



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 March 2007

**Interinstitutional File:
2005/0201 (CNS)**

**7572/07
ADD 1**

LIMITE

PECHE 71

PUBLIC

ADDENDUM TO REPORT

from : Working Party on Internal and External Fisheries Policy

to : Permanent Representatives Committee

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

Positions of delegations with regard to the last Presidency working document discussed on 22 and 23 March 2007 are set out in the annex as footnotes in bold and italics.

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.¹
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

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”) which may include maritime waters.² 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.

¹ ***CZ:*** *Black Sea should be excluded only under certain conditions, in particular, that there would be a possibility for restocking in the rivers flowing into the Black Sea in the future.*

² ***BE:*** *Link with Article 7. Contradiction.*

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 permit³ with high probability⁴ the escapement to the sea of at least 40%⁵ of the biomass of silver eel relative to the best estimate of escapement that would have existed if no anthropogenic mortalities⁶ would have impacted the stock. The Eel Management Plan shall be prepared with the purpose of achieving this objective in the long term.⁷
4. The target level of escapement shall be determined⁸ in one or more of the following three ways:
 - (a) use of data collected prior to 1980⁹, provided these are available in sufficient quantity and quality;
 - (b) habitat-based assessment of potential eel production, in the absence of anthropogenic mortality factors; or,
 - (c) with reference to the ecology and hydrography of similar river systems.

³ ***FR, NL, ES:*** Add a reference to reduce the 'anthropogenic' mortality of the eel. ***DE:*** Opposed to such addition.

⁴ ***UK:*** the term "high" probability needs to be more precisely defined (X %) in order that Member States can draw up appropriate management targets which, at the same time, provide that the attainment of the objective is not required in every year within a period in order to take account of natural variability.

⁵ ***EL, ES:*** Reservation on the objective.

PT: Doubts. Requested to take into account the rate of escapement from 'intensive farming' in the calculation of the objective of escapement.

⁶ ***IE, LT:*** Replace the term "mortalities" by "influences".

DK, FI, IT, UK: delete any reference to the situation "that would have existed if no anthropogenic mortalities would have impacted the stock" or not focusing on anthropogenic factors since this objective would be unrealistic.

⁷ ***DK, IE, PL, DE:*** 3 eel generations instead of long term. ***COM:*** It can vary depending on the location.

⁸ ***FR:*** Add: Taking into account the available data by river basin

⁹ ***DE, PL:*** The objective should be related to as much a concrete period as possible. ***DE:*** 1950.

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 target level of escapement laid down in paragraph 3.
6. Each Eel Management Plan shall include measures to reach, monitor and verify the objective set out in paragraph 3. The Member States may define the means depending on local and regional conditions.
7. An Eel Management Plan may contain¹⁰, 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 silver 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.
8. Each Eel Management plan shall contain a time schedule for the attainment of the target level of escapement laid down in paragraph 3 following a gradual approach and depending on an expected recruitment level, including measures that will be applied as of the first year of application of the Eel Management plan.

¹⁰ ***PL: Merge two indents: restocking and transportation***

9. In the Eel Management Plan, each Member State shall implement appropriate measures as soon as possible¹¹ to reduce the mortality caused on eel by factors outside the fishery, including hydroelectric turbines, pumps or predators, unless this is not necessary to obtain the objective of the plan.
10. Each Eel Management Plan shall include a description of¹² the control and enforcement measures which will apply in waters other than Community maritime waters in accordance with Article 10.
11. An Eel Management Plan¹³ shall be deemed to be a Member State measure within the meaning of Article 9 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(v) of Regulation (EC) No 1198/2006.¹⁴

*Article 3*¹⁵

Communication of Eel Management Plans

1. Member States shall communicate to the Commission not later than 31 December 2007¹⁶ Eel Management Plans prepared in accordance with Article 2.

¹¹ ***NL, BE*** have requested to align this provision with the time frame set out by Directive 2000/60/EC establishing a framework for Community action in the field of water policy.

¹² ***ES***: It does not understand the reason. Draft it clearer.

¹³ ***ES***: Maybe it should be called 'recovery plan' since the financial support from the European Fisheries Fund (EFF) can be higher if considered a recovery plan.

¹⁴ ***FR, EL***: What is the scope since EFF refers to maritime fishery?

NL: Need further clarification about additional financing through EFF.

UK: The references are confusing. What is the purpose and effect of the new paragraph?

COM: Intention was to address what measures were eligible through the EFF.

¹⁵ ***IT***: Eel fishery is marginal. Therefore, is it necessary to draw up a management plan?

COM: Even if fishing effort is low, the obligation applies.

FR: Member States should have an opportunity to amend the plan before the COM approves or rejects it.

In addition, fighting against illegal fishing should be taken into account in the reduction of the commercial fishery. COM: Ready to consider fighting illegal fishing as a reduction on fishing effort but there will be a need to set up parameters to estimate it.

¹⁶ ***ES, CZ, PT, IE, EL, FR, LT, PL, FI***: Dates in Articles 3 and 4: one more year: 2008 or 2009 respectively

2. A Member State which has not submitted an Eel Management Plan to the Commission for approval by 31 December 2007¹⁷ shall either reduce the fishing effort by at least 50% relative to the average effort¹⁸ deployed from 2004¹⁹ to 2006 or reduce the fishing effort to ensure a reduction of eel catches by at least 50% relative to the average catch from 2004 to 2006, either by shortening the fishing season for eel or by other means. This reduction shall be implemented from 1 January 2008.
3. The reduction of catches set out in paragraph 2 can be substituted in whole or in part by immediate measures on other anthropogenic mortality factors, which will allow a number of migrating silver eels equivalent to that which the reduction of catches would allow to escape to the sea to spawn.

Article 4

Approval and implementation of Eel Management Plans

1. On the basis of a technical and scientific evaluation by the Scientific Technical and Economic Committee for Fisheries or by other appropriate scientific bodies²⁰, 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.

¹⁷ ***ES: 2008***

¹⁸ ***SE, EL: Reservation. Reduction should be in catches; not in fishing effort because that does not necessarily mean a reduction on catches. Same for next Article. COM: This is a choice for Member States.***

¹⁹ ***ES: 2000 - 2006.***

IT, FR: Longer reference period to avoid Member States who have already taken measures being discriminated against. COM: Intention is to refer to the most recent period.

²⁰ ***SE, IE: Why the option? It should be STECF. Who is going to decide which is the appropriate scientific body?***

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. ²¹A 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 either reduce the fishing effort by at least 50% relative to the average effort deployed from 2004 to 2006 or reduce the fishing effort to ensure a reduction of eel catches by at least 50% relative to the average catch from 2004 to 2006, 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.
5. The reduction of catches set out in paragraph 4 can be substituted in whole or in part by immediate measures on other anthropogenic mortality factors, which will allow a number of migrating silver eels equivalent to that which the reduction of catches would allow to escape to the sea to spawn.
6. In the event that the Commission cannot approve an Eel Management Plan, the Member State may submit a revised plan within 3 months of the decision not to approve the plan. The revised Eel Management Plan shall be approved in accordance with the procedure established in paragraph 1. The implementation of the reduction of catches set out in paragraph 4 shall not be suspended until a revised plan is approved by the Commission.

Article 5

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.

²¹ **FR:** *Same comments as for Art. 3*

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. If the relevant third countries do not participate in the joint preparation of an Eel Management Plan, the Member States concerned may submit Eel Management Plans for the part of the eel river basin situated within their territory, with the objective of achieving the target level of escapement laid down in Article 2(3).
3. Articles 2, 3 and 4 shall apply *mutatis mutandis* to the transboundary plans referred to in paragraphs 1 and 2.

Measures concerning restocking

1. 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. In order to ensure that [75%]²³ of eels less than 12 cm in length caught are used in a restocking programme, Members States must establish an appropriate reporting system.

²² **PL:** *Insert a new par. 3 to deal with restocking by private operators:
'3. Restocking, as described in paragraph 2, shall be deemed to be traditional form of capture-based aquaculture for the purposes of Article 30 of Regulation (EC) No 1198/2006 if it was undertaken and co-financed by private inland fishing operators before this Regulation had entered into force.'*

SE: *No need for the addition proposed by PL. Possibility already covered.*

ES, FR: *The lack of impact study could have legal implications. Doubts about the proportionality of the measure.*

ES, FR, IT: *Lack of justification about the percentage.*

FR: *What is the amount of glass eel currently used by the other Member States and what is the price currently paid?*

DK: *Take into account aquaculture.*

IT: *Trade issues should be considered carefully*

UK, IE, CZ: *Recovery will depend on the degree of restocking. The amount reserved for restocking should be sufficiently large so as to set the price. Therefore, percentage should be high.*

PL: *Fundamental problem is the price to restock. If any restriction in the sector there would be disruptions in the market. Glass eel has to be apt for fishing.*

²³ **IT:** *Reservation. What would happen to eel farms? Reservation on paragraph 2 because where there is no management plan, restocking would not be covered.*

2. Restocking shall be deemed to be a conservation measure for the purposes of Article 38(2), second sub paragraph, of Regulation (EC) No 1198/2006, provided that:
- it is part of an Eel Management Plan established in accordance with Article 2;
 - it concerns eels less than 12 cm in length;²⁴ and
 - it contributes to the achievement of the 40% target level of escapement as referred to in Article 2(2).

Article 7

Measures concerning Community maritime waters

1. Where a Member State operates a fishery in Community maritime waters that catches eel²⁵, the annual effort²⁶ deployed in that fishery shall be reduced to ensure a reduction of eel catches by at least 50%²⁷ relative to the average catch from 2004²⁸ to 2006. This reduction is to be achieved gradually, over a 5 year period, initially by steps of 15% per year in the first two 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 eel river basins which constitute natural eel habitats as defined by Member States according to Article 2(1).

²⁴ ***CZ, FR, DE:*** Cover also eel which has been fattened since this increases the probabilities of survival. ***COM:*** Ready to redraft it to make it clearer that the eel has to be 12 cm only when caught.

²⁵ ***PT, LT, UK:*** Refer to directed fishery.

ES, FR: Requested information on the situation of eel maritime fisheries in the EC.

²⁶ ***DK, NL, DE:*** Introduce possibility to reduce effort rather than catch for control purposes.

²⁷ ***ES:*** Do the same in Art. 3(2). ***COM*** should justify why the gradual reduction can not be introduced as well in Art. 3(2).

²⁸ ***ES, PT, DK, IT:*** 2000 - 2006

Article 8

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)²⁹ for each Member State, the proportion of the biomass of silver eel that escape to the sea to spawn, or in the case of a landlocked Member State, the proportion of the biomass of silver³⁰ eel leaving the territory of that Member State as part of a seaward migration to spawn, relative to the target level of escapement set out in Article 2(3).
 - (b) the level of fishing effort that catches eel each year, and the reduction effected in accordance with Articles 3(2) and 4(4).
 - (c) the level of mortality factors outside the fishery, and the reduction effected in accordance with Article 2(9).
 - (d) the amount of eel less than 12 cm³¹ in length 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.

²⁹ ***BE:*** *There are situations where a Member State has both a coast but also rivers flowing to another Member State. COM: Ready to consider redrafting.*

³⁰ ***CZ:*** *Add 'migratory'.*

³¹ ***ES, FR:*** *Why only reference to this type of eel? Brown eel can also be used for restocking.*

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 and the Council shall decide by qualified majority on alternative measures to achieve the target level of escapement set out in Article 2(3) or the reduction of fishing effort effected in accordance with Articles 3(2) and 4(4).

Article 9³²

Control and enforcement in Community maritime waters

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 Policy³³ shall apply to all measures provided for in Article 7 of this regulation.

³² ***IT:*** *Many provisions are not adapted to the realities of this fishery. In estuaries there is some fishing not from vessels.*
ES, FR: *Not necessary. The whole Regulation on common fisheries policy applies to eel maritime fishery.*
SE, DK: *Inconsistencies. Unclear what control regulations apply for vessels below 10 meters.*
DK: *Very expensive to implement all the provisions on control. Need of proportionality. Do they apply to sport fishery?*
ES, UK, PT: *Matter of principle not to exclude any vessel regardless of the length or the recreational fishery taking into account the situation of the eel.*
UK: *Article 9 should clarify that its scope relates to maritime waters outside Eel management plan and furthermore, derogate from irrelevant elements of Chapter V of the framework Regulations such as those concerning VMS. On the other hand, Articles 6 to 13 on the control Regulation should apply.*
FR: *Maritime waters can be included in the management plan while this provision refers to Article 7 only.*
FI: *Scrutiny reservation.*
COM: *Any maritime fishery is covered by the Common Fisheries Policy as a matter of fact but recreational fishery is not currently covered. It would be in Article 11. No particular objection to delete Article 9.*

³³ OJ L 358, 31.12.2002, p. 59.

Control and Enforcement in waters other than Community maritime waters

1. Member States shall establish³⁵ a control and catch registration system adapted to the circumstances and legal framework already applicable to inland fisheries in that Member State, which shall be at least as effective as the provisions set out in Council Regulation (EEC) No 2847/93 of 12 October 1993. The control and catch registration system shall contain a thorough description of all systems of allocation of fishing rights in eel river basins which constitute natural eel habitats as defined by Member States according to Article 2(1), including privately owned waters.
2. Paragraph 1 shall apply *mutatis mutandis* to the reduction of catches set out in Article 3(2) and (3) and Article 4(4) and (5).

³⁴ ***IT:*** *Cumbersome.*

SK: *Scrutiny reservation*

³⁵ ***ES, UK, SE:*** *Add 'in each Eel management plan, or if no plan is adopted by 31 December 2008'.* ***UK:*** *Maybe add that Member States shall introduce controls that are on balance as effective as the provisions in the Control Regulation.* ***COM:*** *Reluctant to the second addition since it would be difficult to define 'on balance'*

EE, FI, IE, DK, CZ, NL, HG, AT: *This provision should apply only to commercial fisheries. Who has the burden of proof as regards the effectiveness of the system as compared to the Control Regulation? Maybe delete this part of the provision. Matter of proportionality from cost/effect point of view and administrative burden. The control of recreational fishery should be dealt with in the management plan if necessary.*

PL: *The Common Fisheries Policy does not cover inland fisheries. Against extension.*

FR, ES: *As a matter of principle, it is not acceptable to exclude leisure fisheries from the Council Regulation. Depending on the specific circumstances there could be different tailored measures for this kind of fishery that should be reflected in the management plan.*

UK: *Member State must be obliged to control activities in order for the management plan to be effective. This is going to depend on the particularities of each Member State.*

COM: *The details on control should be set out in the management plan but it should be made clear that recreational fishery is covered by the Regulation.*

Lists of authorisations

1. By 1 January 2009, each Member State shall establish the following information:
 - a list of all fishing vessels flying its flag authorised to fish for eel in Community maritime waters in accordance with Article 7, notwithstanding the overall length of the vessel;
 - a list of all fishing vessels authorised to fish for eel in eel river basins which constitute natural eel habitats as defined by Member States according to Article 2(1)³⁷;
 - a list of all fishermen³⁸ authorised to fish for eel in eel river basins which constitute natural eel habitats as defined by Member States according to Article 2(1);
 - a list of all auction centres or other bodies or persons authorised by Member States to undertake the first marketing of eel.

³⁶ **IE, PL, NL:** *Doubts about the usefulness of this provision.*

FR: *Combating illegal fishing is very important. It can be done through a system of authorisations or permits. But agree for the licensing system to apply only to professional fishermen.*

EL: *Maintain the provision as it stands.*

UK: *Link with Article 9. Fishing permit in maritime waters should be introduced.*

List of registered traders would be better.

SE, NL, ES, EE: *Delete third indent and add fishermen to the second indent. NL, EE: Apply to commercial fisheries only. SE: The impact of sport fishery can not be excluded.*

³⁷ **IT:** *It has not such a list.*

³⁸ **SK, FI, LT:** *Does this provision apply to commercial fisheries only? To include recreational fishing would increase largely the administrative burden. FI: Focus on commercial fishery. LT: Delete third indent and amend the first and second indents to add "enteties".*

CZ, PL, DK, NL, FI: *No vessels. Huge number of licences for sport fishery which could accidentally catch eel. Impractical provision. No real benefit.*

PL: *Need of data on any "entity" acting on eel and a yearly estimate of recreational catches.*

COM: *Agrees with FR. As far as the commercial fishery is concerned there should be permits. Maybe there should be a catch register so as to cover sport fishery as well.*

2. On request from the Commission, Member States shall provide the information referred to in paragraph 1.

Article 12³⁹

Control and enforcement concerning imports and exports of eel

1. Member States shall take the measures necessary to identify the origin and ensure the traceability of all⁴⁰ eel imported or exported from their territory⁴¹.
2. Member States shall determine whether the eel harvested in the Community area and exported from their territory was caught in a manner consistent with Community conservation measures.
3. Member States shall take measures to determine whether the eel harvested in the waters of any relevant regional fisheries organisation⁴² and imported into their territory was caught in a manner consistent with the rules agreed in the regional fisheries organisation in question.
4. Paragraphs 1, 2 and 3 shall apply *mutatis mutandis* to the reduction of catches set out in Article 3(2) and (3) and Article 4(4) and (5).

³⁹ ***NL, DK, AT:*** First indent is superfluous. This obligation already exists.
Second indent: Take into account discussions on CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora).
FR, SK, CZ, MT: Introduce a document to set up a traceability system on exports (as for *dissostichus spp* (Regulation 1035/2001)).

⁴⁰ ***HG:*** Does it include frozen eel?

⁴¹ ***IT, MT:*** Member States can not certify the origin of the eels imported.

⁴² ***IT:*** Scrutiny reservation about those organisations.
FR, NL: Which organisations? Maybe statement to invite COM and Council to pursue the adoption of this kind of measures in the relevant regional organisations.
COM: Doubts about the necessity of paragraph 4. Need to reflect on certification.

Article 13

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, [...]
