



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES  
Directorate D - Fisheries Policy Mediterranean and Black Sea  
DIRECTORATE-GENERAL ENVIRONMENT  
Directorate C - Zero Pollution  
The Directors

Brussels,  
MARE.A2/Ares (2022)  
ENV.C2/ARES (2022)

Mr Kenn Skau Fischer  
Executive Committee Chair  
North Sea Advisory Council  
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2719 EK Zoetermeer,  
The Netherlands  
Email: admin@nsrac.org

**Subject:       Reply to NSAC/NWWAC Advice on the MSFD Review – NSAC  
Advice Ref. 05-2122**

Dear Mr Skau Fischer,

We would like to thank you for your *Advice on the MSFD Review*. We very much welcome your conclusions and recommendations which are broadly in line with an external evaluation study on the Marine Strategy Framework Directive<sup>1</sup>, currently being finalised. DG Environment, the department in charge of the review process, is currently drafting the Commission Evaluation, which will largely draw on the outcomes of this study.

This external evaluation study was carried out between January 2021 and April 2022. Around 200 desk sources were identified, including legal and policy documents, studies, reports, datasets and other written evidence. Consultation activities formed part of the overall consultation strategy set out for the review. These included: an online public consultation (22 June-21 October 2021, 205 responses); a targeted survey to authorities

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<sup>1</sup> To be published soon on the website of DG Environment

and MSFD Common Implementation Strategy (CIS) experts (1-28 October 2021, 98 responses); and a series of nine Focus Group interviews with various types of stakeholders. Finally, the Commission held a stakeholder conference in December 2021 to discuss the MSFD review, to which all advisory councils were invited.

The evaluation study highlighted both clear achievements as well as shortcomings of the Directive and assessed how well it has attained its main objectives of achieving Good Environmental Status ('GES') and establishing an integrated framework for the protection of the marine environment. The study also concluded that the costs of implementing the Directive were greatly outweighed by the benefits, and that the same environmental results would not have been achieved without the MSFD in place.

Where the study found that the Directive has not delivered as was intended, shortcomings mostly fell in one of the following categories:

1. Regulatory failures (lack of a clear definition of GES, operational targets and measures),
2. Implementation and enforcement failures,
3. Insufficient regional cooperation and coordination,
4. Insufficient coherence with other relevant policies,
5. Inadequate data management<sup>2</sup>.

On this basis, the Commission is currently drafting its own Evaluation Report which should be delivered in July 2023, in line with article 23 of the Directive. The evaluation sets the ground for a possible future revision of the Directive, for which the Commission will need to undertake an Impact Assessment. Stakeholders will be involved and consulted throughout the process, which follows the Better Regulation Guidelines, including the need to ensure coherence with the current political context.

Concerning your recommendations, as mentioned above, we note that several of them coincide with the conclusions from the evaluation study and results from the consultation exercises. In particular, we refer to your points on MSFD data collection, regional cooperation, coherence and synergies with other legislations and Green Deal initiatives, resources and capacity building (recommendations 1-5; 7-9; 11; 12; 14; 15; 17; 18; 20; 25).

More specifically, we would like to reply to some of your recommendations that concern the Common Fisheries Policy (CFP), data collection, Maritime Spatial Planning and ICES:

- ***Recommendation 6 on the Commission's requests to ICES:*** The framework for the regular work with ICES is established under a grant agreement, renewed on a yearly basis. ICES is already incorporating ecosystem-based considerations in the single stock advice and is working towards a concrete framework for a comprehensive multi-species advice in particular under the ecosystem overviews.

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<sup>2</sup> these findings of the external study will be considered in the Commissions' own evaluation report, which is currently being drafted.

ICES has also been providing support and advice in the implementation of the MSFD. More research and modelling work will be needed to ensure coherency and reliability of the multi-species advice in the long run, efforts which the Commission supports entirely. The ecosystem-based approach to fisheries management is one of the CFP aims and a target for the implementation of the policy.

- ***Recommendations 9, 10, and 12 to the Commission and Member States (MSs) about the upcoming Action Plan to conserve fisheries resources and protect marine ecosystems and a better interplay between EU policies and initiatives:***

We agree with you that the delays of Member States in defining GES for all criteria in line with the COM Decision (EU) 2017/848, and the lack of coherence with related EU policies, such as in the area of fisheries, represent a shortcoming in the implementation of the MSFD. To address these shortcomings, two complementary instruments are being put forward in the short/medium term. The first is the Action Plan to conserve fisheries resources and protect marine ecosystems, which will aim at further increasing synergies between fisheries and environmental legislation. The Action Plan will look into the questions of sensitive species and habitats, improving selectivity and further improving the knowledge base. The second instrument concerns the Commission's proposal for a Nature Restoration Law<sup>3</sup>, which provides for longer-term obligations for the restoration of degraded marine habitats. These two instruments provide contributions to short and medium-term marine environmental protection measures. We fully agree that there is a need to break the silos between maritime (including fisheries) and environmental departments and improve the cooperation between the different fisheries administrations and stakeholder groups.

- ***Recommendations 3, 4, 7 and 13 about data collection and implementation of the Data Collection Framework (DCF):*** In the area of facilitating collection and reporting of MSFD data, EEA, JRC and EMODnet play an important role, and the Commission continues improving the framework, including as part of the upcoming review, where the management of data will be one of the key areas to be addressed. The Commission also closely monitors the Member States' DCF activities by assessing the work plans and their implementation. Through the regional coordination groups established under the DCF, Member States enhance their efforts on collecting the data on the fisheries impact on the marine ecosystems. The Commission also advocates more detailed reporting obligations on the fishing effort under the control legislation. Finally, we note that the forthcoming Action Plan to conserve fisheries resources and protect marine ecosystems will also look into the aspect data collection and reporting.
- ***Recommendations 16 and 20 about the EU strategy on offshore renewable energy:*** It is clear that Maritime Spatial Planning (MSP) will play a central role in the fair development of offshore renewables in the EU. This was highlighted in the strategy itself and also in the recent report on the implementation of the MSP

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<sup>3</sup> Proposal for a Regulation of the European Parliament and of the Council on Nature Restoration. COM(2022) 304 final.

Directive<sup>4</sup>. In addition, the MSP Directive requires Member States to apply an ecosystem-based approach, as defined in Article 1(3) of the MSFD. The ecosystem-based approach to the management of human activities ensures that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status. Defining such levels (or ‘thresholds’) is regulated in the Commission Decision on Good Environmental Status<sup>5</sup>, and should be done by Member States for each GES criterion. Guidance with good practices have been provided by the Commission to support Member States when preparing their maritime spatial plans<sup>6</sup>.

- ***Recommendation 14, 15 and 25 regarding regionalisation, the role of regional bodies in implementation of MSFD, and the role of the Advisory Councils:***

The Commission attaches capital importance to the role of regional groups in implementing the MSFD and developing coherent marine strategies, in particular the Regional Seas Conventions. In the framework of fisheries management, the contributions and inputs from the Advisory Councils are essential. The Commission will also look into the regionalisation process more widely in the context of the upcoming report on the functioning of the CFP.

Finally, we would like to draw your attention to the upcoming stakeholder workshop on the MSFD review, taking place in Brussels on the 15th of November 2022. Closer to the time, you will receive an invitation to this workshop, together with the background documents.

Should you have any further questions on this reply, please contact Ms Pascale COLSON, coordinator of the Advisory Councils (Pascale.COLSON@ec.europa.eu; +32.2.295.62.73), who will forward it to relevant colleagues. On the review itself, you may contact Ms. Anna BOBO REMIJN in DG ENV (Anna.BOBO-REMIJN@ec.europa.eu).

Yours sincerely,

Lena ANDERSSON PENCH  
Director DG MARE.D  
and  
Veronica MANFREDI  
Director DG ENV.C

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<sup>4</sup> REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL outlining the progress made in implementing Directive 2014/89/EU establishing a framework for maritime spatial planning (COM/2022/185 final)

<sup>5</sup> Commission Decision (EU) 2017/848 of 17 May 2017

<sup>6</sup> “Guidelines for implementing an ecosystem-based approach in maritime spatial planning” <https://maritime-spatial-planning.ec.europa.eu/msp-resources/msp-tools-and-guidance>