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Date: 7 August 2013
Our reference: 1213PRAC89
Subject: Clarification of Landing Obligation (Article 15) new CFP
CC: Ms Martine Aussems, Ms Evangelia Georgitsi (by email)

Dear Ms Evans,

At a recent Pelagic RAC meeting held in Amsterdam on 3 July 2013 one of the Commission officials gave a presentation on the landing obligation under the new CFP and the provisions agreed upon. In the subsequent discussion it became apparent that many formulations in the current drafting of the CFP are not clear and leave room for interpretation. Therefore we would like to seek clarification on a number of issues in order to properly prepare for the implementation of the landing obligation which is scheduled to come into force on the 1st January 2015 for pelagic stocks. You may also be aware that the Pelagic RAC is actively addressing the implementation of the landing obligation for stocks under its remit and has already had two very productive meetings in this regard and is planning future meetings. The clarifications we seek below are a necessary prerequisite to enable the Pelagic RAC to formulate an effective and workable implementation plan for pelagic stocks.

One of the most significant questions that emerged from the discussions concerned the applicability of the *de minimis* exemption. As currently stated, "up to 5% of total annual catches of all species subject to an obligation to land", fall under the *de minimis* exemption. However, it remains unclear how exactly the calculation will be performed and on which basis the calculation will take place. Furthermore, no indications are given regarding criteria to be used to determine the amount of the *de minimis* exemption, nor when costs for handling unwanted catches will be deemed disproportionate. Clarity is also required as to the level of *de minimis* that applies in the absence of a management plan or discard plan and where the Commission has not adopted by means of delegated acts a *de minimis* level as set out in article 15.3(b).

Another important aspect of the CFP requiring clarification relates to the landing obligation to third country vessels fishing in EU waters, e.g. Norway. The Pelagic RAC is anxious that a level-playing field will be guaranteed not only among the EU fishing fleet, but also between the EU and third country fleets fishing in EU waters.

In terms of interannual flexibility of up to 10% it needs to be confirmed that the 10% applies to both banking and borrowing as the text appears to be silent on this aspect.

Regarding the 9% inter-species flexibility, in which up to 9% of catches of species in excess of quota or where no quota is available may be counted against the target species, it has to be clearly defined what the target species is in a mixed fishery and how to perform the appropriate Member States yearly calculations. Furthermore it remains unclear whether "safe biological limits" refers to the status of a particular stock before or after the 9% inter-species flexibility and a precise definition of "safe biological limits" is required. In addition clarification is required as to whether or not the existing 5% inter-species flexibility that exists for example for western horse mackerel in the TACs and quotas regulation is additional to the 9% inter-species flexibility.

Article 16 provides for setting fishing opportunities based on catches rather than landings as discarding of a defined stock will no longer be allowed. In this regard it is important to clarify the methodology that will be used to set TACs once the landing obligation comes into force.

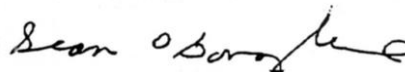
The issues addressed above evidently indicate that many aspects of the landing obligation of the new CFP are still unclear. The Pelagic RAC is deeply concerned that the obvious lack of clarity is likely to lead to different interpretations and implementation between the Member States, thereby jeopardizing the creation of a level-playing field.

We hope that you give these concerns your urgent attention and we are looking forward to receiving your reply. We would very much appreciate if you provide a reply in advance of our next Pelagic RAC Focus Group meeting on discards scheduled for the 2nd of October 2013.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Christian Olesen'.

Christian Olesen
Chairman Working Group I

A handwritten signature in black ink, appearing to read 'Sean O'Donoghue'.

Sean O'Donoghue
Chairman Working Group II