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### **European fishing sector position on the revision of the GES Decision 2010/477/EU**

The European Commission is drafting a revision of the GES Decision 2010/477/EU laying down criteria and methodological standards on good environmental status (GES) and specifications and standardised methods for monitoring and assessment.

Article 9(2) and 10(2) of Directive 2008/56/EC requests Member States to report on the initial assessment on their marine waters, determination of GES and environmental targets to the European Commission. These reports showed inconsistencies between Member States in the determination of GES and their environmental targets. We therefore acknowledge the need to make Decision 2010/477/EU more clear, concise and coherent and we support the development or revision of criteria of the descriptors under the MSFD to allow Member States to assess GES in a qualitative and coherent way. However, we have major concerns about the way the European Commission is proceeding and about the way they envisage the environmental targets defined in the revision of the Decision document.

Decision 2010/477/EU clearly states that scientific and technical advice to support the development of criteria and methodological standards is prepared by Task Groups set up by the Joint Research Centre (JRC) and the International Council for the Exploration of the Seas (ICES). The Task groups identified there is a “substantial” need to develop additional scientific understanding as well as appropriate methodologies to assess GES (i.e. the operational implementation of the MSFD). Currently, ICES is still, on request of the Commission, preparing advice on ecosystem functioning, interpretation of criteria and appropriateness of methods to be able assess GES. However, the European Commission is going ahead with revising the Decision document including environmental targets and threshold values which are not scientifically validated by the Task Groups.

The revised Decision document and Annex to Commission Decision includes criteria and threshold values which potentially have a major influence on current and future fishing activities.

Under descriptor 1 “biodiversity” the Commission includes criteria 5 and 6 to assess the quality and occurrence of habitats. In our opinion both criteria are redundant as the loss of habitat and anthropogenic pressure on habitats is already covered under descriptor 6 “seafloor integrity”. In

addition, the quantitative levels 5% and 30% are not scientifically established threshold values and suggest that distribution and spatial extent of each habitat type (and then, for all habitat types) is known and accurately mapped, which is far from being true. Moreover criterion 6 suggests that 70% of the assessed habitats, including pelagics, is un-impacted, indirectly meaning closed for all human activities. Fishermen have built up knowledge on the annual migrations between spawning and feeding areas of their target species and can to some extent predict the large scale patterns in resource availability. On a smaller scale, however, fish most likely aggregate in response to their food or other natural variations, which may only persist for a period of a few days up to two weeks. Predicting the location of these patches is much more difficult and fishers have to sample the environment to find them. When closing 70% for all activities there is a great concern good fishing grounds will be closed, having a major economic impact on the fisheries. The thresholds values set for both criteria 5 and 6 are clearly out of proportion. If such threshold values are to be used they should be supported by scientific advice as well as a socioeconomic impact analysis.

In descriptor 3 on populations of commercially exploited species, criterion 2 refers to achieving a spawning stock biomass (SSB) above biomass levels capable of producing maximum sustainable yield. The Decision document states "Where an analytical assessment allows the estimation of SSB, the reference value reflecting full reproductive capacity is SSBMSY". SSBMSY, however is a non-meaningful concept in the context of the multispecies contexts in which marine fisheries take place. Stocks that are being fished cannot all be at (or above) SSBMSY at the same time. That is because the stocks will impact each other due to predator-prey interactions. So although Fmsy can to some extent be estimated in a single species context (dependent on assumptions of selectivity and natural mortality), the consequences of that fishing mortality is largely dependent on the incoming recruitment and abundance (or absence) of potential predators in the environment. This is one of the reasons why the ICES MSY approach explicitly excludes SSBMSY as a potential threshold value to be obtained for all assessed species. In order to fulfil criterion 2 ICES recommends that  $SSB \geq MSYB_{trigger}$ , where  $MSYB_{trigger}$  marks the lowest boundary associated with SSBMSY. The change from using SSBMSY to  $MSYB_{trigger}$  under criterion 2 is essential if the aim of the MSFD is to have all stock achieving GES.

Criterion 3 "healthy age- and size-distribution" poses another challenge for the fishing industry. The Commission recently requested ICES to advise on the utility of selected indicators and reference levels for application in the GES framework. ICES could not provide conclusive advice as there was no agreement among the experts whether the selectivity indicators were suitable for the assessment of GES, but stated that the current selectivity indicators should not be used as part of the GES assessment in 2018 and require further development. In our opinion, the development of such an

indicator seems redundant as  $F$ , when based on  $F_{msy}$ , already accounts for the currently operated selectivity.  $F_{msy}$  is modified as selection changes across time within the assessment and benchmarking process. Furthermore, in a mixed fisheries context, multiple species are exploited simultaneously. These species have differing growth rates and maximum length and juveniles of the larger species are caught within the small species fishery. For many fisheries the spatial overlap of target species will not allow the optimisation of selectivity for all stocks simultaneously as gears which can sufficiently separate the species do not exist. If fisheries selection were to be applied as a GES criterion, either the larger species would be in a permanent status of GES non-compliance or the gear used would not select the smaller species and the yield (revenue) from them would be lost. Similar to the selectivity indicators, indicators for genetic change as well as size distribution of the stock should not be included in the current GES assessment as they need further research and development. Yet, in the Annex to the Commission Decision, the Commission includes criterion 3 with indicators that are incompatible with GES-assessment.

Finally under descriptor 3, the Commission has added criterion 4 which refers to the levels of mortality per species for incidental bycatch. In our opinion, this criterion is not relevant to descriptor 3 which only deals with the state of populations of commercially exploited fish and shellfish. Furthermore, given the poor knowledge on by-catch of bird, mammals or non-target species, it is questionable how Member States will define the threshold within appropriate scientific ranges. Hence, this criterion should be deleted from this descriptor.

To conclude, for some descriptors it seems the Commission is partially disregarding scientific advice and is defining criteria and threshold values to suit their ambitions. In our opinion there is still a lack of understanding as to how criteria and environmental targets should be made operational; creating much uncertainty on what exactly good environmental status would look like. As such, this uncertainty will result in speculative and aimless policy which will have unnecessary socio-economic costs.