

This is the text on which the Marine Strategy Regulatory Committee gave a positive opinion on 10 November 2016.

It is still a draft text as it has not yet been through the scrutiny of the European Parliament and Council.



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2016) **XXX** draft

COMMISSION DIRECTIVE (EU) .../...

of **XXX**

amending Directive 2008/56/EC of the European Parliament and of the Council as regards the indicative lists of elements to be taken into account for the preparation of marine strategies

(Text with EEA relevance)

COMMISSION DIRECTIVE (EU) .../...

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹, and in particular Article 24(1) thereof,

Whereas:

- (1) Annex III to Directive 2008/56/EC lays down the indicative lists of characteristics, pressures and impacts which are referred to in Articles 8(1), 9(1), 9(3), 10(1), 11(1) and 24 of that Directive.
- (2) In 2012, on the basis of the initial assessment of their marine waters made pursuant to Article 8(1) of Directive 2008/56/EC and as part of the first cycle of implementation of their marine strategies, Member States notified to the Commission a set of characteristics for good environmental status and their environmental targets, in accordance with Articles 9(2) and 10(2) of Directive 2008/56/EC, respectively. The Commission's assessment² of those Member State's reports, undertaken in accordance with Article 12 of that Directive, highlighted that more efforts were urgently needed if Member States and the Union are to reach good environmental status by 2020.
- (3) To ensure that the second cycle of implementation of the marine strategies of the Member States further contributes to the achievement of the objectives of Directive 2008/56/EC and yields more consistent determinations of good environmental status, the Commission recommended in its report on the first phase of implementation that, at Union level, the Commission services and Member States collaborate to revise, strengthen and improve Commission Decision 2010/477/EU³ by 2015, aiming at a clearer, simpler, more concise, more coherent and comparable set of good environmental status criteria and methodological standards and, at the same time, review Annex III of the Marine Strategy Framework Directive, and if necessary revise it, and develop specific guidance to ensure a more coherent and consistent approach for assessments in the next implementation cycle.

¹ OJ L 164, 25.6.2008, p. 19.

² Report from the Commission to the Council and the European Parliament - The first phase of implementation of the Marine Strategy Framework Directive (2008/56/EC) - The European Commission's assessment and guidance (COM(2014)097 final, 20.2.2014).

³ Commission Decision 2010/477/EU of 1 September 2010 on criteria and methodological standards on good environmental status of marine waters (OJ L 232, 2.9.2010, p. 14).

- (4) The review of Annex III to Directive 2008/56/EC is needed to complement the review of Decision 2010/477/EU. Furthermore, the relationship between Annex III to Directive 2008/56/EC and the qualitative descriptors for determining good environmental status listed in Annex I to that Directive is only implicit in that Directive and, therefore, not sufficiently clear. The Commission, in a staff working paper from 2011⁴, explained relationships between the qualitative descriptors listed in Annex I to Directive 2008/56/EC, the elements set out in Annex III to that Directive, and the criteria and indicators set out in Decision 2010/477/EU, but could provide only a partial answer due to their inherent content. A revision of Annex III to Directive 2008/56/EC is needed in order to further clarify those relationships and facilitate implementation, better linking ecosystem elements, and anthropogenic pressures and impacts on the marine environment with the descriptors in Annex I to Directive 2008/56/EC and the outcome of the review of Decision 2010/477/EU.
- (5) Annex III to Directive 2008/56/EC should provide elements for assessment (Article 8(1) of that Directive) with regard to good environmental status (Article 9(1) of that Directive), provide elements for monitoring (Article 11(1) of that Directive), which are complementary to assessment (e.g. temperature, salinity), and provide elements for consideration when setting targets (Article 10(1) of the Directive). The relevance of these elements will vary by region and Member State due to differing regional characteristics. This means that elements need to be addressed only if they are considered "essential features and characteristics" or "predominant pressures and impacts" as referred to in points (a) and (b) of Article 8(1) of Directive 2008/56/EC, respectively, and if they occur in the relevant Member State's waters.
- (6) It is important to ensure that the elements set out in Annex III to Directive 2008/56/EC are clearly related to the qualitative descriptors of Annex I to that Directive and to the criteria and methodological standards on good environmental status of marine waters laid down by the Commission on the basis of Article 9(3) of Directive 2008/56/EC, as well as to their application in relation to Articles 8, 9, 10 and 11 of Directive 2008/56/EC. In this context, those elements need to be generic and generally applicable across the Union, considering that more specific elements can be laid down by the Commission on the basis of Article 9(3) of Directive 2008/56/EC or in the context of determining sets of characteristics for good environmental status under Article 9(1) of that Directive.
- (7) Tables 1 and 2 of Annex III to Directive 2008/56/EC should be clarified to more clearly relate to state elements (Table 1) and to pressure elements and their impacts (Table 2), and to directly link the elements listed in them with the qualitative descriptors laid down in Annex I of that Directive and through this with the criteria laid down by the Commission on the basis of Article 9(3) of Directive 2008/56/EC.
- (8) To guide the assessments on uses of marine waters under point (c) of Article 8(1) of Directive 2008/56/EC, and on human activities under point (b) of Article 8(1), and associated monitoring provided under Article 11 of that Directive, Table 2 should be extended to contain an indicative list of uses and human activities in order to ensure consistency in their assessment across the marine regions and subregions.
- (9) Annex III to Directive 2008/56/EC should therefore be amended accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the regulatory committee established under Article 25(1) of Directive 2008/56/EC,

⁴ [Commission Staff Working Paper SEC\(2011\)1255.](#)

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 2008/56/EC is replaced by the text set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**OJ: please insert the date: 18 months after the entry into force of this Directive**] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

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 text of the main provisions of national law which they adopt in the field covered by this Directive.
3. The obligation to transpose this Directive shall not apply to Member States without marine waters.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Commission
The President
[\[...\]](#)

ANNEX III

Indicative lists of ecosystem elements, anthropogenic pressures and human activities relevant to the marine waters

(referred to in Articles 8(1), 9(1), 9(3), 10(1), 11(1) and 24)

Table 1 – Structure, functions and processes of marine ecosystems

with particular relevance for point (a) of Article 8(1), and Articles 9 and 11

Theme	Ecosystem elements	Possible parameters and characteristics (Note 1)	Relevant qualitative descriptors laid down in Annex I (Notes 2 and 3)
Species	Species groups (Note 4) of marine birds, mammals, reptiles, fish and cephalopods of the marine region or subregion	<p>Spatial and temporal variation per species or population:</p> <ul style="list-style-type: none"> – distribution, abundance and/or biomass – size, age and sex structure – fecundity, survival and mortality/injury rates – behaviour including movement and migration – habitat for the species (extent, suitability) <p>Species composition of the group</p>	(1); (3)
Habitats	Broad habitat types of the water column (pelagic) and seabed (benthic) (Note 5), or other habitat types, including their associated biological communities throughout the marine region or subregion	<p>Per habitat type:</p> <ul style="list-style-type: none"> – habitat distribution and extent (and volume, if appropriate) – species composition, abundance and/or biomass (spatial and temporal variation) – size and age structure of species (if appropriate) – physical, hydrological and chemical characteristics <p>Additionally for pelagic habitats:</p> <ul style="list-style-type: none"> – chlorophyll a concentration – plankton bloom frequencies and spatial extent 	(1); (6)
Ecosystems, including food webs	<p>Ecosystem structure, functions and processes, comprising:</p> <ul style="list-style-type: none"> – physical and hydrological characteristics – chemical characteristics – biological characteristics – functions and processes 	<p>Spatial and temporal variation in:</p> <ul style="list-style-type: none"> – temperature and ice – hydrology (wave and current regimes; upwelling, mixing, residence time, freshwater input; sea level) – bathymetry – turbidity (silt/sediment loads), transparency, sound – seabed substrate and morphology <ul style="list-style-type: none"> – salinity, nutrients (N, P), organic carbon, dissolved gases (pCO₂, O₂) and pH <ul style="list-style-type: none"> – links between habitats and species of marine birds, mammals, reptiles, fish and cephalopods – pelagic-benthic community structure <ul style="list-style-type: none"> – productivity 	(1); (4)

Notes related to Table 1

- Note 1: An indicative list of relevant parameters and characteristics for species, habitats and ecosystems is given, reflecting parameters affected by the pressures of Table 2 of this Annex and of relevance to criteria laid down in accordance with Article 9(3). The particular parameters and characteristics to be used for monitoring and assessment should be determined in accordance with the requirements of this Directive, including those of its Articles 8 to 11.
- Note 2: The numbers in this column refer to the respective numbered points in Annex I.
- Note 3: Only the state-based qualitative descriptors (1), (3), (4) and (6) which have criteria laid down in accordance with Article 9(3) are listed in Table 1. All other, pressure-based, qualitative descriptors under Annex I may be relevant for each theme.
- Note 4: These species groups are further specified in Part II of the Annex to Commission Decision 2016/XX/EU*.
- Note 5: These broad habitat types are further specified in Part II of the Annex to Decision 2016/XX/EU.

* OJ: Please insert the title, date and OJ reference of "Commission Decision laying down criteria and methodological standards on good environmental status and specifications and standardised methods for monitoring and assessment, and repealing Decision 2010/477/EU", published on the same day.

Table 2 – Anthropogenic pressures, uses and human activities in or affecting the marine environment

2a Anthropogenic pressures on the marine environment			
with particular relevance for points (a) and (b) of Article 8(1), and Articles 9, 10 and 11			
Theme	Pressure (Note 1)	Possible parameters	Relevant qualitative descriptors laid down in Annex I (Notes 2 and 3)
Biological	Input or spread of non-indigenous species	Intensity of, and spatial and temporal variation in, the pressure in the marine environment and, where relevant, at source	(2)
	Input of microbial pathogens		
	Input of genetically modified species and translocation of native species		
	Loss of, or change to, natural biological communities due to cultivation of animal or plant species		
	Disturbance of species (e.g. where they breed, rest and feed) due to human presence		
	Extraction of, or mortality/injury to, wild species (by commercial and recreational fishing and other activities)		(3)
Physical	Physical disturbance to seabed (temporary or reversible)	For assessment of environmental impacts of the pressure, select relevant ecosystem elements and parameters from Table 1	(6); (7)
	Physical loss (due to permanent change of seabed substrate or morphology and to extraction of seabed substrate)		
	Changes to hydrological conditions		
Substances, litter and energy	Input of nutrients – diffuse sources, point sources, atmospheric deposition		(5)
	Input of organic matter – diffuse sources and point sources		
	Input of other substances (e.g. synthetic substances, non-synthetic substances, radionuclides) – diffuse sources, point sources, atmospheric deposition, acute events		(8); (9)
	Input of litter (solid waste matter, including micro-sized litter)		(10)
	Input of anthropogenic sound (impulsive, continuous)		
	Input of other forms of energy (including electromagnetic fields, light and heat)		(11)
	Input of water – point sources (e.g. brine)		

2b Uses and human activities in or affecting the marine environment

with particular relevance for points (b) and (c) of Article 8(1) (only activities marked * are relevant for point (c) of Article 8(1)), and Articles 10 and 13

Theme	Activity
Physical restructuring of rivers, coastline or seabed (water management)	Land claim
	Canalisation and other watercourse modifications
	Coastal defence and flood protection*
	Offshore structures (other than for oil/gas/renewables)*
	Restructuring of seabed morphology, including dredging and depositing of materials*
Extraction of non-living resources	Extraction of minerals (rock, metal ores, gravel, sand, shell)*
	Extraction of oil and gas, including infrastructure*
	Extraction of salt*
	Extraction of water*
Production of energy	Renewable energy generation (wind, wave and tidal power), including infrastructure*
	Non-renewable energy generation
	Transmission of electricity and communications (cables)*
Extraction of living resources	Fish and shellfish harvesting (professional, recreational)*
	Fish and shellfish processing*
	Marine plant harvesting*
	Hunting and collecting for other purposes*
Cultivation of living resources	Aquaculture – marine, including infrastructure*
	Aquaculture – freshwater
	Agriculture
	Forestry
Transport	Transport infrastructure*
	Transport – shipping*
	Transport – air
	Transport – land
Urban and industrial uses	Urban uses
	Industrial uses
	Waste treatment and disposal*
Tourism and leisure	Tourism and leisure infrastructure*
	Tourism and leisure activities*
Security/defence	Military operations (subject to Article 2(2))
Education and research	Research, survey and educational activities*

Notes related to Table 2

- Note 1: Assessments of pressures should address their levels in the marine environment and, if appropriate, the rates of input (from land-based or atmospheric sources) to the marine environment.
- Note 2: The numbers in this column refer to the respective numbered points in Annex I.
- Note 3: Only pressure-based qualitative descriptors (2), (3), (5), (6), (7), (8), (9), (10) and (11), which have criteria laid down in accordance with Article 9(3), are listed in Table 2a. All other, state-based, qualitative descriptors under Annex I may be relevant for each theme.'

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