



ROYAL NORWEGIAN
MINISTRY OF FOREIGN AFFAIRS

KOPI

The Royal Ministry of Foreign Affairs presents its compliments to the Delegation of the European Union and has the honour to refer to EU Council Regulation 2017/127 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, published in the EU Official Journal on 28 January 2017.

In Annex III of the Regulation, five member States of the EU are seemingly authorised to issue licenses to 20 vessels for "fishery for snow crab with pots" in fishing areas I and IIb (in the Barents Sea and around Svalbard). Such licensing would constitute an internationally wrongful act.

The continental shelf below the abovementioned fishing areas is a natural prolongation of the land territory of Norway, Russia and Greenland/Denmark. It is delimited by the agreement between Norway and Denmark together with Greenland dated 20 February 2006 and by the agreement between Norway and the Russian Federation dated 15 September 2010. Norway enjoys exclusive coastal State rights on its part of this continental shelf.

The Ministry reiterates its position expressed *inter alia* in its verbal note to the Delegation of the European Union dated 9 January 2017 on the sovereign Norwegian rights to explore and exploit the natural resources, including snow crab, on the Norwegian continental shelf. In this connection, the Ministry would like to call attention to Article 77 of the United Nations Convention on the Law of the Sea ("the Convention").

Article 77, paragraph 1, of the Convention states: "*The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring and exploiting its natural resources.*" Further, paragraph 2 states that "[...] *no one may undertake these activities [exploration and exploitation] without the express consent of the coastal State.*"

The EU, as a Party to the Convention, is under an obligation to respect the provisions of the Convention.

Delegation of the European Union
OSLO

In the preamble of Regulation 2017/127, paragraph 35, reference is made to Svalbard and the Treaty of Paris of 1920. The EU is not a party to this Treaty. Moreover, none of the provisions of the Treaty granting rights to nationals of the contracting parties applies beyond the territorial waters of Svalbard.

Furthermore, it should be noted that Norway, as part of its undisputed sovereignty over the archipelago, also has the sole regulatory power in areas to which the Treaty grants rights to nationals of the contracting parties.

The EU and its member States have no right under international law to license any exploitation of snow crab or any other natural resources on the Norwegian continental shelf without the express consent of Norway as the coastal State. No such consent has been granted. In this situation, any licensing by the EU or a member State of the EU constitutes a breach of an international obligation and infringes Norway's rights as a coastal State.

The Ministry calls on the EU and its member States to repeal the relevant part of the Council Regulation, and not to authorise or issue any licenses in contravention to international law. Furthermore, Norway urges the EU to remind its member States that it is illegal to harvest snow crab on the Norwegian continental shelf without the express consent of Norway. Moreover, member States should recall any such licenses they may have issued. Norway considers any license issued without its consent to be without legal effect.

The harvesting of snow crab on the Norwegian continental shelf is prohibited by regulations No. 1833 of 22 December 2015, with later amendments. Norway will continue to enforce applicable regulations in a consistent and predictable manner, in accordance with international law and as explained in the verbal note of 9 January 2017 from the Ministry to the Delegation of the European Union.

If the EU wishes to make it possible for vessels from its member States to take part in harvesting snow crab on the Norwegian continental shelf, this must be based on Norwegian consent in the form of a bilateral agreement, as part of the regular system of exchange of quotas between the EU and Norway. Norway has put forward an offer to the EU, which is currently still valid.

KOPI

The Royal Ministry of Foreign Affairs avails itself of this opportunity to
renew to the Delegation of the European Union the assurance of its
highest consideration *MA*

Oslo, 23 February 2017

