



## BACKGROUND NOTE MSFD REVIEW

**Subject: Review of the Marine Strategy Framework Directive – Improving data management**

### *1. Introduction*

Article 23 of the Marine Strategy Framework Directive<sup>1</sup> requires the Commission to review the Marine Strategy Framework Directive ('MSFD') by 15 July 2023. The Commission's Directorate General for Environment (DG ENV) has recently received an evaluation study<sup>2</sup> of the MSFD, which will support the Commission's own evaluation report.

The evaluation study has shown that although large amounts of data on the marine environment are being generated and reported, the data is not sufficiently harmonised to be used and compared in the most efficient way.

This note describes the policy context and issues on data use and reporting, as well as ways to address those, which should be further discussed in the stakeholder workshop on 15 November 2022.

### *2. Policy background*

The MSFD is a holistic piece of legislation that aims at protecting the seas and oceans around Europe, while enabling sustainable use of marine goods and services. The overall objective of the Directive is to achieve Good Environmental Status of all marine waters (by 2020), which the Directive defines in article 3 as: '*the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations*'.

The MSFD has been in force since 2008<sup>(3)</sup>, and is implemented in a six-year cycle, during which MS assess and report on the status of their marine waters, determine good environmental status for the marine region concerned (on the basis of the 11 descriptors in its Annex 1<sup>4</sup>), set environmental targets and indicators, establish and implement

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<sup>1</sup> Directive 2008/56/EC of 17 June 2008 establishing a framework for community action in the field of marine environmental policy.

<sup>2</sup> Support study conducted by the Milieu/Acteon consortium (final draft: April 2022).

<sup>(3)</sup> Member States had until 15 July 2010 to transpose the Directive into national legislation

<sup>4</sup> The 11 qualitative descriptors are defined in Annex I of the Marine Strategy Framework Directive and further specified in Commission Decision 2017/848/EU. They include D1– Biodiversity, D2 — Non indigenous species (NIS), D3 — Commercial fish and shellfish, D4 — Food webs, D5 —

monitoring programmes, as well as identify and report on measures. The Commission assessed the first cycle (2012-2018) in an **implementation report** (COM(2020)259), which highlighted the **achievements and challenges** of the Directive. The **second implementation cycle** started in 2018, which builds on lessons learnt from the first cycle and required Member States to adapt to the new standards set out by the COM(2017) Decision. The assessment of Member States' reported information on state, GES and targets has been carried out pursuant to article 12, and recommendations by the Commission were issued in March 2022<sup>5</sup>. The Commission's article 12 assessment and recommendations on the monitoring programmes are scheduled for later this year.

Member States are required to report the information that is necessary for the Commission to evaluate whether they are correctly implementing the Directive. This information needs to be reported at specific points in the implementation cycle into the EEA Reportnet portal, on the basis of agreed e-reporting templates.

### 3. MSFD Evaluation – conclusions on data management

The external evaluation study that was conducted in line with the Better Regulation principles builds on the 2020 MSFD Implementation Report, as well as a wide range of stakeholder consultations and literature review.

The evaluation questions that have been considered in this exercise include those addressing the *Effectiveness, Efficiency, Relevance, Coherence, EU added value* of the Directive. A summary of the outcomes of the study per evaluation question is provided below.

- Large quantity of **monitoring data** are generated on the state of the marine environment under the MSFD.
- The fact that **GES is not clearly determined/ quantified** hampers the collection of harmonised data across Member States and therefore the assessment of progress towards the achievement of GES.
- The **lack of comparability of the data** reported by Member States has become an important obstacle for enforcement and communication purposes. The CIS has provided guidance documents, set threshold values and generalised e-reporting, which are expected to improve comparability and increase effectiveness of data collection.
- The MSFD requires coherence with the **INSPIRE Directive**. Differences in standards and software for data processing between the INSPIRE Directive and the MSFD are reported to hinder the coordination of both Directives and the interoperability of the data exchanged. Further efforts and guidance should overcome this issue.
- The implementation of **existing EU policies**, particularly those in the water and nature/biodiversity sectors, contribute to providing data for the

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Eutrophication, D6 — Sea-floor integrity, D7 — Hydrographical changes, D8 — Contaminants, D9 — Contaminants in seafood, D10 — Litter, D11 — Energy, including underwater noise.

<sup>5</sup> C(2022)1392 and SWD(2022)55

assessment of the state of the marine environment and the design and implementation of measures.

- **Discrepancies in the reporting timelines of the MSFD and Nature Directives** mean that Member States' reusing data for reporting purposes may not be drawing on the most recent data available.
- The **CFP's** data collection processes for fisheries feeds into MSFD assessments, but the format and intended use of the raw data are not fully aligned.
- Despite potential **synergies between the MSFD and data-sharing platforms** (e.g. European Marine Observation and Data Network (EMODnet), Copernicus), these continue to represent something of a missed opportunity to share information and streamline reporting exercises across Europe.
- A lack of data and knowledge gaps was cited by several **stakeholders**, although others noted that enough information is available to be workable.
- More **efficient and innovative monitoring** (e.g. rapid and automatic data collection devices, use of global observation data) could aid efficient data collection.

#### Summary table

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| <b><i>Inadequate data management: insufficient data quality, ineffective data collection/sharing and communication</i></b>   |
| <ol style="list-style-type: none"> <li>1. Large amount of data to be collected and assessed under current MSFD</li> <li>2. Data gaps remain (especially for less mature Descriptors), insufficient monitoring</li> <li>3. Data collection not harmonised/standardised across MS, administrations and policy frameworks (making it difficult to compare data)</li> <li>4. Complexity of data infrastructures at national and EU levels</li> <li>5. Lack of harmonised/ standardised methods for monitoring and assessment (individual and cumulative)</li> <li>6. Reporting requirements not effectively linked to enforcement and communication needs</li> <li>7. Public access to data is limited, affecting public participation in the marine strategies</li> </ol> |

#### ***4. Ensuring effective data management.***

##### **Options for improving data management**

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| <b><i>Improve data management: facilitate data collection, reduce reporting, and improve data use and communication</i></b>   |
| Context: the objective would be to ensure that the right information is monitored, collected and used to achieve the objectives of the MSFD (including knowledge building), and that the right data (and only that) is shared with authorities (national/EU) and the public for the purposes of compliance and communication. |
| <b>Improve and simplify MSFD data collection and reporting for assessments and knowledge building</b>   |

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| COM/EEA to harvest data needed from national databases to produce assessments and produce assessments based on primary data.  |
| Provide for continuous reporting/harvesting for Article 8 assessments and monitoring instead of cyclical reporting  |
| Further detail and harmonise requirements for monitoring and data collection according to the GES Decision in an Annex of the Directive (or of the Decision)  |
| <b>Reduce and facilitate MSFD data use data for compliance control</b>  |
| Remove/lessen the obligation to report to COM on monitoring programmes  |
| Lessen the reporting obligations to COM for the PoMs (but still ensure public access to information)  |
| Strengthen and simplify the reporting obligations to COM in relation to the environmental targets (progress towards and achievement of targets), possibly in combination with continuous reporting  |
| Update and specify technical and digitalisation requirements (mandate e-reporting) in line with INSPIRE Directive, and provide for marine reporting units to ensure consistent reporting on measures and targets  |
| <b>Improve data use for communication and transparency</b>  |
| Provide for high-level proxies to monitor progress and communicate on progress/results: i.e. a limited set of indicators to be monitored and reported to a wide audience, showing progress towards GES.   |
| Communicate on progress with achievement of targets at frequent intervals (e.g. through Commission report every 2-3 years) and communicate on assessment of EU marine waters in relation to GES in a longer timeframe (e.g. through EEA report every 6 years). No longer communicate on other elements of the MS marine strategies. |
| Improve communication to the public and transparency of reported information through awareness campaigns  |
| Strengthen requirements for public consultation by MS on Assessments and GES determination, monitoring programmes and PoMs.   |

##### **5. Questions for discussion**

- Do you agree with the conclusions from the evaluation?
- Do you identify other shortcomings/good practices from the current framework?
- Do you identify other possible options for the review of the Directive?