

 <p data-bbox="220 551 456 584">Agreement on the Conservation of Albatrosses and Petrels</p>	<p data-bbox="539 241 1385 327">Seventh Meeting of the Seabird Bycatch Working Group</p> <p data-bbox="871 347 1385 383"><i>La Serena, Chile, 2 - 4 May 2016</i></p> <p data-bbox="499 456 1374 584">Novel legal framework for mitigation of incidental bycatch for albatrosses and petrels in Brazil</p> <p data-bbox="499 640 1374 719"><i>Thaís Evangelista Coutinho, Patrícia Serafini Pereira, Tatiana Neves, Roberto Gallucci</i></p>
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SUMMARY

The Brazilian government launched in 2014 a new longline fisheries regulation to reduce the seabird bycatch to a minimum level. The measures are a combination of weighted branch lines, bird scaring lines and night setting that should be applied simultaneously by authorized vessels to fish the target species in the area of territorial sea, Exclusive Economic Zone (EEZ) and south international waters 20° S. The mitigation measures have been established in two stages: the transient and the permanent. From November 2014 to April 2015, the transitional mitigation measures were in force. Since May 2015 the fishermen must comply with all mitigation measures in a permanent way. The former regulation launched in 2011 established the mandatory use of only bird scaring line and weight branch line. The Brazilian recent regulation is based on the National Plan of Action that aims to contribute to the long term conservation of albatrosses and petrels interacting with fisheries in the Brazilian territory and also meets the ACAP's best practice mitigation measures.

Nuevo marco legal para la mitigación de la captura secundaria de albatros y petreles en Brasil

RESUMEN

En 2014, el gobierno de Brasil lanzó una nueva norma para las pesquerías con palangre a fin de reducir al mínimo la captura secundaria de aves marinas. Las medidas son una combinación de brazoladas lastradas, líneas espantapájaros y calado nocturno que los barcos autorizados deberían aplicar en simultáneo a la hora de pescar la especie objetivo en el mar territorial, en la zona económica exclusiva (ZEE) y al sur del paralelo 20° S, en aguas internacionales. Las medidas de mitigación se han establecido en dos etapas: la temporal y la permanente. Las medidas temporales estuvieron en vigor entre noviembre de 2014 y abril de 2015. A partir de mayo de 2015, los pescadores deben cumplir con todas las medidas de forma permanente. La norma anterior, que se lanzó en 2011, establecía el uso obligatorio de líneas espantapájaros y brazoladas lastradas solamente. La nueva norma de Brasil está basada en el Plan de Acción Nacional cuyo objetivo es contribuir a la conservación a largo plazo de los albatros y petreles que interactúan con las pesquerías del territorio brasileño. A su vez, esta nueva norma cumple con las mejores prácticas en medidas de mitigación del ACAP.

Nouveau cadre juridique pour la réduction des captures accessoires d'albatros et de pétrels au Brésil

RÉSUMÉ

Le gouvernement brésilien a ratifié en 2014 une nouvelle réglementation sur la pêche à la palangre afin de réduire autant que possible les captures accessoires. Les mesures associent le lestage des lignes secondaires, des dispositifs d'effarouchement des oiseaux et la pose nocturne des lignes; elles doivent être mises en place simultanément par les navires autorisés afin de pouvoir cibler les espèces à pêcher dans la mer territoriale, la Zone économique exclusive (ZEE) et les eaux internationales au sud de 20 ° S. Les mesures d'atténuation ont été établies en deux étapes : transitoires et permanentes. Les mesures d'atténuation transitoires étaient en vigueur de novembre 2014 à avril 2015. Depuis 2015, les pêcheurs doivent se conformer à toutes les mesures d'atténuation de façon permanente. La réglementation actuelle, ratifiée en 2011, a rendu obligatoire l'utilisation des dispositifs d'effarouchement des oiseaux et des lignes secondaires lestées. La récente réglementation brésilienne s'appuie sur le Plan d'action national visant à contribuer à la conservation sur le long terme des albatros et des pétrels en contact avec les pêcheries du territoire brésilien, et respecte les mesures de meilleure pratique et d'atténuation de l'ACAP.

In 2014, the Brazilian government launched a new longline fisheries regulation aimed at reducing seabird bycatch to a minimal level. These measures are a combination of weighted branch lines, bird scaring lines and night settings that should be applied by all authorized vessels when fishing target species in areas of territorial seas, exclusive economic zone (EEZ), and south international water at 20°S. The simultaneous use of these measures recommended by ACAP can mitigate the catch of albatrosses and petrels, and have been proven highly effective in various parts of the world, especially when used in combination (ACAP, 2013b).

The process of regulation of fishing activities in Brazil that negatively affect seabird populations began with the recommendation 07/2007 from the International Commission for the Conservation of Atlantic Tunas (ICCAT). Brazil is part of the ICCAT's committee since 1969, and with the decree 65-026 of 20 August 1969, ICCAT's recommendations have legal impact in Brazil. This recommendation, which aims to protect oceanic seabirds against incidental catch by pelagic longline fisheries, emphasizes the need for mitigation measures, monitoring and control of incidental capture of birds, which should be implemented by all countries. It established, amongst other measures, the mandatory use of tori lines by all vessels operating south of 20°S, except for the vessels using longline monofilaments directed towards swordfish, which need to be released overnight.

In order to reduce by-catches to a minimal level, and for implementing 07/2007 ICCAT's recommendation, the Brazilian Ministry of Environment and the Ministry of Aquaculture and Fisheries formulated regulation no.4/2011, together with the fishing productive sector. It established the simultaneous use of tori lines and weight branch lines by longline fishing vessels authorized to operate in waters under Brazilian jurisdiction south of latitude 20°S. A few months later, ICCAT launched the Recommendation 09/2011, and established the mandatory use of at least two out of the three mitigation measures (tori lines, weights branch lines in all longline fisheries south of 25°S).

The revision process of the INI 04/2011 began in 2012 with members of Brazil's Fishery Management Council of Tuna. This council is composed of representatives of various branches that are relevant to the regulation of fishing activities, such as government agencies and fishing industry stakeholders advised by scientific subcommittees. The main focus of this review is to discuss the implementation of ACAP's recommendations, in particular whether to change the requirement of the use of two obligatory mitigation measures (toriline and weights branch lines) and include a third new one (i.e., the mandatory use of night settings). The major goal in this new combination of measures is to protect the populations of albatrosses and petrels, in accordance with the National Action Plan of albatrosses and petrels.

The purpose of this review was to broaden conservation and protection measures with the inclusion of additional standards from ACAP's Best Practice Guide. The recommendations in this guide are based on evidence from scientific studies that demonstrate that the isolated use of toriline (ACAP, 2011b; Petersen *et al.*, 2008), night settings (ACAP, 2011b), and systems of line branch weights (ACAP, 2011a) are not sufficient to prevent seabird bycatch. This revision also includes other technical issues, such as fisherman safety, toriline dimensions, and use of onboard cameras.

The new regulatory framework provided by the IN 07/2014 covers several gaps in the former regulation, and details safety measures for fisherman, including electronic monitoring,

and size of the toriline proportional to the size of the vessel. Application of the standards have been established in two stages: transitional and permanent. Between these two steps, there is a difference in the specifications of the weights system of hooks and the extent of toriline. All these details are specified in the English version of the IN 07/2014, included in the Annex I of this InfoNews.

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ANNEX 1

Interministerial Normative Instruction N° 7, October 30 of 2014

Union Official Diary Date: 31/10/2014

Pages: 47-48

Establish mitigation measures to reduce seabird incidental capture by fishing vessels operating with superficial horizontal longline South of 20° S.

THE STATE MINISTERS OF THE FISHING AND AQUACULTURE and OF THE ENVIRONMENT, in the use of their attributions, considering the Law n° 10.683, from May 28 of 2003, the Law n° 11.959, from June 29 of 2009, in the Decree n° 6.691, from October 13 of 2009, in the Ministerial Directive MPA/MMA n° 2, from November 13 of 2009, and included in the Process n° 00350.007804/2010-40, resolve:

Art. 1º Establish mitigation measures against seabird incidental capture by vessels authorized to operate in the territorial sea, Economic Exclusive Zone (EEZ) and international waters, south of 20° S, in the modality of surface horizontal longline, for the target species of tuna and swordfish, according to the Interministerial Normative Instruction n° 10 of June 2011.

Chapter I

General Dispositions

Art. 2º The mitigation measures for the reduction of seabird incidental capture will be presented in two distinct groups, with different applications and effectiveness, these being:

- I – Transitory Mitigation Measures; and
- II – Permanent Mitigation Measures;

Art. 3º The Transitory Mitigation Measures will be applied and effective for a limited period of six months starting from the publication of this Interministerial Normative Instruction (INI), after this period, it will be active and mandatory the Permanent Mitigation Measures.

Art. 4 º For the purpose of this INI the following definitions are adopted:

- I – Toriline: equipment consisting of a line divided in segments, with an aerial portion containing ribbons and a submerged portion to create tension. Fixed over the setting position, parallel the toriline main line at vessel's stern during gear setting;

II - Night Setting: longline setting done in its totality during the period between the sunset and sunrise, according to Brazil's Navy Marine Almanac data;

III – Weight Regime: standardization between distance and weight of lead swivel ratio to the hook, in the longline secondary line, with the objective of increasing the gear sinking rate;

IV – Safe Lead: longline weight system, in which the weight slides along in the line instead of been fixed to it;

V – Electronic Monitoring: system composed by onboard video cameras, activated during the longline setting and hauling, in order to monitor, control and collect fishing operation data;

VI – Bait Casting Machine: device used onboard of vessel, allowing to position automatically the hooks in the water, during the longline setting;

VII – Line Shooter: device used onboard of vessels, allowing to position automatically the main longline line in the water during the gear setting;

Art. 5º For means of control and inspection;

I – is considered the information included in the vessel fishing permission, of mandatory presence in the vessel;

II – longlines and torilines transported, stored or used in fishing activities that do not have the characteristics defined in this INI is portrayed as irregular fishing with forbidden gear; and

III – it is considered the vessel Gross Tonnage (GT) the one established in the Vessel Register Title, issued by the Maritime Authority;

Art. 6º Vessels with gross tonnage (GT) over 15 (fifteen), authorized to operate in Brazilian waters in the Southeast and South, to the border of the Espírito Santo and Bahia states, in the modality of horizontal surface longline with target species of tuna, swordfish or dolphin fish, are obligated, starting march 1º of 2015, to subscribe and maintain functioning the remote monitoring equipment linked to PREPS (Fishing Vessel Satellite Tracking National Program).

Art. 7º The vessels specified in art. 1º are obligated to emit signal from the remote monitoring equipment, linked to PREPS, in intervals no longer than 20 (twenty) minutes.

Art. 8º The seabird incidental captures must be registered in the Official Logbook , Onboard Observer report and any other ways to register according with the present legislation.

Single Paragraph. The Fishing and Aquaculture Ministry (MPA) remains responsible to supply the Environment Ministry (MMA), access to the Fishing and Aquaculture National Information System data (Sinpesq), or others systems that come to replace it, regarding the mentioned registers in the head of this article.

Art. 9° The Fishing and Aquaculture Ministry or Environment Ministry can determine that vessels owners or charterers, according to this INI, provide accommodations and provisions for people designated for information and data gathering, linked to scientific research that can subsidize the sustainable fishery resources management and for environmental monitoring.

Art 10° The MPA and MMA can determine that the ship owners or charterers, regarding this IN, supply necessary physical space for research, with the purpose of testing the image electronic monitoring.

Chapter II

Transitory Mitigation Measures

Art. 11° The transitory mitigation measures for the reduction of seabirds bycatch are to be mandatory for vessels defined in the Art. 1° are:

I – Toriline;

II – Night Setting; and III – Weight Regime;

§ 1° The specifications of the mitigation measures to be adopted, established in items I to III of this article are described in the Annex I of this INI.

§ 2° The vessels referenced in the Art. 1° are obliged to carry onboard and make use of the toriline during fishing operations, according to specifications described in the Annex I of this INI.

§ 3° The vessels referenced in the Art. 1° are obliged to transport at least two spare torilines, to replace the equipment in use in case of damage.

Art. 12° The transitory mitigation measures must be applied according according to the latitudinal disposition of the fishing operations as follows:

I – to the north of 20°S the use of the mitigation measures will be elective; and

II – to the south of 20°S all vessels referenced in Art. 1° are obliged to use toriline and, additionally, use either the night setting or the weight regime.

Chapter III

Permanent Mitigation Measures

Art. 13^o After the duration of the transitory mitigation measures present in Chapter II, the vessels referenced in Art. 1^o of this INI must adopt, simultaneously, the following measures:

I – Toriline;

II – Night Setting; and III – Weight Regime.

§1^o The specifications to adopt for the mitigation measures, established in the items I to III of this article, is described in the Annex II of this INI.

§ 2^o The vessels with length over 35 (thirty five) meters must, obligatory, use two torilines simultaneously during fishing operations, as well as carry on board four spare torilines, for replacement in case of equipment damage during its use.

§ 3^o The vessels with length under 35 (thirty five) meters, must, obligatory, use one toriline during fishing operations, as well as, carry onboard, two spare torilines, for replacement in case of equipment damage during its use.

§ 4^o for the means of crew safety, it is authorized the use of Safe Lead System

Chapter IV

Final disposition

Art. 14 The MPA and MMA will promote widely measures established in this INI, especially among the fishing sector and the supplier companies of longline weight in the Southeast and South regions.

Art. 15^o It will be considered illegal fishing if there is non-use or absence of the equipment relating to mitigation measures aboard the vessels as defined in this INI, from the port of origin to the port of destiny, by vessels entering Territorial Sea, EEZ and adjacent waters, south of 20^oS.

Art. 16^o The fishing operations carried out by the vessels related in Art. 1^o, if in contravention of this disposition hereby contained in this INI, will be considered illegally fishing according to the Law n^o 9.605, of February 12 of 1998, and the Decree n^o 6.514, of July 22^o of 2008, but without the loss of any other legal obligations.

Art. 17º In accordance with scientific recommendations for the purpose of reducing incidental seabirds captures additional manage measures based on assessment of pelagic longline fishery including fishing effort and use of mitigation measures are applicable.

Art. 18º Revoke the INI nº 4 of April 15 of 2011.

Art. 19º This INI comes in action in the date of its released

ANNEX I

Specifications of the transitory mitigation measures

I – Toriline; must be use during the longline setting operations to avoid seabirds attacking baits, according to the following:

a) For vessels of 35 (thirty-five) meters of length or larger:

1- Use of at least one toriline although it is recommended that a second toriline is simultaneously used, when there is a high abundance of birds;

2- The aerial extension, defined as the portion of the toriline between the fixed point on the vessel and the point at which it touches the water must be equal to or higher than 100 (one hundred) meters;

3 - The ribbons on the toriline must be of assorted colors and long enough, so as they touch the sea surface in calm conditions;

4- The toriline ribbons must be fixed at intervals equal to or less than 5 (five) meters.

b) For vessels under 35 (thirty-five) meters of length:

1- The toriline must be of at least 130 (one hundred and thirty) meters in length and be composed by three segments, united by swivels;

2- The toriline must be fixed over the vessel stern at a height of 8 (eight) meters or more from the sea surface;

3- The first segment of the toriline must have 60 (sixty) meters in length and made of monofilament nylon, with a diameter ranging from 3 to 4 (three to four) millimetres. These must be fixed, at 2 (two) meters intervals, and consist of 1 (one) meter length colored polypropylene ribbon in clusters of 6 (six). Alternatively, in clusters of three ribbons of three meters in length folded in half;

4- The second monofilament segment of the toriline, 40 (forty) meters in length, shall be connected for the first section with unweighted swivel (this second segment will be a lesser diameter, 2 to 3 millimetres, than the first to safeguard occasions entanglement in fishing gear may occur). The second segment must have the same coloured ribbons as describe on Item 3 above.

5- The third, underwater segment, must be 30 (thirty) meters in length. The purpose of this is to generate sufficient drag so as to maintain the first two segments clear of the water. The third segment must be made of 8 millimetre twisted synthetic line incorporating several one meter rigid plastic ribbon, at intervals of 20 (twenty) centimetres.

6- Vessels under 20 (twenty) meters in overall length are authorized to attach the toriline at a minimum height of six meters from the sea surface.

II- Night setting: the setting of the longline gear in the water must occur entirely between nautical sunset and sunrise in accordance with Brazil's Navy Maritime Almanac and in additional, with minimal deck lighting;

III- Weight Regime: Branch lines must be weighted in accordance with the following specifications:

- a) 45 (forty five) grams or more no further than one meter from the hook;
- b) 60 (sixty) grams or more no further than 3.5 (three point five) meters from the hook;
- c) 90 (ninety) grams or more no further than 4 (four) meters from the hook;

ANNEX II

Specifications of the permanent mitigation measures

I – Toriline; must be used during the longline setting operations to avoid seabirds interactions, in accordance with the following:

a) For vessels of 35 (thirty five) meters or more:

- 1- The total length of the toriline must be equal to or greater than 200 (two hundreds) meters;
- 2- During the release of the longline main line, the toriline must always be parallel to it;
- 3- The ribbons associated with this must be colored and 8 meters in length near the stern and at the outer end in 30 centimetres, such that all ribbons extend from the line to the sea surface in calm conditions;

- 4- The toriline ribbons must be fixed in intervals no greater than five meters;
 - 5- The toriline must be fixed at the stern at least 8 (eight) meters above the sea surface;
 - 6- To maximise the aerial extent of the line and keep the line in the correct position, a device to create drag to archives must be used;
 - 7- The vessels using a bait cast machine during line setting must ensure that hooks enter the water directly below the torilines;
 - 8- The vessels using mainline shooters must configure in such a way so as the line enters the water outside the turbulence generated by the vessel propeller;
- b) Vessels under 35 (thirty five) meters in length:
- 1- The toriline must be at least 130 (one hundred and thirty) meters in length and consist of three segments united by swivels;
 - 2- During the longline mainline setting, the toriline must always be always parallel to it;
 - 3- The toriline must be fixed 8 (eight) meters above the sea surface at the stern;
 - 4- The first toriline segment must be 60 (sixty) meters in length and made 3 to 4 (three to four) millimetres diameter monofilament nylon. Six coloured polypropylene ribbons one meter in length must be fixed every two meters (alternatively three ribbons of two meters in length folded in half);
 - 5 - The second monofilament segment of the toriline, 40 (forty) meters in length, shall be connected to the first section with an unweighted swivel (this second segment will be a lesser diameter, 2 to 3 millimetres, than the first to safeguard occasions entanglement in fishing gear may occur). The second segment must have the same coloured ribbons as describe on Item 4 above.
 - 6- The third, underwater segment, must be 30 (thirty) meters in length. The purpose of this is to generate sufficient drag so as to maintain the first two segments clear of the water. The third segment must be made of 8 millimetre twisted synthetic line incorporating several one meter rigid plastic ribbon, at intervals of 20 (twenty) centimetres.
 - 7- The vessels using a bait cast machine during line setting must ensure that hooks enter the water directly below the torilines;
 - 8- The vessels using mainline shooters must configure in such a way so as the line enters the water outside the turbulence generated by the vessel propeller;
 - 9- Vessels under 20 (twenty) meters in length are authorized to use torilines with a minimum height of six meters above the sea surface;

II- Night setting: the setting of the longline gear in the water must occur entirely between nautical sunset and sunrise in accordance with Brazil's Navy Maritime Almanac and in addition, with minimal deck lighting;

III - Weight Regime:

a) Branch lines must be weighted in accordance with the following specifications:

1 - 45 (forty five) grams or more no further than one meter from the hook;

2 - 60 (sixty) grams or more no further than 3.5 (three point five) meters from the hook;

3 - 90 (ninety) grams or more no further than 4 (four) meters from the hook;

b) For a period of 15 (fifteen) month following the publication of this INI, use of 90 (ninty) grams weights no furthers the 4 meters form the hook is authorized; and

c) The safe lead if used must fall within the weight regime as described in this annex.