

Conservation of fish resources: reduction of the quantity of by-catches of cetaceans

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The Commission presents a Communication on the implementation of certain provisions of Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries. It is recalled that the Regulation identifies fisheries where the use of acoustic deterrent devices (ADDs) is mandatory, the technical specifications and conditions of use of these devices, and fisheries where observer schemes to obtain representative data have to be conducted in order to assess the extent of by-catch of cetaceans. Member States are responsible for enforcing the use of ADDs and monitoring their efficacy over time, as well as implementing monitoring schemes according to the guidelines under this Regulation.

This Communication contains a summary of the information collected during 2007-2009 and submitted by Member States to the Commission. ICES and STECF were also requested to analyse the scientific content of the national reports, the implementation of the Regulation and any additional scientific reports provided by Member States. The conclusions from this analysis by ICES and STECF are reflected.

The Regulation has been in place for 6 years, and despite these improvements **it is still not fully meeting its objective of preventing the accidental capture of cetaceans in fishing gears**. By-catch is still evident in a number of fisheries in the North Atlantic, North Sea and the Baltic and according to ICES several sub-populations of harbour porpoise and common dolphin in these areas are considered as endangered. For the Mediterranean and the Black Sea it is apparent that estimates of cetacean abundance are inadequate making any assessment of population or by-catch impossible for these regions but there is enough evidence to conclude that by-catch remains high in these sea basins.

The report makes the following points:

Lack of information for cetacean by-catch: there has been insufficient sampling in the right fisheries or areas to enabling sound management decisions to be made with respect to cetacean by-catch. Of the Member States that actually did report to the Commission most reported low or no by-catch in EU waters but scientific evidence from at-sea observer schemes or from post-mortem analysis of stranded animals continues to indicate significant interactions between fisheries and cetaceans. Information on cetacean populations is fragmented and population status remains unclear so the actual impact of fishing on populations is poorly understood. Absolute estimates that might be useful to inform management actions exist only for a few species in the North Sea, the Baltic Sea and parts of the NE Atlantic.

ADDs: currently there appears to be an over emphasis on mitigation measures (i.e. ADDs) where such measures are only proven to work in reducing bycatch of harbour porpoise in static net fisheries and not for other cetacean species (e.g. common and striped dolphin) or with other fishing methods (e.g. pelagic trawls). This has resulted in Article 2 of the Regulation, on the obligation to use ADDs, being ineffective. There is a general reluctance by fishermen to use the devices currently available due to practical and economic reasons. All Member State using ADDs have concluded that further work is needed to improve the reliability, effectiveness and practical handling of the current devices, and the annual cost of deploying ADDs also remains an issue.

Inadequate reporting by Member States: many Member States have made a considerable effort to meet the reporting requirements of the Regulation. The improvements to the reporting format advised by ICES and STECF and accepted by the Member States will further improve this. However, the quality and

content of the reports from some Member States submitted remains inconsistent, making analysis difficult. Reporting by Member States should be at a fleet segmentation level that follows the classification set out in the Data Collection Framework (DCF) and also with a monthly rather than a quarterly resolution.

Monitoring targets: targets specified in the Regulation appear over ambitious and these targets could be rethought. Adherence to the monitoring scheme mandated under the Regulation in fisheries where by-catch rates are known to be low is not the most effective use of resources, especially when bycatch is known to be occurring more frequently in fisheries or areas where there is currently no requirement for monitoring under the Regulation. According to ICES, a more general approach whereby Member States would be required to demonstrate their fisheries were not exceeding some agreed level of cetacean bycatch would be more appropriate without overburdening Member States with excessive monitoring requirements. Greater flexibility and co-ordination is required in allocating monitoring effort.

Research: cetacean distribution and interactions with fisheries are not constant through time. The development of dedicated research on mitigation measures and improvement of monitoring interactions between cetaceans and fisheries in parallel with the full implementation of the Regulation will contribute to a better understanding of those shifts and support the enhancement of sound management tools. Data collection under the Habitats Directive (Directive 92/43/EEC) and also the linkage with the Regulation needs to be clarified so the utility of the data collected is maximised and there is no duplication. Member States have obligations under the Habitats Directive to monitor the incidental capture and killing of all cetaceans and ensure that incidental capture or killing does 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. In particular incidental cetacean by-catch in the Black Sea and the incidental catches of pinnipeds, seabirds and turtles in fishing gears in all areas are highlighted as specific cases which are currently outside the scope of the Regulation but require monitoring.

Way forward: although monitoring targets, data formats and other issues are subjects of ongoing debate, the Regulation has, according to ICES, succeeded in providing a much more comprehensive picture of cetacean by-catch in European fisheries. Some Member States have become more knowledgeable about the impacts that their fisheries have on cetaceans, allowing them to streamline the needs for research and protection of cetaceans and improve the implementation of the Regulation.

There is a need to ensure that monitoring and mitigation are targeted in the areas and for the species most under threat. Improved mitigation measures could be incorporated under the new technical measures framework that will be developed as part of the reform of the Common Fisheries Policy. This would set out the scope, objectives and targets to be met in relation to cetacean by-catch, with the option for Member States to take specific mitigation measures for specific areas and fisheries. The monitoring requirements could be incorporated into the DCF, in line with a move to a wider ecosystem approach to fisheries monitoring which would include bycatch of non-target species such as cetaceans, seabirds and benthic organisms. Once this is achieved, Regulation (EC) 812/2004 could be repealed.