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Date: 13 March 2012
Our reference: 1112PRAC33/AC
Subject: Management of herring in VIaNorth
CC: Secretariat of Fisheries Committee of the European Parliament (by e-mail)

Dear Mr Stevenson,

Thank you for the opportunity to respond to the Commission proposal regarding amending Council regulation No 1300/2008 establishing a multi-annual plan for the West of Scotland herring stock and the fisheries exploiting that stock. The Pelagic RAC Executive Committee had the opportunity to discuss the proposal in detail during the meeting held on 6 February. Members expressed concern that the Commission had not sought the opinion of the RAC in this matter; especially as the genesis of the plan came from a RAC initiative and overtime developed in close cooperation with ICES.

During the meeting the Commission representative – Ms Fuensenta Candela - explained that the current plan was ratified before the Treaty of the Functioning of the European Union (TFEU) entered into force. Under Lisbon, non essential changes to the plan cannot be made solely by the Council, therefore, the Commission are seeking through the TFEU, delegated powers to amend certain articles of the plan. On enquiry, Ms Fuensenta Candela also confirmed that amendments to the plan could also be legislated by "Ordinary Legislative Procedure". However, the plan is still deemed to be legal as it currently stands, which would be the case until modification is required.

The Pelagic RAC reflected that stock exploitation on the basis of maximum sustainable yield is the key management objective of the current plan. Fishing mortality has remained close to MSY since the adoption of the long term plan. Although in its infancy, the plan appears to have stabilised the stock and provided a degree of TAC stability to those fleets fishing West of Scotland herring.

Articles 1 and 2

By amending articles one and two of the current plan the Commission seeks to expand the geographical area of application to encompass the entire VIa area. An assumption is made that if the stock migration changes, it would move in a Southerly direction. However, it's known that West of Scotland herring migrate into the North Sea for a

period of time during the year, so the rationale that permanent migration would be in one direction is weak. Currently, under article 1, the area where the VIa North fishery is undertaken is clearly defined, outlining the exact area in VIa where this plan is applicable. The Commission proposal will, by default, include the VIa South herring fishery. The current plan was never devised to manage two fisheries; it was created to manage the fishing activity of the vessels participating in the VIa North fishery. It is too simplistic to assume that the VIa North herring plan would suit the needs of the VIa South herring fishery. Moreover, the Pelagic RAC is not aware of ICES providing advice on that basis. The Pelagic RAC therefore advises that no change should be made to the geographical area applicable to this management plan.

Article 7

Changes proposed under article 7 outline how revision of fishing mortality levels and associated biomass levels would be undertaken in light of new scientific advice supporting change. No provision is foreseen for stakeholder input to this process. Usually when scientific advice is sought on amendments to key elements of a LTMP, the scientific community will offer a range of adaptive options to achieve a particular goal. In the new collaborative framework instigated by the Commission, it's only right that the main stakeholder group - the Pelagic RAC - must be consulted on any potential changes proposed to this article.

Article 8

The Pelagic RAC agrees that there should be a procedure for evaluating the plan's performance, and concur that a periodical review every four years is prudent. Currently the Commission are obliged to seek advice from STECF and the Pelagic RAC regarding how well the plan is achieving its target objectives. To ensure this process is transparent and accountable the Pelagic RAC must be included in the consultation procedure.

Article 9

The Commission seek to introduce a new article 9a which describes the conditions under which the delegated powers should be granted. Whilst it seems clear that legislative changes will have to be made to the West of Scotland herring plan to comply with the TFEU, the Pelagic RAC would like to express caution against adopting Commission delegated powers as proposed, as these may not provide the necessary checks and balances required to deliver good governance.

However, given the ongoing dispute between the Council and the European Parliament, the Pelagic RAC acknowledges that legislation on long term management plans by co-decision is not an ideal solution.



In summary the Pelagic RAC urges that the geographical scope of the current plan should remain unchanged (articles 1 and 2) and that reference should be made to consultation with the Pelagic RAC (articles 7 and 8). The Pelagic RAC offers no opinion on whether delegated acts or co-decision should be the preferred legislative vehicle.

If you have any questions, please do not hesitate to contact the secretariat.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized letter 'A' followed by a long, sweeping horizontal line that extends to the right.

Ms Aukje Coers
Pelagic RAC secretariat