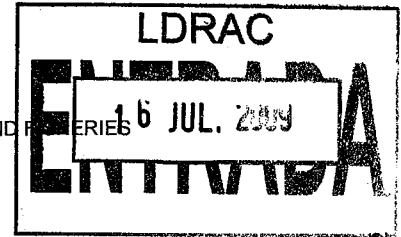




EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES
THE DIRECTOR-GENERAL



Brussels, 16.07.2009 D 08374
DTn/ca IV D(2009)

Mr. Antonio Schiappa Cabral
Long Distance RAC
C/ Velázquez 41, 4º C
28001 Madrid
SPAIN

Subject: LDRAC opinion on reviewing the Council Regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

Dear Mr Cabral,

Thank you for the LDRAC opinion on the observer scheme set up under Council Regulation (EC) No 734/2008 to protect vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears. Before responding to your advice, I would like to make some remarks on decision-making in the RACs.

Concerning the adoption of RAC advice

The RACs were set up not only to involve stakeholders more closely in the decision-making process, but also to improve dialogue among stakeholders with an interest in a particular fishery. A RAC should act as a forum for an exchange of views among its members.

This exchange takes place mainly in the working groups, which are in charge of drafting advice. It is, therefore extremely important for RAC members to attend these meetings. If, exceptionally, a member is unable to attend a working group, it can send its comments in advance to the secretariat, ask another member to relay its views during the meeting or react rapidly to the minutes of the working group. The Executive Committee is responsible for adopting the final advice and has the power to re-discuss and eventually modify the advice of the working group.

As Commissioner Borg explained at the last coordination meeting, consensus among RAC members is really positive and welcome but at the end of the day the absence of it should not block the issuing of RAC recommendations.

Where consensus is not possible, majority and minority positions should be sent to the Commission. This means that the RAC advice should clearly mention both arguments and not only state that the advice was approved without consensus.

Concerning the review of the observer scheme set up under Article 11 of Council Regulation (EC) No 734/2008

You are right to recall that Council Regulation (EC) No 734/2008 implements important aspects of UNGA resolution 61/105 on bottom fishing. Soon the UN Secretary General will submit his report on the implementation of UNGA 61/105 which will constitute the basis for discussions on this year's UNGA resolution on sustainable fisheries in autumn (the first round will take place from 15 to 18 September 2009). In light of the UN process it will be particularly important that the EC applies Council Regulation (EC) No 734/2008 in an efficient, transparent and clear manner.

Article 11(1), subparagraph 2 of Council Regulation (EC) No 734/2008 (OJ L 201, 30.7.2008, p. 8) provides for a review of the number of observers (currently 100%) on vessels fishing in the area covered by the Regulation (high seas not under the responsibility of an RFMO/A) on 30 July 2009.

Under Article 12(1) of the Regulation, Member States are required to report to the Commission in detail by the end of September on catches (Article 12(1)(a)), compliance with the fishing plans and with the requirements on unassessed areas, unforeseen encounters with vulnerable marine ecosystems and area closures (Article 12(1)(b)), and on their implementation of Article 8 on area closures. The reports must be accompanied by an impact assessments carried out by Member States prior to issuing the special fishing permits pursuant to Article 4(2). As indicated in Article 12(3), the Commission will make the information received publicly available, *inter alia* through the FAO.

Therefore, Member States' experiences with the observer scheme should be considered in the context of the other information that will be provided by them under Article 12 of Council Regulation (EC) No 734/2008. Any review process of the observer scheme will have to take into account how the Regulation is being implemented in other fields.

The different processes in the UN and in the EU cannot be viewed in isolation, as they are interlinked. Therefore, the EC would like to have the most comprehensive information possible before that first round of discussions in September in the UN and, for that purpose, would appreciate receiving the reports from Member States earlier than is strictly legally required.

Therefore, the Commission has requested Member States to provide the necessary information under Article 11(1), subparagraph 2 and Article 12 of Council Regulation (EC) No 734/2008 **by 1 September 2009** at the latest.

The Commission hopes that the information thus collected will result in an informed debate in the UNGA and serve as a basis for assessing the observer scheme under Council Regulation (EC) No 734/2008.

Yours sincerely,



Fokion FOTIADIS