



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.12.1997
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Proposal for a

COUNCIL DECISION

**concerning the signing and conclusion of an
International Agreement in the form of Agreed Minute between the European
Community and the United States of America on humane trapping standards**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Article 3 of Council Regulation (EEC) No 3254/91 prohibits the introduction into the Community of pelts and manufactured goods of certain wild animal species unless the country where the pelts originate has prohibited the use of leghold traps or uses methods that meet internationally agreed humane trapping standards.
2. In June 1996 the Council authorized the Commission to negotiate a framework agreement on humane trapping standards with Canada, the United States, the Russian Federation and any other country interested.
3. These negotiations took place and resulted in the approval by the Council, on 22 July 1997, of an agreement on humane trapping standards with Canada and the Russian Federation. At the same occasion the Council called upon the Commission to intensify its efforts to reach an agreement with the United States of America, that is equivalent to the Agreement with Canada and the Russian Federation.
4. Pursuant to the additional specific guidelines given by the Council, the Commission conducted intensive negotiations with the United States of America since July in close consultations with the Council. As a result, an agreed text was approved by the Commission and initialed by the Community and the United States of America on 3 December 1997. The initialed text is fully consistent with the above mentioned negotiating directives and additional guidelines of the Council, notably with regard to its equivalence with the Agreement with Canada and the Russian Federation.
5. The Agreement's objectives are to establish humane trapping standards for traps designed to kill or capture certain species of wild animals (and in particular those covered by Regulation No 3254/91), to improve communication and cooperation between the Parties for the application and further development of the standards, and to facilitate trade between Parties.
6. Its approval by the Parties will bring trapping methods, in the Community and in the United States of America, up to a level adequate for the welfare of trapped animals and create favourable and stable conditions for trade between the Parties in traps and pelts.

Proposal for a Council Decision concerning the signing and conclusion of an International Agreement in the form of Agreed Minute between the European Community and the United States of America on humane trapping standards

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 113 and 100a in conjunction with the first part of Article 228 (3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the Council's decision of June 1996 authorizing the Commission to negotiate an agreement on humane trapping standards with Canada, the Russian Federation, the United States and any other country interested.

Having regard to the Council's decision of July 1997 approving the Agreement on humane trapping standards with Canada and the Russian Federation and calling upon the Commission to intensify its efforts to reach an agreement with the United States of America that is equivalent to the Agreement with Canada and the Russian Federation.

Whereas Council Regulation (EEC) No 3254/91,¹ and in particular the second indent of Article 3 (1) thereof, refers to internationally agreed humane trapping standards with which trapping methods used by third countries that have not prohibited leghold traps must conform in order for those countries to be able to export pelts and products manufactured from certain species to the Community;

Whereas the Agreement's main purpose is to lay down harmonized technical standards offering a sufficient level of protection to the welfare of trapped animals and governing both the production and use of traps, and to facilitate trade between the Parties in traps, pelts and products manufactured from species covered by the Agreement;

Whereas implementation of the Agreement requires the establishment of a timetable of testing and certifying the conformity of traps with the standards laid down and for the replacement of uncertified traps;

Whereas the Agreement in the form of an Agreed Minute annexed to this Decision is consistent with the negotiating directives referred to above; whereas it therefore satisfies the concept of internationally agreed humane trapping standards referred to in the second indent of Article 3(1) of Regulation (EEC) No 3254/91.

¹ OJ No L 308, 9.11.1991, p.1.

Whereas the Agreement between the European Community and the United States of America on humane trapping standards should be approved.

HAS DECIDED AS FOLLOWS :

Article 1

The Agreement in the form of an Agreed Minute between the European Community and the United States of America on humane trapping standards is hereby approved.

The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorized to appoint the person authorized to sign the Agreement.

Done at Brussels.

For the Council

The President

AGREED MINUTE

1. In the course of the negotiations of the Agreement described in paragraph 8 below to develop a common framework for describing and evaluating progress toward the use of more humane traps and trapping methods, the Representatives of the European Commission and of the United States of America acknowledge that the following Understanding has been reached.
2. The United States of America and the European Community consider that the Standards annexed to this Understanding provide such a common framework and a basis for co-operation on the further development and implementation by their respective competent authorities of the Standards.
3. Underscoring that it does not by its endorsement intend to alter the distribution of authority within the United States for regulation of the use of traps and trapping methods, the United States of America endorses the annexed Standards as providing such a common framework, for implementation by its competent authorities, for the humane trapping of specified terrestrial or semi-aquatic mammals.
4. The United States of America and the European Community intend to encourage and support research, development, monitoring and training programs by their respective authorities that promote the use and application of traps and trapping methods for the humane treatment of such mammals. They both recognise the need to re-evaluate and update the Standards annexed to this Understanding as new technical and scientific information and data become available based on such programs.
5. The United States of America and the European Community further intend to encourage their competent authorities to monitor and report on progress toward implementation of the Standards annexed to this Understanding.
6. The United States of America and the European Community recognise that nothing in this Understanding affects their rights and obligations under the Marrakech Agreement establishing the World Trade Organisation.
7. The European Community and the United States of America state their intention to consult with each other, at the request of either of them, on any matter concerning this Understanding or the annexed Standards with a view to finding a mutually acceptable solution.
8. Wherever the term "the Agreement" is used in the annexed standards, it is understood to mean the Agreement on Humane Trapping Standards between Canada, the European Community, and the Russian Federation.

Done at Brussels this day of 1997, in duplicate, in the English language.

For the United States of America: For the European Commission:

Annex: Standards for the Humane Trapping of Specified Terrestrial and Semi-aquatic Mammals

**STANDARDS FOR THE HUMANE
TRAPPING OF SPECIFIED TERRESTRIAL
AND SEMI-AQUATIC MAMMALS**

PART I : THE STANDARDS

1. AIMS, PRINCIPLES AND GENERAL CONSIDERATIONS OF THE STANDARDS

1.1. AIMS

The aim of the Standards is to ensure a sufficient level of welfare of trapped animals, and to further improve this welfare.

1.2. PRINCIPLES

1.2.1. In the evaluation of whether or not a trapping method is humane, the welfare of a trapped animal must be assessed.

1.2.2. The principle for deciding that a trapping method is humane is that it meets the threshold requirements set out in sections 2 and 3.

1.2.3. It is assumed in setting the Standards that traps should be selective, efficient and in compliance with the relevant requirements for human safety of each Party.

1.3. GENERAL CONSIDERATIONS

1.3.1. Welfare of animals is indicated by measures of the extent of ease or difficulty in their coping with the environment and the extent of failure to cope with their environment. Since animals vary in the methods that they use to try to cope with their environment, a range of measures should be used when assessing their welfare.

Indicators of welfare of trapped animals include those of physiology, injury and behaviour. Since some of these indicators have not been studied for a variety of species, further scientific studies will be necessary to set thresholds under these Standards, as appropriate.

Although welfare can vary widely, the term "humane" is used only for those trapping methods where the welfare of the animals concerned is maintained at a sufficient level, although it is acknowledged that in certain situations with killing traps there will be a short period of time during which the level of welfare may be poor.

1.3.2. The thresholds established in the Standards for the certification of traps include:

- a) for restraining traps: the level of indicators beyond which the welfare of trapped animals is considered poor; and
- b) for killing traps: the time to unconsciousness and insensibility and the maintenance of this state until death of the animal.

1.3.3. Notwithstanding that the trapping methods must meet the requirements of sections 2.4 and 3.4, consideration should be given to continuing the improvement of the design and setting of traps, in particular to:

- a) improving the welfare of animals trapped in restraining traps during the period of restraint;
- b) producing rapid onset of unconsciousness and insensibility of animals trapped in killing traps; and
- c) minimizing the capture of non-target animals.

2. REQUIREMENTS FOR RESTRAINING TRAPPING METHODS

2.1. DEFINITION

"Restraining Trapping Methods" means traps designed and set with the intention of not killing the trapped animal, but restraining its movements to such an extent that a human can make direct contact with it.

2.2. PARAMETERS

2.2.1. In the evaluation of whether or not a restraining trapping method meets these Standards the welfare of an animal that is trapped must be assessed.

2.2.2. The parameters must include indicators of behaviour and injury listed in paragraphs 2.3.1 and 2.3.2.

2.2.3. The magnitude of responses for each of those parameters must be assessed.

2.3. INDICATORS

2.3.1. Behavioral indicators recognized as an indicator of poor welfare in trapped wild animals are:

- a) self-directed biting leading to severe injury (self-mutilation); or
- b) excessive immobility and unresponsiveness.

2.3.2. Injuries recognized as indicators of poor welfare in trapped wild animals are:

- a) fracture;
- b) joint luxation proximal to the carpus or tarsus;
- c) severance of a tendon or ligament;
- d) major periosteal abrasion;
- e) severe external haemorrhage or haemorrhage into an internal cavity;
- f) major skeletal muscle degeneration;

- g) limb ischemia;
- h) fracture of a permanent tooth exposing pulp cavity;
- i) ocular damage including corneal laceration;
- j) spinal cord injury;
- k) severe internal organ damage;
- l) myocardial degeneration;
- m) amputation; or
- n) death.

2.4. THRESHOLDS

A restraining trapping method would meet the Standards if:

- a) the number of specimens of the same target species from which the data are derived is at least 20; and
- b) at least 80 per cent of these animals show none of the indicators listed in paragraphs 2.3.1 and 2.3.2.

3. REQUIREMENTS FOR KILLING TRAPPING METHODS

3.1. DEFINITION

"Killing Trapping Methods" means traps designed and set with the intention of killing a trapped animal of the target species.

3.2. PARAMETERS

3.2.1. The time of occurrence of unconsciousness and insensibility produced by the killing technique must be determined and the maintenance of this state until death must be checked (i.e., until heart function has ceased irreversibly).

3.2.2. Unconsciousness and insensibility must be monitored by checking corneal and palpebral reflexes or any other scientifically proven suitable substitute parameter.²

² In cases where further tests are necessary to determine if the trapping method meets the standards, additional electro-encephalogram (EEG), visual evoked response (VER) and sound evoked response (SER) measurements may be made.

3.3. INDICATORS AND TIME LIMITS

Time limit to loss of corneal and palpebral reflexes	Species
45 seconds	<i>Mustela erminea</i>
120 seconds	<i>Martes americana</i> <i>Martes zibellina</i> <i>Martes martes</i>
300 seconds ³	all other species set out in paragraph 4.1

³ The Committee will evaluate the time limit at the three-year review referred to in Article 9(b), where data warrants such action, to adapt the time limit requirement on a species-by-species basis, with a view to lowering the 300 second time limit to 180 seconds, and to define a reasonable time-frame for implementation.

3.4. THRESHOLDS

A killing trapping method would meet the Standards if:

- a) the number of specimens of the same target species from which the data are derived is at least 12; and
- b) at least 80 per cent of these animals are unconscious and insensible within the time limit, and remain in this state until death.

PART II: LIST OF SPECIES AND IMPLEMENTATION SCHEDULE

4. LIST OF SPECIES REFERRED TO IN ARTICLE 3 OF THE AGREEMENT AND THE IMPLEMENTATION SCHEDULE

4.1. SPECIES LIST

The Standards apply to the following species:

Common name :	Species
Coyote	<i>Canis latrans</i>
Wolf	<i>Canis lupus</i>
Beaver (North American)	<i>Castor canadensis</i>
Beaver (European)	<i>Castor fiber</i>
Bobcat	<i>Felis rufus</i>
Otter (North American)	<i>Lutra canadensis</i>
Otter (European)	<i>Lutra lutra</i>
Lynx (North American)	<i>Lynx canadensis</i>
Lynx (European)	<i>Lynx lynx</i>
Marten	<i>Martes americana</i>
Fisher	<i>Martes pennanti</i>
Sable	<i>Martes zibellina</i>
Pine marten	<i>Martes martes</i>
Badger (European)	<i>Meles meles</i>
Ermine	<i>Mustela erminea</i>
Raccoon dog	<i>Nyctereutes procyonoides</i>
Muskrat	<i>Ondatra zibethicus</i>
Raccoon	<i>Procyon lotor</i>
Badger (North American)	<i>Taxidea taxus</i>

Additional species will be included in the future as appropriate.

4.2 IMPLEMENTATION SCHEDULE⁴

4.2.1. Trapping methods are tested to demonstrate their conformity with these standards by the competent authorities within:

- a) for restraining trapping methods, 3 to 5 years after the entry into force of the Agreement, depending on the testing priorities and availability of testing facilities; and

⁴ Authority to regulate traps and trapping methods for the taking in the United States of the specified terrestrial or semi-aquatic mammals resides primarily in the state and tribal authorities.

b) for killing trapping methods, 5 years after the entry into force of the Agreement.

4.2.2 Within three years after the end of the periods referred to in 4.2.1., the use of traps that are not in accordance with these Standards are phased out by the respective competent authorities.

4.2.3 Notwithstanding the provisions of paragraph 4.2.2., where a competent authority determines that the results of trap testing do not support the conformity of traps with the Standards for specific species or under specific environmental conditions, a competent authority may continue to permit the use of traps on an interim basis while research continues to identify replacement traps. In such cases, prior notification should be given between the European Community and the United States of the traps to be authorised for interim use and the status of the research program. In cases in which this paragraph applies with respect to trapping in the United States, the competent authorities in the United States should transmit such information to the Government of the United States for transmission to the European Community.

4.2.4 In addition to paragraph 4.2.3., and notwithstanding the provisions of paragraph 4.2.2., derogations may be granted by a competent authority on a case-by-case basis consistent with the objectives of the Standards, for any of the following purposes:

- a) the interests of public health or safety,
- b) protection of public or private property,
- c) purposes of research, education and protection of the environment, including repopulation, reintroduction, breeding or for the protection of flora and fauna,
- d) using traditional wooden traps essential for preserving cultural heritage of indigenous communities.

Where implementing this paragraph, prior written notification of such derogations, along with their reasons and conditions, should be given by the United States or the European Community. In the case of the United States, the competent authorities should give such written notification to the Government of the United States for transmission to the European Community, along with their reason and conditions.

4.2.5. Consultations on the subjects referred to in paragraphs 4.2.3. and 4.2.4. should be held pursuant to paragraph 7 of the Agreed Minute at the request of either the United States of America or the European Community.

PART III : GUIDELINES

5. GUIDELINES FOR THE TESTING OF TRAPS AND RESEARCH ON THE ONGOING DEVELOPMENT OF TRAPPING METHODS

To ensure accuracy and reliability, and to demonstrate that trapping methods fulfill the requirements set out in the Standards, studies for testing those trapping methods should follow the general principles of good experimental practices.

In the event that testing procedures are established under the framework of ISO, the International Organization for Standardization, and that such procedures are relevant for the assessment of the conformity of trapping methods with some or all the requirements of the Standards, the ISO procedures shall be used as appropriate.

5.1. GENERAL GUIDELINES

- 5.1.1. Tests should be performed according to comprehensive study protocols.
- 5.1.2. The functioning of the trap mechanism should be tested.
- 5.1.3. Testing of traps in the field should be carried out in particular for the assessment of selectivity. This test can also be used to collect data on capture efficiency and user safety.
- 5.1.4. Restraining traps should be tested in a compound, in particular to evaluate behavioral and physiological parameters. Killing traps should be tested in a compound, in particular to identify unconsciousness.
- 5.1.5. In field tests, traps should be checked daily.
- 5.1.6. The effectiveness of killing traps to render the target animal unconscious and kill it should be tested on conscious, mobile animals, by laboratory or compound and field measurements. The ability of the trap to strike the target animal at vital locations should be evaluated.
- 5.1.7. The order of testing procedures may be varied to ensure the most effective evaluation of the traps to be tested.
- 5.1.8. Traps should not expose the operator to undue hazard under normal use.
- 5.1.9. If appropriate, a broader range of measures should be checked when testing traps. Field testing should include studies of the effects of trapping on both target and non-target species.

5.2. STUDY SITUATION

- 5.2.1. The trap should be set and used according to the best advice from manufacturers or others on how to do so.

5.2.2. For compound testing, a compound should be used that provides a suitable environment for the animals of the target species to move freely, hide and show most normal behaviour. It should be possible to set traps and monitor trapped animals. The trap should be set so that video and sound recording can be made of the whole trapping episode.

5.2.3. For field testing, sites should be selected that are representative of those that will be used in practice. Since the selectivity of the trap and any possible adverse effects of the trap on non-target species are important reasons for field testing, sites for field testing may need to be chosen in different habitats where different non-target species are likely to be encountered. Pictures of each trap and its set and of the general environment should be taken. The trap identification number should be made a part of the photographic record before and after a strike.

5.3. STUDY PERSONNEL

5.3.1. Test personnel should be appropriately qualified and trained.

5.3.2. Among the test personnel there should be at least one person experienced in the use of the traps, and capable of trapping the animals used in the test and at least one person experienced in each of the methods of welfare assessment for restraining traps and in methods of assessing unconsciousness for killing traps. For example, the assessment of behavioral responses to trapping and of aversiveness should be done in particular by a trained person who is familiar with the interpretation of such data.

5.4. ANIMALS TO BE USED IN TRAP TESTING

5.4.1. Compound test animals should be in good health and representative of those that are likely to be caught in the wild. The animals used should not have prior trapping experience of the trap being tested.

5.4.2. Prior to the testing of traps, animals should be housed in appropriate conditions and provided with adequate food and water. Animals should not be housed in a manner that might in itself result in poor welfare.

5.4.3. Animals should be acclimatised to the testing compound prior to the start of the test.

5.5. OBSERVATIONS

5.5.1. Behaviour

5.5.1.1. Behavioral observations should be made by a trained person, particularly in reference to the knowledge of the ethology of the species.

5.5.1.2. Aversiveness can be assessed by trapping the animal in a readily recognized situation, then re-exposing the animal to the trap in the appropriate situation and evaluating its behaviour.

5.5.1.3. Care should be taken to distinguish responses to additional stimuli from responses to the trap or the situation.

5.5.2. Physiology

5.5.2.1. Some animals should be fitted with telemetric recorders (e.g., to record heart rate, respiratory rate) before testing. Such fitting should occur long enough before trapping for the animal to recover from any disturbance caused by having been fitted with such recorders.

5.5.2.2. All precautions should be taken to limit inadequate or biased observations and parameters, especially those due to human interference when sampling.

5.5.2.3. When biological sampling (e.g., of blood, urine, saliva) is performed, it should be done at times relevant to the trapping event and the time-dependent considerations of the parameter being evaluated. Control data from animals kept elsewhere in good condition and for different activities, baseline data before the trapping event occurs, and some reference data after extreme stimulations (e.g., a challenge test with adrenocorticotrophic hormone) should also be collected.

5.5.2.4. All biological samples should be taken and stored according to the best knowledge to ensure conservation before analysis.

5.5.2.5. Analytical methods used should be validated.

5.5.2.6. For killing traps, when neurological examinations using reflexes (such as pain or eyes) are performed in combination with the measurement of an EEG and/or VERs or SERs, they should be done by an expert, to provide relevant information concerning the consciousness of the animal or the effectiveness of the killing technique.

5.5.2.7. When the animals are not unconscious and insensible within the time described in the test protocol, they should be killed in a humane way.

5.5.3. Injuries and pathology

5.5.3.1. Each test animal should be carefully examined so as to assess any injury. Radiographic examination should be conducted to confirm possible fractures.

5.5.3.2. Further detailed pathological examination of dead animals should be carried out. Post-mortem examination should be performed in accordance with accepted veterinary examination practices by an experienced veterinarian.

5.5.3.3. The affected organs and/or regions should be examined macroscopically, and histologically if appropriate.

5.6. REPORT

5.6.1. The study report should contain all relevant information about the experimental design, materials and methods, and results, in particular :

- a) the technical description of the trap design including construction material;
- b) manufacturers' instructions for use;
- c) the description of the test situation;
- d) weather conditions, in particular temperature and snow depth;
- e) the test personnel;
- f) the number of animals and traps tested;
- g) the total number of captured target and non-target animals of each species, and their relative abundance expressed as rare, common or abundant in that area;
- h) selectivity;
- i) details of any evidence that the trap was activated and injured an animal that was not caught;
- j) behavioral observations;
- k) values of each physiological parameters measured and methodologies;
- l) description of injuries and post mortem examinations;
- m) time to loss of consciousness and sensibility; and
- n) statistical analyses.

SIDE LETTER

Dear

As you know, representatives of the United States of America and the European Commission today signed an Agreed Minute related to humane trapping standards. With respect to that Agreed Minute, I am pleased to inform you of the following.

As reflected in the Agreed Minute, authority to regulate traps and trapping methods for the taking in the United States of terrestrial or semi-aquatic mammals resides primarily in the State and tribal authorities. As a result of our discussions on these issues, representatives of the competent authorities in the United States have advised that they have intensified their efforts to identify more humane traps and already a fifty state initiative, in co-operation with several Federal agencies, has begun to develop Best Management Practices (BMPs) for traps and trapping methods.

Best Management Practices involve a practice or combination of practices that are identified to be the most effective and practicable (technically, economically and socially) means to reduce or prevent problems associated with an activity. Representatives of the competent authorities in the United States have advised that BMPs for traps and trapping methods will be based upon the latest technical and scientific information and data.

Representatives of the competent authorities in the United States have advised that Best Management Practices for traps and trapping methods in the United States will be developed based upon the Standards annexed to the Agreed Minute. I am particularly pleased to inform you that the program that is being undertaken by the U.S. competent authorities is not limited to the nineteen species listed in the Standards annexed to the Agreed Minute, but is being applied to the additional ten fur-bearing species commercially trapped in the United States. These species are the mink, red fox, gray fox, arctic fox, swift fox, nutria, opossum, skunk, bassarisk, and wolverine. This constitutes an important further step undertaken by the competent authorities in the United States designed to improve animal welfare, a step which we believe has not been matched by any other country or in any international agreement.

Additionally, representatives of the competent authorities in the United States have indicated that, pursuant to the Standards annexed to the Agreed Minute, with respect to the *Mustela ermine* and the *Ondatra zibethicus*, the use of all jaw-type leghold restraining traps is being phased out within four years of the entry into force of the Agreement on Humane Trapping Standards between Canada, the European Community and the Russian Federation. These two species encompass over 2.2 million animals trapped every year in the United States and represent typically 50% of all animals listed in the Standards trapped annually in this country.

With respect to the trapping of other species described in the Standards, the above-referenced authorities have advised that, pursuant to the Standards annexed to the Agreed Minute, the use of conventional steel-jawed leghold restraining traps is being phased out within six years of the entry into force of the Agreement on Humane Trapping Standards between Canada, the European Community and the Russian Federation.

I trust that the foregoing provides sufficient clarification with respect to the situation in the United States. The competent authorities in the United States anticipate and welcome continued cooperation in this area with the European Commission and other interested parties.

Sincerely

7

SIDE LETTER

Dear

As you know, our delegations recently completed negotiation of an Agreed Minute on humane trapping standards. I am writing this letter to memorialize an understanding we reached on the meaning and application of the Agreed Minute and its attached Standards.

Paragraph 6 of the Agreed Minute provides that "the United States of America and the European Community recognize that nothing in this Understanding affects their rights and obligations under the Marrakesh Agreement establishing the World Trade Organization." In the course of developing this language we decided that it was not necessary to add to the end of this paragraph the phrase "nor constitutes a waiver of any such rights" and that neither government would cite such noninclusion in any dispute or proceeding that might relate to this paragraph.

If you concur in the statement described above, I would appreciate your confirmation in a letter of reply. Thank you for your continuing attention to this matter.

Sincerely

SIDE LETTER

Dear

Thank you for your letter memorializing the understanding we reached on the meaning and application of the Agreed Minute and its attached Standards.

In response to it, we would like to confirm that in the course of developing the language of Paragraph 6 of the Agreed Minute, we decided that it was not necessary to add to the end of this paragraph the phrase "nor constitutes a waiver of any such rights" and that neither government would cite such noninclusion in any dispute or proceeding that might relate to this paragraph.

Sincerely

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