



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing a Framework for Community Action in the field of Marine Environmental
Policy
(Marine Strategy Directive)**

[SEC(2005) 1290]

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The marine environment is faced with a number of threats including loss or degradation of biodiversity and changes in its structure, loss of habitats, contamination by dangerous substances and nutrients and impacts of climate change.

The EU's 6th Environment Action Programme (6th EAP) requests the development of a Thematic Strategy for the protection and conservation of the European marine environment (hereinafter the Strategy) with the overall aim to "promote sustainable use of the seas and conserve marine ecosystems".

As a first step in the development of the Strategy, the Commission in 2002 produced the Communication entitled "Towards a strategy to protect and conserve the marine environment". The Environment Council Conclusions of 4 March 2003 welcomed the Commission Communication, endorsed the approach and the outline of its objectives and requested an ambitious Strategy by 2005. The Commission Legislative Work Programme 2005 commits to the adoption of the Strategy by 2005.

- **General context**

While measures to control and reduce pressures and impacts on the marine environment do exist, they have been developed in a sector by sector approach resulting in a patchwork of policies, legislation, programmes and actions plans at national, regional, EU and international level, which contribute to the protection of the marine environment. At the EU level, while there are a number of policies affecting the marine environment, and while a reflection has begun on a future all-encompassing Maritime Policy for the Union, there is no overall, integrated policy for the protection of the marine environment.

The general picture that emerges from this policy framework is a mixed one. On the positive side, some progress has been made in certain areas, e.g. in reducing nutrient inputs or pollution from hazardous substances in particular heavy metals. However, overall, the state of the marine environment has been deteriorating significantly over recent decades. As a result, Europe's oceans and seas are under threat, in some cases to the extent that their structure and function is being jeopardised.

The current policy framework is not delivering a high level of protection of the marine environment. A strong, integrated, EU policy on marine protection is therefore required.

- **Existing provisions in the area of the proposal**

A wide variety of EU measures contribute to the protection of the marine environment. However, as the policy framework in place is sectoral and as its geographic scope varies, there is no integrated policy focused on the protection of the marine

environment.

- **Consistency with other policies and objectives of the Union**

The high level of protection of the marine environment which the proposed Directive will provide is essential to realise the full economic and social potential of oceans and seas, thus making a strong contribution to the Lisbon agenda and to the EU Sustainable Development Strategy.

The proposal will also make an important contribution to the work on a future EU Maritime Policy, announced in the Strategic Objectives of the Commission for 2005-2009, aimed at developing a thriving maritime economy and the full potential of sea-based activity in an environmentally sustainable manner.

One of the central issues to be tackled within this policy will be the question of the overall governance framework through which the users and uses of oceans and seas can be regulated. This will be addressed in the Green Paper on Maritime Policy foreseen for 2006. The governance arrangements foreseen in the Marine Strategy constitute a first step. Options for further development of a broader governance framework to be elaborated under the Maritime Policy should also take account of the highly diverse legal and political specificities in each of the European regional seas, ranging from the Baltic Sea with seven EU Member States and the Russian Federation to the Mediterranean where Exclusive Economic Zones (EEZs) have not been declared and the EU has to work jointly with a number of third countries.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The Strategy has been prepared with the help of an extensive consultation process from 2002 to 2004 including all EU Member States and candidate countries, key European third countries sharing ocean and seas with the Union, 16 international commissions and conventions, 21 key industry and civil society organisations as well as scientists and academics.

The process was kicked off at a stakeholder conference held in Koge, Denmark, on 4-6 December 2002. Further to the Koge conference four ad hoc working groups involving all key stakeholder constituencies were set up to deal with key aspects of the development of the Strategy.

Summary of responses and how they have been taken into account

All working groups delivered contributions to a closing stakeholder conference held in Rotterdam, Netherlands, on 11-12 November 2004, from which a wide consensus emerged on the approach proposed in the Strategy. The need for strong EU action was underscored by a large majority of stakeholders.

The proposed Directive fully integrates the results of consultations held since 2002. In particular, the need for a dual EU/regional approach, the setting-up of Marine Regions

as management units for the implementation of the Strategy and the need for co-operation between Member States in devising Marine Strategies notably through the use of existing instruments deriving from international agreements, are at the centre of the proposed Directive.

An open consultation was conducted over the internet from 14/03/2005 to 09/05/2005. The Commission received 133 response(s). The results are available on http://europa.eu.int/comm/environment/water/pdf/consultation_marine.pdf.

- **Collection and use of expertise**

Scientific/expertise domains concerned

The preparatory work focused notably on (a) the application of the ecosystem-based approach to management of human activities impacting the marine environment; (b) monitoring and assessment issues; and (c) the particular challenge of hazardous substances.

In addition, the Commission has also paid very close attention over the past three years to reports, studies and policy statements from national and regional organisations, countries, research institutes and U.N. bodies in relation to the protection of the marine environment.

Methodology used

Substantive work on all aspects relevant to the development of an EU Marine Strategy was produced as part of the consultation process. Two important deliverables from this process include the production of (a) a guidance document on the application of the ecosystem-based approach to the marine environment; and of a (b) study on the identification of European Marine Regions on the basis of hydrological, oceanographic and bio-geographic features to guide implementation of the Strategy.

Main organisations/experts consulted

The International Council for the Exploration of the Seas (ICES) was a privileged partner in the consultation process which carried out the work on the two above-mentioned documents. A number of additional experts and scientific organisations were also involved in the preparatory process.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has been mentioned. There is a broad consensus on the existence of such risks.

Broad consensus was reached on the magnitude of threats facing the marine environment, generating potentially irreversible or nonlinear changes to marine ecosystems, with wide ranging economic and social consequences. The principal threats to the marine environment that were identified include effects of climate change; impacts of commercial fishing; oil spills and discharges; introduction of non-

native species; eutrophication and the related growth of harmful algal blooms; litter pollution; contamination by dangerous substances and microbiological pollution; radionuclide discharges; and noise pollution.

Climate Change and fisheries were highlighted as two of the most important pressures on the marine environment.

In short, what emerges from this process is an unambiguous message that Europe's seas and oceans are at high risk and efforts to protect them need to be urgently set up to safeguard their long term productivity and thus marine-related economic and social activities.

Means used to make the expert advice publicly available

All relevant analysis carried out during the preparatory phase of the proposed Directive will be made available. The ICES guidance document on the application and implementation of the ecosystem-based approach has already been published by ICES and will be made available from the Commission's website. The ICES study on EU Marine Regions has been made available to all stakeholders through the CIRCA system.

- **Impact assessment**

Two main options were considered. The first option consisted of a strictly voluntary approach based on a Commission Communication setting out non-binding recommendations as to how to effectively protect Europe's marine environment through developing Regional Marine Strategies at the level of Marine Regions to be defined at EU level.

The second option examined was the combination of a flexible legal instrument and of a Communication. The legal instrument would take the form of a Marine Strategy Directive, ambitious in its scope but not overly prescriptive in its tools. No specific management measures would be set down at EU level as the Directive would have to be made operational and implemented at the regional level.

In addition to these two options, a no-action scenario was considered as a reference scenario against which to appraise the costs anticipated from the measures proposed under the two options.

The Commission carried out an impact assessment, which is accessible on the website of the Commission.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The end objective of the proposed Directive is to achieve good environmental status of the marine environment by 2021. The proposed Directive will only define common objectives and principles at EU level. The proposed Directive will establish European Marine Regions as management units for implementation. For their marine waters within each Marine Region, Member States will be required to develop Marine

Strategies on the basis of the completion of a number of steps. In developing Marine Strategies, Member States will be invited to co-operate actively among themselves and also with relevant third countries. Finally, in order to take into account the particular contexts of certain Marine Regions, the Directive foresees special situations and areas where it would be impossible for a Member State to achieve the level of ambition of the environmental targets set in the framework of the Directive. .

- **Legal basis**

Article 175(1) of the EC Treaty is the appropriate legal basis.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

The marine environment does not accord with existing geo-political boundaries. It is by essence transboundary and therefore requires co-operation and common principles. In these conditions, applying a purely national approach to the marine environment is doomed to fail.

Member States bordering marine regions may well come to different conclusions concerning the approaches, diagnoses and programmes of measures to be set in place, irrespective of the unity of marine ecosystems. Member States may well take different and even contradictory routes and different lengths of time to take appropriate action, resulting in ineffective protection of the marine environment.

The result would be that the marine environment would not improve. The ocean's capacity to absorb new pressures on the marine environment such as climate change and increased maritime transport would thus be significantly reduced.

Community action will better achieve the objectives of the proposal for the following reason(s).

The proposal will establish a common EU framework to address shared challenges and will establish common principles and approaches to the protection of the marine environment across Europe.

While several EU Member States have developed national measures to protect the marine environment and have been actively co-operating in relevant international agreements, progress has been hampered by the fact that national measures do not influence the activities of other countries bordering a given marine area; and international co-operation notably in the framework of regional marine conventions has produced mixed results due to the lack of enforcement and control of these organisations.

The proposed legislative instrument is limited to what Member States cannot satisfactorily achieve - i.e. setting up an EU-wide framework through which Europe's

marine environment can be more effectively protected. Detailed objectives and management measures required to achieve good environmental status in each EU Marine Region will not be defined at EU level.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposed legislative instrument takes the form of a Marine Strategy Directive. Ample scope will be left for national decision and regional concertation. The establishment of environmental targets at regional level and the planning and execution of measures required to deliver these targets and thus good environmental status of the marine environment in the European waters under the sovereignty or jurisdiction of EU Member States within each Marine Region will lie with Member States.

The administrative burden of the proposed Directive has been estimated at approximately €90 million per annum for the EU as a whole in the first two years, €70 million after that. On the other hand, there will be significant efficiency gains in terms of avoiding duplication in monitoring and assessment.

There will be implementation costs resulting from programmes of measures agreed at regional level. It is foreseen that detailed impact assessments of the programmes of measures to be developed by Member States will be carried out to ensure that environmental targets are achieved at a minimum cost.

It appears from the Impact Assessment that while there may be important social and economic costs in the short-term, medium and long-term environment, social and economic benefits will outweigh these costs by a considerable amount.

- **Choice of instruments**

Proposed instruments: Marine Strategy Directive.

Other means would not be adequate for the following reason(s).

Developing a prescriptive legislative instrument (in the form of a Regulation or a more stringent Directive) would have been an option. However, a Regulation or a more stringent Directive would have resulted in neglecting the diversity of conditions and needs in the EU's marine environment by not allowing Member States to make a number of policy choices for implementation at regional level. Therefore, such an approach was not retained.

Another option would have been to adopt a Recommendation outlining the steps to be taken to implement the Marine Strategy at regional level. However, as Recommendations have no binding force, there would have been no guarantee that Member States would have committed themselves to rigorous implementation. This option was therefore rejected.

A third option would have been to adopt a Decision, binding in its entirety upon the

limited number of Member States to whom it is addressed. However, as 20 out of 25 Member States are maritime countries and planned enlargements will increase this trend; and as effective protection of the marine environment also requires the involvement of land-locked countries in a regional sea's catchment area, targeting a limited number of specific addressees would not be appropriate. Finally, a Decision would not have provided any flexibility in terms of implementation as it is binding in its entirety.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5) ADDITIONAL INFORMATION

- **Review/revision/sunset clause**

The proposal includes a review clause.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing a Framework for Community Action in the field of Marine Environmental Policy
(Marine Strategy Directive)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) The marine environment is a precious heritage that must be protected, restored and treated as such with the ultimate aim of providing biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive.
- (2) In line with Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme, a thematic strategy for the protection and conservation of the marine environment should be developed, within three years of the adoption of that Programme, with the overall aims of promoting sustainable use of the seas and conserving marine ecosystems.
- (3) In order to promote sustainable use of the seas and to conserve marine ecosystems, priority should be given to achieving good environmental status in the Community's marine environment, to continuing the protection and preservation of that environment, and to ensuring that subsequent deterioration is prevented.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

- (4) In order to achieve those objectives, a transparent and coherent legislative framework is required, to provide an overall framework for action and to enable the action taken to be coordinated, and consistent, and properly integrated with action under other Community legislation as well as international agreements.
- (5) The diverse conditions, problems and needs of the various Marine Regions making up the marine environment in the Community require different and specific solutions. That diversity should be taken into account in the preparation, planning and execution of measures to achieve good environmental status in the Community's marine environment in the framework of Marine Regions and Sub-Regions.
- (6) It is therefore appropriate that each Member State should develop a Marine Strategy for its European waters which, while being specific to its own waters, reflects the overall perspective of the Marine Region concerned. Marine Strategies should culminate in the execution of programmes of measures designed to achieve good environmental status.
- (7) By reason of the transboundary nature of the marine environment, the development of Marine Strategies should be coordinated for each Marine Region. Since Marine Regions are shared both with other Member States and with third countries, Member States should endeavour to ensure the closest possible coordination with all the Member States and other countries concerned. Where practical and appropriate, existing institutional structures established in Marine Regions should be used to ensure such coordination.
- (8) Since action at international level is indispensable for the attainment of those objectives, this Directive should enhance the effectiveness of the Community's contribution under international agreements.
- (9) The Community and Member States are a party to the United Nations Convention on the Law of the Seas (UNCLOS) approved by Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the UNCLOS and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof⁽⁵⁾. The obligations of the Community and Member States under those agreements should therefore be fully taken into account in this Directive.
- (10) This Directive should also support the strong position taken by the Community, in the context of the Convention on Biological Diversity⁶, on halting biodiversity loss, ensuring the conservational and sustainable use of marine biodiversity and on the creation of a global network of marine protected areas by 2012. Additionally, it should contribute to the achievement of the objectives of the Seventh Conference of the Parties to the Convention on Biological Diversity (CBD/COP7), which adopted an elaborate programme of work on marine and coastal biodiversity with a number of goals, targets and activities aimed at halting the loss of biological diversity nationally, regionally and globally and at securing the capacity of the marine ecosystem to support the provision of goods and services, and a programme of work on protected areas with the objective of establishing and maintaining ecologically representative

⁵ OJ L 179, 23.6.1998, p.1.

⁶ Council Decision 93/626/EC, JO L 309, 13.12.1993, p. 1-20

national and regional systems of marine protected areas by 2012. The obligation for Member States to designate Natura 2000 sites under the Habitats Directive will make an important contribution to this process.

- (11) This Directive should contribute to the fulfilment of the obligations of the Community and the Member States under several other relevant international agreements under which they have entered into important commitments relating to the protection of the marine environment from pollution: the Convention on the Protection of the Marine Environment of the Baltic Sea Area, approved by Council Decision 94/157/EC⁽⁷⁾, the Convention for the Protection of the Marine Environment of the North-East Atlantic, approved by Council Decision 98/249/EC⁽⁸⁾, and its new Annex V on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area and the related Appendix III, approved by Council Decision 2000/340/EC⁽⁹⁾, and the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, as amended in 1995 and approved by Council Decision 77/585/EEC⁽¹⁰⁾, and its Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources, approved by Council Decision 83/101/EEC⁽¹¹⁾.
- (12) Since the programmes of measures executed under Marine Strategies will be effective only if they are devised on the basis of a sound knowledge of the state of the marine environment in a particular area and tailored as closely as possible to the needs of the waters concerned in the case of each Member State and within the general perspective of the Marine Region concerned, it is necessary to provide for the preparation at national level of an appropriate framework for informed policy-making.
- (13) As a first step in that preparation, Member States across a Marine Region should undertake analyses of the characteristics of their marine waters, identifying the predominant pressures and impacts on those waters, their economic and social use and the cost of degradation of the marine environment.
- (14) On the basis of such analyses, Member States should then determine for the European waters a set of characteristics for good environmental status. For those purposes, it is appropriate to make provision for generic qualitative descriptors, detailed criteria and standards to be developed in the near future by the Commission with the involvement of all interested parties.
- (15) The next step towards achieving good environmental status should be the establishment of environmental targets and monitoring programmes for ongoing assessment, enabling the state of the waters concerned to be evaluated on a regular basis.
- (16) On the basis of those frameworks, Member States should establish and implement programmes of measures which are designed to achieve good environmental status in the waters concerned, while accommodating existing Community and international requirements and the needs of the Marine Region concerned.

⁷ OJ L 73, 16.3.1994, p.19.

⁸ OJ L 104, 3.4.1998, p.1.

⁹ OJ L 118, 8.5.2000, p.44.

¹⁰ OJ L 240, 19.9.1977, p.1. Decision as amended by Decision 99/802/EC (OJ L 322, 14.12.1999).

¹¹ OJ L 67, 12.3.1983, p.1.

- (17) Although it is appropriate, given the precision of focus needed, that those steps be undertaken by the Member States, it is essential, in order to ensure the cohesion of action across the Community as a whole and in relation to commitments at global level, to make both the preparatory framework and the programmes of measures subject to the approval of the Commission.
- (18) For reasons of fairness and feasibility, it is appropriate to make provision for cases where it would be impossible for a Member State to achieve the level of ambition of the environmental targets set.
- (19) In that context, it is necessary to make provision for two types of special case. The first concerns a situation where it is impossible for the Member State to meet its environmental targets because of action or inaction on the part of another country, natural causes or *force majeure*, or because of actions which that Member State has itself taken for reasons of public interest which were held to outweigh the negative impact on the environment. It is appropriate to allow Member States to take *ad hoc* measures in such cases in lieu of measures integrated in its programme of measures. *Ad hoc* measures should be designed to prevent further deterioration in the status of the marine waters affected and to mitigate the adverse impact within the Marine Region concerned.
- (20) The second type of special case is that where a Member State identifies an issue which has an impact on the environmental status of its European marine waters, even perhaps of the entire Marine Region concerned, but cannot be tackled by measures taken at national level. In such cases, provision should be made for the Commission to be informed in the framework of submission of programmes of measures.
- (21) However, it is necessary that the flexibility introduced for special cases be subject to control at Community level. As regards the first type of case, it is therefore appropriate that, in the course of the assessment to be made by the Commission before approving the programme of measures, due consideration be given to the efficacy of any *ad hoc* measures taken. Moreover, in cases where the Member State refers to action taken for overriding reasons of public interest, the Commission should ensure that any modifications or alterations made to the marine environment as a consequence do not permanently exclude or compromise the achievement of good environmental status in the Marine Region concerned.
- (22) As regards the second type of special case, the Commission should, before approving the programme of measures, consider the validity of the view taken by the Member State concerned, that is to say, that measures taken at national level would not suffice, hence that action at Community level is necessary.
- (23) In view of the dynamic nature of marine ecosystems and of their natural variability, and of the fact that the pressures and impacts on them will vary with the evolution of different patterns of human activity and the impact of climate change, it is essential to recognise that the definition of good environmental status is dynamic and flexible and must be adapted over time. Accordingly, it is appropriate that protection of marine environment be flexible and adaptive. It is necessary, therefore, to provide for the updating of Marine Strategies on a regular basis.

- (24) It is also necessary to provide for the publication of programmes of measures and updates thereof, and for interim reports to be presented to the Commission, describing progress in the implementation of the programme.
- (25) To ensure the active involvement of the general public in the establishment, implementation and updating of Marine Strategies, it is necessary to provide proper information on the different elements of Marine Strategies, or their related updates, as well as, upon request, relevant background documents and information used for the development of the Marine Strategies.
- (26) It is appropriate that the Commission should present a first evaluation report on the implementation of this Directive within two years of receiving all programmes of measures and, in any case, by 2021 at the latest. Subsequent Commission reports should be published every six years thereafter.
- (27) Provision should be made for the adoption of adaptations of standards for the assessment of the status of the marine environment, monitoring, environmental targets and of technical formats for the purposes of transmission and processing of data in order to be compatible with Directive¹².
- (28) Measures regulating fisheries management can only be taken in the context of the Common Fisheries Policy, as set out in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy,¹³ based on scientific advice, and are therefore not addressed by this Directive. The control of discharges and emissions resulting from the use of radioactive material is regulated by Articles 30 and 31 of the EURATOM Treaty and is therefore not addressed by this Directive.
- (29) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (30) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this seeks to promote the integration into Community policies of a high level of environmental protection and the improvement of environmental quality in accordance with the principle of sustainable development as laid down in Article 37 of the Charter of Fundamental Rights of the European Union.
- (31) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁴,

¹² insert reference to INSPIRE Directive once adopted

¹³ OJ L 358, 31/12/2002, p. 59.

¹⁴ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

General provisions

Article 1

Subject-matter

This Directive establishes a framework for the development of Marine Strategies designed to achieve good environmental status in the marine environment [by the year 2021 at the latest], and to ensure the continued protection and preservation of that environment and the prevention of deterioration.

For the purposes of this Directive, “environmental status” means the overall state of the environment in marine waters, taking into account the structure, function and processes of the constituent marine ecosystems together with natural physiographic, geographic and climatic factors, as well as physical and chemical conditions including those resulting from human activities in the area concerned.

Article 2

Scope

This Directive is applicable to all European waters on the seaward side of the baseline from which the extent of territorial waters is measured extending to the outmost reach of the area covered by the sovereignty or jurisdiction of Member States including the bed of all those waters and its sub-soils, hereinafter “European marine waters”.

Article 3

Marine Regions and Sub-Regions

1. Member States shall, when implementing their obligations under this Directive, take due account of the fact that their European marine waters form an integral part of the following Marine Regions:
 - (a) the Baltic Sea;
 - (b) the North East Atlantic Ocean;
 - (c) the Mediterranean Sea.
2. Member States may, in order to take into account the specificities of a particular area, implement this Directive by reference to subdivisions of the marine waters referred to in paragraph 1, provided that such subdivisions are delimited in a manner compatible with the following Marine Sub-Regions:
 - (a) in the North-East Atlantic:

- (i) in the Greater North Sea, including the Kattegat, the English Channel, the marine waters covered by the sovereignty or jurisdiction of Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom;
 - (ii) in the Celtic Seas, the marine waters covered by the sovereignty or jurisdiction of Ireland and the United Kingdom;
 - (iii) in the Bay of Biscay and the Iberian Coast, the marine waters covered by the sovereignty or jurisdiction of France, Portugal and Spain;
 - (iv) in the Atlantic Ocean, the marine waters covered by the sovereignty or jurisdiction of Portugal surrounding the Azores and Madeira, and of Spain, surrounding the Canary Islands;
- (b) in the Mediterranean:
- (i) in the Western Mediterranean Sea, the marine waters covered by the sovereignty or jurisdiction of Spain, France and Italy;
 - (ii) in the Adriatic Sea, the marine waters covered by the sovereignty or jurisdiction of Italy and Slovenia;
 - (iii) in the Ionian Sea, the marine waters covered by the sovereignty or jurisdiction of Greece, Italy and Malta;
 - (iv) in the Aegean-Levantine Sea, the marine waters covered by the sovereignty or jurisdiction of Greece and Cyprus.

Member States shall inform the Commission of any subdivision by the date specified in the first subparagraph of Article 23(1).

Article 4 *Marine Strategies*

Each Member State shall, in respect of each Marine Region concerned, develop a Marine Strategy for its European marine waters in accordance with the following plan of action:

- (a) Preparation:
- (i) an initial assessment, to be completed by [*4 years after date of entry into force*], of the current environmental status of the waters concerned and the environmental impact of human activities thereon, in accordance with Article 7;
 - (ii) a determination, to be established by [*4 years after date of entry into force*], of good environmental status for the waters concerned, in accordance with Article 8(1);
 - (iii) establishment, by [*5 years after date of entry into force*], of a series of environmental targets, in accordance with Article 9(1);

- (iv) establishment and implementation, by [6 years after date of entry into force] except where otherwise specified in the relevant Community legislation, of a monitoring programme for ongoing assessment and regular updating of targets, in accordance with Article 10(1);
- (b) Programmes of measures:
- (i) development, by 2016 at the latest, of a programme of measures designed to achieve good environment status, in accordance with Article 12(1), (2) and (3);
 - (ii) entry into operation of the programme provided for in point (i), by 2018 at the latest, in accordance with Article 12(6).

Article 5
Co-ordination and co-operation

1. For the purposes of this Directive, Member States with marine waters within the same Marine Region or Sub-Region shall co-ordinate their actions.

Where practical and appropriate, Member States shall use existing institutional structures established in that Marine Region or Sub-Region.

2. For the purposes of this Directive, Member States shall, within each Marine Region or Sub-Region, make every effort to co-ordinate their actions with third countries having sovereignty or jurisdiction over waters in the same Region or Sub-Region.

In that context, Member States shall, as far as possible, build upon existing programmes and activities developed in the framework of structures stemming from international agreements.

Article 6
Competent authorities

1. Member States shall, by the date specified in the first subparagraph of Article 23(1), designate for each Marine Region concerned the competent authority for the implementation of this Directive with respect to their European marine waters.

Within six months of that date, Member States shall provide the Commission with a list of the competent authorities designated, together with the items of information listed in Annex I.

At the same time, Member States shall send the Commission a list of the national competent authorities of all the relevant international bodies in which they participate.

2. Member States shall inform the Commission of any changes to the information provided pursuant to paragraph 1 within three months of such a change coming into effect.

Chapter II

Marine Strategies: Preparation

Article 7 *Assessment*

1. Member States shall make an initial assessment of their European marine waters, comprising the following:
 - (a) an analysis of the essential characteristics and current environmental status of those waters, based on the non-exhaustive list of elements set out in Table 1 of Annex II, and covering the habitat types, the biological components, the physico-chemical characteristics and the hydromorphology;
 - (b) an analysis of the predominant pressures and impacts, including human activity, on the characteristics and environmental status of those waters based on the non-exhaustive list of elements set out in Table 2 of Annex II, and covering the qualitative and quantitative mix of the various pressures, as well as discernible trends;
 - (c) an economic and social analysis of their use and of the cost of degradation of the marine environment.
2. The analyses referred to in paragraph 1 shall take into account elements regarding coastal, transitional and territorial waters covered by relevant provisions of Directive 2000/60/EC so as to produce a comprehensive assessment of the status of the marine environment.

Article 8 *Determination of good environmental status*

1. By reference to the initial assessment made pursuant to Article 7(1), Member States shall, in respect of each Marine Region concerned, determine for the European marine waters a set of characteristics for good environmental status, on the basis of the generic qualitative descriptors, criteria and standards provided for in paragraph 3.

They shall take into account the elements listed in Annex II and, in particular, the habitat types, the biological components, the physico-chemical characteristics, the hydromorphology.
2. Member States shall notify to the Commission the assessment made pursuant to Article 7(1) and the determination made pursuant to paragraph 1 of this Article no later than three months after completion of the latter.
3. The Commission, after consultation of all interested parties, shall, by [2 years after the date of entry into force] at the latest, lay down, in accordance with the procedure referred to in Article [22(2)] and on the basis of Annex II, generic qualitative

descriptors, detailed criteria and standards for the recognition of good environmental status.

Article 9

Establishment of environmental targets

1. On the basis of the initial assessment made pursuant to Article 7(1), Member States shall, in respect of each Marine Region concerned, establish a comprehensive set of environmental targets and associated indicators for all of their European marine waters, taking into account the non-exhaustive list of characteristics set out in Annex III.

When devising those targets and indicators, Member States shall take into account the continuing application of existing environmental targets, set out at national, Community or international level in respect of the same waters.

2. Member States shall notify the environmental targets to the Commission no later than three months after their establishment.

Article 10

Establishment of monitoring programmes

1. On the basis of the initial assessment made pursuant to Article 7(1), Member States shall establish and implement co-ordinated monitoring programmes for the ongoing assessment of the environmental status of their European marine waters on the basis of the lists set out in Annexes II and IV, and by reference to the environmental targets established pursuant to Article 9.

Those programmes shall be consistent within Marine Regions or Sub-Regions and shall build upon provisions for assessment and monitoring laid down by relevant Community legislation or under international agreements.

2. Member States shall notify the monitoring programmes to the Commission no later than three months after their establishment.
3. Where appropriate, the Commission shall, in accordance with the procedure referred to in Article [22(2)], adopt specifications and standardised methods for monitoring and assessment which take into account existing commitments and ensure comparability between monitoring and assessment results.

Article 11

Approval

On the basis of all the notifications made pursuant to Articles 7(1), 8(2), 9(2) and 10(2) within each Marine Region, the Commission shall assess whether, in the case of each Member State, the elements notified constitute a framework which meets the requirements of this Directive.

In making those assessments, the Commission shall consider the coherence of frameworks within the different Marine Regions and across the Community.

For the purposes of the assessment, the Commission may ask the Member State concerned to provide any additional information necessary to enable it to arrive at its decision.

Within six months of receiving notification of the monitoring programmes established pursuant to Article 10, the Commission may decide, in the case of any Member State, to reject the framework or any element thereof, on the basis that it does not comply with this Directive.

Chapter III

Marine Strategies: Programmes of measures

Article 12 *Programmes of measures*

1. Member States shall, in respect of each Marine Region concerned, identify the measures which need to be taken in order to achieve good environmental status, as determined pursuant to Article 8(1), in all of their European marine waters.

Those measures shall be devised on the basis of the initial assessment made pursuant to Article 7(1) and by reference to the environmental targets established pursuant to Article 9(1), and taking into consideration the types of measure listed in Annex V.

2. Member States shall integrate the measures devised pursuant to paragraph 1 into a programme of measures, taking into account measures required under relevant Community legislation or international agreements.
3. When drawing up the programme of measures pursuant to paragraph 2, Member States shall give due consideration to sustainable development and, in particular, to the social and economic impacts of the measures envisaged.

Member States shall ensure that measures are cost-effective, technically feasible and shall carry out impact assessments, including detailed cost-benefit analyses, prior to the introduction of any new measure.

4. Member States shall indicate in their programmes of measures how the measures are to be implemented and how they will contribute to achievement of the environmental targets established pursuant to Article 9(1).
5. Member States shall notify the Commission and any other Member State concerned of their programmes of measures, within three months of their completion.
6. Subject to Article 15, Member States shall ensure that the programmes are made operational within two years of their completion.

Article 13 *Special areas*

1. Where a Member State identifies an area within its European marine waters where, because of any of the following reasons, the environmental targets cannot be achieved through measures taken by that Member State, it shall identify that area

clearly in its programme of measures and provide the Commission with the evidence necessary to substantiate its view:

- (a) action or inaction on the part of another Member State or a third country;
- (b) natural causes or *force majeure*;
- (c) modifications or alterations to the physical characteristics of marine waters brought about by actions taken for overriding reasons of public interest which outweighed the negative impact on the environment.

However, the Member State concerned shall take appropriate *ad hoc* measures to prevent further deterioration in the status of the marine waters affected and to mitigate the adverse impact within the Marine Region concerned.

2. In the situation covered by point (c) of paragraph 1, Member States shall ensure that the modifications or alterations do not permanently exclude or compromise the achievement of good environmental status in the Marine Region concerned.
3. The *ad hoc* measures referred to in the second subparagraph of paragraph 1 shall form an integral part of a programme of measures.

Article 14 *Information*

Where a Member State identifies an issue which has an impact on the environmental status of its European marine waters and which cannot be tackled by measures adopted at national level, it shall inform the Commission accordingly and provide the evidence necessary to substantiate its view.

Article 15 *Approval*

On the basis of the notifications of programmes of measures made pursuant to Article 12(5), the Commission shall assess whether, in the case of each Member State, the programmes notified constitute an appropriate means of achieving good environmental status as determined pursuant to Article 8(1).

In making that assessment, the Commission shall consider the coherence across the Community of programmes of measures.

For the purposes of the assessment, the Commission may ask the Member State concerned to provide any additional information necessary to enable it to arrive at its decision.

Within six months of receiving notification of the programmes of measures, the Commission may decide, in the case of any Member State, to reject a programme or any aspect thereof, on the basis that it does not comply with this Directive.

Chapter IV

Updating, reports and public information

Article 16 *Updating*

1. Member States shall ensure that, in respect of each Marine Region concerned, their Marine Strategies are kept up-to-date.
2. For the purposes of paragraph 1, Member States shall review the following elements of their Marine Strategies every six years after their initial establishment:
 - (a) the initial assessment and the determination of good environmental status, provided for in Articles 7(1) and 8(1), respectively;
 - (b) the environmental targets established pursuant to Article 9(1);
 - (c) the monitoring programmes established pursuant to Article 10(1);
 - (d) the programmes of measures established pursuant to Article 12(2).
3. Details of any updates made following the reviews provided for in paragraph 2 shall be sent to the Commission and to any other Member States concerned within three months of their publication in accordance with Article 18(2).
4. Articles 11 and 15 shall apply *mutatis mutandis*.

Article 17 *Interim reports*

Member States shall, within three years of the publication of each programme of measures or update thereof in accordance with Article 18(2), submit to the Commission an interim report describing progress in the implementation of that programme.

Article 18 *Public consultation and information*

1. In accordance with Directive 2003/35/EC, Member States shall ensure the active involvement of all interested parties in the implementation of this Directive, in particular in the establishment of the Marine Strategies provided for in Chapters II and III, and their updating in accordance with Article 16.
2. Member States shall publish and make available for comments to the public summaries of the following elements of their Marine Strategies, or the related updates:
 - (a) the initial assessment and the determination of good environmental status, provided for in Articles 7(1) and 8(1), respectively;

- (b) the environmental targets established pursuant to Article 9(1);
 - (c) the monitoring programmes established pursuant to Article 10(1);
 - (d) the programmes of measures established pursuant to Article 12(2).
3. In accordance with Directive 2003/4/EC, access shall be given upon request to background documents and information used for the development of the Marine Strategies. In particular, the data and information resulting from the initial assessment and the monitoring programmes shall be made available to the public over the internet or any other appropriate means of telecommunication.

Member States shall provide the Commission, for the performance of its tasks, with unrestricted access and use rights in respect of that data and information.

Article 19 *Commission reports*

1. The Commission shall publish a first evaluation report on the implementation of this Directive within two years of receiving all programmes of measures and, in any case, by 2021 at the latest.

The Commission shall publish further reports every six years thereafter.

It shall submit the reports to the European Parliament and to the Council.

2. The reports provided for in paragraph 1 shall include the following:
- (a) a review of progress in the implementation of this Directive;
 - (b) a review of the status of the marine environment in the Community, undertaken in co-ordination with the European Environment Agency and the relevant regional marine and fisheries organisations and conventions;
 - (c) a survey of the Marine Strategies, together with suggestions for their improvement;
 - (d) a summary of the assessments made by the Commission, in accordance with Article 15, in relation to information received from the Member States pursuant to Article 14;
 - (e) a summary of the response to each of the reports to the Commission made by Member States pursuant to Article 17;
 - (f) a summary of the responses to comments made by the European Parliament and the Council on previous Marine Strategies.

Article 20
Review of this Directive

The Commission shall review this Directive by [15 years after the date of entry into force] and shall, where appropriate, propose any necessary amendments.

Chapter V **Final provisions**

Article 21
Technical adaptations

1. Annexes II, III and IV shall be adapted to scientific and technical progress in accordance with the procedure referred to in Article [22(2)], taking into account the periods for the review and updating of Marine Strategies, laid down in Article 16(2).
2. Where necessary, the Commission may, in accordance with the procedure referred to in Article [22(2)], adopt the following:
 - (a) standards for the application of Annexes [II], [III] and [IV];
 - (b) technical formats for the purposes of transmission and processing of data, including statistical and cartographic data.

Article 22
Committee

1. The Commission shall be assisted by the committee established by Article [21(1)] of Directive 2000/60/EC, hereinafter referred to as "the Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its Rules of Procedure.

Article 23
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [three years after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 24
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 25
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Annex I
Article 6(2)

- (1) Name and address of the competent authority – the official name and address of the authority identified.
- (2) Legal status of competent authority – a description of the legal status of the competent authority and, where relevant, a summary or copy of its statute, founding treaty or equivalent legal document.
- (3) Responsibilities – a description of the legal and administrative responsibilities of the competent authority and of its role for the marine waters concerned.
- (4) Membership – when the competent authority acts as a co-ordinating body for other competent authorities, a list is required of these bodies together with a summary of the institutional relationships established in order to ensure co-ordination.
- (5) Regional co-ordination - a summary is required of the mechanisms established in order to ensure co-ordination between the Member States whose European marine waters fall within the same Marine Region.

Annex II
Articles 7(1), 8(1) and 10(1)

Table 1 – Characteristics	
Physical and chemical features.	<ul style="list-style-type: none"> - bathymetric features; - annual and seasonal temperature regime; - predominant currents and estimated re-cycling/replacement times; - salinity including trends and gradients across the region.
Habitat types	<ul style="list-style-type: none"> - The predominant habitat type(s) with a description of the characteristic physical and chemical features-depth, temperature regime, currents, salinity, structure and substrate of the bed; - Identification and mapping of special habitat types especially those recognised or identified under EU legislation (habitats and birds directives) or international conventions as being of special scientific or biodiversity interest; - Other special areas which by virtue of their characteristics, location, or strategic importance merit a particular reference. This may include areas subject to intense or specific pressures or areas which merit a specific protection regime.
Biological Elements	<ul style="list-style-type: none"> - A description of the biological communities associated with the predominant habitats. This would include information of the typical phytoplankton and zooplankton communities including the typical species, seasonal and geographical variability and estimates of primary and secondary productivity. Information on the invertebrate bottom fauna including species composition, biomass, productivity and annual/seasonal variability should also be provided. Finally, information on the structure of fish populations including the abundance, distribution and age/size structure of the populations should be presented. - A description of the population dynamics, natural and actual range and status of all species of marine mammal occurring in the region/sub-region. For species covered by EU legislation (habitats directive) or international agreements, a description of the main threats and protection/management measures in place should also be provided;

	<ul style="list-style-type: none"> - A description of the population dynamics, natural and actual range and status of all species of seabirds occurring in the region/sub-region. For species covered by EU legislation (birds directive) or international agreements, a description of the main threats and protection/management measures in place shall also be provided; - A description of the population dynamics, natural and actual range and status of all other species occurring in the region/sub-region which are the subject of EU legislation or international agreements including a description of the main threats and protection/management measures in place. - An inventory of the occurrence, abundance and distribution of non-indigenous, exotic species which are present in the region/sub-region.
Other Features	<ul style="list-style-type: none"> - A description of incidences of nutrient enrichment-inputs, nutrient cycling (currents and sediment/water interactions), spatial distribution, consequences; - A description of the general state of chemical pollution including problem chemicals, sediment contamination, hot spots, health issues (contamination of fish flesh); - Any other features, characteristics typical/peculiar to the region/sub-region (e.g. dumped munitions)

Table 2 - Pressures and Impacts

General

Pollution in the form of the direct or indirect introduction, as a result of human activity, of substances or energy, including human-induced marine underwater noise, into the marine environment which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing, tourism and recreation and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

Physical loss	Smothering (e.g. by artificial structures, disposal of dredge spoil) Sealing (e.g. by permanent constructions)
Physical damage	Siltation (e.g. run-off, dredging, outfalls) Abrasion (e.g. boating, anchoring,) Selective extraction (e.g. aggregate dredging, entanglement)
Non-physical disturbance	Noise (e.g. boat activity, seismic) Visual (e.g. recreational activity)
Toxic contamination	Introduction of synthetic compounds (e.g. pesticides, antifoulants, PCBs) Introduction of non-synthetic compounds (e.g. heavy metals, hydrocarbons) Introduction of radio nuclides
Non-toxic contamination	Nutrient enrichment (e.g. agricultural run-off, outfalls) Organic enrichment (e.g. mariculture, outfalls) Changes in thermal regime (e.g. outfalls, power stations) Changes in turbidity (e.g. run-off, dredging) Changes in salinity (e.g. water abstraction, outfalls)
Biological disturbance	Introduction of microbial pathogens Introduction of non-native species and translocations Selective extraction of species (e.g. commercial & recreational fishing)

Annex III
Article 9(1)

- (1) Adequate coverage of the elements characterising marine waters under the sovereignty or jurisdiction of Member States within a Marine Region or Sub-Region.
- (2) Need to set (a) targets establishing desired conditions based on the definition of good environmental status; (b) measurable targets that allow for monitoring; and (c) operational targets relating to concrete implementation measures to support their achievement.
- (3) Specification of environmental status to be achieved and formulation of the latter in terms of measurable properties of the elements characterising the European marine waters of a Member State within a Marine Region or Sub-Region.
- (4) Consistency of the set of targets; absence of conflicts between them.
- (5) Specification of the resources needed for the achievement of targets.
- (6) Formulation of targets with a time scale for their achievement.
- (7) Specification of indicators intended to monitor progress and guide management decisions towards achievements of targets.
- (8) Where appropriate, specification of reference points (target and limit reference points).
- (9) Due consideration of social and economic concerns in setting targets.
- (10) Examination of the set of environmental targets, associated indicators and limit and target reference points developed in light of the environmental objective laid down in Article [1] in order to assess whether the achievement of the targets would lead the marine waters falling under the sovereignty or jurisdiction of Member States within a Marine Region to a status matching them.
- (11) Compatibility of targets with objectives to which the Community and its Member States have committed themselves under relevant international and regional agreements.
- (12) When the suite of targets and indicators have been assembled, they should be examined together relative to the environmental objective laid down in Article [1] to assess whether the achievement of the targets would lead the marine environment to a status matching them.

Annex IV
Article 10(1)

- (1) Need to provide information for an assessment of the environmental status and for a measure of distance from and progress towards good environmental status in accordance with Annex [II] and with the detailed standards and criteria to be defined pursuant to Article [8(3)].
- (2) Need to ensure the generation of the information enabling the identification of suitable indicators for the environmental targets provided for in Article [9].
- (3) Need to ensure the generation of the information allowing the assessment of the impact of the measures referred to in Article [12].
- (4) Need to include activities to identify the cause of the change and hence the possible corrective measures that would need to be taken to return the good environmental status, when deviations from the desired status range have been identified.
- (5) Need to provide information on chemical contaminants in species for human consumption from commercial fishing areas.
- (6) Need to include activities to confirm that the corrective measures deliver the desired changes and not any unwanted side effects.
- (7) Need to aggregate the information on the basis of Marine Regions.
- (8) Need to develop technical specifications and standardised methods for monitoring at Community level to allow comparability of information.
- (9) Need to ensure to the extent possible compatibility with existing programmes developed at regional and international level with a view to fostering consistency between these programmes and avoiding duplication of efforts.
- (10) Need to include as part of the initial assessment provided for in Article [7] an assessment of major changes in the environmental conditions as well as, where necessary, new and emerging issues.
- (11) Need to address as part of the initial assessment provided for in Article [7] the elements listed in Annex II and their natural variability and to evaluate the trends towards the achievement of the environmental targets laid down pursuant to Article [9(1)], using, as appropriate the set indicators and their limit or target reference points.

Annex V
Article 12(1)

- (1) Input controls: management measures that influence the amount of a human activity that is permitted.
- (2) Output controls: management measures that influence the degree of perturbation of an ecosystem component that is permitted.
- (3) Spatial and temporal distribution controls: management measures which influence where and when an activity is allowed to occur.
- (4) Management co-ordination measures: tools to ensure management is coordinated.
- (5) Economic incentives: management measures which make it in the economic interest of those using the marine ecosystem to act in ways which help to achieve the ecological objectives for the ecosystem.
- (6) Mitigation and remediation Tools: management tools which guide human activities to restore damaged components of marine ecosystems.
- (7) Communication, stakeholder involvement and raising public awareness.