

29. 06. 2006

Brussels,
CAB/D(2006) 265

Dear Mrs Lucas,

Thank you for your letter of 22nd February 2006 concerning the by-catch of non-commercial species in fisheries, in particular small cetaceans. Like you, other Members of the European Parliament and many citizens convey their concerns to us. I first want to reassure you of the Commission's dedication to sustainable and responsible fisheries and its work to improve the situation.

I would however express my disagreement with what you qualify as the unwillingness of the Commission to support some previous UK requests regarding by-catches of cetaceans. The Commission is ready to take action and support any measure aimed at providing additional protection to cetaceans, where there is a sound basis to do so; where such measure is proportionate to the objective pursued; and where a measure at Community level would contribute added value as compared with national measures.

As far as the UK 2004 request for emergency measures under Article 7 of Regulation 2371/2002 was concerned, the Commission considered, on the basis of data available, that it could not be argued that the bass pair trawl fishery poses an immediate risk of cetacean population decline in the short term which is of such a serious or non-reversible nature as to justify the adoption of emergency, and possibly disproportionate or discriminatory measures. Scientists have advised that other fisheries also catch dolphins and that a ban on pelagic pair trawling for bass would be an "arbitrary measure, unlikely to achieve the desired goal".

Similarly, the Commission did not accept the request submitted by the United Kingdom in February 2005 under Article 9 of Regulation (EC) No 2371/2002 to extend the closure of the pair trawl fishery for bass within 12 miles of the south-west coast of England to vessels of other Member States, on the basis in particular that this would be likely to simply result in a redistribution of fishing effort into adjacent areas, without necessarily reducing the by-catch of common dolphins. I would recall that in both cases this position was based on scientific advice available from the International Council for the Exploitation of the Sea (ICES).

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The Commission continued however to monitor any new developments in this area and we asked ICES to provide a comprehensive and updated review of interaction of common dolphins and fisheries in the North-East Atlantic. ICES provided its advice in June 2005 in which it reiterated its previous position on this issue, considering in particular that "with the present knowledge, there are no obvious areas or times in the North-east Atlantic where fisheries closures should be proposed to mitigate common dolphin by-catch"¹.

The need for a comprehensive monitoring of the numerous trawl fisheries active in this region has been recognised by the European Parliament and endorsed by the Council of Ministers when it adopted Regulation No 812/2004 laying down a set of measures concerning incidental catches of cetaceans in fisheries. A comprehensive monitoring is therefore now required on all pelagic trawling fisheries, including the pair trawling for bass, but also on other types of fisheries. The Regulation also requires Member States to report annually on its implementation.

The primary responsibility for a proper implementation of Community legislation lies within the hands of Member States. However, because of the importance I attach to the problem of accidental capture of cetaceans in fisheries, I personally wrote to all fisheries Ministers in September 2005, highlighting the need for a full compliance with Regulation 812/2004, and insisting that they take the necessary steps to ensure that the first national reports on the implementation of this Regulation are provided to the Commission in due time, i.e. by June this year. The Commission has also started infringement procedures under Article 226 EC against several Member States for insufficient implementation of certain provisions concerning cetacean protection under the "Habitats Directive"² (which falls under the responsibility of my colleague, Commissioner Dimas).

In addition to this, the Commission continues to support scientific studies and research to conserve cetaceans. Such projects include in particular the so-called "NECESSITY" research project, which aims at developing mitigation measures for the bycatch of cetaceans in pelagic trawl fisheries, as well as the so-called "SCANS 2" project, co-financed under LIFE (the financial instrument for the Environment) which aims at updating the scientific estimates of small cetacean abundance in parts of European Atlantic waters.

All these research and conservation projects, in combination with data on by-catch of cetaceans in a large number of fisheries that will be made available through Regulation 812/2004, are designed to provide elements for targeted and effective management measures to further limit the effects of fishing on cetaceans.

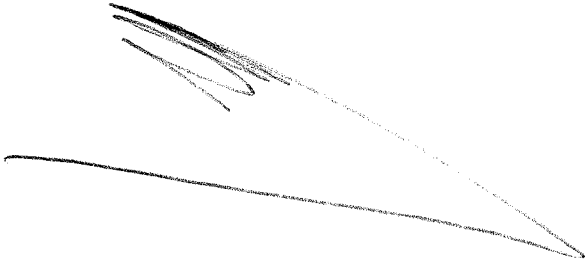
¹ Report 2005 of the Advisory Committee on Ecosystems- available at <http://www.ices.dk/indexfla.asp>

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, Official Journal L 206, 22.07.1992, p 7.

It makes sense, however, to wait for more comprehensive information to be made available before proposing new measures beyond those adopted by the Council in 2004, the first of which had to be implemented from 1st January 2005. I can assure you that the Commission will continue working towards solutions with regard to the incidental catches of cetaceans in fisheries in close cooperation with all interested parties.

I have mainly emphasized issues related to protection of cetaceans but the Commission is committed to reducing the by-catch of non target species in general and will continue to monitor the situation and request advice for achieving more sustainable fisheries. I am convinced that I can count on your support to this end.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form a cursive name. The signature is positioned to the left of the main body of the letter.