION

1. On 20 December 2023, the Commission transmitted to the Council a proposal for a Council Decision on the position to be taken on behalf of the European Union on submitting proposals for amendment of Appendices II and III of the Convention on the Conservation of European wildlife and natural habitats with a view to the meeting of the Standing Committee of the Convention.¹
2. The Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) aims to conserve European wild flora and fauna and their natural habitats. It requires Parties to adopt appropriate legislative and administrative measures to conserve the wild fauna species listed in Appendix II (Strictly protected fauna species) and to ensure that the exploitation of wild fauna specified in Appendix III (Protected fauna species) is regulated in order to keep the species populations out of danger. The wolf is currently listed under Appendix II.

¹ ST 17071/23 - COM(2023) 799 final.

3. The Standing Committee is the decision-making body of the Bern Convention, with powers to assess the conservation status of species and review their listing in the Appendices. The standing Committee meets annually. The 44th meeting of the Standing Committee will take place in December 2024, in the week starting on 2 December. Final dates are still to be confirmed. Proposals for amendments to the Appendices to the Convention can be submitted by any party two months before the starting date of the Standing Committee meeting. Amendments are adopted by a two-thirds majority of the Contracting Parties.
4. The EU has been a Party to the Convention since 1 September 1982. All 27 Member States are also Parties. As a contracting Party of the Bern Convention, the EU may table proposals for amendments to the Appendixes of the Bern Convention, such as the current proposal to move the wolf from Appendix II (Strictly protected) to Appendix III (Protected).

II. CONTEXT WITHIN THE EU

5. The Birds² and Habitats³ Directives implement the Bern Convention in the EU. Together, they form the cornerstones of EU biodiversity policy. Their aim is to ensure that the covered species and habitat types are maintained, or restored, to a favourable conservation status. In addition to halting the further decline or disappearance of these species and habitats, the Directives also aim to allow them to recover and thrive over the long-term.
6. The wolf is currently listed under the Habitats Directive Annex IV “Animal and Plant Species in need of Strict Protection”. The system of strict protection prohibits deliberate killing, capture or disturbance of species in the wild, as well as the deterioration or destruction of their breeding sites or resting places.

² 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, 26.1.2010, p. 7).

³ 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)

7. However, Article 16 of the Habitats Directive allows for derogations to this system of strict protection, under certain conditions, notably, in order to prevent serious damage to crops, livestock, forests, fisheries and water and other types of property, and in the interest of public health and public safety, or for any other imperative reasons of overriding public interest, including those of a social or economic nature.
8. The EU provides financial aid to farmers, livestock breeders and other rural actors for the promotion of coexistence measures, including livestock guarding dogs, fencing and shepherding. Such measures are funded through the EU LIFE programme, the European Regional Development Fund and the EU Common Agricultural Policy (CAP), especially the European Agricultural Fund for Rural Development (EAFRD). Compensation for damages caused by large carnivores is paid through state aid.
9. The change to the level of protection of the wolf from Appendix II (Strictly protected) to Appendix III (Protected) under the Bern Convention would not be immediately applicable in the EU. A proposal from the Commission to amend the Habitats Directive, under the ordinary legislative procedure, would be necessary to change the listing of the wolf from Annex IV (Strict protection) to Annex V (management measures).

III. STATE OF PLAY OF THE NEGOTIATIONS

10. The wider issue of European large carnivores was addressed at the Agriculture and Fisheries Council held on 23 January 2024⁴ and at the Environment Council held on 25 March 2024,⁵ under “Any Other Business”, at the request of several delegations.
11. The Working Party on International Environment Issues (WPIEI), in its Biodiversity sub-formation, examined the Commission’s proposal at its meetings on 20 February 2024 and on 4 April 2024. To guide discussions, the Presidency prepared a Steering Note highlighting the main issues related to the proposal and Member States were invited to submit comments.⁶

⁴ ST 5478/24.

⁵ ST 7717/24.

⁶ WK 3545/2024 + ADDs 1-4.

12. During the examination of the proposal, it came to light that a specific, operational methodology to help Member States better define and quantify the Favourable Reference Values (both for range and for population) for the species of wolf, brown bear, European lynx and golden jackal, is being developed at the request of the Commission and will be made available to Member States in December 2024.
13. It has also been pointed out that, under Article 17 of the Habitats Directive, Member States are required to report to the Commission every 6 years, following updated agreed formats, on the conservation status and trends of the habitats and species targeted by the directive. The conservation status and trends are assessed by national authorities based on monitoring data on the population (size, trends and structure), range (area and trend), available habitat (quantity, trend and quality) and future prospects (pressures and threats). The next reports from the Member States, covering the status and trends in 2019-2024, will be sent to the Commission by July 2025 and the Report of the Commission on the State of Nature in the EU is expected to be published in 2026.
14. Discussions at technical level have also demonstrated that while some Member States support the Commission's proposal others have raised serious concerns regarding the process leading to the Commission's adoption of its proposal as well as to its timing and substance.

IV. CONCLUSION

15. In light of the ongoing work and related timelines outlined above, the Permanent Representatives Committee is invited to provide guidance on the way forward.