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THE EUROPEAN UNION**

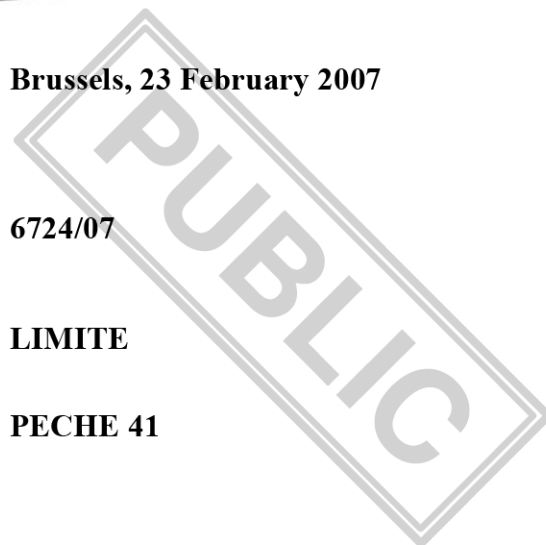
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PRESIDENCY NOTE

from : Presidency

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 a revised working document from the Presidency, in agreement with the Commission, on the abovementioned subject.

Article 1

Subject-matter

1. This Regulation establishes a framework for the protection and sustainable use of the stock of European eel of the species *Anguilla anguilla* in Community maritime waters, in coastal lagoons, in the estuaries, and in rivers and communicating inland waters of Member States that flow into the seas in ICES areas III, IV, VI, VII, VIII, IX or into the Mediterranean Sea or into the Black Sea.
2. Measures under this regulation shall be adopted and implemented without prejudice to the relevant provisions of EU Directives 92/43/EC of the Council on the protection of wild fauna and flora and 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) 'eel' means European eel of the species *Anguilla anguilla*;
- (b) 'glass eel' means eel less than 12cm in length.

Article 3

Establishment of Eel Management Plans

1. Member States shall identify and define the individual river basins lying within their national territory that constitute natural habitats for the European eel (“eel river basins”). If appropriate justification is provided, a Member State may designate the whole of its national territory or an existing regional administrative unit as one eel river basin.

2. In defining eel river basins, Member States shall have the maximum possible regard to the administrative arrangements referred to in Article 3 of Directive 2000/60/EC.
3. For each eel river basin defined under paragraph 1, Member States shall prepare an Eel Management Plan. The objective of each Eel Management Plan shall be, to permit with high probability the escapement to the sea of at least 40% of the biomass of adult eel relative to the best estimate of escapement that would have existed if no anthropogenic mortalities would have impacted the stock.
4. The target level of escapement shall be determined in one of the following three ways:
 - (a) use of data collected prior to 1980, provided these are available in sufficient quantity and quality;
 - (b) habitat-based assessment of potential eel production, in the absence of anthropogenic influences; or,
 - (c) with reference to the ecology and hydrography of similar river systems.
5. Each Eel Management Plan shall contain a description and an analysis of the present situation of the eel population in the eel river basin and relate it to the escapement level laid down in paragraph 4.
6. Each Eel Management Plan shall include measures to reach, monitor and verify the objective set out in paragraph 4. The Member States may define the means depending on local and regional conditions.
7. An Eel Management Plan may contain, but is not limited to, the following measures:
 - reducing commercial fishing activity,
 - restricting recreational fishing,
 - restocking measures,
 - structural measures to make rivers passable and improve river habitats, together with other environmental measures,

- transportation of adult eel from inland to waters from which they can escape freely to the Sargasso Sea,
- combating predators,
- temporary switching-off of hydro-electric power turbines.

The plan shall also contain a time schedule for the attainment of the escapement level laid down in paragraph 4, depending on an expected recruitment level.

8. In the Eel Management Plan, each Member State shall implement immediate measures to reduce the mortality caused on eel by factors outside the fishery, including hydroelectric turbines, pumps or predators.

Article 4

Communication of Eel Management Plans

1. Member States shall communicate to the Commission not later than 31 December 2007 Eel Management Plans prepared in accordance with Article 3.
2. A Member State which has not submitted an Eel Management Plan to the Commission for approval by 31 December 2007, shall reduce the fishing effort that catches eel by 50%, either by shortening the fishing season for eel or by other means. This reduction shall be implemented from 1 January 2008.

Article 5

Approval and implementation of Eel Management Plans

1. On the basis of a technical and scientific evaluation from the Scientific, Technical and Economic Committee for Fisheries, the Eel Management Plans shall be approved by the Commission in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

2. Member States shall implement the Eel Management Plans approved by the Commission in accordance with paragraph 1 from 1 July 2008, or from the earliest possible time before that date.
3. From 1 July 2008, or from the date of implementation of an Eel Management plan before that date, it shall be permitted to fish for eel of the species *Anguilla anguilla* the whole year round provided that the fisheries conform to the specifications and restrictions set out in an Eel Management Plan approved by the Commission in accordance with paragraph 1.
4. A Member State which has submitted an Eel Management Plan to the Commission for approval not later than 31 December 2007, which cannot be approved by the Commission in accordance with paragraph 1, shall reduce the fishing effort that catches eel by 50%, either by shortening the fishing season for eel or by other means. This reduction shall be implemented within three months of the decision not to approve the plan.

Article 6

Transboundary Eel Management Plans

1. For eel river basins extending to the territory of more than one Member State, the Member States involved shall jointly prepare an Eel Management Plan. If coordination is in danger of resulting in such a delay that it will become impossible to submit the Eel Management Plan on time, Member States may submit Eel Management Plans for their national part of the river basin.
2. Where an eel river basin extends beyond the territory of the Community, the Member States involved shall endeavour to develop an Eel Management Plan in coordination with the relevant third countries, and the competence of any relevant regional fisheries organisation shall be respected.
3. Articles 3, 4 and 5 shall apply *mutatis mutandis* to the transboundary plans referred to in paragraphs 1 and 2.

Article 7

Measures concerning fisheries for glass eels

1. Notwithstanding Articles 4(2) and 5(4), it shall be permitted to fish for glass eels the whole year round provided that:
 - (b) all the glass eels captured are released into European inland waters having access to the sea for the purpose of increasing the escapement levels of adult silver eels; or
 - (c) that the glass eels captured are used as stocking material for eel aquaculture in the EU, provided that 75 % of the ongrown biomass is released after a fattening phase into European inland waters having access to the sea for the purpose of increasing the escapement levels of adult silver eels.
2. If a Member State permits the operation of fisheries on glass eels, it shall ensure that 75% of the glass eels caught by the fisheries in that Member State during each year are utilized as part of a restocking program in European inland waters having access to the sea for the purpose of increasing the escapement levels of adult silver eels. In order to ensure that 75% of glass eels caught are used in a restocking programme, Members States must establish an appropriate reporting system.

Article 8

Measures concerning Community maritime waters

1. Where a Member State operates a fishery in Community maritime waters that catches eel, the annual effort deployed in that fishery shall be reduced by 50% relative to the average effort deployed from 2004 to 2006. This reduction is to be achieved within five years from the date of entry into force of this Regulation.

2. For the purposes of paragraph 1, Community maritime waters are those waters seaward of the boundary of those river basins which constitute natural eel habitats as defined by Member States according to Article 3.

Article 9

Reporting and Evaluation

1. Each Member State shall report to the Commission, initially, every third year, with the first report to be presented by 30 June 2011. The frequency of reporting shall decrease to once every sixth year, after the first three tri-annual reports have been submitted. Reports shall outline the monitoring, effectiveness and outcome, and in particular shall provide the best available estimates of:
 - (a) for each Member State, the proportion of the biomass of the eel that escape to the sea to spawn relative to the escapement level set out in Article 3(4).
 - (b) the level of fishing effort that catches eel each year, and the reduction effected in accordance with Articles 4(2) and 5(4).
 - (c) the level of mortality factors outside the fishery, and the reduction effected in accordance with Article 3(8).
 - (d) the amount of glass eel caught and the proportions of this utilized for different purposes.
2. The Commission shall, not later than 31 December 2012, present a report to the European Parliament and the Council with a statistical and scientific evaluation of the outcome of the implementation of the Eel Management Plans accompanied by the opinion of the Scientific, Technical and Economic Committee for Fisheries.
3. The Commission shall, considering the report described in paragraph 2, propose any appropriate measures to achieve with high probability the recovery of the stock of European eel.

Article 10

Control and Enforcement

1. Chapter V of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹ shall apply *mutatis mutandis* to all measures provided for by this regulation.
2. Article 22(1)(b) of Regulation (EC) No 2371/2002 shall not apply.

Article 11

European Fisheries Fund

[*The content of this article has yet to be developed.*]

Article 12

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*, but not before 1 July 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

¹ OJ L 358, 31.12.2002, p. 59.