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26 May 2015

TO:  
**President**  
**Vice President**  
**Heads of Delegation**  
**All Contracting Parties**

**Reference: HOD 15/43**

### **COMMENTS REGARDING PROPOSED EXPLORATORY FISHERIES**

Reference is made to HOD letter 15/32, from 1 April 2015, regarding proposed exploratory fisheries by the European Union – Notice of Intent. Reference is also made to correspondence among PECMAS members in this context.

Please find attached a document from Spain on the Preliminary Assessment Report on the proposal for Exploratory Bottom Pot Fishing, to target the crabs *Paralithodes camtschaticus* (red king crab) and *Chionoecetes opilio* (snow crab) in the NEAFC Regulatory Area (international waters of the Barents Sea).

The EU has sent this document to the Secretariat today and notified us that the document replies to a number of comments made by Contracting Parties in recent weeks. The EU has also requested that this document be immediately distributed to all Heads of Delegation of Contracting Parties as well as members of PECMAS.

Yours sincerely

Stefán Ásmundsson  
**Secretary**



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ESPAÑOL DE  
OCEANOGRAFÍA



GOBIERNO  
DE ESPAÑA

MINISTERIO  
DE ECONOMÍA  
Y COMPETITIVIDAD

**Comentarios a las respuestas de los representantes de las Partes Contratantes de NEAFC sobre el informe del IEO “*Preliminary Assessment Report on the proposal for Exploratory Bottom Pot Fishing, to target the crabs *Paralithodes camtschaticus* (red king crab) and *Chionoecetes opilio* (snow crab) in the NEAFC Regulatory Area (international waters of the Barents Sea - Loophole)*”**

Por

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Se adjuntan comentarios sobre las respectivas cartas de respuesta presentadas ante el Comité Permanente de Científicos y Gestores de NEAFC (PECMAS) por los representantes de la Federación Rusa, Noruega e Islandia, en relación con el documento de la UE “***Proposed exploratory fisheries by the European Union - Notice of Intent***” [Ref. Ares (2015)1443373 - 01/04/2015].

Se analizan sólo los aspectos más relevantes de dichas respuestas en referencia al ***Informe Preliminar de Evaluación elaborado por el IEO***, adjunto al documento de la UE arriba mencionado.

Se hace hincapié en las cuestiones más significativas para la evaluación del PECMAS, de acuerdo con el principio de precaución y con las medidas para minimizar los riesgos de Impactos Adversos Significativos sobre los Ecosistemas Marinos Vulnerables.

*Fecha: 19 de mayo de 2015*

CONTRACTING PARTY	SOURCE	RELEVANT REMARKS/NOTES/COMMENTS ABOUT THE EU NOTICE OF INTEND & IEO PRELIMINARY ASSESSMENT REPORT, FROM REPRESENTATIVES OF CONTRACTING PARTIES	COMMENTS FROM THE AUTHOR OF THE IEO PRELIMINARY ASSESSMENT REPORT	REFERENCE IN THE IEO PRELIMINARY ASSESSMENT REPORT
Russian Federation	Document presented by Russian Federation representative in PECMAS:  <b>“Working Document by the Russian Federation regarding the Notice to Intend by the EU to undertake exploratory bottom fishing targeting crabs in the international waters of the Barents Sea (2 pp)”</b>	<i>“The preliminary assessment report on the proposal by the EU contains no information that any sea-bed mapping investigations using echo-sounders had been carried out prior to forwarding the Notice of Intent”.</i>	Article 6.1 of the Rec. 09:2015 states that data submitted to facilitate assessments by PECMAS and ICES should <i>“preferably include”</i> data from sea-bed mapping programs (echo-sounders, <i>“if practicable”</i> multi-beam sounders). The proposed exploration area has not been mapped in detail by such means, but <u>such mapping is not a strict requirement</u> .  As alternative data, the best available seabed maps from Science (Russian and Norwegian research) were included in the submission ( <i>“best available information”</i> ).	See data on seabed, sediments, currents, ecosystems, habitats, communities, VMEs and fisheries in Chapter 2 (pp 5-16)
		<i>“A general assessment of a potential impact of exploratory bottom fishing is given in Chapter 4 of the Preliminary Assessment Report on the proposal to undertake exploratory fishing put forward by the EU. However, the assessment is primarily based on literature data. Maps contained in the report to support exploratory bottom fishing are not detailed enough and have also been taken from literature data”.</i>	There are not current crab fisheries in the exploratory area (is a new fishing area). For this reason the assessment is mainly based on data from other crab fisheries in adjacent areas of the Barents Sea and similar fisheries in other areas (e.g. NW Atlantic). We used the <i>“best available information”</i> on fisheries, seabed maps and VMEs indicator species distribution (literature, ICES reports, Russian - Norwegian research, etc.).	See data and maps in Chapters 2.1; 2.2; 2.3; 2.5; 2.7 and 2.8 See Chapter 4 for Risk Assessment
		<i>“No proposals on the usage of cameras or other gear monitoring technologies are available in the Notice of Intent”</i>	Article 6.1.f. of the Rec. 09:2015 states that the use of cameras <i>“if practicable”</i> . <u>Cameras are not a strict requirement</u> .  Nevertheless other alternative technology is proposed to be used (technologies for monitoring pot lines deployed and for monitoring pot depth).	See electronic equipment for location of the gear in Chapter 3.1.1 and technologies for monitoring fishing depth in 3.2.1.4
		<i>“No information from monitoring conducted under paragraph 1 of Article 6 is available in the Notice of Intent”.</i>	As stated in the monitoring plan, observer will collect observations on seabed characteristics and will compile echo-sounders records, when feasible.	See above and Chapter 3.2.1.2
	ANNEX I	<i>“In terms of by-catch, no reference to marine mammals, which occasionally occur in fishing, is made”</i>	Invertebrates and fish are the most important by-catch of pot fishing, cited in the literature. This is coincident with the data obtained by the observer on board during 2013. Observer will collect data on mammals by-catch (if any).	See Chapters 3.1.8 and 3.2.1.1
		<i>“Table 2.7.1 (Management measures for red king crab in Norway and Russia) does not accurately reflect management measures currently in place”</i>	Table 2.7.1 was obtained from the 2014 Report of the ICES Working Group on the Biology and Life History of Crabs (WGCRA). Updated information on 2015 management measures was not available from ICES at the moment of writing the Preliminary assessment Report.	See Chapter 2.7.1
		<i>“Pursuant to paragraph 1 of Article 6, the Permanent Committee on Management and Science (PECMAS) shall assess the possibility of undertaking exploratory bottom fishing together with ICES”</i>	No problem with the possibility of ICES advice within the timeframe available (Note: the exploration is intended to be carried out in the fall-winter months).	

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Norway	<p>Document presented by Norwegian representatives in PECMAS:</p> <p><b>“Notes regarding EU letter of intent for exploratory fishery 2015 (3 pp)”</b></p> <p><b>ANNEX II</b></p>	<i>“In the EU submission letter no date was given for start of fishery, i.e. only the indication ‘later in 2015’”</i>	The date depends on NEAFC approval. The fishery is intended to be carried out preferably in the fall- winter months. This is agreeing with the timing of Article 6.2 of the Rec.09:2015 (activities could start the 1 <sup>st</sup> of October 2015).	See Chapter 3.1.4 (page 22).
		<i>“It seems like ICES was not consulted for guidance on the assessment, hence it is assumed that the documentation was provided in accordance with the alternative option specified in Article 7.2, i.e. ‘to the best of the ability of the Contracting Party concerned’”</i>	Besides the <i>“best of the ability of the Contracting Party”</i> , the recommendations of the 2012 ICES Working Group on Ecosystem Effects of Fishing Activities (WGECO) have been followed for data collection and assessment methods, as a guidance: In the 2012 WGECO report (pp 69-90) there is guidance information to prepare an assessment, specifically regarding a NEAFC request on this particularly issue.	See at the start of the Chapter 4 and the last bullet point of Chapter 4.1 (page 31)
		<i>“We would comment that PECMAS did not yet develop ‘procedures and standards’, nor did the chair facilitate/propose that ICES advice be requested with regards to the EU submission. With the timeline set now, it is hardly possible to request ICES advice. These are potential weaknesses in the process that should not create precedence. We would propose that PECMAS asks the Secretariat to consult with ICES whether advice can be provided on the EU submission within the timeframe available”.</i>	Despite PECMAS did not yet develop ‘standards’, <u>the structure of our report could be used as a model to develop the pre-assessment stage in the framework of the NEAFC process</u> [1.Introduction; 2. Baseline information; 3.Exploratory proposal; 4. Impacts/Assessment; 5. Conclusions; 6. References; 7. Annexes]. The “EU Notice of Intend & Preliminary Assessment Report” was presented according with the timing of Rec. 09:2015 (six month before start of potential activities). Nevertheless, no problem with the possibility of ICES advice within the timeframe available (Note: the exploration is intended to be carried out in the fall-winter months. The activities could start the 1 <sup>st</sup> of October 2015).	See objectives of the Preliminary Assessment Report in Chapter 1 (page 4)
		<i>“On p. 23 it is stated that “in addition to the scientific hauls, the Captain,at his discretion, will be able to undertake other hauls as long as these are on soft seabed”. This sentence seems to create some uncertainty with regards to the exploratory bottom fishing plan and the total effort being permitted, i.e. the final effort comprising the limited experimental fishing and captain’s additional sets that for which no limit appears established. We would ask for an explanation for this apparently rather liberal practice which seems to contrast with the general requirements for effort restrictions included in Rec. 09:201”</i>	Regarding the “effort restriction (Rec. 09:2015, Article 6.2.a)”, the maximum effort for the exploration is clearly indicated [maximum number of pots per fishing day = 1,400; maximum number of fishing days = 90 (about 80 effective days); maximum number of pots to be deployed during the survey = 112,000]. The survey plan includes a mandatory number of geographical positions to deploy the sets ( <i>“hauls to address minimum scientific objectives”</i> ). Such positions were selected with the aim to guarantee a wide sampling coverage in depth and space. Apart of these mandatory positions, the Captain could select other additional hauls to deploy the pots, always in sedimentary seabed, distributed evenly over the exploratory area based on ICES Rectangles (the experience of the Captain, could be useful in terms of search of suitable fishing grounds). The sum of the number of pots deployed in the mandatory <i>“hauls to address minimum scientific objectives”</i> plus the additional number of pots in the <i>“hauls selected by the captain”</i> <u>never can be higher than the total number of pots permitted and mentioned in chapter 3.1.5</u> . That is, the total maximum effort in this survey is predetermined and limited (90 days and 112,000 pots max.). Nevertheless, if PECMAS considers that the current plan is quite liberal, such plan could be modified: a new less flexible plan with all the locations of the sets predetermined could be designed.	<p>See indications on effort limitation in Chapter 3.1.5 (page 22).</p> <p>See Chapter 3.1.6: sampling method (pp 22-23) and chart of the mandatory sets (page 24)</p>

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Iceland	Document presented by Iceland's representatives in PECMAS:  <b>Ref</b> <b>ANR15010012/20.8.6</b>  ANNEX III	<i>"Iceland is on the view that all requirements set by NEAFC for an exploratory fishery is fulfilled"</i>  NOTE: In the Iceland's document, there are some extra comments on issues other than biological/fisheries (e.g. Article 77 of the UN convention on the Law of the Sea; NEAFC Convention)	Issues other than biological/fisheries exceed the objectives of the Preliminary Impact Assessment Report.	No references.  See objectives of the Preliminary Assessment Report in Chapter 1 (page 4)

**To PECMAS**

**Working Document by the Russian Federation**

**Regarding the Notice of Intent by the EU to undertake exploratory bottom fishing targeting crabs in the international waters of the Barents Sea**

Below are some remarks about the Notice of Intent by the EU to undertake exploratory bottom fishing targeting crabs in the international waters of the Barents Sea pursuant to the *Recommendation on the protection of vulnerable marine ecosystems in the NEAFC Regulatory Area* (hereinafter referred to as the Recommendation 19: 2014).

**Paragraph 1 of Article 6** of the Recommendation 19: 2014 stipulates that prior to commencing any exploratory bottom fishing activities, the sea-bed mapping using echo-sounders, including multi-beam sounders, shall be carried out.

**The preliminary assessment report on the proposal by the EU contains no information that any sea-bed mapping investigations using echo-sounders had been carried out prior to forwarding the Notice of Intent.**

Moreover, paragraph 1 of Article 6 implies that PECMAS shall evaluate the possibility of undertaking exploratory bottom fishing together with ICES.

**A general assessment of a potential impact of exploratory bottom fishing is given in Chapter 4 of the Preliminary Assessment Report on the proposal to undertake exploratory fishing put forward by the EU. However, the assessment is primarily based on literature data. Maps contained in the report to support exploratory bottom fishing are not detailed enough and have also been taken from literature data. No data from sea-bed mapping using echo-sounders, which are required under paragraph 1 of Article 6, are available.**

**Paragraph 2 of Article 6** of the Recommendation 19: 2014 stipulates that the Notice of Intent shall be accompanied by the following information:

- (a) harvesting plan, which outlines target species, proposed dates and areas and the type of bottom fishing gear to be used. Area and effort restrictions shall be considered to ensure that fishing occurs on a gradual basis in a limited geographical area.

**Information required under this sub-paragraph is reflected in the Preliminary Assessment Report on the proposal by the EU – paragraph 3.1 of Chapter 3;**

- (b) mitigation plan, including measures to prevent significant adverse impact to VMEs that may be encountered during the fishery.

**Information required under this sub-paragraph is given in paragraph 3.3 of Chapter 3 in the Preliminary Assessment Report on the proposal by the EU;**

- (c) catch monitoring plan, including recording/reporting of all species caught.

**Information required under this sub-paragraph is given in paragraph 3.2 of Chapter 3 in the Preliminary Assessment Report on the proposal by the EU;**

- (d) a sufficient system for recording/reporting of catch, detailed to conduct an assessment of activity, if required.

**Information required under this sub-paragraph is given in paragraph 3.2 of Chapter 3 in the Preliminary Assessment Report on the proposal by the EU;**

- (e) fine-scale data collection plan on the distribution of intended tows and sets, to the extent practicable on a tow-by-tow and set-by-set basis.

**Information required under this sub-paragraph is given in paragraph 3.1.6 of Chapter 3 in the Preliminary Assessment Report on the proposal by the EU;**

- (f) data collection plan to facilitate the identification of VMEs in the area fished.

**Information required under this sub-paragraph is given in paragraph 3.2.1.2 of Chapter 3 in the Preliminary Assessment Report on the proposal by the EU;**

- (g) plans for monitoring of bottom fishing activities using gear monitoring technology, including cameras if practicable.

**No proposals on the usage of cameras or other gear monitoring technologies are available in the Notice of Intent;**

- (h) monitoring data obtained pursuant to paragraph 1 of this Article (Article 6).

**No information from monitoring conducted under paragraph 1 of Article 6 is available in the Notice of Intent.**

### **Conclusions**

1. Formally, the Notice of Intent by the EU contains a considerable amount of information required to be presented to PECMAS to assess the possibility of undertaking exploratory bottom fishing. However, due to the fact that the Recommendation 19: 2014 does not contain any strict description of requirements for each separate paragraph, the completeness and conformance of the material presented by the EU to the requirements can be a topic of discussion.
2. The following information that shall be presented under Article 6 has not been found in the Notice of Intent by the EU:
  - no information indicating that sea-bed mapping using echo-sounders has been preliminary conducted is available (requirements under paragraphs 1 and 2g of Article 6);
  - no proposals on the usage of cameras or other gear monitoring technologies are available (requirements under paragraph 2f of Article 6);
  - in terms of by-catch, no reference to marine mammals, which occasionally occur in fishing, is made.
3. In the text of the Preliminary Assessment Report on the proposal by the EU, there are some inaccuracies associated with fisheries management measures, e.g.,
  - Table 2.7.1 (Management measures for red king crab in Norway and Russia) does not accurately reflect management measures currently in place;
4. Pursuant to paragraph 1 of Article 6, the Permanent Committee on Management and Science (PECMAS) shall assess the possibility of undertaking exploratory bottom fishing together with ICES.

## **Notes regarding EU letter of intent for exploratory fishery 2015**

We would like to submit the following notes and comments to the notice of intent from the EU regarding exploratory crab fishery in the Barents Sea (NEAFC RA). We have considered the notice of 1 April 2015 and the associated assessment document. As no separate documentation was submitted with the letter of intent (Ref. Rec. 09:2015, Art. 6.2), we have assumed that the required documentation was included in the preliminary assessment document which should comprise content requested in Rec. 09:2015, Art. 7 (Appendix 4).

### ***Dates and timeline***

The notice of intent was submitted 1 April 2015. In the EU submission letter no date was given for start of fishery, i.e. only the indication 'later in 2015'. According to Article 6.2 of the Rec.09:2015, the fishery can start at the earliest 6 months after, i.e. 1 October 2015. PECMAS has 3 months to evaluate and consult with ICES, i.e. April, May, June. The PECMAS deadline would be 1 July, i.e. not 1 June as expressed by the PECMAS chair in his e-mail of 30 April. While in principle acceptable, it is rather challenging to set a deadline for responses from PECMAS members to 20 May.

### ***Scientific advice from ICES, and PECMAS procedures and standards***

It seems like ICES was not consulted for guidance on the assessment, hence it is assumed that the documentation was provided in accordance with the alternative option specified in Article 7.2, i.e. 'to the best of the ability of the Contracting Party concerned'.

In Article 7.3 of the Rec. 09:2015 it is specified that the evaluation by PECMAS shall be undertaken according to procedures and standards developed by PECMAS. Furthermore, PECMAS shall use any other information required, including information from other fisheries in the region or similar fisheries elsewhere and, in particular, any advice provided by ICES. We would comment that PECMAS did not yet develop 'procedures and standards', nor did the chair facilitate/propose that ICES advice be requested with regards to the EU submission. With the timeline set now, it is hardly possible to request ICES advice. These are potential weaknesses in the process that should not create precedence. We would propose that PECMAS asks the Secretariat to consult with ICES whether advice can be provided on the EU submission within the timeframe available.

### ***Contents of the assessment in relation to requirements of Rec. 09:2015***

The EU submission contains a 'preliminary' assessment report which is very extensive. We will only comment on issues that appear especially significant for PECMAS' evaluation, in



accordance with the precautionary approach, of the submitted documentation, taking account of the risks of significant adverse impact on VMEs.

Article 6.1 of the Rec. 09:2015 states that data submitted to facilitate assessments by PECMAS and ICES should preferably include data from sea-bed mapping programmes, i.e. data from echo-sounders, if practicable multi-beam sounders. The proposed exploration area has not been mapped in detail by such means, but as such mapping is not a requirement for submission of notices of intent. In our view, PECMAS have to make an evaluation despite that mapping of the specific exploratory area was not conducted . It appears that the best available seabed maps were included in the submission, and the question is rather whether the spatial resolution of the maps available is sufficient for the limited area to be explored by the EU. In our judgment this is probably not the case, but as new mapping is not a strict requirement, only a desired input to assessments, PECMAS cannot require that a pre-exploration bottom mapping be conducted.

A similar argument may apply with regards to information on presence and spatial distribution of VME taxa and elements in the proposed exploration area. The spatial resolution of the data for the specific area is low, but the submission appears to include best available updated information and reasonable conclusions based on best judgment. The data limitations do however, call for precaution as the uncertainty creates an elevated risk for encounters with VMEs.

If the harvesting plan is followed, it may satisfy the requirements for a gradual development of the fishery in a limited geographical area, at least compared with the scale of the area of distribution of the target resources. However, the experiment is designed in such a manner that the entire exploratory area (except rough grounds) will be fished within the 3-month experimental period. On p. 23 it is stated that “in addition to the scientific hauls, the Captain, at his discretion, will be able to undertake other hauls as long as these are on soft seabed”. This sentence seems to create some uncertainty with regards to the exploratory bottom fishing plan and the total effort being permitted, i.e. the final effort comprising the limited experimental fishing and captain’s additional sets that for which no limit appears established. We would ask for an explanation for this apparently rather liberal practice which seems to contrast with the general requirements for effort restrictions included in Rec. 09:2015

The mitigation plan as well as the assessment of risks appears generally satisfactory. Fishing with pots using chains for anchoring, and restricting fishing to level soft-bottom areas where VMEs are unlikely, are probably the most significant measures reducing the likelihood of significant adverse impacts.

The monitoring and reporting requirements appear satisfied, and the data recording and submission plans also appear satisfactory.

### ***Provisional conclusions***

The Norwegian representatives in PECMAS would express that the preliminary assessment was informative and that the contents probably satisfies most requirements described in Rec. 09:2015. However, we would ask PECMAS to consider a request to ICES. We would also appreciate elaboration by the EU on one specific issue, e.g. the apparent lack of effective effort limitation.

Our conclusion with regards to a recommendation to the Commission will depend on the decision on the proposed ICES request, the result of the ICES evaluation should it be conducted, and the response from the EU on the effort limitation issue.

Yours sincerely

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Odd Aksel Bergstad



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Reykjavík May 16, 2015  
Reference: ANR15010012/20.8.6  
Your reference: HOD 15/32

Subject: Proposed exploratory fisheries by the EU

With reference to the Notice of Intent by the EU regarding a proposal for exploratory bottom pot fishing in the NEAFC Regulatory Area (in the Barents Sea), Iceland's representatives of PECMAS have made the following notes on the matter:

"In general, the preliminary assessment report (by Pablo Durán Muñoz) is well organized and a comprehensive document describing well the status of the area. It is the first document of its kind PECMAS has to deal with and will probably set a standard for the future with respect to how to prepare such a document. The preliminary assessment is addressing all requirements requested in Article 6 in Recommendation 09:2015. In the assessment the assessor has gathered relevant information and has clearly worked constructively in order to address all relevant issues raised in the article.

As stated in paragraph 1 of Article 6, CP shall gather relevant data to facilitate assessments of exploratory bottom fishing by PECMAS – which to our knowledge has been done very well based on quite extensive literature work. The paragraph states that "such data should preferably include data from sea-bed mapping programmes, i.e. data from echo-sounders, if practicable multi-beam sounders, and/or other data relevant to the preliminary assessment of the risk of significant adverse impacts on VMEs." In the review of the baseline information in the preliminary assessment (chapter 2), the knowledge of the bathymetry, topographic elements, currents, surface sediments and overview of the ecosystem, including habitats and communities is described. This summary leads to the conclusion that it is very unlikely that any special features such as seamounts, cold water corals or hydrothermal vents are to be found in the area of concern."

Iceland is of the view that all requirements set by NEAFC for an exploratory fishery is fulfilled. The supervisor of those that will conduct the experiment (Distant Waters Fisheries Department of the Spanish Institute of Oceanography) has an extensive experience in such work and NEAFC (through PECMAS) have used their expert work in setting VMEs in the RA. The planning of the surveys are well described and the sampling methods for assessing

potential impacts will be carried out according to published ICES standards.

Iceland would however draw the attention of contracting parties to Article 77 of the United Nations Convention on the Law of the Sea which is as follows:

*"Article 77*

*Rights of the coastal State over the continental shelf*

- 1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.*
- 2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.*
- 3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.*
- 4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil."*

The intended exploratory fisheries are on an extended continental shelf and therefore the coastal state exercises sovereign rights of exploring and exploiting sedentary species in the area of concern.

Iceland would also refer to the NEAFC Convention where it is stated:

- "1. The Commission may make recommendations concerning fisheries conducted within an area under jurisdiction of a Contracting Party, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.*
- 2. The Commission may give advice concerning fisheries referred to in paragraph 1 if the Contracting Party in question so requests."*

Iceland would therefore at this stage refrain from submitting an official full assessment of the intended exploratory fisheries.

On behalf of the Minister of Fisheries and Agriculture



Jóhann Guðmundsson