

## REPORT

Meeting: **Marine Strategy Coordination Group**  
Parties: **DG ENV, MS Delegates, NSAC, observers**  
Date: **11 May 2023**  
Location: **Albert Borschette conference venue, Brussels**  
Chair: **DG ENV**  
Rapporteur: **Tamara Talevska, Mo Mathies**

### **3. Implementation of the Directive & the GES Decision**

#### **3a Monitoring, measures and exceptions**

The COM published assessment of MSFD monitoring programmes reports in April, covering 18 out of 22 MS. Assessment was based on technical report by JRC, the purpose of which was to identify what is being monitored, where, at what frequency, links and coherence with other policies and links with other reporting requirements. This was deemed the most complicated exercise globally, taking into account the number of species, number of chemicals and other indicators. Data is insufficient and inconsistent across MS and there are gaps that have to be addressed. Monitoring is important for assessing compliance with MSFD and necessary to implement Green Deal, Zero Pollution ambition, the Green Deal, the Biodiversity Strategy etc.

Spain, with the support of Sweden and Denmark, requested the COM to improve their reporting procedures. These MSs felt they haven't been consulted properly on the marine reporting units before the COM report on descriptor monitoring was published. The COM responded that while technical exchanges could be useful in some cases, timing limitations did not allow for this.

#### **(ii) Preliminary messages from technical assessment**

#### **(iii) Information point on Art.12 assessment for monitoring programmes**

The Programmes of Measures (POM) in the second reporting cycle have been received from 14 MS. By the end of the year this is expected to increase to 20 out of 22 which will allow for the start of the coherence assessment. The intention is to publish the assessment in Q2 2024. Internal cut-off date for plans is 1 September 2023, after which any additional POMs will not be assessed. Some infringement proceedings have been launched on the basis of non-reporting for 8 MS. Second cycle of assessments will focus on the gap analysis, providing info on the extent to which the measures contribute to GES.

Technical assessment focuses on completeness of the PoM, adequacy for meeting the objective of the Directive (GES) and coherence (alignment between MS). There are

Descriptor-level assessments and cross-cutting assessments (considering social aspects, climate change, links to other policies, transboundary cooperation, public consultation, governance etc).

Partial analysis of PoM brought the following conclusions:

- guidance docs have been followed well by MS;
- few new measures have been listed;
- recommendations of previous cycle have generally been followed up;
- bulk of measures are cross-cutting (combine several descriptors);
- concrete measures to pressure related descriptors (i.e. biodiversity);
- currently completing the first cycle of POM for 12 MS (BE, IT, RO, SE, FI, NL FR, PL, IE, ES, PT)
- preliminary cut-off date suggested: July 2023.
- Spring 2024: COM assessment of PoMs

Takeaways from the Workshop exploring the synergies with Water Framework Directive on 20-21 April:

- some good practices already exist (closer cooperation between different entities and MS, pooling databases etc.);
- still some concerns about the foundation of key concepts and methods;
- certain difficulties on timing persist;
- delays in data production could be reduced through linking databases better;
- cooperation and coherence issues should be looked into in the appropriate CIS fora;
- Issues and good practices can inform the implementation for the two directives.

MSs called for more similar workshops exploring links and seeking further alignment between MSFD and other directives (water, birds, habitats directives).

### **3b Regional cooperation**

Regional Sea Conventions were invited to share information with MSCG on their latest work relevant for the implementation of the MSFD, notably in relation to the GES decision. The Commission took this context to inform on work in WG GES on this point.

OSPAR produced Quality Status Report (QSR) intended to help EU MS (contracting parties to OSPAR) in their reporting efforts. Lots of progress in indicator developments (assisting in setting threshold values), making sure that there is no or reduced duplication of work. Intersessional Correspondence Group (ICG) on MSFD is a platform for discussing MSFD issues in OSPAR – looking at improving regional coordination on environmental targets and also on measures (Programme of Measures). ICG MSFD is trying to see if there are measures that could be coordinated. One of the projects - NEA PANACEA: indicators for benthic and pelagic food webs - had been successful.

COM adopted Council mandate to the COM on international regional cooperation on MPAs. Expressed was support for further coordination between regional sea conventions also in terms of sharing experience with Copernicus observation objectives.

UNEP/MAP contributed to EU MSFD WG, DIKE, marine litter, seabed etc. UNEP/MAPS ecosystem approach is strongly aligned with MSFD, but now a full evaluation of ECAP roadmap, draft elements and recommendations for renewed ECAP roadmap. Intention to ask MAP COP for a mandate to renew roadmap policy in 2024/2025, and try to strengthen synergies with MSFD and regional and global processes. Intention is for OSPAR to closely follow developments in MSCG on MSFD. Further, full draft QSR (including all thematic groups) will be reviewed in September, adopted in COP 2023. Three new EU funded follow up projects: SEMPA (Biodiversity and MPAs), ICAP MAP+ and Marine Litter MAP+, carrying on work in previous projects.

COM expressed support and understanding for challenging HELCOM work in view of Russia's aggression in Ukraine. The COM will organise a conference on 29 September 2023 in relation to Baltic sea ecosystem, gathering ministers of fisheries, environment etc. to discuss implementation of the Baltic declaration.

SWAM on behalf of HELCOM reported that there had been substantial progress from last QSR in terms of a large number of indicators and threshold values covered. Now in the stage of reviewing the final product of the final report on the Baltic sea, planned for June. Several thematic reports/assessments have been approved and are available on the website.

Germany asked the COM for an online overview of the state of play of regional projects, to support these meetings.

### **3c Seabed integrity: development of threshold values developed through the Common implementation strategy**

The Commission/TG Seabed chairs informed MSCG on the proposal for additional values for "seabed areas without pressures". The document has been submitted to MSCG for discussion with the intention of launching a written procedure for adoption at a later stage.

COM informed that threshold values for D6C4 (habitat loss) and D6C5 (adverse effects) were voted on in a written procedure and were adopted. Same for underwater noise. MS pointed out the need for links between *extent* thresholds and *quality* thresholds. Possible use of exceptions should be further explored in relation to the irreversible loss of habitat.

The threshold values will be endorsed at Directors' level. TG Seabed is planning to discuss the new work programme, recommendations are welcome.

MS voted on proposed values:

- DK abstained from voting with explanation that a better scientific basis is needed.

- IE expressed view that quality thresholds need to be the priority of TG Seabed, as there is strong effort to align benthic habitats under that same indicator in Nature Restoration Law. This work should be integrated in the next workplan of TG Seabed. Called for further scientific work in TG Seabed on the extent of loss and adverse effects.
- NL could not support seabed disturbance, as there is no definition of this. In addition, socio-economic impact cannot be assessed and therefore the value cannot be adopted. NL also reported that OSPAR meeting on MSFD included the adoption of EU threshold value and it was not clear whether threshold values use in reporting is an obligation or proposal. COM responded that threshold values are intended to be used by the MS. Legal opinion on whether it is mandatory or not is pending.
- ES abstained on the basis of the belief that % of threshold (25%) should have more robust scientific basis. Some habitats should have more ambitious threshold value. Spain also expressed concern about unrealistic and in-compliable values and advised the COM to pay attention to that.

The COM confirmed that work on quality threshold is a priority, workshop is planned in Autumn with regional sea conventions. They reiterated that best available science is the basis for COM work. Roadmap on quality threshold is planned, looking at how threshold values interact so that they can be reviewed in an adaptive manner. It is important to start somewhere so happy these proposals are adopted, also in view of influencing the discussions on Nature Restoration Law.

Finland raised the issue of timing and enquired about the timetable for MSFD Review and how this is aligned with Nature Restoration Law which is moving fast. Finland also did not understand how the MS reporting will be evaluated with some MS using threshold values and some not.

COM responded that whatever is adopted in MSFD on quality thresholds could feed into the Nature Restoration Law. Priority is to have this directive work and implemented and any revision in the future will always build on what had been achieved during the implementation of previous MSFD.

Ireland commented that to operationalise the threshold values and the alignment with the Nature Restoration Law so that these can be incorporated into the MS work, TG Seabed needs to urgently carry out additional work on linkages. There is, for example, no quality indicators for disturbance from bottom trawling for example.

#### **D6 Seafloor integrity: proposal for a threshold value for “areas without pressures”**

“Seabed/Areas without pressure” is an additional threshold proposed in light of the 10% strict protection from Biodiversity Strategy. The GES for D6 requires to achieve a certain level of quality over a certain extent of the habitat for each habitat type.

TG Seabed determined that under D6C5 “areas without pressures” are necessary based on ample scientific studies on the merits of areas without pressures/undisturbed seabed:

recovery of ecosystem, increased biomass, species richness etc. A constant level of pressure on the total area of the habitat even if at low intensity may impede habitat's capacity to be healthy and functional. Therefore areas without pressures on the seabed are seen to contribute to the formation of areas in a reference state needed for GES D6 assessments.

In addition, the need for undisturbed areas to protect marine ecosystems is recognized in a number of international agreements and EU policies (i.e. Biodiversity Strategy), though the Biodiversity Strategy does not determine that these strict protection areas must be designated in all habitat types.

COM proposal for the extent of areas without pressure:

- Overall 10% threshold for whole seabed;
- 5-15% range for each broad habitat type to provide flexibility in the allocation of these areas.

It was admitted that there is no scientific underpinning of 10% and that this number was taken to align with the EU Biodiversity Strategy.

The so-called "Manageable pressures" is a relatively pragmatic approach, recognising that there are a number of pressures that are so defused, wide, or complex in their management that it would be impossible to fully remove them in the medium-term future. The pressures qualified as manageable pressure are those which consequences can be managed.

"Unmanageable pressures" are pressures that cannot be stopped or controlled at source within this management system.

It should be up to each MS to determine whether certain human activity will cause such an impact or not.

#### MS reactions to proposed values:

- IE did not support this proposal for the following reasons:
  - Lack of legal requirement;
  - Distinction between managed and unmanaged pressures is vague, coherence with other descriptors must be taken into account;
  - Introducing a level of uncertainty in these values would be unwise in view of smart targets in Nature Restoration Law;
  - These issues should be addressed before this is put to vote;
  - There has to be some level of socio-economic understanding of the impact of such values. Scientific underpinning of protected areas are vast, but the socio-economic considerations are missing and the sector representatives keep raising this so this work needs to be stepped up.
- BE convinced that targets need to be set at MS levels, however 10% threshold would be a huge challenge for BE as a small country in terms of MSP and allocating space for all actors. Therefore, it was proposed that the threshold should be assessed at regional level (Greater North Sea) and not at MS level. BE also raised the need for

additional space for extensive wind park plans and Nature Restoration Law. BE called on COM to make an overview of spatial plans of MS to see spatial restrictions clearly.

- DK does not question the scientific work on strictly protected areas, but extra threshold value is not in line with MSFD requirements. Necessity of such a threshold value could be questioned, and therefore proposes amendment of the text that such a threshold value can be considered necessary. TG Seabed should focus on quality threshold values instead.
- DE argued for the need for quantitative values of “no pressure areas” providing clear benchmarks to assess the actual state of the marine environment. German industries need such values for their own planning. Socio-economic considerations should be taken into account when discussing on a scientific basis the achievement of GES, and the MS have full power to do that. Germany faces immense pressures in German marine areas, wind, new uses, but believes this should not be a reason to impede the work on GES. It therefore supported the value and procedural aspects proposed by the COM.
- PL supported threshold values.
- SWE supported the development of D6 threshold values, but needs additional time to review those threshold value documents.
- FI highlighted the need for a convincing presentation of the values to stakeholders, otherwise risking the credibility of the whole MSFD. Called into question the notion of legally binding values, as it is too complex for the MS to follow seamlessly the directive. Worried about the cumulative effects as there’s a lack of legal tools to manage this at this point. In favor of threshold values, but shares Irish caveats.
- FR responded that the values are still under consideration in France, and it is much too premature to give any views on additional threshold values. Raised the question of the level of protection in MPAs in France. All these processes are still needing an epilogue, so any additional value would be difficult to assess without completing these processes first.
- NL responded that new threshold value will be a challenge for the NL, though definitions are clear and a quick scan of socio-economic impact in fisheries will be difficult to realize. Flexibilities on range and on activities that do not disturb seabed are welcome. NL supported the proposal.
- ES raised concerns about including physical pressure as the only manageable ones. Habitats affected by pollution etc. could be included in the non-manageable areas. It should be communicated that the extra threshold value is not mandatory for MS to report on. Spain accepts the improved approach, but the impression is that this value is more environmental/political objective than a scientific target.
- IT supported the threshold value.
- Malta did not support the adoption of this value, questioning the legal basis, MSP considerations must be addressed.
- Cyprus was in favor of the values, though with some reservations, suggesting there is a need for further work.

### Observer reflections

Niels Höglund from the Coalition Clean Baltic commented that the work on 10% strict protection is ongoing, this includes activities disturbing the seabed. He was concerned about the caveats on “legal basis” etc. Level of protection in MPAs is questionable. Fully support the adoption of the threshold level.

COM reacted that the priority is to remove adverse effects, not just fisheries, but also eutrophication, alien species, etc. - the 10% comes on top of the efforts in all of these other pressures. Even with low levels of pressure (climate, pollution etc), some of these pressure are unmanageable, the first priority is to reduce manageable pressures on the seabed.

Final recap: 4 MS against, 5 MS not against but not ready to immediately support it, 6 MS support the value. There was no support for launching a written procedure on the day.

### **3d Marine litter: development of threshold values developed through the Common implementation strategy**

#### **(i) TG Litter’s work leading to baselines and threshold values for seafloor litter.**

In 2020 a value on beach litter was adopted which was the first legally binding value worldwide on beach litter. Following this, work was carried out on seafloor litter to agree a threshold baseline value. However, complexities arose regarding assigning data for example gear types or MS to the litter collected via bottom trawling. A progress document was presented to TG GES in April which included the methodology based on the non-deterioration principle. This was welcomed but not unanimously accepted. It is hoped that mature documents will be ready for presentation to TG GES and MSCG in autumn 2023. MS are invited to contribute to achieving this aim.

- IE thanked the Commission and experts for their work and reminded that the concept of non-deterioration has a specific meaning in EU case law which is not included in the Directive. It was felt that an alternative wording may be needed. Secondly, as this is more of a baseline than a threshold value, it was felt that macro and meso-litter has a strong record of fragmenting this would be difficult to tackle, whilst other issues may need to be considered in more detail by experts, for example recording requirements.

The Commission acknowledged Ireland’s point regarding the non-deterioration principle and stated it would submit the observation to TG Litter. It commented that the threshold would be set at the baseline, and that this related to macro litter, not micro litter. This may be measured as quantity/mass, and not as items such as for beach litter.

- DK had also identified some technical issues regarding data and date treatment and requested that sufficient time is given to TG Litter.
- RO supported the document.

- IT expressed concerns regarding the non-deterioration principle and welcomed that TG Litter would have more time to consider available data and activities, for example “Fishing for Litter” as this was included in its Programme of Measures.

**(ii) A guidance document for monitoring of marine litter.** This document is being submitted to MSCG for adoption. This guidance exists since 2013 and was recently updated to bring about harmonisation marine litter monitoring data in all environmental compartments (Beach, seafloor, entanglement etc).

#### **4 Review of the Directive**

The Commission evaluated where MSFD is working and where problems have arisen.

Problem drivers:

- Inadequate regulatory framework
- Insufficient implementation and enforcement
- Insufficient regional cooperation
- Insufficient coherence with other policies
- Inadequate data management

Main problems:

- 2020 deadline maybe unrealistic from the beginning
- Complex legal framework

The Commission sees a need to provide clear objectives, operational targets and effective procedures and to put in place binding environmental targets. However, it is not clear if MSP targets should be included, and if targets should be set at EU or regional level. Further, should interim targets be set as well, and how a percentage reduction would be identified for example.

#### **5 Other Commission initiatives**

##### **5a Fisheries and Ocean package**

The COM presented the Fisheries and Ocean Package, particularly the Action Plan.

The Council conclusions will address all four elements in June. The Marine Action Plan has triggered quite a lot of attention. DG ENV stated that they consistently try to collaborate closely with DG MARE and setting up this special group with MS representatives will build a bridge between the two constituencies. Having the same Commissioner makes this easier, and this dialogue is necessary to build the future and fulfill the aims of the various policy



instruments including the MSFD, Biodiversity Strategy etc., and to ensure that there is a thriving marine environment as well as a thriving fishing industry in the future.

BE stated that the dialogue between nature and fishers has been in place for the past 10 years, however, the aim to have joint recommendations by March 2024 seems highly ambitious, as does the ambition relating to seabed disturbance.

DG ENV commented that it was not the aim to have joint recommendations by March 2024 on how they foresee to gradually phase out bottom trawling in those Natura 2000 areas that have been designated for benthic habitats. The Action Plan is a call to action for MS to follow up closely on Art.11 and to prepare roadmaps for this. Regarding the seabed disturbance, this is the start of a dialogue to gradually relieve the pressure on the seabed.

Ireland recalled a similar initiative of the Dutch presidency in 2016 which was welcomed but failed to gain traction with Marine Directors. It welcomed that the actors who rely on the sea as their livelihood are included. Regarding the issue of fishing activities in Natura sites and marine protected areas it commented that in current legislation, participation by all actors is at the centre of all legislation in the upcoming Marine Protection Bill. The involvement of groups, individuals and communities is essential and should be kept in mind. Global assessment tools for the effectiveness of MPAs show the EU in a poor light when it comes to its protected sites, however, they have certain weaknesses.

Spain welcomed the initiative and shared the considerations regarding bottom-trawling activities needing to be reduced, however, there are some doubts regarding using MPAs as a tool for this. It felt there was a lack of coherence with MSFD, and that areas worth protecting could be outside existing MPAs. It would be worthwhile to inspect how the results of the MSFD could be incorporated in the implementation of the Action Plan. It felt that the scope of the Action Plan might not be in line with the Natura 2000 objectives.

Seas at Risk welcomed the Action Plan but felt that an important acknowledgment needed to be made to not promise the fishers that nothing will change as the whole world is changing so rapidly. It seems that many MS are stating that fishing can continue unchanged but this needs to be avoided, and there needs to be a holistic approach on fishing and seafood consumption which is already too high in the EU when compared to the FAO recommendations. The scientific approach should not only apply to the benthic MPAs, and bottom trawling is also very diverse which needs careful analysis in the co-construction of the future of fisheries. DG MARE is launching its Blue Forum in Brest in 2 weeks and there will be discussion on the future of fisheries in Europe at the European Maritime Day which seems to be lacking representatives from DG ENV. In addition, other activities in the marine space such as mining etc. which are highly destructive need to be considered.

Coalition for the Baltic welcomed the package and applauded the strong cooperation between DG ENV and DG MARE. He felt though that there was very little reaction from environmental fora in the EU.

Belgium stated that when it comes to area closures for protection, fisheries in Belgium is stopping the progress.

## **6 Upcoming Water & Marine Directors meetings**

- 1st meeting to take place 5-6 June in Sweden
- 2nd meeting to take place 14-15 November in Madrid

## **7 Common implementation strategy**

Inclusive work of WG DIKE to update art. 8-9-10 reporting guidance on GES determination began in 2022. Two drafting sessions, a workshop and Reportnet training session are scheduled for Q1 2023 and final drafting guidance to be adopted. Points addressed in the revised guidance include how to better reflect the use of regional assessments.

At its 28th meeting WG GES endorsed two documents that are now being submitted to MSCG:

- (i) Species reference list for Descriptor 1 (biodiversity) drawn up through expert advice under the supervision of the JRC
- (ii) Species reference list for Descriptor 3 (commercial fish and shellfish) drawn up through expert advice under the supervision of ICES

Both were adopted.

## **8 Any other business**

The European Marine Board is launching a new publication on 13 June on ocean oxygen.