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from : Polish delegation

to : Working Party on Internal Fisheries Policy

No. Cion prop. : 13139/05 PECHE 203 – COM(2005) 472 final

Subject : Proposal for a Council Regulation establishing measures for the recovery of the stock of European eel

Delegations will find attached written comments from the Polish delegation on the above.

26.02.2007

***Written comments by Poland on Articles 3 to 12 of the draft Council Regulation
establishing measures for the recovery
of the stock of European eel [6068/07 of 6 February 2007]
for discussion in the Working Party on Internal and External Fisheries Policy***

In connection with the ongoing discussions on the draft *Council Regulation establishing measures for the recovery of the stock of European eel*, please find below our written comments on the proposed content of Articles 3 to 12, in the light of the clarifications provided by the Commission at the meeting of the Working Party on Internal and External Fisheries Policy on 15 February 2007. Poland's written comments on Articles 1 and 2 were forwarded to the Working Party on Internal and External Fisheries Policy with an official letter to the European Commission – 5852/07 ADD 5 of 15 February 2007.

Article 3

On two occasions, on 8 and 15 February 2007, the Commission explained that the restrictions on eel fishing proposed in Article 2 of the draft Regulation constitute a penalty imposed on Member States for not having an eel management plan. It has to be acknowledged that there is some justification for the Commission proposal. However, bearing in mind the adverse effects of fishing on glass eel stocks, we find it difficult to accept the Commission proposal that glass eel fishing should not be included in the proposed penalty system. Fishing for glass eel is a contributory factor in reducing the number of juveniles naturally recruited into inland waters. The live glass eels and elvers which are caught are put on the market at prices set by consumers in Asia. The price is similar to that on the Asian market and rarely falls below EUR 1 000/kg of live fish in the course of the season. With prices at these levels, there is virtually no point, and no profit, in buying in glass eels and elvers to build up stocks of eel in inland waters in Europe.

High market prices make the glass eel trade exceptionally prone to irregularities in respect of the legality of the origin of the fish and the quality of the material on offer. Under these circumstances, the Commission should ensure:

- 1) that live glass eels and elvers placed on the market for restocking have been caught by authorised enterprises, in regions where there are sufficient glass eels and elvers to guarantee an appropriate level of natural recruitment to inland waters and to allow rational fishing to take place;
- 2) that stocking material (glass eels and elvers) is caught by methods which guarantee the best quality. To that end, it would be advisable to restrict trawling for glass eels and elvers. Trawling damages the skin and results in high mortality among juveniles caught live. Glass eels caught in trawls are given various treatments (antibiotics, medicated baths) designed to keep them alive although their skins have been damaged. Nevertheless, despite the medication, these eels die in huge numbers within a short time of their release into inland waters. Experience shows that only passive fishing techniques using hand-held gear (dip nets) or static trap gear (eel pots, eel tramps) limit post-catch mortality.

There are two issues worth raising in connection with Article 3(1)(c). The Commission has not specified what proportion of eel from fattening farms should be earmarked for restocking, which means that any minimum figure could be adopted, for example: 0.000005 % of the amount of farmed fish, which could lead to attempts to circumvent the Commission's proposed restrictions on fishing for glass eels and elvers. In addition, there is good reason to doubt whether all farmed eel is suitable for restocking inland waters. Although there is data in the specialist literature showing that eels from fattening farms have higher survival rates, there is also data on restocking carried out with material from fattening farms which was slow-growing or whose sex had been determined (males). This "restocking material" is basically a "waste product" from the farming process and farmers should not offer it as wholesome material for restocking surface waters. A proposal for an amendment to Article 3 is set out in point 1 of the Annex hereto.

Article 4

The Commission has taken on board Member States' requests and acknowledged the need to adopt a wide range of measures to rebuild European eel stocks. This new approach provides minimum guarantees that Member States will take action in areas which have a negative impact on the status of eel stocks. The Commission's role here should be to make sure that every country is doing its utmost to see that eel stocks recover, irrespective of their economic importance and the ways they are traditionally used in marine or inland waters. However, the proposed flexibility in the choice of conservation measures should not be taken as an excuse for failing to take difficult and costly measures. We propose redrafting Articles 2 and 4 so that the penalty system does not encourage various administrative authorities and sectors to abandon measures in "non-fisheries" sectors. Under the Commission proposal, the penalties would affect only the fisheries sector and the ability to fish for eel. In this situation, it would be better for the penalties to cover the whole range of measures which Member States need to take to rebuild eel stocks, since there are various sectors responsible for mortality among migrating eel. A proposal for an amendment is set out in point 2 of the Annex hereto.

Article 5

In Article 5, the Commission has taken on board a range of important requests from Member States. The examples of areas where Member States should take action to rebuild eel stocks are especially important. However, the Commission has not as yet provided any scientific justification for the "escapement rate" which it has set. It is difficult to comment on the proposed figure of 40 % without knowing the reasons why precisely this figure should be adopted for the Baltic Sea catchment area. We are therefore entering scrutiny reservations on the above rate, which we hope can be clarified by information from the Commission.

In addition, we think management plans should exclude all catchment areas where the eel population is heavily infected with *Anguillicola crassus* (swimbladder parasite) or the EVEX virus, and are thus unable to sustain the eel spawning population effectively.

These findings are contained in the 2005 study "*Estimation of the reproduction capacity of European eel*", which was financed in part by the European Union ¹. In this study the research group draws attention to other very important factors, including the weight, length and condition factor of silver eel and the PCB content of fish tissue and their effects on successful spawning. The Member States should be able to take account of this information in their eel management plans on the basis of the proposed Article 5(4). A proposal for an amendment is set out in point 3 of the Annex hereto.

Article 6

According to the Commission's information, the status of European eel stocks requires urgent action. We have sympathy for this position, but nevertheless find it difficult to agree to the proposed deadline for Member States to submit completed eel management plans. It should be pointed out that the first draft of the Regulation with proposals for provisions explaining how the eel management plans were to be drawn up was not submitted until February 2007. Member States cannot therefore be expected to be able to prepare at short notice a document whose content is still under discussion between the Member States and the Commission. Accordingly, consideration should be given to extending the deadline for drawing up eel management plans. It is also worth considering whether the STECF is the best choice to deal with issues relating to the recovery of eel stocks in inland waters and measures outside the fisheries sector.

Article 7

Pursuant to Article 7(2), where third states share a river basin with a Member State, responsibility for reaching agreement on a common eel management plan lies with the Member State. It is not always possible to conclude such agreements, for reasons unrelated to fisheries issues. In these circumstances, it would be a good idea if, at the request of the Member States concerned, the Commission could hold talks with the non-Member State, in close consultation with the Member States.

¹ www.Fishbiology.net/silvereel.html

Article 8

The proposed Article 8 is a valuable initiative by the Commission to solve the problem of access to eel restocking material. However, it should be pointed out that there are at least two problems affecting the restocking of surface waters in Europe. The first is the excessively high price of the glass eel on offer to water owners and fishermen in Europe. Just twenty years ago, Polish fishermen paid suppliers the monetary equivalent of approx. 6 to 8 kg of yellow or silver eel for 1 kg of glass eel. Nowadays, they have to sell approx. 60-88 kg of yellow or silver eel in order to buy 1 kg of glass eel. This price relation makes it completely pointless for the fisheries sector to restock surface waters. On the other hand, it is also doubtful whether public money should really be used to help purchase restocking material at such a high price (more than EUR 1 000/kg of glass eel). It should be remembered that prices in Europe closely reflect the situation on the market for Japanese eel (*Anguilla japonica*). The glass eel market is not regulated. For many years now, traders have been using their freedom to export glass eel to Asia and make large profits on the business, at the high prices paid by eel farmers in Asia.

The Commission has repeatedly stressed that there is just one European eel stock. Spawners from Central and Northern European waters support only one spawning population, which helps to maintain eel stocks in all the countries of the European Union. It was precisely for this reason that the Commission decided to propose one common European eel recovery plan which the Member States would be involved in carrying out. Bearing in mind that all EU countries benefit from eel stocks, it is only right that the costs and obligations involved in recovery should be shared among all the Member States. Pursuant to Article 38(2) of *Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund*, the fund may support restocking if the measure is provided for in a Community legal act. Unfortunately, the provisions of Community and national law do not allow price levels to be regulated. In countries which glass eel do not reach, the high costs of restocking are borne exclusively by those who exploit silver and yellow eel stocks.

Bearing in mind that in each country eel is fished at different stages (glass eels, elvers, eel fingerlings, yellow and silver eel), it is appropriate to introduce a mechanism whereby the costs of restocking are spread fairly and proportionally over all countries which use eel stocks (for commercial and recreational fishing). One effective means of solving the problem of the price of glass eel and the high costs of stock replenishment might be to share the costs of buying glass eel for restocking between two Member States: the country where the live glass eel is caught and the country where restocking is planned. In Poland, 3 to 4 tonnes of glass eel are needed for restocking purposes every spring, once the lakes are free of ice. A detailed proposal for discussion is set out in point 4 of the Annex hereto.

Article 9

We have some sympathy for the Commission proposal that sea fishing should be covered by the proposed Regulation. Eel conservation measures need to be introduced in all areas which affect the state of stocks. Nevertheless, we find it difficult to agree to a proposal which would impose a very large reduction in fishing effort (-50 %) in a very short time and make no provision for aid for occupational groups hit by the reductions. In this fundamental matter we expect the Commission to supplement its proposal as a matter of urgency, establishing detailed forms of aid for the fishing industry in order to carry out the plans laid down in this Article. Bearing in mind the extent of the reduction and the time within which it is to be achieved, the proposed aid should be at a suitably high level.

Article 10

The potential for rebuilding European eel stocks involves issues which go far beyond the remit of fisheries authorities. Recovery of stocks is a comprehensive undertaking. The cost of the measures may exceed Member States' financial capabilities. Accordingly, we propose an addition to Article 10(3), authorising the Commission to propose financing for suggested changes in methods of rebuilding eel stocks. A proposal for an amendment is set out in point 5 of the Annex hereto.

Article 11

The proposal to introduce the monitoring system referred to in Chapter V of *Council Regulation No 2371/2002* was already criticised by most Member States during the initial stage of the discussions. Despite the general lack of agreement, the Commission has upheld its proposal that a monitoring system designed for sea fishing should be extended, from one day to the next, to cover inland fishing. The arrangement proposed in Article 11 is unacceptable, given the impossibility of setting up a monitoring system as required by the above Regulation in such a short time, without appropriate financial or technical assistance from the Commission.

ANNEX

1) **the following amendments are proposed in Article 3(1):**

*"By way of derogation from Article 2, it may be permitted to fish for glass eels of the species *Anguilla anguilla* by means of hand operated dip nets or trawl devices the whole year round provided that:*

- (a) the abundance of exploited glass eel stock overfits the carrying capacity of the stock's environment in a catchment area,*
- (b) a Member State authorised a fisherman to fish a set quantity of glass eels in a restricted area,*
- (c) measures are undertaken to ensure that the mortality of glass eel after the catch is low and antibiotics are not used to improve the health status of captured fish,*
- (d) all eel captured are released by authorised entities into European inland waters having access to the sea for the purpose of increasing the escapement levels of adult silver eels,*
- (e) or that the eel captured are used as stocking material for eel aquaculture in the EU, provided that a sufficient percentage of the ongrown biomass in a Member State is released into European inland waters, after fattening in eel farms authorised by a Member State to raise eels only, for the purpose of increasing the escapement levels of adult silver eels".*

2) **the following amendments are proposed in Article 2 and 4:**

"Article 2. Reduction of Eel Mortality

From 1 January 2008 the mortality of eels caused directly by human activity in any Member State shall be reduced by 50 %."

"Article 4. Exemptions from Reduction of Eel Mortality

By way of derogation from Article 2, from 1 July 2008 human activity directly causing mortality of eels shall be permitted without restriction referred to in this Article provided that it conforms with the specifications and restrictions set out in an Eel Management Plan in accordance with Article 5.

For Member States which have submitted an Eel Management Plan to the Commission for approval not later than 31 December 2007, Article 2 shall be suspended until final decision of the Eel Management Plan by the Commission in accordance with Article 6(2)."

3) **the following amendments are proposed in the third subparagraph of Article 5(4):**

(...)

"Each Eel Management Plan shall include the means to reach the objective set out in this paragraph. The Member States may define the means depending on local and regional conditions, having due regard to factors which reduce the stock's reproductive ability such as disease, parasites or chemical contamination."

(...)

4) **after Article 8 it is proposed to add an Article 8a, reading as follows:**

- "1 The costs of a restocking programme approved by the Commission as a measure leading to recovery of the depleted European eel stock shall be shared proportionally by Member States where glass eels were caught and Member States where a release of young eel was planned for the purpose of increasing the escapement levels of adult silver eels.*
- 2. Upon a request of a Member State, the Commission shall decide, within 2 months after submission of such request, on the share of financial contribution to the costs of the programme described as in paragraph 1. Member State provides information to prove the need of setting a contribution share.*
- 3. The Commission shall ensure compliance of its final decision with the principles of solidarity and proportionality in accordance with the objective of the Regulation, by using the following criteria: the impact of glass eel price on sustainable use of the stock of European eel, the need to adopt or continue restocking measures in given European waters. The Commission may base its decision on individual case and may take into account the advice from the STECF when reaching the final decision."*

5) **Article 10(3) should read as follows:**

- "3. The Commission shall, considering the report described in paragraph 2, propose any appropriate measures and offer financial aid to achieve with high probability the recovery of the stock of European eel."*