Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel

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

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 1100/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 (STEFC).

(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.

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EC) No 1100/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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[(4)]. 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[(5)], 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

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 1100/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 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.

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EC) No 1100/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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[6].

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