

**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES  
ATLANTIC, OUTERMOST REGIONS AND ARCTIC

The Director-General

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**Subject: Snow Crab Fisheries in the NEAFC Regulatory Area**

Dear Sir,

The Commission writes to refer to the discussions in the Fisheries Attaches Meeting of 30 July last in relation to snow crab fisheries in the so-called "Loop Hole" of the NEAFC Regulatory Area.

Your attention is drawn to the particular features of those waters, namely a water column that falls under the international regime of the high seas as reflected in Part VII of the United Nations Convention on the Law of the Sea (UNCLOS), on the one hand, but, at the same time, waters superjacent to the extended continental shelves of Norway and the Russian Federation, which fall under Part VI of UNCLOS, on the other.

With regard to snow crab, it appears that this species is "unable to move except in constant physical contact with the seabed or the subsoil" and it thus falls within the definition of "sedentary species" of Article 77(4) of UNCLOS. The fact that snow crab falls within that definition formed the subject matter of an earlier dispute between Canada and the United States about the prosecution of snow-crab fisheries conducted by United States fishing vessels on the Canadian continental shelf at a location where Canada's continental shelf extended beyond 200 nautical miles in the Northwest Atlantic. At that time, the European Union (then the European Community) considered snow crab to fall within the definition of "sedentary species" and, therefore, did not lodge any protest against Canada.

Indeed whenever the question of whether or not a crab species fell within the definition of "sedentary species" gave rise to an international dispute, e.g. the dispute between Japan and the United States about the latter's classification of

Alaskan king crab as "sedentary species", the relevant coastal State has always prevailed in the end.

It follows from this classification of snow crab as "sedentary species" that only the relevant coastal States, i.e. Norway and the Russian Federation, are entitled to exploit (i.e. to harvest) it by virtue of their sovereign rights under the continental shelf regime of UNCLOS and that, as spelled out in Article 77(2) of UNCLOS, no other State is able to do so unless it has obtained the coastal State's explicit consent. Moreover, the coastal State's rights are exclusive in a sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake any such activities without the express consent of the coastal State.

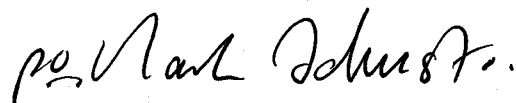
Therefore, without the express consent of the relevant coastal States (namely Norway and the Russian Federation in the present instance), these fisheries are illegal as they would be in contravention of Article 77(2) of UNCLOS.

The Commission would underline that the EU, as a Contracting Party to UNCLOS, is under an obligation to respect Article 77(2) of UNCLOS. Similarly, upon its ratification by the Union, UNCLOS forms part of the legal order of the Union pursuant to the provisions of Article 216 of the Treaty on the Functioning of the European Union, such that also the Member States are bound to respect it.

Consequently, since both Norway and the Russian Federation have given no such consent, Member States are advised that they should rescind any current licences authorising their vessels to fish for snow crab and any other sedentary species such as king crab in the NEAFC Regulatory Area and should not issue any new licences to this effect and, as appropriate, re-call the vessels concerned.

I would be grateful if you could swiftly bring this information to the attention of the competent authorities of your Member State. A version in the language of the Member State will follow in due course.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lowri Evans". The signature is written in a cursive style with a large initial "L".

Lowri Evans