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Date: 9 June 2014  
Our reference: 1314PRAC141  
Subject: Draft discard plan for the North Sea  
CC: European Commission DG MARE

Dear Mr Jeub,

We would like to thank you for providing us with the latest draft discard plans prepared by the Scheveningen Group for the North Sea pelagic and industrial fisheries and for the opportunity to comment on these draft plans. We have carefully and with great interest analysed the plans developed by the Scheveningen Group, but we have to express our disappointment at the outcomes. Neither the Pelagic RAC's recommendation on the de minimis exemption, nor its recommendation regarding minimum conservation reference sizes have been accepted by your Group. Other equally relevant issues, such as the need for a harmonized approach to pelagic fisheries among Member States especially with regard to widely distributed stocks, the temporary suspension of the interspecies flexibility, recommendations on high survival and provisions for force majeure remain largely unaddressed.

According to the CFP "to cater for unwanted catches that are unavoidable even when applying all the measures for their reduction, certain de minimis exemptions from the landing obligation should be established for the fisheries to which the landing obligations applies."

Furthermore the Regulation states that the de minimis exception shall apply in the following situations:

- where scientific evidence indicated that increases in selectivity are very difficult to achieve; or
- to avoid disproportionate costs of handling unwanted catches

The Pelagic RAC has provided numerous examples of scientific studies indicating that selectivity in pelagic trawl and purse-seine fisheries targeting herring, mackerel, blue whiting and horse mackerel cannot be increased further *at the moment*. The reason for this very high selectivity is threefold: on the one hand pelagic species tend to occur in single species aggregations having little by-catches and due to the well documented "meshing" effect of pelagic species in the cod end of the net increasing selectivity is

extremely difficult. On the other hand there is a strong economic incentive to fish selectively in pelagic fisheries. In addition to this the EU pelagic fleet has actively participated in developing selective gear and fishing methods.

Reading the draft discard plans of the Scheveningen Group leads us to believe that the Directors fully agree with the analysis provided by the Pelagic RAC. Assuming your agreement to the fact that selectivity increases in pelagic fisheries are very difficult to achieve, one can only wonder why the Scheveningen Group uses this argument against the application of a de minimis exemption. This appears to be a departure from the requirements of the CFP and reflects the arbitrariness with which the Member States have equally dismissed other recommendations submitted by the Pelagic RAC.

Regarding minimum conservation reference sizes, the Scheveningen Group points out that due to low discard levels overall, discards of juveniles must also be low whilst claiming at the same time that there is no incentive for fishermen to target juvenile fish. This statement is incorrect in so far as there is a market for juvenile horse mackerel in Japan which has led to an increase in catches of young horse mackerel including juveniles since 2003, with a peak in 2012. ICES has also shown that catches of mackerel taken from the southern component of the stock contain a high proportion of juveniles. While both of these cases might not fall under the direct management of the Scheveningen Group the Pelagic RAC considers a harmonized approach among different Member States on all issues regarding the implementation of the landing obligation crucial. Therefore and in order to protect juveniles of pelagic stocks the Pelagic RAC has recommended to retain minimum conservation reference sizes until research has shown that age and size selective fishing is not detrimental. The Pelagic RAC is aware of the Scheveningen Group's view that eliminating minimum conservation reference sizes would reduce complexity in implementing the landing obligation. However, at the same time the Group seems to suggest a rather complex mechanism on how to apply the interspecies flexibility without providing any details.

Other topics mentioned, but not elaborated upon, include equivalence of enforcement measures, force majeure and technical measures. Insofar as control and enforcement are concerned the silence of the Group relating to these matters is of grave concern to the Pelagic RAC. We do not believe that these matters should be ignored in the discard plan being submitted to the Commission. Amongst other things, this raises the possibility of third country vessels not being subject to the same requirements as EU vessels. If there is to be industry buy in to the landing obligation, it is essential that a level playing field exists for all participants as from the 1st January 2015. To do otherwise would seriously undermine the credibility of the Group's approach to this whole matter.

As you know discard plans for pelagic species are being worked on by the North West and South West regions, with potentially different outcomes in different regions. It was to avoid this situation that the Pelagic RAC believed from the outset that it would have been better to have dealt with the widely dispersed pelagic fisheries on a unitary basis. We have been told by Member States that they are of the opinion that forming a subgroup dealing exclusively with the pelagic stocks in the remit of the Pelagic RAC is not possible from a legal point of view. However, the Commission has confirmed to the Pelagic RAC that there is no legal obligation for the Member States to split up widely distributed stocks by region.

The Pelagic RAC is firmly of the view that the implementation of the landings obligation for pelagic species needs to be harmonised not only insofar as the de minimis exemptions and minimum conservations sizes are concerned, but also in relation to control and enforcement. To do otherwise will be highly detrimental to the management of the widely distributed stocks such as Northeast Atlantic mackerel, Western horse

mackerel and blue whiting which are assessed by ICES as single stocks and should be treated as such in relation to management measures.

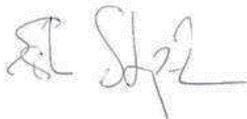
Finally the Pelagic RAC considers that the mandatory consultation process as required under article 18.2 of the CFP embarked on by the Scheveningen Group has been far from satisfactory and we are requesting at this late stage that it be rectified. In this regard the Pelagic RAC is of the firm view that a meeting should be organised by the Scheveningen Group where both drafts are discussed in detail with a view to trying to reach a common understanding and a uniform approach.

We are looking forward to receiving your reply to our request.

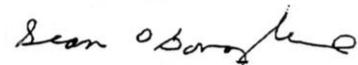
Sincerely,

Handwritten signature of Iain MacSween in black ink.

Iain MacSween  
President Pelagic RAC

Handwritten signature of Esben Sverdrup-Jensen in black ink.

Esben Sverdrup-Jensen  
Chairman Working Group I

Handwritten signature of Sean O'Donoghue in black ink.

Sean O'Donoghue  
Chairman Working Group II