

I. INTRODUCTION

1.1 The State of our Seas and Oceans

A wide range of EC and other reports have shown that the oceans and regional seas around the European Union are in poor ecological condition. This is summarised in *Our Future, Our Choice*, the 6th Environmental Action Programme (EAP), which states: "Our society has a great impact on the marine environment and its biodiversity, especially by pollution, from industrial and domestic sources, of rivers, coastal waters and seas. Other pressures come from ships that empty their oil tanks, shipping accidents and heavy human utilisation of coastal areas. The introduction of non-native species in new marine environments can also give rise to environmental stress.... Many fish stocks are overexploited. There is a need to reduce pressure from fishing." It also recognises that "knowledge about the structure and functioning of the marine environment is still surprisingly limited" and that "our understanding and the predictability of the human impact on marine ecosystems is also very weak".

The EEAC broadly supports and endorses these conclusions. We recognise that the EU has sought to address a range of issues, with progress made, for example, on aspects of water quality. Despite such progress, there remain many impacts of concern, and these extend beyond those suggested in the 6th EAP summary above to include, for example, the cumulative effect of a range of developments. Part of the problem is the lack of an integrated approach to the marine environment within the EC itself, with several different Directorates General having responsibility for activities and policies which impact on the marine environment (the recent appointment of a Commissioner for Fisheries and Maritime Affairs may go some way to address this, but, until completion of the proposed green paper on the role for this Commissioner, we cannot say how effective or holistic this approach might be). Responsibilities for the management of regional seas are largely left to various conventions, but these are variably effective because they have few powers to enforce standards, and they do not cover all marine areas. Progress has been particularly limited for the Mediterranean Sea, and especially the Adriatic, and in the seas west of Spain and Portugal, and around the Canary Islands, Madeira and the Azores. Little effort has been made so far to address activities and policies impacting on the wider oceans.

1.2 Development of the European Marine Strategy

Against this background, the 6th EAP committed the EC to "the development of a strategy for marine protection" as one of a series of Thematic Strategies. Lead responsibility for producing this European Marine Strategy was given to the EU Water Directors. Active drafting of the Strategy did not begin until late 2003, but good progress is now being made, as represented by the paper "Thematic Strategy for the Protection and Conservation of the European Marine Environment" (hereafter referred to as the 'Thematic Strategy Paper'), which is being sub-

mitted to the Marine Stakeholders Conference to be held in Rotterdam on 10-12 November 2004.

The EEAC Working Group (WG) Marine has been actively involved in assisting (and challenging) the development of the European Marine Thematic Strategy through a series of written contributions to the EC regarding the Strategy and through the involvement of EEAC representatives on each of the Working Groups set up by the Commission to help develop the Strategy. The EEAC WG Marine has had the opportunity to comment on papers contributing to the developing Strategy at every stage, and we are satisfied that many of our comments have been taken into account. **Accordingly, the EEAC is broadly supportive of the Strategy, as represented by the papers we have seen (including the latest Thematic Strategy paper), and we believe that this will make a major contribution to the protection and sustainable management of the Regional Seas around the EU.** Nevertheless, this Policy Statement addresses what the EEAC believes to be shortcomings in the Strategy process, and serious omissions in the Strategy papers as currently drafted.

2. AN EEAC CONTRIBUTION TOWARDS THE EUROPEAN MARINE STRATEGY

2.1 Securing effective policy and implementation through EU institutional mechanisms

The EEAC believes that the European Marine Strategy must be an overarching policy statement, which would have purchase on all other EU policy and programmes and be binding cross-sectorally. There will also be a requirement for associated implementing measures and instruments. The legal form that these take will influence their effectiveness particularly regarding strength of compliance requirements, consistency of application and subsidiarity.

The Decision on the 6th Environment Action Programme states that Thematic Strategies are to be submitted to the European Parliament and the Council and shall, where appropriate, take the form of a Decision adopted in accordance with Article 251 of the Amsterdam Treaty, i.e. under co-decision with the Council and Parliament. Decisions provide EU-wide commitment to the objectives and are legally binding but, without detailed measures, they would be unlikely to be legally enforceable.

Options for new marine measures to implement the Marine Strategy depend on the specific issue to be addressed and the extent to which the matter is normally determined at EU or national level. This is particularly complicated by the range and membership of international marine Conventions. However, the Marine Strategy should provide a first step towards establishing consistent EU objectives in contributing to such conventions. At the EU legislative level, experience has shown that setting of binding objectives with clear targets and consistent guidelines is important for consistent achievement of policy aims across the EU and within Member States.

The EEAC's preference would therefore be for a binding

Framework Document, the text of which should suggest for further consideration the options for 'daughter legislative instruments' to more fully implement specific commitments in the Framework.

2.2 MARINE GOVERNANCE THE EUROPEAN MARINE STRATEGY

2.2.1 Requirements for a Marine Strategy

There is no single coherent policy or set of policies to manage the marine environment at a European level. Instead there is a complex web of interacting and overlapping policies that leave significant problems unaddressed. The European Marine Strategy is a major opportunity to deliver a coherent policy for the first time. However, it is not clear that the Strategy contains the mechanisms and institutional arrangements to bring about a step change in the way we manage the seas. In particular, the EEAC believes that the Marine Strategy needs to:

- Promote action at a variety of levels – international, EU, regional, member state and local – and clarify institutional responsibilities and relationships.
- Embed the vision for protecting the marine environment into a range of community policies, including inter alia the CFP, CAP, transport policies related to maritime and coastal shipping and chemicals policy. This means designing appropriate objectives for these policies and adopting appropriate institutional structures with the Commission and Council of Ministers to deliver them.
- Have clear, achievable targets and a timetable for meeting them. It should specify the measures that are required to achieve such targets and develop an implementation plan.
- Protect the role of science in evidence-based policy-making. Institutional arrangements need to be robust enough to ensure that the management process does not ignore scientific advice and is not captured by single interest groups.
- Ensure that the precautionary principle is put into practice. The standard of proof and requirement for data and monitoring should not be so high that it prevents timely and effective action being taken to protect the environment.
- Specify how the Strategy will be developed and implemented in partnership with a broad range of stakeholders, not simply those with a sectoral interest.

Making progress in these areas will be essential to meeting the Strategy's goal of good governance and achieving a real improvement in the marine environment.

2.2.2 Specific governance issues

– Multilateral targets

The Strategy is a European-level document but many Member States also have international and regional commitments under WSSD, OSPAR, HELCOM, Barcelona, UNCLOS, etc.

Many of these international targets are 'soft' in that they express a level of aspiration, rather than a legally-binding target. This

may be appropriate in setting long-term goals or pioneering new areas, but less useful for tackling well-known problems where urgent action is needed. There is a question over how the Strategy relates to such commitments, which also apply to different regions and timescales. We believe that it is desirable that the strategy should provide a framework to make them a reality.

– Interaction between different Community Policies

This is a key issue, with two distinct aspects. First, there is the question of how to involve different EC Directorate Generals (DGs) in the Strategy. To deliver an integrated marine policy, the Strategy needs to move beyond sectoral approaches towards programmes that put the environment at their centre, and help foster the institutional arrangements that will deliver them. This means that a variety of DGs (especially DG Fish, DG Agri, and DG Tran) need to take more account of the impact of their activities on the environment, and to be involved in management decisions.

The existing DG Inter-service Group, with a strengthened remit, perhaps provides a starting point from which a more integrated approach could be developed. However, if such a joined-up approach cannot be achieved with the current institutional arrangements, then new administrative priorities, structures and ways of working may need to be developed within the bodies of the EU. We have already seen, for example, joint working within Councils of Ministers, and, at the member state level, the adoption of joint policy targets by different sectors.

The second issue relates to the legal status of the Strategy and its relative strength (or weakness) compared with other policies. The Commission has proposed that the Strategy should have a legal basis that defines its objectives and some aspects of implementation. It is nevertheless unclear how the Marine Strategy could influence the development of other policies such as the CFP, which are critical to delivering its own goals. The Commission has suggested that, where an area is outside of a Member State's competence, a management plan will only have the force of a 'recommendation' and that competency will remain with the CFP, IMO, etc. It will be important to ensure that the Marine Strategy and the CFP are fully harmonised with each other, to ensure that the ecosystem approach is applied in an integrated way to all aspects of marine management.

– Member state level

Achieving a better marine environment will require action by all Member States that border EU waters and those that contribute to downstream pollution. The Marine Strategy needs to provide a clear mechanism for managing areas that are of common interest to different member states so that overall goals are met.

– Regional management

A new concept emerging from the Strategy is the idea of eco-region management plans. The number and size of these regions

has not been established, but they might be equivalent to large marine environments, such as the Greater North Sea.

While the Marine Strategy is moving towards regional management plans, there is a simultaneous effort to decentralise the CFP through a system of Regional Advisory Councils run largely by fishery interests. It is not clear how these two systems fit together. Do the RACs and eco-regions cover the same areas and what happens if they have competing/conflicting goals? How does the governance of these systems compare with international examples such as those in the US, Australia and Canada?

For the present, we strongly suggest that fisheries RACs must work more closely with existing environmental councils at the regional level. We would also seek assurance that the geographical basis of these RACs would not preclude different boundaries being adopted for integrated regional seas management under the Marine Strategy, if this is deemed to be more appropriate.

– Stakeholders

The Commission has accepted elsewhere that good governance requires the “broad involvement of stakeholders at all stages of the policy from conception to implementation”. The Marine Strategy should ensure that regional management is broadly representative and that there is adequate provision for environmental protection and scientific advice.

– Other issues

The Cardiff process calls on the EU to integrate environmental considerations into sectoral policies. However, the Marine Strategy only addresses the environmental aspects of marine policy. It is not clear how the economic and social dimensions will be dealt with.

The Strategy also notes that clear management structures and unambiguous jurisdictional responsibility are crucial for effective policy. Yet it acknowledges that the Strategy presents new challenges, as more sectors, policies and regions are brought under the one framework. This appears to be an area where more work is needed.

2.3 THE DESIRED STATE OF THE SEAS AND OCEANS

2.3.1 Defining the desired state

It is easier to manage any complex system, such as the sea, in ways that will minimise or prevent the undesirable, than it is to introduce management systems that allow progress towards the desirable. However, building on the conclusions of the Køge workshop, it is important that the European Marine Strategy should set ambitious goals for the management and restoration of European seas and oceans, rather than merely aiming to prevent further damage. The EEAC believes it is essential therefore to define the Desired State of the Marine Environment. The European Marine Strategy must then be ‘reality-checked’ to ensure that it provides the mechanism to achieve, or at least make significant progress towards, all aspects of this Desired

State. Definition of Desired State will then also allow the success of the European Marine Strategy to be assessed by monitoring progress towards these targets.

The EEAC believes that one criterion of Desired State is so fundamental as to provide an overarching goal for the entire Strategy:

All marine ecosystems are managed in ways which allow them to function in a balanced, self-sustaining way in the face of environmental change, supporting both biodiversity and human activities (importantly, this implies that heavily-modified ecosystems must be restored to good ecological potential).

If the Desired State of the marine environment has been achieved, then, by definition, we would expect the following conditions to also apply (and an assessment of progress towards these conditions will therefore provide a means of assessing progress towards the Desired State):

- The natural diversity between different regional seas and between different ecosystems within these seas is maintained.
- Management plans have been introduced for coastal and offshore habitats to sustain and enhance the resilience of ecosystems and move them progressively towards the desired state.
- The generation target of the OSPAR and HELCOM Conventions – ceasing by 2020 inputs, emissions and diffuse losses of persistent, bioaccumulative and toxic substances (PBTs) from products and their manufacturing processes – has been met across the EU. Progress is being made towards the long-term goal of near-zero concentrations of synthetic substances and close to natural background concentrations of naturally occurring substances in the marine environment.
- All other chemical inputs into the marine environment are contained at levels which ensure that they do not disrupt ecosystems, and endocrine-disrupting chemicals, in particular, are no longer impacting on marine species and habitats.
- The impact of effluent from sewers and other outflows on the seabed and water column, particularly with regard to eutrophication, has been much reduced, is confined to a small area immediately around the outflows, and is non-cumulative.
- Special measures have been introduced under the CAP for the management of farmland close to the coast to reduce pollution from nutrients and pesticides and thus protect the marine environment.
- Marine litter is no longer a major problem.
- Although shipping accidents do occasionally happen, their impact is minimised because ships are routed to avoid the most sensitive habitats and all tankers are double-hulled.
- The systemic release of oil from platforms and pipelines, and the use of harmful drilling muds, has been stopped and accidental release of these substances has been minimised.
- Ballast water management programmes have stopped the risk of spreading non-native organisms into new areas.

- The populations of all commercially valuable fish and shellfish have been restored to, and are maintained within, safe biological limits.
- EU subsidies for fishing are applied in ways which encourage the use of environmentally sensitive fishing methods. This has led to much reduced impacts on the seabed and greatly lowered the bycatch of juvenile fish and non-commercial species, thus minimising the level of discarding.
- The fishing industry is managed on the principles of sustainability, both ecologically and economically, through the integrated application of an ecosystem approach to the management of marine resources.
- Small fish species, low on the food chain, proliferate, thanks to the recognition that they are more beneficial as natural food for larger, commercially valuable species.
- Alternative sources of protein feeds have been identified for farming and aquaculture; this has greatly reduced the reliance on 'industrial fisheries', following recognition that such fisheries are wasteful and unsustainable.
- Discarded fishing gear is rarely found in offshore and international waters.
- Both shellfish and finfish aquaculture, using a diverse mix of locally-native species, flourish in clean seawater; many finfish farms are using a balanced mariculture system, including seaweed growing to reduce eutrophication impacts.
- Discards from fisheries, which are strictly controlled, and waste from fish processing are the main protein source for finfish aquaculture, supplemented by vegetable proteins.
- Escaped farmed fish no longer have a significant impact on natural ecosystems.
- Coastal areas are still regarded as highly desirable places for humans to live and work, but coastal developments have only minimal and acceptable impacts on adjacent marine ecosystems.
- An integrated coastal zonation system has been established that protects the most sensitive marine habitats and allows for the sensitive management of other areas; this has enabled more people to enjoy and use the sea, while still improving the ecological status of coastal waters.
- Although considerable progress is being made on the post-Kyoto targets to reduce greenhouse gas emissions, the slow response rate in the upper atmosphere means that sea-levels are continuing to rise, albeit more slowly than earlier forecasts; action is being taken to protect and manage marine ecosystems in the light of these changes, and local Integrated Coastal Zone Management (ICZM) partnerships have identified the most appropriate areas of coast for managed realignment programmes, so as to retain good areas of intertidal habitat.
- ICZM has allowed for a considerable expansion in the recreational use of the sea, without any long-term impacts on biodiversity.
- The impact of military activities, including the use of underwater acoustic devices, has been reduced to levels that no longer have a significant impact on biodiversity.
- The impacts of other forms of noise from shipping and onshore activities on cetaceans and other marine species have been taken fully into account in the management of these activities, wherever practicable.
- Measures have been put in place across all Member States to ensure that the public – and, in particular, key decision makers – are well informed about marine life and aware of the value of biodiversity in local seas.
- Marine management is supported by high-quality scientific research, prioritised to meet these needs in a cost-efficient way. Scientific advice is taken fully into account in all decision-making procedures, and, in the absence of scientific certainty, the precautionary principle is always applied.

2.3.2 Achieving the desired state

Although a range of mechanisms will be required to achieve the desired state, the EEAC offers the following initial suggestions as to possible mechanisms to achieve the aspects of the desired state described in 2.3.1:-

- All EU Member States should set up a framework within their government systems to bring a new focus to marine management. This should be encouraged and supported by the establishment of some form of EC joint directorate marine group to co-ordinate policy across all those Directorates General whose activities impact on the coasts, seas and oceans.
- EU Member States adjacent to each regional sea, working in partnership with non-member states, should adopt a sensitive eco-region approach to management of that sea area; they should establish management plans for each of the main activities within that regional sea, including a management plan for fishing in particular.
- The EC should work to ensure strong coherence between international provisions affecting the marine environment and the individual regulatory mechanisms operating at the EU and Member State level.
- EU subsidies should be applied in ways that reduce, rather than encourage, the use of nitrates and other chemicals, and so reduce effluent discharges into the sea. Specifically, the CAP should be largely decoupled from production payments, and be applied and monitored to minimise impact on marine and coastal habitats.
- The EU should produce a list of all relevant hazardous substances, taking into account the lists produced by HELCOM, OSPAR, Barcelona and other regional seas conventions, and apply stringent marine emission limits for these substances in surface waters. The assessment schemes for the persistent, bioaccumulative and toxic (PBT) properties of hazardous substances should be tightly co-ordinated with those of OSPAR and HELCOM.

- With EC input, all Member States should agree emission ceilings initially for the 33 substances currently categorised as priority substances, and objective procedures should be agreed to assess whether other substances need to be added to this list.
- The EU pesticides strategy should take full account of the need to protect the marine environment, both as regards criteria for authorisation and use reduction programmes.
- EU Member States should apply the Water Framework Directive fully to inland, transitional and coastal waters and should also fully apply the Urban Wastewater Directive, reducing inputs into the sea to levels that can be contained within the chemical carrying capacity of marine waters and introducing action programmes to eliminate human-induced eutrophication.
- The Nitrates Directive should be strengthened, and enforced vigorously throughout the EU, on land and in the marine environment; appropriate standards should be enforced for nitrogen emissions from shipping.
- Through the development of stakeholder groups at European, regional sea and local levels, fisheries management should become integrated with the management of other marine activities, and form part of a more holistic approach to the management of marine resources.
- An ecosystem approach should be applied to fisheries management and be taken forward by stakeholder partnerships, involving both fishermen and scientists. In our view, this would lead to an improvement in the status of fish stocks and their supporting environment, which, in turn, could begin to reverse the long-term decline in the number of fishermen around Europe's coasts.
- The limited establishment of 'no-take' fisheries zones should be used routinely by stakeholder partnerships as one tool within the ecosystem approach to fisheries management, particularly for slow-growing or late-maturing fish species.
- The fishing industry, in consultation with scientists and other stakeholders, should develop a code of practice which drastically reduces the levels of bycatch and discards, both through technical measures and by effort reduction in particular geographical areas at particular times of year.
- Fishermen should be encouraged to introduce a strict, self-regulatory system to ensure that fishing gear is not discarded at sea.
- The aquaculture industry should introduce a strict code of conduct, and an accreditation and eco-labelling scheme which rewards careful management of individual fishfarms and encourages an integrated approach to the control of fish pests; the code should include measures to prevent escapes from fishfarms, with loss of accreditation as a penalty if the code is not fully observed.
- Strict port controls and a marine shipping code of conduct should be introduced to minimise the deliberate and accidental disposal of litter at sea.
- Strict port controls should be introduced for the cleaning or repair of ballast tanks, adequate reception facilities should be provided to accommodate sediments, and new ships should be better designed to undertake efficient ballast water exchange and to incorporate ballast water treatment technologies.
- Strict controls should be introduced on discharges of endocrine-disrupting chemicals on land; encouragement should be given for new formulations of anti-fouling paints and for new ships that are better designed to minimise 'fouling' problems without recourse to chemical formulations.
- A partnership approach should be used to engage all stakeholders in regional and local ICZM systems, which include marine protected areas as one of their management tools.
- We believe that a considerably increased income from marine tourism might provide an added incentive for coastal communities to engage in coastal and marine management. For example, we believe many countries will recognise that whale-watching brings more long-term economic benefits than whaling.
- Stronger financial incentives should be introduced throughout European seas and oceans to avoid spills from oil and gas platforms and pipelines; oil and gas must also be recognised as finite commodities which need to be looked after carefully.
- A balanced mix of renewable energy sources should be developed, taking environmental considerations fully into account, leading to major reductions in the use of fossil fuels for electricity generation and thus in the release of greenhouse gases. To encourage the development of these forms of generation in Member States, the EU should develop an EU-wide Strategic Plan for Renewables which ensures that the siting of these facilities does not impact on the functioning of marine ecosystems.
- It should become normal practice for military personnel to monitor and reduce any impacts of military activities at sea on biodiversity; in particular, underwater acoustic devices should be modified to use only those frequencies, which research has shown to have no significant impact on cetaceans and other species.
- Although marine research will always be expensive to undertake, scientific partnerships should be established within EU Member States, and with other countries, which would routinely identify the highest research priorities, targeting resources particularly at research, which can inform and support marine management.
- Life in the seas and oceans should be part of the curriculum of every school, as part of the wider programme of Education for Biodiversity.

