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Proposal for a

COUNCIL DECISION

establishing the position to be adopted on the European Union's behalf with regard to certain proposals submitted to the 17th meeting of the Conference of the Parties (CoP 17) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Johannesburg, South Africa, 24 September – 5 October 2016

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The 17th meeting of the Conference of the Parties (CoP 17) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will be held in Johannesburg, South Africa, 24 September – 5 October 2016. The aim of CITES is to ensure that international trade in wild animals and plants is not a threat to the survival of the species in the wild. CITES regulates international trade in more than 35 000 plants and animals species which are or might become threatened by such trade. The CITES CoP is the governing body of the Convention, which usually meets every three years.

At CoP 17, CITES Parties will discuss and decide on proposals for (i) amendments to the Appendices I and II of the Convention and (ii) for the interpretation and implementation of the Convention. Many items on the agenda of CoP17 are the result of the intersessional work initiated at previous CoPs and carried out by CITES Animals, Plants and Standing Committees. Other agenda items have been included by CITES Parties. A number of proposals relating to CITES Resolutions and Decisions, as well as proposals to amend the Appendices to the CITES Convention were submitted on 26 April 2016 by the EU and its Member States to the CITES Secretariat for inclusion on the agenda of CITES CoP17. In total, the agenda of the CITES CoP17 includes 180 agenda items.

The Union became contracting Party to the Convention in July 2015. The Convention is implemented in the European Union through Council Regulation (EC) No 338/97¹ on the protection of species of wild fauna and flora by regulating trade therein and associated Commission Regulations. In view of Union competence on trade and environment matters and of the effects of decisions taken by the Conference of the Parties on the implementation of Council Regulation (EC) No 338/97, it is necessary to adopt a Union position on proposals submitted to the Conference.

The present document sets out the Commission's proposal for an EU position on items on the agenda of the CoP. This proposal is in line with the EU's ambitious policy for biodiversity protection, for the promotion of sustainable trade and against wildlife trafficking, as reflected notably in the EU biodiversity strategy, the EU "Trade for all" strategy, the EU Common Fisheries Policy, the EU Action Plans against wildlife trafficking and for the conservation and management of sharks and taking account of the EU-funded study "Larger than Elephants. Input for an EU strategic Approach to a wildlife conservation in Africa".

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

The procedural legal basis for the proposed Council Decision is Article 218(9) TFEU, which is the appropriate basis for an act defining the EU position in a "body set up by an international agreement" (such as the CITES CoP), when that body is called upon to adopt acts having legal effects.

The substantive legal bases are Article 207, Article 192 of the TFEU, paragraph 1, given that the measures agreed under the CITES Convention, while pursuing an environmental objective, are to a large extent of a trade-related nature.

¹ OJ L 61, 3.3.1997, p. 1.

3. RESULTS OF STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

The Commission is in regular contact with stakeholders having an interest in matters covered by the CITES Convention, such as environmental NGOs, business sectors engaged in trade in wildlife products and hunting organisations. On 23 May 2016, the Commission services held a specific consultation meeting with interested stakeholders to get their views on the issues under discussion for CITES CoP17. On 24 May 2016, the Commission services held an informal meeting with experts from the Member States to discuss the issues to be debated at the Conference of the Parties. The input provided by stakeholders and by experts from Member States has been duly taken into consideration by the Commission when developing the proposed Council Decision.

Other experts' views, such as the analysis by the CITES Secretariat and by IUCN and Traffic of all proposals submitted to CITES CoP 17, as well as from the FAO Expert Advisory Panel for assessment of CITES species listing amendment proposals could not be taken into consideration as they were not available on time for the Commission's proposal, but should be fully considered when the proposal is discussed with Member States in the Council.

Changes to the Appendices of the CITES Convention need to be reflected in the EU acquis, through corresponding changes to Council Regulation (EC) No 338/97. This will result in the establishment or removal of restrictions to trade from, into and within the EU for the species concerned by these changes. The volume and value of EU-related trade which might be affected by the proposals to amend the CITES Appendices made at CITES CoP17 are limited, so that the socio-economic and administrative costs of their implementation will be modest.

4. BUDGETARY IMPLICATIONS

As a Party, the EU has to provide an annual contribution to the CITES Trust Fund. This contribution will evolve depending on the conclusions of the discussions at CITES CoP17 on the budget for the period 2017-2019. The annual contribution by the EU for 2016 amounted to 140 000 EUR which was covered within existing envelopes.

5. OTHER ELEMENTS

A large number of documents for CITES CoP17 were not available in sufficient time for the Commission to propose a Union position at the present time (in particular the working documents – see Annex II(1) of the present document). The Commission therefore proposes that the position on these issues be established during the discussions in the Council Working group based on the Commission assessment, or during CoP 17 in accordance with Article 2 of the draft Council Decision for documents which are only available during the CoP meeting.

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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 207, Article 192, paragraph 1, in conjunction with Article 218, paragraph 9,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union is a Party to CITES and CITES provisions are implemented in the Union by Council Regulation (EC) No 338/97 of 9 December 1996².
- (2) CoP 17 will decide on a large number of agenda items many of which will affect the Union legislation concerned, including in some cases requiring amendments thereto,

HAS ADOPTED THIS DECISION:

Article 1

The position of the Union shall be in accordance with the Annexes to this Decision.

Article 2

Where the position referred to in Article 1 is likely to be affected by new scientific or technical information presented after the adoption of this decision and before or during CoP 17 or where new proposals are made at that meeting on which there is not yet a Union position, the Union position shall be established by means of on the spot co-ordination before the Conference of Parties is called to decide on those proposals. In such cases, the Union position shall be consistent with the principles laid down in Annex I to this Decision.

Article 3

This Decision shall enter into force on the date of its adoption

Done at Brussels,

*For the Council
The President*

² OJ L 61, 3.3.1997, p. 1.