

DRAFT MINUTES

19th meeting of Working Group 2 Regional Fisheries Organisations and North Atlantic Agreements

**Tuesday, 15 November 2016, 10:00-17:00 h
Hotel Meliá White House
Albany Street, Regents Park, NW1 3UP, London**

**Chair: Iván López
Vice-Chair: Jane Sandell**

1. Welcome and apologies from the Chairmanship.

The Chair, Mr Iván López, welcomes those attending and lists the apologies given for non-attendance by the following members: Irene Vidal, EFJ; Michael Park, SWFPA; Juan Manuel Liria, CEPESCA; and Raúl García, WWF.

2. Approval of the minutes of the last WG2 meeting – Brussels, 19-20 2016.

The minutes of the 19-20 April WG2 meeting are approved, with the changes proposed by Mr. Sean O'Donoghue (KFO) regarding the wording of his comment about questions to the EFCA regarding data on the blue whiting (BWH) catch.

Action:

- **Amend the minutes of the last WG2 meeting (18-19 April), including the editing and comments that Sean O'Donoghue will send in line with his speech on blue whiting.**

3. Approval of the agenda.

The agenda is approved without proposed changes or additions to its content.

4. Elections for Chair and Vice-Chair of WG2.

The current WG2 Chair, Iván López, explains that he has informed the Secretariat and the members of his resignation from the position of WG2 Chair as a result of his appointment as Chair of the General Assembly and of the Executive Committee of LDAC at the General Assembly meeting held in Lisbon on 31 May 2016. The reason put forward is to avoid conflicts of interest in the decision-making process and freely participate as a member of WG2. He then gives the floor to the Secretary General, Alexandre Rodríguez, so he can inform the members about the electoral procedure to follow.

The Secretary General indicates that by virtue of what is stipulated in Title III Article XXVI of the LDAC statutory rules, the working groups elect their respective Chair and Vice-Chair by simple majority vote and by secret ballot vote system.

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Also, for the elections to be valid, there must be a quorum of at least 50% of the member organisations present or represented by means of express written delegation of vote to another.

It is informed that for the purposes of the electoral census, the date of the beginning of the current financial year has been taken as reference, i.e. 1 June 2016, and as a requisite the member organisations are required to be up to date with their membership fee payments. WG2 counts a total of 26 member organisations, as detailed in Annex I. It has been indicated that a total of 18 member organisations are present in the room and that the Secretariat has received 5 written delegations of vote:

1. Irene Vidal (EJF) delegates to Björn Stockhausen (Seas at Risk)
2. Raúl García (WWF) delegates to Javier López (OCEANA)
3. Michael Park (SWFPA) delegates to Jane Sandell (NFFO)
4. Juan Manuel Liria (ANAMER) delegates to Javier Garat (CEPESCA-FEOPE)
5. Rocío Bejar (CEPESCA-ONAPE) delegates to Javier Garat (CEPESCA-FEOPE)

There is thus a sufficient quorum, as there are 23 organisations with voting rights out of a total of 25 WG2 members.

For the Chair, one single candidacy has been received, in the person of Jane Sandell (NFFO). At the request of a member regarding his concern about a national of the United Kingdom assuming a position in an Advisory Council in the context of the process of that country leaving the EU (“Brexit”), and following discussion, it was decided to unanimously support the candidacy of Ms Sandell owing to her capacity, worthiness and experience, with the condition that the 3-year term be subject to review depending on progress in the Brexit negotiations and political context once article 50 of the Lisbon Treaty is invoked. It will be possible to review the current situation in case of personal or collective conflict of interests or due to lack of representativeness in the event of legal uncertainty.

DECISION: Ms Jane Sandell is unanimously appointed Chair of LDAC Working Group 2 for a period of 3 years, subject to review at any time during the term in case of personal or professional conflict of interests or confirmation of the United Kingdom’s leaving the EU as a consequence of Brexit.

Two candidates are put forward for the Vice-Chair position, one by the fishing sector, Mr Gerard van Balsfoort (Dutch Pelagic Freezer Trawler Association), and the other by the other interest groups, Mr Bjorn Stockhausen (Seas at Risk). Both candidates give a presentation on the reason for their interest in seeking this position.

An ad hoc Electoral Committee was next appointed, charged with the count and recount of the votes and their validation on record with the approval of the members.

The Electoral Committee is formed by the following representatives:

- Iván López (Fishing sector – outgoing WG2 Chair)



- Javier López (NGO – member of WG2 and Executive Committee)
- Alexandre Rodriguez (Secretary General)

Secretariat members Marta de Lucas and Manuela Iglesias participate as observers and guarantors of the vote recount process.

Each member organisation is summoned to deposit its vote in the ballot box. Following the recount, the result is the following:

- Total number of votes: 23; 1 abstention;
- Total number of valid votes issued: 22.

Result of the vote

Candidate Björn Stockhausen: 10 votes.

Candidate Gerard van Balsfoort: 12 votes.

DECISION: Gerard van Balsfoort is the winner of the vote and is formally elected Vice-Chair of WG2 for a 3-year period counting from this date.

5. Fishing agreements and bilateral issues:

Summary of the situation of negotiations and issues in 2016 with:

- Norway

The EC representative, Mr Armando Astudillo, reports that the first round ended last week in Copenhagen, although there is no agreement on the share of joint stocks in the North Sea.

An agreement has been reached for the pelagic species of mackerel, blue whiting and Atlantic-Scandinavian herring (ASH), which will facilitate the negotiations set for 28 November in Bergen. A joint focus will be adopted, consistent with what is envisaged for north-western community waters, with respect to the need to increase quotas (“top-ups”) by applying the landing obligation. There are nevertheless some discrepancies regarding calculation of the top-ups.

Most problems were found to concern shared stocks, which will be key in the negotiations for interchanging fishing opportunities among the NEAFC contracting parties.

Regarding the year 2015 negotiations, Mr Sean O’Donoghue (KFO) hopes that this year the blue whiting TAC is better, though he is worried about access to the resource and to markets.



On the other hand, he stresses the lack of the lack of transparency of last year's negotiating process for the European fleet, which he deems unacceptable.

- Faroe Islands

There are no shared stocks, but there is the possibility of interchanging fishing opportunities. The next meeting will be held on 5-7 December.

ACTION:

EU-Faroe Islands: Mr Ian Gatt (SPFA) will send to the LDAC Secretariat and to the European Commission the second annual follow-up study conducted by SEAFISH concerning the economic value of the agreement between the EU and the Faroes, corresponding to year 2015 (the first was for 2014).

- Greenland

The EC representative, Mr Armando Astudillo, reports that the EC focuses its scope of study or interest on three questions: 1. The volume requested by the Member States (sector); 2. The status of the commercial stocks of interest (scientists); and 3. What is Greenland prepared to offer (Administration). The possibility of being able to catch snow crab in Greenland was spoken of, but the scientific report puts forward relatively unoptimistic information in that regard, as it seems that there has been a major reduction in the abundance indices of that stock.

6. Svalbard:

a. Status report and general update

The European Commission representative, Mr Astudillo, reports that Russia has claimed rights on its continental shelf without consulting the EU. Based on the provisions of the Treaty of Paris, the main legal instrument governing the exploitation of natural resources in the area, there might be a possibility of opening a fishery by means of fishing agreements.



Norway has sovereignty and jurisdiction over Svalbard and the power to regulate its resources transferred by the other contracting parties of the Treaty. However, this should not result in rules which are discriminatory or favourable to the interests of Norwegian nationals and fleets in detriment of others. The European Commission considers that Norway has adopted management rules for snow crab which are discriminatory, as there is a prohibition on fishing by all fleets with an express waiver for the Norwegian fleet and some Russian vessels. The EU sent a *nota verbale* on 1 November 2016, denouncing this situation; to date it has not received any response from the Norwegian administration.

In any case, it is evident that Norway and the EU interpret the Treaty of Paris differently. Norway asserts that the continental shelf beyond 6 miles pertains to it. However, the EU aims to allow the controlled opening of fishing for stock such as snow crab in Svalbard, by complying with international rules.

The EC believes it can submit a proposal to the December EU Council so that fishing opportunities for Svalbard can be included. It would be very positive for the LDAC members to indicate their respective opinions.

The contents of the consultation document or “non-paper” of the Commission addressed to the LDAC members is presented, with four key questions. The Commission’s consultation document is included as an annex to this report.

b. Commission proposal on snow crab management

Two presentations on snow crab are given by representatives of the European and Polish crab fleets, respectively.

- 1) “Position on crab industry and fishing in the Svalbard zone” given by Giedrius Gruzdis (JSC Arctic Fishing) on behalf of the European Snow Crab Industry – Available for consultation and download here:

<http://ldac.ldac.eu/attachment/932c4e65-7317-4200-8bf6-543da5df22b8>



- 2) “Crabs in the Barents Sea”, given by Jarek Zielinski, representative of Poland’s Pomeranian Producers Organization ARKA – Available here:

<http://ldac.ldac.eu/attachment/6a589142-2f90-47fb-a8d0-c5b54f271a62>

Both presentations describe the historical activity and expansion of the snow crab fishery by European fleets and analyse the legal and regulatory framework of the international waters in the NEAFC and Svalbard. The biology of that species is also explained, along with its nature as an invasive species in the Svalbard Zone and its impact on the food chain due to interactions between species and predator/prey relationships. Finally, the capacity and number of crab boats per European-flag states (Lithuania, Latvia and Spain) is listed. They highlight the serious economic harm that will result for them if they are denied access to fishing in Svalbard waters and ask the LDAC members to support their demands for the EU to assign them fishing opportunities for the zone at its December Council of Ministers.

The Chair thanks the speakers for the clarity of their briefing and the quality of their presentations as well as the proposals made for debate within this Group. He next gives the floor to the interested WG2 members, urging them to actively take part in this crucial debate.

Debate and speeches of the WG2 members

Mr Hjálmar Vilhjálmsson (ELDFA) highlights ~~a~~ gear conflicts between the snow ~~carab~~ vessels and trawlers still exists. The marking of the crab pots is still a ~~major~~ problem but improvements have been made on information exchanged ~~by the EU crab vessels~~ with the shrimp trawlers of the association he represents, ~~but such information is usually lacking in case of Norwegian and Russian crab vessels~~. Despite of improved communication between the fleets the five points mentioned on page 3 in ~~ELDFA paper~~ “LDAC-Status Report and Proposal for Recommendations on Static Gear in NEAFC” (dated April 17 2015), and referred to as “intolerable behaviour” still exists and is causing serious problems ~~especially in case of Norwegian and Russian crab vessels~~:

1. Shooting crab pots in the towing-path, behind and in front of a trawler.
2. Leaving crab pots at the seabed during a port visit.
3. Not informing timely about location of crab pots.
4. Claiming an area much larger than actually covered by pots and denying requests for detailed info about the exact location to block areas for trawling.
5. Discard of garbage and scrap metal (e.g. empty lubrication oil barrels) into the sea.
[\(Russian vessels only\)](#).

Currently dozens of crab pots are ~~laying~~ lying on the seabed of NEAFC zone Ia and have been there ~~size the snow crab activity in the region stopped~~ unattended for weeks, even months. This fishing gear will cause danger to trawlers and other vessels in the region and it is important to have them ~~immediatly~~ immediately removed.



Vilhjalmsson emphasises the importance of following rules about making of the gear as per NEAFC Scheme 2015, article 7 and its reference to the Convention of Conduct of Fishing operations in the North Atlantic signed in London on 1 June 1967.:

~~1. Each Contracting Party shall ensure that gear used by its fishing vessels in the Regulatory Area is marked consistent with the Convention on Conduct of Fishing operations in the North Atlantic signed in London on 1 June 1967.~~

~~2. Marker buoys or similar objects floating on the surface and intended to indicate the location of fixed fishing gear shall display the registration number of the fishing vessel to which they belong.~~

~~The above mentioned London Convention provides the following:~~

~~Acc. to Article 5; Nets, lines and other gear anchored in the sea and nets or lines which drift in the sea shall be marked in order to indicate their position and extent. The marking shall be in accordance with the provisions of Annex IV to the London Convention.~~

~~Annex IV; Marking of nets, lines and other gear. Rule 1—Anchored gear:~~

~~(1) The ends of nets, lines and other gear anchored in the sea bed shall be fitted with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent. Such lights should be visible at a distance of at least 2 miles in good visibility.~~

~~...~~

~~(5) The flagpole of each buoy shall have a height of at least 2 metres above the buoy.~~

The above rules are still being violated, but at a smaller scale than before and primarily by Norwegian and Russian crab operators. Lacking of marking, e.g. unmarked pots and indistinguishable buoys is a matter of infringement of NEAFC rules. ~~No crab vessel, out of the approx. 25 recently fishing, is fulfilling the rules fully by using flagpoles and flags, along with lights or radar reflectors on their buoys.~~

In his opinion, the EU fleet should stay united and support snow crab fishing in Svalbard as and to press jointly for proper enforcement and management plans long as it is managed in a way that does not harm operation of other fleets. The and same rules as in force in NEAFC should be are followed in Svalbard as well.

At present the shrimp fleets in the Barents Sea are systematically recording incidents that have occurred (vessels leaving pots in sea while calling port, absence of buoy marking etc.), ~~indicating the names of crab vessels and documentaland proof (photographs) have been gathered. This so that information will be can later be sentsubmitted~~ to the proper authorities ~~with a request for~~ actions taken and risks for seafarers minimised in the future.

Svalbard is an important fishing ground to the EU and it is important that the EU fleets are united in claiming their lawful rights in the area against self-~~regulations imposed by dealing Norway Norwegians and Russians. Because of this ELDFA supports EU snow crab activity in Svalbard given the reservations about marking of gear etc. mentioned previously.~~

Con formato: Texto independiente, Justificado, Interlineado: Mínimo 12 pto, Sin viñetas ni numeración

Con formato: Ajustar espacio entre texto latino y asiático



Mr Rubén David Bello (ANAVAR-ANAMER) states that they are ready to follow current international rules to achieve sustainable fishing, but stresses the need for rapid action on the part of the EU, in so far as the crab industry is tied up in port and suffering significant commercial losses. He would ask for a specific and clear action plan to be put forward in the next few days which allows the fleet to operate in the fishery.

Mr Iván López (AGARBA) points out that before debating fleet cohabitation the snow crab fishery per se should be spoken of, given that this issue is pressing. He is happy that the European Commission is planning to revise application of the Treaty of Paris. Regarding the snow crab fishery, he indicates that with Greenland halibut something similar happened in Svalbard, opening the fishery in principle for all, then closing it for scientific research before opening it again, but this time only for fleets from Russia and Norway. In this regard, he believes it is vitally important for the EU to take a firm and unified stance on this issue; also, for European industry it is fundamental to know what will happen in order to have minimum legal guarantees, for example in the event that an incident such as the arrest of a vessel by Norwegian patrol boats occurs. It is a good time to rethink the EU's strategy in Svalbard and to act.

Mr Gerard van Balsfoort (DPFTA) suggests that it would be positive to submit an LDAC recommendation on this matter which firmly supports access to the snow crab resource by European fleets from those countries that are contracting parties of the Treaty of Paris.

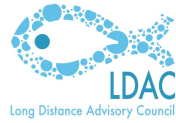
Mr Juan Manuel Trujillo (ETF) points out that he supports the two presentations given by the fleet representatives and the idea of submitting an LDAC opinion in that regard. He indicates that if agreement is reached with Norway all the parties will benefit; indeed, the socioeconomic importance of that fishery for the affected EU coastal communities and fleets should be included in the analysis to be conducted.

Mr Jarek Zielinski (Pomorska Organizacja Producentów ARKA) adds the importance of the role of king and snow crabs in the ecosystem, highlighting the need to have more information about those species and their impact on the Barents Sea.

Mr Sean O'Donoghue (KFO) supports the idea of producing an opinion or recommendation from the LDAC. He also highlights the need to know how European vessels will be protected if they are arrested and also how the crews will be protected.

The EC representative, Mr Armando Astudillo, confirms that the EU intends for it to be possible to fish in Svalbard, indicating that it is not the first time that the EU has a dispute with Norway, whereby they hope a compromise can be reached.

Spain's Secretary General for Fisheries, Ms Margarita Mancebo, states that Spain supports fishing in Svalbard by the Treaty of Paris contracting parties. She specifies that a Spanish vessel has already fished in Svalbard and that consequently the Norwegian regulation on management of the snow crab fishery was published.



The representatives of the fishing administrations of Lithuania, Latvia and Poland coincide with what is explained by Ms Mancebo and defend the resource's exploitation by their flag fleets and also that all Treaty of Paris contracting parties should enjoy equal and non-discriminatory treatment.

For their part, Messrs. Javier López (OCEANA) and Bjorn Stockhausen (Seas at Risk) indicate that they understand the demands on behalf of industry and share their argument for improving scientific knowledge of this species. However, in order to produce an LDAC opinion, they believe it is necessary for it to contain a mention of sustainable management of the resources and the invasive nature of this species and its harm to other native species (such as capelin). They also suggest focusing on access to the fishery and the principles on which the Treaty of Paris is grounded before delving into the questioning of specific management measures which are Norway's responsibility.

At the suggestion of the Vice-Chair, Gerard van Balsfoort, the meeting is interrupted for a 20-minute coffee break during which the Vice-Chair and the Secretary General compile the information received and write a draft opinion or declaration so that it can be debated and, if appropriate, adopted in this session.

The EC representative, Mr Armando Astudillo, reports that the EC made its position clear to Norway in the *nota verbale* proposing the issuance of authorisations for European vessels to access Svalbard. In this regard, he will propose to the EU Council the introduction of fishing opportunities for this species, and will ask the Council to stipulate the limitations with respect to the number of vessels in the fishery as well as the technical means that will be applied. He indicates that the negotiation package should include TACs and quotas for December.

Mr Sr. Sean O'Donoghue (KFO) opines that it should be clearly considered that the vessels are fishing with EU authorisation in order to prevent their arrest.

Mr Rubén David Bello (ANAVAR-ANAMER) insists on the need for the European Commission to be firm and to act, and to not miss this opportunity.

Actions:

- **The two presentations given by the European (Spain, Lithuania and Latvia) and Polish industry will be placed at the disposal of WG2 members on the LDAC website.**
- **The draft opinion on snow crab in Svalbard will be distributed by mail to all members of WG2 and the LDAC Executive Committee and to the invited representatives of the European crab fleet, including the comments and contributions made during the London meeting, so that it can gain fast-track approval at the Madrid Executive Committee meeting on 23 November 2017 and be sent to the member states concerned and to the Commission before the negotiations of the Fisheries Council of Ministers in December.**



7. Northwest Atlantic Fisheries Organisation (NAFO)

a. Results of the 20th annual NAFO meeting – Varadero, 19-23 Sep. 2016.

The EC representative indicated that at the last annual meeting several proposals made by the European Union were successfully adopted. He clarified that the Commission has already responded in writing to the LDAC opinion and that it was present as a member of the EU delegation via its chair and secretary. He also explained that priority had been given to the question of reviewing the management strategy for the Greenland halibut (GHL), postponing the decision on 3M cod (COD) to 2018; as for redfish, the latter will be decided on next year. For plaice the moratorium is maintained for 3 years. Deepwater and northern shrimp for the 3M fishery remains closed.

NAFO's need to protect biodiversity at sea is highlighted.

Mr Björn Stockhausen (SAR) mentioned several positive developments such as closures of seamounts and the adoption of best practices to enforce shark finning bans, but that at the same time certain quotas were agreed above recommended catch levels.

Ms Jane Sandell (NFFO) asked whether the benchmarking workshop on 3M codfish will be maintained for 2017. Indeed, LDAC's position with respect to the NAFO reference points for 3M codfish has been requested. Regarding the selectivity trials, she reports that the NFFO is undertaking a sampling with Seafish. The preliminary results were quite modest vis-à-vis the sampling's duration and coverage, with no significant statistical incidence. Sampling campaigns will continue to be carried out with an observer on board so that their usefulness can be assessed and a protocol developed.

Actions:

- LDAC will reiterate to the Commission the need to insist that the Scientific Committee (SCRS) furnish a protocol for carrying out voluntary selectivity campaigns on behalf of the trawl fleet focusing on codfish in the 3M subdivision of NAFO (in particular the European), as well as validation of the information derived from same.



- LDAC will ask the European Commission to take part as an observer or assistant of the community delegation to the benchmarking workshop on 3M codfish and to the MSE review for Greenland halibut, both planned for Canada in March/April 2017.

b. Questions to debate:

The EC representative, Mr Stamatios Varsamos, explains regarding application of the landing obligation (LO) in the NAFO regulatory area that the EC takes into account two aspects when evaluating its application and compatibility with international regulations by virtue of the provisions in article 15 of the PCP Regulation. Where there are waters subject to jurisdiction of third countries it is clear that it depends on what is set out in the regulations of those countries. In international waters they must verify that there are no contradictions of the landing obligation rules and those of the regional fishery organisations that regulate them. The EC therefore drew up two delegated acts rescinding application of the LO for capelin in NAFO and swordfish in ICCAT. On the other hand, in those RFMOs that do not count rules that permit or even force discards (as can be the case of NEAFC), the LO will be applied to the entire EU fleet, whereby discarding will not be possible as soon as it takes effect.

Mr Stockhausen (SAR) asks which scientific entity was tasked to evaluate the situation of the LO, and how the Commission plans to make sure that sufficient monitoring will take place.

Mr Stamatios Varsamos replies that the EC is currently working with the STECEF on drawing up opinions about the extent of the LO for the different international fisheries. As soon as it is ready and there is a clear view, the Commission, in the absence of action by Member States, will draw up the corresponding delegated regulations establishing *de minimis* rules.

With respect to NAFO, the delegated act of the Commission will cover the 9 species that are regulated or subject to catch limits in the EU. They hope it will be adopted in early 2017.



c. Update of the Commission's working plan for the 4th quarter of 2016 and first half of 2017: LDAC input.

The Secretary General, Mr Alexandre Rodríguez, asks the Commission what would be the best way for LDAC to take part in the NAFO benchmarking workshop on 3M codfish and how LDAC can work more efficiently with the NAFO negotiating team.

Mr Iván López (AGARBA) highlights the importance of knowing the scientific report as soon as possible in order to produce the LDAC opinion on NAFO. To organise production of the NAFO opinion, he suggests creating a drafting group with the interested members.

In principle, the following show interest in taking part in same, besides Iván López: Mr. Juan Manuel Liria (CEPESCA), Mr Björn Stockhausen (Seas at Risk), Mr Luis Vicente (ADAPI) and Mr Edelmiro Ulloa (ARVI).

Action:

- NAFO 2017: A drafting group will be created, coordinated by the Secretariat, in order to try to advance the work and present in time a draft proposal to the Commission at the preparatory meeting expected to take place toward the end of August.

8. North East Atlantic Fisheries Commission (NEAFC)

a. Commission update on consultations among coastal states

The EC representative, Mr Stamatios Varsamos, reports that agreement has been reached on the TACs for blue whiting (BWH) and Atlanto-Scandian herring (ATH) but not for the shared stocks. Regarding mackerel, agreement was reached on distribution among the coastal states was agreed, including a TAC for the non-contracting parties of Iceland, Greenland and Russia. Discussions on redfish (RED) continue.

It is also hoped that for the next annual meeting the organisation's new Secretary General will have been appointed.



b. Other matters of interest (landing obligation, etc).

The EC representative, Mr Stamatios Varsamos, reported that in the NEAFC there will be a minimum assignment exception; this is being worked on and the STECF recommendations are therefore necessary.

Mr Sean O'Donoghue (KFO) asks how that can be applied to other fleets that are outside the NEAFC area.

The EC representative, Mr Stamatios Varsamos, replies that if there are parties with legislation similar to that of the EU, then those regulations will be applied. The EC's intention is to reach a national level of EU-flagged states at first and to export that legislation internationally via the RFMOs to achieve a level playing field for all fleets in a fishery.

Mr Björn Stockhausen (Seas at Risk) highlights the important role the EC can play trying to convince the other parties to comply with the stipulated minimums and with the landing regulations. He further asks whether the reason for the EC coming up with de minimis values is that no joint recommendations have been put forward due to the non-existence of a regional Member State group. He further asks whether the implementation is on track regarding the 2019 timeline and the gradual implementation of the LO until then.

Mr Stamatios Varsamos (EC) responds that while meetings have occasionally been organised with Members States for this specific issue, there does not seem to be much interest in its regard.

Action:

The possibility of following a procedure in the preparation and production of LDAC opinions will be considered, similar to that of NAFO and other relevant RFMOs such as NEAFC and ICCAT, for the purpose of their consideration by the EU delegation.



9. Fishing Authorisation Regulation (FAR): update and reflections on the WG5 draft opinion.

The Secretary General, Mr Alexandre Rodríguez, explains the opinion on FAR produced by WG5 and which has already been adopted, indicating that the European Parliament will vote on it during the month of November.

10. Organisation of a joint LDAC-PeIAC conference on application of the exterior dimension of the PCP: ecosystemic approach to management of North Atlantic fisheries.

The Secretary General, Mr Alexandre Rodríguez, summarises the webex meetings (7) held by the Steering Committee. He also describes the content of the consensus draft programme, highlighting the need to find co-sponsors for this event.

Action:

The work done by the steering committee in recent months is approved and a mandate is granted to it and to the Secretariat of LDAC and PeIAC to continue organising this event, seeking sponsors and inviting speakers and communications. The possibility is considered of pushing back the event's date in accordance with logistical needs in 2017.

11. Date and place of the next meeting.

It will be held in Brussels in the month of April, with the date pending confirmation.

The meeting ends at 15:30 h



ANNEX I. ATTENDANCE LIST

WORKING GROUP MEMBERS

1. Iván López. AGARBA
2. Sean O'Donoghue. KFO
3. Hjálmar Vilhjálmsson. EL DFA
4. Erik Bjørn Olsen. Living Sea
5. Ian Gatt. SPFA
6. Lise Laustsen. DPPO
7. Luis Vicente. AD API
8. Bjørn Stockhausen. Seas at Risk
9. Emil Remisz. NAPO
10. Javier Garat. FEOPE/CEPESCA
11. Claus Ubl. DHV
12. Gerard Van Balsfoort. Dutch Pelagic Freezer Trawler Association
13. Despina Symons. EBCD
14. Javier López. OCEANA
15. Marc Ghiglia. UAPF
16. Juan Manuel Trujillo. ETF
17. Jane Sandell. NFFO
18. Katarina Sipic. CONXEMAR
19. Rubén David Bello. Mariscos Polar. ANAVAR-ANAMER

OBSERVERS

20. Armando Astudillo. EC – DG MARE
21. Stamatios Varsamos. EC – DG MARE
22. Jarek Zielinski. Pomorska Organizacja Producentów ARKA
23. Susana Salvador. Direção de Serviços de Recursos Naturais
24. Leszek Dybiec. Polish Administration
25. Joanna Ciagadlak-Socha. Polish Administration
26. Ričards Derkačs. Fisheries Department Latvia
27. Margarita Mancebo. Secretaria de Pesca
28. Pedro Sepúlveda. Secretaria de Pesca
29. Didzis Smits. European Crab Association
30. Giedrius Gruzdytis. JSC "ARCTIC FISHING"
31. Andrius Krukonis. JSC "ARCTIC FISHING"
32. Alexandre Rodriguez. LDAC
33. Marta de Lucas. LDAC
34. Manuela Iglesias. LDAC

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ANNEX II. COMMISSION CONSULTATION DOCUMENT TO LDAC ON SVALBARD

Fishing for snowcrab in Svalbard. Consultation to LDAC

London, 15 November 2016

This document serves as a basis for discussion with stakeholders within the Long-Distance Advisory Council. It cannot in any circumstances be regarded as the official position of the Commission. It is intended solely for those to whom it is addressed.

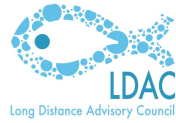
Some Member States (ES, LV, LT, PO) have expressed their interest to fish for snow crab (*Chionoecetes opilio*) in the area around Svalbard on the basis of the Treaty of Paris of 1920. This note aims at highlighting the main issues on which decisions need to be taken before proceeding to granting fishing opportunities to these member States. The opinion of LDAC members is sought on these issues.

Main rights and obligations

The main stipulations of the Treaty of Paris which have to do with the issue are:

1. Norway has full and absolute sovereignty over the Archipelago (Article 1).
2. Contracting Parties shall enjoy equally the rights of fishing and hunting in the area (Article 2).
3. Norway can adopt suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions (Article 2).
4. However, these measures shall always be applicable equally to the nationals of all the Contracting Parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them (Article 2).

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London, 15 November 2016



The EU has consistently interpreted that the international rules applicable to the maritime zones (territorial sea, economic exclusive zone and continental shelf) around Svalbard continue subject to the Treaty of Paris. Norway considers that the Treaty applies only to the territorial waters, and hence that the rights of fishing of Contracting Parties (point 2 above) and the non-discrimination clause (point 4 above) do not apply to the parts of the continental shelf and the Fishery Protection Zone¹ beyond territorial waters.

This dispute on the interpretation of the scope of the Treaty of Paris has never been resolved. The EU takes the view that the Member States which are contracting parties to the Treaty of Paris can fish in the area and are bound by conservation measures adopted by Norway as long as these are non-discriminatory.

Furthermore, general obligations exist also for the EU to use the rights of its Member States and perform their duties of in good faith and to collaborate with Norway in the conservation of fish resources.

Current Norwegian legislation covering snow crab

By Regulation No 1836 of 19.12.2014, subsequently amended on 22 December 2015, Norway enacted a prohibition to catch snow crab in Norwegian territorial waters and continental shelf. But for outside territorial waters, derogations may be granted to vessels having obtained a permit under the Participation Act. The regulation does not define either the criteria upon which permits may be granted or refused or any hint on the number of such permits. It also sets out a few technical and control measures such as sampling of the catch and admitting scientific observers on board.

A preliminary glance at this regulation shows that its main measures do not respect the conditions of the Treaty of Paris given that 1) the right to fish for Contracting Parties to the Treaty cannot be subjected to licensing by Norway and 2) the derogations from the prohibition exclude vessels from Contracting Parties other than Norway, since the Participation Act applies only to Norwegian vessels, and this goes against the non-discrimination clause.

DG MARE has initiated the process to send Norway a Note Verbale expressing the EU's views on the incompatibility of the above-mentioned Norwegian regulation with the Treaty of Paris.

Is snow crab an invasive alien species?

It has been argued that snow crab, as red king crab (*Paralithodes camtschaticus*) has been introduced by man in the Barents Sea and that its spread may constitute a risk for the Arctic marine ecosystem. If this were true, a policy of extirpation of this species might be justified.

For red king crab, it seems confirmed that the species was deliberately introduced in order to create a new fishery and that its spread may threaten benthic ecosystems. Russia and Norway have agreed on a management policy to maintain a regulated fishery in a restricted area while limiting the spread of the species to the west and the north. Inside the regulated area, Norway

¹ Instead of an Economic Exclusive Zone, Norway declared a Fishery Protection Zone



establishes fishing periods, quotas, minimum landing sizes and maximum vessel sizes. To the west of 26°E and north of 71°30'N, the fishery is free from limitations.

The case of snow crab is less clear; its appearance in the Barents Sea and its spread to the west could be due to natural causes, arguably related to climate change. Around Svalbard, it would be ultimately for Norway, the sovereign State, to determine the status of the population of snow crab and its conservation or extirpation objectives. The recent Norwegian regulations quoted under section 2 above seem to indicate that Norway's aim is to protect this species rather than to extirpate it.

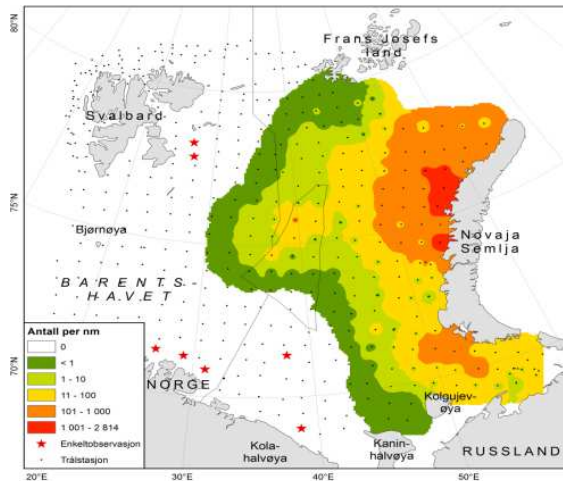
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Questions about opening an EU fishery for snow crab in Svalbard

The demand for opening the fishery in the area of Svalbard came from Member States which are at present fishing for snow crab in the Loophole, especially in its northern part, who are now searching for alternative fishing grounds to exploit in case Russia exerts its rights on the continental shelf and expels the EU vessels from the fishery in the Loophole.

Question 1: will opening the fishery be worth it?

When considering possible fishing opportunities in Svalbard, a first question could be: will it be worth it? Readily available information on the current distribution of snowcrab shows that it is concentrated in the eastern part of the Barents Sea, and that the resource is very scarce west of the Loophole, as shown below.



The map, based on trawl surveys conducted in 2013, shows that west of the Loophole the density of the snowcrab population decreases by a factor of 10 (light green) and 100 (dark green) compared to the current fishing grounds (yellow area). It also appears that from the four Norwegian vessels supposedly fishing in the area, two fish east of the Murmansk line, i.e. in the Russian continental shelf.

How to fix fishing opportunities

If a decision is taken to allow fishing opportunities for EU vessels, there should be a limit for these. With the available information we cannot anticipate a figure for total allowable catch applicable to EU vessels, so an approach based on limiting the fishing effort might be more appropriate.



In deciding the number of vessels that would be allowed to conduct the fishery, the following criteria could be borne in mind:

- Member States' expectations. ES has requested a licence for one vessel, LV has requested licences for 11 vessels, LT for 3 vessels and PO also for 3 vessels
- The number of licences should be realistic and match the potential applications.
- A precautionary approach would point for a small number of licences covering an exploratory fishery the first year(s), at least until experience shows that the fishery may offer potential for a larger fishing activity.

In all cases, it would be advisable to adopt a few additional measures similar to the ones envisaged by Norway, such as obligations on detailed reporting, sampling (sex, carapace width and other biological characteristics) and having scientific observers on board. Measures should also be taken to avoid interference between towed and static gear as described in LDAC document 15/WG2 of 17 April 2015.

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