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from : Polish delegation

to : Working Party on Internal Fisheries Policy

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

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

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

***Written comments by Poland on Article 9 and Article 11 (withdrawn) of  
the draft Council Regulation establishing measures for the recovery  
of the stock of European eel [7069/07 of 6 March 2007]  
for discussion in the Working Party on Internal and External Fisheries Policy***

The Working Party on Internal and External Fisheries Policy meeting on 7 March 2007 did not conclude its discussion of the control measures proposed in Article 9 of the draft *Council Regulation establishing measures for the recovery of the stock of European eel* and issues relating to financial assistance from the European Fisheries Fund; please find our written comments on these issues below.

The amendments proposed by the Commission in *7069/07 of 6 March 2007* seem to take Member States' concerns on board. There are just a few details requiring clarification in particular articles, and there is no need to make any amendments to Articles 1 to 8 at the moment, other than those tabled previously [5852/07 ADD 5; 5852/07 ADD 8]. Unfortunately, this does not hold for Article 9 as proposed in *7069/07*.

***Article 9***

According to the Commission, conservation measures should cover eel stocks in all types of marine and inland waters which constitute natural eel habitats. Bearing in mind that eel is a migratory species, this approach is fully justified. However, the arrangements proposed in the Regulation should take full account of differences between the legal systems which govern rules on the use of inland waters for fishing purposes. It is not always necessary to own a fishing vessel in order to fish for eel in inland waters (cf. hand-held dip nets for on-shore fishing or trap-like devices for passive eel fishing). With inland fisheries, it is rare for vessels to leave port to go to a fishing ground and return to port from a fishing ground. In practice, most lakes do not have any ports at all or, by the same token, any administrative authority able to check data on when vessels enter or leave port.

The owner or user of inland waters may own several boats of different types on the same body of water, which he may leave pulled up on the lakeshore or moored to a jetty measuring a few metres. Usually these are rowing boats of a few metres in length. Sometimes the boats are transported from one lake to another, particularly in those regions where there is no possibility of leaving equipment unsupervised.

Statistical surveys of inland fishing do not use the same concepts as used in sea fishing (fishing effort, GT or kW) to determine how fishing is affecting stocks. The system of gathering data is based on information regarding the size of the catch per unit of water surface. These data are compared with the natural productivity of inland waters (in kg of fish per unit of water surface). The size of the catch taken per fishing vessel does not relate to the specific environment and does not provide a basis for assessing the status of fish stocks in a specific lake. The system for collecting statistics on Polish inland fisheries allows us to determine the current state of fish stocks without needing to apply the systems adopted in *Council Regulations Nos 2847/93 and 2371/2002*. The Polish system of gathering data and monitoring fish farming, including restocking operations, is inexpensive and fully operational. It allows us to determine precisely who is allowed to fish in inland waters, where they are allowed to fish, and by what method. It makes it possible to determine the size of the annual catch in particular waters (lakes, rivers or reservoirs) and, more importantly, introduces multi-annual rules for the sustainable use of fish stocks through a system of resource management plans. These plans are drawn up and verified with the help of scientific institutes, for each separate body of water.

The proposal to introduce a system for the control of inland fisheries based on the provisions of *Council Regulations Nos 2847/93 and 2371/2002* was criticised right at the outset of discussions on the draft Regulation. The Commission is standing by its proposal despite its own clearly stated view that inland fisheries do not come within the Common Fisheries Policy. Under these circumstances, it is difficult to accept the Commission's proposals for control arrangements. In view of the foregoing we propose appropriate amendments to Article 9, which will allow Member States to adopt their own arrangements as regards control measures for inland fisheries. A detailed proposal is given in point 1 of the Annex hereto.

**Article 11 European Fisheries Fund** [removed from 6724/07]

In 6724/07, the Commission removed the Article which was supposed to regulate European Fisheries Fund finance for measures taken by Member States to implement their eel management plans. The absence of this Article meant that Member States were unable to express their views on this issue, which is very important for achieving the targets set in those plans. This discussion is greatly needed, since the Commission's clarifications will determine whether the arrangements proposed in the draft Regulation are acceptable and feasible. It should be pointed out that the issue of an explicit reference in a legal act, as referred to in Articles 33 and 38 of *Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund*, is not the only issue which needs to be discussed as a matter of urgency.

Unlike marine waters, inland waters may be private property; permission to fish in inland waters may be closely connected with ownership of the waters, with legally protected fishing privileges accorded by a sovereign authority or with an authorisation to engage in commercial fish farming acquired through public tender and confirmed in the form of a multi-annual civil-law contract. The draft Regulation does not provide for any compensation for the restriction of rights or privileges or for the financial losses suffered by the owners of inland waters. Article 33 of *Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund* does allow support to be granted for the temporary cessation of inland fishing activities, but it should be pointed out that this support is solely for fishermen (persons actually catching fish) or the owners of floating gear. No form of support is offered to the owners of inland waters who have financed the restocking of glass eels from private sources. Nor is there any financial help for sea fishermen who will be obliged to make 50 % cuts in the amount of the eel they catch from the sea in a very short time. It was suggested during discussion on the Regulation on the European Fisheries Fund that inland water fishing be included in *Article 30 – aqua-environmental measures*, but the Commission rejected the proposal. The current discussion on the draft *Council Regulation establishing measures for the recovery of the stock of European eel* shows how useful it would be for inland fishing to be included in aqua-environmental measures. An appropriate proposal for an amendment is set out in point 2 of the Annex hereto.

## ANNEX

### 1. Proposal for amendment to Article 9 of the draft Regulation:

#### *"Article 9*

#### ***Control and Enforcement***

1. *Where a Member State operates a direct eel fishery in Community maritime waters by 1 January 2009, it shall ensure that all fishing vessels in maritime waters, flying its flag, are authorised to capture eel by issue of a special fishing permit in accordance with Article 7 of Regulation (EC) No 1627/1994, notwithstanding the overall length of the vessel. Each Member State shall transmit electronically a list of these fishing vessels to the Commission.*
2. *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 Policy shall apply mutatis mutandis to all measures provided for in Article 7 of this Regulation. Article 22(1)(b) of Regulation (EC) No 2371/2002 shall not apply.*
3. *Member States shall take all necessary measures to ensure appropriate own control of eel fisheries in freshwaters where a direct eel fishery is operated, and to enforce implementation of the specifications and restrictions set out in an Eel Management Plan approved by the Commission to obtain the objective of the plan. Member States shall communicate to the Commission not later than 1 year after entry in force of the Regulation.*
4. *Member States shall take all necessary measures to ensure identify the origin of all eel imported or exported from their territory and to determine whether the eel harvested in the Community area was caught in a manner consistent with Community conservation measures."*

2. Proposal for amendment to Article 30 of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund:

*"Article 30*

*Aqua-environmental measures*

1. *The EFF may support granting compensation for the use of aquaculture **or inland fisheries** methods helping to protect and improve the environment and to conserve nature.*
  
2. *The purpose of the support is to promote:*
  - (a) *forms of aquaculture **and inland fisheries** comprising protection and enhancement of the environment, natural resources, genetic diversity, and management of the landscape and traditional features of aquaculture **and inland fisheries** zones;*
  
  - (...)
  
  - (d) *sustainable aquaculture **or inland fishery** compatible with specific environmental constraints resulting from the designation of NATURA 2000 areas in accordance with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (3).*
  
3. *In order to receive compensation under this Article, beneficiaries of compensation must commit themselves for a minimum of five years to aqua-environmental requirements which go beyond the mere application of normal good aquaculture **or inland fisheries** practice. For the support provided for under paragraph 2(a), the environmental benefits of such commitments must be demonstrated by a prior assessment conducted by competent bodies designated by the Member State.*

(...)

5. *A one-off compensation shall be allocated:*

*(...)*

*(c) under paragraph 2(d), for a maximum of two years subsequent to the date of the decision establishing the NATURA 2000 area and only for aquaculture units **or inland fisheries entity** existing prior to that decision."*

