

COUNCIL REGULATION (EC) No 1100/2007

of 18 September 2007

establishing measures for the recovery of the stock of European eel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) On 19 July 2004 the Council adopted conclusions concerning the Commission's Communication to the Council and the European Parliament of 1 October 2003 on the development of a Community Action Plan for the Management of European Eel, which included a request to the Commission to come forward with proposals for long-term management of eels in Europe.

(2) On 15 November 2005 the European Parliament adopted a resolution calling on the Commission to immediately submit a proposal for a regulation for the recovery of European eel stocks.

(3) The latest scientific advice from the International Council for the Exploration of the Sea (ICES) concerning European eel is that the stock is outside safe biological limits and that current fisheries are not sustainable, ICES recommends that a recovery plan be developed for the whole stock of European eel as a matter of urgency and that exploitation and other human activities affecting the fishery or the stock be reduced as much as possible.

(4) There are diverse conditions and needs in the Community which require different specific solutions. That diversity should be taken into account in the planning and execution of measures to ensure protection and sustainable use of the population of European eel. Decisions should be taken as close as possible to the

locations where eel are exploited. Priority should be given to action by Member States through the drawing up of Eel Management Plans adjusted to regional and local conditions.

(5) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽²⁾ and Directive 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 ⁽³⁾ are intended, *inter alia*, to protect, conserve and enhance the aquatic environment where eels spend part of their life cycle and it is necessary to ensure that there is coordination and consistency between measures taken under this Regulation and those taken under the aforementioned Directives. In particular, Eel Management Plans should cover river basins defined in accordance with Directive 2000/60/EC.

(6) The success of measures for the recovery of the European eel stock depends on close cooperation and coherent action at Community, Member State and local and regional level as well as on information, consultation and involvement of the public sectors involved. To this end support from the European Fisheries Fund may contribute to the effective implementation of Eel Management Plans.

(7) If river basins lying within the national territory of a Member State cannot be identified and defined as constituting natural habitats for the European eel, it should be possible for that Member State to be exempted from the obligation to prepare an Eel Management Plan.

(8) In order to ensure that eel recovery measures are effective and equitable, it is necessary that Member States identify the measures they intend to take and the areas to be covered, that this information be communicated widely, and that the effectiveness of the measures be evaluated.

(9) Eel Management Plans should be approved by the Commission on the basis of a technical and scientific evaluation by the Scientific, Technical and Economic Committee for Fisheries (STEFEC).

⁽²⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 368).

⁽³⁾ OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC of the European Parliament and of the Council (OJ L 331, 15.12.2001, p. 1).

⁽¹⁾ Opinion of 16 May 2006 (not yet published in the Official Journal).

- (10) Within a river basin where fisheries and other human activities affecting eels may have transboundary effects, all programmes and measures should be coordinated for the whole of the relevant river basin. However, coordination must not take place at the expense of the rapid introduction of the national parts of Eel Management Plans. For river basins extending beyond the boundaries of the Community, the Community should endeavour to ensure appropriate coordination with the third countries concerned.
- (11) In the context of transboundary coordination, both within and outside the Community, special attention should be devoted to the Baltic Sea and European coastal waters falling outside the scope of Directive 2000/60/EC. However, the need for such coordination should not prevent urgent action being taken by Member States.
- (12) Special measures to increase the numbers of eels less than 12 cm in length released into European waters as well as for the transfer of eel less than 20 cm in length for the purpose of restocking should therefore be implemented as part of an Eel Management Plan.
- (13) By 31 July 2013, 60 % of eels less than 12 cm in length caught annually should be reserved for restocking. The evolution of market prices for eel less than 12 cm in length should be monitored annually. In the event of a significant decline in average market prices for eels less than 12 cm in length used for restocking in eel river basins as defined by Member States, compared to the price of eels less than 12 cm in length used for other purposes, the Commission should be authorised to take appropriate measures which may include a temporary reduction in the percentage of eels less than 12 cm in length to be reserved for restocking.
- (14) Catches of eels in Community waters seaward of the boundary of eel river basins defined by Member States as constituting natural eel habitats should be reduced gradually by reducing fishing effort or catches by at least 50 % based on the average fishing effort or catches in the years 2004 to 2006.
- (15) Based on information to be provided by Member States, the Commission should produce a report on the outcome of the implementation of the Eel Management Plans and if necessary propose any appropriate measures to achieve with high probability the recovery of European eel.
- (16) A control and monitoring system should be established by Member States adapted to the circumstances and to the legal framework already applicable to inland fisheries

in consistency with Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾. In this context Member States should establish certain information and estimates concerning commercial and recreational fishing activities to support if necessary the reporting and evaluation of Eel Management Plans as well as control and enforcement measures. Member States should furthermore take measures to ensure control and enforcement of imports and exports of eel,

HAS ADOPTED THIS REGULATION:

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 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 river systems connected to it, the Commission shall take a Decision in accordance with the procedure referred to in Article 30(2) 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⁽²⁾, after consultation of the Scientific Technical and Economic Committee for Fisheries by 31 December 2007 on whether these waters constitute natural habitats for the European eel in accordance with Article 3 of this Regulation.
3. Measures under this Regulation shall be adopted and implemented without prejudice to the relevant provisions of Directives 92/43/EEC and 2000/60/EC.

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.

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), corrected by OJ L 36, 8.2.2007, p. 6.

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

2. In defining eel river basins, Member States shall have the maximum possible regard for 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 silver eel biomass relative to the best estimate of escapement that would have existed if no anthropogenic influences had 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;
- (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 attain, 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 waters 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 4, following a gradual approach and depending on an expected recruitment level; it shall include 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 eel mortality caused by factors outside the fishery, including hydroelectric turbines, pumps or predators, unless this is not necessary to attain 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 10.

12. An Eel Management Plan shall constitute a management plan adopted at national level within the framework of a Community conservation measure as referred to in Article 24(1)(v) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund⁽¹⁾.

⁽¹⁾ OJ L 223, 15.8.2006, p. 1.

Article 3**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 4 shall not apply to the Member State concerned.

Article 4**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 fishing effort by at least 50 % relative to the average effort deployed from 2004 to 2006 or reduce fishing effort to ensure a reduction in 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 in catches set out in paragraph 2 may be substituted in whole or in part by immediate measures concerning 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 5**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, fishing for eel of the species *Anguilla anguilla* shall be permitted 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 fishing effort by at least 50 % relative to the average effort deployed from 2004 to 2006 or reduce fishing effort to ensure a reduction in 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 in catches set out in paragraph 4 may be replaced in whole or in part by immediate measures concerning 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 three 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 in catches set out in paragraph 4 shall not apply if a revised plan is approved by the Commission.

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. 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(4).

3. Articles 2, 4 and 5 shall apply *mutatis mutandis* to the transboundary plans referred to in paragraphs 1 and 2 of this Article.

Article 7

Measures concerning restocking

1. If a Member State permits fishing for 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 in fishing effort in accordance with Article 4(2) or Article 5(4), it shall reserve at least 60 % of the eels less than 12 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.

2. The 60 % for restocking is to be set out in an Eel Management Plan established in accordance with Article 2. It shall start at least at 35 % in the first year of application of an Eel 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.

3. In order to ensure that the respective percentages set out in paragraph 2, of eels less than 12 cm in length caught are used in a restocking programme, Member States must establish an appropriate reporting system.

4. The transfer of eels for restocking shall be part of an Eel Management Plan as defined in Article 2. Eel Management Plans shall specify the quantity of eels of less than 20 cm in length needed for restocking for the purpose of increasing escapement levels of silver eels.

5. The Commission shall annually report to the Council on the evolution of market prices for eels of less than 12 cm in length. For this purpose the Member States concerned shall establish an appropriate system to monitor prices and shall report annually to the Commission on these prices.

6. In the event of a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes, the Member State concerned shall inform the Commission. The Commission, in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002, shall take appropriate measures to address the situation, which may include a temporary reduction of the percentages referred to in paragraph 2.

7. 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. In the light of this evaluation, the Council shall decide by qualified majority, on a proposal from the Commission, on appropriate measures to balance the measures concerning restocking while achieving the percentages referred to in paragraph 2.

8. 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 8

Measures concerning Community waters

1. Where a Member State operates a fishery in Community waters that catches eel, the Member State shall either reduce fishing effort by at least 50 % relative to the average effort deployed from 2004 to 2006 or reduce 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 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 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 monitoring, effectiveness and outcome, and in particular shall provide the best available estimates of:

- (a) for each Member State, the proportion of the silver eel biomass that escapes to the sea to spawn, or the proportion of the silver eel biomass 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 4(2) and 5(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 12 cm in length caught and the proportions of this utilised 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, in the light of the report referred to 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 a reduction of fishing effort in accordance with Articles 4(2) and 5(4).

Article 10**Control and enforcement in waters other than Community waters**

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

2. 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 11**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 8, 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 a request from the Commission, Member States shall provide the information referred to in paragraphs 1 and 2.

Article 12**Control and enforcement concerning imports and exports of eel**

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 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*.

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

Done at Brussels, 18 September 2007.

For the Council
The President
R. PEREIRA
