



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

32nd meeting
Strasbourg, 27-30 November 2012

**REQUEST FOR REVISION
OF ARTICLE 22
OF THE BERN CONVENTION
BY SWITZERLAND**

*Document prepared by
the Directorate of Democratic Governance, Culture and Diversity*

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On 16 November 2011, Switzerland sent to the Secretariat a proposal to amend Article 22 of the Convention. Pursuant to Article 16, paragraph 2 of the Convention the text of the amendment is submitted to the Standing Committee.

The Standing Committee is invited to examine the amendment and decide on its possible adoption.

**REQUEST OF AMENDMENT OF ARTICLE 22 OF THE BERN CONVENTION
BY SWITZERLAND**

In a letter addressed to the Secretary General on 16 November 2011 (full text in appendix 1), the Swiss government requests an amendment to article 22 of the Convention, so as to enable any State to enter reservations regarding certain species specified in Appendices I to III after having signed the Convention or deposited its instrument of ratification, acceptance, approval or accession.

The amendment would add to article 22.a par. "1.bis" as follows:

“Any State may, if the circumstances have radically changed in its territory since the entry into force of this Convention, make one or more reservations regarding certain species specified in Appendices I to III.”

Following the procedure settled down in Article 16 of the Convention, the Secretary General forwarded (on 9 January 2012) the request of amendment to all member States of the Council of Europe, to any signatory to the Convention, to any Contracting Party, to any State invited to sign the Convention and to any State invited to accede.

The Committee is invited to examine the amendment of Switzerland and decide on its possible adoption.

In case of adoption by the Committee by a three-quarter majority of the votes least, the amendment will be submitted to the Committee of Ministers for approval. After its approval by the Committee of Ministers, the amendment shall be forwarded to the Contracting Parties for acceptance. The amendment shall enter into force on the thirtieth day after all the Contracting Parties informed the Secretary General that they have accepted it.

In case of non-adoption by the Standing Committee, Switzerland will be informed by the Secretary General accordingly.

Relevant articles of the Convention are presented in appendix 2 and relevant part of the Explanatory report in appendix 3.

Appendix 1 – Letter addressed to the Secretary General by the Swiss government

TRANSLATION (*)

Appendix to the letter JJ1/2012
dated 9 January 2012

Swiss Confederation

The Federal Council

Mr Thorbjørn JAGLAND
Secretary General of the Council of Europe
Avenue de l'Europe
T – 67075 Strasbourg Cedex
France

Bern, 16 November 2011

Request for revision of Article 22 of the Bern Convention

Dear Mr Secretary General,

On behalf of the Swiss Federal Council, we hereby request you to amend Article 22 of the Convention of 19 September 1979 on the Conservation of European Wildlife and Natural Habitats (Bern Convention).

This amendment is to enable any Contracting Party to enter certain reservations concerning the undertaking initially made in the context of the Bern Convention, even after having signed the Convention or deposited its instruments of ratification, acceptance, approval or accession.

Request

The Swiss Federal Council requests that Article 22 of the Bern Convention be amended as follows:

- "1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations regarding certain species specified in Appendices I to III and/or, for certain species mentioned in the reservation or reservations, regarding certain means or methods of killing, capture and other exploitation listed in Appendix IV. No reservations of a general nature may be made.
- 1^{bis}. In addition to paragraph 1, any State may, if the circumstances have radically changed in its territory since the entry into force of this Convention, make one or more reservations regarding certain species specified in Appendices I to III.
2. Any Contracting Party which extends the application of this Convention to a territory mentioned in the declaration referred to in paragraph 2 of Article 21 may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraphs.
3. No other reservation may be made.
4. Any Contracting Party which has made a reservation under paragraphs 1, 1^{bis} and 2 of this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect as from the date of receipt of the notification by the Secretary General."

We kindly request you to set in motion the procedure prescribed in Article 16 of the Bern Convention.

Please accept, Mr Secretary General, the assurance of our high consideration.

(signed) Micheline Calmy-Rey
President of the Confederation

(signed) Corina Casanova
Chancellor of the Confederation

(*) Letter registered at the Secretariat General on 25 November 2011 – Or. Fr.

Appendix 2

RELEVANT ARTICLES OF THE CONVENTION

Chapter VII – Amendments

Article 16

1. Any amendment to the articles of this Convention proposed by a Contracting Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to any signatory, to any Contracting Party, to any State invited to sign this Convention in accordance with the provisions of Article 19 and to any State invited to accede to it in accordance with the provisions of Article 20.
2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee which:
 - a. for amendments to Articles 1 to 12, shall submit the text adopted by a three-quarters majority of the votes cast to the Contracting Parties for acceptance;
 - b. for amendments to Articles 13 to 24, shall submit the text adopted by a three-quarters majority of the votes cast to the Committee of Ministers for approval. After its approval, this text shall be forwarded to the Contracting Parties for acceptance.
3. Any amendment shall enter into force on the thirtieth day after all the Contracting Parties have informed the Secretary General that they have accepted it.
4. The provisions of paragraphs 1, 2.a and 3 of this article shall apply to the adoption of new appendices to this Convention.

Chapter IX - Final provisions

[...]

Article 22

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations regarding certain species specified in Appendices I to III and/or, for certain species mentioned in the reservation or reservations, regarding certain means or methods of killing, capture and other exploitation listed in Appendix IV. No reservations of a general nature may be made.
- 2 Any Contracting Party which extends the application of this Convention to a territory mentioned in the declaration referred to in paragraph 2 of Article 21 may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraph.
- 3 No other reservation may be made.
- 4 Any Contracting Party which has made a reservation under paragraphs 1 and 2 of this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect as from the date of receipt of the notification by the Secretary General.

Appendix 3

**EXPLANATORY REPORT: ARTICLE 16 OF THE CONVENTION ON THE CONSERVATION OF
EUROPEAN WILDLIFE AND NATURAL HABITATS
(ETS No. 104)**

Article 16

56. Amendments to the Articles of the Convention may be proposed by Contracting Parties or the Committee of Ministers. They are communicated to all member States of the Council of Europe, to any signatory to this Convention, to any Contracting Party, to any State invited to sign the Convention in accordance with the provisions of Article 19 and to any State invited to accede in accordance with the provisions of Article 20.

57. A distinction is being made in the Convention between amendments to the substantive provisions, which are of a technical nature and which must be adopted by the Standing Committee only, and amendments to the operational provisions which, because of their political and financial implications, require approval of the Committee of Ministers. In both cases, the final acceptance lies with the Contracting Parties, who must decide unanimously.

58. Additional appendices may be proposed by Contracting Parties or by the Committee of Ministers. Their adoption and entry into force are subject to the procedure laid down for amendments to substantive provisions.

Article 22

67. Reservations may be made for species in Appendices I to III and prohibited means and methods of killing, capture and other forms of exploitation in Appendix IV. The prohibition of reservations of a general nature would automatically exclude the possibility for a Contracting Party to reduce its commitments to a level where the convention would not affect it any more.