

## **Manual of European Environmental Policy**

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# Biodiversity: International conventions and cooperation

There are a number of important international conventions and other instruments that have driven or significantly influenced the development of EU legislation and policies on biodiversity. These are briefly outlined below.

## Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)

Place of signature	Bern
Date of signature	19.09.1979
Date of entry into force	01.06.1982
Secretariat	Council of Europe
Website	<a href="http://conventions.coe.int/Treaty/en/Treaties/Html/104.htm">http://conventions.coe.int/Treaty/en/Treaties/Html/104.htm</a>
Date of Council Decision on conclusion	03.12.1981
Date of entry into force for EC	01.09.1982
Reference of Council Decision	<a href="#">82/72/EEC</a>
Decision approving amendments to Appendices II and III	<a href="#">98/746/EC</a>

The Convention – drawn up by the Council of Europe in 1979 – seeks to conserve wild flora and fauna in their natural habitats, particularly endangered species, especially when conservation requires the cooperation of several states. The Convention entered into force in 1982. The EC and all its Member States are contracting parties.

The [Birds](#) and [Habitats](#) Directives are the Community's principal instruments for implementing the Convention.

## Convention on the Conservation of Migratory Species of Wild Animals (CMS)

Place of signature	Bonn
Date of signature	23.06.1979
Date of entry into force	01.11.1983
Secretariat	UNEP, CMS Secretariat
Website	<a href="http://www.cms.int/">http://www.cms.int/</a>
Date of Council Decision on conclusion	24.06.1982
Date of entry into force for EC	01.11.1983
Reference of Council Decision	<a href="#">82/461/EEC</a>
Reference of Decision on approval of amendments to Appendices I and II	<a href="#">98/145/EC</a>

## Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA)

Place of signature	The Hague
Date of signature	16.06.1995
Date of entry into force	01.11.1999
Secretariat	UNEP, AEWA Secretariat
Website	<a href="http://www.unep-aewa.org/">http://www.unep-aewa.org/</a>
Date of Council Decision on conclusion	18.07.2005
Date of entry into force for EC	01.10.2005
Reference of Council Decision	<a href="#">2006/871/EC</a>

The underlying principle of the CMS is that States should take concerted action to ensure appropriate conservation and management of threatened populations of migratory species that occur within their borders (that is when they are Range States). The Convention entered into force in 1983. Pursuant to Article XI of the Convention, an amendment added 21 threatened migratory species to Appendix I and 22 species to Appendix II.

Article IV of the Convention provides for the conclusion, between Range States, of special international Agreements for the protection of particular migratory species which have an unfavourable conservation status and are listed in Appendix II. Seven Agreements have been concluded to date under the auspices of CMS, of which six are relevant to the EU and relate to bats,

seals, cetaceans, albatrosses and petrels and African-Eurasian migratory water birds. A number of Memoranda of Understanding and action plans have also been developed under the auspices of the CMS; those of relevance to the EU relating to the Aquatic Warbler (*Acrocephalus paludicola*), Great Bustard (*Otis tarda*), migratory raptors of Africa-Eurasia, Mediterranean Monk Seal (*Monachus monachus*), Slender-billed Curlew (*Numenius tenuirostris*) and sharks.

The EC became a party to AEWa in 2005 and it has signed (but not ratified) the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS). It is not a party or signatory to any of the other CMS implementing Agreements or Memoranda of Understanding, but many EU Members States are.

## Convention on Biological Diversity (CBD)

Place of signature	Rio de Janeiro
Date of signature	05.06.1992
Date of entry into force	29.12.1993
Secretariat	UNEP, CBD Secretariat
Website	<a href="http://www.biodiv.org">http://www.biodiv.org</a>
Date of Council Decision on conclusion	25.10.1993
Date of entry into force for EC	21.03.1994
Reference of Council Decision	<a href="#">93/626/EEC</a>

## Cartagena Protocol on Biosafety (Cartagena Protocol)

Place of signature	Montreal
Date of signature	29.01.2000
Date of entry into force	11.09.2003
Date of Council Decision on conclusion	25.06.2002
Date of entry into force for EC	11.09.2003
Reference of Council Decision	<a href="#">2002/628/EC</a>

The Convention was signed by the EC and the Member States at the UN Conference on Environment and Development held in Rio de Janeiro in June 1992.

The objectives are the conservation of biological diversity, the sustainable use of its components and the equitable sharing of the benefits arising out of the use of genetic resources. Access to genetic resources, appropriate transfer of technology and funding are covered. Each party is to develop national strategies for the conservation of biological diversity and must integrate them into other policies. To this end, in 1998 the Commission produced a Communication setting out an EU

strategy ([COM\(98\)42](#)). In 2001, this was followed by a Commission Communication containing Biodiversity Action Plans for fisheries, agriculture, economic cooperation and development and conservation of natural resources. In May 2006 the European Commission adopted a Communication on ‘Halting Biodiversity Loss by 2010 – and Beyond: Sustaining ecosystem services for human well-being’ ([COM\(2006\)216](#)) which was accompanied by a detailed EU Biodiversity Action Plan (BAP), see the Section on an overview of [EU biodiversity policies](#) for detailed discussion.

A report on EC implementation of the so-called ‘Bonn Guidelines’ on access to genetic resources and benefit-sharing under the Convention was published by the Commission in 2003 ([COM\(2003\)821](#)).

Attempts to agree a Protocol covering the transboundary movement of living modified organisms (LMOs) that may have an adverse effect on biological diversity finally succeeded in January 2000 with the Cartagena Protocol. The Protocol introduces a system of prior informed consent – so-called Advanced Informed Agreement – for trade in LMOs to be released into the environment. It requires labelling of LMOs imported for use as seed or in field trials; those for use in food or feed only need to state that they ‘may contain’ LMOs. A country can block imports of LMOs on the basis of the precautionary principle, that is if it has reason to believe that threats to health and the environment could occur, even in the absence of scientific proof. The Protocol was opened for signature in May 2000, when it was signed by the EC and its Member States, and came into force on 11 September 2003. Although the Protocol was actually signed in Montreal, it is named after Cartagena, Colombia, where it was originally intended to be adopted and opened for signature.

The EC concluded the Protocol in June 2002, after the Commission had sought an advisory opinion from the European Court of Justice on the appropriate legal basis for the Council Decision authorizing the Community to become a party. It had appeared at the time of signing the Protocol that this question would be a matter of disagreement between the Commission and Council. While the Commission’s proposal was based on Articles 133 EC and 174(4) EC (now Articles 207 and 191 TFEU), the Council had adopted its Decision authorizing signature on the basis of Article 175(1) EC (now Article 192 TFEU) alone, and the Commission feared it would do the same with its Decision on conclusion. In the Commission’s view, removal of Article 133 EC from the legal basis for this Decision would have undermined the exclusive external competence of the Community with regard to the common commercial policy. In its opinion, issued on 6 December 2001, the Court however found ‘that the Protocol is an instrument falling principally within environmental policy, even if the preventive measures are liable to affect trade relating to LMOs’ and that therefore Article 175(1) EC was the appropriate legal basis for conclusion of the Protocol by the Community (Opinion 2/00 of 6 December 2001). Regulation (EC) [No 1946/2003](#) on transboundary movements of genetically modified organisms implements the provisions of the Protocol in EC law.

## Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)

Place of signature	Canberra
Date of signature	20.05.1980
Date of entry into force	07.04.1982
Secretariat	CCAMLR Secretariat
Website	<a href="http://www.ccamlr.org/">http://www.ccamlr.org/</a>
Date of Council Decision on conclusion	21.04.1982
Date of entry into force in EC	21.05.1982
Reference of Council Decision	<a href="#">81/691/EEC</a>

The Convention was signed in May 1980, and entered into force in 1982. It seeks to control the harvesting of marine living resources in the Antarctic, particularly krill, with a view to protecting associated ecosystems. The Council adopted Regulation (EEC) No [3943/90](#) to apply the system of observation and inspection established in 1989 under Article XXIV of the Convention.

## Agreement on International Dolphin Conservation Program (AIDCP)

Place of signature	Washington DC
Date of signature	21.05.1998
Date of entry into force	15.02.1999
Secretariat	Inter-American Tropical Tuna Commission (IATTC)
Website	<a href="http://www.iattc.org/IDCPENG.htm">http://www.iattc.org/IDCPENG.htm</a>
Date of Council Decision on approval	08.12.2005
Date of entry into force for EC	22.12.2005
Reference of Council Decision	<a href="#">2005/938/EC</a>

A 1998 intergovernmental meeting, organized under the auspices of the Inter-American Tropical Tuna Commission (IATTC), drew up the Agreement on an International Dolphin Conservation Program which aims to reduce dolphin mortality in the purse-seine tuna fishery in the Eastern Pacific Ocean. The initiative was initially triggered by a US embargo on imports, particularly from Mexico and other Latin American countries, of tuna fished in a way that causes high levels of dolphin mortality. This embargo was successfully challenged by Mexico and the EC under the GATT. With the ratification by four states, the AIDCP entered into force as a legally binding agreement. The EC signed the agreement and has applied it provisionally since 1 June 1999 pursuant to Council Decision [1999/386/EC](#). The accession of Spain to IATTC in June 2003

effectively secured the participation of the EC, which formally became a contracting party in December 2005.

## **International Treaty on Plant Genetic Resources for Food and Agriculture**

Place of signature	Rome
Date of opening for signature	03.11.2001
Date of entry into force	29.06.2004
Secretariat	FAO
Website	<a href="http://www.fao.org/ag/cgrfa/itpgr.htm">http://www.fao.org/ag/cgrfa/itpgr.htm</a>
Date of Council Decision on conclusion	24.02.2004
Date of entry into force for EC	29.06.2004
Reference of Council Decision	<a href="#">2004/869/EC</a>

The stated objective of the Treaty is the conservation and sustainable use of plant genetic resources for food and agriculture, and the fair and equitable sharing of benefits arising out of their use. The Treaty is to complement the CBD (see above), which does not apply to agricultural crops.

The core provisions on access and benefit sharing apply to a list of 64 crops, including rice, wheat, oats, rye, banana and apple. The genetic resources of these crops are to be pooled into a 'Multilateral System' (MLS) to support access and benefit sharing for research, breeding and training purposes. Implementation of the benefit sharing provisions will require separate negotiations.

The Treaty was approved in November 2001 in Rome. It is the result of seven years of negotiations. It follows the voluntary International Understanding on Plant Genetic Resources for Food and Agriculture agreed in 1981. For the Treaty to enter into force, at least 40 countries had to ratify it. On 31 March 2004, the EC ratified the Treaty, and in so doing made it possible for the Treaty to enter into force on 29 June 2004.

## FAO International Plant Protection Convention (as revised 1997)

Place of adoption	Rome
Date of adoption	18.11.1997
Date of entry into force	02.10.2005
Secretariat	FAO, IPPC Secretariat
Website	<a href="https://www.ippc.int">https://www.ippc.int</a>
Date of Council Decision on accession	19.07.2004
Date of entry into force for EC	02.10.2005
Reference of Council Decision	<a href="#">2004/597/EC</a>

The purpose of this Convention is to secure common and effective action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control. The Convention extends to the protection of natural flora and plant products and serves as an instrument for the protection of biodiversity against invasive alien species. It also includes both direct and indirect damage by pests, thus including weeds. Implementation of the Convention is overseen by the Interim Commission on Phytosanitary Measures. The Convention was initially agreed in 1951 (entering into force in 1952), but was revised in 1979 and in 1997.

## 1994 International Tropical Timber Agreement (ITTA)

Place of signature	Geneva
Date of signature	26.01.1994
Date of entry into force	01.01.1997
Secretariat	International Tropical Timber Organization (ITTO)
Website	<a href="http://www.itto.or.jp">http://www.itto.or.jp</a>
Date of Council Decision on conclusion	29.03.1996
Date of entry into force in EC	01.01.1997
Reference of Council Decision	<a href="#">96/493/EC</a>

## 2006 International Tropical Timber Agreement (ITTA)

Place of adoption	Geneva
Date of adoption	27.01.2006
Date of entry into force	Not yet in force

The original International Tropical Timber Agreement (ITTA), drawn up under the aegis of UNCTAD (United Nations Conference on Trade and Development), entered into force in 1985 and over 40 countries, and the EC, are parties to it. The aim was to establish a system of consultation and cooperation between consuming and producing countries in the world timber market. Though the ITTA originated primarily as an economic and trade agreement, sustainable utilization and conservation of forest resources are among the Agreement's objectives.

A successor Agreement was negotiated in 1994 and entered into force in 1997. The new agreement continues to focus on the world tropical timber economy, as well as containing broader provisions for information sharing, including non-tropical timber trade data. The 1994 Agreement was to remain in force for a four year period but this period has since been extended by a decision of the International Tropical Timber Council.

On 27 January 2006 the negotiating conference established under the aegis of UNCTAD approved the text of the ITTA, 2006. The ITTA 1994, as extended, will remain in force until the entry into force of the 2006 Agreement.

## **Convention on International Trade in Endangered Species (CITES)**

Place of signature	Washington DC
Date of signature	03.03.1973
Date of entry into force	01.07.1975
Secretariat	UNEP, CITES Secretariat
Website	<a href="http://www.cites.org">http://www.cites.org</a>
Regulation on implementation of the Convention in the Community	Regulation (EC) No <a href="#">338/97</a>

The Community is not a party, but all its Member States are, and the provisions of the Convention were transposed into Community law with the adoption of Regulation (EEC) No 3626/82, which was subsequently replaced by Regulation (EC) No 338/97 [Trade in endangered species]. Harmonized implementation of the Convention through a Regulation was essential because of its link with international trade and the EC's exclusive competence for trade policy. An amendment to the Convention was adopted in 1983 to allow the Community to accede. However, this amendment has still to be ratified by the requisite 54 parties before it will enter into force.