



## EEAC WORKING GROUP MARINE (WGM) RECOMMENDATION TO DG ENVIRONMENT AND EU WATER DIRECTORS

### ANALYSIS OF GAPS IN THE PROCESS TO DRAW UP THE EUROPEAN MARINE STRATEGY

#### SUMMARY OF RECOMMENDATIONS

**Recommendation 1:** The aim of the Strategy should be to improve the state of European seas to support sustainable use and to achieve the various related goals and agreements, including ones relating to marine biodiversity.

**Recommendation 2:** The Strategic Goals and Objectives Working Group should formulate a vision to provide the Strategy with a clearer purpose. This vision should embrace sustainable use but also acknowledge the contribution that Europe's seas can make to the quality of life of Europe's citizens.

**Recommendation 3:** The Ecosystem Approach to Managing Human Activities Working Group should provide clear guidance on the definition and application of the ecosystem approach, drawing on recent thinking such as that underlying the reformed Common Fisheries Policy and the output of the Køge workshop, including further consideration of risk management.

**Recommendation 4:** The Strategic Goals and Objectives Working Group should set strategic cross-cutting goals, objectives and targets rather than simply refining sectoral objectives. The Commission should recognise and address the fact that a mechanism is required to allow all Directorates General and other EU Institutions to contribute to the delivery of these goals, objectives and targets.

**Recommendation 5:** The Inter-Organisational Consultation Forum should submit a report to the Strategic Goals and Objectives Working Group to inform goal setting.

**Recommendation 6:** An attempt should be made to define the desired state which the Strategy is trying to attain. This should be sufficiently ambitious to include the need to seek recovery as well as maintenance of Europe's marine ecosystems and acknowledge the effect of climate change. EEAC Working Group Marine looks to the Strategic Goals and Objectives Working Group to take on this task; but failing that, another body should be commissioned to do so.



**Recommendation 7:** The Strategic Goals and Objectives Working Group should define targets (both long- and short-term) to act as monitoring tools to monitor performance. And should also suggest a review process that would be triggered if these targets were not met.

**Recommendation 8:** Governance arrangements should be more clearly addressed in the Strategy, with the different levels (requiring to be) involved being highlighted.

**Recommendation 9:** The Strategy should address compliance with - and enforcement of - management measures as a strategic issue. To do this it should assess the existing suite of indicators used and advise on the need for further indicators to be adopted/created.

**Recommendation 10:** EEAC Working Group Marine welcomes the current remits of the European Marine Monitoring and Assessment Working Group but we suggest that it should also: consider how best to incorporate information from a range of sources; consider the need for new research and monitoring; and prioritise/recommend areas of work to be taken forward.

**Recommendation 11:** The Strategy should provide a clear outline of a spatial hierarchy, and key issues pertinent to each level. EEAC Working Group Marine thinks this issue falls within the Terms of Reference of the Strategic Goals and Objectives Working Group and the Inter-Organisational Consultation Forum but that the Ecosystem Approach to Managing Human Activities Working Group could also provide guidance on the utility of such a framework in implementing an ecosystem approach.

**Recommendation 12:** Marine spatial planning should be given detailed consideration as a delivery tool of strategic importance to many of the objectives in this Communication. To that end, EEAC Working Group Marine recommends that the Strategic Goals and Objectives Working Group defines an objective for marine spatial planning and that it identifies the most appropriate process/body for providing guidance on the development and implementation of marine spatial planning.

**Recommendation 13:** The Strategic Goals and Objectives Working Group should include a Strategic Objective relating to networks of marine protected areas. EEAC Working Group Marine recommends that the EC should either clarify that an existing process/body is considering such matters in detail or, if this is not the case, set up such a process/body.

**Recommendation 14:** The Commission should ensure that all Directorates General and other EU Institutions consider the impact of their decisions on the marine environment by ensuring that environmental assessment informs the policy development and implementation processes of such bodies.



## **Background and purpose of this paper**

1. The European Environment and Sustainable Development Advisory Councils' (EEAC) Working Group Marine (WGM)<sup>1</sup> welcomes the Commission's Communication on the European Marine Strategy (COM(2002) 539 final), and the subsequent steps which have been taken to establish Working Groups to examine certain issues in more detail. EEAC WGM welcomes the involvement of stakeholders and the opportunity for the EEAC to contribute, including through participation in the four EC Working Groups (Strategic Goals and Objectives (SGO), Ecosystem Approach to Managing Human Activities (EAM), European Marine Monitoring and Assessment (EMMA), Hazardous Substances (HS)).
2. This paper has been prepared by the EEAC WGM to highlight gaps which still remain in the process underway to draw up the Strategy, and to suggest areas where further work is required. It is informed by an analysis of COM(2002) 539 final, along with subsequent papers, and taking into account the establishment of the four EC Working Groups.
3. EEAC WGM have structured this paper around higher level issues, i.e. the aim of the Strategy, principles and then focussed on strategic points, addressing specific sectoral issues. EEAC WGM believes and hopes this structure suits the evolution of the Strategy, noting that it is an evolving process.

## **Introduction**

4. The Strategy is particularly welcome because current arrangements are not addressing the problems and challenges of managing and protecting the marine environment and indeed in some cases are exacerbating them. In particular, whilst it is recognised that the EU has sought to address a range of issues such as water quality through specific Community legislation and through membership of international organisations such as the Regional Seas Conventions, the EU has traditionally taken a piecemeal or sectoral approach. To date there has been no integrated strategy for the overall protection and sustainable use of the marine environment. Further, the management of at least two sectors where the EU has lead competence, fisheries and agriculture, has contributed to, rather than offset, the deterioration of Europe's marine ecosystems.
5. The Communication appears to recognise these issues and seeks to depart from the sector-oriented approach to 'develop an integrated policy for the marine environment', and initiate an integrated ecosystem approach. Progress since the Communication is encouraging, e.g. establishing the EAM Working Group and making explicit links to the Water Framework Directive (WFD).

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<sup>1</sup> See Appendix 1



6. Despite such progress, however, a number of gaps and weaknesses in the original Communication remain to be addressed. In particular, there is still a need to make proper provision for the co-ordinated and sustainable delivery of different objectives, though greater policy integration between sectors but also between local, national, European and more global perspectives.
7. We hope the following analysis will prove useful in the further development and future work towards developing a final Strategy by May 2005.

### **Clarifying the Aim of the EU Marine Strategy**

#### **Promoting an integrated vision to recover and maintain ecosystems and the multiple benefits they provide**

8. It is important that the Strategy explicitly states (possibly in its accompanying chapeau) that the sea should be recognised as the source of a full range of different benefits, in the context of sustainable use, providing *inter alia*:
  - economic benefits from natural resources and biological productivity,
  - a global life-support system regulating temperature, climate and biodiversity, and
  - personal enrichment through our awareness and enjoyment of its outstanding scenery and wildlife (this role is currently underplayed).

These various roles are components of what have been called ecosystem goods and services or a 'multiple benefits' approach. This requires more than simply streamlining and integrating ongoing or future initiatives and instead should tackle the underlying issues to halt and reverse downward trends in marine ecosystems.

**Recommendation 1: The aim of the Strategy should be to improve the state of European seas to support sustainable use and to achieve the various related goals and agreements, including ones relating to marine biodiversity.**

**Recommendation 2: The Strategic Goals and Objectives Working Group should formulate a vision to provide the Strategy with a clearer purpose. This vision should embrace sustainable use but also acknowledge the contribution that Europe's seas can make to the quality of life of Europe's citizens.**

#### **Mechanism(s) for implementing the Marine Strategy**

9. Whilst there is some way to go to develop the Strategy, it would be helpful if the EC can outline what mechanism(s) are available, and their respective merits, for ensuring it is implemented. Some concern has been raised following discussion of the *European Marine Strategy – annotated outline of a policy* [SGO (1) 04/5/1] document that the Commission was already considering a legal instrument. We would welcome clarification on this matter. In general, the preference of the EEAC WGM would be for a binding Framework Document, the text of which should suggest for further consideration the options for 'daughter Directives' to more fully implement specific commitments in the Framework.



## Principles which should inform the Marine Strategy

10. EEAC WGM is pleased to see the Communication's attention to the ecosystem approach, but a clarifying reference to the International Council for the Exploration of the Sea's (ICES) working definition – "*integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services, and maintenance of ecosystem integrity*" – is essential for a proper understanding of the implications of this approach.

**Recommendation 3: The Ecosystem Approach to Managing Human Activities Working Group should provide clear guidance on the definition and application of the ecosystem approach, drawing on recent thinking such as that underlying the reformed Common Fisheries Policy and the output of the Køge workshop<sup>2</sup>, including further consideration of risk management.**

## Strategic Issues to be addressed

**Delivering integrated policy: moving beyond sectoral approaches towards programmes which put the environment at their centre, and fostering institutional arrangements which deliver them.**

11. Securing the wise use of natural resources and identifying development choices that maximise social, economic and environmental benefits requires a more integrated approach to policy making. The EEAC WGM is, therefore, disappointed that the Communication is structured in so sectoral a fashion, given that it identifies over-dependence on a sector-by-sector approach as being one of the weaknesses of current maritime management.
12. As a result the Communication is weak in the consideration it gives to comprehensive and cross-cutting measures to address these. In our view sectoral objectives and actions are unlikely to be sufficient by themselves: they need to be complemented by others directly addressing more strategic issues. It is essential to set strategic cross-cutting goals, objectives and targets rather than simply to refine sectoral objectives.
13. At the same time, the Strategy needs to reflect the full range of sectors relevant to the marine ecosystem. For example, there was relatively little mention in the Communication of the land:sea interface and the importance of catchments. This has implications for a more integrated approach to policy and management. Catchment management policies need to recognise and address the impacts of catchment management on the marine environment, especially with respect to nutrients and agricultural practice.
14. Thus the Strategy must make links to the Common Agriculture Policy (CAP), Common Fisheries Policy (CFP) and important aspects of the transport and chemical policies. If the Strategy fails to make such explicit links, it will be

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<sup>2</sup> Stakeholder Conference, 4-6 December 2002, Køge, Denmark.

<http://forum.europa.eu.int/Public/irc/env/marine/library?l=/stakeholdersmeetings&vm=detailed&sb=Title>



ignoring the significance that such policies have for the marine environment, and the importance of treating them in a properly integrated way (note that we have confined additional concerns about specific sectors to Appendix 2).

15. We, therefore, agree with the Environment Council conclusions<sup>3</sup> that there is a need to clarify the connection between the Strategy and marine aspects of Directives, and the need to recommend further measures for the integration of environmental aspects in other Community policies such as in relation to Integrated Coastal Zone Management (ICZM). The Strategy needs to be a 'corporate' EU document, binding on all EC Directorates General, and guiding all policies affecting the marine environment, for the final Strategy to apparently maintain only partial coverage risks undermining it.
16. Consequently, Directorates General focusing on social and economic functions (especially DG Fish, DG Agri, and DG Tran ) need to be required to take more tangible account of the impacts of their activities on the environment, and to be involved in management decisions at the EU level relating to the marine environment. If such essential joined-up thinking at a European level cannot be achieved with the current institutional arrangements then it may require the development of new administrative priorities, structures and ways of working within the bodies of the European Union.

**Recommendation 4: The Strategic Goals and Objectives Working Group should set strategic cross-cutting goals, objectives and targets rather than simply refining sectoral objectives. The Commission should recognise and address the fact that a mechanism is required to allow all Directorates General and other EC Institutions to contribute to the delivery of these goals, objectives and targets.**

**Delivering integrated commitments: Approaches to policy making need to be consistent with existing commitments**

17. Many of the objectives in the Communication need to take account of existing commitments and targets stemming from regional Conventions such as Barcelona, HELCOM (the Helsinki Convention – for the Protection of the Marine Environment of the Baltic Sea Area) and OSPAR (the Convention for the Protection of the Marine Environment of the North-East Atlantic), the Bergen Declaration, and international mechanisms such as UNCLOS and the World Summit on Sustainable Development (WSSD) 2002. For example, targets for establishing a representative network of Marine Protected Areas by 2012 (WSSD) and by 2010 for the North Sea (OSPAR) are pertinent to the Communication's proposed Objectives 1 and 2. Equally, the WSSD commitment to achieving the recovery of fish stocks by 2015 clearly has a bearing on Objective 3. In developing strategic goals and objectives, it will be important to ensure there is no conflict with, and to maximise synergy with, these existing commitments. We recognise that the Inter-Organisational Consultation Forum (IOCF) exists, as a platform for co-ordination and collaboration, but its Terms of

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<sup>3</sup>Conclusions of Environment Council 2491 meeting, Brussels 4 March 2003 (6677/03 Presse 54), para 7 (g and h)



Reference may need to be amended to allow it to address these issues more effectively.

**Recommendation 5: The Inter-Organisational Consultation Forum should submit a report to the Strategic Goals and Objectives Working Group to inform goal setting.**

**Realising the vision: Demonstrating commitment and making progress through sufficiently ambitious and clear targets.**

*Defining the desired state and accepting the need for recovery*

18. The European Economic and Social Committee<sup>4</sup>, in relation to consistency between policies, recommends that the Commission should define the concept 'good state of the marine environment'. The current state of the seas should not be taken as the baseline. In recognising that marine environments have been altered, as evidenced in the latest European Environment Agency State of Environment report<sup>5</sup>, we must ensure that we do not accept an already degraded marine environment as the basis of a desired state. Instead, we must recognise the need for recovery of ecosystems in setting objectives and targets and the need to take account of the effects of climate change. We believe there are lessons the Strategy can learn from the WFD and attempts under OSPAR to derive Ecological Quality Objectives.

**Recommendation 6: An attempt should be made to define the desired state which the Strategy is trying to attain. This should be sufficiently ambitious to include the need to seek recovery as well as maintenance of Europe's marine ecosystems and acknowledge the effect of climate change. EEAC Working Group Marine looks to the Strategic Goals and Objectives Working Group to take on this task; but failing that, another body should be commissioned to do so.**

*Commitment to new action*

19. We urge that the Strategy does not overly rely on existing mechanisms to tackle highlighted problems but that it also promotes the need for further scientific research to expand the knowledge base upon which management decisions or remedial actions can be taken.

*Clarity of targets*

20. It is important to ensure that the actions identified in the Strategy can deliver the objectives set. The actions listed against the objectives in section 7 of the Communication do not contain any measures specifically aimed at addressing the issue of the "global footprint" of EU activities and purchases on the marine environment, (nor does the paper SGO(1) 04/5/1 address this gap), despite the commitment to this in paragraph 69 of COM(2002) 539 final. The actions listed

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<sup>4</sup>Opinion of European Economic & Social Committee (2003/C 208/04) para 4.2.1.

<sup>5</sup> European Environment Agency. *Europe's environment: the third assessment. Environmental assessment report No 10*. OPOCE 2003/05/12



are also fairly general and in the absence of more detailed targets and deadlines, it will be hard to verify progress against them. Our understanding is that detailed targets were excluded from the 6<sup>th</sup> Environmental Action Programme on the specific assurance that they would appear in the Thematic Strategies.

21. The EU should define long-term (for example, see those of OSPAR and HELCOM) and short-term targets. Short-term targets act as an important monitoring tool to measure progress, and if met provide useful motivation for those involved. Failure to reach short-term targets should trigger an automatic review into the reasons for failure and need for remedial action.

**Recommendation 7: The Strategic Goals and Objectives Working Group should define targets (both long- and short-term) to act as monitoring tools to measure progress. And should also suggest a review process that would be triggered if these targets were not met.**

**Improving governance: bringing decision-making closer to the areas affected, and involving other stakeholders.**

22. Decision-making structures are needed which can deliver multiple benefits from marine resources in ways which are transparent and reflect wider views about the limits of acceptable environmental change. An example of this would be starting to 'regionalise' decisions which have traditionally been taken at a European or national level, where decisions can be remote from local practice. To this end the EEAC welcomes the EC's initiative on the creation of Regional Advisory Councils (RACs) for fisheries, and the suggestion to apply this model in other sectors as a contribution to achieving the aims of the targets of the EU Marine Strategy (Action 20). In that way elements of decision-making can be devolved within a framework delivering a proper balance of economic, social and environmental priorities. We note that their creation is partly an expression of the principles of public participation and information in accordance with the Aarhus Convention.

23. We hope the RACs will be examples of this regionalising of decisions: that by inputting stakeholder views regarding regional management more environmentally sensitive decisions will result. EEAC WGM wants these advisory councils to be bodies focussing on the implementation of an ecosystem approach at the regional scale, whose advice is taken seriously in planning activities. We also urge that the EC – applying the model of RACs for fisheries in other sectors – considers the suggestions that have already been made on RACs for fisheries<sup>6</sup>.

24. In particular EEAC WGM suggests that these RACs for fisheries must work more closely with the existing environmental councils at the regional level. We would also seek assurances that the geographic basis of RACs does not preclude

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<sup>6</sup> MiNa-Raad, Advisory opinion on the broad lines that emerged on 3 June 2003 concerning the regional advisory councils in the context of the Common Fisheries Policy, Ed. 2003/32, , <http://www.minaraad.be/2003/2003-31ENG.pdf>

IEEP, Workshop on RACs – Delivering ecosystem-based management? Brussels, 6 February 2004, Key Conclusions, 12p, <http://www.ieep.org.uk/PDFfiles/PUBLICATIONS/Conclusions%20IEEP%20UK%20Agencies%20RAC%20meeting%206%20Feb.pdf>



different boundaries being adopted for 'regional seas' management if deemed more appropriate.

25. We recognise, however, that in order to increase public and stakeholder understanding and engagement in marine and coastal issues, programmes of awareness-raising and capacity-building will be required. Correspondingly, there are lessons to be learned at a national and European level from local partnership approaches already in existence in several Member States, which broaden participation using stakeholder groups. Lessons already learned from the Commission's Demonstration Programme on ICZM should not be forgotten<sup>7</sup>. Overall, addressing the need to broaden involvement in management decisions, to plan for sectoral management within a framework of multiple benefits, and to bring decision-making closer to the areas affected, are cross-cutting issues which could put marine resource-use on a more sustainable footing.
26. The Strategy is the place to raise important issues regarding the governance of maritime activities, as a strategic issue (not only within the fisheries sector). At present there is no process in place to stimulate the necessary higher-level debate in Member States.

**Recommendation 8: Governance arrangements should be more clearly addressed in the Strategy, with the different levels (requiring to be) involved being highlighted.**

**Improving compliance: designing policy and regulatory tools with compliance in mind, enforcing them where necessary, and making sure they work for the benefit of the environment.**

27. In a number of places (e.g. paragraphs 66, 70, 79) the Communication acknowledges that existing control measures are difficult to enforce. Since this is such a strategic issue it would be appropriate for the strategy to consider what enforceable control measures would look like, and the need to design policy tools with compliance in mind.
28. Incentives for those who affect the sea through their day-to-day activities need to be consistent with the requirements of sustainability. Perverse incentives which make it appear rational to over-exploit stocks (in the case of fisheries) or to insensitively manage land (in the case of agriculture) must be avoided. This points towards the need to redirect incentives and financial support mechanisms. Instead of being aimed at increasing efficiency, *per se*, they should support responsible practice in sensitive areas, increase understanding of ecosystem functioning and assist the process of participative management.
29. Transparency of operation should be a factor in the design of regulation (for example, fishing mortality is managed more easily through effort control than through Total Allowable Catches). Traditional approaches focusing on regulation

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<sup>7</sup> From 1996-99, the Commission operated a Demonstration Programme on ICZM designed around a series of projects and thematic studies. The experiences and outputs of this work are available online at: <http://europa.eu.int/comm/environment/iczm/demopgm.htm>.



and enforcement need to evolve towards management regimes that promote compliance, and reward and foster the values of good management. Eco-labelling may also have a role to play providing market-based incentives. In our view the essence of good stewardship is that management should become to a greater extent self-policed, rather than having to be enforced from without. This has implications for the need for measures to be applied consistently and fairly, and for those affected to be able to input to management decisions.

30. Notwithstanding the above, there will continue to be a need for many measures to be more robustly enforced to ensure compliance with existing legislation and tackle problems such as false fisheries landing data. In combination with spatial planning approaches (see later), greater effort needs to be expended in monitoring and enforcement so as to stay within environmental carrying capacity and safeguard features of value.
31. A very substantial factor inhibiting the successful tackling of marine environmental problems is the lack of any proper attempt to account for environmental costs. A significant amount of activity damaging to the marine environment would not take place if those responsible had routinely to meet the full environmental costs of their actions. Every effort should be made to ensure that costs of activities affecting the environment are accurately reflected in the balance sheet of the company. In the case of shipping this could be via environmentally differentiated shipping dues and a legal obligation for vessels to carry full environmental liability insurance. For example if the insurance premiums on the *Prestige* had accurately reflected the possible dangers the vessel posed it might not have seemed such a commercially attractive proposition.
32. The Strategy needs to clarify the way sustainable use is likely to relate to the design of regulation, the degree of management oversight and enforcement, and the development of closer networks and partnerships between different stakeholders. On this point, there may be a need for closer examination of the degree of compliance of different Member States with existing EU legislation.



**Recommendation 9: The Strategy should address compliance with - and enforcement of - management measures as a strategic issue. To do this it should assess the existing suite of indicators used and advise on the need for further indicators to be adopted/created.**

#### **Improving both the use and provision of information**

33. We do not know enough about the way marine ecosystems work to be able to predict with certainty how they will respond to human interference. It is, therefore, important that when the science is uncertain the Strategy ensures we adopt a precautionary approach where there appear to be significant risks, learning from experience and adapting to inevitable change.
34. However, unless there is the political will to actually take account of the evidence, in view of the Principles referred to above and the experience of for example, implementation of the CFP, a strengthened scientific basis (suggested later) will not in itself bring improvements across the full range of marine sectors.
35. At the same time, we need to build up the science base. Much can be done with existing initiatives and a good deal of relevant activity is already underway through the Common Implementation Strategy for the WFD. The methods of measuring in the different Member States are being intercalibrated to be sure they are compatible. As stated above, we feel there are likely to be lessons from the implementation of the WFD which could be extrapolated beyond coastal waters.
36. We should strive for better integration of large scale marine research and monitoring programmes within the EU (such as Marine Biodiversity and Ecosystem Functioning (MARBEF), the 6<sup>th</sup> Framework Programme, an enlarged European Global Ocean Observing System (EGOOS) and Mediterranean Global Ocean Observing System (MedGOOS) and more effective management models based on forecasting systems and best practice by relevant stakeholders to help strengthen the scientific basis for management and policy making.
37. Non-scientific based stakeholder participation in monitoring is currently deemed to be lacking. To strengthen the social basis data, to reduce the gap between science and stakeholders, e.g. fishermen, stakeholders should be involved in monitoring.

**Recommendation 10: EEAC Working Group Marine welcomes the current remit of the European Marine Monitoring and Assessment Working Group but we suggest that it should also: consider how best to incorporate information from a range of sources; consider the need for new research and monitoring; and prioritise/recommend areas of work to be taken forward.**



## Delivering and implementing integrated policy in practice

### Framework for delivery: spatial hierarchy

38. We advocate the concept of identifying different spatial scales, considering what issues can appropriately be addressed at each, what governance mechanisms are needed, and what science and information is required as an obvious expression of the ecosystem approach. Such a framework is likely to:

- Large Marine Ecosystems,
- Regional and sub-regional seas,<sup>8</sup>
- Local, e.g. at estuary scale
- Sites with special habitats and species

39. The Strategy needs to support both the large-scale subdivision of Europe's marine environment and the encouragement of more local frameworks to guide the development of industries such as aquaculture and marine renewables, the routes of shipping carrying dangerous cargoes (Action 14), as well as biodiversity objectives (Action 3). The EEAC WGM would be happy to provide further views and examples.

40. The EEAC WGM welcome the recognition of the need to act at a regional scale, but we are concerned about the lack of detail concerning the arrangements proposed for establishment of 'at least two pilot projects for regional implementation'<sup>9</sup>.

**Recommendation 11: The Strategy should provide a clear outline of a spatial hierarchy, and key issues pertinent to each level. EEAC Working Group Marine thinks this issue falls within the Terms of Reference of the Strategic Goals and Objectives Working Group and the Inter-Organisational Consultation Forum but that the Ecosystem Approach to Managing Human Activities Working Group could also provide guidance on the utility of such a framework in implementing an ecosystem approach.**

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<sup>8</sup> We would like to draw attention to the work on developing Regional Seas for UK waters – see [http://www.jncc.gov.uk/marine/irishsea\\_pilot/RegSeas/rseas.htm](http://www.jncc.gov.uk/marine/irishsea_pilot/RegSeas/rseas.htm)

<sup>9</sup> See 'Work plan and organisational arrangements for the development of an EU Marine Strategy', DG Environment document produced for EU Water Directors meeting June 2003.



## Marine spatial planning

41. The Strategy can not be expected to address actions in detail. However, we would expect it to identify a common framework within which to develop detailed actions across different areas/regions of European waters, key tools for delivery, and for associated guidance on how it will be delivered to be produced (possibly in conjunction with the Regional Seas Conventions). Here we highlight issues which appear to be beginning to receive attention within the Strategy process but which merit much more consideration.
42. Marine spatial planning is widely becoming recognised as a tool with a range of potential benefits including reconciling different sectoral (and often competing) objectives, delivering agreed priorities at various scales, better co-ordination between sectoral activities, and addressing cumulative effects. It is through seeking to achieve multiple objectives in particular places that policy integration is more likely to take effect.
43. There are now many commitments to progressing the development of marine spatial planning (e.g. OSPAR and North Sea Declaration). However, the Communication only mentions marine spatial planning briefly (para 81) and then only in relation to the designation of further Special Areas of Conservation (SACs) under the Habitats Directive. We anticipate that it will be given more prominence in the Strategy, but seek assurance that this will be the case. For example EAM are to produce comments on this.
44. Land- and sea-use planning should straddle the land-sea interface, and point up where impacts at sea need to be taken more strongly into account in the framing of terrestrial activities. Full integration of marine and land-based protected areas as part of a wider nature conservation and spatial planning strategy may help to overcome a traditional land-based approach. Also for tourist and recreational activities there is need for integration of land- and sea-use planning. In general, there should be a much clearer relationship with existing EU activities in the area of Integrated Coastal Zone Management – such as the recent EU ICZM Recommendation.

**Recommendation 12: Marine spatial planning should be given detailed consideration as delivery tool of strategic importance to many of the objectives in this Communication. To that end, EEAC Working Group Marine recommends that the Strategic Goals and Objectives Working Group defines an objective for marine spatial planning and that it identifies the most appropriate process/body for providing guidance on the development and implementation of marine spatial planning.**



## Marine protected areas

45. The Communication refers to specific examples of marine protected areas, e.g. SACs and Special Protection Areas (SPAs) under the Habitats and Birds Directives respectively. We welcome and support the involvement of the marine working group under the Habitats & Ornithology Committees in considering modification of the Annexes to the Habitats Directive. We also recognise the commitments made under OSPAR and HELCOM towards marine protected areas. EEAC WGM welcomes the overall objective and is pleased that special attention will be paid to sites holding high biodiversity value. However, the actions mentioned in the Communication to help achieve this objective are restricted to the Natura 2000 network. Besides, the Habitats and Birds Directives start from a land-based approach and they are insufficiently tuned to marine protected areas to play as useful a role as they could.
46. EEAC WGM supports the commitment of the EU in the Communication to pursue its efforts to fully implement the Habitats and Birds Directives in the marine environment and the reference to adapt the annexes to the Habitats Directive to increase the range of marine habitats and species. However, more attention should be given to the current work of OSPAR on the protection of threatened and declining species and habitats and the commitment to establish a representative network of well-managed marine protected areas in the North Sea by 2010 (Bergen Declaration) and in all European Seas by 2012 (WSSD Plan of Implementation).
47. Strategic issues are still to be addressed in relation to the role of marine protected areas in general, of which SACs and SPAs are but examples, and also to networks of marine protected areas. Such issues include consideration of marine protected areas of differing levels of protection. In view of the impacts suffered by the marine environment, for example the pervasive and long-term effects of fishing, there is an urgent need to explore tools to enable recovery, as well as maintenance, of European marine ecosystems and biodiversity. In particular, consideration needs to be given to a European network of marine protected areas (coastal and oceanic) which does not rely solely on the Birds and Habitats Directives to meet international targets. This should incorporate more effective means of regulating extractive use such as fishing, through the inclusion of no-take areas.

**Recommendation 13: The Strategic Goals and Objectives Working Group should include a strategic objective relating to networks of marine protected areas. EEAC Working Group Marine recommends that the EC should either clarify that an existing process/body is considering such matters in detail or, if this is not the case, set up such a process/body.**



48. Environmental assessment is also necessary at all levels of policy making. Policy frameworks relating to land and sea use, transport, energy, and enterprise need to guide overall development objectives so that they favour the types of development which minimise resource use, reduce pollution and safeguard valued elements of the natural environment. The strategic environmental and sustainability appraisal of policies, plans and programmes can, therefore, have an important role to play in the development of more environmentally sensitive planning frameworks, and also in identifying a range of policy options which bring social, economic and environmental benefits.
49. It is important that all aspects of development and land/sea-use are scrutinised for their effects upon the environment. Decision-makers and developers need to anticipate the consequences of their choices for the environment, to evaluate alternatives, and to be able to guide action to recover losses where damage occurs. We see the need to extend Strategic Environmental Assessment to activities in the marine environment, including fisheries activities, as an urgent priority.

**Recommendation 14: The Commission should ensure that all Directorates General and other EU Institutions consider the impact of their decisions on the marine environment by ensuring that environmental assessment informs the policy development and implementation processes of such bodies.**

### **Endorsement of paper**

As at 1<sup>st</sup> May 2004, this paper has been approved by the following member Councils of the EEAC WG Marine:-

*Belgium:* Environment and Nature Council of Flanders (MiNa-Raad)

*The Netherlands:* Wadden Sea Council

*UK – Scotland:* Scottish Natural Heritage

The following Councils contributed to the development of this paper, but have not yet had time to consider and comment on the final version:-

*Germany:* German Advisory Council on the Environment (SRU)

*Sweden:* Environmental Advisory Council (MVB)

*UK-England:* English Nature (EN)

*Portugal:* Portuguese National Council on Environment and Sustainable Development (CNADS)



## APPENDIX 1

### **The European Environment and Sustainable Development Advisory Councils (EEAC)**

1. The EEAC is a unique collaboration between the councils set up by European governments to provide independent, scientifically based advice on the environment and sustainable development. The network is a powerful tool for sharing information and experience across Europe. It also aims, where appropriate, to exert an influence on policy at EU level. Co-operation between advisory councils under the EEAC network started in 1993. More than 30 councils from 20 European countries now participate in the network. The individual councils are statutory bodies with the mission to advise national and regional governments in the above mentioned and related policy fields and/or to provide a dialogue on sustainable development between stakeholders.
2. The EEAC has established a number of Working Groups including one on Marine issues, Working Group Marine or WGM (formerly known as the WG on Coastal Zones and Marine Environment). The current focus of the group is to inform and contribute to the development of the EU Marine Thematic Strategy.
3. On 10 June 2003 the Chair of the WG wrote to the Greek Presidency to express the group's view that the EU Marine Policy under formulation should better reflect an holistic and integrated view of marine (oceans, seas and coasts) affairs. In that letter the EEAC WGM provided an initial analysis of the Communication and highlighted a number of major issues requiring further consideration. The EEAC WGM also signalled their intention to undertake a more detailed analysis, as a contribution to the further development of the draft Strategy, That analysis forms the basis of the present paper.
4. In addition, on the 3 November, the Chair of the WG Marine wrote to DG Environment endorsing and supporting the proposal for the establishment of an expert working group on Strategic Goals and Objectives. In that letter the EEAC WGM suggested that integration, desired state, taking account of existing objectives and targets and the lack of clear targets, the link between objectives and actions should all be considered within the Group's Terms of Reference.



## Appendix 2

The following paragraphs consider a range of key marine pressures, against which the effectiveness of the European Marine Strategy will be assessed. We hope that these pressures will be taken fully into account in drawing up the Strategy, and suggest a range of issues that need to be considered in addressing them.

### Eutrophication

1. The Communication is overly reliant on existing mechanisms and proposes almost no concrete or additional measures. For example the reference (Action 9) to ‘more vigorous enforcement and implementation of the Nitrates or the Urban Wastewater Directives’ is an existing duty of the Commission (see art. 211 EC), rather than a new action under the Strategy. Despite this, to date there have been over 50 proceedings against Member States for insufficient implementation of the Nitrates Directive, but still the eutrophication status of the Baltic Sea and the North Sea is alarming. Areas of sea are also vulnerable to high nitrate concentrations, yet the requirement to identify Nitrate Vulnerable Zones only applies on land. The Strategy should point up anomalies of this kind.
2. EEAC WGM hopes that the stated actions will be sufficient to attain Objective 5 of the Communication: ‘the elimination of human-induced eutrophication problems by 2010’. Action 9 specifically addresses what will be of importance in eliminating eutrophication of the marine environment by agricultural fertilisation when it seeks to ‘pursue a more vigorous enforcement and implementation of the Nitrates Directive’. The June 2003 Luxembourg CAP reform agreement largely decouples agricultural support from production and introduces mandatory cross-compliance to farm payments. There is now an opportunity to ensure that the requirements of marine environmental protection are integrated into the CAP. Also the environmental measures which are part of the Rural Development Programmes – where support is granted for measures which go further than the usual good agricultural practice – are able to result in reduced nutrient inputs.
3. In addition, the Nitrates Directive must be applied, as foreseen in its annex, not only on the mainland, but also to the marine environment. The “problem areas” and “potential problem areas” which were designated by OSPAR Member States must be recognised as endangered areas under the terms of the Nitrates Directive. Nitrogen emissions from shipping must also be regulated, and appropriate standards put in place.

### Shipping

4. EEAC encourages the EC to continue to strengthen its co-ordination role with Member States through the International Maritime Organisation (IMO) to ensure a



cohesive approach to major marine issues and speak on issues at the IMO. Though there has been a number of severe ship accidents, still no sufficient environmental and security standards do exist on the international level. Furthermore, the present standards are not implemented very well, the issue of implementation of existing controls is something that the EEAC should encourage the EC to undertake more rigorously. In contrary, in many cases flag states as well as port state controls or the classification of ships are deficient.

5. The “Motorways of the Sea” are an important feature of TEN-T (Trans-European Transport Networks) (Communication from the Commission to the Council and the European Parliament on the development of a Euro-Mediterranean transport network, Brussels, 24.6.2003, COM(2003) 376 final). In this Communication the references to environment and nature are limited to general statements. TEN-T is a priority to the Commission and can have important consequences to the marine ecosystem. Therefore, the Strategy should make links to the Common Transport Policy.
6. In comparison to the international law the EC endues enforcement instruments and mechanisms which could lead to a more efficient implementation. The action undertaken by the Commission in aftermath of the *Erika* and *Prestige* and recent legal proceedings against several Member States because of the violation of, for example, the Directive on Port State Control, are important steps towards a better protection of the European seas. At the same time, new regional European standards could influence the international level and – in consequence – the shipping worldwide. This is quite obvious in the case of single hull tankers. Here, European regulations became – at least for a good part – international rules. This interaction between Europe and the international level is acceptable, there is no conflict with the international law. UNCLOS does not forbid regional standards, but these standards are generally applied as conditions of port entry rather than applying waters beyond the territorial sea. Concerning MARPOL the following is important: if the international laws only provide “sub-optimal” regulations, then there is a need to choose an interpretation which leads to an optimisation. Such an optimisation could be achieved by an interpretation (of MARPOL) that allows regional standards with regard to the need for better protection of the marine environment or by Member States applying higher standards as a condition of port entry.

### **Hazardous substances**

7. There are variations in the treatment of hazardous substances under different international conventions. Generally, the lists of priority substances produced by the EU, especially under the WFD, are less comprehensive than those existing for the various regional sea conventions. Harmony is required across EU policies, EU practice needs to be consistent with other commitments, and all limits need to take account of the requirements of marine environmental protection. This may mean, for example, that marine emission limits need to be more stringent than those for surface waters (since substances persist for longer at sea than in rivers).



8. The lists of substances for priority action drawn up by OSPAR and HELCOM need to be classified as priority substances under the WFD and all other relevant EU policies, and the timescales for ceasing all discharges to the marine environment (the Generation Target of the International Conference on the Protection of the North Sea) should also be recognised. The Strategy should provide a coordinating role in ensuring that such targets are consistently applied.
9. In addition, the assessment schemes of the European water and chemical policies for persistent, bioaccumulative and toxic (PBT) properties of hazardous substances need to be harmonised with those of OSPAR and HELCOM. The present EU assessment schemes do not consider marine concerns sufficiently. All substances with PBT, vPvB (very persistent and very bioaccumulative), CMR (carcinogenic, mutagenic and toxic to reproduction), or hormonal properties should come under the ambit of the future EU-REACH-system for registration, evaluation and authorisation of chemicals (proposed under the EU chemicals policy), at least to the stage of authorisation. Pesticides, biocides and other chemicals with such properties should be authorised only where it is proved that their use is necessary for public welfare, and no alternatives exist, regardless of whether the substances are produced for intra-Community trade or exclusively for export, and this authorisation should be subject to a regular process of review. The availability of less hazardous substitute chemicals must be established as an independent reason for the refusal of the authorisation of a substance under the REACH-system and the legislation for pesticides and biocides. Bans of critical chemicals, pesticides and biocides should also be considered and are a necessary consequence if the precautionary principle is taken seriously. In general, REACH should also seek to make available information about the properties of registered chemicals.
10. We look to the Hazardous Substances Working Group to take these issues forwards.

## **Fisheries**

11. We recognise that problems still exist with some Member States, e.g. in relation to the proposed implementation of RACs, and hope that the Commission will continue to work to overcome this.