

A Bycatch Response Strategy

The need for a generic response to bycatch

A Wildlife and Countryside Link Statement
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BYCATCH RESPONSE STRATEGY

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Background

The incidental capture of animals in fishing gear (bycatch) is considered to be one of the greatest threats facing small cetacean populations worldwide and also impacts on other species such as marine turtles. A number of serious bycatch problems have been identified in European waters, primarily in fisheries in the fixed gear sector, particularly bottom set gill nets¹. However, there are strong indications that other fisheries, such as pelagic trawls, also pose a threat to cetacean populations².

Members of the European Union are committed under Council Directive 92/43/EEC (the Habitats Directive) to establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV(a) and, in light of the information gathered, to take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned³. Annex IV(a) includes all cetaceans and also marine turtles.

Member States that are Parties to the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS) have acknowledged the threat that bycatch poses to small cetacean populations and have committed themselves to ensuring that where unacceptable bycatch is identified, measures are taken to reduce this level of bycatch. Parties have agreed for the present to define unacceptable interactions as being, in the short term, “a total anthropogenic removal above 1.7%” of the population.⁴

The problem

1. The only direct way to obtain reliable estimates of total marine mammal bycatch in a fishery is via an independent observer scheme covering a representative sample of the fishery.⁵ Many countries have failed to implement such a scheme and are therefore unaware of the precise nature of the problem associated with their fisheries.
2. Where problem fisheries have been identified, these are commonly prosecuted by fleets from more than one country. It is widely considered that Member States are limited in the mitigation measures they can take given the EU's competence for fisheries management.
3. Despite unacceptable bycatch levels being identified in EU waters, in most cases there has been no demonstrable reduction in bycatch to date. In general, Member States are failing to fulfil their obligations on incidental capture set out in the Habitats Directive and Parties to ASCOBANS have failed to meet the relevant commitments made under this Agreement.

Conclusion

At present many fisheries in European Union waters capable or suspected of causing cetacean or turtle bycatch are not even being monitored for this impact. In numerous cases where bycatch problems have been identified, mitigation measures have yet to be implemented and bycatch continues at an unacceptable level. It is clear that some bycatch reduction can be approached at a national level but that effective remediation will, in most cases, require action to be taken at the EU level. A generic approach to addressing the variety of bycatch problems, that meets Member States' conservation obligations and objectives, should be adopted by Member States and formalised within the Common Fisheries Policy of the EU.

Generic Bycatch Response Strategy

1. Legal context for Community level action on bycatch

i) Article 12.4 of Council Directive 92/43/EEC (Habitats Directive) requires Member States to “*establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a)*” and “*in the light of the information gathered, ... take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned*”.

Annex IV (a) identifies species of community interest in need of strict protection. It includes all cetaceans and also marine turtles.

The aim of this Directive is to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies (Article 2.1).

ii) The previous Fisheries and Environment Commissioners, produced a paper which outlines ways of improving the integration of environmental considerations into Community fisheries policy⁶. The paper includes a number of key relevant commitments. It states that the selectivity of fishing gear and methods of control and implementation will be improved in order to minimise incidental catches of, *inter alia*, marine mammals. It also addresses the requirement of strict protection of certain marine animal species with particular reference to incidental capture and killing. It goes on to address the need to plan space-time restrictions in order to reduce the impact of certain fisheries including through catches, injuries or disturbance on species.

In reviewing objectives at the external level, the paper states the need to improve co-ordination and integration of efforts concerning fisheries management and nature conservation in the context of international conventions. In doing so it makes specific reference to agreements on the protection of cetaceans.

2. Conservation objectives.

A number of EU Member States are Parties to ASCOBANS which has identified interim conservation objectives for small cetaceans (in the short term this has been defined as “*to restore and/or maintain stocks/populations to 80% or more of the carrying capacity*”). It has defined “unacceptable interactions” which at present are considered to be, in the short term, “*a total anthropogenic removal above 1.7%*” of the population. However, it also notes that in certain circumstances “unacceptable interaction” may involve an anthropogenic removal of much less than 1.7%⁴.

3. Mechanism.

There are several processes required to address bycatch problems in EU waters and fisheries:

- i) Identification of problem fisheries. This should be achieved by the placement of independent observers onboard a representative sample of vessels in fisheries with the potential to cause bycatch. Experience to date suggests that effective monitoring will require provisions for the compulsory acceptance of observers.

- ii) Where a problem is identified, a formal bycatch response process should be initiated that has the objective of minimising the bycatch. This should entail the establishment of a bycatch response group (BRG) consisting of representatives from each country involved in the fishery from the following sectors: fishing industry, fisheries managers, civil servants - both Environment and Fisheries, scientists and cetacean conservationists.
- iii) BRGs would be tasked with a) reviewing the scientific data and the management options available to the fishery, b) devising a programme of bycatch reduction measures to meet set targets and timeframes and c) monitoring the implementation and effectiveness of the agreed programme.

Should the bycatch reduction measures fail to meet the targets within the given timeframe, restriction or closure of fisheries would have to be considered until appropriate mitigation measures to achieve the reduction could be assured.

- iv) Funding mechanisms need to be established to ensure that bycatch reduction measures (whether gear modifications, management measures such as time/area closures, alternative fishing methods or effort reduction) are properly researched and developed and implemented uniformly by all participating Member States.
- v) Enforcement of bycatch reduction measures across the Community.

4. Requirements for the EU.

To address the problem of cetacean and turtle bycatch at an EU level, text would have to be incorporated into the Common Fisheries Policy (CFP) that mandates the processes outlined above. For example, it would be appropriate to seek provisions along the following lines:

“Member States are obliged to minimise cetacean and turtle bycatches in EU fisheries and as such shall take the prerequisite measures to assess the extent of cetacean bycatch in EU fisheries as detailed in Annex X. Such efforts shall be reported to the Commission on an annual basis where the bycatch levels will be reviewed to assess whether they are likely to have a significant negative impact on the species concerned. Where bycatches are identified that have, or indicate a strong likelihood of having, a significant negative impact, a bycatch response process must be initiated as detailed in Annex Y of Regulation xxx. Regulation xxx shall take effect from ... 2003.”

Annex X would set out the requirements for compulsory independent observer monitoring and Annex Y would detail the requirements of the bycatch response process, its targets and timeframes.

5. The opportunity

The Commission has recently presented a communication on the integration of the environment and sustainable development into the Common Fisheries Policy and an Action Plan for Biodiversity in relation to Fisheries, and will shortly publish its Green Paper on the CFP. This is, therefore, an ideal time to propose clear and practical provisions to address cetacean and turtle bycatch. Such provisions could thus be formally adopted during the CFP review process before the end of 2002.

References

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5. Northridge 1996, A review of marine mammal bycatch observer schemes with recommendations for best practice. JNCC Report No 219 Aberdeen, UK
6. Communication from the Commission to the Council and the European Parliament: 'Fisheries management and nature conservation in the marine environment': COM(1999) 363 final.
7. Report of Meeting of the IWC/ASCOBANS Working Group on Harbour Porpoises, 1999.