



TOWARDS A EUROPEAN MARINE STRATEGY

Consultative draft of EEAC Policy Statement

(final draft: 20.8.04)

INTRODUCTORY NOTES FOR EEAC MEMBER COUNCILS:

1: Boxed text in blue, like this, throughout the document is intended as background for EEAC Member Councils. This text will not appear in the final Statement.

2: Individual members of the EEAC Working Group (WG) Marine have seen, and had a brief opportunity to comment upon, an earlier draft of this paper, but there was not sufficient time to refer it to their Councils. This version has been amended by the Chairman of the EEAC WG Marine to take account of these comments, and it is now offered to Member Councils for approval.

3: The earlier draft included references to views expressed by the EEAC WG Marine. This version has been amended provisionally to assign these views to the EEAC as a whole, subject to approval of Member Councils. **Until such time as this Statement is approved at the October APS in Berlin, these comments should not be taken as the definitive view of the EEAC.**

4: In line with established EEAC procedures, **it is not possible to accept amendments to the wording of this Statement**, because any such amendment would then need to be re-circulated round Member Councils and time does not permit this. However, **we would ask EEAC Member Councils to consider whether there are any major 'red flag issues' – proposals or short sections of text with which they cannot agree. Please notify any such issues to ingeborg.niestroy@rmno.nl, copied also to MSSstromer@aol.com, by Friday 24th September.** The WG Marine will review any issues raised and consider removing them from the text. However, please remember that the main objective of the Statement is to influence the developing European Marine Strategy, not to provide a complete blueprint for the management of the Seas and Oceans!

5: If your Council would like further discussion of any of the proposals in the Draft Statement, or on significant marine issues not raised in the paper, please also notify Ingeborg Niestroy, and we will try to ensure there is a suitable opportunity to raise them during the EEAC Conference Day on the marine environment in Berlin on Friday 15th October. This day also provides the opportunity to consider how to disseminate this Policy Statement, once approved, to best effect. Subject to approval and any refinements agreed at the APS, it is proposed that a revised version of this Policy Statement should be made available to the EC Marine Stakeholders Conference on the Marine Strategy in Rotterdam in November.



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1. INTRODUCTION

1.1 The State of our Seas and Oceans

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

The EEAC supports and endorses these conclusions, although we would suggest that the impacts on the seas and oceans is rather wider than this summary suggests. Part of the problem is the lack of an integrated approach to the marine environment within the EC itself, with several different Directorates General having responsibility for activities and policies which impact on the marine environment. Responsibilities for the management of regional seas are largely left to various conventions, but these are variably effective because they have few powers to enforce standards, and they do not cover all marine areas. Progress has been particularly limited for the Mediterranean Sea, and especially the Adriatic, and the seas around the Canary Islands, Madeira and the Azores. Little effort has been made so far to address activities and policies impacting on the wider oceans.

1.2 Development of the European Marine Strategy

Against this background, the 6th EAP committed the EC to “the development of a strategy for marine protection” as one of a series of Thematic Strategies. Lead responsibility for producing this European Marine Strategy was given to the EU Water Directors. Active drafting of the Strategy did not begin until late 2003, but good progress is now being made, and a ‘zero version’ of the Strategy is scheduled to be launched at a Marine Stakeholders Conference in Rotterdam in November 2004.

The EEAC Working Group (WG) Marine has been actively involved in assisting (and challenging) the development of the European Marine Thematic Strategy through a series of written contributions to the EC regarding the Strategy and through the involvement of EEAC representatives on each of the Working Groups set up by the Commission to help develop the Strategy (see Appendix 2).

The EEAC WG Marine has had the opportunity to comment on papers contributing to the developing Strategy at every stage, and we are satisfied that many of our comments have been taken into account. **Accordingly, the EEAC is broadly supportive of the Strategy, as represented by the papers we have seen, believing that it will make a major contribution to the protection and sustainable management of the Regional Seas around the EU.** Nevertheless, this Policy Statement addresses what the EEAC believes to be shortcomings in the Strategy process, and serious omissions in the Strategy papers as currently drafted.



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2. AN EEAC CONTRIBUTION TOWARDS THE EUROPEAN MARINE STRATEGY

2.1 Securing effective policy and implementation through EU institutional mechanisms

EEAC Commentary: Commission officials have made clear that they wish the European Marine Strategy to be a legal instrument, based upon Article 174 of the Treaty. Its purpose would be the protection and conservation of the marine environment and the establishment of a framework for an integrated approach to the management of the marine environment (paper SGO(2) 04/5/1). However, the representatives of several Member States have argued strongly in SGO Group meetings in favour of a non-binding framework document, suggesting that such a document could set far higher aspirational standards towards which Member States could work, compared with a legally-binding document in which the standards would have to be set at a lower level that Member States could reasonably be expected to achieve.

A final conclusion on this issue was deferred to the informal meeting of the EU Water Directors held in Dublin in June 2004. The published notes of that meeting state: "On the discussion of a marine framework law, some delegations pointed out that the current system is working very effectively and that binding EU legislation might interfere with working relations with the Marine Conventions. They stressed their preference for a flexible and non-binding approach." The notes record no conclusion on this issue. There therefore remains considerable uncertainty as to the final legal status of the Strategy.

The EEAC WG Marine has expressed a preference for "a binding Framework Document, the text of which should suggest for further consideration the options for 'daughter directives' to more fully implement specific commitments in the Framework" [Gaps paper', see Appendix 2]. The section below considers the options for such a document, although Member Councils may wish to discuss this further at our October Marine Conference.

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

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

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



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The EEAC's current preference would therefore be for "a binding Framework Document, the text of which should suggest for further consideration the options for 'daughter directives' to more fully implement specific commitments in the Framework" (as quoted in the EEAC WG Marine 'Gaps Paper' – see Appendix 2).

2.2 Marine Governance

EEAC Commentary: As noted in Appendix 1, one of the recommendations in the 'Gaps Paper' produced by the EEAC WG Marine in April 2004 was that "Governance arrangements should be more clearly addressed in the Strategy, with the different levels (requiring to be) involved being highlighted". The WG Marine is not satisfied that this recommendation has yet been met in the developing Marine Strategy. To encourage further consideration of this issue, the section provides a commentary on the issue of multilevel governance in the context of the marine environment.

2.2.1 Requirements for a Marine Strategy

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

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

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



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2.2.2 Specific governance issues

– Multilateral targets

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

Many of these international targets are ‘soft’ in that they express a level of aspiration, rather than a legally-binding target. This may be appropriate in setting long-term goals or pioneering new areas, but less useful for tackling well-known problems where urgent action is needed. There is a question over how the Strategy relates to such commitments, which also apply to different regions and timescales. We believe that it is desirable that the strategy should provide a framework to make them a reality.

– Interaction between different Community Policies

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

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

The second issue relates to the legal status of the Strategy and its relative strength (or weakness) compared with other policies. The Commission has proposed that the Strategy should have a legal basis that defines its objectives and some aspects of implementation. It is nevertheless unclear how the Marine Strategy could influence the development of other policies such as the CFP, which are critical to delivering its own goals. The Commission has suggested that, where an area is outside of a Member State’s competence, a management plan will only have the force of a ‘recommendation’ and that competency will remain with the CFP, IMO, etc. This raises the question of which will take precedence – the environmental objectives of the Marine Strategy, or the existing imperatives of the Common Fisheries Policy, etc. Our preference would be for the Marine Strategy to take precedence, because of the integrated, ecosystem-based approach it proposes across all aspects of marine management.

– Member state level

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



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– Regional management

A new concept emerging from the Strategy is the idea of eco-region management plans. The number and size of these regions has not been established, but they might be equivalent to large marine environments, such as the Greater North Sea.

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

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

– Stakeholders

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

– Other issues

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

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



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2.3 The Desired State of the Seas and Oceans

EEAC Commentary: The ‘Vision’ for the European Marine Strategy is still under review, following considerable debate at the most recent meeting of the SGO Group on 17th June 2004, but it is likely to read along these lines:-

“Our Vision for the Marine Environment is that both we and future generations can benefit from biologically diverse and dynamic oceans and seas that are clean, [safe?], healthy and productive.”

EEAC WG Marine welcomes and supports this Vision, but we believe it is necessary to go further, by providing an Overview of the Desired State of the Marine Environment, against which the outcomes of the European Marine Strategy can be assessed. The section below our draft of a Statement on the Desired State of the Sea.

One issue discussed within the EEAC WG Marine has been how to provide an adequate focus within the EC on marine management issues, many of which are cross-sectoral. One proposal considered was the establishment of a new ‘DG Marine’ – a concept which we understand has been proposed but rejected before within the EC. However it is not obvious how such a DG would co-ordinate its activities with those on the land, its remit would need detailed consideration, and there is a danger of its overall influence within the EC being limited. In the first bullet of section 2.3.2, the EEAC WG Marine instead proposes an EC Joint Directorate Marine Group, which co-ordinates policy across all Directorates General whose activities impact on the coasts, seas and oceans. This may be an issue which EEAC Member Councils would wish to discuss further in the October EEAC Marine Conference.

2.3.1: Defining the desired state

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

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

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

Other aspects of the Desired State of the Marine Environment include the following:-

- The natural diversity between different regional seas and between different ecosystems within these seas is maintained.



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- The generation target of the OSPAR and HELCOM Conventions – ceasing by 2020 inputs, emissions and diffuse losses of persistent, bioaccumulative and toxic substances (PBTs) from products and their manufacturing processes – has been met across the EU. Progress is being made towards the long-term goal of near-zero concentrations of synthetic substances and close to natural background concentrations of naturally occurring substances in the marine environment.
- All chemical inputs into the marine environment are contained at levels within the assimilative capacity of the seawater, so that pollution does not disrupt ecosystems, and endocrine-disrupting chemicals are no longer impacting on marine species and habitats.
- The impact of effluent from sewers and other outflows on the seabed and water column, particularly with regard to eutrophication, has been much reduced, is confined to a small area immediately around the outflows, and is noncumulative.
- Management plans have been introduced for coastal habitats to sustain and enhance biodiversity, and special measures have been introduced under the CAP for the management of farmland close to the coast to reduce pollution from nutrients and pesticides and thus protect the marine environment.
- Marine litter is no longer a major problem.
- Although shipping accidents do occasionally happen, their impact is minimised because ships are routed to avoid the most sensitive habitats and all tankers are double-hulled.
- The systemic release of oil from platforms and pipelines, and the use of harmful drilling muds, has been stopped and accidental release of these substances has been minimised.
- Ballast water management programmes have stopped the risk of spreading non-native organisms into new areas.
- Endocrine-disrupting chemicals are no longer impacting on marine species and habitats.
- The populations of all commercially valuable fish and shellfish have been restored to, and are maintained within, safe biological limits.
- EU subsidies for fishing are applied in ways which encourage the use of environmentally sensitive fishing methods. This has led to much reduced impacts on the seabed and greatly lowered the bycatch of juvenile fish and non-commercial species, thus minimising the level of discarding.
- The fishing industry is managed on the principles of sustainability, both ecologically and economically, through the integrated application of an ecosystem-based approach to the management of marine resources.
- Small fish species, low on the food chain, proliferate, thanks to the recognition that they are more beneficial as natural food for larger, commercially valuable species.
- Alternative sources of protein feeds have been identified for farming and aquaculture; this has greatly reduced the reliance on ‘industrial fisheries’, following recognition that such fisheries are wasteful and unsustainable.
- Discarded fishing gear is rarely found in offshore and international waters.



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- Both shellfish and finfish aquaculture, using a diverse mix of locally-native species, flourish in clean seawater; many finfish farms are using a balanced mariculture system, including seaweed growing to reduce eutrophication impacts.
- Discards from fisheries, which are strictly controlled, and waste from fish processing are the main protein source for finfish aquaculture, supplemented by vegetable proteins.
- Escaped farmed fish no longer have a significant impact on natural ecosystems.
- Coastal areas are still regarded as highly desirable places for humans to live and work, but coastal developments have only minimal and acceptable impacts on adjacent marine ecosystems.
- An integrated coastal zonation system has been established that protects the most sensitive marine habitats and allows for the sensitive management of other areas; this has enabled more people to enjoy and use the sea, while still improving the ecological status of coastal waters.
- Although considerable progress is being made on the post-Kyoto targets to reduce greenhouse gas emissions, the slow response rate in the upper atmosphere means that sea-levels are continuing to rise, albeit more slowly than earlier forecasts; action is being taken to protect and manage marine ecosystems in the light of these changes, and local Integrated Coastal Zone Management (ICZM) partnerships have identified the most appropriate areas of coast for managed realignment programmes, so as to retain good areas of intertidal habitat.
- ICZM has allowed for a considerable expansion in the recreational use of the sea, without any long-term impacts on biodiversity.
- The impact of military activities, including the use of underwater acoustic devices, has been reduced to levels that no longer have a significant impact on biodiversity.
- Measures have been put in place across all Member States to ensure that the public – and, in particular, key decision makers – are well informed about marine life and aware of the value of biodiversity in local seas.
- Marine management is supported by high-quality scientific research, prioritised to meet these needs in a cost-efficient way. Scientific advice is taken fully into account in all decision-making procedures, and, in the absence of scientific certainty, the precautionary principle is always applied.

2.3.2: Achieving the desired state

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

- All EU Member States have set up a framework within their government systems to bring a new focus to marine management, encouraged and supported by the EC's Joint Directorate Marine Group, which co-ordinates policy across all those Directorates General whose activities impact on the coasts, seas and oceans.



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- EU Member States adjacent to each regional sea, working in partnership with non-member states, have adopted a sensitive eco-region approach to management of that sea area; they have established management plans for each of the main activities within that regional sea, including a management plan for fishing in particular.
- The EC has worked to ensure strong coherence between international provisions affecting the marine environment and the individual regulatory mechanisms operating at the EU and Member State level.
- EU subsidies are applied in ways that reduce, rather than encourage, the use of nitrates and other chemicals, and so reduce effluent discharges into the sea. Specifically, the CAP has been largely decoupled from production payments, and is applied and monitored to ensure that it does not impact on marine and coastal habitats.
- The EU has agreed a harmonised list of hazardous substances, drawn from those produced by HELCOM, OSPAR, Barcelona and other regional seas conventions, and has applied stringent marine emission limits for these substances in surface waters. The assessment schemes for the persistent, bioaccumulative and toxic properties of hazardous substances have also been harmonised throughout the EU with those of OSPAR and HELCOM.
- With EC input, all Member States have agreed emission ceilings initially for the 33 substances currently categorised as priority substances, and objective procedures have been agreed to assess whether other substances need to be added to this list.
- The EU pesticides strategy takes full account of the need to protect the marine environment, both as regards criteria for authorisation and use reduction programmes.
- EU Member States have fully applied the Water Framework Directive to inland, transitional and coastal waters and the Urban Wastewater Directive, reducing inputs into the sea to levels that can be contained within the chemical carrying capacity of marine waters, and introducing action programmes to eliminate human-induced eutrophication.
- The Nitrates Directive has been strengthened, and is enforced vigorously throughout the EU, on land and in the marine environment; appropriate standards are enforced for nitrogen emissions from shipping.
- Through the development of stakeholder groups at European, regional sea and local levels, fisheries management has become integrated with the management of other marine activities, and as part of a more holistic approach to the management of marine resources.
- An ecosystem-based approach has been applied to fisheries management and is being taken forward by stakeholder partnerships, involving both fishermen and scientists. This has led to an improvement in the status of fish stocks and their supporting environment, which, in turn, has begun to reverse the long-term decline in the number of fishermen around Europe's coasts.
- The limited establishment of 'no-take' fisheries zones is routinely used by stakeholder partnerships as one tool within the ecosystem-based approach to fisheries management, particularly for slow-growing or late-maturing fish species.
- The fishing industry, in consultation with scientists and other stakeholders, has developed a code of practice which drastically reduces the levels of bycatch and discards, both



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through technical measures and by effort reduction in particular geographical areas at particular times of year.

- Fishermen have introduced a strict, self-regulatory system to ensure that fishing gear is not discarded at sea.
- The aquaculture industry has introduced a strict code of conduct, and an accreditation and eco-labelling scheme which rewards careful management of individual fishfarms and encourages an integrated approach to the control of fish pests; the code includes measures to prevent escapes from fishfarms, with loss of accreditation as a penalty if the code is not fully observed.
- Strict port controls and a marine shipping code of conduct have been introduced to minimise the deliberate and accidental disposal of litter at sea.
- Strict controls have been introduced on discharges of endocrine-disrupting chemicals on land, new formulations of anti-fouling paints have been introduced, and new ships are better designed to minimise 'fouling' problems without recourse to chemical formulations.
- Strict port controls have been introduced for the cleaning or repair of ballast tanks, adequate reception facilities are provided to accommodate sediments, and new ships are better designed to undertake efficient ballast water exchange and to incorporate ballast water treatment technologies.
- A partnership approach is being used to engage all stakeholders in regional and local ICZM systems, which include marine protected areas as one of their management tools.
- The considerably increased income from marine tourism provides an added incentive for coastal communities to engage in the ICZM process. For example, many countries are recognising that whale-watching brings more long-term economic benefits than whaling.
- Stronger financial incentives have been introduced throughout European seas and oceans to avoid spills from oil and gas platforms and pipelines; oil and gas are also recognised increasingly as finite commodities which need to be looked after carefully.
- Wave and tidal energy have been developed as the main sources of renewable energy, leading to major reductions in the use of oil and gas for electricity generation and thus in the release of greenhouse gases. The development of these forms of generation in Member States has been done in line with an EU-wide Strategic Plan for Renewables which ensures that the siting of these facilities does not impact on the functioning of marine ecosystems.
- Although military activities continue at sea, it has become normal practice for military personnel to monitor and reduce any impacts of these activities on biodiversity; in particular, underwater acoustic devices have been modified to use only those frequencies which research has shown to have no significant impact on cetaceans and other species.
- Although marine research continues to be expensive to undertake, scientific partnerships within EU Member States, and with other countries, routinely identify the highest research priorities and target resources particularly at research which can inform and support marine management.
- Life in the seas and oceans is part of the curriculum of every school, as part of the wider programme of Education for Biodiversity.



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APPENDIX 1: Preliminary assessment of progress on the European Marine Strategy

EEAC Commentary: This section is provided partly as background for EEAC Member Councils. However, the views of Member Councils are sought on the usefulness or otherwise of retaining this section in the final published Policy Statement.

In April 2004, the EEAC WG Marine prepared a paper analysing ‘gaps’ in earlier Communications on the European Marine Strategy (see Appendix 2). This paper made 14 recommendations concerning the developing Strategy. The EEAC WG Marine has assessed the progress of the Strategy against these recommendations, as shown below.

It is important to note that these comments are based on papers contributing to the developing Marine Strategy, seen by the EEAC WG Marine prior to the drafting of this Policy Statement (ie before August 2004). Specifically, these are the most recent version of a Policy Document on the European Marine Strategy, developed by the Strategic Goals and Objectives (SGO) Group (paper SGO(3) 04/3/1)¹, and the draft guidance being developed by the Ecosystem Approach to the Management of Human Activities (EAM) Group, which is proposed as an Appendix to the main Strategy. It should be noted that there was considerable discussion on the EC Policy Document at the SGO meeting on 17th June, in the light of which Commission officials intend to revise the document by the autumn of 2004. The paper will then be finalised at a final meeting of the SGO Group in late October or early November 2004. This means that the draft papers, commented on here, do not represent a final version of the Strategy and the views below should be read with this in mind.

- = recommendation broadly met
- = recommendation not yet met
- = recommendation met only partially, or further elaboration required.

- ❖ **Recommendation 1:** The aim of the Strategy should be to improve the state of European seas to support sustainable use and to achieve the various related goals and agreements, including those relating to marine biodiversity.
 - The EEAC WG Marine is broadly satisfied that this is recognised as the aim of the Strategy.
- ❖ **Recommendation 2:** The Strategic Goals and Objectives Working Group should formulate a vision to provide the Strategy with a clearer purpose. This vision should embrace sustainable use but also acknowledge the contribution that Europe’s seas can make to the quality of life of Europe’s citizens.
 - The EEAC WG Marine is happy with the Vision as drafted, although we believe that this Vision needs to be elaborated upon, though a Statement of the Desired State of the Sea (see section 2.3 above).
- ❖ **Recommendation 3:** The Ecosystem Approach to Managing Human Activities Working Group should provide clear guidance on the definition and application of the ecosystem approach, drawing on recent thinking such as that underlying the reformed Common Fisheries Policy and the output of the Køge workshop, including further consideration of risk management.
 - The EEAC representative on the relevant EC Working Group has contributed to the

¹ All papers from the Marine Strategy working groups are available on the EC’s Circa website at www.circa.europa.eu.int.



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development of this Guidance, which will form an Appendix to the European Marine Strategy, and the WG Marine is broadly happy with the present drafting of this document.

- ❖ **Recommendation 4:** The Strategic Goals and Objectives Working Group should set strategic cross-cutting goals, objectives and targets rather than simply refining sectoral objectives. The Commission should recognise and address the fact that a mechanism is required to allow all Directorates General and other EU Institutions to contribute to the delivery of these goals, objectives and targets.
 - This remains a major shortcoming of the European Marine Strategy, which has been developed as a product of DG Environment. The EEAC WG Marine is not satisfied that other Directorates General whose responsibilities impact upon the marine environment have been adequately engaged in the development of the Strategy and we fear that they do not therefore have any ‘ownership’ of its objectives.
- ❖ **Recommendation 5:** The Inter-Organisational Consultation Forum should submit a report to the Strategic Goals and Objectives Working Group to inform goal setting.
 - Although we understand that the IOCF has considered the European Marine Strategy, no feedback from this has been reported to the SGO Group.
- ❖ **Recommendation 6:** An attempt should be made to define the desired state which the Strategy is trying to attain. This should be sufficiently ambitious to include the need to seek recovery as well as maintenance of Europe’s marine ecosystems and acknowledge the effect of climate change. EEAC Working Group Marine looks to the Strategic Goals and Objectives Working Group to take on this task; but failing that, another body should be commissioned to do so.
 - No attempt has been made in the developing Marine Strategy to address the desired state of the sea, and the EEAC WG Marine believes that this remains a major shortcoming of the Strategy, which will severely limit its effectiveness. This is addressed in section 2.3 above.
- ❖ **Recommendation 7:** The Strategic Goals and Objectives Working Group should define targets (both long- and short-term) to act as monitoring tools to measure progress. And should also suggest a review process that would be triggered if these targets were not met.
 - It remains unclear how material produced by the EC Working Group on Marine Monitoring and Assessment is being into the developing Marine Strategy. However, a paper produced for the SGO Group in May 2004 providing a draft summary of a possible EU legal marine framework (paper SGO(2) 04/5/1) proposes that Member States adjoining each regional sea should jointly produce an Eco-Region Marine Environmental Protection Plan. It proposes that each such plan “should also contain a programme for monitoring and assessment” and that this should “integrate obligations for monitoring and assessment contained in other relevant legislation”. The paper continues: “However, it is important that the programmes for monitoring and assessment established in each eco-region are coherent and consistent and allow the development of a comprehensive monitoring and assessment programme across all European seas. For this reason, the legal instrument will establish certain principles and establish a mechanism for a concerted approach to monitoring and assessment. Such an approach will necessarily be based on the programmes which already exist but will be directed towards ensuring convergence and consistency in the programmes developed in the different regions.” The EEAC WG Marine questions whether this is the best



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mechanism to ensure monitoring and assessment of the Marine Strategy, although it does go some way to meeting the above recommendation. The Group is concerned that the papers developed so far do not propose a review mechanism for the Strategy if this programme of monitoring and assessment shows that the Strategic Goals of the Strategy are not being met.

- ❖ **Recommendation 8:** Governance arrangements should be more clearly addressed in the Strategy, with the different levels (requiring to be) involved being highlighted.
 - Although some progress has been made in the developing Strategy regarding governance arrangements, these are not always clear and the hierarchy of governance levels does not appear to be clarified satisfactorily. The legal status of the Strategy itself remains in doubt at this stage. This is considered further in section 2.2 below.
- ❖ **Recommendation 9:** The Strategy should address compliance with - and enforcement of - management measures as a strategic issue. To do this it should assess the existing suite of indicators used and advise on the need for further indicators to be adopted/created.
 - Although the Strategy documents go some way to addressing compliance, they make no comment on indicators to assess compliance.
- ❖ **Recommendation 10:** EEAC Working Group Marine welcomes the current remit of the European Marine Monitoring and Assessment Working Group but we suggest that it should also: consider how best to incorporate information from a range of sources; consider the need for new research and monitoring; and prioritise/recommend areas of work to be taken forward.
 - Although the role of the European Marine Monitoring and Assessment Working Group is ongoing, the EEAC WG Marine is not aware whether it has yet addressed the need for new research and monitoring.
- ❖ **Recommendation 11:** The Strategy should provide a clear outline of a spatial hierarchy, and key issues pertinent to each level. EEAC WG Marine thinks this issue falls within the Terms of Reference of the Strategic Goals and Objectives Working Group and the Inter-Organisational Consultation Forum but that the Ecosystem Approach to Managing Human Activities Working Group could also provide guidance on the utility of such a framework in implementing an ecosystem approach.
 - The developing Strategy does seek to address this issue, although the EEAC WG Marine believes that the proposals could be further improved, with clearer guidance on the required spatial hierarchy.
- ❖ **Recommendation 12:** Marine spatial planning should be given detailed consideration as a delivery tool of strategic importance to many of the objectives in this Communication. To that end, EEAC WG Marine recommends that the Strategic Goals and Objectives Working Group defines an objective for marine spatial planning and that it identifies the most appropriate process/body for providing guidance on the development and implementation of marine spatial planning.
 - Marine spatial planning is partially addressed by the draft guidance on the ecosystem approach, but no specific objective is included in the developing Strategy, nor does it address the issue of providing guidance on marine spatial planning.
- ❖ **Recommendation 13:** The Strategic Goals and Objectives Working Group should include a Strategic Objective relating to networks of marine protected areas. EEAC WG Marine recommends that the EC should either clarify that an existing process/body is considering such matters in detail or, if this is not the case, set up such a process/body.



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- The developing Strategy includes an objective “to establish a system of representative networks of marine and coastal protected areas, covering also the high seas”, although 2012 is proposed as the target date for this objective, rather than the 2010 target of the OSPAR convention. It makes no comment on the process or body required to ensure that this objective is met across the EU, and so the EEAC WG Marine assumes that responsibility for this will presumably rest with DG Environment.
- ❖ **Recommendation 14:** The Commission should ensure that all Directorates General and other EU Institutions consider the impact of their decisions on the marine environment by ensuring that environmental assessment informs the policy development and implementation processes of such bodies.
 - The draft Strategy papers include an objective “to carry out Environmental Impact Assessment and Strategic Environmental Assessment of new human activities”, but, as already noted, it is not clear what ‘ownership’ there is for this objective amongst other Directorates General and other EU institutions. The EEAC WG Marine believes that the term ‘new human activities’ in this objective requires clarification, and believes that mechanisms also need to be identified to carry out appropriate environmental assessment of *existing* activities, as well as new ones.

APPENDIX 2: Engagement of the EEAC in the Marine Strategy

EEAC Commentary: This section is provided purely as background for EEAC Member Councils. It is not intended that it should be included in the final published Policy Statement.

The EEAC Annual Plenary Session (APS) in Florence in October 2003 agreed that the EC’s plan to develop of a European Marine Thematic Strategy presented a significant opportunity to contribute to the sustainable management of the marine environment, and therefore should be a major focus of work for the year ahead. Accordingly, the EEAC Working Group (WG) on Coastal Zones and the Marine Environment was restructured as the EEAC Working Group Marine to address this issue. Following the excellent contribution made by Professor Carlos Sousa Reis of CNADS as WG Chairman over two years, the APS agreed that the Chairmanship of the WG should pass in succession to SNH, represented by Michael Scott, Deputy Chairman of SNH, with support from Dr Sandy Downie and Dr Marion Hughes, staff members of SNH. This WG has since met three times: in Ayr, Scotland in December 2003, in Brussels in March 2004, and again in Brussels as guests of the MiNa-Raad in June 2004.

Previously to the Florence APS, the WG on Coastal Zones and the Marine Environment had written in June 2003 to Mr George Papandreou, the Greek Minister for Foreign Affairs, representing the Greek Presidency, supporting the establishment of an EU Marine Strategy, based on “an holistic approach, the integration principle, the precautionary principle and better management of risks, and the Ecosystem Approach”². The letter also suggested a number of other major issues requiring further consideration. Although, in the event, no reply was

² In common with other documents referred to, this letter can be viewed on the WG Marine section of the EEAC website at www.eeac-network.org.



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received to this letter, it established the EEAC's credentials as a significant contributor on this issue. Perhaps because of this, the EEAC had been invited prior to the Florence APS to propose representatives for three EC Working Groups set up to contribute to the Marine Strategy.

Following the Florence APS, the WG Marine Chairman wrote to Patrick Murphy, Head of the Unit Water, the Marine and Soil at the EC DG Environment, in November 2003, welcoming progress on the European Marine Strategy and strongly supporting the proposal to establish an Expert Group on Strategic Goals and Objectives to help develop the Strategy. The letter expressed disappointment that the EC's Communication regarding the Marine Strategy³ was structured in such a sectoral fashion, and calling for the Strategy to include "strategic cross-cutting goals, objectives and targets". It urged that "an attempt should be made to define the desired state which an EU [marine] strategy should seek to attain". It also called for clear, detailed targets in the Strategy and emphasised the need for the Strategy to "take account of existing commitments and targets stemming from various regional Conventions".

This letter appeared to have had some success, because the Commission agreed to establish a Strategic Goals and Objectives Group, and the EEAC was invited to send a representative to it, in the person of the WG Chairman Michael Scott. This allowed the EEAC to be represented on all four working groups developing aspects of the Marine Strategy, as follows:-

MARINE STRATEGY WORKING GROUP	EEAC REPRESENTATIVE
Strategic Goals and Objectives (SGO)	Michael Scott, SNH
Ecosystem Approach to Management of Human Activities (EAM)	Dr Paul Gilliland, EN
European Marine Monitoring and Assessment (EMMA)	Professor Carlos Sousa Reis, CNADS
Hazardous Substances (HS)	Dr Cornelia Ziehm, SRU

In practice, other commitments meant that neither Professor Reis nor Dr Ziehm were able to attend the relevant meetings, but their engagement allowed the WG Marine to keep a 'watching brief' on progress within these Marine Strategy Working Groups. Michael Scott attended four meetings of the SGO Group and Paul Gilliland four meetings of the EAM Group, and both made considerable written contribution also the work of their Groups.

At the meeting of the EEAC WG on Coastal Zones and the Marine Environment in May 2003 in Lisbon, it was agreed to develop a 'gap analysis' on the EC Communication on the Marine Strategy (see above). This work was then taken on by the WG Marine, and in April 2004 the Group completed a paper entitled "Analysis of Gaps in the Process to Draw up the European Marine Strategy"⁴, which was endorsed by five member councils of the WG Marine (English Nature, the MiNa-Raad, SNH, the SRU and the Wadden Sea Council). This paper was then submitted to DG Environment and the EU Water Directors, who have oversight responsibilities for the European Marine Strategy. This paper was circulated by the EC to all members of the SGO group, as part of a compilation of comments received (paper SGO(2) 04/Info 1), and it may therefore have had some influence on the development of the policy paper which forms the core of the developing Marine Strategy.

³ 'Towards a Strategy to Protect and Conserve the Marine Environment' (COM(2002) 539 final).

⁴ Available on the EEAC website (*op cit*)