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### Legislation

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## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 1098/2007

of 18 September 2007

**establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97**

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 <sup>(1)</sup>,

Whereas:

(1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) indicates that the cod stock in ICES Subdivisions 25 to 32 of the Baltic Sea has declined to levels where it is suffering from reduced reproductive capacity and that the stock is being harvested unsustainably.

(2) Recent scientific advice from ICES indicates that the cod stock in ICES Subdivisions 22, 23 and 24 of the Baltic Sea is over-exploited and has reached levels where it is at risk of reduced reproductive capacity.

(3) Measures need to be taken to establish a multiannual plan for fisheries management of the cod stocks in the Baltic Sea.

(4) The objective of the plan is to ensure that Baltic cod stocks can be exploited under sustainable economic, environmental and social conditions.

(5) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of

fisheries resources under the common fisheries policy <sup>(2)</sup> requires, *inter alia*, that to achieve that objective, the Community is to apply the precautionary approach in taking measures to protect and conserve the stock, to provide for its sustainable exploitation and to reduce to a minimum the impact of fishing on marine ecosystems. It should aim at a progressive implementation of an ecosystem-based approach to fisheries management, and should contribute to efficient fishing activities within an economically viable and competitive fisheries industry, providing a fair standard of living for those who depend on fishing Baltic cod and taking the interests of consumers into account.

(6) In order to achieve the objective, the Eastern stock must be rebuilt to safe biological limits and, for both stocks, levels must be ensured at which their full reproductive capacity is maintained and the highest long-term yields can be reached.

(7) This can be achieved by establishing an appropriate method for gradually reducing the fishing effort in fisheries catching cod to levels that are consistent with the objective, and by fixing the total allowable catches (TACs) for the cod stocks at levels consistent with the fishing effort.

(8) As catches of cod in the fisheries for herring and sprat and in gillnet and entangling-net fisheries for salmon are very limited, these fisheries should not be subject to the gradual reduction in fishing effort.

(9) To ensure stability in the fishing possibilities, it is appropriate to limit the variation in the TACs from one year to the next.

<sup>(1)</sup> Opinion of 7 June 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 358, 31.12.2002, p. 59.

- (10) An appropriate implementation of the control of fishing effort is to regulate the length of the periods when cod fishing is allowed. Member States may set common days when all Community vessels flying their flag are allowed to be absent from port.
- (11) Control measures are needed in addition to or by way of derogation from those laid down in Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits <sup>(1)</sup>, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(2)</sup> and Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish <sup>(3)</sup> in order to ensure compliance with the measures laid down in this Regulation.
- (12) During the first three years of its application, the multi-annual plan should be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002.
- (13) ICES Subdivision 27 or 28 might be excluded from the provisions for the management of fishing effort due to minimal catches in these ICES Subdivisions.
- (14) The multiannual plan provided for in this Regulation replaces the existing arrangements on the management of fishing effort in the Baltic Sea. Therefore, Council Regulation (EC) No 779/97 of 24 April 1997, introducing arrangements for the management of fishing effort in the Baltic Sea <sup>(4)</sup> should be repealed,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### Article 1

##### Subject matter

This Regulation establishes a multiannual plan for the following cod stocks (hereinafter referred to as 'the cod stocks concerned') and the fisheries exploiting those stocks:

- (a) cod which inhabits Area A;

<sup>(1)</sup> OJ L 171, 6.7.1994, p. 7.

<sup>(2)</sup> 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).

<sup>(3)</sup> OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1804/2005 (OJ L 290, 4.11.2005, p. 10).

<sup>(4)</sup> OJ L 113, 30.4.1997, p. 1.

- (b) cod which inhabits Areas B and C.

#### Article 2

##### Scope

This Regulation shall apply to Community fishing vessels with an overall length equal to or greater than eight meters operating in the Baltic Sea and Member States bordering the Baltic Sea (hereinafter referred to as the 'Member States concerned'). However, Article 9 shall apply to vessels with an overall length below eight meters operating in the Baltic Sea.

#### Article 3

##### Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Article 3 of Regulation (EC) No 2371/2002 and Article 2 of Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound <sup>(5)</sup>:

- (a) the International Council for the Exploration of the Sea (ICES) Divisions and Subdivisions are as defined in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic <sup>(6)</sup>;

- (b) 'Baltic Sea' means ICES Divisions IIIb, IIIc and IIId;

- (c) 'total allowable catch (TAC)' means the quantity that can be taken from each stock each year;

- (d) 'VMS' means vessel monitoring systems according to Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems <sup>(7)</sup> for vessels of any length;

- (e) 'Area A' means ICES Subdivisions 22 to 24;

'Area B' means ICES Subdivisions 25 to 28;

'Area C' means ICES Subdivisions 29 to 32;

<sup>(5)</sup> OJ L 349, 31.12.2005, p. 1.

<sup>(6)</sup> OJ L 365, 31.12.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 448/2005 (OJ L 74, 19.3.2005, p. 5).

<sup>(7)</sup> OJ L 333, 20.12.2003, p. 17.

- (f) 'days absent from port' means any continuous period of 24 hours or part thereof during which the vessel is absent from port.

## CHAPTER II

### OBJECTIVE AND TARGETS

#### Article 4

#### Objective and targets

The plan shall ensure the sustainable exploitation of the cod stocks concerned by gradually reducing and maintaining the fishing mortality rates at levels no lower than:

- (a) 0,6 on ages 3 to 6 years for the cod stock in Area A; and
- (b) 0,3 on ages 4 to 7 years for the cod stock in Areas B and C.

## CHAPTER III

### TOTAL ALLOWABLE CATCHES

#### Article 5

#### Setting of TACs

1. Each year, the Council shall decide by a qualified majority on the basis of a proposal from the Commission on the TACs for the following year for the cod stocks concerned.
2. The TACs for the cod stocks concerned shall be set in accordance with Articles 6 and 7.

#### Article 6

#### Procedure for setting the TACs for the cod stocks concerned

1. The Council shall adopt the TAC for the cod stocks concerned that, according to a scientific evaluation carried out by the Scientific, Technical and Economic Committee for Fisheries (STECF), is the higher of:
- (a) the TAC that would result in a 10 % reduction in the fishing mortality rate in its year of application compared to the fishing mortality rate estimated for the preceding year;
- (b) the TAC that would result in the level of fishing mortality rate defined in Article 4.
2. Where the application of paragraph 1 would result in a TAC that exceeds the TAC for the preceding year by more than 15 %, the Council shall adopt a TAC which is 15 % greater than the TAC of that year.

3. Where the application of paragraph 1 would result in a TAC that is more than 15 % below the TAC of the preceding year, the Council shall adopt a TAC which is 15 % less than the TAC of that year.

4. Paragraph 3 shall not apply where a scientific evaluation carried out by the STECF shows that the fishing mortality rate in the year of application of the TAC will exceed a value of 1 per year from the ages 3 to 6 years for the cod stock in Area A or a value of 0,6 per year for the ages 4 to 7 years for the cod stock in Areas B and C.

#### Article 7

#### Derogation

By way of derogation from Article 6, the Council may, where it considers this appropriate, adopt a TAC that is below the TAC that follows from applying Article 6.

## CHAPTER IV

### FISHING EFFORT LIMITATION

#### Article 8

#### Procedure for setting periods when fishing with certain types of gear is allowed

1. It shall be prohibited for fishing vessels to fish with trawls, Danish seines or similar gear of a mesh size equal to or larger than 90 mm, with gillnets, entangling nets or trammel nets of a mesh size equal to or larger than 90 mm, with bottom set lines, longlines except drifting lines, handlines and jigging equipment:
- (a) from 1 to 30 April in Area A; and
- (b) from 1 July to 31 August in Area B.
2. When fishing with drifting lines no cod shall be retained on board.
3. The Council shall decide each year by a qualified majority on the maximum number of days absent from port outside the periods specified in paragraph 1 in the following year when fishing with the gear referred to in paragraph 1 is allowed, in accordance with the rules set out in paragraphs 4 and 5.
4. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be at least 10 % higher than the minimum fishing mortality rate defined in Article 4, the total number of days when fishing with the gear referred to in paragraph 1 is allowed shall be reduced by 10 % compared to the total number of days allowed in the current year.

5. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be less than 10 % above the minimum fishing mortality rates defined in Article 4, the total number of days where fishing with the gear referred to in paragraph 1 is allowed shall be equal to the total number of days allowed in the current year, multiplied by the minimum fishing mortality rate defined in Article 4 divided by the fishing mortality rate estimated by STECF.

6. By way of derogation from paragraph 1, fishing vessels with an overall length of less than 12 metres shall be permitted to use up to five days per month divided into periods of at least two consecutive days from the maximum number of days absent from port resulting from the application of paragraphs 3 to 5 during the closed periods referred to in paragraph 1. During these days, fishing vessels may only immerse their nets and land fish from 06.00 on Monday to 18.00 on Friday of the same week.

Article 16 shall apply to the fishing vessels referred to in the first subparagraph without holding a permit for fishing for cod.

7. At the request of the Commission or a Member State, Member States shall make available on their website or provide to the Commission and all Member States a description of the system applied to ensure compliance with paragraphs 3, 4 and 5.

#### Article 9

##### Area restrictions on fishing

1. It shall be prohibited to conduct any fishing activity from 1 May to 31 October within the areas enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

(a) Area 1:

- 55° 45' N, 15° 30' E
- 55° 45' N, 16° 30' E
- 55° 00' N, 16° 30' E
- 55° 00' N, 16° 00' E
- 55° 15' N, 16° 00' E
- 55° 15' N, 15° 30' E
- 55° 45' N, 15° 30' E

(b) Area 2:

- 55° 00' N, 19° 14' E
- 54° 48' N, 19° 20' E
- 54° 45' N, 19° 19' E

— 54° 45' N, 18° 55' E

— 55° 00' N, 19° 14' E

(c) Area 3:

— 56° 13' N, 18° 27' E

— 56° 13' N, 19° 31' E

— 55° 59' N, 19° 13' E

— 56° 03' N, 19° 06' E

— 56° 00' N, 18° 51' E

— 55° 47' N, 18° 57' E

— 55° 30' N, 18° 34' E

— 56° 13' N, 18° 27' E.

2. By way of derogation from paragraph 1, fishing with gillnets, entangling nets and trammel nets of a mesh size equal to or larger than 157 mm or with drifting lines shall be permitted. No other gear shall be kept on board.

3. When fishing with any of the gear types defined in paragraph 2, no cod shall be retained on board.

#### CHAPTER V

##### MONITORING, INSPECTION AND SURVEILLANCE

#### Article 10

##### Special permit for fishing for cod in the Baltic Sea

1. By way of derogation from Article 1(2) of Regulation (EC) No 1627/94, all Community vessels of an overall length equal to or greater than eight metres carrying on board or using any gears for cod fishing in the Baltic Sea in accordance with Article 3 of Regulation (EC) No 2187/2005 shall hold a special permit for fishing for cod in the Baltic Sea.

2. Member States may issue the special permit for fishing for cod referred to in paragraph 1 only to Community vessels holding in 2005 a special permit for fishing for cod in the Baltic Sea in accordance with point 6.2.1 of Annex III to Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required<sup>(1)</sup>. However, a Member State may issue a special permit for fishing for cod to a Community vessel, flying the flag of that Member State, not holding a special fishing permit in 2005 if it ensures that at least an equivalent capacity, measured in kilowatts (kW), is prevented from fishing in the Baltic Sea with any gear referred to in paragraph 1.

<sup>(1)</sup> OJ L 12, 14.1.2005, p. 1. Regulation as last amended by Regulation (EC) No 1936/2005 (OJ L 311, 26.11.2005, p. 1).

3. Each Member State concerned shall establish and maintain a list of vessels holding a special permit for fishing for cod in the Baltic Sea and make it available on its official website.

4. The master of a fishing vessel, or his authorised representative, to which a Member State has issued a special permit for fishing for cod in the Baltic Sea shall keep a copy of such permit on board the fishing vessel.

#### Article 11

##### Logbooks

1. By way of derogation from Article 6(4) of Regulation (EEC) No 2847/93, the masters of all Community vessels of an overall length equal to or greater than eight metres shall keep a logbook of their operations in accordance with Article 6 of that Regulation.

Notwithstanding the first subparagraph fishing vessels of overall length between 8 and 10 meters having cod on board caught in Area C shall keep a logbook that complies with the provisions as set out in point 2 of Annex IV to Regulation (EEC) No 2807/83.

2. For vessels fitted with VMS, Member States shall verify that the information received at the fisheries monitoring centres (FMC) corresponds to activities recorded in the logbook by using VMS data. Such cross-checks shall be recorded in computer-readable form for a period of three years.

3. Each Member State shall maintain and make available on its official website the contact details for the submission of logbooks, landing declarations and prior notifications as specified in Article 17.

#### Article 12

##### Electronic recording and transmission of catch data

By way of derogation from Article 1 of Regulation (EEC) No 2807/83, Member States may permit the master of a fishing vessel equipped with VMS to report the information required in the logbook by electronic means. The information shall be transmitted to the FMC of the flag Member State on a daily basis after the fishing operation of that calendar day has been completed. The logbook information shall be made available on the request of the FMC of the coastal State during the time the fishing vessel is in the waters of the coastal State and on the request of an inspection.

#### Article 13

##### Recording of fishing effort data

1. By way of derogation from Article 19b of Regulation (EEC) No 2847/93 the master of a Community fishing vessel, carrying on board any of the gears referred to in Article 8(1) of this Regulation when leaving and entering port, or entering and

leaving the Baltic Sea, shall transmit an effort report containing the following information to the FMC of the flag Member State:

(a) When leaving port or entering the Baltic Sea:

- (i) The name of the vessel, external identification mark and radio call sign;
- (ii) The date and time of departure from port or entry into the Baltic Sea (local time);
- (iii) The area where the vessel will fish as defined in Article 3(e);

(b) When entering port or leaving the Baltic Sea:

- (i) The name of the vessel, external identification mark and radio call sign;
- (ii) The date and time of entry into port or exit from the Baltic Sea (local time).

2. Points (i) and (ii) of paragraph 1(a) and paragraph 1(b) shall not apply to vessels equipped with VMS.

3. The FMC of the flag Member State shall record the effort report it in its computerised database.

4. On request the flag Member State shall provide the information referred to in paragraph 1 to the coastal Member State.

#### Article 14

##### Monitoring and control of fishing effort

The competent authorities of the flag Member State shall monitor and control the compliance with:

- (a) fishing effort limits provided for in Article 8;
- (b) restrictions on fishing provided for in Article 9.

#### Article 15

##### Margin of tolerance in the logbook

By way of derogation from Article 5(2) of Regulation (EEC) No 2807/83, the permitted margin of tolerance in estimating quantities, in kilograms, of fish subject to a TAC that are retained on board vessels shall be 10 % of the logbook figure except for cod in which case the margin of tolerance shall be 8 %.

For catches taken in Area A and B which are landed unsorted the permitted margin of tolerance in estimating quantities shall be 10 % of the total quantity that are retained on board.

#### Article 16

##### Entry into or exit from specific areas

1. A fishing vessel having a special permit for fishing for cod may only fish in either Areas A, B or C during one fishing trip.

2. A fishing vessel may only commence fishing activity in Community waters in either Areas A, B or C with no cod on board.

If the fishing vessel goes to a port, without landing its fish, within the area where it has been fishing the vessel may continue its fishing activity in that area with cod on board.

3. When a fishing vessel exits from either Areas A, B or C with cod on board it shall:

- (a) go directly to port outside the Area where it has been fishing and land the fish;
- (b) when leaving the Area where the vessel has been fishing, stow the nets in accordance with the following conditions so that they may not readily be used:
  - (i) nets, weights and similar gear shall be disconnected from their trawl boards and towing and hauling wires and ropes;
  - (ii) nets which are on or above deck shall be securely lashed to some part of the superstructure.

4. By way of derogation to paragraphs 1, 2 and 3 a fishing vessel may fish in areas A and B during one fishing trip and may commence fishing activity in either of the areas only with less than 150 kg of cod on board in the year 2008. Member States shall take specific measures to ensure effective control. Member States shall report on those measures to the Commission by 31 January 2008.

#### Article 17

##### Prior notification

1. The master of a Community fishing vessel exiting from Area A, B or C with more than 300 kg of live weight of cod on board shall notify the competent authorities of the Coastal State in which it will land the fish at least one hour before leaving the Area of:

- (a) the time and position of exit;
- (b) the quantities of cod and the total weight of other species in live weight retained on board;

(c) the name of the landing location;

(d) the estimated time of arrival at the landing location.

The Coastal State shall notify the flag State of the landing.

2. When a Community fishing vessel intends to enter a port in the area where it has been fishing with more than 300 kg of live weight of cod on board the master of a Community fishing vessel shall notify the competent authorities of the Coastal State and the Coastal State shall notify the flag state at least one hour before entering port all the information referred to in points (b), (c) and (d) of paragraph 1.

3. The submission of information referred to in points (a) and (b) of paragraph 1 shall not apply to vessels subject to Article 12.

4. Paragraph 1(a) shall not apply to vessels equipped with VMS.

5. The notification provided for in paragraphs 1 and 2 may also be made by a representative of the master of the Community fishing vessel.

#### Article 18

##### Designated ports

1. When a vessel retains more than 750 kilograms of cod live weight, the cod may be landed exclusively at designated ports.

2. Each Member State may designate ports at which any quantity of Baltic cod live weight in excess of 750 kilograms is to be landed.

3. By 10 October 2007 each Member State that has established a list of designated ports, shall maintain and make available on its official website a list of designated ports.

#### Article 19

##### Weighing of cod first landed

The master of a fishing vessel shall ensure that any quantity of cod caught in the Baltic Sea and landed in a Community port shall be weighed before sale or before being transported elsewhere from the port of landing. The scales used for the weighing shall be approved by the competent national authorities. The figure resulting from the weighing shall be used for the declaration referred to in Article 8 of Regulation (EEC) No 2847/93.

*Article 20***Inspection benchmarks**

Each Member State of the Baltic Sea shall set specific inspection benchmarks. Such benchmarks shall be revised periodically after an analysis has been made of the results achieved. Inspection benchmarks shall evolve progressively until the target benchmarks defined in Annex I are reached.

*Article 21***Prohibition on transiting and transhipping**

1. Transit within areas closed for cod fishing is prohibited unless fishing gear on board is securely lashed and stowed in accordance with Article 16(3)(b).

2. The transhipment of cod is prohibited.

*Article 22***Transport of Baltic cod**

By way of derogation from Article 8(1) of Regulation (EEC) No 2847/93 the master of a fishing vessel having an overall length equal to or more than eight metres, shall complete a landing declaration when fish is transported to a place other than that of landing.

By way of derogation from Article 13(4) of Regulation (EEC) No 2847/93, the landing declaration shall accompany the transport documents provided for in Article 13(1) of that Regulation pertaining to the quantities transported. The exemption provided for in Article 13(4)(b) of that Regulation shall not apply.

*Article 23***Joint surveillance and exchange of inspectors**

Member States concerned shall undertake joint inspection and surveillance activities.

*Article 24***National control action programmes**

1. The Member States of the Baltic Sea shall define a national control action programmes for the Baltic Sea in accordance with Annex II.

2. The Member States of the Baltic Sea shall set specific inspection benchmarks in accordance with Annex I. Such benchmarks shall be revised periodically after an analysis has been made of the results achieved. Inspection benchmarks shall evolve progressively until the target benchmarks defined in Annex I are reached.

3. Before 31 January each year, the Member States of the Baltic Sea shall make available to the Commission and other Member States bordering the Baltic Sea on its official website their national control action programmes as referred to in paragraph 1, together with an implementation schedule.

4. The Commission shall convene at least once a year a meeting of the Committee for Fisheries and Aquaculture to evaluate compliance with and the results of the national control action programmes for cod stocks in the Baltic Sea.

*Article 25***Specific monitoring programme**

By way of derogation from the fifth subparagraph of Article 34c(1) of Regulation (EEC) No 2847/93, the specific control and inspection programme for the cod stocks concerned may last for more than three years.

## CHAPTER VI

## FOLLOW-UP

*Article 26***Evaluation of the plan**

1. The Commission shall, on the basis of advice from STECF and the Baltic Regional Advisory Council (RAC), evaluate the impact of the management measures on the stocks concerned and on the fisheries exploiting those stocks in the third year of application of this Regulation and in each of the following years.

2. The Commission shall seek scientific advice from STECF on the rate of progress towards the targets specified in Article 4 in the third year of application of this Regulation and every third successive year of its application. Where the advice indicates that the targets are unlikely to be met, the Council shall decide by a qualified majority on a proposal from the Commission on additional and/or alternative measures required to ensure that the objectives are met.

*Article 27***Revision of minimum fishing mortality rates**

Where the Commission, on the basis of advice from STECF, finds that the minimum fishing mortality rates given in Article 4 are disaccording with the objectives of the management plan, the Council shall on the basis of a Commission proposal decide by a qualified majority on revised minimum fishing mortality rates that are in accordance with the objective.



*Article 28***European Fisheries Fund**

During the first three years of its application, the multiannual plan shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002, and for the purpose of Article 21(a)(i) of Regulation (EC) No 1198/2006.

*Article 29***ICES Subdivisions 27 and 28**

1. Each year, and no later than 31 October, Member States fishing in Area B, shall submit a report of all catches and by-catches of cod taken during the preceding 12 months in Area B as well as the discards of that species specified by ICES Subdivision and by gear types referred to in Article 8(1) to the Commission.

2. Each year, and no later than 15 December, the Commission shall decide in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002 and on the basis of the report from Member States referred to in paragraph 1 and the advice from the Scientific, Technical and Economic Committee for Fisheries to exclude ICES Subdivisions 27 and/or 28.2 from the restrictions provided for in Article 8(1)(b), (3), (4) and (5) and Article 13 if there is evidence that catches of cod in these ICES Subdivisions are lower than 3 % of the total catches of cod in Area B.

3. The exclusion of ICES Subdivisions 27 and/or 28.2 shall take effect from 1 January to 31 December of the following year.

4. Article 8(1)(b), (3), (4) and (5) shall not apply to ICES Subdivision 28.1. However, if there is evidence that catches of cod are higher than 1,5 % of the total catches of cod in Area B, Article 8(1)(b), (3), (4) and (5) shall apply and paragraphs 1, 2 and 3 of this Article are applicable.

## CHAPTER VII

**FINAL PROVISIONS***Article 30***Repeal**

1. Council Regulation (EC) No 779/97 is hereby repealed.
2. Paragraph 1a of Article 19a of Regulation (EEC) No 2847/93 is hereby repealed.

*Article 31***Entry into force**

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2008.

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

## ANNEX I

**SPECIFIC INSPECTION BENCHMARKS****Objective**

1. Each Member State shall set specific inspection benchmarks in accordance with this Annex.

**Strategy**

2. Inspection and surveillance of fishing activities shall concentrate on vessels likely to catch cod. Random inspections of transport and marketing of cod shall be used as a complementary cross-checking mechanism to test the effectiveness of inspection and surveillance.

**Priorities**

3. Different gear types shall be subject to different levels of prioritisation, depending on the extent to which the fleets are affected by fishing opportunity limits. For that reason, each Member State shall set specific priorities.

**Target benchmarks**

4. Not later than one month from the date of entry into force of this Regulation, Member States shall implement their inspection schedules taking account of the targets set out below.

Member States shall specify and describe which sampling strategy will be applied.

The Commission can have access on request to the sampling plan used by the Member State.

(a) *Level of inspection in ports*

As a general rule, the accuracy to be achieved should be at least equivalent to what would be obtained by a simple random sampling method, where inspections shall cover 20 % of all cod landings by weight in a Member State.

(b) *Level of inspection of marketing*

Inspection of 5 % of the quantities of cod offered for sale at auction.

(c) *Level of inspection at sea*

Flexible benchmark: to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer the number of patrol days at sea in the cod management areas, possibly with a separate benchmark for days patrolling specific areas.

(d) *Level of aerial surveillance*

Flexible benchmark: to be set after a detailed analysis of the fishing activity conducted in each area and taking the available resources at the Member State's disposal into consideration.

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## ANNEX II

## CONTENTS OF NATIONAL CONTROL ACTION PROGRAMMES

National control action programmes shall aim, *inter alia*, to specify the following.

1. MEANS OF CONTROL

*Human resources*

- 1.1. The numbers of shore-based and seagoing inspectors and the periods and zones where they are to be deployed.

*Technical resources*

- 1.2. The numbers of patrol vessels and aircraft and the periods and zones where these are to be deployed.

*Financial resources*

- 1.3. The budgetary allocation for deployment of human resources, patrol vessels and aircraft.

2. ELECTRONIC RECORDING AND REPORTING OF INFORMATION RELATING TO FISHING ACTIVITIES

Description of the systems implemented to ensure compliance with Articles 13, 14, 15 and 18.

3. DESIGNATION OF PORTS

Where relevant, a list of ports designated for cod landings in accordance with Article 19.

4. ENTRY INTO OR EXIT FROM SPECIFIC AREAS

Description of the systems implemented to ensure compliance with Article 17.

5. LANDINGS CONTROL

Description of any facilities and or systems implemented to ensure compliance with the provisions in Articles 12, 16, 20, 22 and 23.

6. INSPECTION PROCEDURES

The national control action programmes shall specify the procedures that will be followed:

- (a) when conducting inspections at sea and on land;
  - (b) for communicating with the competent authorities designated by other Member States as responsible for the national control action programme for cod;
  - (c) for joint surveillance and exchange of inspectors, including specification of powers and authority of inspectors operating in other Member States' waters.
-

## COUNCIL REGULATION (EC) No 1099/2007

of 18 September 2007

**amending Regulation (EC) No 601/2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources**

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 <sup>(1)</sup>,

Whereas:

(1) Council Regulation (EC) No 601/2004 <sup>(2)</sup> implements certain conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources, hereinafter referred to as 'CCAMLR'.

(2) At its twenty-third, twenty-fourth and twenty-fifth annual meeting in November 2004, 2005 and 2006, the CCAMLR adopted a number of amendments to the conservation measures in order to, *inter alia*, improve licensing requirements, protect the environment, enhance scientific research for *Dissostichus spp.* as well as combat illegal fishing activities.

(3) Regulation (EC) No 601/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 601/2004 is hereby amended as follows:

1. Article 3(2) shall be replaced by the following:

'2. The Member States shall transmit to the Commission, by computer transmission, within three days from the date of issue of the permit referred to in paragraph 1, the following information concerning the vessel covered by the permit:

(a) the name of the vessel concerned;

(b) type of vessel;

(c) length;

(d) vessel IMO number (if issued);

(e) where and when it was built;

(f) previous flag, if any;

(g) international Radio Call Sign;

(h) name and address of vessel's owner(s), and any beneficial owner(s), if known;

(i) colour photographs of the vessel, which shall consist of:

(i) one photograph not smaller than 12 × 7 cm showing the starboard side of the vessel, displaying its full overall length and complete structural features;

(ii) one photograph not smaller than 12 × 7 cm showing the port side of the vessel, displaying its full overall length and complete structural features;

(iii) one photograph not smaller than 12 × 7 cm showing the stern, taken directly from astern;

(j) the period for which it is authorised to fish in the Convention area, with the dates on which fishing activities start and end;

(k) the fishing area or areas;

(l) the target species;

(m) the gear used;

(n) measures taken to ensure tamper-proof operation of the satellite monitoring device installed on board.

Member States shall, to the extent practicable, also communicate to the Commission the following information relating to vessels authorised to fish in the CCAMLR area:

(a) name and address of operator, if different from vessel owner(s);

<sup>(1)</sup> Opinion delivered on 10 July 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 97, 1.4.2004, p. 16.

(b) names and nationality of master, and, where relevant, of fishing master;

(c) type of fishing method or methods;

(d) beam (m);

(e) gross registered tonnage;

(f) vessel communication types and numbers (INMARSAT A, B and C numbers);

(g) normal crew complement;

(h) power of main engine or engines (kW);

(i) carrying capacity (tonnes), number of fish holds and their capacity (m<sup>3</sup>);

(j) any other information (e.g. ice classification) considered appropriate.

The Commission shall transmit such information to the CCAMLR Secretariat without delay.'

2. Article 4(3) shall be replaced by the following:

'3. Each Member State shall verify the information referred to in paragraph 2 against data received through the VMS systems operating on board Community fishing vessels flying its flag. It shall transmit the VMS data to the CCAMLR Secretariat by computer transmission within two days from the date of its receipt, in a confidential manner in accordance with the confidentiality rules established by CCAMLR.'

3. The following Article shall be inserted:

'Article 5a

#### **Notifications of intent to participate in a krill fishery**

All Contracting Parties intending to fish for krill in the Convention Area shall notify the Secretariat of their intent not less than four months in advance of the regular annual meeting of the CCAMLR, immediately prior to the season in which they intend to fish.'

4. Article 6(3) shall be replaced by the following:

'3. The flag Member State shall notify the Commission not later than four months in advance of the annual meeting of the CCAMLR of the intention of a Community fishing vessel to develop a new fishery in the Convention area. The Member State shall not initiate a new fishery pending completion of the process established by the CCAMLR for the examination of this fishery.

The notification shall be accompanied by as much of the following information as the Member State is able to provide:

(a) the nature of the proposed fishery, including target species, methods of fishing, the proposed region and any minimum level of catches required to develop a viable fishery;

(b) biological information from comprehensive research/-survey cruises, such as distribution, abundance, population data and information on stock identity;

(c) details of dependent and associated species and the likelihood of such species being affected in any way at all by the proposed fishery;

(d) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield;

(e) if the proposed fishery is to be undertaken using bottom trawl gear, information on the known and anticipated impacts of this gear on vulnerable marine ecosystems, including benthos and benthic communities.'

5. The following Articles shall be inserted:

'Article 7a

#### **Special requirements for exploratory fisheries**

Fishing vessels participating in exploratory fisheries shall be subject to the following additional requirements:

(a) vessels shall be prohibited from discharging:

(i) oil or fuel products, or oily residues into the sea, except as permitted in Annex I to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78);

- (ii) garbage; individual; from 1 September 2007 all tags for use in an exploratory fishery shall be sourced from the Secretariat;
- (iii) food wastes not capable of passing through a screen with openings no greater than 25 mm;
- (iv) poultry or parts thereof (including egg shells);
- (v) sewage within 12 nautical miles of land or ice shelves, or sewage while the ship is travelling at a speed of less than four knots; or
- (vi) incineration ash;
- (b) no live poultry or other living birds shall be brought into Subareas 88.1 and 88.2 and any dressed poultry not consumed shall be removed from Subareas 88.1 and 88.2;
- (c) fishing for *Dissostichus spp.* in Subareas 88.1 and 88.2 shall be prohibited within 10 nautical miles of the coast of the Balleny Islands.
- (d) all recaptured tagged individuals (i.e. fish caught with a previously inserted tag) shall not be re-released, even if they were at liberty for only a short period;
- (e) all recaptured tagged individuals shall be biologically sampled (length, weight, sex, gonad stage), an electronic time-stamped photograph taken of the fish, the otoliths recovered and the tag removed;
- (f) all relevant tag data and any data recording tag recaptures shall be reported electronically in the CCAMLR format to the CCAMLR within three months of the vessel departing these fisheries;
- (g) all relevant tag data, any data recording tag recaptures and specimens from recaptures shall also be reported electronically in the CCAMLR format to the relevant regional tag data repository as detailed in the CCAMLR Tagging Protocol.

2. Toothfish that is tagged and released shall not be counted against the catch limits.'

#### Article 7b

#### Tagging programme

1. Each fishing vessel participating in the exploratory fisheries shall implement a tagging programme as follows:

- (a) *Dissostichus spp.* individuals shall be tagged and released in accordance with the provisions set out in the CCAMLR Tagging Program and Protocol for *Dissostichus spp.* in exploratory fisheries. Vessels shall only discontinue tagging after they have tagged 500 individuals, or leave the fishery having tagged *Dissostichus spp.* at the specified rate;
- (b) the programme shall target individuals of all sizes in order to meet the tagging requirement; only toothfish that are in good condition shall be tagged. All released individuals shall be double-tagged and releases shall cover as broad a geographical area as possible; in regions where both *Dissostichus* species occur, the tagging rate shall, to the extent possible, be in proportion to the species and size of *Dissostichus spp.* present in the catches;
- (c) all tags shall be clearly imprinted with a unique serial number and a return address so that the origin of tags can be retraced in the case of recapture of the tagged

6. Article 9(4) shall be replaced by the following:

'4. The Member States shall notify the CCAMLR, with a copy to the Commission, by computer transmission, at the latest within three days from the date of the end of each reporting period, of the catch and effort report transmitted by each fishing vessel flying their flag and registered in the Community. Each catch and effort report shall specify the reporting period of the catch concerned.'

7. Article 9(5) shall be deleted.

8. Article 13(4) shall be replaced by the following:

'4. Member States shall transmit the data referred to in paragraphs 1, 2 and 3 to the CCAMLR at the end of each calendar month, with a copy to the Commission.'

9. Article 14(4) shall be replaced by the following:

'4. At the end of each month Member States shall transmit the notification received to the CCAMLR.'

10. Article 16(1) shall be replaced by the following:

‘1. Without prejudice to Article 15 of Regulation (EEC) No 2847/93, Member States shall notify the CCAMLR, by 31 July each year, of the total catches for the preceding year taken by Community fishing vessels flying their flag, broken down by vessel, with a copy to the Commission.’

11. Article 17(2) shall be replaced by the following:

‘2. Member States shall aggregate the fine-scale catch and effort data by 10 × 10 nautical mile rectangle and 10-day period, and transmit these data to the CCAMLR each year by 1 March at the latest, with a copy to the Commission.’

12. Article 18(1) and (2) shall be replaced by the following:

‘1. Community fishing vessels fishing for crab in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, data concerning fishing activities and the catches of crab taken before 31 August of that year, with a copy to the Commission.

2. The data concerning catches taken from 31 August each year shall be transmitted to the CCAMLR within two months from the date of the closure of the fishery, with a copy to the Commission.’

13. Article 19(1) shall be replaced by the following:

‘1. Community fishing vessels fishing for squid (*Martialia hyadesi*) in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, the fine-scale catch and effort data for that fishery, with a copy to the Commission. The data shall include the number of seabirds and marine mammals caught and released or killed.’

14. The following Article shall be inserted:

‘Article 26a

**Report of vessel sighting**

1. In the event that the master of a licensed fishing vessel sights a fishing vessel within the Convention area, the master shall, where possible, document as much information as possible on each such sighting, including:

(a) name and description of the vessel;

(b) vessel call sign;

(c) registration number and the Lloyds/IMO number of the vessel;

(d) flag state of the vessel;

(e) photographs of the vessel to support the report;

(f) any other relevant information regarding the observed activities of the sighted vessel.

2. The master shall forward a report containing the information referred to in paragraph 1 to his Flag State as soon as possible. The Flag State shall submit to the CCAMLR Secretariat any such reports if the sighted vessel is engaged in IUU activities according to CCAMLR standards.’

15. Article 28(1) shall be replaced by the following:

‘1. For the purposes of this section, a Contracting Party vessel may be presumed to have carried out IUU activities that have undermined the effectiveness of the CCAMLR conservation measures where it has:

(a) engaged in fishing activities in the Convention area without the special fishing permit referred to in Article 3 or, in the case of a vessel which is not a Community fishing vessel, a licence issued in accordance with the relevant CCAMLR conservation measures, or in violation of the conditions of such permit or licence;

(b) failed to record or to declare its catches made in the Convention area in accordance with the reporting system applicable to the fisheries engaged in, or made false declarations;

(c) fished during closed fishing periods or in closed areas in contravention of CCAMLR conservation measures;

(d) used prohibited gear in contravention of applicable CCAMLR conservation measures;

(e) transhipped or participated in joint fishing operations with, supported or re-supplied vessels appearing on the CCAMLR IUU vessel list;

(f) failed to provide a valid catch document for *Dissostichus* spp. when required under the provisions of Regulation (EC) No 1035/2001;

(g) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention as set out in Article XXII of the Convention; or

(h) engaged in fishing activities in waters adjacent to islands within the Convention area over which the existence of State sovereignty is recognised by all Contracting Parties in a manner that undermines the attainment of the objectives of the CCAMLR conservation measures.'

16. Article 30(1) and (2) shall be replaced by the following:

'1. Member States shall take all necessary measures in accordance with national and Community law, in order that:

(a) no special fishing permit, as referred to in Article 3, is issued to Community fishing vessels appearing on the IUU vessel list to fish in the Convention area;

(b) no licence or special fishing permit is issued to vessels appearing on the IUU vessel list to fish in waters under their sovereignty or jurisdiction;

(c) their flag is not granted to vessels appearing on the IUU vessel list;

(d) vessels appearing on the IUU list should be denied access to ports unless for the purpose of enforcement action or for reasons of force majeure or for rendering assistance to vessels or persons on those vessels in

danger or distress. Vessels allowed entry to port are to be inspected in accordance with Article 27;

(e) where port access is granted to such vessels:

(i) documentation and other information, including *Dissostichus* Catch Documents where relevant are examined, with a view to verifying the area in which the catch was taken; and where the origin cannot be adequately verified, the catch is detained or any landing or transhipment of the catch is refused; and

(ii) where possible,

— in the event that the catch is found to have been taken in contravention with CCAMLR conservation measures, the catch is confiscated,

— all support to such vessels, including non-emergency refuelling, resupplying and repairs is prohibited;

(f) importers, transporters, and other sectors concerned are encouraged to refrain from dealing with and from transshipping fish caught by vessels on the IUU vessel list.

2. The following activities shall be prohibited:

(a) by derogation from Article 11 of Regulation (EEC) No 2847/93, for Community fishing vessels, support vessels, refuelling vessels, mother-ships and cargo vessels to participate in any way in transhipment or joint fishing operations with, support or re-supply vessels appearing on the IUU vessel list;

(b) to charter vessels appearing on the IUU vessel list;

(c) to import, export or re-export *Dissostichus* spp. from vessels appearing on the IUU vessel list.'



17. Article 31 shall be replaced by the following:

*'Article 31*

**Scheme to promote compliance by nationals with CCAMLR conservation measures**

1. Without prejudice to the primacy of the responsibility of the Flag State, Member States shall take appropriate measures, subject to and in accordance with their applicable laws and regulations, to:

(a) verify if any natural or legal persons subject to their jurisdiction are engaged in IUU activities as described in Article 28;

(b) take appropriate action in response to any verified activities referred to in point(a); and

(c) cooperate for the purpose of implementing the measures and actions referred to in point(a). To this end, relevant agencies of Member States may cooperate to implement CCAMLR conservation measures and seek cooperation by industries within their jurisdiction.

2. Member States shall submit reports to the CCAMLR Secretariat and the Contracting Parties and Non-Contracting Parties cooperating with CCAMLR, for the purpose of implementing the Catch Documentation Scheme for *Dissostichus spp.*, on the actions and measures taken in accordance with paragraph 1, in a timely fashion, with a copy to the Commission, in order to assist with the implementation of this conservation measure.'

*Article 2*

This Regulation shall enter into force on the seventh day following 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

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**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 <sup>(1)</sup>,

Whereas:

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.

(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

(5) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora <sup>(2)</sup> 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 <sup>(3)</sup> 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 (STECF).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

<sup>(1)</sup> 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<sup>(1)</sup>. 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<sup>(2)</sup>, 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.

<sup>(1)</sup> 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.

<sup>(2)</sup> 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 <sup>(1)</sup>.

<sup>(1)</sup> 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

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**COMMISSION REGULATION (EC) No 1101/2007****of 21 September 2007****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 22 September 2007.

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

Done at Brussels, 21 September 2007.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

## ANNEX

to Commission Regulation of 21 September 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MK	78,7
	TR	85,0
	XK	55,1
	XS	67,1
	ZZ	71,5
0707 00 05	JO	151,2
	MK	29,6
	TR	132,0
	ZZ	104,3
0709 90 70	IL	51,9
	TR	106,7
	ZZ	79,3
0805 50 10	AR	66,7
	UY	82,6
	ZA	72,1
	ZZ	73,8
0806 10 10	IL	65,2
	TR	106,4
	ZZ	85,8
0808 10 80	AU	196,6
	CL	38,6
	CN	79,8
	NZ	94,6
	US	96,4
	ZA	83,3
	ZZ	98,2
0808 20 50	CN	59,6
	TR	122,3
	ZA	105,6
	ZZ	95,8
0809 30 10, 0809 30 90	TR	152,3
	US	194,7
	ZZ	173,5
0809 40 05	BA	49,8
	IL	113,5
	TR	107,3
	ZZ	90,2

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

**CORRIGENDA****Corrigendum to Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of Officials of the European Communities and the Conditions of employment of other servants of the European Communities**

*(Official Journal of the European Union L 124 of 27 April 2004)*

In Annex I, under 'Amendments to the Staff Regulations of Officials of the European Communities':

On page 16, in point 41(b) (amendment of the seventh subparagraph of Article 41(3)):

*for:* '... weighting referred to in the first subparagraph of Article 3(5) of Annex XI, ...',

*read:* '... weighting referred to in point (a) of Article 3(5) of Annex XI, ...'.

On page 39, in point 97(g) (amendment of Article 7(2) of Annex VII):

*for:* '1. The basis for calculating ...',

*read:* '2. The basis for calculating ...'.

On page 58, point 100(m) (amendment of Article 21, first subparagraph, point (b) of Annex X):

*for:* '(b) transporting his personal effects or of storage of his furniture and personal effects in the event that furnished accommodation is provided.',

*read:* '(b) transporting his personal effects and of storage of his furniture and personal effects in the event that furnished accommodation is provided.'.

In Annex II, under 'Amendments to the Conditions of employment of other servants of the European Communities':

On page 94, in point 4 (new Article 3b, introductory wording):

*for:* '... within the time limits set in Article 88 in one of the function groups referred to in Article 89a:',

*read:* '... within the time limits set in Article 88 in one of the function groups referred to in Article 89:'.

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**Corrigendum to Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community**

*(Official Journal of the European Communities 45 of 14 June 1962)*

*(English Special Edition, Series I, Chapter 1959 to 1962, p. 135)*

On page 142, in Article 27 of the Staff Regulations:

the last sentence, 'No posts shall be reserved for nationals of any specific Member State.' shall become a separate paragraph.

On page 169, in Annex VII of the Staff Regulations 'Remuneration and reimbursement of expenses', in Article 7:

The last two subparagraphs of paragraph 2, 'An official's place of origin shall be determined ...' and 'The effect of such a change shall not however ...', shall be numbered as paragraph 3.

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**Corrigendum to Regulation (Euratom, ECSC, EEC) No 1473/72 of the Council of 30 June 1972 amending Regulation (EEC, Euratom, ECSC) No 259/68 laying down the Staff Regulations of Officials and the Conditions of employment of other servants of the European Communities**

*(Official Journal of the European Communities L 160 of 16 July 1972)*

*(English Special Edition, Series I, Chapter 1972(III), p. 703)*

On page 709, Article 38 (replacement of Article 90 of the Staff Regulations):

(a) paragraph 2, first subparagraph, first sentence:

*for:* '2. Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act embodying a complaint against him, ...';

*read:* '2. Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act affecting him adversely, ...';

(b) paragraph 2, first subparagraph, second indent:

*for:* '...; if, however, an act affecting a specified person also contains a complaint against another person, the period shall start to run in respect of that other person on the date on which he receives notification thereof but in no case later than the date of publication';

*read:* '...; if, however, an act affecting a specified person is such as to affect adversely another person, the period shall start to run in respect of that other person on the date on which he receives notification thereof but in no case later than the date of publication';

On page 709, Article 39 (replacement of Article 91(1) of the Staff Regulations):

*for:* '1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act embodying a complaint against such person within the meaning of Article 90(2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.';

*read:* '1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between the Communities and any person to whom these Staff Regulations apply regarding the legality of an act affecting such person adversely within the meaning of Article 90(2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.'

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**Corrigendum to Regulation (ECSC, EEC, Euratom) No 558/73 of the Council of 26 February 1973 amending Regulation (EEC, Euratom, ECSC) No 259/68 fixing the Staff Regulations of the Officials and Conditions of employment applicable to other Servants of the European Communities**

*(Official Journal of the European Communities L 55 of 28 February 1973)*

On page 2, Article 1(1)(k) first indent (concerning Article 10 of Annex VII):

*for:* '— In the first subparagraph of paragraph 1 and in paragraph 2 (a) and (b) the words: "entitled to the household allowance", "not entitled to the household allowance", "who is entitled to the household allowance", and "who is not entitled to the household allowance" shall be substituted for "head of household", "not head of household", "who is not head of household" and "who is head of household".';

*read:* '— In the first subparagraph of paragraph 1 and in paragraph 2 (a) and (b) the words: "entitled to the household allowance", "not entitled to the household allowance", "who is not entitled to the household allowance", and "who is entitled to the household allowance" shall be substituted for "head of household", "not head of household", "who is not head of household" and "who is head of household".'

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