



BACKGROUND NOTE MSFD REVIEW

Subject: Review of the Marine Strategy Framework Directive – Improving policy coherence

1. Introduction

Article 23 of the Marine Strategy Framework Directive¹ 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 external evaluation study² of the MSFD, which will, support the Commission's own evaluation report. Meanwhile DG ENV has started work on an Impact Assessment (IA) for a possible future revision of the Directive.

The evaluation study has shown that although the MSFD was designed to work in coordination with other EU policies already in place, particularly those in the water and nature/biodiversity sectors, some ambiguities and overlaps in scope and specifications remain, leading to duplication of effort in reporting processes and potential gaps in the level of protection.

This note describes the policy context and issues on data use and reporting, as well as ways to address those, which should

This note presents the findings on coherence between the Directive and related EU policies, as well as ways to address those issues. Those findings and options 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 (GES) 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*'.

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

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

The Directive has been in force since 2008 ⁽³⁾, 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 1⁴), set environmental targets and indicators, establish and implement 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 has been carried out pursuant to article 12, and a final EU level report with recommendations by COM is expected mid-2022.

The Directive's specific and wider objectives can only be achieved with full implementation of other environmental legislation and key sectoral policies. More specifically, in order to achieve GES of all marine waters and across all descriptors, the implementation of, among others, the following policies, plays a major role: water, biodiversity and nature, chemicals and waste, maritime and fisheries, agriculture, energy, climate change, and transport.

3. *MSFD Evaluation – conclusions on policy coherence*

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 on the coherence between the MSFD and related EU policy is provided below (with references to the EU legislation in abbreviated form, see for full references the summary tables that are provided in the Annex to this note):

A. EU environmental legislation:

*The MSFD was designed to work in coordination with other EU policies already in place, particularly those in the water and nature/biodiversity sectors. **The implementation of these policies plays a major role in contributing to achievement of the objectives of the MSFD.** However, some ambiguities and overlaps in scope and specifications remain, leading to duplication of effort in reporting processes and potential gaps in the level of protection.*

- **In the Water sector**, the Water Framework Directive (WFD) and a number of related Directives⁵ have been assessed, in terms of scope and implementation.

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

⁴ 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 — Eutrophication, D6 — Sea-floor integrity, D7 — Hydrographical changes, D8 — Contaminants, D9 — Contaminants in seafood, D10 — Litter, D11 — Energy, including underwater noise.

⁵ EQS Directive (2008/105/EC) – environmental quality standards in the field of water policy; Nitrates Directive (91/676/EEC) and UWWTD (91/27/EEC)

- The MSFD and WFD are intended to be complementary, even if, in practice, delays in reporting can hinder this complementarity. Objectives within both Directives refer to ‘good status’ and, as framework directives, they adopt a similar overarching approach. Efforts at EU level to foster cooperation between the two implementation processes and cross-references in methodological standards facilitated coordinated implementation of the water and marine directives. Some inconsistencies remain however:
 - The WFD and the MSFD use two different approaches to environmental protection (structural vs. functional).
 - The overlapping spatial scope creates inconsistencies in transitional and coastal waters, with the WFD taking precedence.
 - The lack of alignment in the different pressures addressed by the directives and the limited number of measures focusing on land-sea interactions create uncertainty for stakeholders, particularly economic operators such as those in the navigation sector
- **Objectives in EU Biodiversity policies** are generally consistent with the MSFD. The MSFD and Nature Directives (Birds and Habitats Directives) share the goal of protecting and maintaining biodiversity - but have different, yet complementary, approaches to achieving that goal. The Nature Directives use a spatial approach to protection or focus on the protection of individual species. The MSFD requires a holistic approach to marine biodiversity protection, aiming to reduce pressures everywhere in the sea to allow marine ecosystems and food chains to recover and thrive. GES for biodiversity descriptors therefore cannot be achieved solely through implementing the Nature Directives. Findings show that overreliance on existing measures under the Nature Directives meant that PoMs might not tackle the full range of pressures needed to work towards GES for biodiversity. The legal analysis and desk research also have shown discrepancies in the reporting timelines of the MSFD and Nature Directives, implying that Member States’ reusing data for reporting purposes may not be drawing on the most recent data available.
- The **Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives** aim to integrate environmental concerns into projects, plans and programmes that are expected to impact the environment. SEAs are required for plans and programmes in specific sectors, such as water management, fisheries and energy, as well as plans that set the framework for the future development of projects, such as maritime spatial plans. Proper implementation and functioning of these directives is essential if they are to effectively flag threats to the marine environment before they occur.
- The MSFD requires coherence with the **INSPIRE Directive**, which sets up an EU infrastructure for spatial information that facilitates sharing of data related to the environment and requires Member States to align data collection efforts with INSPIRE standards. Uptake among Member States in actual reporting has been slow, but guidance through the MSFD common implementation strategy, better connections with INSPIRE national focal points and further experience with reporting under MSFD is expected to improve the situation.

B. Related EU sectoral policies

*Several sectors have a direct impact on the marine environment, including the **maritime sector, transport and energy**. **Climate change** also constitutes a growing threat to the*

achievement of GES. Indirect pressures such as land-based pollution from agricultural policies may impact the state of marine ecosystems. Most of the sectors analyzed, constitute sources of **anthropogenic pressures** on marine ecosystems (as listed in Annex III to the MSFD ⁽⁶⁾). Growing concerns over the preservation of the marine environment and the maintenance of ecosystem services further reinforce the need for integrated implementation of sectoral and environmental EU policies.

- Environmental impacts from **fisheries activities** are clearly cross-referenced between the Common Fisheries Policy (CFP) and the MSFD. Practical coordination of the MSFD and CFP at implementation level is also subject to gaps and inconsistencies. For example, the implementation of conservation measures under Article 11 of the CFP has proved challenging, time-consuming and not always effective. In addition, the CFP governs the data collection processes for fisheries which feeds partially into MSFD assessments, but the format and intended use of the raw data are not fully aligned. Finally, only a small share of EU funds (EMFF/EMFAF) are used to support conservation measures. Obstacles include, among others, insufficient cooperation between fisheries and environmental authorities, the scope of conservation measures, stakeholder involvement, and monitoring and enforcement controls.
- Both the **Ship-Source Pollution Directive** and the **Directive on Port Reception Facilities** support the MSFD objectives of reducing pollution and nutrient input at sea, and their implementation directly contributes to the MSFD descriptors by targeting waste discharges from ships. The Ship-Source Pollution Directive also sets out enforceable standards for pollution, although its waste group definitions are not fully aligned with the MSFD pollutant groups, creating inconsistencies.
- The **Maritime Spatial Planning Directive (MSP)** has considerable potential for synergy with the MSFD over time, with some recently published national maritime spatial plans showing efforts to streamline MSFD Programmes of Measures and MSP processes at national level. Similarly, the new EU Communication on a **Sustainable Blue Economy** shares the key principle of sustainability and the relationship between human activities and the marine environment. It also highlights the importance of a healthy marine environment for marine users. However, the policy is new and its effects are not yet visible.

With the MSP requiring the application of the Ecosystem Based Approach and the coverage of a wide range of activities and potential pressures on the marine environment, European maritime spatial plans should bridge the gap between the objectives of the 2012 Blue Growth strategy and the MSFD. Conversely, indicators to assess GES should be central in assessing the effectiveness of maritime spatial plans.

- Annex III to the MSFD identifies **agriculture as a key pressure**, yet pollution inputs from agricultural activities are still too high, resulting in eutrophication. The overall goal of the reformed Common Agricultural Policy (CAP) (2023) is to promote a sustainable and competitive agricultural sector, which is considered somewhat coherent with the objective of achieving and maintaining GES. However, there is a need to ensure wider uptake of sustainable agricultural management practices to improve the state of water and biodiversity. In addition, the implementation processes of the CAP and MSFD are not streamlined, with a lack of monitoring of the impacts of agricultural pollution on the marine

⁽⁶⁾ Annex III MSFD was replaced by Commission Directive 2017/845/EU

environment.

- A link between agriculture (food) and marine resources is established via the **Foodstuffs Regulation**. Setting out maximum levels for certain contaminants in foodstuffs (covering marine oil and fish) indirectly affects pollution levels in the marine environment and contributes directly to the determination of GES under Descriptor 9 (contamination in seafood).
- An analysis of **EU energy policies** showed that while the key goals of the Regulation on Governance of the Energy Union and Climate Action (e.g. achieve long-term GHG emissions commitments) are not contradictory to the MSFD, other objectives set by the Regulation should be viewed more critically when assessing coherence, such as the impacts of increased deployment of offshore renewable energy production, on the marine environment. Similarly, the **Offshore Directive** should contribute to ensuring the protection of the marine environment by reducing the impacts of accidents and other hazards from oil and gas exploitation at sea
- Findings from the desk review and consultation show that coordinating the work of the competent authorities requires further effort and better communication. The findings also point to the need to better coordinate the allocation of EU funds to conservation measures. **The MSP Directive is the maritime policy instrument with the greatest potential synergies with the MSFD**, with the development of national maritime plans showing some promise in respect of coordination.
- Despite **potential synergies between the MSFD and European scientific data-sharing platforms (e.g. EMODnet, Copernicus)**, the platforms represent a missed opportunity to share information and streamline reporting exercises across Europe.

Key findings on the assessment of coherence between the MSFD and EU sectoral policies in practice confirmed concerns about the coherence of objectives. There is a lack of follow-up on the measures taken and their potential impacts on the marine environment. Where connections are made, the processes lack clear guidance and communication lines to share data and improve coordination.

Summary table

| <i>Insufficient Policy coherence MSFD and related EU legislation</i> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none">1. Ambiguities and overlaps in scope and provisions between MSFD and related legislation lead to a duplication in reporting and potential gaps.2. Inconsistencies and overlaps with WFD: geographic scope, reporting timeline, pressures.3. Inconsistencies with Nature Directives: reporting cycle.4. Growing trends/pressures not well integrated (maritime transport, generation of renewable energy, climate change)5. Climate change impacts not integrated in MSFD monitoring and assessments.6. Insufficient allocation of EU funding to MSFD measures.7. Descriptors differ from UN indicators for SDG14.8. Conflicting policy interests/agendas at national and EU level. National and EU administrations working in silos. |

4. *Ensuring policy coherence between the MSFD and related sectoral policies*

Options for improving policy coherence

| |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Improve policy coherence |
| Align and promote MSFD provisions and objectives within relevant EU environmental legislation |
| <p>Technical alignment with relevant EU environmental legislation, i.e. the WFD and BHD, and EIA/SEA Directives (adopting all/one of the possible measures below:</p> <ol style="list-style-type: none"> Amend MSFD reporting cycle to align with WFD and BHD Update guidance/lists Align pressures (descriptors) Amend geographic scope Amend MSFD definitions Linking MSFD clearly to the EIA/SEA Directives |
| Align and promote MSFD provisions and objectives within relevant EU maritime legislation |
| <p>Alignment with relevant EU maritime legislation, including:</p> <ol style="list-style-type: none"> Alignment with Maritime Spatial Planning Directive: scope, objectives and timelines Improve the protection of MPAs against negative impacts from fishing, through an amendment of Article 15 in conjunction with art. 13(4) MSFD Establish consolidated links with EU legislation addressing individual pressures (SUPD for litter, Offshore safety directive for oil & gas, including decommissioning) |
| Improve cooperation between competent authorities |
| Provide for strict requirement in the Directive for interdepartmental cooperation at MS level/ or division of responsibilities |
| Incorporate climate change impacts in the Directive |
| Create a new descriptor addressing climate change |
| Include climate change in the list of pressures (Annex III) and more thoroughly integrate it into existing descriptors (e.g. D7) |
| Provide COM guidance on the integration of climate impacts during development of marine strategies, including within EIA and SEA) |

1. *Questions for discussion*

- Do you agree with the conclusions from the evaluation?
- Do you identify other shortcomings and/or good practices in the current framework?
- Do you identify/consider other ways of addressing the lack of policy coherence between the MSFD and related EU policies in the marine/maritime sector?

Encl: Overview tables on relevant EU legislation (from the Milieu/Acteon Evaluation support study):

Annex 1 – Table of main legislation and policies, by relevant sectors

Annex 1.1 – Key elements of main relevant EU water policies

Annex 1.2 - Summary of main points for water policies

Annex 1.3 – Key elements of main relevant EU biodiversity and nature legislation

Annex 1.4 – Summary of main points for biodiversity policies

Annex 1.5 – Summary of main points for other environmental initiatives and policies

Annex 2 – Table of main legislation and policies affecting the marine environment, in particular fisheries, maritime spatial planning, energy, transport and climate change

Annex 2.1 – Key elements of main relevant EU policies in the maritime and fisheries sector

Annex 2.2 - Summary of main points for maritime and fisheries policies

Annex 2.3 - Summary of main points for climate change policies

Annex 1 – Table of main legislation and policies, by relevant sectors

| Sector | Directive/Policy |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Water policies | WFD (2000/60/EC) |
| | EQS Directive (2008/105/EC) |
| | Nitrates Directive (91/676/EEC) |
| | UWWTD (91/27/EEC) |
| | BWD (2006/7/EC) |
| | Drinking Water Directive (DWD) (98/83/EC; revised Directive (EU) 2020/2184) |
| | Floods Directive (FD) (2007/60/EC) |
| Biodiversity and nature policies | BD (2009/147/EC) |
| | HD (92/43/EEC) |
| | Invasive Alien Species Regulation (1143/2014) |
| | Environmental Liability Directive (ELD) (2004/35/EC) |
| | Biodiversity Strategy for 2030 (COM(2020) 380) |
| Chemicals and waste policies | Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (Regulation (EC) 1907/2006) |
| | Plant Protection Product Regulation (Regulation (EC) No 1107/2009) |
| | Biocidal Product Regulation (Regulation (EU) No 528/2012) |
| | EU Strategic Approach to pharmaceuticals in the environment (COM(2019) 128 final) |
| | Chemicals Strategy for Sustainability (COM(2020) 667 final) |
| | Circular Economy Action Plan (COM(2020) 98 final) |
| | Waste Framework Directive (2008/98/EC) |
| | SUP Directive (Directive (EU) 2019/904) |
| Other environmental initiatives and policies | EGD (COM/2019/640 final) |
| | Environmental Impact Assessment (EIA) Directive (2014/52/EU) and Strategic Environmental Assessment (SEA) Directive (2001/42/EC) |
| | INSPIRE Directive (2007/2/EC) |

Annex 1.1 – Key elements of main relevant EU water policies

| Directive | WFD | EQS Directive | Nitrates Directive | UWWTD |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Overarching goal | Achieve good waters | Achieve clean surface waters | Protect human health, living resources and aquatic ecosystems | Ensure appropriate treatment for urban waste water |
| Subject of protection | Inland surface waters, transitional waters, coastal marine waters and groundwater | Surface waters | Waters affected by pollution and waters that could be affected by pollution | All receiving waters |
| Relevance for MSFD descriptors | D5, D6, D7, D8 | D8 | D5, D8 | D5, D8 |
| Date | 2000 | 2008 (amended in 2013) | 1991 | 1991 |
| Objectives | Ensure good ecological and chemical status of surface and ground waters | Ensure good surface water chemical status | Reduce and prevent water pollution caused or induced by nitrates from agricultural sources | Protect human health and the environment from the adverse effects of waste water discharges |
| Measures | Member States are to take the necessary measures to prevent deterioration and enhance status of aquatic ecosystems, associated wetlands and groundwater, reduce pollution from priority substances, and promote sustainable water use | Member States are to take the necessary measures with the aim of progressively reducing pollution from priority substances and ceasing or phasing-out emissions, discharges and losses of priority hazardous substances | Member States are to encourage good agricultural practices that can provide all waters with a general level of protection against pollution in the future Member States are to identify vulnerable zones and establish and implement action programmes to reduce water pollution from nitrogen compounds in vulnerable zones | Member States shall ensure that all agglomerations are provided with collecting systems for urban waste water, as well as ensure that urban waste water entering collecting systems shall, before discharge, be subject to secondary treatment or equivalent treatment Member States are to identify sensitive areas |
| Timetable | Achieve good status by 2015 | Achieve good water surface chemical status by 2015 and 2021 for revised substances in 2015 | Not specified | Member States shall by 31 December 1993 establish a programme for the implementation of this Directive and by 30 June 1994 provide the |

| Directive | WFD | EQS Directive | Nitrates Directive | UWWTD |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | Commission with information on the programme If necessary, Member States shall provide the Commission by 30 June every two years with an update to the programme |
| Scope relevant for marine areas | Surface waters up to 1 nautical mile (nm) in transitional and marine waters, and groundwaters up to 1 nm for ecological status and 12 nm for chemical status in coastal waters | Surface waters up to 1 nautical mile (nm) in transitional and marine waters | All surface groundwaters, freshwater bodies, estuaries, coastal waters and marine waters, found to be eutrophic or that could become eutrophic | River basins and sub-basins, similar to the WFD |

Annex 1.2 - Summary of main points for water policies

Summary of main points for water policies

- Of the water policies considered, most (BWD, FD, DWD) refer to the WFD but not the MSFD, either because they were adopted prior to the MSFD or because they are only loosely linked. No major incoherence was identified with these initiatives and their objectives were found to be complementary.
- The MSFD and WFD are intended to be complementary. Objectives refer to ‘good status’ and, as framework directives, both adopt a similar overarching approach.
- Several policies such as the Nitrates Directive, the UWWTD and the EQS Directive are listed in Annex VI and Annex IX to the WFD as basic measures and pollution limits values to be implemented and monitored. Given the complementarity of the WFD and MSFD, these measures should also support the objectives of the MSFD by reducing pollution levels from land-based sources (e.g. chemical and agricultural pollutants).
- Cross-references in methodological standards seek to ensure coordinated implementation of the WFD and MSFD. Efforts are made at EU level to foster cooperation between the two implementation processes (workshops and meetings within the CIS, JRC guidance, joint information systems).
- Overlapping spatial scope of the two directives creates inconsistencies in transitional and coastal waters, with the WFD taking precedence. The pressures addressed by the directives are not systematically identical and some may be overlooked. This can create confusion for stakeholders, particularly economic operators, such as those in the navigation sector.
- The WFD and the MSFD use two different approaches to environmental protection (structural vs. functional) to reach ‘Good Status’ which may lead to measures under the WFD being insufficient to achieve GES under the MSFD.
- Lack of emphasis on land-sea interactions in the measures means that some WFD and MSFD pressures need to be better linked (e.g. interactions in transitional waters, monitoring and management of sediments relevant for D7).

Annex 1.3 – Key elements of main relevant EU biodiversity and nature legislation

| Directive | BD | HD | Invasive Alien Species Regulation | ELD | Biodiversity Strategy for 2030 |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| Overarching goal | Ensure the conservation of all wild birds in the European territory by maintaining population levels which correspond to ecological, scientific and cultural requirements while taking account of economic and recreational requirements | Contribute to biodiversity conservation through the restoration and maintenance of natural habitats and species | Prevent ecosystem damage from invasive alien species | Prevent and remedy environmental damage | Protect nature and restore ecosystems |
| Subject of protection | All listed naturally occurring wild birds within the EU | Listed habitats and species of Community interest | EU biodiversity | Environmental damage | EU nature |
| Relevance for MSFD descriptors | D1, D4 | D1, D4, D6 | D1, D2, D4 | Overarching | Overarching |
| Date | 1979, reformed in 2009 | 1992 | 2014 | 2004 | 2020 |
| Objectives | Conservation of all species of birds naturally occurring in the wild state in the European territory of the Member States | Ensure FCS | Prevent, minimise and mitigate the adverse impact on biodiversity of the introduction and spread within the Union, both intentional and unintentional, of invasive alien species | Establish a framework of environmental liability based on the ‘polluter-pays’ principle (Article 2) | Put biodiversity on the path to recovery by 2030 |
| Key measures | Member States are to ensure a sufficient diversity and area of habitats for the relevant | Member States are to contribute to the creation of the Natura 2000 network | Member States are to take prevention measures (through | The Directive imposes liability on an operator for preventing and | Extending and improving the EU network of protected |

| Directive | BD | HD | Invasive Alien Species Regulation | ELD | Biodiversity Strategy for 2030 |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------------------|
| | species of birds, create Special Protection Areas (SPAs) and establish a general system of protection for all relevant species of birds | and designate Special Areas of Conservation (SACs), as well as establish a system of strict protection for animal and plant species | restrictions, permits, authorisations, emergency measures), ensure the early detection and rapid eradication of invasive alien species and ensure their management when widely spread | remediating a threat of, or actual, environmental damage | areas and developing an ambitious restoration plan for EU ecosystems |
| Timetable | No formal timetable | No formal timetable | Not specified | Not specified | 2030 |
| Scope relevant for marine areas | EU marine biogeographical regions (5) for all listed naturally occurring wild birds within the EU | EU marine biogeographical regions (5) for listed habitats and species of Community interest | All invasive alien species | Protected species and natural habitats (Article 3) | All MPAs and degraded marine ecosystems |

Annex 1.4 – Summary of main points for biodiversity policies

Summary of main points for biodiversity policies

- Biodiversity policies' objectives are considered generally consistent with the MSFD. While the ELD includes implicit links with the MSFD, the scope and objectives of the Invasive Alien Species Regulation directly contribute to the achievement of GES for non-indigenous species (D2). The MSFD and Nature Directives share different yet complementary goals, aiming to protect and maintain thriving biodiversity.
- The EU Biodiversity Strategy for 2030 is ambitious and is coherent with the MSFD in its objectives and scope. It lays the basis for the development of legally binding nature restoration targets, which are likely to be proposed by the Commission in 2022 and would create an additional driver for the achievement of GES for many descriptors, as well as exerting pressure to extend and improve MPAs. It also calls for the adoption of an action plan to conserve fisheries' resources and protect marine ecosystems, which will help to increase coherence between fisheries and nature protection legislation.
- Some discrepancies were noted between the scope of the Nature Directives and the MSFD. The Nature Directives adopt a more targeted and area-bound approach to environmental conservation, unlike the MSFD, which is tailored so as to cover ecosystems as a whole. Some elements may thus be overlooked, such as offshore and water column habitats, which are considered only partially (if at all) under the Nature Directives.
- Cross-references to methodological standards help to ensure coordinated implementation of the Nature Directives and the MSFD. Assessments under the HD may directly

Summary of main points for biodiversity policies

contribute to the MSFD. Efforts are being made at EU level to foster cooperation between the two implementation processes (workshops and meetings within the CIS group, JRC guidance, joint information systems).

- The MSFD and Nature Directives also rely on spatial conservation measures to contribute to their objectives. The MSFD emphasises the importance of establishing a coherent network of MPAs across European seas, while the Nature Directives rely on the development of the Natura 2000 network and strict protection regimes for listed species. The desk research and interviews underlined the complementarity of these mutually supportive measures.
- That complementarity may not, however, guarantee that GES will fully be achieved for biodiversity descriptors (D1/4/6) through the implementation of the Nature Directives alone. The HD does not prohibit human activities in Natura 2000 sites but, rather, tolerates the sustainable use of resources under certain conditions. Protected areas may also be subject to outside pressures, such as contamination, alien species introduction, and climate change. There are gaps the MSFD needs to address. Findings highlighted that overreliance on existing measures under the Nature Directives meant that PoMs might not tackle the full range of pressures needed to work towards GES for biodiversity.
- The legal analysis and desk research showed discrepancies in the reporting timelines of the MSFD and Nature Directive, implying that Member States' reusing data for reporting purposes may not be drawing on the most recent data available.

Annex 1.5 – Summary of main points for other environmental initiatives and policies

Summary of main points for other environmental initiatives and policies

- The EGD is an overarching roadmap of actions linked to several policy initiatives and pieces of legislation. The EGD and the MSFD both point to the same challenges in relation to the deterioration of the state of environment and the same need to protect and restore environmental resources, but the EGD has a much broader scope. Both initiatives call for coherence with other policies.
- The EGD is linked to several topic-related strategies ('building blocks'), which are reflected in many of the objectives and planned actions, and are coherent with the objectives and instruments of the MSFD:
 - The Zero pollution action plan (adopted in May 2021), which aims to reduce pollution of air, water and soil to levels that are not harmful to health and natural ecosystems. The proposed targets for marine water are to reduce plastic litter at sea by 50 % and to reduce microplastics released into the environment by 30 %.
 - The Farm to Fork Strategy does not explicitly refer to the MSFD but emphasises the importance of promoting sustainable practices in fisheries and aquaculture.
 - The SEA and EIA Directives aim to provide high-level protection of the environment and environmental mainstreaming in the preparation and adoption of projects, plans and programmes. Their scope of action includes marine policy, with desk research showing that the assessments prescribed under the EIA and SEA Directives are relevant to the assessment of status of all MSFD descriptors. The data-sharing implied in the MSFD can offer significant synergies with EIA and SEA procedures, although further streamlining and coordination efforts are needed.
- INSPIRE Directive is explicitly mentioned in the MSFD, which confirms alignment with its methodological standards for the assessment of the status of the marine environment, monitoring, environmental targets, and technical formats for transmission and processing of data. The desk research found that some differences in standards and software for data

Summary of main points for other environmental initiatives and policies

processing are reported to hinder the coordination of both Directives and the interoperability of the data exchanged. Further efforts and guidance should overcome this issue.

Annex 2 – Table of main legislation and policies affecting the marine environment, in particular fisheries, maritime spatial planning, energy, transport and climate change

| Sector | Directive/Regulation/Policy |
|----------------------------------------------|-----------------------------------------------------------|
| Maritime and fisheries policies ⁷ | CFP |
| | Strategic Guidelines on Aquaculture (2021 – 2030) |
| | Data Collection Framework (DCF) Regulation (EU) 2017/1004 |
| | EMFF and EMFAF Regulations |
| | MSP Directive (2014/89/EU) |
| | Communication on a Sustainable Blue Economy COM(2021) 240 |
| | Ship-Source Pollution Directive 2005/35/EC |
| | Port Reception Facilities (PRF) Directive (EU) 2019/883 |
| Agriculture and food safety | CAP |
| | Foodstuffs Regulation (Regulation (EC) 1881/2006) |
| Energy | Energy Union Framework Strategy |
| | EU Offshore Renewable Energy Strategy |
| Climate change | 2020 Climate and Energy Package |
| | 2030 Climate and Energy Framework |
| | Taxonomy Regulation |
| Transport networks | Trans-European Transport Network (TEN-T) policy |
| | EU Smart Mobility Strategy |

Annex 2.1 – Key elements of main relevant EU policies in the maritime and fisheries sector

| Directive/Regulation | CFP Regulation (and rules) | MSP Directive | Ship-Source Pollution Directive | PRF Directive | EU Communication on a Sustainable Blue Economy |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------|
| Overarching goal | Conservation of marine biological resources and sustainable management of fisheries and fleets exploiting those resources | Support the implementation of the Sustainable Blue Economy and ensure sustainable development of the maritime sector | Support protection of the marine environment from pollution by ships | Protect the marine environment from ships' waste discharges | Contribute to the achievement of EGD objectives |
| Subject | Fishing and aquaculture activities | Maritime activities | Maritime activities | Maritime activities | Reducing environmental impacts from Blue Economy |

⁷ This assessment focuses on the CFP and does not cover its technical regulations, such as the Control Regulation, Technical Measures Regulation or the Illegal, Unreported and Unregulated Fishing Regulation. Several very specific policies are considered but not evaluated further due to their limited scope. This includes the Ship Recycling Regulation ((EU) No 1257/2013), Prohibition of organotin compounds on ships Regulation ((EC) No 782/2003), and Reduction in the sulphur content of certain liquid fuels Directive (2016/802/EU).

| Directive/ Regulation | CFP Regulation (and rules) | MSP Directive | Ship-Source Pollution Directive | PRF Directive | EU Communication on a Sustainable Blue Economy |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | sectors |
| Relevance for MSFD descriptors | D1, D3, D4, D6 | All | D5, D8 | D5, D8, D10 | All |
| Date | CFP originally formed part of CAP 1983, 1992, 2002, 2013 Last reformed in 2013 | 2014 | 2005 | 2019, amending Directive 2010/65/EU and repealing Directive 2000/59/EC | 2021 |
| Objectives | Ensure that fishing and aquaculture activities are environmentally sustainable in the long- term, ensuring socioeconomic benefits Implement an EBA to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised and avoid degrading the marine environment Guarantee that healthy levels of marine resources are maintained or restored through achieving MSY | Reduce conflict and create synergies between sectors while encouraging investment in maritime activities and protecting marine ecosystems Increase cross-border cooperation | Incorporate international standards for ship-source pollution into Community law and ensure that persons responsible for discharges are subject to adequate penalties in order to improve maritime safety and to enhance the protection of the marine environment from pollution by ships | Protect the marine environment from the negative effects of discharges of waste from ships using ports located in the Union, while ensuring the smooth operation of maritime traffic, by improving the availability and use of adequate port reception facilities and the delivery of waste to those facilities | Transition from 'blue growth' to Blue Economy and expand sustainable, climate-proof activities to the maritime sector |
| Measures | CFP provides for a wide- ranging toolbox of | Member States are to define and implement | Member States shall ensure that ship-source | Member States shall ensure the availability | Address the climate and biodiversity crises, reach |

| Directive/ Regulation | CFP Regulation (and rules) | MSP Directive | Ship-Source Pollution Directive | PRF Directive | EU Communication on a Sustainable Blue Economy |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>conservation and management measures that can be used by Member States and the Commission. Types of measures are listed in Article 7 of the CFP Regulation, e.g. multiannual plans, adapting fishing capacity, fixing and allocating fishing opportunities, measures necessary for compliance with environmental legislation, technical measures</p> | <p>maritime spatial plans to promote and support the sustainable development and growth of EU maritime activities, applying an EBA</p> | <p>discharges of polluting substances into any of the areas referred to in Article 3(1) of the Directive are regarded as infringements if committed with intent, recklessly or through serious negligence Member States shall take the necessary measures to ensure that infringements are subject to effective, proportionate and dissuasive penalties, which may include criminal or administrative penalties Member States shall take the measures necessary to ensure that the penalties referred to in paragraph 1 apply to any person who is found responsible for an infringement</p> | <p>of port reception facilities adequate to meet the need of the ships normally using the port without causing undue delay to ships Relevant authorities shall ensure that waste delivery or reception operations are carried out with sufficient safety measures to avert risks to persons and the environment at ports covered by this Directive Member States shall ensure that an appropriate waste reception and handling plan is in place and has been implemented for each port following ongoing consultation</p> | <p>objectives of climate neutrality and zero pollution, promote the prevention of waste and the principles of the circular economy, invest in nature</p> |

| Directive/ Regulation | CFP Regulation (and rules) | MSP Directive | Ship-Source Pollution Directive | PRF Directive | EU Communication on a Sustainable Blue Economy |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| | | | | s with the relevant parties | |
| Timetable | 2015 where possible, 2020 at the latest For certain Mediterranean stocks regulated under a multiannual plan, MSY should be achieved at the latest on 1 January 2025 | National maritime spatial plans to be established by March 2021 at the latest | Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 March 2007 | The Directive of 17 April 2019 required compliance by 28 June 2021. | Not specified |
| Scope | Applies to marine biological resources and fisheries <ul style="list-style-type: none"> ■ on the territory of Member States to which the Treaty applies ■ in Union waters, including by fishing vessels flying the flag of, and registered in, third countries ■ by Union fishing vessels outside Union waters ■ To nationals of Member States ■ Marketing and financial measures | Applies to the marine waters of Member States without prejudice to other EU legislation | Applies to discharges of polluting substances in internal waters, including ports, territorial seas, straits used for international navigation over which Member States exercise jurisdiction and the high seas All ships excluding warships and other government ships on non-commercial service | Applies to all ships operating within or calling at a port of a Member State with the exception of port services ships, warships and other government non-commercial ships All ports of the Member States | Applies to Europe's seas and oceans (not specifically defined) and all activities within the maritime sector |

| Directive/ Regulation | CFP Regulation (and rules) | MSP Directive | Ship-Source Pollution Directive | PRF Directive | EU Communication on a Sustainable Blue Economy |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------------------|------------------|------------------------------------------------------------|
| | also apply to freshwater biological resources, aquaculture, the processing and marketing of fisheries and aquaculture products | | | | |

Annex 2.2 - Summary of main points for maritime and fisheries policies

Summary of main points for maritime and fisheries policies

- Legal analysis shows that all maritime policies explicitly state that the preservation of the environment and the sustainable management of marine resources is essential to ensure a viable Blue Economy for the coming years and decades. Despite these complementary ambitions for the protection of the marine environment, alignment seems more limited in practice. Findings from the literature review and the consultation suggest that the objective of economic development may oppose that of environmental protection, with no clear streamlining of the definitions between sectoral and environmental EU policies. The pursuit of activities such as fisheries or aquaculture may conflict with the achievement of GES.
- The CFP governs the data collection processes for fisheries and may feed into MSFD assessments. However, the format and intended use of the raw data are not fully aligned between the two legislative acts, leading to inconsistencies and duplication of effort. For instance, the Scientific, Technical and Economic Committee for Fisheries (STECF) and ICES concluded that Member States' work programmes under the DCF Regulation do not collect sufficient environmental data to address the scope under Article 1(1) and the content and criteria under Article 5(2)(b) of the Regulation.
- Practical coordination of the MSFD and CFP at implementation level is subject to gaps and inconsistencies. The implementation of conservation measures to achieve MSFD objectives through Article 11 of the CFP has proved especially challenging, time-consuming and ineffective. Desk research identified several obstacles, including insufficient cooperation between fisheries and environmental authorities, the scope of conservation measures, stakeholder involvement, and monitoring and enforcement controls.
- Guidelines adopted in 2021 on sustainable aquaculture refer to the existing EU environmental legislation that sets the regulatory framework for EU aquaculture (including the MSFD). They also recognise that the environmental performance of the EU aquaculture sector can be improved by ensuring that environmental legislation is applied and its objectives are met, as well as mitigation of the impacts of aquaculture and ensuring lower environmental impact.
- The literature review and the 2021 MSFD Conference highlighted that competent authorities differ between the fisheries and environmental sectors (the former falling under the exclusive competence of the Commission and the latter remaining within shared competence with coastal Member States). This leads to uncertainties and

Summary of main points for maritime and fisheries policies

misunderstandings about responsibility and ownership of measures to preserve marine ecosystems.

- Room for better coordination is reflected in the use of the available funding, with only a small share of EU funds (EMFF/EMFAF) used to support conservation measures. Desk research identified articles that could potentially lead to conflicts in the new EMFAF Regulation, whose increased financial commitments are viewed as allowing increased fleet capacity, resulting in unsustainable fisheries.
- Both the Ship-Source Pollution Directive and the PRF Directive support the MSFD objectives of reducing chemical and litter pollution and nutrient input at sea, while the implementation of these Directives directly contributes to the objectives under D5, D8 and D10 by targeting waste discharges from ships. Importantly, the Ship-Source Pollution Directive sets out enforceable standards for pollution. Despite these clear links, both the Ship-Source Pollution and the PRF Directives are linked to MARPOL for waste group definitions, which are not fully aligned with the MSFD pollutant groups, creating inconsistencies between these two Directives and the MSFD.
- The 2020 report on the implementation of the MSFD warned that the EU's Blue Growth Strategy could contradict the MSFD objective to achieve GES, particularly given the potential expansion of maritime activities such as offshore energy and aquaculture⁸. The new Commission Communication on a Sustainable Blue Economy, however, shares the key principle of sustainability with the MSFD, in particular EBA and the relationship between human activities and the marine environment. It also highlights the importance of a healthy marine environment for marine users. While the Strategy acknowledges that economic growth should not contradict environmental protection efforts, the safeguards in place to prevent this are unclear as yet. As the Strategy is new, coherence can only be assessed once it is fully implemented.
- The MSP Directive has considerable potential for synergy with the MSFD. The Directive entered into force in 2014 and experience remains somewhat limited. However, some recently published national maritime spatial plans show efforts to streamline the PoMs and MSP processes at national level.

Annex 2.3 - Summary of main points for climate change policies

Summary of main points for climate change policies

- Climate change is a connecting factor in all EU policies rather than a 'sectoral policy' itself, as climate change risks and adaptations are to be considered and recognised within all EU policies and sectors.
- Reductions in carbon emissions are relevant to achieving MSFD goals, as the ocean is disproportionately impacted by increasing carbon dioxide (CO₂) and other GHG emissions from human activities.
- The Taxonomy Regulation (Regulation (EU) 2020/852) provides a classification system and establishes a list of environmentally sustainable economic activities. A separate delegated act shall be established to cover activities making a substantial contribution to environmental objectives such as the protection of water and marine resources and the protection and restoration of biodiversity and ecosystems.

⁸ European Commission, Communication from the Commission — Guidelines on State aid for environmental protection and energy 2014-2020 (OJ C 200, 28.6.2014).