



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

BirdLife International response to European Commission consultation

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Executive summary

The following indicates some of BirdLife's key comments and recommendations, although several others are to be found in the text.

1. It is nearly ten years (2001) since the Commission first prepared a preliminary draft Community Plan of Action for reducing incidental mortality of seabirds in longline fisheries, but this was never developed further until now. So this new initiative, while most welcome, is long overdue and needs to be adopted by the Commission by April 2011, according to its own current work programme. To that end, BirdLife expects a first draft by the end of 2010.
2. The EU PoA framework itself lacks any timelines for its objectives and should be amended to address this, as appropriate, e.g. as part of setting seabird incidental catch reduction objectives for the most threatened species; BirdLife considers that the PoA should call for emergency action for the most threatened species within 1 year of adoption.
3. An EU PoA is a necessary response to the compliance with the Marine Strategy Framework Directive and fits well with the ongoing reform of the CFP.
4. At a time of fiscal restraint, it is important that applying mitigation measures to longline fishing in particular will provide a win-win for conservation and producers. There is good evidence (which BirdLife has reviewed for global longline fisheries) to demonstrate that reducing bait loss to seabirds can not only save costly bait but also increase the fishing potential of baited hooks.
5. BirdLife welcomes that the scope (a) extends to external as well as EU waters; (b) follows the FAO's Best Practice Technical Guidelines (BPTG). Any lesser scope would not be acceptable.
6. It is important to ensure that the scope covers all fishing methods in which seabird bycatch is known or likely to be occurring, including both EU and external waters. There should be no presumption that a particular fishing gear or method does *not* pose risk to seabirds until proven otherwise – absence of evidence is not evidence of absence. In contradiction of this best practice, the focus of the EU PoA is on longlines and gillnets (see objective of Field of Action 2, and recommended amendment), with other gears currently outside scope - notably trawls, trolling, drift-nets, purse-seines and fish traps. It is vital that the EU PoA requires these to be explored, and not subordinated as being undeserving of any action. Particular notice should be taken of purse seines which are known to cause incidental mortality of Critically Endangered Balearic shearwater in Portuguese waters (we present evidence); these should be firmly in scope. This interaction should be included in the Impact Assessment.
7. Particularly for gill-netting, trolling, and fish traps it is important to address not only regulated commercial fishers but also semi-professional and recreational fishers and their network bodies. Such fishers need to be subject to the EU PoA, just as they need to be integrated into the wider control regime (including through CFP reform).

8. While the PoA outline indicates that certain bycatch hotspots (areas/species) will be addressed as first steps, it is important that the EU PoA promotes the discovery of other such geographical areas in order to implement mitigation measures in those also. Given the major gaps in monitoring and reporting (especially in artisanal fisheries) there is a high probability that seabird bycatch occurs in other areas which have so far gone undetected and unreported.
9. The scope scarcely mentions the need for observer programmes and data collection protocols (FAO BPTG-7) which we regard as a major omission. This is addressed under our response on Fields of Action 1 and 3. Appropriate levels of observer coverage are recommended.
10. The scope does not cover *Seabird incidental catch reduction objectives* (FAO BPTG-8). Our response addresses this as an 'Additional field of action'. Goals and indicators for reducing mortality should be established with clear and achievable timelines, with priority given to threatened species (IUCN Red List, Birds Directive) or where the sustainability of regional populations are at risk. Importantly, while the EU PoA aims to *reduce* incidental mortality of seabirds, for the most threatened species the aim should be to minimise and/or reduce to near-zero.
11. Further to (10), the EU PoA outline makes no mention of the need to promote the monitoring of breeding populations of seabirds with the aim of tracking over time the conservation status of species adversely threatened by fishing gears, in order to detect any increase in numbers (or halt of decrease) attributable to reduced incidental mortality from fishing.
12. The ten years of inertia in proposing an EU PoA are attributable mainly to the lack of any obligation on Member States to collect and report data on incidental mortality of seabirds under the Data Collection Regulation (Council Regulation (EC) No 199/2008). When the current multi-annual cycle of national sampling programmes under the DCR ends (after 2010), or whenever the DCR is most opportune for amendment thereafter, an obligation to collect and report data on seabird bycatch should be included as a priority in the DCR.
13. There is a clear need to focus attention on how to mitigate bycatch in gill-nets and achieve best practice, even though more is actually known on this issue than the consultation document actually indicates.
14. Where appropriate, measures should try to simultaneously mitigate the bycatch of marine wildlife (sharks, cetaceans, marine turtles) as well as seabirds.
15. BirdLife supports that at least two mitigation measures of proven efficacy and cost-effectiveness should be implemented in the identified problem areas, although it should be clarified that this should apply to all gears, not just longlines.
16. Of mitigation measures available for longlines (and while a combination is generally the most effective), BirdLife considers that line weighting is the single most effective and practicable

measure across all longline fisheries, although work is needed to identify the level of weighting required for smaller vessels.

17. BirdLife supports the recommendation for development and adaptive management of mitigation measures in collaboration with the relevant local fishermen. However we also urge a more rapid and more enforceable 'emergency' response for (a) those geographic areas and fishing methods which inflict the highest incidental mortality on seabirds; (b) those species which are listed as threatened and at serious risk from fishing gears. To respond to this need we recommend that Technical Conservation Measures be invoked in the current cycle of amendment of those regional sea regulations (rather than, as suggested in the consultation, gradually over time in the light of growing experience); three such possible measures are suggested for pelagic and demersal longline vessels in this response by BirdLife.
18. Under Field of Action 3 (Actions in International Waters), Birdlife finds misleading the statement that: *'To date, all RFMOs faced with the issue of incidental catches of seabirds have adopted some form of mitigation measures aimed at avoiding seabird mortality, yet some are more progressive than others'*. All have certainly adopted conservation measures that require the use of mitigation measures but there is very little data to support the level of implementation or compliance. This distinction has important implications for the actions needed under this Field of Action.
19. The 'proposed action' under Field of Action 3 is badly lacking in detail, insufficiently prescriptive and thus inadequate. BirdLife suggests an alternative set of actions, including recommendations for observer programmes and data collection protocols. Actions and rationales in all the other Fields of Action (on education, training and outreach, mitigation research and implementation of mitigation measures, and data collection, etc) apply also to Field of Action 3 but this is not stated in the consultation.
20. Field of Action 5 (Education, training and outreach) should include the safe handling and release of seabirds caught alive.
21. For Field of Action 6 (Reporting of all the actions) a forum for reporting is missing; BirdLife considers that the Commission should facilitate collaboration between scientists, the fishing sector (in the appropriate regional area), management authorities and NGOs to (e.g.) review the implementation and further development of the EU PoA.
22. A horizontal issue across all Fields of Action is funding. Existing sources of funding (e.g. EFF) cannot be expected to accommodate a significant new area like an EU PoA-Seabirds in addition to existing demands on its use; this calls for additional sources of central funding.

1. Introduction

BirdLife International is a global partnership of conservation organisations that strives to conserve birds, their habitats and global biodiversity, working with people towards sustainable use of natural resources. Globally, the BirdLife Partnership operates in more than 100 countries and territories, is represented in 42 European countries and active in all EU Member States.

We are committed to working towards ecologically sustainable fisheries for the benefit of the wider marine environment and viable livelihoods for fishermen and their communities. In pursuit of this, for the past ten years we have been deeply involved in the promotion and development of an ecosystem-based approach to fisheries and the policy development towards a more integrated approach to maritime use.

BirdLife greatly welcomes this consultation and is uniquely qualified among NGOs to respond to it. BirdLife's Global Seabird Programme was established in 1997 to address the threat of extinction to albatross populations posed by longline fisheries, subsequently extending this to trawls and other relevant gears. We are active observers in all the tuna commissions (RFMOs) and have contributed significantly to the development and implementation of their seabird conservation measures. In 2006, BirdLife further initiated the Albatross Task Force to work directly with fishers on the development of mitigation measures and expert teams are now operational in seven countries in southern Africa and Latin America¹. In support of this effort, BirdLife has produced, jointly with ACAP, a series of bycatch mitigation factsheets for vessels, decision-makers and practitioners².

In the context of this consultation, for the past ten years BirdLife has been making the case for an EU PoA and gathering the evidence to inform its content^{3,4}. We also participated in the expert

¹ BirdLife Global Seabird Programme (2010). Albatross Task Force Annual Report 2009. Royal Society for the Protection of Birds, The Lodge, Sandy, Bedfordshire, UK.

² BirdLife's 14 Seabird Bycatch Mitigation Factsheets describe the range of potential mitigation measures available to reduce seabird bycatch in longline and trawl fisheries. The sheets assess the effectiveness of each measure, highlight their limitations and strengths, and make best practice recommendations for their effective adoption. They are designed to help decision-makers choose the most appropriate measures for their longline and trawl fisheries. Download at: <http://www.birdlife.org/seabirds/save-the-albatross.html>

³ Dunn, E (2007) The case for a Community Plan of Action for reducing incidental catch of seabirds in longline fisheries. BirdLife International, Cambridge, UK.

⁴ BirdLife (2009) European Community Plan of Action (ECPOA) for reducing incidental catch of seabirds in fisheries. Proposal by BirdLife International. Cambridge, UK.

consultation which generated the FAO's 2008 Best Practice Technical Guidelines (BPTG) for IPOA/NPOA-Seabirds.

2. Response to specific requests to stakeholders

2.1 General aim of the EU-PoA Seabirds

2.1.1 On the added value of having a dedicated European Union action plan

Incidental mortality of seabirds in commercial fisheries poses a serious threat and is causing declines in many populations, especially of the family Procellariiformes which includes the albatrosses, petrels and shearwaters, so much so that, worldwide according to IUCN criteria, seabirds are now more threatened and declining faster than any other major group of birds. As the consultation document (p. 6) rightly says: *'These species are generally long-lived and their populations are highly sensitive to changes in adult survival. The additional mortality induced by incidental captures in fisheries is therefore a significant danger to them.'*

The interaction is global in extent and a major issue in EU waters. The unwanted interaction of seabirds with fishing gears can also have an adverse effect on fishing productivity and profitability. A key issue here is that the damaging impact on seabird populations is far from being an intractable problem. Simple but significant technical advances, applied on vessels in the correct combination, have enabled seabird bycatch to be substantially reduced in some regions, and virtually eliminated in some of the world's more environmentally-aware longline fisheries some (notably CCAMLR), so the problem is highly solvable to the benefit both of highly threatened seabird populations and improved fishing efficiency.

Subsequent to the unanimous adoption of the FAO's IPOA-Seabirds at the 23rd session of COFI (1999), National Plans of Action (NPOA-Seabirds) have been developed and implemented in twelve States: Brazil, Canada, Chile, Japan, New Zealand, Uruguay, Namibia, South Africa, USA, Australia, Argentina, and Falklands/Malvinas.

However, despite the urgency of the need to take measures to reduce seabird bycatch where EU vessels operate, both internally and externally to EU waters, seabird bycatch has not so far been subject to any coherent, systematic action plan at EU level. The European Commission presented a preliminary draft seabird action plan (longlines only) to FAO COFI in 2001 but did not develop it further until 2008 when the Commission made a request to ICES for a formal assessment, as required by IPOA-Seabirds. ICES⁵ found that there were insufficient data to indicate the true extent of the bycatch problem, but concluded that *'enough information existed to recognise that there is indeed a problem, and that the EU should develop and implement a Community Plan of Action aimed at investigating the issue further and reducing this bycatch'*.

⁵ Report of the ICES Working Group on Seabird Ecology, 2008.

On this basis, BirdLife has no doubt that a dedicated EU PoA is not only thoroughly justified but long overdue. Certainly the Commission now needs to keep to its published work programme of adopting a proposal by April 2011, which suggests we need a first draft of the plan by the end of 2010. Further relevant justification includes:

EU expertise and track record

We see the added value in concerted EU action over action by individual Member States. A number of these States are well placed to inform and respond to an EU PoA, having already ratified the Agreement on the Conservation of Albatrosses and Petrels (ACAP); Spain ratified in 2003, UK in 2004 and France in 2005. It is also relevant in terms of any future bilateral arrangements under an EU plan that Norway ratified ACAP in 2007. ACAP is proposing to add to its Annex priority species in EU waters (e.g. the Critically Endangered Balearic shearwater) which may offer direct synergy with the EU PoA.

Moreover, given that more than 30% of the world's albatross populations breed on UK and French Overseas Territories, this confers special responsibility on these States to take action to reduce incidental mortality in fishing gears. However, there is added value in this being coordinated at EU level to maintain coherence, consistency, equity and international influence.

Compliance with the Marine Strategy Framework Directive

BirdLife regards the implementation of the EU PoA as a fulfilment of the requirements of the CFP to contribute towards the achievement of Good Environmental Status (GES) under the MSFD. Apart from the 1st qualitative descriptor of GES (*'Biological diversity is maintained'*), the most relevant descriptor is 4: *'All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity'*. Given that the MSFD is a legal requirement under the Treaty, a dedicated EU PoA does not just have 'added value' but is a necessary response to compliance with the Directive.

EU leadership in RFMOs

The EU is already at the forefront of advocating measures to address bycatch of seabirds in RFMOs, and again this argues for the added value of an EU PoA. One of the six fundamental principles underlying FAO's BPTG was *'Ensuring the effective application by RFMOs of IPOA-Seabirds within a regional framework, including the adoption of technical and institutional measures required to adopt effective mitigation measures by RFMOs to provide consistent implementation through a regional plan'*. The EU is well placed to further the practical application of this principle.

Economic benefits

As the consultation text (§5, p. 7) indicates, quantitative evidence is emerging from various studies around the world to show that mitigating seabird bycatch in longline fisheries can yield economic gains for fishermen in terms of reduced bait loss and increased fish catch. In general,

there is a smaller direct cost incurred by bait loss to seabirds and a large indirect one from the resulting loss of fish which could potentially have been caught on those baited hooks. An EU PoA will give impetus to improving fishing efficiency and thus the profitability of fishing operations, both in EU waters and externally where EU vessels operate.

2.1.2 Scope and objectives of the EU-PoA Seabirds

BirdLife welcomes the scope of the PoA as set out in this consultation. We particularly welcome that the scope extends to waters external to the EU, as we have long advocated that the operation of EU-flagged vessels in waters beyond the Community should be in scope.

In essence, the EU PoA must be comprehensive in following the FAO BPTG which set out a 10-point approach to achieving best practice plans of action to reduce seabird bycatch:

- 1) Extend the IPOA-Seabirds to other relevant fishing gears including trawls and gillnets
- 2) Uptake of seabird measures by RFMOs/RFMAs
- 3) Defining an incidental catch problem
- 4) Mitigation measures and related standards
- 5) Mitigation research
- 6) Education, training and outreach
- 7) Observer programmes
- 8) Seabird incidental catch reduction objectives
- 9) Periodic performance review

The consultation document is consistent with capturing most of this scope. However, under the relevant BPTG number in the list, BirdLife makes the following caveats (to be elaborated, below, under particular Fields of Action):

BPTG-1) Extend the IPOA-Seabirds to other relevant fishing gears including trawls and gillnets

It is important to ensure that the scope covers all relevant fisheries in which seabird bycatch is known or likely to be occurring, including both EU and external waters. The focus of the EU PoA is on longlines and gillnets, and certainly there is extensive evidence for these to be firmly in scope.

For longlines, both demersal and pelagic need to be addressed, and the suite of mitigation measures for each of these will be different.

Consultation p. 5 notes that ‘With regards to trawl interaction, there is no indication of a serious problem in EU waters’. However, absence of evidence (which is the case here) is not evidence of absence. According to Carboneras (2009)⁶: ‘Current knowledge in the Mediterranean does not extend to trawl fisheries as a proven source of by-catch. Trawling, however, is the main method used in commercial fishing in the region, where it is also the main producer of fish offal and discards [which attract scavenging seabirds]. Trawling is known to cause significant bycatch of albatrosses and seabirds off southern Africa and in the Patagonian shelf. Research is being conducted in the Mediterranean region, on the causes of certain types of injuries found in seabirds, as they may most probably relate to fishing gear used for trawling’. Carboneras therefore attributes a ‘high’ risk of bycatch of certain seabird for trawls, likewise for driftnets (see Table 1, below, adapted from Carboneras 2009).

Yelkouan shearwater is known to occasionally suffer mortality in drift-nets, e.g. in Greece up to 500 Yelkouan shearwaters were reportedly caught in a single drift net in 2008 (MOM/The Hellenic Society for the Study and Protection of the Monk Seal, 2008, unpublished data). This observation has been confirmed by HOS (BirdLife Greece, X. Kappas, *pers. comm.*).

Evidence is emerging that purse seines can take significant bycatch of shearwaters. A questionnaire survey (2008-09) by SPEA (BirdLife partner) in Portuguese ports showed purse seines to have taken the highest proportion of Balearic shearwaters, followed by longlines (demersal), trawls, longlines (surface), gillnets and traps (Table 1). In Chile, flesh-footed shearwaters are caught in significant numbers in purse seines (O Yates, *pers. comm.*).

Table 1: Balearic shearwaters reported caught in Portugal, by gear type:

By fishing gear	Nº of Balearic captures	% of Balearic captures by fishing gear
Purse seine	12	13,0
Long line (bottom)	8	12,9
Trawling	2	9,1
Long line (surface)	1	9,1
Gillnets	2	3,1
Traps	1	2,7

⁶ Carboneras, C 2009. Guidelines for reducing bycatch of seabirds in the Mediterranean region. UNEP MAP RAC/SPA. 52pp.

In effect, there should be no presumption that a particular fishing gear or method does *not* pose risk to seabirds until proven otherwise. The precautionary principle needs to be applied when there is even the presumption of possible seabird mortality (as asserted on Consultation p. 8).

Although the consultation document highlights some ‘hotspots’ for fishery-seabird interaction and indicates (p. 10) that ‘*As a first step, these areas will be considered for the application of mitigation measures*’, this is likely to be far from comprehensive in terms of geographical areas at risk.

Apart from these hotspots, seabird bycatch is particularly likely in parts of EU waters where artisanal or semi-professional fisheries prevail but have so far gone undetected and unreported.

Trolling may also inflict mortality on seabirds (Table 2). Though the rate of bycatch may be low, the cumulative capacity of such fishing is considerable: recreational fisheries in Spanish waters, for example, involve ca. 70,000 vessels, none of whose activities are regulated, compared with ca 12,000 vessels in the traditional commercial sector.

Table 2: Risk assessment for seabird-fishery interactions for key Mediterranean Action Plan species, showing (i) level of attraction to different fisheries/gears (●● = very strong, ● = strong, ○ = light); (ii) known or predicted risk of capture (very high, high, moderate (mod), unknown (unk)) according to the birds’ feeding habits and fishing gear characteristics. For scientific names of species, see Table 1. **LL dem** = Demersal longline, **LL pel** = Pelagic longline, **FAD** = fish aggregation device, **Troll** = Trolling, **Rec-O** = Recreational fishing offshore, **Rec-I** – Recreational inshore.

Species	LL dem	LL pel	Trawl	Gill-net/ Trammel	Purse - seine	FAD	Drift -net	Troll	Rec-O	Rec-I	Pot/ Trap
Cory's sh/water	●● very high	●● very high	● high	○ unk	○ unk	○ unk	○ high	○ mod			
Balearic sh/water	●● very high	● high	● high	● high	○ unk	○ unk			○ mod		
Yelkouan sh/water	●● very high	● high	● high	● high	○ unk	○ unk	○ high		○ mod		
Mediterranean shag	○ low		○ low	● high					○ mod	○ mod	○ mod
Audouin's gull	● high	● high	● high	○ unk	● unk	○ unk	○ high	○ mod		○ mod	

BPTG-4) Mitigation measures and related standards

The scope could address the issue of 'standards' in greater detail than presented. Consultation pp 4-5 lists (as an exemplar) the CCAMLR measures for longline fisheries, Field of Action 2 (p.9) lists mitigation measures and proposes the action that '*The adoption of mitigation measures should follow a step by step approach coincident with the progressive increase in knowledge, and taking into consideration the specific characteristics of the fisheries in the different regions and seabird behaviour*'. P. 10 states 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*'.

The EU PoA should refer to the detail of the FAO's BPTG, notably in terms of (4iv) regularly reviewing the implementation and performance of mitigation measures (e.g. by a technical working group), and (4v) by prescribing technical specifications for their design, construction and performance to optimize their effectiveness. For BirdLife International's series of best practice bycatch mitigation factsheets, produced jointly with ACAP, see:

http://www.birdlife.org/seabirds/save-the-albatross.html#Simple_effect_and_cheap_solutions

BPTG-7) Observer programmes

The scope does not address this and only alludes to it in one place (p. 12: training of fisheries observers). This will be addressed further in detail under **Fields of Action 1 and 3** (below).

BPTG-8) Seabird incidental catch reduction objectives (see also 9, below for fuller treatment of this as an additional Field of Action -FoA7)

The scope does not address this, and the Objectives of the PoA are relevant here. Consultation p. 7 states that '*The EU-PoA aims to reduce the incidental catches of seabirds by reducing as much as possible the interaction between seabirds and fishing gear*'. However, BPTG -8 speaks to the means of measuring progress towards that goal, by establishing attainable objectives to which bycatch should be reduced, in terms of either a rate (e.g. in the case of longlines, birds killed per 1000 hooks) or total number of birds of a given species (or genus) caught.

BPTG-8 makes the important point that *'For rare and highly endangered species, adopting a long-term goal of near-zero level on incidental mortality in all fisheries contexts will assist with the objective of continual reduction in seabird mortality'*. In the EU context, this is relevant for Balearic shearwater (Critically Endangered: IUCN) – here the objective should be not just to *'reduce'* incidental bycatch but to *minimise* it and/or reduce to near-zero.

It is implicit in setting objectives that there should be a timeline by which targets should be achieved. The consultation conspicuously avoids any mention of a timetable for action or for objectives to be reached, and this needs to be rectified.

BPTG-9) Monitoring and reporting framework for NPOA-Seabirds and regional plans

For this action it is particularly important to address who is responsible for the action (see Field of Action 6, below).

3. Field of Action 1: Assessing interactions between seabirds and fishing gears in EU waters

3.1 FoA1: Evaluation of proposed action

3.1.1 FoA 1: Appropriateness

As indicated above (Section 2.1.2 : BPTG-1), the scope needs to address the entirety of fishing gears operational in EU and external waters, including trawls, trolling, drift-nets, purse seines and fish traps.

BirdLife urges that the EU PoA highlights priority actions and timetables for action, according to the most threatened species. Consultation p. 6 notes that, by red-list IUCN criteria, Balearic shearwater is Critically Endangered and Yelkouan shearwater Near Threatened, and both are listed in Annex 1 of the Birds Directive. Reference is thus made both to their 'critical conservation status' and to their endemism to the region. The high numerical bycatch of Cory's shearwater is also highlighted. Measures for these species should be implemented within 1 year of adoption of the EU PoA.

3.1.1.2 Methods of data collection

We understand that the Impact Assessment for the EU PoA will comprise questionnaires, interviews with fishermen, and at-sea field trips. Efforts should also be made to access the

limited bycatch data that may be available from Government agencies, whether observer data, fisheries logbooks, etc.

However, such data will be very scarce, while a strong dependence on questionnaires (as in the Impact Assessment), while helpful, will not on its own yield reliable data. The PoA gives no steer on the most reliable system of data collection, namely independent onboard observers, working to data collection protocols, of which the CCAMLR (100% observer coverage) is the exemplar. BirdLife regards these elements as essential to collect independently verifiable and robust data.

Observers need to be placed on a sufficiently representative sample of vessels, observe sufficient hooks set or trawls hauled, to achieve a realistic estimate of bycatch. As reported in ICES WGSE (2008), experience elsewhere in the world demonstrates that at least 10% of hooks set will enable detection of (a) whether a bycatch problem exists, (b) sea areas where more data are needed. But once a problem is detected, observers are needed on at least 20-30% of vessels in order to monitor bycatch accurately. See also Field of Action 3, below, for EU advocacy to RFMOs on levels of observer coverage.

For monitoring and recording seabird bycatch, BirdLife would emphasise the need to capture not just offshore but also small-scale coastal fisheries; for these, however, observers may not be practicable and logbook recording could be more appropriate (see FAO BPTG 7(vi)). In the Yelkouan shearwater project (BirdLife Malta), longline fishers are contracted and paid by the Fisheries Authority to produce a log of bycatch of seabirds (also marine turtles, cetaceans and sharks) for each fishing trip. The EU PoA should encourage such initiatives, though not to the exclusion of independent observer programmes where feasible.

In addition to the alternative of logbooks, the development of remote monitoring programmes (such as onboard CCTV) should also be in scope, as recommended in FAO BPTG 7(v).

3.1.1.3 Scope of data collection

We are concerned that the PoA will not cover all potentially damaging gears or all relevant areas, e.g. Portugal. Between Nov 2008 and May 2009, SPEA (BirdLife) conducted a questionnaire survey on fishing ports, focusing on seabird bycatch. A total of 235 questionnaires were completed in 7 ports highlighting a potential hotspot in the Portuguese EEZ for Balearic shearwater bycatch, with purse seines capturing most (see Table 1, above) :

Table 3: Total bycatch incidents by seabird species

Species	Nº of captures	% of total captures
Gannet	107	61,8
Yellow-legged Gull	80	46,2
Balearic Shearwater	24	13,9
Common Guillemot	13	7,5
Black Scoter	11	6,4
Cory's Shearwater	10	5,8
Razorbill	6	3,5
Cormorant/Shag	6	3,5
Sandwich/Common Terns	2	1,2
Storm-petrel	1	0,6
Atlantic Puffin	1	0,6

Table 4: Balearic Shearwater bycatch incidents (24 questionnaires)

By fishing port	Nº of Balearic captures	% of Balearic captures by fishing port
Figueira da Foz	7	33,3
Sesimbra	3	13,0
Cascais	1	11,1
Leixões	7	9,1
Peniche	6	7,5

3.1.1.4 Role of the Data Collection Regulation (Council Regulation (EC) No 199/2008)

The ICES assessment for an EU PoA highlighted major gaps in data and its collection. BirdLife is acutely aware that the inertia in progressing a EU PoA since the first initiative in this direction was taken in 2001 has been the absence of any formal obligation on Member States to

collect or report seabird bycatch data under the current EU legislative framework (Consultation p. 5). Unless this legislation is amended, the EU PoA will be constantly challenged – going forward - by failure of continuous monitoring. In this regard, when the current multi-annual cycle of national sampling programmes under the DCR ends (after 2010), or as soon as possible thereafter, an obligation to collect and report data on seabird bycatch should be included under the DCR. This extension would be in keeping with:

Art 9[Sampling programmes](b): [Multi-annual national sampling programmes shall include, in particular:] *a sampling design for ecosystem data that allows the impact of the fisheries sector on the marine ecosystems to be estimated and that contributes to monitoring of the state of the marine ecosystem.*

Art 15 [Data covered] (iv): [under the framework of this Regulation:] *ecosystem data needed to evaluate the impact of fishing activities on the marine ecosystem.*

3.1.2 FoA 1: Actions already being applied

Some exemplars of actions already being applied: Malta LIFE IBA study - <http://www.birdlifemalta.org/conservation/LIFE-project/>; Dagys, M et al (2009) LIFE Nature project: 'Marine Protected Areas in the Eastern Baltic Sea' (Ref No LIFE 05 NAT/LV/000100: Action C1 – Assessing and reducing impact of fishery by-catch on species of community interest. Final report).

3.1.3 FoA 1: Level of investment needed for each action

Not known - supportable under FP7?

3.1.4 FoA 1: Responsibility for action

Commission, Member States, RACs (including Pelagic RAC for purse seines), RFMOs, recreational and semi-professional fishing organisations

3.1.5 FoA 1: Likely economic, social and environmental impacts

Observers (see below) and their training, would incur an economic cost by Member States. BirdLife's Albatross Task Force (functions in South Africa, Namibia, Brazil, Uruguay, Argentina, Chile and Ecuador) operates on a budget of ca EUR 500,000 per year for 15 ATF instructors. These instructors train fishers in the use of mitigation measures and foster their development and tailoring to specific métiers and fishing conditions. However, these instructors do not 'observe' seabird bycatch *sensu* independent onboard observers.

4. Field of Action 2: Identification and implementation of mitigation measures in EU waters

4.1 FoA 2: Background: Mitigation measures for gillnets (f, g)

The treatment of potential mitigation measures for gillnets is not comprehensive in that drift nets are not addressed as a variant of gillnet, and also the following options and aspects are not described for gillnets:

- *Area restrictions:* In spatial restriction of gillnets, setting *depth* is often the criterion for an area limitation, e.g. in central California set nets are limited to depths beyond which seabirds and other marine wildlife are most common (FAO BPTG 2008). Account needs to be taken of the possibility that area closures may displace fishing to other areas (e.g. FAO IPOA-Seabirds⁷ III-3) and so ‘export’ the problem; an overall reduction in fishing effort may be required to mitigate this possibility.
- *Temporal restrictions:* Can be on a 24hr or a longer (e.g. seasonal) cycle. Restricting soak time to daylight hours greatly reduces bycatch as most seabirds are more vulnerable to entanglement at night when visibility is impaired.
- *Visual alerts:* In the Puget Sound (Washington) drift net fishery for sockeye salmon, non-treaty fishers are required to use higher visibility netting at the top of their nets to facilitate detection by seabirds (Melvin et al 1999)⁸. Other gillnet fisheries already incorporate visual markers, e.g. the Canadian Fishing Company uses multifilament nets (generally comprised of 30 or more filaments in each twine) with red corks spaced throughout the netting (J. Smith, *pers. comm.*). In Alaska the use of monofilament netting is illegal (DeGange 1993)⁹ and netting must comprise between 6 – 30 strands.
- *Acoustic alerts:* Pingers were initially developed to act as a warning device to marine mammals but Melvin et al (1999) discovered that they also had a significant effect on the reduction of bird bycatch. Pingers, however, are not generally favoured by fishers if there is a cheaper, more practical and simple alternative.

⁷ FAO (1999) International Plan of Action for reducing incidental catch of seabirds in longline fisheries. Rome.

⁸ Melvin, E.F., Parrish, J.K., Conquest, L.L. (1999) Novel tools to reduce seabird bycatch in coastal gillnet fisheries. *Conservation Biology* 13 (6) 1386-1397.

⁹ DeGange, A.R., Day, R.H., Takekawa, J.E. and Mendenhall, V.M. (1993) Losses of seabirds in gill nets in the North Pacific. Pp 204-211 in: Vermeer, K., Briggs, K. T., Morgan, K. H., and Siegel-Causey, D. (eds.). The status, ecology and conservation of marine birds of the North Pacific. *Canadian Wildlife Service, Special Publication, Ottawa, Canada.*

- *Mesh size*: Mesh size has been shown to have a significant effect on the bycatch rates of diving seabirds^{10,11}. However, mesh size is generally regulated to increase sustainability of the target fish species rather than seabirds subject to incidental mortality.

As with longline fisheries, apart from spatial exclusion from an area, a combination of these mitigation measures is likely to be most effective, according to the particular characteristics of the fishery and local conditions. See **Field of Action 4** (§6, below) for research actions.

4.2 FoA 2: Objective

As proposed, this is: *‘To address the incidental catches of seabirds through identification and implementation of mitigation measures where the information available indicates a serious problem of seabird mortality in longline and gillnet fisheries in EU waters’.*

As pointed out above in comments on BPTG-1, it is invidious to restrict this objective to longline and gillnet fisheries. There is evidence of mortality (to a Critically Endangered species, Balearic shearwater) in purse seines, and circumstantial evidence that trawls and drift nets may also incur seabird bycatch. No potentially damaging fishing gear should therefore be outside scope in the EU PoA and the objective should be:

To address the incidental catches of seabirds through identification and implementation of mitigation measures where the information available indicates a serious problem of seabird mortality in any fishing gears used in EU waters’.

4.3 FoA 2: Evaluation of proposed action

4.3.1 FoA 2: Appropriateness

¹⁰ Zydalis, R., Bellebaum, J., Österblom, H., Vetemaa, M., Schirmeister, B., Stipniece, A., Dagys, M., van Eerden, M. & Garthe, S. (2009) Bycatch in gillnet fisheries – An overlooked threat to waterbird populations *Biological Conservation* 142, 1269-1281.

¹¹ Dagys, M., Ložys, L., Zydalis, R., Stipniece, A., Minde, A., & Vetemaa, M. (2009) Action C1 – Assessing and reducing impact of fishery by-catch on species of community interest, Final Report, Action Leader P13, Institute of Ecology of Vilnius University. LIFE Nature project “Marine Protected Areas in the Eastern Baltic Sea” Reference number: LIFE 05 NAT/LV/000100.

It is stated (Consultation p. 9) that *'The adoption of measures should follow a step by step approach coincident with the progressive increase in knowledge and taking into consideration the specific characteristics of the fisheries in different regions and seabird behaviour.'*

BirdLife fully supports this approach in general (but see below for recommendation for more immediate measures, as appropriate). In many EU regions, especially those with a complex mix of small-scale coastal fisheries, and little empirical data on seabird-fisheries interactions and seabird demography, it is difficult in the current state of knowledge to be highly prescriptive about the suites of mitigation measures appropriate to each fishery and its operational conditions. To gain compliance with the industry, this calls for a flexible and collaborative approach with the fishing communities to determine the best practice for their respective fisheries. Adaptive management, to trial and improve mitigation practice over time in the light of experience and dedicated research, will be an intrinsic feature of this approach.

BirdLife supports 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,'* although it should be clarified that this should apply to all gears, not just longlines.

Of mitigation measures available for longline fisheries (and while a combination is often the most effective) , BirdLife considers that line weighting is the single most effective and practicable measure across all longline fisheries, although work is needed to identify the level of weighting required for smaller vessels. A streamer line, for example, can be difficult to operate from small vessels due to the challenge of raising the line high enough at the point of attachment to protect a sufficient area of water astern of the vessel. Night setting may also be less feasible for small vessels.

The efficacy of control should also be considered when deriving the best mitigation measures to use. Compliance with bird-scaring lines is harder to monitor and enforce than line-weighting and night-setting. Line-weighting, especially when integrated, is built into the fishing method and not an 'add-on' like a bird-scaring line, which might not get used at all. Secondly, at least in larger vessels, night-setting can be monitored by VMS.

4.3.1.1 Option of Technical Conservation Measures for longline fisheries

Whereas BirdLife fully accepts that the gradualistic, adaptive approach described above will be necessary to develop the understanding, participation and compliance of the fishing sector, we urge a more rapid and more enforceable 'emergency' response for:

- those geographic areas and fishing methods that inflict the heaviest incidental mortality on seabirds
- those species which are listed as threatened and at serious risk from fishing gears

We therefore recommend the need to implement legally-binding mitigation measures much more immediately, especially for the larger, offshore 'industrial' longline vessels where known and effective mitigation measures, operational in comparable other parts of the world, could be introduced to EU waters. To this extent, BirdLife cannot agree that proposals for such measures should always emanate from lengthy research, review and assessment, as suggested in the 'Background' to **Field of Action 6** (Consultation p. 12).

BirdLife urges the faster-track approach of drawing on experience elsewhere particularly to mitigate incidental mortality of the most threatened species (notably Cory's, Yelkouan, Balearic shearwater) or where current measures are considered inadequate (mitigation measures for Great shearwater on Gran Sol fishing grounds). These species should be flagged by the EU PoA as priority for action, requiring measures on a more immediate timescale, than for less threatened species.

Building on the agreed CCAMLR measures (Consultation p. 4) and BirdLife/ACAP's Bycatch Mitigation Factsheets (see footnote 1), BirdLife therefore recommends the following three TCMs to be added to the EU regulations:

Pelagic longline (BirdLife factsheet 8): Line weighting of at least 60g shall be placed on each branchline 2m from the hook, to ensure the internationally accepted sink rate capable of taking hooks beyond the reach of most surface-feeding birds. [NB: *this measure appropriate for vessels of any length*].

Demersal longline (BirdLife factsheets 2,3): Vessels >24m shall use Integrated Weight Longlines or external 8.5kg weights attached at intervals of not more than 40m along the line.

Demersal longline (BirdLife factsheet 5): Vessels >24m shall set longlines at night only (i.e. during the hours of darkness between the times of nautical twilight); during longline fishing at night, only the minimum ship's lighting necessary for safety shall be used.

4.3.1.2 Priority (geographical) areas for action

BirdLife accepts (Consultation p. 10) that '*Key areas where incidental catches of seabirds are regularly occurring are already identified*'. Following a listing of these (Gran Sol, western Mediterranean, Maltese and Greek waters, Baltic and eastern North Sea), the text continues: '*As a first step, these areas will be considered for the application of mitigation measures. If and when other problematic areas have been identified these may also be subject to such measures*'.

BirdLife is already aware of an important area which is omitted from this list and for which there is a *prima facie* case for a systematic assessment and application of mitigation measures: the Portuguese EEZ in which there is evidence of significant bycatch of Balearic shearwater and other seabird species in a variety of métiers (see pp. 9, 13 and 14, above). This is all the more pressing considering that purse seines appear to be significantly implicated in bycatch, have not been subject to mitigation research anywhere in the world, and are not in scope in this PoA consultation. BirdLife urges this interaction to be added to the PoA Impact Assessment.

4.3.2 FoA 2: Actions already being applied

See: BirdLife (2009) European Community Plan of Action (ECPOA) for reducing incidental catch of seabirds in fisheries. Proposal by BirdLife International. Cambridge, UK:
http://www.rspb.org.uk/Images/shadow_Community_Plan_of_Action_tcm9-246779.pdf

This (and footnote 6) includes significant knowledge on the behaviour of (especially) Mediterranean seabirds which point to the likely efficacy of mitigation measures in different métiers.

BirdLife's Albatross Task Force (ATF) has already demonstrated the remarkable reductions of bycatch possible in fisheries elsewhere in the world, e.g.:

- Through the adoption of strict regulations in the Asian distant pelagic longline fleet in South Africa, seabird bycatch was reduced by 85% in 2008. A similar reduction was achieved in the demersal trawl fishery for hake.
- Since ATF work began in the Chilean pelagic longline fleet, seabird bycatch has dropped from an estimated 550+ birds in 2007 to ca 22 in 2009.
- From ATF observations on longline vessels in Brazil, seabird bycatch was reduced from 0.99 birds per 1000 hooks in 2007 to 0.11 birds per 1000 hooks in 2009.

4.3.3 FoA 2: Level of investment needed for each action

BirdLife has not costed development and implementation of mitigation measures. However, mitigation measures for longlines and trawls, when well designed, used correctly and in the right combination, can be highly effective, with minimal social and economic impacts. There is less evidence of economic advantage or cost-neutrality when mitigating bycatch in gill-net fisheries although, in the only known study (see footnote 8) where this has been tested, target fishing efficiency did not suffer from a combination of experimental mitigation measures.

4.3.4 FoA 2: Responsibility for action: Commission, Member States, RACs

4.3.5 FoA 2: Likely economic, social and environmental impacts

See Annex (*Economic benefits of mitigating seabird bycatch*) of report cited under 4.3.2 (above).

Adoption of internationally agreed mitigation measures can be a prerequisite for MSC or other certification, thereby assisting market access for product. For example of a fishery which originally incurred a serious bycatch of globally threatened albatrosses and other seabirds until it was subject to conditions required for MSC certification, see:

<http://www.msc.org/documents/fisheries-factsheets/net-benefits-report/South-Africa-hake-trawl.pdf>

5. Field of Action 3: Actions in International waters

5.1 FoA 3: Background

BirdLife challenges the statement that: *'To date, all RFMOs faced with the issue of incidental catches of seabirds have adopted some form of mitigation measures aimed at avoiding seabird mortality, yet some are more progressive than others'*.

All have certainly adopted conservation measures that require the use of mitigation measures but there is very little data to support the level of implementation or compliance. A more accurate assessment of the state of progress across RFMOs would therefore be:

'To date, all RFMOs faced with the issue of incidental catches of seabirds have adopted some form of conservation measures aimed at avoiding seabird mortality, yet some are more

progressive than others and, with the exception of CCAMLR, RFMOs currently lack centralized mechanisms to assess implementation or compliance with such measures.'

5.2 FoA 3: Objective

As proposed, this is: '*To promote the adoption of measures for the protection of seabirds at international level*'.

This Objective is too narrow/imprecise and should re-stated as:

'To promote to RFMOs, RSCs and other relevant fora the adoption of strategies and measures for the reduction of incidental mortality of seabirds in fishing gears in waters external to the EU, whether in EEZs or on the high seas.'

5.3 FoA 3: Evaluation of proposed action

As proposed, this is: '*The Commission will continue to promote the assessment of problems and the adoption of measures or improvements to current measures for the protection of seabirds within RFMOs. Action by all interested actors at the level of international fora such as the ones mentioned above should continue to be promoted.*' The proposed action is too generic and needs to be elaborated in terms of the considerations, below, to make the action much more prescriptive and targeted, and for the EU to be taking a lead in setting standards consistent with the FAO BPTG.

5.3.1 FoA 3: Appropriateness

The best-practice approaches that the EU applies to vessels in EU waters should apply to EU vessels operating in international waters, and this best practice should be promoted within RFMOs. Specifically, Fields of Action 1, 2, 4, 5 and 6 should also be undertaken by EU vessels operating in international waters, and the EU should encourage RFMOs to undertake similar actions.

The EU should (*inter alia*):

- require EU vessels operating in international waters to undertake the proposed actions in Field of Action 1 to assess the interactions between seabirds and fishing gears. These data should then be presented to RFMOs
- encourage RFMOs to undertake such assessments

- require EU vessels operating in international waters to undertake the proposed actions in Field of Action 2. 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 problem areas
- continue to encourage those RFMOs which have not already done so to establish requirements for at least two mitigation measures in the identified problem areas (ICCAT, IATTC)
- require mitigation research (Field of Action 4) and Education (Field of Action 5) to also be undertaken by EU vessels in international waters, and data and results presented to the Commission and to RFMOs. The EU should encourage RFMOs to establish coordinated research programmes on (a) bycatch mitigation, (b) education and outreach
- promote 10% observer coverage as an absolute minimum in the short term (assessment period) and at least 20% in the medium-long term if there is evidence of significant bycatch (see also 5.3.2, below)
- promote the adoption across all RFMOs of best practice already adopted in any one RFMO
- encourage RFMOs to develop regional Plans of Action (PoAs) that are consistent with the FAO BPTG.

5.3.2 FoA 3: On actions already being applied

5.3.2.1 It should not be assumed that all the measures specified in existing RFMO protocols are necessarily satisfactory. According to ACAP, some mitigation measures in existing RFMO conservation measures (e.g. offal management, line shooter, bait caster) are not part of current best practice for pelagic longline vessels. Due to lack of data, it is not known whether such measures may contribute to reducing seabird bycatch when used in combination with a suite of other measures. Current knowledge, however, suggests that individually these measures are unlikely to be effective when used in isolation. See:

http://www.birdlife.org/seabirds/downloads/FS_11_Pelagic_LL_Bait_caster_and_line_shooter_final.pdf

5.3.2.2 WCPFC and IOTC have established regional longline observer programmes with 5% coverage. BirdLife hopes that the EU will (as it has done in the past) continue to promote regional observer programmes in ICCAT and IATTC.

5.3.3 FoA 3: Level of investment needed for each action

Funding will be needed for, e.g., education, training and outreach, mitigation research and implementation of mitigation measures, and data collection. Member States are already able to draw on the EFF to achieve progress in the implementation of an ecosystem approach by promoting measures such as the improvement of knowledge and fisheries management, training of fishers in low-impact fishing practices, and development of practices and technologies with low impact on the environment (e.g. COM (2008) 187 final¹², p. 10). However, it will be challenging for EFF capacity to support measures under the EU PoA .

Nevertheless, BirdLife considers it essential that adequate central funding is made available to support the development and implementation of an EU PoA outreach to external waters, in keeping with (e.g.) FAO BPTG §71(iv); *'build capacity by developing the resources to finance and technically support observer programmes'*.

As it may serve as a comparison relevant to projecting costs, BirdLife's Albatross Task Force (functions in South Africa, Namibia, Brazil, Uruguay, Argentina, Chile and Ecuador) operates on a budget of ca EUR 500,000 per year for 15 ATF instructors. These instructors train fishers in the use of mitigation measures and foster their development and tailoring to specific métiers and fishing conditions however, these instructors do not 'observe' seabird bycatch *sensu* independent onboard observers.

5.3.4 FoA 3: Responsibility for Action

Commission, Member States, RFMOs, Long Distance RAC, NGOs.

5.3.5 FoA 3: Likely economic, social and environmental costs

Mitigation measures for longlines and trawls, when well designed, used correctly and in the right combination, can be highly effective, with relatively minor social and economic impacts.

¹² COM(2008)187 final: The role of the CFP in implementing an ecosystem approach to marine management.

6. Field of Action 4: Mitigation Research

6.1 FoA 4: Background

BirdLife can agree with the plea to improve knowledge of seabird behavior and fishing practices for refining mitigation measures. However, to assert that currently no best practice measures have been identified for minimising bycatch in gillnets is to under-estimate what is already known and understood. See 4.1 (above) under Field of Action 2. Certainly, however, more needs to be done to test the efficacy of these measures and design new ones (alone and in combination), and to refine them further. Gillnets present a particular challenge for mitigation, considering the variability of design and placement (surface, midwater, bottom). Tailor-made mitigation will need to be developed, as ‘one-size-fits-all’ will not address this variability in gear configuration and setting.

6.2 FoA 4: Objective

As stated, this is: *‘To develop, improve and evaluate practical and effective mitigation devices and practices’*.

This could usefully be expanded to say: *‘To develop, improve and evaluate practical and effective mitigation devices and practices, individually and in combination’*.

6.3 FoA 4: Evaluation of proposed action

6.3.1 FoA 4: Appropriateness

The actions described are appropriate. It is important that field experiments are carried out under controlled conditions, and that they have the capacity to explore efficacy of measures used both single and in combination with other measures. Gill-nets should be a particularly high priority in EU waters for such research.

In developing measures for seabirds, synergies should be sought – where appropriate – with simultaneously reducing the bycatch of other marine wildlife, notably sharks, cetaceans and marine turtles. Mitigating gillnet bycatch may have particular potential for win-wins in this respect. At the very least, measures should not be developed which assist seabirds at the expense of other taxa.

Following the FAO BPTG (§63(v)), collaborative research should be encouraged between countries with fisheries that overlap with the distribution of seabirds that forage in distant waters.

6.3.2 FoA 4: Actions already being applied (see also 4.3.1, above)

It is important to improve on existing practices and not to assume that just because a fishery already uses a mitigation measure it is fit for purpose. For example, in the Mediterranean, demersal longlines commonly use the less-than-ideal Spanish (*pedra-bola*) method of rudimentary line-weighting which combines stones as weights with floats (plastic balls). This method should be discouraged, and integrated weighted lines encouraged whenever appropriate for the size of the vessel. Field trials are needed to establish the line weighting appropriate for smaller, artisanal vessels.

One of the fundamental technical barriers to eliminating seabird bycatch remains the identification of an effective suite of measures for pelagic longline fisheries. Mitigating seabird bycatch in such fisheries is inherently more difficult than in demersal longline fisheries. This is due to fundamental differences in gear design with demersal gear being configured to sink rapidly to the sea-bed while pelagic gear is configured to float in the water column, and this facilitates the capacity for seabirds to dive and bring baited hooks back to the surface ('secondary hook-ups') in lightly weighted pelagic gear. The effectiveness of the offal and discard management option also needs greater research for pelagic longline vessels.

6.3.3 FoA 4: Level of investment needed for each action

No specific information. However, the EFF cannot be expected to deliver for mitigation research to reduce incidental mortality of seabirds without impacting adversely on other areas or operational programmes already approved or planned. Additional EU funding will be needed to test and develop mitigation measures.

6.3.4 FoA 4: Responsibility for the action

European Commission, Member States, RACs, NGOs

6.3.5 FoA 4: Likely economic, social and environmental impacts

The presence of offal during trawl fishing operations has been identified as the most important factor in seabird mortality associated with the trawl fisheries that BirdLife's ATF is working with in southern Africa¹³. However, the costs associated with the adoption of offal management measures continue to limit the research and industry innovation required to investigate appropriate offal management measures.

Research into mitigation measures should capture socio-economic data collection. There is a significant body of information showing potential win-wins for conservationists and fishers from the use of mitigation measures for longlines (see Annex to document listed at footnote 4). More research is needed in the case of trawls and gill-nets (while purse seines have also been flagged up in this consultation response as another fishery which causes incidental mortality of seabirds). The incentive of economic gains (in terms of fishing efficiency) will generally be lacking in these fisheries compared to longline fisheries.

7. Field of Action 5: Education, training and outreach

7.1 FoA 5: Objective

As proposed, this is: *'To inform on the need and importance to implement actions that aim to reduce the incidental capture of seabirds. To educate and train fishermen in the use of mitigation measures and the identification of seabirds for accurate reporting'* .

This should be expanded as follows: *'To inform on the need and importance to implement actions that aim to reduce the incidental capture of seabirds. To educate and train fishermen in the use of mitigation measures, the identification of seabirds for accurate reporting, and the safe handling and release of seabirds caught alive¹⁴.'*

This is in keeping with FAO IPOA-Seabirds (III(5) – Operational Measures/ Release live birds) in which the 'Concept' (longlining) is:

¹³ BirdLife Global Seabird Programme (2010). Albatross Task Force Annual Report 2009. Royal Society for the Protection of Birds, The Lodge, Sandy, Bedfordshire, UK.

¹⁴ Seabirds are commonly retrieved alive from gill-nets and from longlines when the bird is hooked during line-hauling (in which case it will have been in the water for a relatively short period). There are numerous published protocols on best practice handling and release.

'If despite the precautions, seabirds are incidentally caught, every reasonable effort should be made to ensure that birds brought on board alive are released alive and that when possible hooks should be removed without jeopardizing the life of the birds'.

It is pointed out in IPOA-Seabirds that, at least in longline fisheries, the number retrieved alive is generally small compared to numbers killed in line setting, so the effort involved in handling and release is relatively minor.

7.2 FoA 5: Evaluation of proposed action

7.2.1 FoA 5: Appropriateness

Advocacy on mitigation measures needs to be preceded by awareness-raising about the rationale and justification for taking action. E.g. any one vessel may inflict incidental mortality of only one or at most a few birds per trip, or spread over a number of trips, so the perception of damage may be slight. The sector therefore need to understand the *cumulative* impact of vessels in their métier, which can be substantial on a species protected under EU law. E.g. interviews with Maltese fishermen indicated that the bycatch rate of this species by demersal longlines in Maltese waters could equate to 8.5-10% of the population being killed annually¹⁵, which could be unsustainable for a species with a low reproductive rate whose population stability depends on a high annual adult survival rate.

Education (etc) should focus not just on the conservation benefits for seabirds but also, in longline fisheries, on the expected increased fishing efficiency from applying mitigation of (a) eliminating bait loss to seabirds and (b) increasing the proportion of intact baited hooks sinking to their fishing depth (FAO IPOA-Seabirds (II(3))).

BirdLife strongly supports that *'Action should aim at engaging cooperation with the different RACs and developing guidelines specific to the regional area covered by each'*. BirdLife also highlights the need for the sharing of experience, and exchange of skills and knowledge (FAO BPTG 65) through cooperation *between* RACs and between Member States (possibly in different regional sea areas). The Baltic RAC, for example, might assist in pioneering research and implementation on mitigating bycatch in gillnets and could be a source of expertise for other regions where gillnets are a problem.

¹⁵ Dimech, M, Darmanin, M, Caruana, R and Raine, H (2008) *Preliminary data on seabird by-catch from the Maltese longline fishery (central Mediterranean)*. ICCAT Standing Committee on Research and Statistics. SCRS/2008/027.

In this regard, the EU PoA should also take note of FAO PBTG §77(ii): *exchange seabird incidental catch data between regional and national fisheries management bodies at the finest possible resolution feasible.*

7.2.2 FoA 5: Actions already being applied

Use should also be made of the various LIFE(+) projects which have developed insights into seabird bycatch mitigation (Baltic, Malta, etc).

The FAO BPTG (Box 4) highlights two successful ongoing initiatives – BirdLife’s Albatross Task Force (ATF) and the International Fishers Forum (IFF). The ATF experience and model suggests useful pointers for how the EU PoA might develop in terms of education, training and outreach.

A general model for ATF Instructor activities at-sea and on-shore was described in the First ATF Instructor Workshop Report 2009. On-shore activities have moved forward under the three main work areas:

- (1) Strengthening national observer programmes through workshops and training materials,
- (2) Conducting port visits to raise awareness of best practice mitigation; and
- (3) Raising awareness through the production of educational materials and hosting local conservation events.

Early in ATF planning, the need was also recognised to identify and work towards a long-term legacy in countries where the ATF is active. To lay foundations for this, the ATF works with national observer agencies and institutions to facilitate the development of at-sea observer protocols and seabird identification guides. Through developing and conducting training programmes for national observers, the ATF took important first steps in generating greater seabird conservation awareness within key agencies and institutions linked directly with the fishing industry. This is seen as an essential bridge to gaining industry buy-in.

It is not suggested that the ATF become operational in Europe but that its *modus operandi* has lessons for the implementation of the EU PoA.

7.3.3 FoA 5: Level of investment needed for each action

No specific information but we envisage that the European Commission will have to provide specific funding for these actions. Inter-reg funding might be used to develop programmes across Member States and regions. See also 5.3.3 (above) for cost of BirdLife’s ATF programme.

7.3.4 FoA 5: Responsibility for the action

European Commission, Member States, RACs, NGOs

7.3.5 FoA 5: Likely economic, social and environmental impacts

No detailed information but should be highly beneficial for biodiversity and relatively cost-neutral for the industry apart from a proportion of on-shore time spent away from fishing.

8. Field of Action 6: Reporting of all the actions

8.1 FoA 6: Background

BirdLife supports that research, review and assessment should lead to inter alia '*proposals for appropriate technical measures*' to improve existing solutions or develop new ones.

In some cases, however, BirdLife is of the view that the Commission could already propose certain measures, without such adaptive management, because enough information already exists from operational knowledge of mitigation measures used in closely similar fisheries elsewhere in the world. This should enable the proposal, in a parallel process accompanying publication of the EU PoA, of certain technical conservation measures as amendments to the current TCMs regulations (see 4.3.1 above for BirdLife recommendation for three such measures).

8.2 FoA 6: Evaluation of proposed action

8.2.1 FoA 6: Appropriateness

In addition to the listed elements listed that should be subject to consultation, FAO BPTG (80) also specifies that:

States and RFMOs/As are encouraged to:

- (i) *undertake a review of the risks to seabirds if existing fisheries expand and/or new fisheries develop*

- (ii) *consider how to identify those vessels and operators that require training to modify their practices [given that a minority may be responsible for most of the bycatch]*

The EU PoA should also take note of FAO PBTG §77(i) for the **Monitoring and reporting framework for NPOA-Seabirds and regional plans**: *establish a framework including indicators to monitor the implementation and review of plans. Such a framework should include clear reporting formats, protocols and timelines. This process should include a broad range of stakeholders.*

In this regard, BirdLife considers that the Commission should facilitate collaboration between scientists, the fishing sector (in the appropriate regional area), management authorities and NGOs to (e.g.) review the implementation and further development of the EU PoA. Such a forum goes beyond what the composition of the RACs can currently provide, not least as it should also consider the effectiveness of the PoA as it refers to RFMOs.

Indicators could be developed with the assistance of ICES, OSPAR, etc.

8.2.2 FoA 6: Actions already being applied

None

8.2.3 FoA 6: Level of investment needed for each action

No information apart from the recommendation of the Commission hosting one or more stakeholder/expert workshops: one to prepare for FAO-COFI (reporting on progress made on IPOA-Seabirds in the context of adherence to the Code of Conduct for Responsible Fisheries), perhaps a second inter-sessional workshop to chart progress.

8.2.4 FoA 6: Responsibility for the action

European Commission, Member States, RFMOs, RACs, NGOs

8.2.5 FoA 6: Likely economic, social and environmental impacts

Clear environmental benefits. Relatively little social or economic impact.

9. Additional fields of actions (§5.2 in consultation doc)

BirdLife considers that an additional Field of Action (FoA 7) should be Seabird incidental catch reduction objectives, i.e. the setting of attainable goals for reduction of incidental mortality, in terms of either the bycatch rate (e.g. in the case of longlines, birds killed per 1000 hooks) and/or the numbers of seabirds caught (expressed at the species or genus level) over a measured time period.

9.1 FoA 7: Background

FAO BPTG-8 (§72-74) recommends that States and RFMOs/As should consider establishing such objectives. However, as described in 2.1.2 (above) when addressing FAO BPTG-8, such objectives are not explicitly included in the scope of this consultation. Consultation p. 7 states that *'The EU-PoA aims to reduce the incidental catches of seabirds by reducing as much as possible the interaction between seabirds and fishing gear'*. However, BPTG -8 speaks to the means of measuring progress towards that goal and unless the EU PoA establishes a means of doing this, a key indicator for the performance of the EU PoA is missing.

BPTG-8(§73) adds an important caveat that effort-based bycatch reduction objectives can be flawed and misleading if they do not account for incidental catch levels in relation to *fishing effort*. In other words, incidental catch objectives based on a mortality rate alone can give a false positive signal of an improving conservation status if a reduction in incidental catch rate is offset by an increase in fishing effort, resulting in an increase in overall mortality. Another caveat is that a reduction in bycatch rate over time may arise from a declining population (possibly for reasons other than fisheries interactions), resulting in fewer birds being available to be caught. Finally, if a species is very wide-ranging, incidental mortality in other regions of the species' range (where perhaps no mitigation measures apply) could affect metrics in the study area.

BPTG-8 (§73-74) adds the further important caveat that simple 'reduction' in bycatch will not be appropriate for rare and highly endangered species for which even occasional captures may be

unsustainable for their population status, and in these cases a long-term goal of 'near-zero' incidental mortality should apply.

In this regard, BPTG-8 (§74(iv)) recommends the need for '*clearly stated and achievable timelines*' for bycatch reduction objectives. Timelines for this and indeed any other objectives (under other Fields of Action) are conspicuously lacking in this consultation.

BirdLife also considers that *incidental catch reduction objectives* are but a means objective towards the ends objective of monitoring demographic responses of seabirds to changes in incidental mortality from fishing gears. This addresses one of the elements included in the assessment for NPOA-Seabirds (FAO 1999), namely '*Status of seabird populations in the fishing areas, if known*'.

9.2 FoA 7: Objective:

To establish attainable objectives for incidental mortality of seabirds that lead to measurable reductions in mortality.

9.3 FoA 7: Proposed action

Goals and indicators for the reduction of incidental mortality of seabirds should be established with clearly stated and achievable timelines. Priority should be given to species which are threatened according to IUCN and Birds Directive criteria or where the sustainability of regional populations is at risk.

Observer programmes and other means (e.g. remote) of at-sea monitoring should, as part of their rationale, include the systematic collection of data to enable progress towards these goals to be monitored.

Breeding populations of seabirds should also be monitored with the aim of tracking over time the conservation status of species adversely affected by fishing gears, in order to detect any increase in numbers (or halt of decrease) attributable to reduced bycatch.

9.4 FoA 7: Evaluation of proposed action

9.4.1 FoA 7: Appropriateness

The action is justified by FAO BPTG-8 and its supporting paragraphs 72-74. In terms of species to which this Field of Action should apply as a priority, consultation p. 6 notes that, according

to red-list IUCN criteria, Balearic shearwater is Critically Endangered and Yelkouan shearwater Near Threatened, and both are listed in Annex 1 of the Birds Directive. Reference is thus made both to their 'critical conservation status' and to their endemism to the region.

The high numerical bycatch of Cory's shearwater is also highlighted in the consultation and regional targets could be set (e.g. Maltese fishery). Objectives for key species affected by the Baltic gillnet fisheries should also be set.

9.4.2 FoA 7: Actions already being applied

No objectives have been set for EU waters. However, baseline bycatch rates are available from a number of studies, facilitating the setting of objectives. E.g. there are good bycatch data for Great shearwater on the Gran Sol, so – even though this species is not known to be globally or regionally threatened - reduction objectives could be set for this fisheries interaction relatively easily.

9.4.3 FoA 7: Level of investment needed for action

No specific information but main outlay will be for observer programmes. ICES could be invited to consider setting objectives for EU waters.

9.4.4 FoA 7: Responsibility for the action

European Commission, Member States, RACs, NGOs

9.4.5 FoA 7: Likely economic, social and environmental impacts

Clear environmental benefits. Relatively little social or economic impact.