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**Revised ToR for WG GES**

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**Updated Terms of Reference of the '*Working Group on Good Environmental Status*' (WG GES)**

The first ToR of WG GES were adopted by the Marine Directors on 29 May 2009. The revised ToR were adopted by the Marine Directors on 2 December 2010.



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
ENVIRONMENT  
Directorate D – Water, Chemicals and Cohesion  
**ENV.D.2 - Marine**



**Document MDs  
Spa, 2 December 2010**

**Agenda Item 2.1.1**

## **Updated Terms of Reference of the '*Working Group on Good Environmental Status*' (WG GES)**

### **Follow up of the Terms of Reference of the WG GES, 21 May 2009**

The first ToR of WG GES, agreed by MDs at the Marine Directors meeting in Brno, 29 May 2009, established a series of objectives with a focus on the development of criteria and methodological standards for determining good environmental status for marine waters, and provided more details for the first activities planned for 2009-2010.

#### **Objectives**

After the adoption of the Commission decision <sup>1</sup> on criteria to be used by Member States for determining GES, 1 September 2010, the Working Group will address, whenever appropriate, **issues of application** by Member States in their geographic neighbourhood context, focussing on the aspects of 'consistency' and 'comparability' as provided for in MSFD Art. 9(3). In this activity, the Working Group will take account of MS activities in the regional sea conventions, with particular focus on common approaches between marine regions, seeking synergies and the avoidance of duplication of efforts.

In order to have a consistent and comparable approach, across all marine regions/subregions to determining good environmental status, it is important to achieve a common understanding of most relevant aspects of the MSFD implementation, starting from Art. 9, Determination of Good Environmental Status, and Art 10, Establishment of environmental targets.

#### **Activity 1 – Addressing application issues (2011-2012)**

Activities during 2011-2012 will be focused on Member States application of:

- Art. 9. Determination of Good Environmental Status, by reference to the initial assessment, on the basis of Annex I and Annex III,
- Art 10. Establishment of environmental targets, on the basis of the initial assessment, taking into account pressure and impacts set out in Table 2 of Annex III and characteristics listed in Annex IV,

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<sup>1</sup> COM Decision 2010/477/EU, OJ L 232, 2.9.2010

identifying priorities among the different issues to be addressed, (listed below), on the base of Member States needs and the identification of specific application risks.

In addition it will be necessary to start to explore linkages with monitoring and next stages of the MSFD implementation.

- Common approaches for determining GES:
  - available tools, discuss adequacy and possible application (including addressing scale considerations);
  - possible development of methods for overall assessment, including possible aggregation(s) within one descriptor and among different descriptors;
  - discuss whether any of the existing natural differences between regions might justify distinct methodological options for some specific descriptor/criteria;
- Linkages between Habitat Directive, Water Framework Directive and MSFD in relation to GES definition:
  - how to use results and definition of favourable conservation status/good ecological status from the other Directives
  - discuss relevant assessment scales
- Common approaches in establishing environmental targets in order to obtain consistency across all marine regions/subregions:
  - set targets establishing desired conditions based on the definition of good environmental status (Annex IV (2)) taking account of the pressures listed in Annex III, Table 2;
  - key associated indicators so as to guide progress towards GES;
  - consistency of the set of targets (Annex IV (4))
  - setting interim targets (Annex IV (6))
  - reference points (target and limit reference points)
  - discuss linkages between the development of targets (including the associated indicators) and monitoring programmes, and discuss in this context also any general limiting factors, including e.g. cost of associated monitoring and assessment.
- Initiate the development of a framework for coordinated monitoring programmes delivering data for the assessment of GES and of the achievement of environmental targets.

### **Activity 1 a –Technical Subgroup on Litter and Energy Introduction (noise)**

The establishment of a Technical Subgroup for further development of the descriptors Litter and Energy introduction (particularly noise), under the WG GES, was agreed by Marine Directors at the 29<sup>th</sup> of May meeting in Segovia (Spain). Due to the different nature of the two themes the technical subgroup will consist in practice of two parts: one for marine litter and one for underwater noise (and other forms of energy).

Specific ToR for the Subgroup have been established.

### **Activity 2 – Reviewing GES criteria (2013-2015)**

In the longer term, the Working Group can take a role in reviewing regularly the GES criteria where appropriate, having regard to updated scientific considerations and the need for adaptive management as required by the Directive, given that the pressures and impacts may

vary with the evolvement of different patterns of human activity, particularly in a context of climate change.

Specific activities will be further elaborated, taking account of application experience.

### **Lead countries - bodies**

Following request from the Commission in 2009, Germany volunteered to co-lead activities of WG GES and has already strongly supported the first phase of WG GES activities. According to the specific activities that will be defined by MSs and agreed by MDs at the meeting of 2-3 December 2010 in Spa (Be), while continuing the contribution of Germany, other countries willingness to contribute/volunteer for specific issues/tasks is foreseen.

### **Participants**

The Working Group is composed of representatives of:

- European Commission and European Environment Agency;
- Member States;
- Representatives of regional sea conventions (Secretariats and/or specific Member States), other marine protection conventions;
- European stakeholder organisations and international marine scientific organisations.

Any workshops will be open to all participants. Specific activity groups can be formed.

The inter-regional and sub-regional aspects of the EU level work could possibly be fostered by:

- inviting Member States which have marine waters in different regions to facilitate information exchange to ensure that the development leads to results applicable in most of the (sub-)regions);
- exploring whether, for the different regional seas, a lead Member State (Member State "*porte-parole*") can help the exchanges between the EU level work and the related work at (sub-) regional level.

### **Meetings planned**

- 4-5 April (tbc)
- 20-21 October 2011 (tbc)
- March/April 2012 (tbd)
- October 2012 (tbd)

### **Links with other activities**

The WG will keep itself informed of relevant developments on normative expression of environmental status in the context of the Water Framework Directive and Nature/biodiversity legislation and, where appropriate, other relevant policies such as the Common Fisheries Policy.

### **Type of work**

The WG will act as a Plenary including all participants and it can set up specific **Activity groups for specific (sub-)activities** with selected participants from its ranks. These can have meetings such as workshops or *ad hoc* meetings to deliver their results.

For specific purposes, **other experts** may be involved and be used as a reservoir of expertise for discussing specific issues. The selection of experts to be invited will be decided in consultation with the WG chair.

### **Documents and minutes**

Participants can submit written documents for the consideration of the group.

The European Commission will prepare draft minutes of the meetings for consideration by the group.

**Document WG-GES May 09 2/1**

**Document MSCG May 09 2/3**

**[Document MD May 09 1/3]**

Brussels, 23 April 2009

## **Draft Terms of Reference**

### **of the '*Working group on good environmental status*'**

#### **Introduction**

The Marine Strategy Framework Directive 2008/56/EC establishes a framework within which Member States shall take the necessary measures to achieve or maintain good environmental status in the marine environment by the year 2020 at the latest. 'Good environmental status' is a central concept of the Directive defined in its Art. 3; further qualitative descriptors are in Annex I of the Directive. These will be taken as a basis by Member States for determining the specific characteristics of good environmental status in their waters. In order to have a consistent and comparable approach to determining good environmental status, criteria and methodological standards need to be developed in accordance with a regulatory Committee procedure with scrutiny by the European Parliament (MSFD Art. 9(3)).

The set of criteria and methodological standards for the determination of good environmental status

are thus a critical component for the MSFD implementation and their achievement is the main priority in the early phase of MSFD implementation at EU level. The Commission has often indicated that this work will build, to the extent possible, on existing available methodological tools

such as those of other Directives and of the work under the European regional sea conventions<sup>1</sup>. It is

thus important that:

- All available methodologies are being considered for their applicability under the MSFD;
- Representation of Member States, Regional Sea Conventions and other 'interested parties' (see MSFD Art. 9(3) for an explicit consultation requirement of all interested parties, including Regional Sea Conventions) is possible to assist in the development of the 'criteria and methodological standards'.

<sup>1</sup> Baltic Sea: Helsinki Convention (HELCOM) – [www.helcom.fi](http://www.helcom.fi) ;

North-East Atlantic: OSPAR Convention (OSPAR) – [www.ospar.org](http://www.ospar.org) ;

Mediterranean: Barcelona Convention (UNEP-MAP) – [www.unepmap.org](http://www.unepmap.org) ;

Black Sea: Bucharest Convention (BSC) – <http://www.blacksea-commission.org/main.htm> .

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#### **Objectives**

The working group will, in relation to the development of criteria and methodological standards for

marine good environmental status:

- **Assist their development process** (e.g. organisation of interactions, guidance of scope and comprehensiveness) to ensure the development of the required technical elements, including:

- **Discussing the progress** (including draft materials) reported by the Commission including the outcome of the work of DG JRC, DG SANCO and the International Council for the Exploration of the Seas (ICES);

- **Organising structured feedback** with a view to enhancing the acceptability of

options chosen, including assisting the Commission on the formal consultation requirement with the regional sea conventions and all interested parties, including stakeholders, on the proposal;

- **Addressing issues** (e.g. descriptors on litter and hydrographic conditions) which may **not be covered** by the above;

- **Assisting the Commission** in developing a formal Commission proposal on GES descriptor criteria and methodological standards before the relevant meetings of the Committee addressing issues of substance.

After the development of the 'criteria and methodological standards', the Working Group will address, whenever appropriate, **issues of application** by Member States in their geographic neighbourhood context, focussing on the aspects of 'consistency' and 'comparability' as provided for

in MSFD Art. 9(3). In this activity, the Working Group will take account of MS activities in the

regional sea conventions, seeking synergies and the avoidance of duplication of efforts.

In the longer term, the Working Group can take a role in reviewing regularly the GES criteria where

appropriate, having regard to updated scientific considerations and the need for adaptive management as required by the Directive, particularly in a context of climate change.

#### **Activities**

##### **Activity 1 – Assist the development of 'criteria and methodological standards' (2009-2010)**

At the level of individual descriptors:

- discuss adequacy and completeness of approaches elaborated (including addressing scale considerations);
- discuss practical applicability and implications;
- discuss whether any of the existing natural differences between regions might justify distinct methodological options for some specific criteria;
- discuss linkages between GES criteria and the development of targets, indicators and monitoring targets, and discuss in this context also any general limiting factors;
- discuss representativity / comprehensiveness;
- from all comments made, give guidance on which are most important issues to be addressed in further improvements (i.e. structure the feedback).

At the level of groups of descriptors:

- discuss coherence between the approaches of the individual descriptors;
- discuss balance.

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With regard to the consultation required by MSFD Art. 9(3):

- confirm that the involvement of stakeholders, in particular regional sea conventions, is adequately secured;
- assist in consultation through facilitating activity of MS in their RSC.

##### **Activity 2 – Assist the Commission in developing a formal proposal (2010)**

The Commission will provide an outline structure of the decision that would encapsulate the formal

'criteria and methodological standards'. The WG will assist the Commission in elaborating ideas

towards the most viable Decision.

##### **Activity 3 – Addressing application issues (2011-2012)**

[To be elaborated as from late 2010, pending identification of specific application risks].

##### **Activity 4 – Reviewing GES criteria (2013-2017)**

[To be elaborated as from late 2012, taking account of application experience].

### **Lead countries - bodies**

The Commission (DG ENV) will chair the working group. For Activity 3, the option of a possible co-chair will be considered at a later stage.

### **Participants**

The Working Group is composed of representatives of:

- European Commission and European Environment Agency;
- Member States [see first list of nominated participants in Annex];
- Representatives of regional sea conventions (Secretariats and/or specific Member States), other marine protection conventions;
- European stakeholder organisations and international marine scientific organisations [see first list of expressions of interest in Annex].

Any workshops will be open to all participants. Specific activity groups can be formed.

The (sub-) regional and inter-regional aspects of the EU level work could possibly be fostered by:

- inviting Member States which have marine waters in different regions to facilitate information exchange to ensure that the development leads to results applicable in most of the (sub-)regions);
- exploring whether, for the different regional seas, a lead Member State (Member State "*porte-parole*") can help the exchanges between the EU level work and the related work at (sub-) regional level.

### **Start-up activities**

- Working group to be constituted, on the basis of names that have been submitted by Member States and the organisations mentioned above.
- CIRCA pages to be established under the overall Marine Strategy CIRCA site.

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- Information to be circulated on the progress on GES based on progress reports from mainly JRC and ICES.

### **Meetings planned (tbc)**

- 14 May 2009 (back-to-back with Marine Strategy Coordination Group to be held in Leuven on 15 May 2009)
- October 2009 (tbc)
- March/April 2010 (tbc)

### **Links with other activities**

The WG will keep itself informed of relevant developments on normative expression of environmental status in the context of the Water Framework Directive and Nature/biodiversity legislation and, where appropriate, other relevant policies such as the Common Fisheries Policy.

### **Type and intensity of work**

At its inception, the WG will act as a **Plenary** including all participants and it can set up specific

**Activity groups for specific (sub-)activities** with selected participants from its ranks. These can

have meetings such as workshops or *ad hoc* meetings to deliver their results.

For specific purposes, **other experts** may be involved and be used as a reservoir of expertise for

discussing specific issues. The selection of experts to be invited will be decided in consultation with the WG chair.



## **Organisation and Terms of Reference for the Technical Sub-Group on Marine Litter (TSG Marine Litter)**

### **A. Organisation of the Technical subgroup on Marine Litter**

EU Member States had requested the set-up of a technical subgroup on marine litter according to a mandate by the Marine Directors from 2.12.2010. Work in 2011 resulted in the report “Marine Litter – Recommendations for the Implementation of MSFD Requirements”. EU Marine Directors have requested on 8.12.2011 a continuation of the technical subgroup based on the roadmap developed as part of the recommendations by the group. Particular focus should be on issues related to the identification of sources of marine litter. The WG GES in February 2012 amended slightly the Terms of Reference. Cost of monitoring and assessment of harm will be among the topics considered with priority.

The Group will continue to support Member States in implementing the MSFD with particular focus placed on identifying and collaboratively addressing common evidence gaps, developing and promoting common monitoring and assessment protocols, and the sharing of best practice.

The work of the technical subgroup on litter will be reported to the Working Group on Good Environmental Status (WG GES) through which Member States, neighbouring countries, Regional Sea Conventions and key stakeholder organisations can provide structured inputs.

### ***Membership***

The technical subgroup consists of persons who should be able to:

- a. Demonstrate expertise applicable to the task,
- b. Demonstrate experience in providing practical scientific advice,
- c. Ensure the range of expertise necessary for the task

The membership of the group will remain the same and regular consideration will be given as to whether the appropriate expertise is available for the issues under consideration.

### ***Chairing the meeting***

The TSG Marine Litter will be chaired by France and co-chaired by JRC IES and Germany

### ***The work and meetings of the technical subgroup***

Most of the work of the TSG marine litter will take place via correspondence through a web based communication tool. The TSG marine litter will have a maximum of two physical meetings per year in order to plan and coordinate the programme of work. Intermediate progress reports will be used to inform the WGGES.

### **B. TERMS OF REFERENCE OF THE TECHNICAL SUBGROUP**

The TSG Marine Litter will address the following, in the period 2012 - 2013:

### ***1. Developing common monitoring protocols.***

Having identified monitoring tools appropriate for MSFD purposes, the group will develop advice on the strategies which could be adopted to ensure comparability of monitoring programmes i.e. site selection, timing, etc. Where monitoring protocols do not exist the group will develop proposals for consideration

### ***2. Facilitating the implementation of fit for purpose monitoring programmes.***

The group will facilitate the implementation of cost effective and fit for purpose marine litter monitoring in a coordinated manner at an EU level i.e. by advising on potential common monitoring tools, identifying opportunities to refine existing national and Regional Seas Approaches to improve comparability, ensuring appropriate quality assurance and control of data is in place etc. In addition the group will consider opportunities for the integration of marine litter monitoring with other monitoring efforts i.e. biodiversity monitoring, industry monitoring.

### ***3. Evaluating new monitoring tools***

The group will consider new and promising monitoring tools as they develop, providing advice on their suitability for meeting Member States monitoring and assessment requirements i.e. monitoring tools should be fit for purpose, cost effective, and be able to realistically be implemented.

### ***4. Estimating the costs of marine litter monitoring***

Cost estimates will be provided for the implementation of the monitoring tools identified by the group. These estimates will include the costs of taking and processing samples, capital costs, and the costs of reporting. Opportunities for reducing costs i.e. through collaboration, and the use of existing platforms of opportunity will also be identified. The results will be used in tasks 1 and 2.

### ***5. Assessing harm***

There is no consolidated common understanding of what constitutes 'harm' from marine litter or how it can be assessed with respect to the implementation of the MSFD. Research efforts to develop robust approaches for assessing harm will be identified. The group will consider and assess the available evidence base and attempt to develop a consensus on how to approach the issue.

### ***6. Harmonizing protocols for assessments***

There are some potential environmental impacts arising from marine litter which are not currently being considered, for example due to a lack of monitoring or uncertainty over how best to approach the issue i.e. assessing levels of entanglement or ingestion of litter by other target species such as fish. The group will identify where potential gaps in our understanding exist and develop proposals for assessment and monitoring to address them in a coordinated, realistic and cost effective manner. .

### ***7. Standardizing litter categories***

The group will work closely with representatives of the Regional Seas Conventions to align the categories of marine litter currently reported in order to improve comparability across Member States.

### ***8. Identifying sources of marine litter***

The group will support work currently underway to provide better identification of sources of marine litter. The results of these pilot studies by DG ENV, expected at the end of 2012, will be used by the TSG Marine Litter. Technical options such as backtracking modeling will be evaluated and communicated more widely. The evaluation of source strengths will also be considered and an approach developed to support the selection of management measures by Member States.

### ***9. Reporting***

Interim reports will be required prior to the meetings of the WG on GES. These brief reports should indicate the status of the subgroup work. The final report should explicitly address the issues identified in the ToR. A total final report will be available latest by November 30<sup>th</sup> 2013. Parts of this report might be available earlier as needed, for instance with respect to monitoring programmes.

## **Organisation and Terms of Reference for the Technical Sub-Group on Underwater Noise and inputs by other forms of energy.**

### **A. Organisation of the Technical subgroup on Underwater noise**

EU Member States had requested the set-up of a technical subgroup on underwater noise according to a mandate by the Marine Directors from 2.12.2010.

TSG (Underwater) Noise in 2011 has focussed on clarifying the purpose, use and limitation of the indicators and described methodology that would be unambiguous, effective and practicable.

For both the impulsive as for the ambient noise indicator it has been possible to make significant progress towards practical implementation of the indicators, and most ambiguities have been solved, but some issues remain that need to be solved. TSG Noise further has identified knowledge gaps and future work, and advises on the way forward in 2012 and beyond.

The MSFD TSG Noise has identified potential priority work items for support to the operational implementation of Descriptor 11. In 2012, the main focus of TSG Noise will be on developing a practical guidance for monitoring and noise registration for member states.

EU Marine Directors have requested on 8.12.2011 a continuation of the technical subgroup based on the recommendations by the group.

The work of the technical subgroup on underwater noise will be reported to the Working Group on Good Environmental Status where all relevant actors (Member States, neighbouring countries, international organisations such as regional sea conventions and marine scientific organisations, stakeholder organisations) can provide structured feedback.

### ***Membership***

The technical subgroup consists of persons who have:

- a. Demonstrated expertise applicable to the task,
- b. Demonstrated experience in providing practical scientific advice,
- c. Ensuring the range of expertise necessary for the task

In principle the same group of people will continue. In the near future, it is advised that a wider range of Member States representatives will take part, especially those involved in monitoring, as well as a representation of the regional sea conventions. Additionally, for some meetings additional experts on a certain topic (for example electromagnetic fields) may be invited.

Establishment and implementation of monitoring by Member States should be coordinated within the regional sea context (as required by MSFD art. 11), but it is useful to share knowledge and experience in a wider European context.

### ***Chairing the meeting***

The TSG Noise will be chaired by UK and the Netherlands

### ***The work and meetings of the technical subgroup***

Most of the work of the technical subgroup will be by use of a web communication tool. The technical subgroup will have a maximum of two physical meetings per year, to ensure work is planned and coordinated efficiently. Intermediate progress reports will be used to inform the WGGES.

## **B. TERMS OF REFERENCE OF THE TECHNICAL SUBGROUP**

In the period 2012 – 2013 the technical subgroup will focus on making the indicators from the Commission Decision operational. In order to do this the TSG Noise will provide a monitoring guidance (A). Furthermore the TSG Noise will assist in future target setting (B) and address the biological impacts of anthropogenic underwater noise and the evaluation of scientific data and information about sound sensitive species with the view to develop indicators for noise effects and advice on some additional topics (C)

### **A. Monitoring guidance**

Subjects that should be addressed in the monitoring guidance are:

#### **For impulsive noise**

- 1) Test and further develop the noise register
  - Collect data from MS on impulsive noise
  - Review the data and the way in which they are stored
  - Develop a proposal for the establishment of a common register.

- 2) Develop a proposal for MS on how to set a baseline on the number of days indicator

#### **For ambient noise**

- 3) Develop guidance on how to measure ambient noise

- Type of devices
- Frequency range that should be recorded
- Number, location and distribution of measuring locations
- The use of sound mapping and modelling

- 4) Develop guidance on how to establish a baseline level and review to which extent current monitoring networks and existing data can be used for the purpose of the baseline assessment

#### **For both types of noise**

- 5) Develop guidance for MS on how to interpret the results

### **B. Assist in future target setting**

- 6) TSG Noise will develop a guidance addressing several ways in which MS may and describe GES in future and set targets including, where possible, examples.

### **C. Other tasks**

- 7) Assessing the need and developing additional indicators on high-frequency impulsive sounds and electromagnetic fields

These two types of energy were prioritised in 2011 by the TSG Noise. In 2012 a proposal for an indicator and a justification for addressing these sources should be developed and presented to the WG GES.

- 8) Identify indicator species for defining thresholds for the different impacts (e.g. physical injury and relevant displacement as regards impulsive sounds; zones of masking as regards continuous sources)

- 9) Develop guidance on acoustic mapping for area-specific sound budgets and species-specific impact areas.
- 10) Collect further information on the impact of impulsive noise and ambient noise and on cumulative noise effects
- 11) Develop recommendations on noise reduction and mitigation measures.

#### **Reporting**

12) Interim reports will be required prior to the meetings of the WG on GES. These brief reports should indicate the status of the subgroup work. The final report by itself can be short. It should explicitly address the issues identified in the ToR. The substance of the work will be in annexes; these can be much more detailed with recommendations how to apply criteria indicators and methodological standards.