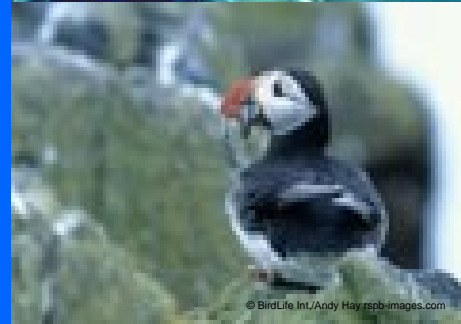


# Charting the course towards healthy seas

An NGO response to the Commission's proposal for an EU Marine Strategy Directive

by Daniel Owen, Fenner Chambers

for BirdLife International, Greenpeace, IFAW and WWF  
May 2006



**The author: Daniel Owen**

Daniel Owen is a barrister in independent practice at Fenners Chambers in Cambridge (United Kingdom). He specialises in the law regulating the use of the sea, at the domestic, EC and international levels.

E-mail: [daniel.owen@fennerschambers.co.uk](mailto:daniel.owen@fennerschambers.co.uk)

**Disclaimer:** The material contained in this report, including the Explanatory Memorandum and the shadow Directive, is intended exclusively for the purpose of addressing the terms of reference provided by the Client Group. It does not constitute legal advice. Except in respect of the Client Group, the author shall have no responsibility for any loss which may arise from reliance on any part of the material contained in this report.

**Acknowledgements:**

- (1) The author would like to thank those individuals within the organisations comprising the Client Group for their comments on earlier drafts of this report. In particular, he would like to thank Saskia Richartz of Greenpeace.
- (2) Though evident in section 2 of the report, the author would also like to point out that some of the material used in the shadow Directive is drawn from the Commission's own legislative proposal.

© Daniel Owen 2006

**Reference as:** Owen, D. (2006) *Charting the course towards healthy seas - An NGO response to the Commission's proposal for an EU Marine Strategy Directive*; BirdLife International, Greenpeace, IFAW, WWF; Brussels, Belgium

# **Charting the course towards healthy seas**

**An NGO response to the Commission's proposal for  
an EU Marine Strategy Directive**

by Daniel Owen, Fenner's Chambers

for BirdLife International, Greenpeace, IFAW and WWF

May 2006

## The Client Group



BirdLife International is a global Partnership of conservation organisations that strives to conserve birds, their habitats and global biodiversity, working with people towards sustainability in the use of natural resources. BirdLife Partners operate in over one hundred countries and territories worldwide, including all 25 EU Member States.



Greenpeace uses non-violent, creative confrontation to expose global environmental problems and to drive solutions for a green and peaceful future. Greenpeace is independently funded and does not accept donations from governments, corporations or political parties.



The International Fund for Animal Welfare works to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats, and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance the well-being of both animals and people.



WWF is one of the world's largest and most experienced independent conservation organizations, with almost five million supporters and a global network active in more than 100 countries.

WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by:

- conserving the world's biological diversity
- ensuring that the use of renewable natural resources is sustainable
- promoting the reduction of pollution and wasteful consumption.

## Foreword by the Client Group

The organisations BirdLife International, Greenpeace, the International Fund for Animal Welfare (IFAW) and the WWF - referred to here as “**the Client Group**” - have jointly commissioned this report. All four organisations are also members of a wider coalition of non-governmental organisations that works on the European Marine Strategy and associated Marine Strategy Directive.

The Client Group, as indeed the wider coalition, welcomes the publication in October 2005 of the European Commission's proposal for a Marine Strategy Directive,<sup>1</sup> as it believes that action based on common objectives and deadlines is urgently required to halt and reverse the dramatic decline and deterioration of Europe's marine environment.

However, the Client Group and wider coalition feel that the Commission's proposal falls far short of establishing the holistic framework needed to apply an ecosystem approach to the protection of Europe's seas and the management of marine resources. Most importantly, it puts off key decisions on what constitutes a healthy marine environment to a later date and fails to adequately address sectoral pressures on the marine environment and the international dimension of marine protection.

Having identified a number of general and more specific concerns in relation to the Commission's proposal, the Client Group decided to commission a “shadow Directive” that would take on board its principal concerns. That shadow Directive has been drafted by Daniel Owen, in response to specific terms of reference supplied by the Client Group. Those terms of reference may be summarised as follows:

- 1) to include the objective/obligation to achieve or restore good environmental status;
- 2) to include strategic goals and objectives;
- 3) to bind Member States collectively in to producing “a single Regional Marine Strategy per Marine Region or sub-region”;
- 4) to avoid any delay in deciding what constitutes a healthy marine environment;

---

<sup>1</sup> COM(2005) 505 final, 24 October 2005.

- 5) to address the full range of human-induced threats that impact on our marine environment, requiring integration of all sectoral marine policies. Where necessary, secondary legislation should be referenced or proposed, or a generic review/future action clause inserted;
- 6) to be based on the guiding principles for EU environmental policy, as stated in the EC Treaty, which include: the precautionary principle, the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay;
- 7) to be based on an ecosystem approach to managing human activities, involving strategic environmental assessment and spatial planning, and include clear, enforceable targets, allowing recovery and restoration where necessary, with the overall aim of a healthy marine environment, which can provide resources and services within sustainable and ecological limits;
- 8) to safeguard and build on existing regional and international commitments and legislation, while safeguarding the role of the regional seas conventions, and to allow the possibility for future stricter or more aspirational regional or national standards to persist;
- 9) to establish provisions for a Community funding mechanism, along the lines of Article 8 of the Habitats Directive;
- 10) to form the basic policy that informs European decision-making on the marine environment in areas beyond the jurisdiction of the European Union, including the high seas, with the effect of introducing an external dimension to the draft Directive, which as a minimum commits the EU to applying the principles of good oceans governance (ecosystem approach, precautionary approach, polluter pays principle etc) in international negotiations and activities in areas beyond the Community territory;
- 11) to ensure a high degree of transparency and stakeholder participation in the continuing development of the Marine Strategy Directive and any resulting instruments, in particular the development of regional strategies, criteria for Good Environmental Status etc.;

- 12)** to consider any potential for the proposed Marine Strategy Directive to weaken or undermine existing legislation (e.g. Habitats Directive, Birds Directive, Water Framework Directive) or commitments; and
- 13)** for derogations/exemptions in the draft Directive to be considered in the context of the overall aims of the Directive and coherence with the ecosystem-based approach (as well as in relation to any implications for existing legislation, see above) and amendments proposed to tighten derogations/exemptions where appropriate.

**BirdLife International**

**Greenpeace**

**IFAW**

**WWF**

**May 2006**

## 1. Explanatory Memorandum

1. In this Explanatory Memorandum, the Commission's legislative proposal for a Marine Strategy Directive (COM(2005) 505 final, 24 October 2005) will be referred to as "**the draft Directive**", and the articles that have been prepared for the Client Group will be referred to as "**the shadow Directive**". Dates in the shadow Directive have been retained in square brackets in order to reflect the readiness of the Client Group to enter into debate about timetables.

2. The primary purpose of this section of the report is to explain how the shadow Directive has sought to implement the terms of reference provided by the Client Group (see Foreword to this report for those terms). First, however, it should be noted that the shadow Directive also includes at least two significant concepts not addressed by the terms of reference:

**(a)** The shadow Directive has been applied not just to coastal States, but also to flag States and land-locked States. In short, the justification for that is to make the Directive more inclusive in terms of which Member States should take action to address environmental problems. In that respect, it is noteworthy that the Explanatory Memorandum to the draft Directive refers to the importance of involving land-locked States<sup>2</sup> (though the draft Directive itself focuses on coastal States).

**(b)** The shadow Directive includes internal waters (i.e. waters landward of the baseline from which the breadth of the territorial sea is measured) within its scope. In short, the justification for that is to include a potentially large area of marine waters that is currently excluded by draft Directive.

<b>TOR 1: to include the objective/obligation to achieve or restore good environmental status</b>
---

3. Article 1 of the draft Directive, entitled "Subject-matter", states, *inter alia*, that the Directive "establishes a framework for the development of Marine Strategies designed to achieve good environmental status in the marine environment ...".

---

<sup>2</sup> COM(2005) 505 final, 24 October 2005, page 8.

4. The development of Marine Strategies involves, *inter alia*, each Member State drawing up a programme of measures. Under the draft Directive, each programme is to contain measures “which need to be taken in order to achieve good environmental status ...”,<sup>3</sup> and the Commission is to assess whether the programme constitutes “an appropriate means of achieving good environmental status ...” and may reject a programme if it does not comply with the Directive.<sup>4</sup>

5. However, that is not the same as the Directive expressly requiring the Member States to achieve good environmental status. The draft Directive also leaves unclear the relationship between its tangential references to achieving good environmental status and its two articles on exceptions<sup>5</sup> (see further paragraphs 7 and 8 below).

6. It is also noteworthy that the articles of the draft Directive do not expressly require targets to be established for the purpose of achieving good environmental status.<sup>6</sup> Instead, reference is made to the “non-exhaustive list of characteristics set out in Annex III”.<sup>7</sup> That Annex in turn identifies the “[n]eed to set ... targets establishing desired conditions based on the definition of good environmental status”.<sup>8</sup> However, it is not clear whether that provision equates to setting targets to achieve good environmental status. Other paragraphs in Annex III also leave the role of targets in the draft Directive somewhat unclear.<sup>9</sup>

7. In practice, it is probably unrealistic to place an unqualified duty on the Member States to achieve good environmental status. That is because the environmental status of European marine waters is not within the exclusive control of the EC Member States. That fact is acknowledged by Article 15 of the shadow Directive, which allows a Member State to invoke one or more specific exceptions where it considers that an environmental target cannot be achieved through measures taken by that Member State alone.

8. In the light of that, Article 4(2) of the shadow Directive requires that: “For each Marine Region, the Member States concerned shall, subject to Article 15, achieve good environmental status in the European marine waters within that Region ...” (emphasis added). Thus the duty to achieve good environmental status is qualified by a reference to Article 15. The exceptions provided by Article 15 are addressed in more detail in paragraph 60 below.

---

<sup>3</sup> Draft Directive, Article 12(1) & (2). See also Article 12(4).

<sup>4</sup> Draft Directive, Article 15.

<sup>5</sup> Draft Directive, Articles 13 and 14 (and see also Article 15).

<sup>6</sup> Draft Directive, Article 9.

<sup>7</sup> Draft Directive, Article 9(1).

<sup>8</sup> Draft Directive, Annex III, paragraph (2).

<sup>9</sup> See for example: Draft Directive, Annex III, paragraphs (3), (10) and (12).

9. Other provisions in the shadow Directive are designed to be consistent with the duty in Article 4(2).<sup>10</sup> Several of those provisions contain a qualifying reference to Article 15. However, an important exception in that regard is the provision on environmental targets: targets are to be established with the intention of achieving good environmental status, without qualification, and Article 15 is only to be invoked if such targets cannot in turn be achieved.<sup>11</sup>

<b>TOR 2: to include strategic goals and objectives</b>
---

10. Article 1 of the draft Directive states that the Directive establishes a framework for the development of Marine Strategies designed to: (a) “achieve good environmental status in the marine environment [by the year 2021 at the latest]”; (b) “ensure the continued protection and preservation of that environment”; and (c) “ensure ... the prevention of deterioration”.

11. The Client Group wishes to see the inclusion of the strategic goals listed in a document prepared for the Stakeholder Conference in Rotterdam.<sup>12</sup> Those read as follows:

- A. *To protect, allow recovery and, where practicable, restore the function and structure of marine biodiversity and ecosystems in order to achieve and maintain good ecological status of these ecosystems.*
- B. *To phase out pollution in the marine environment so as to ensure that there are no significant impacts or risk to human and/or on ecosystem health and/or on uses of the sea.*
- C. *To contain the use of marine services and goods and other activities in marine areas to levels that are sustainable and that do not compromise uses and activities of future generations nor the capacity of marine ecosystem to respond to changes.*
- D. *To apply the principles of good governance, both within Europe and globally.*

<sup>10</sup> Shadow Directive, Articles 8(3)(b), 10(1), 10(4)(d), 14(1), 14(3)(a)(iii), 16(1) and 21(2)(a).

<sup>11</sup> Shadow Directive, Article 10(1).

<sup>12</sup> <forum.europa.eu.int/Public/irc/env/marine/library?l=/stakeholdersmeetings/rotterdam\_2004/documents\_conference&vm=detailed&sb=Title>; document “01” in the list, paragraph 67.

12. In the shadow Directive, those goals have been somewhat modified (including the deletion of item “D”).<sup>13</sup> With the inclusion of those goals, as modified, the reference to ensuring “the continued protection and preservation of that environment” has not been included in the shadow Directive on the basis that it is now covered by Article 1(1)(a) instead.

**TOR 3: to bind Member States collectively in to producing “a single Regional Marine Strategy per Marine Region or sub-region”**

13. The draft Directive provides for the establishment of Marine Strategies. Put briefly, a Marine Strategy under the draft Directive comprises an initial assessment, a determination of the characteristics for good environmental status, a set of environmental targets (and indicators), a monitoring programme and a programme of measures.

14. The draft Directive states that: “Each Member State shall, in respect of each Marine Region concerned, develop a Marine Strategy for its European marine waters ...”.<sup>14</sup> In doing so, Member States are to take due account of the fact that their European marine waters “form an integral part” of three Marine Regions (listed as the Baltic Sea, the North East Atlantic Ocean and the Mediterranean Sea).<sup>15</sup> The draft Directive requires Member States with marine waters within the same Marine Region to coordinate their actions.<sup>16</sup> However, taken together, that does not amount to Member States being required to prepare a single Marine Strategy for each Marine Region.

15. In contrast, the shadow Directive states that: “For each Marine Region, the Member States concerned shall, subject to Article 15, achieve good environmental status in the European marine waters within that Region by [2021] at the latest, by means of establishing and implementing a single Marine Strategy for that Region in accordance with the provisions of this Directive” (emphasis added).<sup>17</sup>

16. It follows that up with provisions on coordination<sup>18</sup> and with specific provisions requiring: (a) making every effort to ensure, *inter alia*, consistency at each stage in the preparation of the Marine Strategy; and (b) the production of a joint report at each stage.<sup>19</sup> The joint report is to

<sup>13</sup> Shadow Directive, Article 1(1).

<sup>14</sup> Draft Directive, Article 4.

<sup>15</sup> Draft Directive, Article 3(1).

<sup>16</sup> Draft Directive, Article 5(1).

<sup>17</sup> Shadow Directive, Article 4(2).

<sup>18</sup> Shadow Directive, Article 4(3)-(5).

<sup>19</sup> Shadow Directive, Articles 9, 10, 11 and 14.

explain how, *inter alia*, consistency has been achieved across the Marine Region. The reason for requiring a joint report is to ensure that Member States actually write down how, say, consistency has been achieved. If the Member States are unable to explain themselves in writing, it is unlikely that consistency will be achieved in practice.

17. In the case of environmental targets specifically, the shadow Directive also includes a duty to jointly establish a single set of environmental targets for each Marine Region.<sup>20</sup> In contrast, a duty to jointly establish assessments, monitoring programmes and programmes of measures was avoided because of: (a) the possibility of the whole process being held up because of failure to agree among the Member States; and (b) questions about where enforcement proceedings should be targeted. Those factors also apply to targets, but the Client Group felt that the need for a single set of targets for a Marine Region was sufficiently important for the purpose of achieving the objectives of the Directive that it should be included nonetheless.

<b>TOR 4: to avoid any delay in deciding what constitutes a healthy marine environment</b>
--

18. The draft Directive defines the term “environmental status”,<sup>21</sup> but leaves the task of determining “a set of characteristics for good environmental status” to each Member State.<sup>22</sup> The Member States are to do so on the basis of “generic qualitative descriptors, detailed criteria and standards” that are to be developed by the Commission by means of the comitology procedure.<sup>23</sup> Thus although there is scope for the Commission to adopt, say, a (binding) Regulation establishing standards for the recognition of good environmental status, that is not the same as having such standards set out in the Directive itself and having their development subject to the checks and balances provided by the Article 251 EC rule-making procedure (i.e. the so-called “co-decision” procedure).

19. In contrast, the shadow Directive includes a definition of the term “good environmental status”, which in turn links to an Annex elaborating on the meaning of that term. Thus the term “good environmental status” means “the point at which, in respect of the European marine waters in question, all of the conditions listed in Annex [A] exist in respect of those waters”.<sup>24</sup> Annex [A] then lists various conditions. The conditions listed in Annex [A] have been provided

<sup>20</sup> Shadow Directive, Article 10(1).

<sup>21</sup> Draft Directive, Article 1, 2<sup>nd</sup> paragraph.

<sup>22</sup> Draft Directive, Article 8(1).

<sup>23</sup> Draft Directive, Article 8(1) & (3).

<sup>24</sup> Shadow Directive, Article 3(6).

by the Client Group. They are based on a list of points that are included in what appears to be a predecessor to the draft Directive.<sup>25</sup> Annex [A] is accompanied by a note from the Client Group stating that:

*The Client Group has suggested the following list of conditions as an early contribution to the debate on what constitutes “good environmental status”. The Client Group does not suggest that this list is in any way final or complete.*

*The list contains a mixture of conditions, some describing desired outcomes for ecosystem components and others referring to control of human impacts and activities. This may be perceived as a somewhat “messy” approach, and the Client Group is optimistic that the list can be refined towards a greater emphasis on ecosystem components. For now, the mixed approach reflects the need for risk reduction as regards certain human activities, notably shipping, fishing, coastal development, etc.*

**20.** It is noteworthy that many of the conditions listed in Annex [A] offer considerable scope for interpretation and there is therefore corresponding scope for variation in practice between Member States in respect of any given Marine Region. However, as noted in the preceding paragraph, the Client Group anticipates further refinement of the conditions.

**21.** It is also the case that: (a) several of the conditions listed in Annex [A] relate to fisheries conservation, and yet the power to make rules for fisheries conservation has been transferred by the Member States to the EC; and (b) some of the conditions listed in Annex [A] relate to controls on shipping, in respect of which international law creates some constraints on coastal State action. However, those facts in themselves do not necessitate the removal of those conditions from the list, in view of, *inter alia*, Article 15 of the shadow Directive (see paragraph 60 below) and possibilities for Member States to nonetheless take some measures consistent with EC and international law regarding fisheries and shipping.<sup>26</sup>

**TOR 5: to address the full range of human-induced threats that impact on our marine environment, requiring integration of all sectoral marine policies. Where necessary, secondary legislation should be referenced or proposed, or a generic review/future action clause inserted**

<sup>25</sup> The document in question is available at: <[www.wrrl-info.de/docs/legal\\_proposal.doc](http://www.wrrl-info.de/docs/legal_proposal.doc)>.

<sup>26</sup> Regarding fisheries, see, *inter alia*: D.Owen, *Interaction Between the EU Common Fisheries Policy and the Habitats and Birds Directives*, IEEP Policy Briefing, Institute for European Environmental Policy, London, 2004.

**22. Assessments:** The assessments provided for in Article 9 of the shadow Directive are to comprise, *inter alia*: (a) an analysis of the essential characteristics and current environmental status of the waters in question; and (b) an analysis of the significant pressures and impacts, including human activities, on the environmental status of such waters. The definition of the term “environmental status” refers to human activities in general.<sup>27</sup>

**23.** The analysis of the essential characteristics and current environmental status of the waters in question is to be based on the “non-exhaustive” list of elements in Table 1 of Annex II.<sup>28</sup> In the “Other Features” section of that table, there is a focus on nutrient enrichment and chemical pollution. However, the table is stated to be “non-exhaustive” and therefore does not exclude consideration of effects from other human-induced threats (e.g. noise or physical degradation).

**24.** The analysis of the significant pressures and impacts, including human activities, on the environmental status of the waters in question is to be based on, *inter alia*, the “non-exhaustive” list of elements in Table 2 of Annex II.<sup>29</sup> Because Table 2 is stated to be non-exhaustive, lack of mention of a particular threat (e.g. electromagnetic disturbance) does not mean that consideration of such a threat is excluded.

**25. Targets:** The targets provided for in Article 10 of the shadow Directive are intended to achieve good environmental status.<sup>30</sup> The definition of the term “good environmental status” refers to the conditions listed in Annex [A].<sup>31</sup> As noted in paragraph 19 above, those conditions have been provided by the Client Group. Some of them are defined in terms of human activities rather than environmental outcomes (see paragraph 19 above). In that respect, the list of conditions in Annex [A] therefore has the potential to bias the human-induced threats covered by the targets towards some threats rather than others.

**26.** The targets are to be based on, *inter alia*, the assessments prepared pursuant to Article 9. Therefore any limitations applicable to the assessments may feed into the targets. The targets are also to be based on the non-exhaustive list of characteristics set out in Annex III. That annex contains no express limitations in terms of the types of human-induced threats to be addressed, and in any event is stated to be non-exhaustive.

---

<sup>27</sup> Shadow Directive, Article 3(5).

<sup>28</sup> Shadow Directive, Article 9(1)(a).

<sup>29</sup> Shadow Directive, Article 9(1)(b)(i).

<sup>30</sup> Shadow Directive, Article 10(1).

<sup>31</sup> Shadow Directive, Article 3(6).

**27. Monitoring programmes:** The monitoring programmes provided for in Article 11 of the shadow Directive are for the ongoing assessment of the environmental status of the waters in question.<sup>32</sup> As noted in paragraph 22 above, the definition of the term “environmental status” refers to human activities in general.

**28.** The monitoring programmes are to be based on, *inter alia*, the targets prepared pursuant to Article 10. Therefore any limitations applicable to the targets may feed into the monitoring programmes. The monitoring programmes are also to be based on the lists set out in Annexes II and IV. Annex II has already been mentioned in paragraphs 23 and 24 above. Annex IV is mainly generic in terms of threats. It makes a specific mention of providing information on “chemical contaminants in species for human consumption from commercial fishing gears”.<sup>33</sup> It makes some cross-references to assessments. Amongst other things, it requires them to cover “where necessary, new and emerging issues”.<sup>34</sup>

**29. Programmes of measures:** The programmes of measures provided for in Article 14 of the shadow Directive comprise measures that need to be taken to achieve good environmental status in the waters in question (subject to Article 15).<sup>35</sup> The point made in paragraph 25 above about good environmental status therefore applies to programmes of measures.

**30.** The programmes of measures are to be based on, *inter alia*, the assessments and targets prepared pursuant to Articles 9 and 10. Therefore any limitations applicable to the assessments and targets may feed into the programmes of measures. They are also to be based on the types of measure listed in Annex V. However, that annex contains no express limitations in terms of the types of human-induced threats to be addressed.

**31. Exceptions:** It is also necessary to bear in mind the effect of the exceptions created by Article 15 of the shadow Directive. For example, the shadow Directive allows a Member State to plead that it cannot achieve a particular environmental target because the power to adopt the measure(s) to achieve that target does not rest exclusively with that Member State, by virtue of EC law.<sup>36</sup> (That exception, though phrased differently, is also a feature of the draft Directive.<sup>37</sup>)

---

<sup>32</sup> Shadow Directive, Article 11(1).

<sup>33</sup> Draft Directive, Annex IV, paragraph (5).

<sup>34</sup> Draft Directive, Annex IV, paragraph (10).

<sup>35</sup> Shadow Directive, Article 14(1).

<sup>36</sup> Shadow Directive, Article 15(1)(b).

<sup>37</sup> Draft Directive, Article 14.

**32.** One area where that reason could be applicable is the adoption of fisheries conservation measures, since Member States have transferred rule-making powers for fisheries conservation to the EC. However, the shadow Directive includes a provision requiring that where a Member State invokes that reason, and the Commission accepts the validity of that reason, “the Commission shall promptly take all necessary actions within the limits of its powers to ensure that the environmental target in question is achieved”.<sup>38</sup> A provision of that kind should assist in facilitating dove-tailing between the Marine Strategy Directive and the EC’s Common Fisheries Policy. Such dove-tailing is clearly important in view of the potential impact of fishing activities on the marine environment.

**TOR 6: to be based on the guiding principles for EU environmental policy, as stated in the EC Treaty, which include: the precautionary principle, the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay**

**33.** The draft Directive does not expressly refer to: (a) the precautionary principle; or (b) the principles that preventative action should be taken, environmental damage should as a priority be rectified at source and that the polluter should pay.<sup>39</sup>

**34.** In contrast, the shadow Directive introduces a requirement for Member States, when fulfilling their obligations regarding assessments, environmental targets and monitoring programmes, to ensure that their actions are based on the precautionary principle.<sup>40</sup> With regard to programmes of measures, the shadow Directive introduces a requirement for such programmes to be established on the basis of, *inter alia*: (a) the precautionary principle; and (b) the principles that preventative action should be taken, environmental damage should as a priority be rectified at source and that the polluter should pay.<sup>41</sup>

---

<sup>38</sup> Shadow Directive, Article 15(4).

<sup>39</sup> However, recital (30) in the preamble to the draft Directive refers to certain environmental protection principles in the Charter of Fundamental Rights of the European Union.

<sup>40</sup> Shadow Directive, Article 12.

<sup>41</sup> Shadow Directive, Article 14(2)(c).

**TOR 7: to be based on an ecosystem approach to managing human activities, involving strategic environmental assessment and spatial planning, and include clear, enforceable targets, allowing recovery and restoration where necessary, with the overall aim of a healthy marine environment, which can provide resources and services within sustainable and ecological limits**

**35.** There are at least four related issues here: (a) for actions to be based on ecosystem approach; (b) for strategic environmental assessment to be used; (c) for spatial planning to be used; and (d) for targets to be clear and enforceable and to allow recovery and restoration where necessary.

**36. Ecosystem approach:** The draft Directive does not expressly refer to an ecosystem approach. The only point at which the articles of the draft Directive refer to the word “ecosystem(s)” is in Article 1, where the term “environmental status” is defined as:

*... 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. [Emphasis added.]*

**37.** The annexes to the draft Directive refer to “ecosystem(s)” in four places, and the recitals do so in five places. However, none of those references relates to the ecosystem approach. Ironically, the Explanatory Memorandum to the draft Directive refers to the “ecosystem-based approach” in three places, notably when mentioning an ICES guidance document on the application and implementation of the ecosystem-based approach.

**38.** In contrast, the shadow Directive includes a requirement for Member States, when fulfilling their obligations regarding assessments, environmental targets and monitoring programmes, to ensure that their actions are based on an ecosystem-based approach.<sup>42</sup> With regard to programmes of measures, the shadow Directive introduces a requirement for such programmes to be established on the basis of an ecosystem-based approach.<sup>43</sup>

---

<sup>42</sup> Shadow Directive, Article 12.

<sup>43</sup> Shadow Directive, Article 14(2)(c).

**39. Strategic environmental assessment:** The shadow Directive, like the draft Directive, requires assessments on a large scale.<sup>44</sup> The provisions on assessments also require the Member States to take into account assessments that have been prepared pursuant to Directive 2001/42/EC (the SEA Directive).<sup>45</sup> However, as it currently stands, the shadow Directive does not in itself require Member States to subject their Marine Strategies to strategic environmental assessment under the SEA Directive.

**40. Spatial planning:** The shadow Directive does not establish an overarching system of marine spatial planning. However, it does require each Member State to include in its programme of measures “the use of spatial protection measures, including but not limited to the use of special areas of conservation pursuant to Directive 92/43/EEC (as amended) and the use of special protection areas pursuant to Directive 79/409/EC (as amended)” (emphasis added).<sup>46</sup>

**41. Targets:** The shadow Directive does not require the targets themselves to be enforceable. But, like the draft Directive, it does expressly provide for the Commission to assess whether the targets, along with assessments and monitoring programmes, “constitute a framework which meets the requirements of this Directive”.<sup>47</sup>

**42.** The shadow Directive also requires that the Member States “jointly establish a single set of environmental targets intended to achieve ... good environmental status in those waters ...”.<sup>48</sup> Logically, the intention of achieving good environmental status can be construed as including, *inter alia*, an intention to restore, or facilitate recovery to, such status (if it does not already exist).

**TOR 8: to safeguard and build on existing regional and international commitments and legislation, while safeguarding the role of the regional seas conventions, and to allow the possibility for future stricter or more aspirational regional or national standards to persist**

**43.** There are three related issues here: (a) safeguarding and building on existing regional and international commitments and legislation; (b) safeguarding the role of regional seas

<sup>44</sup> Shadow Directive, Article 9.

<sup>45</sup> Shadow Directive, Article 9(1)(b)(iii).

<sup>46</sup> Shadow Directive, Article 14(3)(b).

<sup>47</sup> Shadow Directive, Article 13(1).

<sup>48</sup> Shadow Directive, Article 10(1).

conventions; and (c) allowing the possibility for future stricter or more aspirational regional or national standards.

**44. Safeguarding and building on existing regional and international commitments and legislation:** The draft Directive does not contain a general duty to avoid undermining existing commitments and obligations. Instead, subtle references on that theme are inserted at appropriate points in the draft in relation to assessments, targets, monitoring programmes and programmes of measures.<sup>49</sup>

**45.** A different approach is taken in the shadow Directive, by means of Article 8. First, Article 8(1) states that the Directive is “without prejudice to existing obligations and commitments of Member States, or the Community, at the Community or international level regarding environmental protection in European marine waters” (and then makes a non-exhaustive link to obligations and commitments arising from instruments listed in Annex [C]).

**46.** Secondly, Article 8(3) requires that “[a]ctions by Member States pursuant to Articles 9, 10, 11, 14 and 17 shall take account of and, where possible, build upon any relevant existing initiatives at the national, Community or international level ...”.

**47.** Thus the “without prejudice” provision in Article 8(1) includes obligations and commitments at the EC and international levels, but does not include those at the national level. In contrast, Article 8(3) applies to initiatives at the national, EC and international levels.

**48.** The shadow Directive also includes an obligation on the Commission to publish a report identifying “the scope for conflict or complementarity between the implementation of this Directive and the obligations and commitments referred to in Article 8(1)”.<sup>50</sup>

**49. Safeguarding the role of regional seas conventions:** One aspect of this issue has been addressed in paragraphs 44-48 above. Another role of regional seas conventions is to provide a forum for coordination between States.

**50.** The draft Directive creates an underlying duty on Member States with waters within the same Marine Region to coordinate their actions.<sup>51</sup> For that purpose, they are to “[w]here practical and appropriate ... use existing institutional structures established in that Marine

<sup>49</sup> Draft Directive, Articles 7(2), 9(1) 2<sup>nd</sup> paragraph, 10(1) 2<sup>nd</sup> paragraph, 10(3) and 12(2). See also Annexes.

<sup>50</sup> Shadow Directive, Article 20(1).

<sup>51</sup> Draft Directive, Article 5(1), 1<sup>st</sup> paragraph.

Region ...”.<sup>52</sup> For the purpose of coordinating actions with third countries, Member States are to “as far as possible, build upon existing programmes and activities developed in the framework of structures stemming from international agreements”.<sup>53</sup> Thus the terminology is different, depending on whether coordination is to be among the Member States or with third countries. In both cases, the use of, *inter alia*, regional seas conventions is implied, but only where “practical and appropriate” / “as far as possible”.

**51.** The shadow Directive creates an underlying duty on Member States concerned with a Marine Region to establish a means of coordination with one another.<sup>54</sup> (The shadow Directive does not, at that point, establish a duty to actually cooperate because that duty is created in more detail later, in relation to assessments, targets, monitoring programmes and programmes of measures.) For that purpose, the Member States shall “where practical and appropriate, use existing institutional structures applicable to the Marine Region in question”.<sup>55</sup> That implies the use of, *inter alia*, regional seas conventions, but only where “practical and appropriate”. Whatever means of coordination is adopted, the shadow Directive goes on to require Member States to appoint a State or body for notifying certain information to the Commission.<sup>56</sup>

**52.** Regarding coordination with third countries, the shadow Directive requires Member States to “where practical and appropriate, use existing relevant institutional structures” and “as far as possible, build upon existing programmes and activities developed in the framework of [those] structures”.<sup>57</sup> That implies the use of regional seas conventions as well as other forums, whether those other forums are at a regional or global level.

**53. Allowing the possibility for future stricter or more aspirational regional or national standards:** The shadow Directive does not refer expressly to allowing stricter national standards. However, Article 176 EC states that: “The protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. They shall be notified to the Commission”. Thus the possibility of adopting stricter national standards (including those implementing stricter regional standards) is safeguarded by the EC Treaty itself, subject to certain conditions being met.

---

<sup>52</sup> Draft Directive, Article 5(1), 2<sup>nd</sup> paragraph.

<sup>53</sup> Draft Directive, Article 5(2), 2<sup>nd</sup> paragraph.

<sup>54</sup> Shadow Directive, Article 4(3), 1<sup>st</sup> paragraph.

<sup>55</sup> Shadow Directive, Article 4(3), 2<sup>nd</sup> paragraph.

<sup>56</sup> Shadow Directive, Article 4(4).

<sup>57</sup> Shadow Directive, Article 6(2)(a) & (b).

54. Of course, one problem with allowing “stricter” standards is deciding whether such standards are indeed stricter or not.

**TOR 9: to establish provisions for a Community funding mechanism, along the lines of Article 8 of the Habitats Directive**

55. The draft Directive contains no funding mechanism. A funding mechanism based on that described in Article 8 of the Habitats Directive has been introduced by Article 21 of the shadow Directive.

**TOR 10: to form the basic policy that informs European decision-making on the marine environment in areas beyond the jurisdiction of the European Union, including the high seas, with the effect of introducing an external dimension to the draft Directive, which as a minimum commits the EU to applying the principles of good oceans governance (ecosystem approach, precautionary approach, polluter pays principle etc) in international negotiations and activities in areas beyond the Community territory**

56. The shadow Directive places an obligation on the European Parliament and the Council, or the Council, as appropriate, to “adopt Community measures to improve the environmental status of waters beyond European marine waters where such improvement is possible by means of controls on activities within the competence of the Community or the Member States”, on the basis of proposals presented by the Commission within a given timeframe.<sup>58</sup>

**TOR 11: to ensure a high degree of transparency and stakeholder participation in the continuing development of the Marine Strategy Directive and any resulting instruments, in particular the development of regional strategies, criteria for Good Environmental Status etc.**

57. The draft Directive refers to active involvement of all interested parties “[i]n accordance with Directive 2003/35/EC”.<sup>59</sup> That leaves it unclear as to how Directive 2003/35/EC is actually to be applied. To avoid that lack of clarity, the shadow Directive expressly amends Directive

<sup>58</sup> Shadow Directive, Article 23.

<sup>59</sup> Draft Directive, Article 18(1).

2003/35/EC in order to ensure that Article 2 of that Directive is applicable in respect of the preparation and up-dating of assessments, environmental targets, monitoring programmes and programmes of measures, as well as the preparation of Member State reports.<sup>60</sup>

58. The draft Directive refers to access “[i]n accordance with Directive 2003/4/EC”.<sup>61</sup> Again, that leaves it unclear as to how Directive 2003/4/EC is actually to be applied. For that reason, the shadow Directive takes the step of identifying a number of items that are to be regarded as information to be made available and disseminated to the public in accordance with Article 7 of Directive 2003/4/EC.<sup>62</sup>

**TOR 12: to consider any potential for the proposed Marine Strategy Directive to weaken or undermine existing legislation (e.g. Habitats Directive, Birds Directive, Water Framework Directive) or commitments**

59. As noted in paragraph 45 above, Article 8(1) of the shadow Directive states that the Directive is “without prejudice to existing obligations and commitments of Member States, or the Community, at the Community or international level regarding environmental protection in European marine waters” (and then makes a non-exhaustive link to obligations and commitments arising from instruments listed in Annex [C]). Thus Article 8(1) includes obligations and commitments at the EC and international levels, but does not include those at the national level.

**TOR 13: for derogations/exemptions in the draft Directive to be considered in the context of the overall aims of the Directive and coherence with the ecosystem-based approach (as well as in relation to any implications for existing legislation, see above) and amendments proposed to tighten derogations/exemptions where appropriate**

60. Article 15 of the shadow Directive has combined Articles 13 and 14 of the draft Directive. Other differences include, *inter alia*, the following: (a) Article 15 allows for exceptions to be invoked at two stages, i.e. during the process of establishing the programme of measures and during the implementation of that programme;<sup>63</sup> (b) in view of the application of the shadow Directive to flag States and land-locked States, Article 15 allows a Member State to plead that a

<sup>60</sup> Shadow Directive, Article 19(1).

<sup>61</sup> Draft Directive, Article 18(3).

<sup>62</sup> Shadow Directive, Article 19(2).

<sup>63</sup> Shadow Directive, Article 15(1) & (5).

particular target is not relevant due to the capacity in which that State is acting;<sup>64</sup> (c) when a Member State validly asserts that a target cannot be achieved because the implementing power does not rest exclusively with that Member State, by virtue of EC law, the Commission is required to “promptly take all necessary actions within the limits of its powers to ensure that the environmental target in question is achieved” (see also paragraphs 21 and 32 above);<sup>65</sup> (d) the third parties exception has been broadened to include the EC or any other international organisation;<sup>66</sup> and (e) recourse to certain exceptions, including a new exception regarding climate change,<sup>67</sup> must be accompanied by measures to “minimise the extent to which good environmental status cannot accordingly be achieved ...”.<sup>68</sup>

## 2. Text of shadow Directive

The following table comprises two columns: the **left-hand column** contains the text of the Commission’s legislative proposal for the Marine Strategy Directive (COM(2005) 505, 24 October 2005), less its annexes. The **right-hand column** contains the text of the shadow Directive prepared on behalf of the Client Group. That text makes reference to Annexes I-V in the Commission’s legislative proposal, but places such references in square brackets because: (a) the text of the annexes is not actually included below; and (b) there may be scope for amending the annexes. The text does, however, introduce four additional annexes ([A]-[D]).

---

<sup>64</sup> Shadow Directive, Article 15(1)(a).

<sup>65</sup> Shadow Directive, Article 15(4).

<sup>66</sup> Shadow Directive, Article 15(1)(d).

<sup>67</sup> Shadow Directive, Article 15(1)(f).

<sup>68</sup> Shadow Directive, Article 15(2).

<p style="text-align: center;"><b>Commission's Legislative proposal</b></p> <p style="text-align: center;">[COM(2005) 505, 24 October 2005]</p>	<p style="text-align: center;"><b>Shadow Directive prepared on behalf of Client Group</b></p>
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p>	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p>
<p>Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,</p>	<p>Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,</p>
<p>Having regard to the proposal from the Commission, Having regard to the opinion of the European Economic and Social Committee,</p>	<p>Having regard to the proposal from the Commission, Having regard to the opinion of the European Economic and Social Committee,</p>
<p>Having regard to the opinion of the Committee of the Regions,</p>	<p>Having regard to the opinion of the Committee of the Regions,</p>
<p>Acting in accordance with the procedure laid down in Article 251 of the Treaty,</p>	<p>Acting in accordance with the procedure laid down in Article 251 of the Treaty,</p>
	<p>Whereas:</p>
	<p><b>[NOTE: The wording for the three recitals below has been provided by the Client Group]</b></p> <p>(1) Europe is surrounded by four seas, the Mediterranean, the Baltic, the North Sea and the Black Sea; and two oceans, the Atlantic and the Arctic Ocean;</p> <p>(2) The Community's land territory effectively constitutes a peninsula with a coastline thousands of kilometres long, and the Community's marine territory is larger than its land territory;</p> <p>(3) It is evident that the demand on natural marine resources and marine ecological services, such as waste absorption, is too high and that the Community needs to reduce its footprint on the marine waters within and beyond the Community territory;</p>
<p><b>[remainder of preamble not included]</b></p>	<p><b>[remainder of preamble not included]</b></p>
<p>HAVE ADOPTED THIS DIRECTIVE:</p>	<p>HAVE ADOPTED THIS DIRECTIVE:</p>

Chapter I General provisions	Chapter I General provisions
<b>Article 1</b> <b>Subject-matter</b>	<b>Article 1</b> <b>Purpose</b>
<p>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.</p>	<p>1. The purpose of this Directive is to provide for measures which:</p>
	<p>(a) protect, prevent deterioration of, allow recovery of, and, where practicable, restore the function, processes and structure of marine biodiversity and marine ecosystems;</p>
	<p>(b) phase out pollution in the marine environment so as to ensure that there are no significant impacts or risks to marine biodiversity, marine ecosystems, human health or legitimate uses of the sea; and</p>
	<p>(c) contain the use of marine services and goods and other activities in the marine environment to levels that are sustainable and that do not compromise uses and activities of future generations nor the capacity of marine ecosystems to respond to natural and human-induced changes.</p>
	<p>2. For the purpose referred to in paragraph 1, this Directive establishes the concept of good environmental status and a framework by which Member States shall, subject to Article 15, achieve such status in European marine waters by [2021] at the latest.</p>
<p>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.</p>	

<p><b>Article 2</b></p> <p><b>Scope</b></p>	<p><b>Article 2</b></p> <p><b>Geographical scope</b></p>
<p>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”.</p>	<p>This Directive is applicable to European marine waters.</p>
	<p><b>Article 3</b></p> <p><b>Definitions</b></p>
	<p>For the purposes of this Directive:</p>
	<p><b>1. ‘European marine waters’ shall mean:</b></p> <p><b>(a)</b> all maritime zones seaward of the baselines from which the breadth of the territorial sea is measured and which are subject to the sovereignty or jurisdiction of the Member States; and</p>
	<p><b>(b)</b> all tidal waters in or adjacent to the Member States which are landward of the baselines from which the breadth of the territorial sea is measured, and all land or seabed covered intermittently or continuously by such waters.</p>
	<p>References in this Directive to ‘its European marine waters’ or ‘their European marine waters’ are references to those parts of European marine waters which are subject to the sovereignty or jurisdiction of the particular Member State or States in question.</p>
	<p><b>2. ‘Marine Region’ shall mean a region defined in Article 4(1).</b></p>
	<p><b>3. ‘The Member States concerned’ shall mean, for a given Marine Region:</b></p>
	<p><b>(a)</b> those Member States with European marine waters in that Marine Region;</p>
	<p><b>(b)</b> those Member States whose flag vessels operate within European marine waters in that Marine Region; and</p>
	<p><b>(c)</b> those Member States that are land-locked but have on their territories point or diffuse sources of pollution that is transferred to European marine waters in that Marine Region by means of rivers or</p>

	the atmosphere.
	<b>4.</b> 'The appointed Member State or structure' shall mean, for a given Marine Region, the Member State or existing institutional structure appointed in accordance with Article 4(4).
	<b>5.</b> 'Environmental status' shall mean the overall status of the environment of the waters in question, taking into account:
	<b>(a)</b> the structure, function and processes of the constituent marine ecosystems; and
	<b>(b)</b> the components, conditions and factors, whether acoustic, biological, chemical, climatic, geographic, geological, physical or physiographic, which interact and determine the condition, productivity, quality and state of the marine ecosystems referred to in point (a).
	The components, conditions and factors referred to in point (b) include those arising as a result of human activities, irrespective of whether such activities occur within or outside the European marine waters in question.
	<b>6.</b> 'Good environmental status' shall mean the point at which, in respect of the European marine waters in question, all of the conditions listed in Annex <b>[A]</b> exist in respect of those waters.
	<b>7.</b> 'Marine ecosystems' shall include the ecosystems of all parts of European marine waters.
	<b>8.</b> 'Existing initiatives' shall mean:
	<b>(a)</b> in the context of actions by Member States pursuant to Article 9, existing initiatives to prepare assessments;
	<b>(b)</b> in the context of actions by Member States pursuant to Article 10, existing initiatives to establish environmental targets or objectives and indicators;
	<b>(c)</b> in the context of actions by Member States and the Commission pursuant to Article 11, existing initiatives to establish monitoring programmes;
	<b>(d)</b> in the context of actions by Member States pursuant to Article 14, existing initiatives to establish programmes of measures;
	<b>9.</b> 'Pollution' shall mean the direct or indirect introduction, as a result of human activity, of substances or energy into the marine environment

	which results or may result in such deleterious effects as harm to marine biodiversity and marine ecosystems, hazards to human health and hindrance to legitimate uses of the sea.
	<b>10.</b> 'Tidal waters' shall mean waters whose landward limits are defined by the limits of the highest tide and, in the case of the waters of any river or watercourse, by the fresh-water limit of the river or watercourse.
<b>Article 3</b> <b>Marine Regions and Sub-Regions</b>	<b>Article 4</b> <b>Marine Regions, Marine Strategies and Marine Sub-Regions</b>
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:	1. Member States shall implement this Directive by reference to the following Marine Regions:
(a) the Baltic Sea;	(a) the Baltic Sea, defined as [...];
(b) the North East Atlantic Ocean;	(b) the North East Atlantic Ocean, defined as [...];
(c) the Mediterranean Sea.	(c) the Mediterranean Sea, defined as [...];
	[(d) the Black Sea, defined as [...].]
	2. For each Marine Region, the Member States concerned shall, subject to Article 15, achieve good environmental status in the European marine waters within that Region by [2021] at the latest, by means of establishing and implementing a single Marine Strategy for that Region in accordance with the provisions of this Directive.
	3. For each Marine Region, the Member States concerned shall establish a means of coordination with one another.
	For that purpose, the Member States concerned shall, where practical and appropriate, use existing institutional structures applicable to the Marine Region in question.
	4. For each Marine Region, the Member States concerned shall appoint:
	(a) one Member State amongst them; or
	(b) an existing institutional structure established in that Marine Region;
	for the purpose of notifying information to the Commission as required under this Directive.

	<p><b>5.</b> For each Marine Region, the appointed Member State or structure shall, by the date specified in the first subparagraph of Article 26(1), notify the Commission of:</p>
	<p><b>(a)</b> the identity of the Member States concerned, including the capacity in which they are concerned by reference to points (a), (b) or (c) of Article 3(3); and</p>
	<p><b>(b)</b> the means of coordination established pursuant to paragraph 3.</p>
<p><b>2.</b> 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:</p>	<p><b>6.</b> For the purpose of establishing and implementing a Marine Strategy, the Member States concerned may consider the Marine Region in question by reference to subdivisions.</p>
	<p>Any such approach by the Member States concerned shall:</p>
	<p><b>(a)</b> be without prejudice to the obligation in paragraph 2; and</p>
	<p><b>(b)</b> involve subdivisions that are compatible with the Marine Sub-Regions set out in Annex <b>[B]</b>.</p>
<p><b>(a)</b> in the North-East Atlantic:</p>	
<p><b>(i)</b> 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;</p>	
<p><b>(ii)</b> in the Celtic Seas, the marine waters covered by the sovereignty or jurisdiction of Ireland and the United Kingdom;</p>	
<p><b>(iii)</b> in the Bay of Biscay and the Iberian Coast, the marine waters covered by the sovereignty or jurisdiction of France, Portugal and Spain;</p>	
<p><b>(iv)</b> 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;</p>	
<p><b>(b)</b> in the Mediterranean:</p>	
<p><b>(i)</b> in the Western Mediterranean Sea, the marine waters covered by the sovereignty or jurisdiction of Spain, France and Italy;</p>	
<p><b>(ii)</b> in the Adriatic Sea, the marine waters covered</p>	

by the sovereignty or jurisdiction of Italy and Slovenia;	
<b>(iii)</b> in the Ionian Sea, the marine waters covered by the sovereignty or jurisdiction of Greece, Italy and Malta;	
<b>(iv)</b> 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).	<b>7.</b> The appointed Member State or structure shall notify the Commission of any subdivision adopted pursuant to in paragraph 6 by the date specified in the first subparagraph of Article 26(1).
<b>Article 4</b>	<b>Article 5</b>
<b>Marine Strategies</b>	<b>Marine Strategies</b>
	<b>1.</b> For each Marine Region, the Marine Strategy shall comprise the following items, including any updates made thereto pursuant to Article 17:
	<b>(a)</b> the assessments prepared pursuant to Article 9(1);
	<b>(b)</b> the report prepared pursuant to Article 9(5);
	<b>(c)</b> the set of environmental targets and indicators established pursuant to Article 10(1);
	<b>(d)</b> the report prepared pursuant to Article 10(4);
	<b>(e)</b> the monitoring programmes established pursuant to Article 11(1);
	<b>(f)</b> the report prepared pursuant to Article 11(5);
	<b>(g)</b> the programmes of measures established pursuant to Article 14(1); and
	<b>(h)</b> the joint report prepared pursuant to Article 14(6).
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:	<b>2.</b> For each Marine Region, the preparation and implementation of a Marine Strategy shall comprise the following stages, including any updates made pursuant to Article 17:
<b>(a)</b> Preparation:	
<b>(i)</b> 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;	<b>(a)</b> the preparation of assessments and the joint report pursuant to Article 9(1) and (5), by [4 years after date of entry into force];
<b>(ii)</b> 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);	(b) the establishment of the set of environmental targets and indicators and the preparation of the joint report pursuant to Article 10(1) and (4), by [5 years after date of entry into force];
(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);	(c) the establishment of monitoring programmes and the preparation of the joint report pursuant to Article 11(1) and (5), as well as the entry into operation of those monitoring programmes, by [6 years after date of entry into force];
(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);	(d) the establishment of programmes of measures and the preparation of the joint report pursuant to Article 14(1) and (6), by [2016] at the latest; and
(ii) entry into operation of the programme provided for in point (i), by 2018 at the latest, in accordance with Article 12(6).	(e) entry into operation of the programmes of measures pursuant to Article 14(8), by [2018] at the latest.
<b>Article 5</b>	<b>Article 6</b>
<b>Co-ordination and co-operation</b>	<b>Coordination with third countries</b>
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.	1. For the purpose of establishing and implementing a Marine Strategy, the Member States concerned shall make every effort to coordinate their actions with:
	(a) third countries having sovereignty or jurisdiction over maritime zones in the Marine Region in question;
	(b) third countries whose flag vessels operate in the Marine Region in question; and
	(c) third countries that are land-locked but have on their territories point or diffuse sources of pollution that is transferred to the Marine Region in question by means of rivers or the atmosphere.

<p>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.</p>	<p><b>2.</b> For the purpose of coordination pursuant to paragraph 1, the Member States concerned shall:</p>
	<p><b>(a)</b> where practical and appropriate, use existing relevant institutional structures; and</p>
	<p><b>(b)</b> as far as possible, build upon existing programmes and activities developed in the framework of the structures referred to in point (a).</p>
<p><b>Article 6</b> <b>Competent authorities</b></p>	<p><b>Article 7</b> <b>National competent authorities</b></p>
<p><b>1.</b> 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.</p>	<p><b>1.</b> Each Member State shall, by the date specified in the first subparagraph of Article 26(1), designate one or more national competent authorities for the implementation of this Directive.</p>
<p>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.</p>	<p><b>2.</b> Each Member State shall, within six months of the date specified in the first subparagraph of Article 26(1), notify the Commission of:</p>
	<p><b>(a)</b> the competent authorities designated pursuant to paragraph 1, together with the items of information listed in Annex I;</p>
	<p><b>(b)</b> the national competent authorities for the institutional structures referred to in Articles 4(4)(b) and 6(2)(a); and</p>
	<p><b>(c)</b> the national competent authorities for all other relevant international bodies in which it participates.</p>
<p>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.</p>	
<p><b>2.</b> 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.</p>	<p><b>3.</b> Member States shall notify the Commission of any changes to the information provided pursuant to paragraphs 1 and 2 within three months of such a change coming into effect.</p>
	<p><b>4.</b> Each Member State shall ensure that the competent authorities designated pursuant to paragraph 1 liaise with other public bodies in that Member State for the purpose of ensuring implementation of this Directive.</p>

	<p><b>Article 8</b></p> <p><b>Existing obligations, commitments and initiatives</b></p>
	<p>1. This Directive shall be without prejudice to existing obligations and commitments of Member States, or the Community, at the Community or international level regarding environmental protection in European marine waters.</p>
	<p>2. The obligations and commitments referred to in paragraph 1 shall include, amongst others, those arising under the instruments listed in Annex [C].</p>
	<p>3. Actions by Member States pursuant to Articles 9, 10, 11, 14 and 17 shall take account of and, where possible, build upon any relevant existing initiatives at the national, Community or international level to the extent that such initiatives:</p>
	<p>(a) apply to European marine waters in the Marine Region in question; and</p>
	<p>(b) are relevant to achieving good environmental status in the European marine waters within the Marine Region in question.</p>
<p><b>Chapter II</b></p> <p><b>Marine Strategies: Preparation</b></p>	<p><b>Chapter II</b></p> <p><b>Marine Strategies: assessments, environmental targets, indicators and monitoring programmes</b></p>
<p><b>Article 7</b></p> <p><b>Assessment</b></p>	<p><b>Article 9</b></p> <p><b>Assessments</b></p>
<p>1. Member States shall make an initial assessment of their European marine waters, comprising the following:</p>	<p>1. For each Marine Region, each Member State with European marine waters in that Marine Region shall, subject to paragraphs 2 and 3 and Articles 8 and 12, prepare an assessment comprising:</p>
<p>(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;</p>	<p>(a) an analysis of the essential characteristics and current environmental status of such waters, based on the non-exhaustive list of elements set out in Table 1 of Annex [III];</p>

<p><b>(b)</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;</p>	<p><b>(b)</b> an analysis of the significant pressures and impacts, including human activities, on the environmental status of such waters that:</p>
	<p><b>(i)</b> is based on the non-exhaustive list of elements set out in Table 2 of Annex <b>[II]</b>;</p>
	<p><b>(ii)</b> covers cumulative and synergistic effects, as well as discernible trends; and</p>
	<p><b>(iii)</b> takes into account relevant assessments that have been prepared pursuant to Directive 85/337/EEC (as amended), Directive 2001/42/EC, Directive 92/43/EEC (as amended) and Directive 79/409/EC (as amended); and</p>
<p><b>(c)</b> an economic and social analysis of their use and of the cost of degradation of the marine environment.</p>	<p><b>(c)</b> an economic and social analysis of the use of such waters, and of the cost of degradation of the environmental status of those waters.</p>
<p><b>2.</b> 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.</p>	<p><b>2.</b> Without prejudice to the generality of Article 8(3), each Member State shall, when preparing its assessment pursuant to paragraph 1, take into account any analysis or review prepared pursuant to Article 5 of Directive 2000/60/EC (as amended) to the extent that such analysis or review relates to that Member State's European marine waters in the Marine Region in question.</p>
	<p><b>3.</b> For each Marine Region, the Member States preparing assessments pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), make every effort to ensure that:</p>
	<p><b>(a)</b> their assessment methodologies are consistent between those Member States;</p>
	<p><b>(b)</b> relevant transboundary impacts and transboundary features are taken into account; and</p>
	<p><b>(c)</b> the views of the Member States referred to in points (b) and (c) of Article 3(3) are taken into account.</p>
	<p><b>4.</b> For each Marine Region, each Member State that has prepared an assessment pursuant to paragraph 1 shall notify that assessment to the</p>

	Commission and the Member States concerned no later than three months after its preparation.
	<b>5.</b> For each Marine Region, the Member States that have prepared assessments pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), jointly prepare a single report that explains how the assessments prepared by them:
	<b>(a)</b> are consistent between those Member States, in terms of assessment methodologies;
	<b>(b)</b> have taken into account relevant transboundary impacts and transboundary features; and
	<b>(c)</b> have taken into account the views of the Member States referred to in points (b) and (c) of Article 3(3).
	<b>6.</b> For each Marine Region, the appointed Member State or structure shall notify the report prepared pursuant to paragraph 5 to the Commission and the Member States concerned no later than three months after its preparation.
<b>Article 8</b>	
<b>Determination of good environmental status</b>	
<b>1.</b> 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.	
<b>2.</b> 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.	
<b>3.</b> The Commission, after consultation of all interested parties, shall, by [2 years after the date of	

<p><i>entry into force</i>] 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.</p>	
<p><b>Article 9</b></p>	<p><b>Article 10</b></p>
<p><b>Establishment of environmental targets</b></p>	<p><b>Environmental targets and indicators</b></p>
<p>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.</p>	<p>1. For each Marine Region, the Member States with European marine waters in that Marine Region shall:</p>
	<p>(a) subject to paragraphs 2 and 3 and Articles 8 and 12; and</p>
	<p>(b) by means of the coordination established pursuant to Article 4(3);</p>
	<p>jointly establish a single set of environmental targets intended to achieve, by [2021] at the latest, good environmental status in those waters, together with a single set of associated indicators.</p>
	<p>2. For each Marine Region, the set of environmental targets and indicators established pursuant to paragraph 1 shall be based on:</p>
	<p>(a) the assessments prepared for that Marine Region pursuant to Article 9(1) and the report prepared for that Marine Region pursuant to Article 9(5); and</p>
	<p>(b) the non-exhaustive list of characteristics set out in Annex [III].</p>
<p>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.</p>	
	<p>3. For each Marine Region, the Member States establishing a set of environmental targets and indicators pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article</p>

	4(3), ensure that:
	(a) the environmental targets and indicators are consistent across European marine waters within that Marine Region;
	(b) relevant transboundary impacts and transboundary features are taken into account; and
	(c) the views of the Member States referred to in points (b) and (c) of Article 3(3) are taken into account.
	4. For each Marine Region, the Member States that have established a set of environmental targets and indicators pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), jointly prepare a single report that explains how:
	(a) the environmental targets and indicators established by them are consistent across European marine waters within that Marine Region;
	(b) the environmental targets and indicators established by them have taken into account relevant transboundary impacts and transboundary features;
	(c) the environmental targets and indicators established by them have taken into account the views of the Member States referred to in points (b) and (c) of Article 3(3); and
	(d) the environmental targets established by them are intended to achieve, by [2021] at the latest, good environmental status in the European marine waters within that Marine Region.
2. Member States shall notify the environmental targets to the Commission no later than three months after their establishment.	5. For each Marine Region, the appointed Member State or structure shall notify:
	(a) the set of environmental targets and indicators established pursuant to paragraph 1; and
	(b) the report prepared pursuant to paragraph 4; to the Commission and the Member States concerned no later than three months after the preparation the report referred to in point (b).

<b>Article 10</b> <b>Establishment of monitoring programmes</b>	<b>Article 11</b> <b>Monitoring programmes</b>
<p>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.</p>	<p>1. For each Marine Region, each Member State with European marine waters in that Marine Region shall, subject to paragraphs 2 and 3 and Articles 8 and 12, establish a monitoring programme for the ongoing assessment of the environmental status of those waters.</p>
	<p>Without prejudice to the generality of Article 8(3), each Member State shall, when establishing its monitoring programme take into account the requirements arising pursuant to Article 11 of Directive 92/43/EEC (as amended) and Article 12(1) of Directive 79/409/EEC (as amended) to the extent that such requirements relate to that Member State's European marine waters in the Marine Region in question.</p>
	<p>2. For each Marine Region, the Member States establishing monitoring programmes pursuant to paragraph 1 shall do so on the basis of:</p>
	<p>(a) the set of environmental targets and indicators established for that Marine Region pursuant to Article 10(1) and the report prepared for that Marine Region pursuant to Article 10(4); and</p>
	<p>(b) the lists set out in Annexes <b>[II]</b> and <b>[IV]</b>.</p>
<p>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.</p>	
	<p>3. For each Marine Region, the Member States establishing monitoring programmes pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), make every effort to ensure that:</p>
	<p>(a) their monitoring methodologies are consistent between those Member States;</p>
	<p>(b) relevant transboundary impacts and</p>

	transboundary features are taken into account; and
	(c) the views of the Member States referred to in points (b) and (c) of Article 3(3) are taken into account.
2. Member States shall notify the monitoring programmes to the Commission no later than three months after their establishment.	4. For each Marine Region, each Member State that has established a monitoring programme pursuant to paragraph 1 shall notify that programme to the Commission and the Member States concerned no later than three months after its establishment.
	5. For each Marine Region, the Member States that have established monitoring programmes pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), jointly prepare a single report that explains how the monitoring programmes established by them:
	(a) are consistent between those Member States, in terms of monitoring methodologies;
	(b) have taken into account relevant transboundary impacts and transboundary features; and
	(c) have taken into account the views of the Member States referred to in points (b) and (c) of Article 3(3).
	6. For each Marine Region, the appointed Member State or structure shall notify the report prepared pursuant to paragraph 5 to the Commission and the Member States concerned no later than three months after its preparation.
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.	7. Where appropriate, the Commission shall, by means of the Committee referred to in Article 25, adopt specifications and standardised methods for monitoring which take into account existing initiatives and ensure comparability between monitoring results.
	<b>Article 12</b>
	<b>Environmental principles</b>
	When fulfilling their obligations under Articles 9, 10 and 11, Member States shall ensure that their actions are based on the precautionary principle and on an ecosystem-based approach.

<p><b>Article 11</b></p> <p><b>Approval</b></p>	<p><b>Article 13</b></p> <p><b>Approval</b></p>
<p>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.</p>	<p>1. For each Marine Region, on the basis of all the notifications made pursuant to Articles 9(4), 9(6), 10(5), 11(4) and 11(6), the Commission shall assess whether the items notified constitute a framework which meets the requirements of this Directive.</p>
<p>In making those assessments, the Commission shall consider the coherence of frameworks within the different Marine Regions and across the Community.</p>	<p>2. For the purpose of the assessment pursuant to paragraph 1, the Commission may ask one or more of the Member States concerned to provide any additional information necessary to enable it to make its assessment.</p>
<p>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.</p>	<p>3. Having made the assessment pursuant to paragraph 1 for each Marine Region, the Commission shall also consider the degree of consistency between the framework for one Marine Region and those for the other Marine Regions.</p>
<p>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.</p>	<p>4. Within six months of receiving notification of the joint report prepared pursuant to paragraph 11(6), the Commission may decide, in the case of any Marine Region, to reject the framework or any part thereof, on the basis that it does not comply with this Directive.</p>
<p><b>Chapter III</b></p> <p><b>Marine Strategies: Programmes of measures</b></p>	<p><b>Chapter III</b></p> <p><b>Marine Strategies: programmes of measures</b></p>
<p><b>Article 12</b></p> <p><b>Programmes of measures</b></p>	<p><b>Article 14</b></p> <p><b>Programme of measures</b></p>
<p>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.</p>	<p>1. For each Marine Region, each of the Member States concerned shall:</p>
	<p>(a) in the light of the capacity in which it is concerned by reference to points (a), (b) or (c) of Article 3(3); and</p>

	<b>(b)</b> subject to paragraphs 2, 3 and 4 and Articles 8 and 15;
	establish a programme of measures which need to be taken to achieve, by [2021] at the latest, good environmental status in the European marine waters within the Marine Region in question.
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.	<b>2.</b> For each Marine Region, the Member States establishing programmes of measures pursuant to paragraph 1 shall do so on the basis of:
	<b>(a)</b> the assessments prepared for that Marine Region pursuant to Article 9(1) and the report prepared for that Marine Region pursuant to Article 9(5);
	<b>(b)</b> the set of environmental targets and indicators established for that Marine Region pursuant to Article 10(1) and the report prepared for that Marine Region pursuant to Article 10(4);
	<b>(c)</b> the following environmental principles:
	<b>(i)</b> the precautionary principle;
	<b>(ii)</b> the principles that preventive action should be taken, environmental damage should as a priority be rectified at source and that the polluter should pay; and
	<b>(iii)</b> an ecosystem-based approach; and
	<b>(d)</b> the types of measure listed in Annex <b>[V]</b> .
	<b>3.</b> A Member State establishing a programme of measures pursuant to paragraph 1 shall:
	<b>(a)</b> indicate in its programme:
	<b>(i)</b> how the measures are relevant to the capacity in which it is concerned by reference to points (a), (b) or (c) of Article 3(3);
	<b>(ii)</b> how the measures are to be implemented; and
	<b>(iii)</b> how, subject to Article 15, the measures are intended to achieve, by [2021] at the latest, good environmental status in the European marine waters within the Marine Region in question;
	<b>(b)</b> include amongst the measures in its programme the use of spatial protection measures, including but not limited to the use of special areas of conservation pursuant to Directive 92/43/EEC (as amended) and the use of special protection areas

	pursuant to Directive 79/409/EC (as amended); and
	<b>(c)</b> give due consideration to sustainable development.
<b>2.</b> 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.	
	<b>4.</b> For each Marine Region, the Member States preparing programmes of measures pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3), make every effort to ensure that:
	<b>(a)</b> their programmes of measures are consistent between those Member States; and
	<b>(b)</b> relevant transboundary impacts and transboundary features are taken into account.
<b>3.</b> 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.	
<b>4.</b> 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).	
<b>5.</b> Member States shall notify the Commission and any other Member State concerned of their programmes of measures, within three months of their completion.	<b>5.</b> For each Marine Region, each Member State that has established a programme of measures pursuant to paragraph 1 shall notify that programme to the Commission and the Member States concerned no later than three months after its establishment.
	<b>6.</b> For each Marine Region, the Member States that have established programmes of measures pursuant to paragraph 1 shall, by means of the coordination established pursuant to Article 4(3),

	jointly prepare a single report that explains how the programmes of measures established by them:
	(a) are consistent between those Member States; and
	(b) have taken into account relevant transboundary impacts and transboundary features.
	7. For each Marine Region, the appointed Member State or structure shall notify the report prepared pursuant to paragraph 6 to the Commission and the Member States concerned no later than three months after its preparation.
6. Subject to Article 15, Member States shall ensure that the programmes are made operational within two years of their completion.	8. For each Marine Region, each Member State that has established a programme of measures pursuant to paragraph 1 shall, subject to Articles 15 and 16, ensure that the programme is operational within two years of its establishment.
<b>Article 13</b> <b>Special areas</b>	<b>Article 15</b> <b>Exceptions</b>
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:	1. Where a Member State establishing a programme of measures pursuant to Article 14(1) identifies an instance in which, for one or more of the following reasons, an environmental target established pursuant to Article 10(1) cannot be achieved through measures taken by that Member State, it shall identify that instance clearly in its programme of measures and provide the Commission with the evidence necessary to substantiate its view:
	(a) the environmental target is not relevant to that Member State, by virtue of the capacity in which it is concerned by reference to points (a), (b) or (c) of Article 3(3);
	(b) the power to adopt the measure or measures in question does not rest exclusively with that Member State, by virtue of Community law;
	(c) the power to adopt the measure or measures in question does not rest exclusively with that Member State, by virtue of international law;
(a) action or inaction on the part of another Member State or a third country;	(d) action or inaction on the part of another Member State, a third country, the European Community or any other international organisation;

<b>(b)</b> natural causes or <i>force majeure</i> ;	<b>(e)</b> natural causes or <i>force majeure</i> ;
	<b>(f)</b> climate change;
<b>(c)</b> 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.	<b>(g)</b> modifications or alterations to the physical characteristics of marine waters brought about by actions taken for imperative reasons of overriding public interest which outweigh the negative impact on the environment.
However, the Member State concerned shall take appropriate <i>ad hoc</i> measures to prevent further deterioration in the status of the marine waters affected and to mitigate the adverse impact within the Marine Region concerned.	<b>2.</b> Any Member State invoking reason (b), (c), (d), (e) or (f) in paragraph 1 shall include appropriate <i>ad hoc</i> measures, consistent with Community and international law, in its programme of measures in order to minimise the extent to which good environmental status cannot accordingly be achieved in the European marine waters within the Marine Region concerned.
<b>2.</b> 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.	<b>3.</b> Any Member State invoking reason (g) in paragraph 1 shall ensure that the modifications or alterations do not permanently exclude or compromise the achievement of good environmental status in the European marine waters within the Marine Region concerned.
<b>3.</b> The <i>ad hoc</i> measures referred to in the second subparagraph of paragraph 1 shall form an integral part of a programme of measures.	
	<b>4.</b> When a Member State invokes reason (b) in paragraph 1, and the Commission accepts the validity of that reason, the Commission shall promptly take all necessary actions within the limits of its powers to ensure that the environmental target in question is achieved.
	<b>5.</b> The provisions of paragraphs 1- 4 shall apply <i>mutatis mutandis</i> to implementation by each Member State of the programme of measures notified to the Commission pursuant to Article 14(5).
<b>Article 14</b>	
<b>Information</b>	
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.	
<b>Article 15</b>	<b>Article 16</b>
<b>Approval</b>	<b>Approval</b>
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).	<b>1.</b> For each Marine Region, on the basis of the notifications made pursuant to Article 14(5) and (7), the Commission shall assess whether, subject to Article 15, the programmes notified constitute an appropriate means of achieving, by [2021] at the latest, good environmental status in the European marine waters within that Marine Region.
In making that assessment, the Commission shall consider the coherence across the Community of programmes of measures.	<b>2.</b> For the purposes of the assessment pursuant to paragraph 1, the Commission may ask one or more of the Member States concerned to provide any additional information necessary to enable it to make its assessment.
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.	<b>3.</b> Having made the assessment pursuant to paragraph 1 for each Marine Region, the Commission shall also consider the degree of consistency between the programmes of measures for one Marine Region and those for the other Marine Regions.
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.	<b>4.</b> Within six months of receiving notification of the joint report prepared pursuant to paragraph 14(7), the Commission may decide, in the case of any Marine Region, to reject one or more of the programmes of measures on the basis that it does not comply with this Directive.
	<b>5.</b> The provisions of paragraphs 1-4 shall apply <i>mutatis mutandis</i> to cases where a Member State implementing a programme of measures seeks, by virtue of Article 15(5), to rely on Article 15 and amends its programme of measures accordingly.

<p><b>Chapter IV</b></p> <p><b>Updating, reports and public information</b></p>	<p><b>Chapter IV</b></p> <p><b>Marine Strategies: updating</b></p>
<p><b>Article 16</b></p> <p><b>Updating</b></p>	<p><b>Article 17</b></p> <p><b>Updating</b></p>
<p>1. Member States shall ensure that, in respect of each Marine Region concerned, their Marine Strategies are kept up-to-date.</p>	<p>1. For each Marine Region, the Member States concerned shall ensure that the Marine Strategy is kept up-to-date.</p>
<p>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:</p>	<p>2. For the purpose of paragraph 1, Member States shall review the items described at points (a) – (h) of Article 5(1) every six years after their initial notification to the Commission, taking into account the non-exhaustive list of factors set out in Annex [D].</p>
	<p>Articles 9, 10, 11, 14 and 15 shall apply <i>mutatis mutandis</i> for the purpose of such review.</p>
<p>(a) the initial assessment and the determination of good environmental status, provided for in Articles 7(1) and 8(1), respectively;</p>	
<p>(b) the environmental targets established pursuant to Article 9(1);</p>	
<p>(c) the monitoring programmes established pursuant to Article 10(1);</p>	
<p>(d) the programmes of measures established pursuant to Article 12(2).</p>	
<p>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).</p>	<p>3. For each Marine Region, details of any updates made following a review pursuant to paragraph 2 shall be notified to the Commission and the Member States concerned no later than three months after the completion of the review.</p>
<p>4. Articles 11 and 15 shall apply <i>mutatis mutandis</i>.</p>	<p>4. Articles 13 and 16 shall apply <i>mutatis mutandis</i> in respect of the details notified to the Commission pursuant to paragraph 3.</p>

	<p><b>Chapter V</b></p> <p><b>Reports, participation, information, funding and review</b></p>
<p><b>Article 17</b></p> <p><b>Interim reports</b></p>	<p><b>Article 18</b></p> <p><b>Member State reports</b></p>
<p>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.</p>	<p>For each Marine Region, each Member State that has established a programme of measures pursuant to Article 14(1) shall, within three years of:</p>
	<p>(a) the initial notification of the programme to the Commission pursuant to Article 14(5); and</p>
	<p>(b) the notification of the details of any update to the Commission pursuant to Article 17(3);</p>
	<p>notify to the Commission a report describing progress in the implementation of the programme.</p>
<p><b>Article 18</b></p> <p><b>Public consultation and information</b></p>	<p><b>Article 19</b></p> <p><b>Public participation and information</b></p>
<p>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.</p>	<p>1. Directive 2003/35/EC is hereby amended as follows:</p>
	<p>in Annex I, the following point shall be added after point (f):</p> <p>‘(g) Articles 9, 10, 11, 14, 17 and 18 of Directive [...] of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy.’</p>
<p>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:</p>	<p>2. Without prejudice to the generality of Directive 2003/4/EC, the following shall be regarded as information to be made available and disseminated to the public in accordance with Article 7 of that Directive:</p>
<p>(a) the initial assessment and the determination of good environmental status, provided for in Articles</p>	<p>(a) the items described at points (a) – (h) of Article 5(1);</p>

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).	
	(b) any updates, made pursuant to Article 17, to such items;
	(c) any reports made pursuant to Article 18;
	(d) any background documents, data or information used for the preparation of the items, updates or reports referred to in points (a), (b) and (c); and
	(e) any data or information resulting from the implementation of the monitoring programmes established pursuant to Article 11(1) and updated pursuant to Article 17.
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.	3. Member States shall provide the Commission, for the performance of its tasks, with unrestricted access and use rights in respect of the data and information referred to in points (d) and (e) of paragraph 2.
<b>Article 19</b> <b>Commission reports</b>	<b>Article 20</b> <b>Commission reports</b>
	1. The Commission shall, by [4 years after date of entry into force], publish a report identifying the scope for conflict or complementarity between the implementation of this Directive and the obligations and commitments referred to in Article 8(1).
	It shall submit that report to the European Parliament and to the Council.
1. The Commission shall publish a first evaluation report on the implementation of this Directive within two years of receiving all programmes of measures	2. 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.	notified pursuant to Article 14(5) and, in any case, by [2021] at the latest.
The Commission shall publish further reports every six years thereafter.	The Commission shall publish further evaluation reports every six years thereafter.
It shall submit the reports to the European Parliament and to the Council.	It shall submit such reports to the European Parliament and to the Council.
<b>2.</b> The reports provided for in paragraph 1 shall include the following:	<b>3.</b> The evaluation reports provided for in paragraph 2 shall include the following:
<b>(a)</b> a review of progress in the implementation of this Directive;	<b>(a)</b> a review of progress in the implementation of this Directive;
<b>(b)</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;	<b>(b)</b> a review of the environmental status of European marine waters, undertaken in co-ordination with the European Environment Agency and the relevant regional marine and fisheries organisations and conventions;
<b>(c)</b> a survey of the Marine Strategies, together with suggestions for their improvement;	<b>(c)</b> a survey of the Marine Strategies, together with suggestions for their improvement;
<b>(d)</b> 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;	<b>(d)</b> a summary of the assessments made by the Commission pursuant to Articles 13 and 16;
	<b>(e)</b> a summary of any evidence provided by Member States pursuant to Article 15;
<b>(e)</b> a summary of the response to each of the reports to the Commission made by Member States pursuant to Article 17;	<b>(f)</b> a summary of the response by the Commission to each of the reports notified pursuant to Article 18; and
<b>(f)</b> a summary of the responses to comments made by the European Parliament and the Council on previous Marine Strategies.	<b>(g)</b> a summary of the responses to comments made by the European Parliament and the Council on previous Marine Strategies.
	<b>Article 21</b>
	<b>Funding</b>
	<b>1.</b> In parallel with their notifications of programmes of measures established pursuant to Article 14(1), the Member States may send to the Commission their estimates relating to the Community co-financing which they consider necessary to allow them to meet the cost of implementing those programmes.
	<b>2.</b> In agreement with each of the Member States that send estimates pursuant to paragraph 1, the Commission shall, for measures for which co-financing is sought:

	(a) identify those measures of particular importance for the purpose of achieving, by [2021] at the latest, good environmental status in the European marine waters of that Member State; and
	(b) assess the financing, including co-financing, required for the implementation of those measures;
	taking into account, amongst other things, the extent to which the such entry into operation would place a disproportionate financial burden on that Member State compared to the other Member States concerned in the Marine Region in question.
	3. On the basis of the assessment referred to in paragraph 2, the Commission shall adopt, having regard to the available sources of funding under the relevant Community instruments and by means of the Committee referred to in Article 25, a prioritised action framework of measures involving co-financing to be taken.
	4. Paragraphs 1, 2 and 3 shall apply <i>mutatis mutandis</i> to details of any updates notified to the Commission pursuant to Article 17(3).
<b>Article 20</b>	<b>Article 22</b>
<b>Review of this Directive</b>	<b>Review of this Directive</b>
The Commission shall review this Directive by [15 years after the date of entry into force] and shall, where appropriate, propose any necessary amendments.	1. The Commission shall, by 31 December [2021], present to the European Parliament and the Council a report on any further Community measures that are necessary in order to:
	(a) facilitate the achievement of good environmental status in European marine waters in the event that such status has not been achieved by [2021]; and
	(b) facilitate the maintenance of good environmental status in European marine waters in the event that such status has been achieved by [2021].
	2. The report referred to in paragraph 1 shall take into account, <i>inter alia</i> , the first evaluation report prepared by the Commission pursuant to Article 20(2).
	3. On the basis of the report referred to in paragraph 1, the European Parliament and the

	Council, or the Council, as appropriate, shall decide, before 31 December [2023], on any necessary measures to be adopted for the purposes referred to in sub-paragraphs (a) and (b) of paragraph 1.
	<b>Article 23</b>
	<b>Waters beyond European marine waters</b>
	The European Parliament and the Council, or the Council, as appropriate, shall adopt Community measures to improve the environmental status of waters beyond European marine waters where such improvement is possible by means of controls on activities within the competence of the Community or the Member States.
	Such measures shall be adopted acting on proposals presented by the Commission within [4 years after date of entry into force] in accordance with procedures laid down in the Treaty.
<b>Chapter V</b>	<b>Chapter VII</b>
<b>Final provisions</b>	<b>Final provisions</b>
<b>Article 21</b>	<b>Article 24</b>
<b>Technical adaptations</b>	<b>Technical adaptations</b>
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).	1. Annexes [II], [III], [IV], [A], [C] and [D] shall be adapted to scientific, technical and legal progress by means of the Committee referred to in Article 25, taking into account the provisions on updating of Marine Strategies in Article 17.
2. Where necessary, the Commission may, in accordance with the procedure referred to in Article [22(2)], adopt the following:	2. Where necessary, the Commission may, by means of the Committee referred to in Article 25, adopt the following:
(a) standards for the application of Annexes [II], [III] and [IV];	(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.	(b) technical formats for the purposes of transmission and processing of data, including statistical and cartographic data.
<b>Article 22</b>	<b>Article 25</b>
<b>Committee</b>	<b>Committee</b>
1. The Commission shall be assisted by the committee established by Article [21(1)] of Directive	1. The Commission shall be assisted by a committee, hereinafter referred to as 'the

2000/60/EC, hereinafter referred to as "the Committee".	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.	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.	3. The Committee shall adopt its Rules of Procedure and, in doing so, shall adopt a mechanism for drawing expertise from the Committees established under Article 21(1) of Directive 2000/60/EC (as amended), Article 20 of Directive 92/43/EEC (as amended) and Article 16 of Directive 79/409/EEC (as amended).
<b>Article 23</b>	<b>Article 26</b>
<b>Transposition</b>	<b>Transposition</b>
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [ <i>three years after the date of entry into force</i> ] 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.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [ <i>three years after the date of entry into force</i> ] 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.	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.	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.
<b>Article 24</b>	<b>Article 27</b>
<b>Entry into force</b>	<b>Entry into force</b>
This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .

<b>Article 25</b>	<b>Article 28</b>
<b>Addressees</b>	<b>Addressees</b>
This Directive is addressed to the Member States.	This Directive is addressed to the Member States.
Done at Brussels,	Done at Brussels,
<i>For the European Parliament</i>	<i>For the European Parliament</i>
<i>The President</i>	<i>The President</i>
<i>For the Council</i>	<i>For the Council</i>
<i>The President</i>	<i>The President</i>

	<b>Annex [A]</b>
	<p><b>[NOTE FROM THE CLIENT GROUP: The Client Group has suggested the following list of conditions as an early contribution to the debate on what constitutes “good environmental status”. The Client Group does not suggest that this list is in any way final or complete.</b></p> <p><b>The list contains a mixture of conditions, some describing desired outcomes for ecosystem components and others referring to control of human impacts and activities. This may be perceived as a somewhat “messy” approach, and the Client Group is optimistic that the list can be refined towards a greater emphasis on ecosystem components. For now, the mixed approach reflects the need for risk reduction as regards certain human activities, notably shipping, fishing, coastal development, etc.]</b></p>
	<b>CONDITIONS REFERRED TO IN ARTICLE 3(6)</b>
	<b>(a)</b> using relevant ‘trend’ information, the natural diversity of a Marine Region is maintained (where trends are stable) and restored (where downward trends have been recorded), including ecosystems, habitats and species, paying particular attention to those that are vulnerable to the impacts of human

	activities due to certain ecological characteristics, e.g. fragile, sensitive, slow growth, low fecundity, long-lived, edge of range, poor gene flow and genetically distinct sub-populations;
	<b>(b)</b> populations of all exploited fish and shellfish have been restored to and are maintained within safe biological limits exhibiting a population age and size distribution that is indicative of a healthy stock;
	<b>(c)</b> the adverse impacts of fishing practices on the marine environment have been minimised, including impacts on the seabed and the bycatch of non-target species and juvenile fish ;
	<b>(d)</b> population levels of species of small ‘forage’ fish, low in the food chain, are sustainable, especially in recognition of their importance to dependent predators, including commercially valuable fish and to the sustainability of ecosystems and their resource base;
	<b>(e)</b> concentrations of synthetic substances are near zero;
	<b>(f)</b> all other chemical inputs, including for example endocrine-disrupting chemicals, are contained at levels which ensure that they do not, directly or indirectly, cause harm to the environment or human health;
	<b>(g)</b> the impact of organic pollutants from riverine or land-based sources, aquaculture, or effluents from sewers and other outflows has been minimised; no new outflows are added without full treatment;
	<b>(h)</b> impacts on marine and coastal ecosystems, including habitats and species, resulting from the exploration or exploitation of the seabed, subsoil or sedentary species have been minimised and do not adversely affect the structural and ecological integrity of benthic and associated ecosystems;
	<b>(i)</b> the quantity of litter in marine and coastal environments has been reduced to a minimum and contained at a level which ensures that it does not pose a threat to marine species and habitats, human health and to the safety and economy of coastal communities;
	<b>(j)</b> although shipping accidents cannot be prevented

	altogether, measures are in place to prevent and mitigate damage to sensitive habitats and species, and oil pollution from operational sources have been prohibited and negligence reduced to levels that no longer have a significant impact on biodiversity and health;
	<b>(k)</b> the regulated release of oil from platforms and pipelines, and the use of harmful drilling muds have been stopped and accidental releases of these substances have been minimised;
	<b>(l)</b> the intentional release of non-native species into the marine and coastal environment is prohibited, accidental releases have been minimised, and ballast water has been eliminated as a possible source of introduction. Use of new or novel (including non-native and genetically modified) species in aquaculture is prohibited without prior impact assessment;
	<b>(m)</b> impacts on marine and coastal habitats and species resulting from man-made constructions have been minimised and do not adversely affect the structural and ecological integrity of benthic and associated ecosystems, nor the ability of coastal and marine habitats and species to adapt their range and distribution in the face of climate change;
	<b>(n)</b> noise from major sources, such as offshore activities, shipping, and underwater acoustic devices has been reduced to levels that no longer have a significant impact on biodiversity, especially marine mammals;
	<b>(o)</b> the systematic/intentional disposal of any liquid or gas into the water column or seabed/subsoil has been prohibited and the disposal of solid materials is prohibited without prior impact assessment.

	<b>Annex [B]</b>
	MARINE SUB-REGIONS REFERRED TO IN ARTICLE 4(6)(b)
	<b>(a)</b> 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>(b)</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.

	<b>Annex [C]</b>
	INSTRUMENTS REFERRED TO IN ARTICLE 8(2)
	<u>Directives</u>
	(a) Directive 2004/35/EC;
	(b) Directive 2001/42/EC;
	(c) Directive 2000/60/EC (as amended);
	(d) Directive 92/43/EEC (as amended);
	(e) Directive 85/337/EEC (as amended);
	(f) Directive 79/409/EEC (as amended);
	<b>Regional instruments</b>
	(g) the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea

	and Contiguous Atlantic Area, 1996;
	<b>(h)</b> the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas, 1992;
	<b>(i)</b> the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992;
	<b>(j)</b> the Convention for the Protection of the Marine Environment of the North-East Atlantic, 1992, including Annex V on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area and the related Appendix III;
	<b>(k)</b> the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, 1995;
	<b>(l)</b> Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean, 1995;
	<b>(m)</b> Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources, 1980;
	<b>(n)</b> Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, 1976;
	<u>Global commitments and instruments</u>
	<b>(o)</b> Plan of Implementation of the World Summit on Sustainable Development, 2002;
	<b>(p)</b> the Convention on Biological Diversity, 1992;
	<b>(q)</b> the United Nations Convention on the Law of the Sea, 1982;
	<b>(r)</b> the Convention on the Conservation of Migratory Species of Wild Animals, 1979;
	<b>(s)</b> the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto.

	<b>Annex [D]</b>
	FACTORS REFERRED TO IN ARTICLE 17(2)
	<b>(a)</b> changes in international law;
	<b>(b)</b> changes in Community law;
	<b>(c)</b> climate change;
	<b>(d)</b> changes in patterns of human use of the sea.



Together for birds and people

**GREENPEACE**



**WWF** *for a living planet\**



**IFAW**

International Fund  
for Animal Welfare

[www.ifaw.org](http://www.ifaw.org)