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NOTE

from : Presidency
to : Permanent Representatives Committee / Council

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

Delegations will find attached a consolidated version of the Presidency compromise, in agreement with the Commission, following the outcome of the Council meeting on 7 May 2007.

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 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.
2. As regards the Black Sea and the rivers systems connected to it, the Commission shall take a decision in accordance with the procedure referred to in Article 30(2) of Regulation (EC) 2371/2002 after consultation of Scientific Technical and Economic Committee for Fisheries by 31 December 2007 whether these waters constitute natural habitats for the European eel in accordance with Article 2b.
3. 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. 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.
4. The objective of each Eel Management Plan shall be to reduce anthropogenic mortalities so as to permit with high probability the escapement to the sea of at least 40% of the biomass of silver eel relative to the best estimate of escapement that would have existed if no anthropogenic influences would have impacted the stock. The Eel Management Plan shall be prepared with the purpose of achieving this objective in the long term.
5. The target level of escapement shall be determined, taking into account the data available for each eel river basin, in one or more of the following three ways:
 - (a) use of data collected in the most appropriate period 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 mortality factors; or,
 - (c) with reference to the ecology and hydrography of similar river systems.
6. 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 4.
7. 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.
8. 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 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,
 - measures related to aquaculture.
9. 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. In the Eel Management Plan, each Member State shall implement appropriate measures as soon as possible 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.
11. Each Eel Management Plan shall include a description of the control and enforcement measures which will apply in waters other than Community waters in accordance with Article 9.
12. An Eel Management Plan shall constitute a management plan adopted at national level within the framework of a Community conservation measure referred to in Article 24(1)(v) of Regulation (EC) No 1198/2006.

Article 2b

Exemption from the obligation to prepare an Eel Management Plan

1. A Member State may be exempt from the obligation to prepare an Eel Management Plan if appropriate justification is provided that river basins or maritime waters lying within its territory do not constitute natural habitats for the European eel.
2. Member States shall communicate to the Commission not later than 1 January 2008 a request for exemption prepared in accordance with paragraph 1.
3. On the basis of a technical and scientific evaluation by the Scientific Technical and Economic Committee for Fisheries or by other appropriate scientific bodies, the request for exemption shall be approved by the Commission in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.
4. Where the Commission approves a request for exemption, Article 3 shall not apply to the Member State concerned.

Article 3

Communication of Eel Management Plans

1. Member States shall communicate to the Commission not later than 31 December 2008 Eel Management Plans prepared in accordance with Article 2.
2. A Member State which has not submitted an Eel Management Plan to the Commission for approval by 31 December 2008 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 from 1 January 2009.
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 bodies, 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 2009, or from the earliest possible time before that date.
3. From 1 July 2009, 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 2008, 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 apply unless a revised plan is not 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.

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.

Article 6

Measures concerning restocking

1. If a Member State permits the operation of fisheries on eels less than 20 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 reserve at least 60% of the eels less than 20 cm in length caught by the fisheries in that Member State during each year to be marketed for use in restocking 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.

The 60% for restocking is to be set out in the management plans. It shall start at least at 35% in the first year of application of the management plan and it shall increase by steps of at least 5% per year. The level of 60% shall be achieved by 31 July 2013.

In order to ensure that the respective percentage of eels less than 20 cm in length caught are used in a restocking programme, Members States must establish an appropriate reporting system.

2. The Commission shall, not later than 1 July 2011, report to the Council and evaluate the measures concerning restocking including the evolution of market prices. Considering this evaluation, the Council shall decide by qualified majority upon a proposal of the Commission on appropriate measures to balance the measures concerning restocking while achieving the level mentioned in paragraph 1.
3. Restocking shall be deemed to be a conservation measure for the purposes of Article 38(2), 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 20 cm in length; and
 - it contributes to the achievement of the 40% target level of escapement as referred to in Article 2(4).

Article 7

Measures concerning Community waters

1. Where a Member State operates a fishery in Community waters that catches eel, the Member State shall either reduce the fishing effort by at least 50% relative to the average effort deployed from 2004-2006 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. This reduction is to be achieved gradually, initially by steps of 15% per year in the first two years over a 5 year period, from 1 July 2009.

2. For the purposes of paragraph 1, Community 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).

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 2012. 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 silver eel that escape to the sea to spawn, or the proportion of the biomass of silver 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(4).
 - (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(10).
 - (d) the amount of eel less than 20 cm in length caught and the proportions of this utilized for different purposes.
2. The Commission shall, not later than 31 December 2013, 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 and the Council shall decide by qualified majority on alternative measures to achieve the target level of escapement set out in Article 2(4) or the reduction of fishing effort effected in accordance with Articles 3(2) and 4(4).

Article 9

Control and Enforcement in waters other than Community waters

Member States shall establish a control and catch monitoring system adapted to the circumstances and legal framework already applicable to inland fisheries in that Member State, which shall be consistent with the relevant provisions set out in Council Regulation (EEC) No 2847/93 .

The control and catch monitoring 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.

Article 10

Information concerning fishing activities

1. By 1 January 2009, each Member State shall establish the following information concerning commercial fishing activities:
 - a list of all fishing vessels flying its flag authorised to fish for eel in Community waters in accordance with Article 7, notwithstanding the overall length of the vessel;
 - a list of all fishing vessels, commercial entities or fishermen, 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.
2. Member States shall establish on a regular basis an estimate of the number of recreational fishermen and their catches of eels.
 3. On request from the Commission, Member States shall provide the information referred to in paragraphs 1 and 2.

Article 11

Control and enforcement concerning imports and exports of eel

1. No later than 1 July 2009, Member States shall:
 - take the measures necessary to identify the origin and ensure the traceability of all live eels imported or exported from their territory;
 - determine whether the eel harvested in the Community area and exported from their territory was caught in a manner consistent with Community conservation measures;
 - take measures to determine whether the eel harvested in the waters of any relevant regional fisheries organisation and imported into their territory was caught in a manner consistent with the rules agreed in the regional fisheries organisation in question.

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, [...]

Joint Statement Council and Commission

The objective of 40% escapement laid down in Article 2(4) shall be understood as an average for the Member States' waters, thus allowing a differentiation of the specific situation of different river basins.

Statement by the Commission concerning restrictions on international trade in European eel.

The Commission intends, upon the adoption of this Regulation and in support of the recovery measures therein, to propose restrictions on international trade in European eel. The Commission intends to fully respect the EC's WTO obligations when drafting such proposal.

In addition, the Commission has recently expressed its support for the proposal tabled by Sweden to include European eel (*Anguilla anguilla*) in Annex II of the Convention on International Trade of Endangered Species (CITES).
