NGO contribution to the EU's Integrated Maritime Policy

With this briefing, the above mentioned NGOs wish to contribute collectively to the development of a strong and successful Integrated Maritime Policy (IMP) of the European Union. The document contains a collection of thoughts and recommendations on a range of issues brought together by our issue experts. The overarching message our organisations wish to convey is that all efforts to integrate maritime policies with one another must:

- recognise the centrality of healthy marine ecosystems to the sustainability of the sea's resources;
- result in the integration of environmental considerations into all maritime policy fields;
- ensure a better understanding of the cumulative impacts of human uses of maritime space;
- lead to an environmentally sustainable, as well as energy and natural resource efficient maritime economy.

1. Introduction

The IMP focuses on establishing a coherent and integrated policy framework for actions under different sectoral policies in the maritime sphere. The aim is to avoid policy contradictions and to take advantage of mutually favourable policy opportunities, while sustaining marine resources. The NGOs support a cross-sectoral, integrated approach to policy making, and look forward to cooperating with the Commission in the operationalisation of this approach.

Whereas the Commission's Communication on an Integrated Maritime Policy (the "Blue Book")[1] mentions environmental sustainability as a prerequisite for the economic sustainability of sea-related activities, the focus of the IMP is clearly on economic growth. Environmental considerations are seen as an aspect that needs to be "balanced against" economic growth; in fact, the focus of the Progress Report remains on economic growth, and the reference to an "environmental pillar" of the IMP (as the MSFD is usually referred to[2]) suggests segregation of environmental considerations rather than integration. Treating the protection of the marine environment as a mere "pillar" of the Maritime Policy will not be enough, as healthy marine ecosystems are the prerequisite and provide the necessary foundation for successful maritime economic activities.

It is the view of environmental NGOs that the starting point for a sustainable future is the protection of ecosystems and of the natural resources, goods and services they provide, and this needs to be reflected in the IMP. We hope that the future Commission Communication on an Integrated Maritime Policy will recognise this and truly integrate environmental considerations into all the actions under the framework of the IMP.

[1] An Integrated Maritime Policy for the European Union, COM(2007) 575 final

[2] See, for example, the Progress Report on the EU's Integrated Maritime Policy, COM(2009)540 final, page 8

2. Priorities for the future of the EU's Integrated Maritime Policy

a. Better integration of environmental concerns

Environmental policy integration is an overarching objective of the EU. Article 11 of the Treaty of Lisbon reads: "Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development.", thus constituting a quasi-constitutional commitment to environmental policy integration for the European Union.

The implementation of this legal requirement should result in an IMP that integrates environmental concerns at every level and in every step of the policy- and decision-making processes. Environmental NGOs also want to see an IMP which consistently applies impact assessment rules (EIA and SEA Directives) to ensure that developments at sea or along Europe's coasts do not compromise the objectives of nature conservation and environment protection legislation.

The IMP should also contribute to the objectives and targets adopted under the Regional Seas Conventions and international agreements to which the EU Member States and the European Community are signatories.

b. Ecosystem-based approach and precautionary principle

The Marine Strategy Framework Directive defines the ecosystem-based approach, in its Art. 1.3, in the following way:

> *Marine strategies shall apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations.*

The IMP should, therefore, apply the ecosystem-based approach to all sectors for which decisions are taken and policies are devised

The OSPAR Convention[3] mentions the precautionary principle in the following way:

> *The Contracting Parties[4] shall apply:*
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> *(a) the precautionary principle, by virtue of which preventive measures are to be taken when there are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship between the inputs and the effects;*

The principle is also incorporated into various international agreements and conventions on the protection of the environment[5], and enshrined at the 1992 Rio Conference on the Environment and Development, during which the Rio Declaration was adopted. The Declaration's principle 15 states that:

> *In order to protect the environment, the precautionary approach shall be widely applied by States according to their capability. Where there are threats of serious or irreversible damage,*

[3] OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic

[4] Which include the European Community

[5] The United Nations' Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), the Ministerial Declarations of the Second and Third International Conferences on the Protection of the North Sea, the Barcelona Convention

lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

The precautionary principle is also mentioned in Article 191, paragraph 2 of the Lisbon Treaty. The IMP must therefore take it fully into account.

c. Transparency, access to justice and stakeholder participation

An integrated Maritime Policy must be transparent throughout all steps of policy- and decision-making processes. All stakeholders with an interest in the policy issue at hand should be involved and consulted. The Commission's initiative to create an all-embracing stakeholder platform is perhaps a way forward, but such a platform must have a clear vision of what it wants to achieve and how, if it is to bring any added value to the discussions regarding the IMP.

The IMP has the potential to deliver important results regarding transparency in some of the policy areas under its influence. For example, the IMP process provides an opportunity to enhance transparency and facilitate access to, for example, aggregated VMS data, accurate data on landings, exchange of data between different observers in different seas regarding Illegal, Unreported and Unregulated fishing (IUU), and use and recipients of fisheries subsidies.

In order to improve the understanding of those responsible for taking decisions and to ensure public accountability, transparency of the decision-making process and stakeholder participation is essential. Meaningful participation is only possible with accessible, timely, and accurate information for all stakeholders.

3. Specific policy areas

a. Implementation of the Marine Strategy Framework Directive (MSFD)

The implementation of the Marine Strategy Framework Directive is the first all-encompassing piece of European environmental legislation specifically aimed at the protection of the marine environment in Europe. It will be key in securing a healthy and productive marine environment, which can then support various types of human activities.

The IMP must recognise that the benefits of reaching good environmental status in Europe's marine waters extend well beyond the potential economic gains to be made from exploiting the various components of European seas and marine resources. Therefore, the protection and restoration of the EU's marine environment and wildlife must be given priority.

The MSFD sets the framework for achieving Good Environmental Status in European waters and its implementation should provide guidance for future policy development. The responsibility for ensuring that Good Environmental Status (GES) is reached by 2020 in all European waters lies with Member States, and effective co-operation between Member States but also between Member States and Partner Countries will be critical to achieve this. It is also vital that achieving this goal is not inhibited by any other policy process initiated by the Commission. Therefore, MSFD provisions must be fully acknowledged and complied with when devising policies in other sectoral areas.

In addition, the IMP must contribute to the achievement of the objectives of the Directive (as well as of other environmental legislation, such as the Birds, Habitats and Water Framework Directives), including through investing resources into the restoration of marine ecosystems.

b. Reform of the Common Fisheries Policy (CFP)

Within the current CFP, ecological, economic and social considerations are given equal weight. There needs to be a prioritization of the ecological objective to enable a recovery of marine ecosystems and fish stocks, as without healthy ecosystems prosperous and sustainable fisheries will not be possible.

Fisheries is one of the most dominant maritime sectors and the CFP, as the management framework for fisheries, therefore has a substantial role to play in meeting both the MSFD commitments and the commitment that Member States have under the Convention on Biodiversity(CBD) to adopting an ecosystem-based approach. This will require that the new CFP Regulation text makes an explicit commitment to both the CBD and MSFD objectives.

The Regulation also needs to establish an appropriate framework which will allow these commitments to be met. We believe that the mandatory requirement for all EU fisheries to operate according to ecosystem-based, stakeholder-led, long-term management plans (LTMPs) will provide such a structure, and could be an effective means of delivering the much needed regionalisation of policy delivery.

There will need to be basic minimum standards set out in the Regulation in order to deliver an ecosystem-based approach and to standardise LTMP requirements. These standards should include the need to establish LTMPs that will operate at a fishery or regional level (rather than be single species orientated as they are currently), for mixed and balanced stakeholder groups (including Member States, industry, NGOs and scientists) to propose management measures, the requirement to assess and take account of the immediate and wider impacts of fishing activities on both species and habitats, address the issue of capacity in relation to the resources available under any LTMP, and provide the freedom to apply the most appropriate tools (including establishing time/area closures, gear improvements etc) for each fishery as required at a regional or local level.

Plans should address not only the impact of the fishing operation on the target species but also impacts on non-target species and habitats. Strategies to address these and help deliver the MSFD requirement that Good Environmental Status is attained by 2020 must be built into each LTMP as a matter of urgency.

Decisions on fishing opportunities must follow scientific advice; the allocation of access to the resources should then be granted to the operators who contribute the best to the fulfilment of the objectives of the CFP. This would be assessed by means of a set of transparent environmental and social criteria (such as selectivity, environmental impact, energy consumption, employment and working conditions, quality of product, and history of compliance). Long-term sustainability will not be achieved unless present overcapacity is eliminated – without this all other endeavours will be undermined. Where overcapacity is identified, a strategy for reducing it should be agreed, with clear targets and timelines. Targets should not only include capacity limits, but also the determination of the kind of fleet that should remain after the elimination of excess capacity, ensuring that those parts of the fleet which are the least sustainable (as assessed by means of the same criteria as mentioned above) are eliminated first. Failure to meet targets must result in meaningful penalties.

Heavy public financial support given to the fishing industry is one of the reasons for over-capacities, while there was only limited support for control and enforcement. In the future, public funding should be used to provide public goods, such as research, environmental protection or the mitigation of possible negative social impacts caused by the elimination of overcapacities. No public funding should be available to maintain or increase fishing capacities.

There is a clear legal role for the revised CFP in delivering MSFD and CBD commitments and the new CFP principles must apply to all EU vessels wherever they fish.

c. New Environmental Action Programme

The Sixth Environmental Action Programme (6EAP) will expire in 2012, and work must start immediately if a seventh programme is to be devised and adopted to enter into force by early 2013.

Despite certain shortcomings and lack of sufficient delivery afterwards in certain areas (stopping the decline of Europe's biodiversity, waste prevention and management, human health protection), the Environmental Action Programmes have been key in providing a vision and a structure for EU environmental policy over the last few decades. Regarding the marine sphere, the 6EAP was of particular importance, as it set in motion the process which culminated in the adoption of the MSFD.

A Seventh Environmental Action Programme (7EAP) is certainly needed in order to steer EU environmental policy towards a transition to a low impact society, a society which is using less energy and other limited resources, and is more respectful of biodiversity and the ecosystem goods and services it provides. The NGOs urge the Commissioner to champion the development of the 7EAP within the College, and to ensure that the new EAP contains specific and ambitious provisions for the protection of the marine environment and for the restoration of marine ecosystems.

Strengthening of relevant marine research and better use of the results produced should also be integrated into future EU programming.

d. New biodiversity strategy

2010 should have been the year when biodiversity loss would have been halted in the EU. That target has obviously not been met, and new policies must be devised which truly deliver this target.

The Environment Council has recently agreed to a long-term vision and a new biodiversity headline target for 2020, aimed at "halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss". While this agreement shows ambition, it remains to be seen (at the time of writing) whether that target will be agreed at the highest EU political level.

While the target is ambitious, it will not be achieved in the marine environment unless sectoral policies regarding fisheries, transport and spatial planning, among others, properly integrate biodiversity protection requirements. The work on the implementation of the MSFD will also be key in this process and progress in bringing Europe's seas into good environmental status by 2020 should serve as an indicator for progress towards meeting this new biodiversity target. Ministers themselves have recognised that the failure to halt biodiversity loss in Europe by 2010 was due to, among others, the insufficient implementation of certain legal instruments and the lack of integration with other EU policies, as well as the over-exploitation and unsustainable use of natural resources, ocean acidification and pollution.

The implementation of the Birds and Habitats Directives that establish the Natura 2000 network has been particularly slow in the marine environment, caused partly by a lack of monitoring data but more importantly by a lack of coherence with the CFP.

e. Climate change

Oceans and seas have a pivotal and complex role in regulating the planet's climate. Depending on the actions we take, they can help minimise the impacts of climate change or contribute to global warming. Oceans and seas have been shown to warm up faster than land, which means that the effects of climate change will be felt first in the marine sphere. Ocean acidification is one of the consequences of rising levels of carbon dioxide in the Earth's atmosphere, but changes in temperature, salinity, stratification and oxygen levels are equally worrying. The potential effects of these changing environmental conditions on marine ecosystems are not yet fully understood, and more scientific knowledge is needed. However, we already possess enough information to start acting, as research has already demonstrated that acidified marine areas contain considerably less bio-diversity and biomass[6].

Climate change policies must continue to have a two-fold marine focus: on the one hand, mitigation efforts can still go a long way as far as maritime sectors are concerned. Maritime economic sectors such as shipping and fisheries contribute substantially to greenhouse gas emissions. The world fleet of merchant vessels is estimated to contribute 2.7% of global GHG emissions in 2009, whereas fisheries accounted for 1.2% of global oil consumption in 2006[7]. The Integrated Maritime Policy must therefore ensure that all possible measures are taken to mitigate the climate impacts of these sectors.

[6] Hall-Spencer, J. M. et al (2008) Volcanic carbon dioxide vents show ecosystem effects of ocean acidification. Nature 454, pp. 96–99.

[7] http://www.noordzee.nl/upload/actueel/Leaflet_CO2_shipping_2009.pdf

On the shipping side, the EU should be engaged in finding solutions at the IMO, and be prepared to take unilateral action to restrict GHG emissions from shipping if so needed. As far as fisheries are concerned, the reform of the Common Fisheries Policy should make sure that fishing capacity in the EU is reduced, and that reduction efforts focus on substantially cutting the most fuel intensive (which are usually also the most environmentally damaging) sectors of the fleet. Today, an average of 1.7 tonnes of CO2 are emitted for each ton of live-weight landed fish[8]. Another course of action, which should be facilitated by the Integrated Maritime Policy would be to dismiss fuel subsidies under *de minimis* aid and to eliminate the fuel tax exemption for fisheries.

While climate change is a worrying threat to the marine environment, resilience in the marine ecosystems can and should be enhanced. Preserving diverse and abundant marine life, through tackling problems such as overfishing and pollution, is paramount to maintaining and strengthening this resilience[9]. Fisheries cause the most significant damage by removing too much biomass from the system, both of target and non-target species, and by destroying habitats vital for the survival and reproduction of marine species.

f. Pollution (eutrophication) and links to the Common Agricultural Policy

Eutrophication is a water pollution problem of great concern in both EU fresh, transitional and marine waters. Many European rivers, lakes, and sea areas such as the Baltic Sea, the North Sea, and parts of the Adriatic Sea are exposed to heavy loads of nutrients causing eutrophication.

Most of nutrient run-off to waters is generated in agricultural land, because of over-fertilisation and non-nutrient balanced agricultural practices or intensive cattle raising and aquaculture. In the Baltic Sea catchment area about 50 % of the total nutrient load (Nitrogen and Phosphorus) comes from the agricultural sector.

The current Common Agricultural Policy (CAP) and the agricultural subsidies systems to farmers and industrial animal farming installations act as a driver for the existing non-nutrient balanced fertilisation, including over-fertilisation. This is largely due to the fact that there are limited tools in this key policy area that seek to limit the on-going non-sustainable agricultural practices that lead to eutrophication.

So far, the implementation of EU legislation and regulations for environmental protection have not been sufficiently efficient instruments to solve the eutrophication problems caused by the agricultural sector. It is vital that changes are made to the CAP and the EU agricultural subsidies system to solve the eutrophication problems.

Only minor parts of the agricultural subsidies are used in so-called agri-environmental schemes to reduce the nutrient run-off. There is not enough funding available to support good environmental agricultural practices, which means that CAP policies/subsidies undermine sustainable development. Without a proper integrated approach from the EU, sea eutrophication cannot be halted.

Considerable pollution is still contributed by untreated sewage and industrial effluents. A systematic effort and incentives are needed to effectively address this problem as well.

NGOs therefore propose to:

- Reform the CAP and create special requirements for European Sea Areas having adverse eutrophication problems, where the major part of agricultural subsidies in such drainage basins will contribute to the solution of the eutrophication problem. Or develop other

[8] Thrane, M. (2006) LCA of Danish Fish Products: New Methods and Insights. Int. J. LCA 11

[9] Brander, K. (2008) Tackling the old familiar problems of pollution, habitat alteration and overfishing will help with adapting to climate change. Marine Pollution Bulletin, Volume 56, Issue 12, December 2008, pp. 1957–1958.

mechanisms to secure a substantial reduction of agricultural nutrient run-off in certain European sea areas.
- Address the issue of over-fertilisation through the Commission's Roadmap for the Reform of Environmentally-harmful Subsidies – due in 2008, but yet to be published.
- Enhance the efforts to reduce pollution from untreated waste waters and industrial installations.

g. Marine Spatial Planning (MSP)

The NGOs support Maritime Spatial Planning (MSP) as a tool to help deliver sustainable management of the use of space and resources in EU seas and oceans. MSP will provide a better coordinated and strategic approach to decision-making at sea. However, any system of MSP at the EU-level must add value to national planning systems and plans, where they exist, and there should be effective co-ordination between Member States.

The NGOs welcome the ten key principles for (MSP), published by the Commission in November 2008. We now await the final report of the series four MSP workshops held in 2009.

As with the rest of the IMP, MSP must have an ecosystem-based approach to the management of human activities at its heart. Such an approach will help deliver fuller consideration of a regional seas approach and on transboundary issues.

Whether at the national or the EU-scale, MSP must support the delivery of the Marine Strategies proposed under the Marine Strategy Framework Directive (MSFD), and preferably be based at the scale of the marine regions and sub-regions created under the MSFD. MSP is a key tool to help achieve the objectives of good environmental status (GES) under the MSFD, throughout EU waters.

MSP processes must consistently apply impact assessment rules (e.g. under the EIA and SEA Directives) to ensure that developments at sea or along Europe's coasts do not compromise the objectives of nature conservation and environment protection legislation. Spatial protection measures such as Natura 2000 sites and other marine protected areas (MPAs) must be duly considered within the planning process and MSP must ensure adequate space and protection for marine biodiversity, ecosystems and the wider marine environment. It must also be recalled that the MSFD does not specifically mention Natura 2000 areas as the only marine protected areas - protected areas designated within the framework of Regional Seas Conventions must be taken into consideration as well, and coherence among them should be ensured.

h. Transport

The Clean Ship concept holds a real possibility of uncoupling growth in shipping traffic from environmental harm, and urgently needs EU leadership. A Clean Ship is designed and operated in an integrated manner to be efficient and to eliminate harmful operational discharges and emissions throughout its life. The Clean Ship approach requires a safety culture that maximises the opportunities for safe and environmental navigation while at the same time providing all possible safeguards in the event of an accident. It is a process that deliberately includes all stakeholders and has a clear objective in sight. In many respects it is a model example of applying the ecosystem-based approach to an industrial sector, and presents the possibility not just of achieving environmental goals but also creating commercial opportunities for businesses that target Clean Ship technologies and practices.

While some quality ship operators are already adopting Clean Ship approaches, and niche marketing themselves accordingly, most of the shipping industry continues to apply minimum standards with many not even managing that. Recommendations for EU action to forward the Clean Ship approach include:

- the development of an IMO Clean Ship Strategy;
- the establishment of Clean Ship Innovation Forums to promote and progress the concept at home and abroad;

- the establishment of a Clean Ship Data Centre to collect and disseminate data and information on the environmental impacts of shipping and on Clean Ship best practice;
- a Clean Ship pilot project for Maritime Schools to ensure seafarers know why it is important to protect the marine environment; and
- organisation of a system of economic incentives to encourage Clean Shipping and penalise sub-standard operators.

Invasive alien species (IAS) also remain a threat to the marine environment in Europe, with international shipping acting as a major vector for the introduction of such species. Therefore, clean shipping must also entail:

- rapid implementation of the Ballast Water Convention actions to substantially reduce risks for introduction of aquatic alien species in European waters
- development of EU regulations for ports and harbours to establish programmes to limit and prevent the spreading of already established aquatic alien species, e g via the harbour fees (to be developed by DG Transport and DG Environment in cooperation)

i. Marine litter

Despite decades of regulation at the International Maritime Organisation (IMO) and elsewhere, and the prohibition of the discharge and dumping of nearly all ship waste streams, large quantities of oil, garbage and other wastes routinely find their way into the sea. Indeed, there is little evidence that these discharges are diminishing. Every year, marine litter (including lost or abandoned fishing gear) results in tremendous economic costs and losses to individuals and communities around the world. It can spoil, foul and destroy the beauty of the ocean and the coastal zone and create serious problems to the sea bottom and biota. There has been enormous shipping fleet growth in recent years and this is projected to continue, which heightens the need for the development of an effective new regime to reduce the amount of litter and other waste dumped from ships.

The (illegal and legal) dumping by ships of garbage and other wastes at sea remains a serious problem with impacts on nature & biodiversity, health and the marine environment generally. During 2010 the review of EU Directive 2000/59/EC (on port reception facilities) and Annex V (garbage) of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) present opportunities for strengthening the regulatory regime. The Commission should tackle disincentives to port reception facility (PRF) use (explicit charges in particular) and consider the potential advantages of introducing a “general prohibition” on dumping within Annex V of MARPOL 73/78.

The fact that a significant amount part of marine litter comes from land based sources indicates the link between solid waste management inland and marine litter, and requires further strengthening of implementation of EU solid waste legislation. EU waste policies should also in turn take marine litter into consideration, as the quantity of waste at sea can only be substantially reduced by preventing waste creation at its source.

One of the innovative characteristics of the MSFD is its inclusion of marine litter in the descriptors of Good Environmental Status. It is thus essential that the overarching goal be ambitious: the aim must be to eliminate new inputs of litter to the marine environment, and to clean-up to the greatest extent possible existing marine litter deposits. An increase in marine litter is not inevitable: strong regulation and litter collection programmes (e.g. “fishing for litter”) hold the possibility of reducing levels of litter in the marine environment even in the short term.