

AEWA EUROPEAN GOOSE MANAGEMENT PLATFORM



**WORKSHOP FOR THE REVISION OF THE INTERNATIONAL
SINGLE SPECIES MANAGEMENT PLAN
FOR THE SVALBARD POPULATION OF THE
PINK-FOOTED GOOSE**



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DRAFT ANNEX 4

**LEGAL STATUS OF PINK-FOOTED GOOSE AND IMPLICATIONS FOR
POPULATION MANAGEMENT**

Draft Annex 4. Legal Status of Pink-footed Goose and Implications for Population Management

Table 1. Summary of the international legal status of the Svalbard population of Pink-footed Goose.

| | CMS | AEWA | | Bern Convention | EU Birds Directive | CITES |
|---|-------------|------------------------------|-----------------------|-----------------|--------------------|------------|
| Pink-footed Goose <i>Anser brachyrhynchus</i> | Appendix II | Svalbard / North-west Europe | Column B (category 1) | Appendix III | Annex II (Part B) | Not listed |

Table 2. Applicability of relevant international legal instruments to Range States of the Svalbard population of Pink-footed Goose.

| Range State | CMS | AEWA | Bern Convention | EU Birds Directive | CBD |
|-----------------|-----|------|-----------------|--------------------|-----|
| Belgium | X | X | X | X | X |
| Denmark | X | X | X | X | X |
| Finland | X | X | X | X | X |
| The Netherlands | X | X | X | X | X |
| Norway | X | X | X | - | X |
| Russia | - | - | - | - | X |
| Sweden | X | X | X | X | X |

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

The Pink-footed Goose is listed in Appendix II of the [CMS](#). This appendix includes species which have an unfavourable conservation status and require international agreements for their conservation and management, as well as species which have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement.¹ The CMS envisages the conclusion of Agreements covering the conservation and management of Appendix II species,² and provides that the object of each Agreement shall be to restore the species concerned to, or maintain it in, a Favourable Conservation Status.³

Per Article I.1(c) of the CMS, conservation status will be taken as ‘favourable’ when:

- (1) population dynamics data indicate that the migratory species is maintaining itself on a long-term basis as a viable component of its ecosystems;
- (2) the range of the migratory species is neither currently being reduced, nor is likely to be reduced,

¹ CMS Article IV.1.

² CMS Articles III.3(c) & IV.3.

³ CMS Article V.1.

- on a long-term basis;
- (3) there is, and will be in the foreseeable future sufficient habitat to maintain the population of the migratory species on a long-term basis; and
 - (4) the distribution and abundance of the migratory species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management.

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

[AEWA](#) is one of the ancillary Agreements developed under Article IV of the CMS and applies in respect of 255 species of migratory waterbirds, including the Pink-footed Goose. Except for Russia, all Range States of the Svalbard population of Pink-footed Goose are Parties to AEWA.

Parties to AEWA shall take coordinated measures to maintain migratory waterbird species in a Favourable Conservation Status or restore them to such a status. To this end, they shall apply – within the limits of their national jurisdiction – the measures prescribed in AEWA’s Agreement text, together with the specific actions determined in the Action Plan found in Annex 3 to AEWA.⁴ These include a wide variety of conservation measures, ranging from habitat conservation (including the conservation of site networks) to the management of hunting and other human activities, to research, monitoring, education and awareness-raising.

AEWA’s legal text explicitly recognises the importance of addressing conflicts between the populations of species covered by the Agreement (as listed in Table 1 of Annex 3 to AEWA) and various human interests. To this end, Parties shall endeavour to gather information on the damage (particularly to crops and fisheries) caused by waterbird populations listed in AEWA’s Table 1 and cooperate with a view to both identifying appropriate techniques to minimize such damage and developing single species management plans.⁵ The 2012 [International Species Management Plan for the Svalbard Population of the Pink-footed Goose](#) was the first international single species management plan (ISSMP) to be developed under AEWA and adopted by the Agreement’s Meeting of the Parties (MOP). In the period since this ISSMP’s adoption, additional management planning processes have occurred under the Agreement and, drawing from these experiences, the [Format and Guidelines for AEWA International Single and Multi-species Management Plans](#) were developed.

The Format and Guidelines were adopted by the eighth session of the AEWA MOP (MOP8) in 2022 and envision, *inter alia*, the definition of Favourable Reference Values (FRVs) for each population covered by an ISSMP, as well as for the management units thereof (if applicable). This is a crucial step, as it provides the reference for assessing whether a population is in a Favourable Conservation Status, in accordance with AEWA’s legal requirements. AEWA applies the same definition of ‘Favourable Conservation Status’ as that found in the CMS.⁶ The Format and Guidelines for ISSMPs consequently explain that FRVs will be established in accordance with this definition (which has four criteria: population dynamic, range, habitat and historic levels) and that the population will be considered to be in unfavourable status if it does not meet any of the criteria or its future prospects are negative. FRVs (including Favourable Reference Population, Range and Habitat) are to be included either in the ISSMP

⁴ AEWA Article II.1.

⁵ AEWA Annex 3 paragraphs 4.3.2 – 4.3.4.

⁶ AEWA Article I.2.

itself or, if this is not possible, in the ancillary Adaptive Flyway Management Programme(s).

The Svalbard/North-west Europe population of Pink-footed Goose is listed in Column B, category 1 of AEWA's Table 1.⁷ The deliberate killing of birds belonging to this population is therefore permissible (including for management purposes) but must be regulated in a manner that ensures the maintenance of the population's Favourable Conservation Status and that any taking is sustainable (based on the best available knowledge of population dynamics).⁸ The taking of birds from this population during their stages of reproduction and rearing, or during their return to their breeding grounds, is only permissible if this does not have an unfavourable impact on the population's conservation status.⁹

Various modes of taking that are indiscriminate, or capable of causing mass destructions or local disappearance of or serious disturbance to, AEWA populations must be prohibited unless AEWA's provisions on exemptions are satisfied.¹⁰ The available grounds of exemption include, *inter alia*, the prevention of serious damage to crops, interests of air safety, public health and public safety, and other imperative reasons of overriding public interest (including those of a social or economic nature and beneficial consequences of primary importance to the environment). Managing conflict by culling through means that are otherwise prohibited is therefore possible, provided it can be demonstrated that one of these grounds applies, that the threat/risk in question can be addressed by granting the exemption, that there are objective and verifiable grounds for concluding that there is no other satisfactory alternative, and that the exemption will not operate to the detriment of the population, is precise as to content, and is limited in space and time.¹¹ The grounds of exemption that are recognised by AEWA, and the conditions for their use, are discussed in detail in the [Guidance on Satisfying the Conditions of Paragraph 2.1.3 of the AEWA Action Plan](#), which was adopted by AEWA MOP7.

Caution must be taken to ensure that management measures in respect of Pink-footed Geese do not breach Parties' commitments in respect of populations with a higher AEWA Table 1 categorization (e.g. by causing the significant disturbance, or accidental taking, of birds belonging to a Column A population). Any impacts on non-target species must similarly be considered under the other legal instruments discussed in this document.

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

The [Bern Convention](#) aims to conserve wild flora and fauna and their natural habitats – especially those whose conservation requires the cooperation of several States.¹² Except for Russia, all Range States of the Svalbard population of Pink-footed Goose are Parties to this Convention.

Per Article 2 of the Bern Convention, Parties “shall take requisite measures to maintain the population of wild flora and fauna at, or adapt it to, a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements and the needs of sub-species, varieties or forms at risk locally”. The Pink-footed Goose is included in Appendix III of the Convention, with the result that Parties shall take “appropriate and necessary legislative and

⁷ This category includes populations of AEWA species which number between around 25,000 and 100,000 individuals and do not fulfil the conditions in respect of Column A of Table 1.

⁸ AEWA Article II.1 & Annex 3 paragraph 2.1.2.

⁹ AEWA Annex 3 paragraph 2.1.2(a).

¹⁰ AEWA Annex 3 paragraphs 2.1.2(a) & 2.1.3.

¹¹ AEWA Annex 3 paragraph 2.1.3.

¹² Bern Convention Article 1.1.

administrative measures” to ensure its protection.¹³ Parties undertake to coordinate their efforts for the protection of the migratory species specified in Appendix III whose range extends into their territories, and to give special attention to the protection of areas that are of importance to these species and are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas.¹⁴

The exploitation of Appendix III species is permissible under the Bern Convention, provided that this is regulated in order to keep populations out of danger.¹⁵ Such regulation must ensure that populations are not reduced below the level required by Article 2 of the Convention.

Animals belonging to Appendix III species may not be killed or captured through the means prohibited by Article 8 of the Bern Convention unless the conditions for exception set out in Article 9 are satisfied. Managing conflict by culling through means that are otherwise prohibited will therefore only be permissible if it is demonstrated that the birds being targeted present a threat to public health and safety, air safety or other overriding public interests, or the protection of flora and fauna, or a risk of serious damage to crops or other property; and that this threat/risk can be addressed by granting the exception, there are objective and verifiable grounds for concluding that there is no other satisfactory alternative, and the exception is not detrimental to the population’s survival. [Revised Resolution No.2 \(1993\)](#) of the Bern Convention’s Standing Committee provides further guidance on the exceptions allowed by Article 9.

4. EU Directive on the Conservation of Wild Birds (Birds Directive)

The [Birds Directive](#) relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of Member States to which the Treaty establishing the European Community applies.¹⁶ Per Article 2 of the Directive, EU Member States shall take the requisite measures to maintain the population of these species “at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level”.

Article 5 of the Birds Directive requires EU Member States to prohibit, *inter alia*, the deliberate killing or capture of the species of birds covered by the Directive. However, certain deviations from this requirement are accommodated by Articles 7 and 9.

The Pink-footed Goose is listed in Annex II, Part B to the Birds Directive. It may therefore be hunted under national legislation in accordance with the provisions of Article 7 of the Directive. This provision only permits hunting within the Member States in respect of which the Pink-footed Goose is indicated in Annex II, Part B¹⁷ (i.e., Belgium, Denmark, Ireland and the United Kingdom). Per Article 7, these Member States must ensure that hunting does not jeopardize conservation efforts in this species’ distribution area, that hunting complies with the principles of wise use and ecologically balanced control of the species, and that it does not occur during the period of reproduction or during birds’ return to their rearing grounds. The European Commission has explained that ‘ecologically balanced control’ “implies that the measures taken should be ecologically sound and in proportion to the problem to be

¹³ Bern Convention Article 7.1.

¹⁴ Bern Convention Articles 10.1 and 4.3.

¹⁵ Bern Convention Article 7.2.

¹⁶ Birds Directive Article 1.1.

¹⁷ Birds Directive Article 7.3.

solved taking into account the conservation status of the species concerned”.¹⁸ This need for proportionality must be considered when formulating any new population target under the Pink-footed Goose ISSMP, as must the need to ensure that the objective of the Birds Directive (as identified in Article 2) is not jeopardised.

Per Article 8 of the Directive, Member States are required to prohibit the use of non-selective and large-scale methods of capture/killing.

Article 9 of the Birds Directive allows derogations from the requirements of Articles 5-8 for reasons including the interests of public health and safety, the interests of air safety, the prevention of serious damage to crops, and the protection of flora and fauna. In principle, it may therefore be permissible to apply lethal management measures outside the normal hunting period and/or in Range States that are not indicated in Annex II, Part B, or to that use means of killing/capture that are otherwise prohibited, provided that it can be demonstrated that one of these grounds applies, that the conflict in question can be addressed by granting the exemption, and that there are objective and verifiable grounds for concluding that there is no other satisfactory solution for addressing the conflict. Further guidance on these conditions, and the Birds Directive’s other provisions on hunting, is available in [Guide to Sustainable Hunting under the Birds Directive](#) (European Commission 2008).

The Birds Directive requires that special conservation measures be taken concerning the habitat of both Annex I species and regularly occurring migratory species not listed in Annex I (as regards their breeding, moulting and wintering areas and staging posts along their migration routes).¹⁹ Regardless of whether management measures occur in the context of Article 7 or Article 9 of the Birds Directive, such measures must not result in the deterioration of Special Protection Areas (SPAs) or the disturbance of species for which these have been designated in so far as this would be significant having regard to the objectives of the Directive.²⁰ Hunting activities within SPAs do not necessarily contravene this provision, but must be compatible with a site’s conservation objectives and be managed and monitored in a manner that avoids significant disturbance.²¹

5. Convention on Biological Diversity (CBD)

All Range States of the Svalbard population of Pink-footed Goose are Parties to the [CBD](#), the objectives of which include both the conservation of biodiversity and the sustainable use of its components.²² In December 2022, the CBD’s Conference of the Parties (COP) adopted the Kunming-Montreal Global Biodiversity Framework (GBF), which identifies 23 action-oriented global [targets](#) for completion by 2030. The following GBF targets are especially noteworthy in the context of managing the Svalbard population of the Pink-footed Goose:

- One of the elements of Target 4 is that action needs to be taken to “effectively manage human-wildlife interactions to minimize human-wildlife conflict”.
- Target 5 emphasises, *inter alia*, the need for measures to ensure that the use and harvesting of wild species is sustainable, preventing overexploitation and minimising impacts on non-target species and ecosystems.

¹⁸ European Commission (2008) at § 2.4.33.

¹⁹ Birds Directive Article 4.

²⁰ Birds Directive Article 4.

²¹ European Commission (2008) at §1.5.1.

²² CBD Article 1.

- Target 9 focuses on ensuring that the management and use of wild species is sustainable for the benefit of people, and refers explicitly to the provision of social, economic, and environmental benefits.

The revised ISSMP for this species will support the delivery of these GBF targets, and also has the potential to contribute to others (such as those regarding habitat conservation and restoration).