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NOTE

from : Danish 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 received from the Danish delegation on the subject mentioned above.

Danish comments on the Proposal for a Council Regulation establishing measures for the recovery of the stock of European eel

Denmark would like to convey the following comments on the proposal and the latest working document 7300/07.

Denmark finds that progress has been made and the proposal is moving forward. However, some provisions remain unnecessarily tense, complex and/or difficult to interpret, so their consequences to some degree remain unpredictable.

Denmark would much prefer realistic objectives that could contribute to the recovery of the eel stock. In Article 2.3 Denmark finds that the phrase "*that would have existed if no anthropogenic mortalities would have impacted the stock*" renders the management plans unrealistic since the objective would seem unattainable in most cases. The relevant part of that provision should read like it did in the working document of 6.2.2007:

"... 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.~~
..."

Further, Denmark finds that the final sentence of Article 2.3 should be changed into:

*"The Eel Management Plan shall be prepared with the purpose of achieving this objective ~~by 20XX~~
within 3 eel generations, according to the specific conditions in that area."*

Generally, Denmark is much concerned that control and enforcement of the provisions should be affordable and not imply disproportionate labour and administration. Controlling fishing effort, contrary to catches, is a more manageable way of doing this in relation to eel fisheries. Accordingly, the relevant provisions of Articles 3.2, 4.4 and 7.1 should read like they did in the working document of 23.2.2007:

“... shall reduce the fishing effort that catches eel by 50% ...”

Devoting much attention to an optimum exploitation of the resources, taking into account the principles of precaution and sustainability, Denmark finds that a proper use of the glass eel influx into European waters is and must be the crux of the proposal. Without the provisions of Article 6, the objective of the proposal as a whole would seem vanishing. Denmark therefore very much appreciates the proposal's intention to secure sufficient material for restocking eels into European waters.

However, it is essential that a sufficient amount of glass eel is left for aquaculture purpose within the EU as was the case in the working document of 23.2.2007. A part of the glass eels used for aquaculture in the EU shall be released, thus contributing to the recovery of the eels stock. Scientific cost-benefit analyses have shown that glass eels used for aquaculture in the EU renders a much higher benefit for the Community than glass eels used for any other purpose. Consequently, Denmark proposes that the wording of Article 6 be changed into:

*“If a Member State permits the operation of fisheries on eels less than 12 cm in length, either as part of an Eel Management Plan established in accordance with Article 2, or as part of a reduction of the fishing effort in accordance with Articles 3(2) or 4(4), it shall ensure that [75%] of the eels less than 12 cm in length caught by the fisheries in that Member State during each year are utilized as part of a restocking program in eel river basins as defined by Member States according to Article 2(1) for the purpose of increasing the escapement levels of silver eels. **A restocking program can include the use of eels less than 12 cm as stocking material for eel aquaculture in the EU, provided that a part of the eel are released after a fattening phase into European waters.** In order to ensure that [75%] of eels less than 12 cm in length caught are used in a restocking programme, Members States must establish an appropriate reporting system.”*

Article 7.1 stipulates a 50% reduction in maritime eel catches, relative to the period 2004-2006 (and, as we understand it, “over a 5 year period” which will be reintroduced though being cancelled in the working document of 13.3.2007). Denmark finds that such a fast reduction would not be reasonable to a fishery that has already been considerably reduced. Further, as stressed above the text should also be changed so as to focus on effort reduction rather than catch reduction which is much more difficult to control. Denmark therefore proposes the following changes to Article 7.1:

*“Where a Member State operates a fishery in Community maritime waters that catches eel, the annual effort deployed in that fishery shall be reduced ~~to ensure a reduction of eel catches~~ by at least 50% relative to the average ~~catch~~ from 2000 to 2006. This reduction is to be achieved gradually, initially by steps of ~~15~~**10**% per year in the first two years, **over a 10 year period** from the date of entry into force of this Regulation.”*

Considering the possible outcomes of the regulation, the proposed measures for control and enforcement according to Articles 9, 10, 11 and 12 would seem disproportionately burdensome and extremely costly.

The use of the phrase “*mutatis mutandis*” in Articles 9 and 10 renders the possible consequences of the provisions rather unclear. Denmark finds that instead the intended requirements should be specified in each case, e.g. which types and sizes of vessels should be covered by each provision, etc.

However, extending the coverage of Title II of the Control Regulation to all freshwater (eel) fisheries would seem much of an “overkill”, in no reasonable proportion to any possible outcome of such measures.

The option given in Article 10.2 of choosing an alternative control system would hardly seem attractable to any Member State given the condition that it should be at least as effective as the provisions set out in Article 10.1.

In Denmark, licenses for leisure fisheries are given to 33 000 persons rather than to their vessels. Changing the registration system into one based on fishing vessels would be very complicated and costly though not implying any rise in efficiency as far as control and enforcement are concerned.

In freshwater, Danish eel fisheries is to a large extent based on private property rights rather than fisheries licenses. The annual catch is close to negligible. Establishing and keeping a list of riverbank owners would seem out of proportions related to the possible outcome of the measures.

The coverage of Article 12 seems very broad, apparently including any eel trade within and across the borders of the Community. If the primary intention is an expedient supervision as to the export of live glass eels out of the EU, that should be specified in the text.

Article 13 provides for The European Fisheries Fund supporting eel restocking as part of an eel management plan, according to Article 38.2 of that regulation. However, Denmark finds that purpose (b) of that same article: *“the rehabilitation of inland waters, including spawning grounds and migration routes for migratory species”* (Danish underlining) should also be mentioned (with the exclusion of *“including spawning grounds”*) since in the Council’s conclusions on the Commission’s Communication on a Community Action Plan for the Management of European Eel, on 19.7.2004 the Council stated:

“11. RECALLS the importance of the implementation of Community environmental policy and, in particular, of Water Framework Directive (EC) No 2000/60 regarding the improvement of the eel habitat and the removal of eel migration obstacles.”

This is also reflected in recital (6) of the eel proposal (COM(2005) 472):

“Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2000/60/EC establishing a framework for Community action in the field of water policy are intended, inter alia, to protect, conserve and enhance the aquatic environment where eels spend part of their life cycle and it is needed to ensure that there is coordination and consistency between measures taken under this regulation and those taken under the mentioned directives.”