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# Comments on EU Action Plan for Reducing Incidental Catches of Seabirds in Fishing Gears

## Introduction

Humane Society International (HSI)<sup>1</sup> welcomes this opportunity to contribute to this consultation on the EU Action Plan for reducing incidental catches of seabird in fishing gears. We are pleased that the European Commission is finally taking concerted action to mitigate the unnecessary suffering and mortality of seabirds caused by EU fishing fleets in both European and international waters.

HSI has considerable international experience working on this key threat to seabirds. We have been involved in the negotiations for and subsequent implementation of the Agreement for the Conservation of Albatross and Petrels (ACAP) established under the Convention for the Conservation of Migratory Species (CMS). Furthermore, we are regular observers or NGO advisers with regard to seabird bycatch on government delegations at a number of Regional Fisheries Management Organisations (RFMOs), including the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), and the Inter-American Tropical Tuna Commission (IATTC).

In 1995, our Australian office nominated longline fishing for listing as a key threatening process under Australia's national endangered species laws, which led to the development of a Threat Abatement Plan (TAP) for the Incidental Catch of Seabirds in Oceanic Longline Fisheries. Moreover, we have been a member of the Threat Abatement Plan overseeing implementation of the TAP for over a decade. The TAP can take credit for significantly reducing the capture of albatross and petrels in Australia's pelagic and demersal longline fisheries. In 2010, we have funded a project providing a seabird bycatch specialist to work with the Peruvian and Ecuadorian artisanal longline fleets to assist them mitigate seabird bycatch as they become increasingly mechanised.

## Seabird bycatch: a threat to animal welfare

While, as the consultation paper notes, there is a lack of reliable data on the true extent of seabird bycatch, it is estimated that each year 200,000 seabirds are snared, entangled and drowned on longline hooks and in trawls, driftnets and gillnets in European waters alone.<sup>2</sup> Seabird bycatch not only poses a significant threat to the survival of many species (including some explicitly protected under the EU Birds Directive), but is also a significant animal welfare problem.

The post-mortem examination of seabirds returned from observed fisheries provides an indication of the kind of injuries inflicted on these animals as a result of their interactions with fisheries. For example, seabird cadavers returned from longline fisheries in New Zealand have been found to have

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<sup>1</sup> Humane Society International (HSI) is one of the largest animal protection organisations in the world, with more than 11 million members and constituents across the globe. In the European Union, HSI addresses issues such as inhumane practices and conditions affecting companion and farm animals, fur production, illegal trade in wildlife, threats to endangered species, slaughter of marine mammals, and the use of animals in research and testing.

<sup>2</sup> Birdlife International (2009) *Stopping seabird deaths in European fisheries: will Ministers push the Commission to act?* <http://www.birdlife.org/news/extra/europe/seabirds.html>.



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injuries from hook impalement (through the beak, throat, wing, feet or body), broken bones or badly damaged/broken wings, lacerations and abrasions.<sup>3</sup> Likewise, seabirds returned from New Zealand trawl fisheries also frequently exhibited broken or badly damaged wings. These injuries were found to be ‘mainly consistent with collision with warps, and included fractures, ripped skin and lacerations at the ‘elbow’’. Thick grease and fish scales (indicating that birds had spent time in nets) were also found on many birds’ plumage at autopsy.<sup>4</sup> While similar post-mortem data on seabirds do not appear to be readily available for fisheries elsewhere, it is reasonable to assume that similar physical injuries and suffering (prior to drowning) is likely to occur as a consequence of bycatch during EU fishery fleet activities too.

In addition to injuries leading to mortality, it should also be noted that fishing gear can also be detrimental to the welfare of seabirds in other respects. Research at bird breeding colonies in South Georgia has, for instance, recorded the presence of significant quantities of fishing gear, such as longline hooks and snoods; much of this fishing gear was found in the undigested material spontaneously regurgitated by wandering albatross chicks prior to fledging. The long-term effects of the ingestion of fishing gear on the birds’ welfare is unknown, but it has been posited that it could potentially reduce the capacity of the birds’ digestive systems, obstruct their intestines and cause toxicity problems.<sup>5</sup> Once again, although data are lacking, it is plausible that fishing gear may be similarly ingested and found in breeding colonies of large seabird species elsewhere.

## **Value of a dedicated European Union action plan**

HSI strongly supports the development of a dedicated EU Action Plan to deal with the problem of seabird bycatch. Despite its leadership and support for actions to reduce seabird bycatch in international waters as a member of various Regional Fisheries Management Organisations (RFMOs), the EU has thus far dragged its heels with respect to taking action to mitigate the impact of fisheries on seabird populations within its own waters.

Over a decade ago, the UN Food and Agriculture Organisation (FAO) issued its International Plan of Action for reducing the incidental catch of seabirds in longline fisheries (IPOA).<sup>6</sup> The following countries have subsequently prepared and/or implemented their own national plans: Brazil, Canada, Chile, Japan, Namibia, New Zealand, South Africa, United States and Uruguay.<sup>7</sup> It is vital that the EU follow suit by developing and implementing its own Action Plan not only for longline fisheries as proposed in the IPOA, but also more broadly to address the devastating impact of other fisheries, such as gillnet and trawl fisheries, on seabirds.

For example, a recent review of studies on bird bycatch in gillnet fisheries in the Baltic and North Sea regions suggests that approximately 90,000 birds, including divers, grebes, sea ducks, diving ducks, auks and cormorants, die annually in fishing nets. The authors, however, contend that this is probably

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<sup>3</sup> Thompson, D.R. (2009) *Autopsy reports for seabirds killed and returned from observed New Zealand fisheries: 1 October 2005 to 30 September 2006*. DOC Marine Conservation Services Series 2. New Zealand Department of Conservation, p. 13-14.

<sup>4</sup> Ibid.

<sup>5</sup> Phillips, R.A. *et al.* (2010) ‘Ingestion of fishing gear and entanglements of seabirds: monitoring and implications for management’. *Biological Conservation*. 143 (2010) 501-512.

<sup>6</sup> FAO (1999) *International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries*.

<sup>7</sup> National seabird plans of action can be found at: <http://www.fao.org/fishery/ipoa-seabirds/npoa/en>



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a significant underestimate and conclude that it is probable that the annual mortality rate for these birds is somewhere in between 100,000 and 200,000 per annum.<sup>8</sup> Another study in the Baltic Sea found that cod and salmon gillnets posed a serious threat to common guillemots in the region with an estimated 1500 of this diving bird species becoming entangled annually.<sup>9</sup>

Trawl fisheries also pose a danger to seabirds, which tend to feed behind trawl vessels, since they may be injured or killed ‘when they collide with net-sonde monitor cables, are captured in the meshes of nets, or strike the thick cables (trawl warps) that run between nets and vessels’.<sup>10</sup> In particular, the mortality of seabirds has found to be associated with the discharge of waste from trawling vessels.<sup>11</sup> In Australia, a report released by the Bureau of Rural Sciences in 2010 on the cumulative impact of different Australian Commonwealth fisheries<sup>12</sup> on shy and black-browed albatross demonstrates that mortalities as a result of trawling have now overtaken those from longline fishing. This highlights the necessity of also devoting attention to the negative impact of trawl fisheries on seabird populations.

Since the publication of the IPOA, the FAO has recognised that the problem of seabird bycatch is not exclusively related to longline fisheries. Consequently, the FAO Technical Guidelines for Responsible Fisheries, published in 2009, now delineates a set of best practices to reduce incidental catch of seabirds in capture fisheries more generally; this document extends the original IPOA to gillnet and trawl fisheries.<sup>13</sup> The EU Action Plan should thus also similarly encompass mitigation measures to reduce seabird bycatch in all capture fisheries.

A dedicated EU Action Plan is also necessary given that the EU has thus far failed to deal with the issue of seabird bycatch through the Common Fisheries Policy (CFP). This is despite the fact that the CFP is the EU’s instrument for regulating the fishing industry, including determining the kind of fishing gear that may be used. Moreover, the EU has made a clear commitment under the CFP to take “measures designed to protect and conserve living aquatic resources... and to minimise the impact of fishing activities on marine eco-systems”.<sup>14</sup>

The necessity for the CFP to address the issue of the bycatch of non-target species, such as seabirds, was raised by various stakeholders, including Humane Society International, in their submissions to the recent public consultation on CFP Reform. Nonetheless, the Commission failed to explicitly make reference to the need to tackle such bycatch of non-fish species in its recent synthesis of the Consultation on the Reform of the Common Fisheries Policy.<sup>15</sup> A dedicated EU Action Plan would

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<sup>8</sup> Žydelis, R. *et al.* (2009) ‘Bycatch in gillnet fisheries – An overlooked threat to waterbird populations’. *Biological Conservation*. 142, 1269-1281.

<sup>9</sup> Österblom, H. *et al.* (2002) ‘Bycatches of common guillemot (*Uria aalge*) in the Baltic Sea gillnet fishery’ *Biological Conservation*. 105, 309-319.

<sup>10</sup> Abraham, E.R. *et al.* (2009) ‘Effectiveness of fish waste management strategies in reducing seabird attendance at a trawl vessel.’ *Fisheries Research* 95. 210-219. p. 210.

<sup>11</sup> *Ibid.* p.211.

<sup>12</sup> Phillips, K, Giannini, F, Lawrence, E and Bensley, N, (2010) *Cumulative assessment of the catch of non-target species in Commonwealth fisheries: a scoping study*. Bureau of Rural Sciences, Canberra, Australia.

<sup>13</sup> FAO Technical Guidelines for Responsible Fisheries (2009) *Fishing Operations Best practices to reduce incidental catch of seabirds in capture fisheries*. p.10.

<sup>14</sup> See Article 2 of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

<sup>15</sup> European Commission (2010) *Synthesis of the Consultation on the Reform of the Common Fisheries Policy*. Commission Staff Working Document, SEC(2010) 428 final.



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send a strong signal to civil society that its concerns for the suffering and mortality of seabirds are indeed being taken seriously by the European Commission.

Further to this, it should also be noted that the EU has a legal obligation under the Birds Directive (2009/147/EC) to protect and manage all bird species living in the wild in its territories, including their habitats, which must be conserved through, *inter alia*, the creation of protection zones.<sup>16</sup> It is a matter of urgency that the EU implements measures to reduce the impact of interactions with fisheries on migratory birds and those species listed under Annex I of the Birds Directive, certainly in the areas that have already been designated as Special Protection Areas (SPAs). A dedicated EU Action Plan should ensure that threatened and endangered species are not further imperilled by their interactions with fisheries.

HSI would, however, like to observe that the conservation status of seabirds should not be the sole determinant for the development of an EU Action Plan. The EU has a responsibility to ensure that its fishing fleets - operating both in EU and international waters - adhere to the FAO Code of Conduct for Responsible Fisheries, which clearly stipulates that the catch of non-target species, both fish and non-fish, should be minimised.<sup>17</sup> Consequently, the EU has an obligation to implement measures to protect *all* seabirds from negative interactions with fisheries, irrespective of whether or not a species is endangered. A dedicated EU Plan of Action for seabirds should, therefore, not only be regarded as a conservation measure, but also as an instrument to protect the welfare of all seabirds.

## **Scope and objectives of EU Plan of Action for Seabirds**

HSI believes that the EU Plan of Action should comprehensively cover all commercial fisheries and fishing gear types (i.e. longline, gillnet and trawl) in EU waters and internationally where EU fleets operate. It is vital that the EU continues to actively participate internationally in the development and implementation of measures to reduce the suffering and mortality of seabirds through its membership in the existing (and any future new) RFMOs. To this end, the scope of the EU Action Plan should provide a roadmap for the future involvement of the Union and its commitment to achieving a reduction in seabird bycatch through such international fora. This should include active participation in the ongoing 'Kobe process'<sup>18</sup>, which recently held a workshop in Brisbane, Australia to discuss bycatch, including seabirds, in tuna RFMOs.

As the International Council for the Exploration of the Sea's (ICES) advice to the Commission suggests, the effectiveness of technical mitigation methods (or a combination thereof) is dependent on a wide variety of factors, including the nature of the target fishery, fishing gear employed, sea conditions and location of seabird species.<sup>19</sup> However, there are already sufficient scientific data and practical experience with respect to the efficacy of mitigation measures employed in longline fisheries, both pelagic and demersal, around the globe to warrant the immediate adoption of mandatory standards for these fisheries. HSI contends that a mandatory minimum sink rate – in combination with

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<sup>16</sup> Directive 2009/147/EC on the Conservation of Wild Birds.

<sup>17</sup> See Article 6.6 of FAO Code of Conduct for Responsible Fisheries (1995), p. 5.

<sup>18</sup> The 'Kobe process', begun in 2007, brings together members and other stakeholders of the five tuna RFMOs. The aim of the Kobe process is to support the sustainable management of the world's tuna stocks and non-target, associated and dependent species.

<sup>19</sup> ICES (2008) 1.5.1.3. *Interactions between fisheries and seabirds in EU waters*. Report of the ICES Advisory Committee 2008. ICES Advice, 2008.. Book 1 p. 6.



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night setting (including the minimisation of deck lighting) - should be a fundamental requirement to mitigate seabird bycatch in longline fisheries.

While additional research to refine these technical measures and determine the most appropriate method of line-weighting and/or side-setting for specific geographical areas and bird species affected is certainly useful and important to ensure continuous improvement of mitigation measures, we believe that there is no reason to delay the introduction of a mandatory minimum sink rate for longline fisheries. Indeed, the effectiveness of a combination of line-weighting and night setting has been proved in the area covered by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) convention; where for three consecutive years between 2006 and 2008 no albatross were caught in regulated longline fisheries in the CCAMLR Convention Area.<sup>20</sup> These mitigation methods will undoubtedly yield similarly desirable results if made mandatory to longline fishing fleets elsewhere.

On the basis of its Action Plan, the Commission should make EU funds available to enable further research into the refinement of mitigation measures for longline fisheries and the development of effective and appropriate technical methods to reduce seabird bycatch in gillnet and trawl fisheries. There is a strong need to continuously to improve and develop mitigation measures for the latter kinds of fishery.

In addition to this, it is vital that the obligatory collection of data on seabird mortality and injury by EU Member States be one of the Action Plan's priorities. As the Commission's consultation paper observes, there is presently a lack of reliable data on the extent of incidental seabird catches in EU waters. Although it has been acknowledged that seabird mortality is substantial in the Northeast Atlantic and Baltic gillnet fisheries and the Mediterranean longline fisheries,<sup>21</sup> without sufficient data it is impossible to fully ascertain the full extent of the problem.

A key objective of the Action Plan should, therefore, be the introduction of new requirements for the reporting of seabird bycatch. This would potentially require the amendment of Commission Regulation (EC) No 1639/2001 regarding the collection of data in the fisheries sector, certainly if the seabird bycatch Action Plan is integrated into the CFP as part of its reform.<sup>22</sup>

The collection of data should also be facilitated by the routine presence of observers on-board fishing vessels, which would help to establish the efficacy of mitigation measures that have already been implemented or the necessity of introducing additional measures to prevent bycatch. In this regard, the Action Plan should provide sufficient scope for the training of both observers and fishermen. Observer coverage must be at a level that can provide for a statistically robust assessment of the problem on an ongoing basis. Work by CCAMLR has suggested that the level of observer coverage needed to accurately estimate bycatch levels in longline fisheries is 20% of all hooks set.<sup>23</sup> Data on bycatch will

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<sup>20</sup> 27<sup>th</sup> Scientific Committee Report to CCAMLR.

<sup>21</sup> European Commission (2010) *Consultation Paper on the EU Action Plan for Reducing Incidental Catches of Seabirds in Fishing Gears*. p. 5.

<sup>22</sup> Commission Regulation (EC) No 1639/2001 of 25 July 2001 establishing the minimum and extended Community programmes for the collection of data in the fisheries sector and laying down detailed rules for the application of Council Regulation (EC) No 1543/2000.

<sup>23</sup> Report of the Third Meeting of the Seabird Bycatch Working Group, Agreement on the Conservation of Albatross and Petrels, Mar del Plata, Argentina, 8-9 April 2010



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also only be reliable if people are adequately trained in the identification of bird species and are aware of the problem in the first place.

Finally, in line with the Birds Directive, the EU Plan of Action for seabirds must ensure the creation of protection zones, thereby prioritising areas where seabird species are most greatly threatened and impacted by fisheries. Nonetheless, while the conservation of threatened and endangered species can be regarded a legitimate priority, HSI strongly urges the Commission to explicitly acknowledge that seabird bycatch also poses a more general animal welfare problem. Mitigation measures should therefore be developed to protect *all* species of birds that are affected by fisheries in EU waters. The abundance of a species is insufficient reason to not provide it with adequate protection from suffering and risk of mortality. The objective of the EU Plan of Action must be to ultimately eliminate seabird bycatch altogether.

### **Field of Action 1: (Re)assessing the interactions between seabirds and fishing gears in EU waters**

An assessment of the extent and nature of seabird incidental catches in fisheries in EU waters is a prerequisite for the development of an effective EU Action Plan. The FAO guidelines appear to provide a clear and acceptable overview of the best practices necessary to define the existence of a bycatch problem. HSI particularly supports the notion that a precautionary approach should be adopted where information is lacking or uncertain given that the EU has an obligation to protect all bird species irrespective of the availability of reliable data, or a species' conservation status.

However, as noted above, the need to assess and define an incidental bycatch problem should not preclude the immediate and mandatory implementation of mitigation measures for longline fisheries, which have already proved to be effective elsewhere; certainly in regions, such as the Mediterranean, where some species, such as the Balearic shearwater (*Puffinus mauretanicus*) are known to be critically endangered and are negatively impacted by longline fisheries. Taking immediate action in fisheries where the efficacy of mitigation measures has already been proved could swiftly help to prevent the unnecessary suffering and mortality of countless seabirds, thereby also hopefully preventing species' extinctions.

While it is desirable for the European Commission to coordinate these assessment activities, it is vital for Member States to be required to collect reliable data on seabird bycatch. However, as noted above, the existing Regulation on data collection in fisheries would have to be amended to achieve these ends. Furthermore, a minimum level of (trained) observer coverage is a prerequisite to get accurate estimates of bycatch levels.

In addition to an assessment of seabird bycatch in commercial fisheries, it may perhaps also be pertinent to examine and monitor the impact of small-scale artisanal fisheries and recreational fishing since data on their impacts on seabirds are presently lacking.

### **Field of Action 2: Identification and implementation of mitigation measures in EU waters**

While the identification and implementation of mitigation measures in areas where a serious problem of seabird mortality in longline and gillnet fisheries is certainly a laudable goal and warrants



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prioritisation, it is pertinent to note that measures should be taken to protect *all* seabirds from negative interactions with fisheries throughout the entire EU. Trawl fisheries also appear to have been omitted from this field of action, despite the fact that these fisheries are also responsible for significant suffering and mortality among seabirds.

The actions state that “*At least two mitigation measures that are proven to be effective, practical and cost-effective for the fishing industry should be implemented in the identified problematic areas.*” HSI recommends more specific direction on the two mitigation measures to be used. In demersal and pelagic longline fisheries, no mitigation measures, or combination of mitigation measures, will ever deliver the required reduction in seabird mortality **unless baited hooks are made to sink faster.**

There is currently no satisfactorily alternative to a mandatory requirement of adequate line weighting for the delivery of a prescribed baited hook sink rate and without it other bait protection strategies, such as bird scaring lines, are inadequate. Line weighting is an accepted everyday procedure in some fisheries already and these fisheries have demonstrated that there are no economic or practical obstacles to the practice and there is evidence of high compliance rates. Once a line weighting regime is in place, compliance and enforcement problems are relatively low and it also has great potential for lowering the catches of other non-target species, such as sea turtles and sharks, by ensuring gear is taken to, and maintained at, a greater depth.

**A prescribed sink rate must be a mandatory measure that is at the core of any EU mitigation strategy** for demersal and pelagic longline fisheries. Fisheries, which fail to implement a mandatory baited hook sink rate requirement, must urgently impose night-only hook setting wherever seabirds that are at risk of capture occur. Responsible offal management, bird scaring lines and bans on live bait are other important measures that should be additional requirements.

The view that line weighting and night setting are critical measures is supported by the Agreement on the Conservation of Albatross and Petrels (ACAP)<sup>24</sup> Seabird Bycatch Working Group, which has provided a Summary Advice Statement for reducing the impact of pelagic longline gear on seabirds<sup>25</sup> that states:

*The most effective measures to reduce incidental take of seabirds in pelagic longline fisheries are:*

- *use of an appropriate line weighting regime to reduce the time baited hooks are near or on the surface and thus available to birds,*
- *actively deterring birds from baited hooks by means of bird scaring lines, in combination with appropriate line weighting, and*
- *setting at night.*

Their advice notes that to be effective bird scaring lines must be used with branchline weighting and, preferably, night setting.<sup>26</sup> Thus HSI strongly recommends the EU Action Plan is more prescriptive

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<sup>24</sup> The Agreement on the Conservation of Albatross and Petrels (ACAP) was negotiated under the Convention on the Conservation of Migratory Species of Wild Animals (CMS), It entered into force in 2004 and currently covers 19 species of albatrosses and seven species of petrels. [http://www.cms.int/species/acap/acap\\_bkrd.htm](http://www.cms.int/species/acap/acap_bkrd.htm)

<sup>25</sup> ACAP Seabird Bycatch Working Group (2010) *Best Practice Technical Guidelines - Summary Advice Statement for reducing impact of pelagic longline gear on seabirds*. Mar del Plata, 8-9 April 2010.

<sup>26</sup>Ibid. p.2.



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than allowing any combination of two measures for demersal and pelagic long line fisheries and instead require that a mandatory sink rate achieved through different line weighting configurations and/or night setting be essential requirements in any mitigation package, which should include additional bait protection strategies.

In determining mitigation action, we recommend the EU Action Plan draw on the Report from the Report of the Third Meeting of Seabird Bycatch Working Group of ACAP 8-9 April 2010 and particularly Annex 3 Review of Seabird Bycatch Mitigation Measures for Pelagic Longline Fisheries, Annex 4 Summary Advice for Reducing Impact of Pelagic Longline Gear on Seabirds, Annex 5 Review of Seabird Bycatch Measures for Trawl fisheries and Annex 6 Summary Advice Statement for Reducing Impact of Pelagic and Demersal Trawl Gear on Albatrosses and Petrels.

In the case of trawl fisheries, the ACAP Seabird Bycatch Working Group states that “The most effective measure to reduce incidental take of seabirds in trawl fisheries is the effective management of offal discharge and fish discards through full retention of all waste material, or mealing (the conversion of waste into fish meal waste reducing discharge to sump waters). In the absence of this it is critical not to discharge offal or fish discards during shooting and hauling”<sup>27</sup>.

HSI urges the EU to endorse a consistent approach to research and the implementation of mitigation measures. Avoidance should be the primary goal in implementing mitigation measures. It is also essential that mitigation measures implemented to reduce the impacts on one taxonomic group are not detrimental to another group, in accordance with the ecosystem approach.

Much research is already underway internationally upon which mitigation measures should be based. Many of these projects are in testing and results should be available by the end of 2010. We therefore urge the EU to apply all relevant mitigation measures consistently across fisheries at the earliest opportunity. We consider early adoption of mitigation measures based on current knowledge to be essential. There is sufficient existing knowledge to implement current best practice now, in line with the precautionary approach. There must be continuous improvement of mitigation measures, as new research becomes available. Research should also be underpinned by mandatory and reliable data collection and validation processes.

### **Field of Action 3: Actions in international waters**

HSI supports the proposed objective and actions, but considers that these could be more ambitious in their reach. Internationally, we have attended many of the RFMO meetings and have become increasingly concerned about:

- The RFMOs’ lack of progress in substantially reducing bycatch.
- The inadequacy of existing mitigation measures agreed to thus far.
- The lack of evidence to indicate that existing required measures are being used or complied with.
- The lack of adequate enforcement and incentives for compliance.

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<sup>27</sup> Annex 6 Report of the Third Meeting of the Seabird Bycatch Working Group, Agreement on the Conservation of Albatross and Petrels, Mar del Plata, Argentina, 8-9 April 2010



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HSI believes that RFMOs need to urgently improve their performance relating to bycatch. We consider the adoption of best practice conservation measures in each RFMO essential, and urge the EU to play an active role in the joint Technical Working Group, established at the Kobe II bycatch workshop in Brisbane.

HSI considers the adoption of consistent best-practice conservation measures by RFMOs warranted as:

1. The same vessels fish different regional fisheries areas.
2. Bycatch problems are not static and there is an incomplete picture of where vulnerable species occur.
3. Effective measures to mitigate longline and purse seine bycatch are not area specific.
4. Effective measures to mitigate bycatch of one species group (seabirds) may be equally effective for other species groups (sharks and sea turtles) and these species may not have overlapping oceanic distributions.
5. There is little evidence to suggest that using effective mitigation measures has any negative economic impact.
6. Without consistency, ensuring compliance becomes virtually impossible.

Further to this, HSI contends that there is an urgent need for the adoption of a consistent approach, with coordination and cooperation within and amongst RFMOs. It is important that the pursuit of consistency across RFMOs is not used as an excuse for delays or for the implementation of a 'lowest common denominator' approach. Rather it should be seen as an opportunity to implement best practice for the benefit of all species. Once again, we recommend a mandatory sink rate and/or night setting should be a consistent conservation measure required by all RFMOs for pelagic and demersal longline fisheries to which other bait protection strategies are added.

For EU Member States with distant water longline fishing fleets operating within the ranges of albatross, HSI urges EU Member States to:

- adopt and ensure compliance with comprehensive packages of mitigation strategies of proved efficacy, which must include delivery of a mandatory sink rate or, failing that, night setting regimes to prevent albatross bycatch;
- introduce such mitigation strategy packages as binding measures, not only as coastal state regulations applicable within their Exclusive Economic Zones (EEZs,) but also as states party to RFMOs;
- become parties to the Convention of Migratory Species, Agreement on the Conservation of Albatrosses and Petrels (ACAP) and to contribute the financial, technical and expert resources needed to implement its Action Plan; and, most importantly,
- ensure that the expert advice provided to RFMOs and coastal states is promptly and properly acted upon.

Finally, HSI also believes that the ACAP has an important role to play in recognising the need for cooperative action across RFMOs or other fisheries bodies in ensuring the implementation of relevant mitigation measures for albatrosses and petrels. At present, only France, Spain and the United Kingdom are signatories to the ACAP.<sup>28</sup> However, it is essential that the EU as a whole should play an

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<sup>28</sup>National Participation in the Convention on the Conservation of Migratory Species of Wild Animals and its Agreements as at 1 July 2010. [http://www.cms.int/about/all\\_countries\\_eng.pdf](http://www.cms.int/about/all_countries_eng.pdf)



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active role at ACAP so that action is taken for the conservation of seabirds more broadly, and the EU's role within this forum and RFMOs should be reflected within the EU Plan of Action for seabirds.

#### **Field of Action 4: Mitigation research**

It is essential that the most effective mitigation measures are developed, tested and implemented to ensure the continuous improvement of mitigation measures employed to reduce the incidental bycatch of seabirds in all fisheries. The more cost-effective and practical such measures are, the greater the chance that fishermen will be prepared to accept and implement them. It is essential, however, that the best-practice mitigation measures based on existing knowledge are employed at the earliest possible opportunity in line with the precautionary principle.

It is also important that measures can be readily enforced. Line weighting in longline fisheries, for instance, is cost-effective and presents fewer problems for enforcement and compliance than bird scaring lines are notorious for, because the use of scaring lines is discretionary once a vessel leaves port.

As noted in the consultation paper, there are mitigation measures that have already been developed in longline fisheries that have proved quite effective. However, in comparison to longline fisheries, there has been far less research into mitigating seabird bycatch in gillnet and trawl fisheries, despite the fact that hundreds of thousands of seabirds are thought to fall victim to them each year in Europe alone. Existing research on gillnet fisheries suggests that increasing the visibility of nets and closing fisheries at specific times are viable solutions for the reduction of the incidental catches of specific species, such as auks. Likewise, adding visual bird deterrents to buoys has also been found to lead to reductions in mortality.<sup>29</sup> Gear modification, such as adding sound-emitting 'pingers' to nets, has also been found to reduce bycatch.<sup>30</sup>

It is clear, however, that the introduction of an offal retention requirement is likely to be the single most effective mitigation measure for preventing the bycatch of seabirds in trawl fisheries. The ACAP Seabird Bycatch Working Group in their Advice on reducing the impact of trawl gear on albatross and petrels state that "The most effective measure to reduce incidental take of seabirds in trawl fisheries is the effective management of offal discharge and fish discards through full retention of all waste material, or mealing (the conversion of waste into fish meal waste reducing discharge to sump waters). In the absence of this, it is critical not to discharge offal or fish discards during shooting and hauling"<sup>31</sup>. Strategic fish waste management and net cleaning have also been found to help reduce seabird bycatch in trawling<sup>32</sup>.

A recent review of studies on bycatch of waterbirds in gillnet fisheries suggests that future research in this area should not only employ unified principles and protocols to allow comparisons between

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<sup>29</sup> Žydelis, R. *et al.* (2009) 'Bycatch in gillnet fisheries – An overlooked threat to waterbird populations'. *Biological Conservation*. 142, 1269-1281. p. 1279.

<sup>30</sup> Österblom, H. *et al.* (2002) 'Bycatches of common guillemot (*Uria aalge*) in the Baltic Sea gillnet fishery' *Biological Conservation*. 105, 309-319. p. 318.

<sup>31</sup> Report of the Third Meeting of the Seabird Bycatch Working Group, Agreement on the Conservation of Albatross and Petrels, Mar del Plata, Argentina, 8-9 April 2010

<sup>32</sup> Bull, L.S. (2009) 'New mitigation measures reducing seabird bycatch in trawl fisheries. *Fish and Fisheries*. 10, 408-427.



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studies, but also that new standards for monitoring migratory birds should be introduced to gain a better understanding of the population dynamics of species affected.<sup>33</sup> Additional research is needed to develop the most effective methods to mitigate seabird bycatch in gillnet fisheries. In the absence of these data, however, existing best-practice conservation measures must be introduced until such time as more research results are available.

HSI therefore welcomes the action proposed in the seabird consultation paper. We believe that the focus of research should be on increasing scientific knowledge and the development of best practices in the capture fisheries where technical measures to reduce seabird bycatch have not yet been extensively investigated or implemented. The continuous improvement of mitigation measures should be a central element of the EU plan and it should be coordinated with and draw on the advice of existing expert bodies, such as the ACAP.

The involvement of fishermen in the experimental development, testing and refinement of mitigation measures is essential in this regard. Any mitigation measure should be practicable within the context of commercial fisheries and thus requires the active participation of fishermen during the development and testing stages. If their experiences with the employment of new or refined mitigation measures is positive – and their awareness of the necessity thereof is raised – this should facilitate the broader adoption of such measures in the future.

Although not explicitly mentioned in this field of action, data collection by trained independent fisheries observers – from vessels where mitigation measures have already been implemented and those vessels without – should also be an integral aspect of any mitigation research. In this regard, the development of protocols for mandatory and reliable data collection and training programmes (see below) are essential. However, there is no substitute for effective levels of independent observer coverage.

As already noted above, the EU has made a clear commitment under the CFP to take “measures designed to protect and conserve living aquatic resources... and to minimise the impact of fishing activities on marine eco-systems”.<sup>34</sup> EU funds should thus be made available to the fishing industry and/or research institutions throughout Europe to facilitate the development and refinement of technical measures to reduce the incidental catch of seabirds.

Funding could, for example, be made available through the Seventh Framework Programme (FP7) – or, post 2013, its successor – under the research theme of ‘Food, Agriculture and Fisheries, and Biotechnology’. The stated aims of the Commission with regard to building a Knowledge-Based Bio-Economy (KBBE) through the FP7 includes protecting the environment and taking account of animal welfare.<sup>35</sup> Research into mitigation of seabird bycatch clearly meets this aim. Indeed, a precedent has already been set with EU funds previously having been awarded to research into the reduction bycatch of small cetaceans in trawl fisheries.<sup>36</sup> Further to this, the European Fisheries Fund (EFF) may also be an appropriate source of funding to allow fishing operators to make the technical adaptations necessary to their vessels.

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<sup>33</sup> Żydelis, R. *et al.* (2009) *Op cit.*

<sup>34</sup> See Article 2 of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

<sup>35</sup> [http://cordis.europa.eu/fp7/kbbe/about-kbbe\\_en.html](http://cordis.europa.eu/fp7/kbbe/about-kbbe_en.html)

<sup>36</sup> [http://ec.europa.eu/research/fp6/ssp/necessity\\_en.htm](http://ec.europa.eu/research/fp6/ssp/necessity_en.htm)



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HSI is also aware that a number of EU countries are active contributors to ACAP and we encourage that this continue.

## **Field of Action 5: Education, training and outreach**

Raising awareness of the issue of seabird bycatch and the training of both fishermen and fisheries observers are both vital to ensure the success of any mitigation measures and to guarantee the adequate reporting and assessment of seabird bycatch.

The seven Regional Advisory Councils (RACs) are certainly logical fora through which this could be achieved, given that they were established as part of past CFP reform as a vehicle through which a broad range of stakeholders could communicate their views to the Commission and Member States concerning the development of EU fisheries policy. Nonetheless, since the RACs are not formally part of the EU's decision-making process, both the European Commission and Member States would need to make commitments to providing adequate funding and take final responsibility for awareness-raising and training programmes for fishermen and fisheries observers, which include training in seabird identification and the proper handling live birds to be able release them, and the correct and efficient employment of effective mitigation measures, such as line-weighting regimes, at sea.

The impact of education, training and outreach is likely to be significant as regards reducing the negative impact of fisheries on bird populations. As the Commission's consultation paper itself states, the measures that have already been developed to reduce seabird bycatch in, for example, longline fisheries elsewhere around the globe involve relatively simple techniques that do not require expensive equipment. Furthermore, it has been found that – aside from reducing the incidental catch of seabirds - fishermen can benefit from the application of mitigation methods since it can lead to a significant reduction in bait loss and increase in fish catches.<sup>37</sup>

The potential to increase their catches and profit margins could indeed be a powerful incentive to encourage fishermen to want to learn about and deploy mitigation measures. Wherever measures, such as those adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) have been introduced, there is strong evidence that seabird bycatch has been massively and rapidly reduced.<sup>38</sup> It is hoped that coordination within and between tuna-RFMOs arising out of the Kobe process will allow for some increased levels of communication and cooperation. HSI urges the EU and relevant Member States to actively engage in this process to ensure this objective can be achieved.

It may be concluded that there are likely to be significant economic and ecological benefits by raising awareness of seabird bycatch and training fishermen and fisheries observers with regard to mitigation measures. EU and Member State investment in such education, training and outreach is therefore essential.

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<sup>37</sup> Løkkeborg, S. (2003) 'Review and evaluation of three mitigation measures – bird-scaring line, underwater setting and line shooter – to reduce seabird bycatch in north Atlantic longline fishery.' *Fisheries Research*. 60, 11-16. p. 15.

<sup>38</sup> Waugh, S.M. *et al* (2008) 'CCAMLR process of risk assessment to minimise the effects of longline fishing mortality on seabirds. *Marine Policy* 32. 442-454.



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## **Field of Action 6: Reporting of all the actions**

It is appropriate to assess and evaluate the operation of the planned EU Action Plan for reducing incidental catches of seabirds at regular intervals. The given list of criteria that should be assessed covers the most important areas that the plan should include. Evaluation is an action for which the European Commission must take responsibility together with the assistance of national governments charged with the task of collecting data. Unless data collection on seabird bycatch by Member States is voluntary (which we deem inadvisable), Regulation (EC) No 1639/2001 would need to be amended to make this a legal requirement.

RACs could also play a vital role in reporting on the experiences of fishermen and other stakeholders on the efficacy mitigation measures in their various regions and fisheries, and making recommendations to the Commission and Member States on how to further improve them. Likewise, the efficacy of actions taken within RFMOs to protect seabirds at an international level should also be taken into consideration during the evaluation of the EU Action Plan.

Although it is reasonable to evaluate the operation of the Action Plan every four years, once the extent of seabird mortality and the effectiveness of mitigation measures have been fully assessed, it would be more desirable for the best practices, which have been developed and already implemented for each specific fishery, to be made a formal requirement, rather than simply a recommendation. This certainly applies to longline fisheries where there are already sufficient scientific data on the efficacy of mitigation measures to warrant the immediate adoption of mandatory standards for these fisheries. As previously stated, a mandatory minimum sink rate - in combination with night setting - should be made a fundamental requirement to mitigate seabird bycatch in longline fisheries. This does not, of course, exclude the possibility of further refinement and improvement of these highly effective measures, which have already been agreed elsewhere in the framework of the ACAP and CCAMLR.

In sum, mitigation measures should be incorporated into the technical measures governing how and where EU fishing fleets can fish, thereby limiting ecologically destructive fishing practices, such as the bycatch of non-target marine species. These technical measures could then also be reviewed every four years on the basis of new research developments and data on their efficacy.

As a corollary to this, it is also reasonable to suggest that - following formal inclusion in the EU fishing rules - failure to reduce or minimise bycatch levels within a specified timeframe could result in penalties for the fisheries in question, or even the (temporary) closure of fisheries that do not succeed in implementing the necessary measures to minimise the bycatch and suffering of seabirds.

In Australia, for example, the Threat Abatement Plan for Longline Fishing prescribes limits on the level of seabird bycatch that is tolerated in different fishing sectors before closures are instituted. The EU Birds Directive, however, does not permit any 'deliberate' killing of birds, which would, of course, preclude the introduction of any maximum allowable seabird bycatch for the EU fleet. Nonetheless, some form of penalty for non-compliance is desirable, because, as the Commission's recent Green Paper on CFP reform observes, the fishing industry needs to be given incentives 'to behave as a responsible actor accountable for the sustainable use of a public resource'.<sup>39</sup>

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<sup>39</sup> Green Paper, Reform of the Common Fisheries Policy, COM(2009)163 final, 22.4.2009. p. 11.



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## **Concluding remarks**

Humane Society International hopes that our views outlined in the present submission will be taken into consideration during the development of a dedicated EU Action Plan for reducing incidental catches of seabirds in fishing gear.

We strongly urge the Commission to acknowledge that the issue of seabird bycatch is not just an important nature conservation issue, but also a significant animal welfare problem. In this regard, it should be noted that under Article 13 of the recently ratified Lisbon Treaty there is also an obligation to integrate animal welfare considerations into EU policymaking, including fisheries policy.<sup>40</sup>

It is vital that the EU takes steps to provide additional protection to marine life, such as seabirds, which is negatively affected - or even severely endangered - by commercial fisheries, both within its own waters and in all other regions where EU-registered commercial fishing vessels are in operation.

We also urge that the EU Plan of Action for reducing incidental catches of seabirds in fishing gear does not hesitate in recommending the urgent introduction of binding mitigation measures that have proved to be effective for pelagic and demersal longline fisheries (line weighting and night setting) and trawling (offal retention) and already recommended as best practice by the ACAP Seabird Bycatch Working Group.

HSI welcomes the fact that the Commission has committed itself to developing a dedicated Plan of Action to mitigate seabird bycatch, since this will go a long way to preventing the unnecessary suffering and death of hundreds of thousands of birds each year in EU waters alone.

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<sup>40</sup> Article 13 of the Treaty on the Functioning of the European Union explicitly states “In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage”