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Delegations will find attached Commission document SWD(2012) 370 final.

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COMMISSION STAFF WORKING PAPER

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Action Plan for reducing incidental catches of seabirds in fishing gears

{COM(2012) 665 final}
{SWD(2012) 369 final}

1. PROBLEM DEFINITION

ICES estimates conservatively that the EU fishing fleet is responsible for the death of c.a. 200,000 seabirds annually in EU and non-EU waters[1] but indicates that there is a paucity of accurate data on levels of incidental catches. This presents a challenge in assessing the impact of fisheries on seabirds and reflects the lack of systematic monitoring and reporting on incidental catches. However, the ICES advice and the findings of a study carried out by MRAG[2] in support of this IA, indicate seabird mortality due to bycatch is substantial in a number of EU and non-EU fisheries and for a number of species, some of which are threatened or endangered. Specifically:

- At least 60 of 346 seabird species are known to be incidentally caught in fishing gears in EU and non-EU waters. Of these c. 49 (25 in EU waters and 24 in non-EU waters) are classified as being of conservation concern either globally or at a local population level.

- Six species incidentally caught in fisheries in EU waters and 22 species in non-EU waters are of serious conservation concern and are IUCN listed as vulnerable or endangered.

The problems and underlying drivers leading to seabird bycatch are as follows:

- Frequent interactions between fisheries and seabirds are inevitable and result in bycatch because seabirds have become increasingly dependent on their association with fisheries for survival and breeding success. In addition longlines[3] and static nets[4] that account for a large proportion of seabird bycatch are the most efficient methods for catching certain high value fish species and therefore are widely used.

- Current management measures under EU fisheries (CFP) and environmental legislation (Birds and Habitats Directives and the MSFD) and included in international Conventions and Agreements have been largely ineffective because the measures are spread across different regulations and agreements and lack coherence.

- A lack of urgency both at EU and internationally to address seabird bycatch, inconsistent implementation and a lack of incentive for fishermen to comply with measures in place or adopt their own voluntarily.

- A lack of knowledge on the scale of seabird bycatch and population data due to the sporadic nature of monitoring and no formal obligation to monitor seabird bycatch in EU waters. In external waters monitoring is inconsistent in most fisheries as it is voluntarily rather than mandatory.

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1 ICES Advice 2008, Book 1, 1.5.1.3 Interactions between fisheries and seabirds in EU waters

2 MRAG. 2011. Contribution to the preparation of a Plan of Action for Seabirds http://ec.europa.eu/fisheries/documentation/studies/index_en.htm

3 Longlines mean a number of connected lines, either set at the bottom or drifting bearing a large number of baited hooks.

4 Static nets mean nets for which the catch operation does not require an active movement of the nets. Such nets consist of one or more separate nets which are rigged with top, bottom and connecting ropes, and may be equipped with anchoring, floating and navigational gear.

- Mitigation measures have been developed for longline fisheries but in the absence of regulation uptake is low in EU waters and only sporadic in external fisheries. There has been less emphasis on seabird bycatch with other fishing gears (principally static nets) so acceptable mitigation measures for these gears remain limited.

- A poor understanding and acceptance by fishermen that a problem of seabird bycatch exists or of the benefits of adopting mitigation measures to reduce bycatch. At an individual vessel level, recommended actions to mitigate against bycatch are considered disproportionate to the scale of impact on seabird populations.

- Research has concentrated on longline fisheries as they have been identified as the biggest source of bycatch. Little work to develop measures for other fishing gears (e.g. static nets, trawls and purse seines) has been undertaken and solutions appear more technically challenging to develop.

Most affected are the catching sector, ancillary industries, national and EU administrations, RFMOs (in external waters), the research sector, NGOs and the general public. Of these, implementation of any measures will primarily impact on the c.a. 54,000 longline and static net vessels in the EU.

2. NECESSITY AND SUBSIDIARITY

This proposal concerns a field of exclusive Union competence and therefore subsidiarity does not apply. Under the Treaty, the EU has exclusive competence to manage fishing activities for conservation purposes, which would include the reduction of bycatch of biologically sensitive species such as seabirds and cetaceans.

3. OBJECTIVES

The objective of this initiative is ***to minimise and where possible eliminate the incidental catches of at least 49 threatened seabird populations by EU vessels operating in EU and non-EU waters and reduce bycatch for other seabird species where the populations are stable but bycatch is at levels that are cause for concern.***

The specific operational objectives to support this general objective are:

(1) Identify and rectify weaknesses and incoherencies in current management measures both in EU and non-EU waters.

(2) Consolidate and collect data critical to establish the extent and threat posed by seabird bycatch particularly to the populations of species identified as being of conservation concern.

(3) Minimise bycatch of seabird species of conservation concern to levels that eliminate the threat to the populations of these species through the implementation of appropriate mitigation measures.

Crucial to a better understanding of the problem and the development of practical solutions two supporting objectives are foreseen:

(4) Address the lack of acceptance by fishermen that seabird bycatch is a problem as well as the lack of incentive for fishermen to adopt mitigation measures.

(5) Resolve outstanding difficulties with existing mitigation used in longline fisheries and address the absence of effective mitigation measures for other fishing gears, particularly static net fisheries.

The reform of the CFP, which is currently under negotiation, is crucial to achieving the objectives of this initiative as part of an ecosystem approach to fisheries management. Regardless of the actions taken, achieving this will require improvements in the coherence between regulatory instruments and a more holistic approach to fisheries management that takes account of the regional specificities of fisheries. For bycatch issues including seabirds this will involve several important elements:

- A new regionalised approach to technical measures to allow mitigation measures to be tailored to specific fisheries likely to be in place by 2016.
- A new EU Multiannual Programme for Data Collection (DCMAP) planned to be introduced in 2014 under which the monitoring of seabird bycatch may be included.
- Financial support for new measures provided under the current European Fisheries Fund (EFF) and the new European Maritime and Fisheries Fund (EMFF) scheduled to be introduced in 2014.
- The Commission taking a more pro-active role in the RFMOs to remedy the current situation of poor compliance with RFMOs' conservation and management measures.

4. POLICY OPTIONS

Three main options to address these objectives are considered:

Option 1: Status quo: A continuation of the current *status quo* taking no further action that would go beyond what already exists in current EU fisheries and environmental policies.

Option 2: Development of an EU-PoA: Voluntary measures supported by regulatory instruments within the reformed CFP, environmental legislation (Birds and Habitats Directive), international fishery legislation as well as the Conventions and Agreements. The PoA would provide an overarching framework encompassing monitoring and mitigation measures across fisheries,with flanking measures to provide financial support (under the EFF and EMFF). Over-time the intention would be to incorporate mitigation measures under the new technical measures framework with specific measures developed regionally. The monitoring of bycatch would be incorporated under the new DCF. The PoA would also recommend the implementation of education and training programmes for fishermen to raise awareness of the problem and to demonstrate the benefits of using of mitigation measures. As well as encouraging research to develop and test practical mitigation measures, particularly for static net fisheries.

Option 3: Stand-alone regulation: This option takes a stricter precautionary approach than option 2. It seeks the adoption of prescriptive measures under ordinary legislative procedure. It would apply principally in EU waters with provisions for EU vessels operating in external waters continuing to be covered under the legislative frameworks already adopted by the

RFMOs. It assumes that the regionalisation of technical measures will not be in place until 2016 and the new DCF until 2014 at the earliest and therefore based on the current conservation status of at least 25 seabird species in EU waters regulatory measures to protect these species need to be put into place more expediently.

Under this option two sub-options are foreseen:

- Sub-option 3a: including both monitoring and mitigation measures;
- Sub-option 3b: including only mitigation measures with monitoring as per option 2.

There would be no implicit need for further research, training or awareness raising measures. The possibility for financial aid for such measures would still remain under the EFF/EMFF.

5. SUMMARY OF IMPACTS

The impacts of each policy option were assessed to the greatest extent possible. However, given the lack of relevant data, particularly economic data, it has not been possible to accurately quantify some of these impacts.

Economic:

Under option 1 in longline fisheries there would continue to be negative impacts in the form of direct costs incurred by bait loss and through damage to fish catches and gear caused by seabirds. There will also be indirect costs from catches foregone from seabirds being caught on baited hooks that could have yielded catch. Based on experiences globally these costs can be significant. The impacts are much less for static net and other fisheries (trawl and purse seine) as these direct and indirect costs would be lower.

Under option 2 and sub-options 3a and 3b there would be short-term direct costs for the adoption of mitigation measures although these can be offset in longline fisheries through likely reductions in bait loss, gear and catch damage and catches foregone as a result of the use of mitigation measures. Impacts on static net fisheries under both options are harder to predict as the available mitigation measures are limited to closed or restricted areas. Such closures could result in loss of earnings depending on their location, extent and potential for alternative fishing opportunities. This is more apparent under sub-options 3a and 3b where measures would be mandatory.

In non-EU waters only marginal impacts are anticipated under option 2 as the focus would be on consolidation and improved implementation of existing measures rather than the introduction of new measures. There would be no additional impact on external waters under sub-options 3a and 3b as these fisheries would continue to be covered under the legislative frameworks already adopted by the RFMOs and not by any new regulation. Both options 2 and 3 would have potential positive benefits in aiding fishermen to meet conservation pre-requisites as part of certification schemes. There are also potential positive benefits for eco-tourism operators under these options from new opportunities for bird watching resulting from larger populations of seabirds.

Environmental:

Under option 1 seabird bycatch is likely to remain at the current unsustainable levels in, with the potential to influence the population status of at least 49 seabird species.

Under the EU-PoA, in the short-term, incremental reductions in bycatch of 20-30% are achievable in longline fisheries based on experiences globally. In the longer term elimination of bycatch is possible. Reductions in the bycatch in static net fisheries are more difficult to predict given available mitigation measures are limited to closed or restricted areas. There are some examples of seasonal closures in static net fisheries reducing bycatch substantially.

Integration of monitoring of seabird bycatch into the new Data Collection Framework (DCF) will provide more comprehensive coverage of relevant fisheries and also include trawl and purse seine fisheries where bycatch is suspected.

In external waters the PoA would provide a mechanism to enhance compliance with existing measures. Awareness raising, training and research foreseen under this option would provide the catching sector with a better understanding of the problem and the potential solutions available.

Impacts for sub-options 3a and b are similar to those described in option 2, although given the measures will be mandatory, the speed of seabird bycatch reduction could potentially be faster in fisheries where measures are introduced. Monitoring under sub-option 3a would improve the knowledge of incidental seabird bycatch but only in those fisheries where monitoring would be required. Monitoring under sub-option 3b would be identical to option 2.

As no specific measures are foreseen in external waters under this option, the environmental impacts in these fisheries are likely to be similar to option 1.

Social:

Option 1 would be negatively received by NGOs and general public and seen as a failure by the Commission to meet obligations under international agreements and Conventions. Options 2 and 3 would meet with a positive reaction from NGOs and general public. Option 2 would also be favoured by the catching sector and national administration as it is a bottom-up approach and measures regionally focused. Options 3a and 3b would be negatively perceived by the catching sector and the administrations as being disproportionate to the extent of the problem. The imposition of closed or restricted areas under these sub-options has the abiltity to impact on employment if overly restrictive.

Impacts on SMEs:

Under option 1 there would be no impacts on SMEs. Under options 2 and 3 there would be impacts but in the case of option 2, as the measures would be largely voluntary, tailored to specific fisheries, integrated into other regulations and have benefits to offset associated costs, any impacts could be minimised. For sub-options 3a and 3b the impacts would be similar to option 2 except that the measures will be mandatory meaning less opportunity for tailoring the measures to the specificities of different fisheries. Under both options 2 and 3, exempting micro SMEs from any actions taken would undermine the conservation objectives of this initiative as over 90% of small vessels would be effectively excluded so on the grounds of proportionality is not an option.

Simplification and administrative burden:

Fo option 1 the administrative costs are assumed to be neutral. For option 2 administrative and monitoring costs are estimated at c**. €5.2** million annually. After 2014 with the integration of monitoring of bycatch under the DCF, these costs would be reduced. For sub-option 3a

administraive costs have been estimated at c. **€14.4** million annually. The increased costs are a result of additional monitoring and control. For sub-option 3b the costs would be similar to option 2 at c**. €5.2** million annually. In all cases more than 90% of the costs incurred are related to monitoring and inspection. National administrations are most affected.

6. COMPARING THE OPTIONS

On the basis of the analysis carried out option 2 (EU-PoA) is preferred in that it should lead to a reduction in seabird bycatch across a range of fisheries and should achieve these reductions at less cost to the fishing industry and national administrations than the other options.

The second preferred option is sub-option 3b (mandatory mitigation measures) which has the advantage of dealing more expediently with seabird bycatch for species under threat than option 2 given the likely time frame for introduction of a new technical measures framework. It does, however, run the risk of introducing inappropriate or poorly tested mitigation measures and also has a lack of flexibility to adapt these measures to areas or fisheries over-time as more information becomes available.

The third preferred option is sub-option 3a (mandatory monitoring and mitigation measures) which also runs the risk of having the same weaknesses regarding the requirement to use mitigation measures in specific fisheries. The inclusion of specific monitoring requirements compounds these problems and there is a danger that monitoring would be targeted in the wrong areas or at the wrong gear types.

Neither sub-options 3a or 3b contain any provision for awareness raising or research.

Option 1 (*status-quo*) is the least desirable option. In the short-term, there are economic advantages but it will not achieve the specific objectives set. Current levels of seabird bycatch will continue to be unacceptably high and the level of knowledge on the scale of bycatch in relation to populations and conservation threat posed by fishing to seabirds will remain low.

7. MONITORING AND EVALUATION

Under the preferred option, the adoption of a Plan of Action, Member States would report biennially to the Commission on the level of seabird bycatch observed by fishery and gear type, the implementation of any mitigation measures and the effectiveness of these mitigation measures. The Commission working with ICES and STECF would develop a standard reporting for Member States to submit information to the Commission and which could also be used to facilitate data access to the wider public.

On the basis of these reports, the Commission would carry out an interim assessment of the POA after the second of these reports and then produce a Communication for the Parliament and Council on the implementation of the PoA based on this information.

ICES, STECF and other expert bodies as appropriate would be requested to input into this review. In particular ICES would be asked to supply population and bycatch estimates for the species of concern to benchmark the extent of the problem.

The Commission would carry out a full review and evaluation of the PoA after the fourth report (eight years) of implementation and update it accordingly. This review would be timed

to coincide with the obligation under the MSFD to reach Good Environmental Status for marine ecosystems by 2020.

In parallel, under Article 12 of the Birds Directive Member States must report every three years on the implementation of national provisions taken under the Directive which may provide additional information.