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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Proposal for a Council Regulation fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters

- Commission non-paper

Delegations will find attached a Commission non-paper on the above-mentioned proposal.

COMMISSION SERVICES NON PAPER

6 December 2021

This document serves as a basis for discussion at the Working Party on Internal and External Fisheries Policy. It cannot in any circumstances be regarded as the official position of the Commission. It is intended solely for those to whom it is addressed.

Updates to Commission proposal COM(2021) 661 for a Council Regulation fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union vessels, in certain non-Union waters

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1. MEASURES ON EUROPEAN EEL FISHERIES IN UNION WATERS OF THE ICES AREA

EXPLANATORY NOTE

In 2017, ICES issued an advice for European eel (*Anguilla anguilla*) in which it indicated that all anthropogenic mortalities for silver eels should be reduced to zero, or kept as close to zero as possible¹. ICES also indicated that the data was incomplete and that the understanding of the stock dynamic was insufficient to determine the impact of any catch on the stock.

In December 2017, and in accordance with the ICES advice, the Council adopted a series of measures in the Fishing Opportunities Regulation for 2018². The measures consisted in a fishing closure of a consecutive three-month period in the Union waters of ICES area, including in the Baltic Sea for silver eels of 12 cm or longer. Each Member State had to determine the closure period between 1 September 2018 and 31 January 2019. These measures came in addition to the ones foreseen by Council Regulation on eels (EC) No 1100/2007³, including eel management plans, reinforced monitoring and controls notably on imports and exports of eels, and by the listing of eels under CITES Appendix II in 2009 which prohibited import and export from the EU.

In December 2018, the Council decided to go further in the Fishing Opportunities Regulation for 2019⁴ than the advice issued by ICES for 2019 and to adopt a closure for all fisheries of European eel at all life stages (glass, yellow and silver) in all Union waters of the ICES area, including the

¹ ICES. 2017. European eel (*Anguilla anguilla*) throughout its natural range.

² Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127.

³ Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel.

⁴ Council Regulation (EU) 2019/124 of 30 January 2019 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

Baltic Sea, as well as brackish waters such as estuaries, coastal lagoons and transitional waters. This applied to both recreational and commercial fisheries, and the closure period was to be determined by each Member State between 1 August 2019 and 29 February 2020, to align to the closure adopted in the Mediterranean Sea by Recommendation GFCM/42/2018/1 of the General Fisheries Commission for the Mediterranean (GFCM).

These measures were also carried over in the Fishing Opportunities Regulations for 2020⁵ and for 2021⁶.

The 2020 evaluation⁷ of the Eel Regulation (EC) No 1100/2007 showed that it is still relevant and basically fit for purpose as an instrument to help the European eel stock to recover. In the Member States having developed a comprehensive eel management plan, the Eel Regulation has been effective. The evaluation concludes that the recovery of the European eel will take many decades, given the long life-span of the species.

On 4 November 2021, ICES issued new advice for European eel (*Anguilla anguilla*) in which it advised that “*when the precautionary approach is applied, there should be zero catches in all habitats in 2022. This applies to both recreational and commercial catches and includes catches of glass eels for restocking and aquaculture*”. ICES also noted the fact that the data is incomplete and underlined that non-fishing anthropogenic mortality factors are substantial, due to hydropower, habitat loss, pollution or climate change. Finally, ICES indicated that the advice does not apply to the catches of glass and silver eels made to improve survival in upstream or downstream migration or in transfer across barriers.

The Commission considers that anthropogenic mortalities other than the ones induced by fisheries should be minimised and eliminated, where possible, via measures at EU and/or national level. The Commission notes that ICES acknowledges the positive impact of conservation measures on certain catches of silver and glass eels for which the advice does not apply.

⁵ Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

⁶ Council Regulation (EU) 2021/92 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

⁷ SWD(2020) 35 final: Evaluation of Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel.

In this context, and due to the ongoing relevance of the Eel Regulation and the CITES listing of eels, the Commission considers appropriate to carry over the three-month closure for eel fishing at all life stages in all fisheries and in all waters of the North-East Atlantic for 2022 and to launch a wide-ranging consultation with stakeholders to shape an overall approach to further reduce the mortality of European eels.

In this context, the three-month closure shall apply to all forms of fishing as defined in Article 4(1)(28) of the CFP Regulation, including activities such as searching for fish, shooting, setting, towing, hauling of a fishing gear, taking catch on board, transshipping, retaining on board, processing on board, transferring, caging, fattening and landing of fish and fishery products. The Member States shall determine the consecutive three-month closure within the periods of the highest migration of European eel and shall report it with supporting information to the European Commission by 1 June 2022.

AMENDMENTS

1. The following is inserted as Recital (9a):

“On 4 November 2021, the International Council for the Exploration of the Sea (ICES) issued a scientific advice for European eel (*Anguilla anguilla*) throughout its natural range. ICES advised that, when the precautionary approach is applied, there should be zero catches in all habitats in 2022. This applies to both recreational and commercial catches and includes catches of glass eels for restocking and aquaculture. In accordance with this advice, it is considered appropriate to maintain the consecutive three-month closure for all fishing of eel, whilst the Commission carries out a stakeholder-based consultation on European eel in 2022. The prohibition should apply to all fishing activities as defined in Article 4(1)(28) of Regulation (EU) No 1380/2013. The Member States should determine the consecutive three-month closure within the periods of the highest migration of European eel and report it with supporting information to the European Commission by 1 June 2022.”

2. In Chapter I, the following Article is inserted:

“Article 10a

Measures on European eel fisheries in Union waters of the ICES area

Any targeted, incidental and recreational European eel fishing activity, as defined in Article 4(1)(28) of Regulation (EU) No 1380/2013, shall be prohibited in Union waters of the ICES area and brackish waters such as estuaries, coastal lagoons and transitional waters for a consecutive three-month period.

Each Member State concerned shall determine that period between 1 August 2022 and 28 February 2023 to ensure that the prohibition covers the periods of the highest migration of European eel.

Member States shall no later than 1 June 2022 communicate the determined period to the Commission together with the supporting information justifying the chosen prohibition period.”
