Conservation of fishery resources: technical measures for the Baltic Sea, the Belts and the Sound

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This communication concerns cetacean incidental catches in fisheries. It is the follow-up report to the implementation of 2 regulations: (i) Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98; (ii) Council Regulation (EC) No 2187/2005 relating to the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98.

- **Council Regulation (EC) No 812/2004**: Council Regulation (EC) No 812/2004 lays down measures aimed at mitigating incidental catches of cetaceans by fishing vessels. The Regulation identifies the fisheries where the use of acoustic deterrent devices, also known as pingers, is mandatory, the technical specifications and conditions of use of these instruments, and the fisheries where at-sea observer schemes have to be conducted. Member States are responsible for the implementation of the acoustic devices, for monitoring its efficiency, and implementing monitoring schemes according to the guidelines under this Regulation. According to Article 6 (EC) Regulation 812/2004, Member States must send to the Commission a comprehensive annual report on the implementation of certain provisions of the Regulation including "estimates of the overall incidental catches of cetaceans in each of the fisheries concerned". In accordance with Article 7 of that Regulation the Commission, after receiving Member States second annual report, has the obligation to report to the European Parliament and the Council on the operation of this Regulation. The report should be based on an assessment carried out by ICES and STECF of the Member States reports.
- **Council Regulation (EC) No 2187/2005**: Council Regulation (EC) No 2187/2005 contains technical measures for the conservation of fisheries resources in the Baltic Sea. According to Article 27, the Commission shall by 1 January 2008 ensure that a scientific assessment of the effects of using in particular gillnets, trammel nets and entangling nets on cetaceans is conducted and its findings presented to the European Parliament and Council.
- **Merging of the two reports**: the information required for the scientific assessment of the effects of using in particular gillnets, trammel nets and entangling nets on cetaceans under Regulation (EC) No 2187/2005 is very similar to information on incidental catches derived from the "At-sea observer schemes" and collected by Member States according to Regulation (EC) 812/2004. Both reports would hence cover partly the same information on incidental catches of cetaceans from fishing gears. Therefore, the Commission has decided to merge the two requested reports to the European Council and Parliament.

Conclusions and way forward: this report concludes that, although most Member States have reported low or no incidental catches in EU waters, scientific evidences from at-sea monitoring schemes or from post-mortem analysis of stranded animals **continue to show existing conflicts between cetacean and fisheries**. Information on cetacean populations is fragmented and population status remains unclear.

The Commission recognises that some Member States have made considerable efforts to correctly implement (**EC) Regulation 812/2004** but also acknowledges that some Members States are lagging behind. Although it recognises that there could be reasons to amend the Regulation at a later stage, full implementation across Member States has not been achieved so far and, therefore, it has **not been possible to assess the impact of the existing measures to mitigate incidental catches of cetaceans**.

Best practices presented in the workshop show that it is possible to achieve good results under the present circumstances. The Regulation provides for flexibility which must be used to the full.

Considering the need to reduce the impact of fisheries on cetacean populations in EU waters, the Commission urges Member States to take all the necessary measures to **improve the implementation of the Regulation**. It would also like to emphasise Member States' obligations under the Habitats Directive to monitor the incidental capture and killing of all whales and cetaceans and ensure that incidental capture or killing do not have a significant impact on the populations. In this regard, for other fishing activities and for other areas where incidental catches are problematic and not covered by the Regulation, Member States have the responsibility to take appropriate measures to safeguard cetacean populations.

As a follow-up to the workshop on the implementation of the Regulation, the Commission will carefully consider the following main points:

- the full use of the **flexibility** in (EC) Regulation 812/2004, in reply to problems concerning monitoring schemes, gears and areas;
- including the **Black Sea** in (EC) Regulation 812/2004;
- encouraging Member States to **widen current monitoring schemes**, to integrate observations on incidental catches of cetaceans;
- encouraging the **debate on mitigation measures** with industry within the RACs;
- identifying **measurable objectives** for maximum acceptable incidental-catch levels for different cetacean populations.

The Commission will also, in order to **harmonise information reported by Member States**, revise the format for reporting received from ICES and revised by STECF, and make it available to Member States. As from next year, the Commission would hence expect to receive complete National Reports from all Member States concerned with all the information required in the Regulation as well as any other appropriate information as requested.

Lastly, the **critical state of the Baltic harbour porpoise population** also needs to be further addressed by the Community and consequent actions need to be considered. According to ICES latest advice on cetaceans, the best conservation efforts are likely to include stakeholder involvement. The Commission agrees with this approach and would like to encourage Member States and stakeholder organisations to investigate ways of minimising incidental catches of harbour porpoises in the Baltic. In order to improve the current knowledge base, the Commission launched recently a call for tenders to carry out a study on cetacean by-catch data collection in the Baltic, Kattegat and the Sounds.