

TRANSPOSITION OF THE MARINE STRATEGY FRAMEWORK DIRECTIVE

Summary of responses to a consultation on transposition

June 2010

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1. Introduction

Background

1. The Marine Strategy Framework Directive 2008/56/EC (MSFD) requires Member States to determine Good Environmental Status (GES) for their marine waters, and design and implement programmes of measures to achieve or maintain GES by 2020, using an ecosystem-based approach to marine management. It takes account both of socioeconomic factors and the cost of taking action in relation to the scale of the risk to the marine environment. It entered into force in July 2008 and its requirements must be transposed into UK law by 15 July 2010.

Transposition approach

2. In order to achieve the coherent and co-ordinated approach to implementation required by the MSFD, the Devolved Administrations (DAs) are participating in a UK wide transposition project led by the Department for Environment, Food and Rural Affairs (Defra). This has involved the development of UK wide Regulations transposing the Directive. There has been input from the Department of the Environment in Northern Ireland (DOE NI), the Scottish Government and the Welsh Assembly Government throughout the transposition process.

Purpose and scope of this consultation

3. This consultation exercise had four main functions:
 - a. To provide an introduction to the requirements of the Marine Strategy Framework Directive (MSFD) agreed in Europe in 2008;
 - b. To invite views on the draft regulations to transpose the MFSD into UK law by July 2010;
 - c. To invite comment on a draft Impact Assessment; and
 - d. To provide information on steps to implement the Directive which will follow transposition, including how the UK Government and the Devolved Administrations plan to assess their marine waters, determine Good Environmental Status for them, and frame a programme of cost-effective measures in cooperation with other countries to achieve Good Environmental Status by 2020, as required by the Directive.
4. The consultation exercise ran from 30th October 2009 to the 22nd January 2010. Further consultation will follow during the implementation phase of the Directive between 2010 and 2016.

Involvement of Interested Parties

Defra

5. Defra solicited responses from interested organisations and groups by emailing them directly while others submitted their opinions after consulting the Defra website where all the consultations are available. Representatives from the fisheries, ports and environmental sectors were also invited to attend a Defra led, UK wide stakeholder workshop on 8 December 2009 in London.

Northern Ireland

6. The consultation, which was launched by the Department of Environment Minister Edwin Poots, was advertised in the Belfast Telegraph, Irish News, News Letter and Belfast Gazette. The documents were also available for download on the MSFD page on the Department of Environment (DOE) website. Letters and emails highlighting the consultation were sent to key organisations and groups.
7. During the consultation period Departmental officials gave presentations on the MSFD and the Department's legislative programme to members of the Coastal and Marine Forum on 25 November 2009. This group contains representatives from organisations which are responsible for managing activities in the coastal and marine environment in Northern Ireland. Officials also made presentations to representatives from Northern Ireland's commercial ports sector at a workshop organised by the Department for Regional Development and facilitated by Belfast Harbour Commissioners on 11 December 2009.

Scotland

8. The consultation was published on the Scottish Government's website and an e-mail alert sent to interested parties. The Rural Affairs and Environment Committee of the Scottish Parliament were also informed of the consultation.

Wales

9. The consultation was published on the Welsh Assembly Government's website and a link e-mailed directly to key organisations and groups in Wales.

2. Analysis of responses

Methodology

10. Responses were received in a variety of formats, both electronically and in hard copy. Some respondents merely acknowledged being consulted, others answered every question directly and some also provided general comments.
11. The MSFD team carried out the initial logging and analysis of each response. As the consultation was UK-wide, questions raised that were specific to Scotland and Northern Ireland were answered by colleagues in the Devolved Administrations (DAs). No responses were received that required particular input from Wales. All responses received by Defra were made available to the Devolved Administrations who also contributed to the analysis.

Overview of responses

12. Defra and the Devolved Administrations are grateful to all those who responded with helpful, constructive and often detailed comments and would like to thank all those individuals and organisations who took time to send their contributions.
13. A list of organisations and individuals who responded to the consultation can be found at Annexe 1. A total of 74 responses were received, 22 were received in Northern Ireland by the Department of Northern Ireland, 8 from Scottish organisations and 1 was from a Welsh organisation. The number of respondents by type of organisation is given in Table 1 below.

Other government departments in NI	10
Water Industry	4
Energy Industry	7
Environment/Social NGO	16
Public Bodies (other than local government)	8
Local Government	10
Ports and lighthouse authorities	7
Fisheries organisations	5
Other (e.g. individuals, academic organisations)	7

14. Most of the respondents did not object to their views being made public: copies of these responses can be requested from the Defra library. Requests should be made to defra.library@defra.gsi.gov.uk.

15. Respondents were asked to respond to three specific questions repeated below and were also asked for any other views on the draft Regulations. One-third of the respondents answered the three questions directly while the rest chose to include additional comments relevant to their organisation. Relevant issues raised by several respondents and not covered by the specific questions will be addressed in the sections 4, 5, 6 and 7.

3. Responses to consultation questions

Question 1 - Views are sought on the advantages and disadvantages of a single UK Marine Strategy as opposed to separate strategies covering the UK portions of the Celtic and Greater North Seas.

16. Other than those who acknowledged the consultation but did not provide any comments (10/74), all other respondents answered this question. All but four respondents supported the adoption of a single strategy. One respondent thought the consultation paper had not made the case for a single strategy and asked for a cost benefit analysis of a single strategy compared to multiple strategies to be completed before a position was agreed. Another respondent thought that separate strategies for the Celtic Seas and Greater North Sea could result in cost savings and therefore could not support a single strategy if it precluded opportunities to minimise the cost of what may be very expensive measures to achieve and maintain GES. Another respondent thought a single strategy would better suit the implementation in the two seas and may guarantee that the interests of the numerous international organisations around the North Sea will not override the interests of the Celtic seas and its small number of international interests when the proposed UK wide approach is used. Three other respondents thought there were merits to multiple strategies but did not expressly oppose the adoption of a single strategy. All other respondents supported a single strategy.
17. Organisations with a UK wide remit thought a single strategy would increase their ability to work effectively and efficiently in achieving the aims of the Directive. Those representing ports reflected that there should be comparable implementation plans in different marine regions as ports are particularly sensitive to competition issues thus a single strategy reduced the uncertainty and costs to maritime businesses. Others sought assurance that the single Marine Strategy would function at a European level applying to all nations equally but also having derogations at regional and even local levels that would allow the adaptation of assessment and monitoring plans to suit local conditions. Consultees suggested that opportunities should be examined, as permitted under the Directive, to prepare sub-divisions to the main Strategy, where a particular emphasis or sensitivity was needed.
18. Most respondents thought that a UK strategy would still need to respect the sub-regions already identified within the Directive (namely the Greater North Sea and Celtic Seas Marine Sub-Regions) and should recognise differences in ecological characteristics and management requirements between these two sub-regions (and possibly others, for example the Irish Sea, northern North Sea and South West Approaches).

Response:

19. On the basis of the consultation responses the UK Government and Devolved Administrations intend to develop a single Marine Strategy covering the whole of the UK. The UK Government and Devolved Administrations recognise that regional differences should be taken into account when developing the Marine Strategy for the UK. The Directive allows Member States to take account of bio-geographic differences within regions and sub-regions and the UK will ensure that the clear ecological differences between the North Sea and Celtic Seas are considered when developing targets and indicators for GES, developing monitoring programmes and creating programmes of measures. The UK Government and Devolved Administrations will consult on proposals to implement elements of the marine strategy (as per Article 19 of the Directive). Interested parties and the general public will therefore be able to give their views on the level at which implementation and associated monitoring and assessment activities should take place.

Question 2 - Views are sought on how the proposed division of responsibilities between the different competent authorities, as set out in the draft regulations, can best be made to work, and also on whether there are any obligations arising from the Directive which have been overlooked and need to be assigned to a competent authority.

20. Several respondents welcomed the recognition that close co-operation between competent authorities was needed, but requested more information about how this would be achieved. Others thought the Regulations could provide more clarity on how to move forward on contentious issues where agreement cannot be reached. They requested that a mechanism was developed to ensure that contentious issues between Competent Authorities were resolved to meet the time-table.
21. One respondent objected to the suggestion that the Marine Management Organisation (MMO) could have a coordinating role in relation to the development of the programme of measures for English territorial waters and relevant parts of the UK offshore area. Several interested parties expressed the view that a lead competent authority should coordinate the activities of all competent authorities, while others suggested the establishment of a UK steering group including interested parties, industry representatives and Government could be used to monitor fair and even implementation of the MSFD.
22. Several respondents supported using the Oslo and Paris Regional Sea Convention (OSPAR) as a forum to achieve the regional cooperation and coordination envisaged by the Directive.

Response: The response for questions 2 and 3 are dealt with together below (paragraphs 24 to 28 below)

Question 3 - Views are also sought on whether the regulations set out adequate safeguards to achieve the level of coordination needed to deliver a coherent strategy, whilst protecting the respective Devolution Settlements.

23. Several respondents supported the establishment of a UK-wide legal approach to transposing the MSFD and a joined-up approach to the implementation of the UK's marine strategy. Respondents noted that the MSFD provided a real opportunity to move towards a more holistic approach to management of the UK sea area. Some respondents sought clarification on how such a framework should be put in place across Devolved Administrations, particularly when drawing up monitoring schemes and programmes of measures, to ensure the co-ordinated management of the UK's seas.

Response to Views 2 and 3:

24. The UK Government and Devolved Administrations recognise the importance of working together in a coordinated way in order to achieve the aims of this Directive effectively.

25. The transposing Regulations (which have been updated to reflect responses to the consultation) establish a legal framework which respects the UK's devolution settlements while providing for coherent and co-ordinated delivery of the Directive across the UK. Regulations 5 to 8 of the revised transposing Regulations establish a clear set of provisions to ensure co-ordinated delivery of the MSFD through close cooperation between the Secretary of State and the competent authorities in the Devolved Administrations.

26. Within the UK, in conjunction with Defra and the Devolved Administrations, there are a number of potential platforms to facilitate the necessary collaborative approach to implementation. The UK envisages coordinating the marine strategy at two key levels - one at a policy level and another at an expert/technical level. Coordination between Defra and the Devolved Administrations will be based on strong mechanisms already in place for working together at a policy level. Concordats between Defra and each of the Devolved Administrations are also being developed where further details of how the administrations will work together to implement the Directive will be set out. Technical coordination related to monitoring and assessment will be facilitated through the UK Marine Monitoring and Assessment Strategy (UKMMAS)¹ which will continue to play a key role and will provide input to the development of the UK initial assessment, UK targets and indicators and the

¹ <http://www.defra.gov.uk/environment/marine/science/ukmmas/index.htm>

coordination of monitoring programmes across the UK (a role it has already played successfully for a number of years). These strong mechanisms for ensuring coordination across the UK will help ensure any contentious issues are resolved at an early stage. Any issues which cannot be dealt with through these mechanisms will need to be referred to Ministers.

27. Decisions have yet to be taken on which bodies will have a lead role in delivering elements of the marine strategy. Although Defra has indicated that the MMO may have a coordinating role in relation to the development of the programme of measures (for English territorial waters and relevant parts of the UK offshore area) this proposal needs further consideration, taking into account responses made to this consultation. Implementation plans will be developed by Defra and the Devolved Administrations in discussion with all relevant delivery bodies.
28. OSPAR will be the main forum through which the UK will engage in the regional level coordination required by the Directive. However, other fora for coordination are also being considered to support the regional approach required by the Directive, such as the British Irish Council².

² The British Irish Council promotes relationships among its Members, which are the British and Irish Governments, the devolved administrations of Northern Ireland, Scotland and Wales, and Jersey, Guernsey and the Isle of Man. For further information see <http://www1.british-irishcouncil.org/>

4. Other relevant issues raised by interested parties

Issue 1: Meeting the Requirements of the Directive

29. Some respondents thought the tone used in the consultation document appeared to suggest a low level of ambition to delivering positive change in the marine environment. They felt that a greater commitment should have been signalled towards implementation of the MSFD than that presented in the consultation document. Respondents perceived an apparent contrast in tone to that used in the Marine and Coastal Access Act 2009 and in respect of the proposed Northern Ireland Bill. In relation to this several respondents thought the Regulations should make an explicit reference to the need to follow an ecosystem-based approach to management of human activities as set out in Article 1 of the Directive.

Response:

30. The UK Government and Devolved Administrations fully support the aims of this Directive, to protect and preserve the marine environment, to prevent its deterioration and where practicable to restore it where it has been adversely affected. This is in-line with the UK Government and Devolved Administrations ultimate aim of clean, healthy, safe, productive and biologically diverse oceans and seas. Along with the UK Marine and Coastal Access Act, the Scottish Marine Act and similar legislation planned in Northern Ireland, the transposition of this Directive will form a key element of the legislative framework for ensuring the sustainable use of the UK's marine waters.
31. In response to the comments made by consultation respondents the Regulations transposing the Directive have been amended to make an explicit reference to the ecosystem-based approach.

Issue 2: Links to other policy objectives

32. *Marine Policy Statement (MPS)*: Some respondents sought further clarification on how the MSFD would be linked with the MPS. For example, further clarification was sought by one respondent on how the requirements of the marine strategy will be included in the MPS if it is published in 2011 and yet the specific requirements of GES will not be developed until 2012 and the programmes of measures not until 2015.
33. *National Policy Statements (NPSs)*: Another respondent noted that none of the energy or ports NPSs currently included any reference to the requirements of the MSFD nor how the Infrastructure Planning Committee was to consider the UK Marine Strategy. The respondent asked for greater

clarity on when and how integration of the Marine Strategy within the NPSs would occur, stating that even an indicative timetable would be beneficial.

34. *Renewable energy goals:* Some respondents thought that the marine strategy should take into account the Government's renewable energy policy goals.

Response:

35. *Marine Policy Statement:* An initial UK Marine Policy Statement was issued for pre-consultation earlier this year. The initial MPS included high level references to MSFD and the need for marine planning to help deliver GES. These references will be updated over the next few months before the Marine Policy Statement is published for further consultation later this year. After public consultation and parliamentary scrutiny the Marine Policy Statement will be adopted in 2011. Further details on the Directive, in particular references to the specific targets and indicators for GES, will be included in any future iterations of the MPS.

36. *National Policy Statements:* The Government has made clear its intention to abolish the IPC. It will consider these comments as part of the ongoing development of the NPSs. Should any applications reach decision stage before its abolition, the IPC will be bound by the requirement in the Regulations for all public bodies to have regard to the Marine Strategy – which will mean it must consider the impact that its decisions could have on the UK's ability to meet GES. Furthermore, the IPC is under a general duty to not take decisions which would lead the UK to be in breach of its international obligations.

37. *Renewable energy goals:* The UK Government and Devolved Administrations are strongly committed to supporting the deployment of renewable energy in the marine environment. In implementing the MSFD in the UK, the UK Government and Devolved Administrations will maintain their commitment to the delivery of offshore renewable energy while also ensuring that this delivery takes into account conservation objectives in relation to the marine environment, including the need to achieve GES.

Issue 4: Clarity between Water Framework Directive and MSFD in areas of overlap

38. Organisations operating in coastal waters covered by both the Water Framework Directive (WFD) and the MSFD (local authorities, port and harbour authorities etc) sought clarification on the implementation of the two Directives. Some (13%) respondents thought the Regulations should be used to clarify the relationship between the WFD and the MSFD and sought clarification on which objectives will be delivered by the WFD rather than the

MSFD in coastal water bodies. Information on the overall competent authority, the coordination of the implementing bodies in coastal waters, how MSFD management areas would overlap with river basin management plans and how the definitions of Good Environmental Status (MSFD) and Good Ecological Status (WFD) would be aligned was requested.

Response:

39. MSFD applies to coastal waters in so far as particular aspects of the marine environment are not addressed in the WFD. A new regulation (16) that makes explicit the relationship between the WFD and MSFD has been added to the transposing Regulations. The UK Government and Devolved Administrations recognise the importance of providing clarity for all marine users on the relationship between the WFD and the MSFD and further guidance on how the implementation of these two Directives will be managed will be developed. Links between the MSFD and WFD will be explored further during the implementation of the Directive. In particular, the Government and Devolved Administrations will work with the Environment Agency (EA), Scottish Environment Protection Agency (SEPA) and others to develop targets and indicators for good environmental status ensuring alignment between MSFD and WFD to the extent possible.

Issue 5: Fisheries management through the Common Fisheries Policy

40. Several respondents (17%) thought Defra should ensure integration of the MSFD objectives in the present reform negotiations of the CFP. Two respondents were concerned that should commercial fishing prove to be particularly difficult to influence, the burden of demonstrating improvements in the marine environment may fall to other industries.

41. One respondent asked for reassurance that the costs to the fishing industry would not be under-estimated.

Response:

42. The Government and Devolved Administrations believe fisheries management needs to be integrated into wider environmental policies. In addition to taking an ambitious position in relation to CFP reform, Government is also keen that the achievement of GES is recognised as a key objective of the reformed CFP.

43. The Government sees CFP Reform as a crucial opportunity to better integrate fisheries management with wider marine and environmental policies. It is essential that marine policies and their implementation are integrated to maximise the benefits, minimise the costs and reduce conflicts between users of the marine environment. This is particularly important in light of the specific aims for fisheries in the MSFD. A reformed CFP must provide specific

objectives and mechanisms to deliver the Good Environmental Status set out in the marine strategy, while decentralising decision-making to give those closest to the fishery a role in developing and coordinating measures to reflect the needs and conditions of different fisheries.

Issue 6: Establishing an ecologically coherent network of MPAs

44. Several respondents welcomed the development of a coherent network of Marine Protected Areas (MPAs) which incorporates measures delivered by other legislation (Marine Acts (UK, Scottish) and the proposed Marine Bill in NI and the Birds and Habitats Directives). Others wanted to know how the MSFD would work with the Marine and Coastal Access Act 2009 to ensure there is no conflict between them. One respondent felt that the assumption that Marine Protected Areas (or Marine Conservation Zones) offer a panacea benefitting all interested parties is not warranted by the available evidence for temperate waters: although certain species, particularly sedentary ones such as lobster, may benefit from MPAs, the respondent felt this was not necessarily true for all species.
45. One organisation expressed the view that in establishing Marine Protected Areas (MPAs) there are costs to the fishing industry which would not be offset by benefits and which feed into socio-economic costs for the communities involved. The organisation also felt that the displacement of effort which such MPAs might cause would not be carbon neutral.
46. Some sought reassurance that the Northern Ireland Marine Bill would be delivered on time to deliver the network of MPAs and a Marine Planning System on the same timetable as England, Scotland and Wales.

Response:

47. The Directive requires Member States to include spatial protection measures, contributing to coherent and representative networks of marine protected areas, among their programmes of measures for achieving GES. The Government and Devolved Administrations are already committed to creating a UK-wide ecologically coherent network of MPAs as a key element of their wider work to protect and where practicable recover the richness of our marine environment and wildlife. The Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010 directly support the implementation of the Directive by giving the Government and Devolved Administrations the necessary tools for achieving this.
48. A well-managed MPA network can play a crucial role in the conservation of both biodiversity and ecological processes and can make an essential contribution to sustaining wider ecosystem health. MPAs can be a valuable tool for protecting both the variety and numbers of habitats and species that

could then in some instances act as a biological reserve in the environment, and as a tool to increase the resilience of ecosystems and species to climate change.

49. A number of responses highlighted linkages between implementation of the Directive and elements of the Department of Environment Northern Ireland's (DOE NI) marine legislation programme. The DOE NI Minister launched a consultation on policy proposals for the Marine Bill on 13 April 2010. The Bill will include provisions to designate Marine Conservation Zones and is currently on track to be introduced to the NI Assembly in 2011.
50. The DOE NI also expects to finalise its European network of protected sites under the Habitats Directive by 2011 which will result in the designation of approximately 10% of Northern Ireland's territorial waters. DOE NI are working with Defra to identify what a coherent network of Marine Protected Areas might mean in terms of further designations for Northern Ireland.

Issue 7: Conservation of the marine historic environment

51. Several respondents expressed concern that protection and conservation of the marine historic environment was not an explicit aim of the Regulations; they sought reassurance that marine protected areas declared for geological, geo-morphological or for historic environment purposes would be considered as contributing to GES; that socio-economic analysis encompasses consideration of the marine historic environment; and also felt that the Regulations should not in any way constrain the incorporation of such considerations.

Response:

52. The UK Government and Devolved Administrations believe that the historic environment is an asset of enormous cultural, social, economic and environmental value. All public authorities are required to comply with statutory requirements relating to designated heritage assets and will be expected to comply with marine planning policy. Although the remit of this Directive does not cover the marine historic environment, the UK Government and Devolved Administrations will consider opportunities for synergies between measures relating to the natural and historic environments during implementation: where relevant, the socio-economic benefits of the marine historic environment will be included in the socio-economic analysis that will form part of the initial assessment and programmes of measures (Regulations 10 and 14 respectively). It is anticipated therefore that the impact of the Directive on the marine historic environment will be taken into account.

Issue 8: Coordination between Member States at both regional and international level

53. There was general support for OSPAR as a forum for discussion and cooperation among Member States at a regional level, but some respondents perceived an apparent lack of commitment to international agreements that already provide the regulatory and scientific framework for management of the marine environment (for example, dredged material disposal (the London Convention), pollution from ships (MARPOL), other international conventions dealing with ballast water management and anti-fouling systems).
54. Some respondents thought that working at regional level would require cooperation with other Member States who may have different priorities. Other respondents held the view that the need to cooperate at the regional level as required in the directive should be included in the Regulations.

Response:

55. There are a number of existing international commitments and conventions in the marine environment and the UK will continue to work actively within these fora to help achieve the goals of the Directive. OSPAR is likely to be the main forum for coordinating the regional elements of the Directive - OSPAR includes other Member States beyond the EU which boarder Europe's waters (e.g. Norway and Iceland) and so will be a useful forum for engaging non EU countries which are close to the UK.
56. As the UK cannot impose a duty to cooperate on other member states through UK law, this requirement has not been included in the regulations. However, the Regulations do require competent authorities to consider the implications of their programmes of measures on waters beyond the marine strategy area (Regulation 14(7)), which would include the waters of other Member States. The Regulations also require the Secretary of State to keep other relevant Member States informed of any changes to the UK's Marine Strategy (Regulation 17(3)).

5. Comments on regulation transposing the Directive

Issue 1: Incomplete transposition of Article 14 (caveats to exemptions)

57. Several interested parties brought attention to Regulation 16 (now Regulation 15) and requested that the full set of caveats to the exceptions set out in Article 14 of the Directive should be included in the Regulations. Several respondents thought the consultation document placed greater emphasis on the costs of achieving GES in marine waters and said little about the benefits of developing the UK Marine Strategy.

Response:

58. The UK Government and the Devolved Administrations fully support the aims of the Directive; to protect and preserve the marine environment, to prevent its deterioration and where practicable to restore it where it has been adversely affected. These objectives are compatible with the Marine and Coastal Access Act 2009 and comparable legislation in other parts of the UK. In response to comments made by respondents to the consultation, the Regulations transposing the Directive have been amended to ensure they fully reflect the caveats to the exceptions in Article 14 of the Directive.

Issue 2: Exclusion of IPC from power of direction

59. Several respondents expressed the view that the exemption for the Infrastructure Planning Commission (IPC) from the Secretary of State power of direction will result in the Regulations transposing the MSFD incompletely. Other respondents felt that the IPC's role in implementing the Directive was unclear which may lead to the IPC making decisions which were not consistent with the UK's obligation to achieve GES. Respondents suggested alternative mechanisms to strengthen the IPC's commitment to achieving GES.

Response:

60. The Government has made clear its intention to abolish the IPC. In the meantime it believes that there are sufficient safeguards in place to ensure that the IPC will play its part in supporting the achievement of GES. The IPC will be bound by the requirement in the Regulations for all public bodies to have regard to the Marine Strategy – which will mean it must consider the impact that its decisions could have on the UK's ability to meet GES. Furthermore, the IPC is under a general duty to not take decisions which would lead the UK to be in breach of its international obligations.

Issue 3: Power of DOE NI to seek assistance from other departments

61. Several respondents commented that Northern Ireland powers appear to be different from other DAs in that Welsh and Scottish Ministers can direct public

bodies and issue guidance to them, whilst the DOE has the power to 'ask for assistance' from other departments. They suggest that this power may not be an adequate safeguard to achieve the high level of co-ordination needed to deliver a coherent strategy and could result in Northern Ireland not being able to meet the requirements of the Directive. Respondents thought the provision for DOE to 'ask for assistance' from other departments could be potentially weak and as a result could slow progress. Another response raised concerns that DOE did not hold all the functions in the marine environment necessary to deliver the Directive and that a mechanism should be included in the Regulations to provide for this.

Response:

62. In Northern Ireland, power is vested with departments and not with Ministers and it is therefore not possible for the DOE NI to direct other departments. The draft regulations bind Northern Ireland Departments which exercise functions in the marine environment and the Cross Border Body, the Foyle, Carlingford and Irish Lights Commission to secure compliance with the Directive. These bodies must also take the necessary measures to secure Good Environmental Status. A close working relationship exists between the DOE NI and the other Departments and bodies which exercise functions in the marine area. The Department is confident that this collaborative approach to implementation, underpinned by the requirements of the Northern Ireland Ministerial Code will deliver full compliance with the requirements of the Directive. The Department can issue guidance under Regulation 20(4).
63. A clear precedent for relying on a similar duty exists in the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 which transpose the Water Framework Directive. This Directive has been implemented effectively in Northern Ireland.
64. In response to a respondent who proposed that Regulation 19 be strengthened so that NI bodies and public authorities are required to provide the DOE with relevant information "within a realistic timeframe", DOE NI acknowledges that information it requires to discharge its functions should be received within realistic timescales. However, timeframes for the provision of information vary depending on issues like the complexity, availability and amount of the data requested, therefore the qualification that the timeframe for the provision of information be realistic would not provide additional security, as it is unquantifiable.

Issue 4: Legislation contained in Schedule 1

65. Several interested parties brought to Government's attention legislation not included in Schedule 1.

Response:

66. The list of enactments contained at Schedule 1 to which the general duty at Regulation 4 applies is not an exhaustive list. It would not be practical to cite every legislative instrument which applies in the marine environment. However, in response to comments from respondents, Schedule 1 has been revised.

6. Comments on implementation

Issue 1: Duties during assessment, implementation and monitoring

67. Several respondents sought clarity on duties during monitoring and implementation of the Directive (e.g. who would be responsible for monitoring, how monitoring would be financed).

Response:

68. The UK has yet to define what GES means in its own waters. As the marine strategy is developed, the UK Government and Devolved Administrations will then be in a position to provide further details about how the monitoring and assessment requirements of the Directive will be delivered. It is already anticipated that the UK Marine Monitoring and Assessment Strategy (UKMMAS) will continue to play a key role in coordinating marine monitoring across the UK, including providing input to the development of the monitoring programmes required by the MSFD.

Issue 2: Development and use of socio-economic indicators

69. Several respondents questioned whether the methodology that the UK will be using for socio-economic assessment would be sufficiently developed by 2012 to inform any decisions. Others sought clarity on how the balance between costs/socio-economics and meeting GES would be assessed. Noting that current OSPAR strategies do not take socio-economic factors into account, one respondent requested detailed proposals, including information on how the OSPAR strategies would interface with those of the Directive.

Response:

70. Member States are committed to undertake an initial assessment of their marine waters by July 2012, which will contribute towards the determination of GES and the establishment of targets and a programme of measures. As part of the initial assessment, the UK Government and Devolved Administrations are undertaking an economic and social analysis of the use of the UK's marine waters and of the cost of degradation of the marine environment. The UK and Sweden are co-chairing an EU Working Group on Economic and Social Assessment to facilitate a common understanding of the economic and social requirements under the Directive, and to identify methodologies and approaches, including for the cost-benefit analysis of the programme of measures. The UK is also working within OSPAR, taking forward a feasibility study for a regional socio-economic analysis under the Directive. In addition, all the OSPAR strategies are currently being reviewed and updated with the requirements of the Directive in mind.

Issue 3: Management of data for assessment and monitoring

71. Generally, respondents saw the implementation of the Directive as an opportunity for the marine science community to work together and share their expertise (which one respondent thought would even out the different marine science capabilities within the UK). Several respondents welcomed the intention to use the processes already in place through UKMASS and others, to build on reports such as Charting Progress 2 and the State of Scotland's Seas for the initial assessment and development of monitoring programmes. The complexity of these arrangements was raised by several respondents who asked for assurance of the efficient management of the monitoring data, ensuring the data was available to all interested parties in a timely fashion to facilitate efficient planning for the marine environment.
72. Several organisations highlighted their involvement in carrying out marine monitoring on behalf of the UK Government and Devolved Administrations: some respondents provided information about data that may be useful in the assessment and monitoring of the marine environment for example long-term observations undertaken by the Natural Environment Research Council (NERC), those undertaken by Marine Environmental Change Network (MECN), the Sir Alistair Hardy Foundation for Ocean Science (SAHFOS), the activities of the Marine Science Coordination Committee (MSCC), and the Marine Environment Data and Information Network (MEDIN). Others pointed to gaps in the data (such as knowledge on sea bed habitats, cetaceans and seabirds) to highlight the fact that data gaps lead to uncertainty in marine management.
73. Other questions raised about data management addressed various issues: how knowledge and data collected at a regional level would be filtered down to local organisations; when the level of cooperation needed to ensure that data of the same standard/quality was supplied by different governments would be established, and; whether the data gathered would be held in a central database (e.g. the UK MERMAN database).

Response:

74. In the UK, the collection and management of marine data in terms of quality, provision of metadata and long term stewardship, is fundamental to the success of the UK Marine Management & Assessment Strategy (UKMMAS) and our ability to meet our policy and legislative objectives.
75. The delivery of UKMMAS is the responsibility of the Marine Science Co-ordination Committee (MSCC), a high level decision-making body which will provide a strategic overview of marine science and take the decisions required to deliver UK marine science effectively and efficiently. In doing so, it will recognise the essential role that evidence gathered from monitoring and

assessment, research, development, economic and statistical analyses, and social research, has to play.

76. The MSSC will also work closely with organisations and individuals across the UK marine science community. The MSCC is already seeking to improve the selection of long-term monitoring and observation systems for funding within the UK, by making the selection processes more transparent, and is working to provide secure longer-term and cross-cutting funding for priority datasets.

7. Comments on Impact Assessment

7. While conceding that it was not possible to quantify key monetised costs at this stage, one respondent thought recognition should be made that additional costs may be incurred depending on the difference between current status and status as defined under GES for some indicators. Several respondents gave examples of cost implications due to increased stringency of requirements or delays to developments from increased uncertainty while implementing the marine strategy.

Response:

8. This Impact Assessment focuses primarily on transposition of the Directive. The UK Government and Devolved Administrations will be carrying out detailed Impact Assessments on each aspect of the marine strategy which will take into account the costs and benefits of achieving GES. At this stage it is too early to cost GES effectively as targets and indicators for the UK have yet to be developed.

Annex 1: Respondents to UK wide consultation

Shellfish Association of Great Britain
The City of Edinburgh Council
UK Hydrographic Office
Trinity House
Port of London Authority
The RSPB
Seabed User and Developer Group
Individual 1
Devon County Council
British Ports Association
Natural England
E.ON
Joint Nature Conservation Committee
UK Major Ports
Institute for Archaeologists
Wessex Water
Northumberland Sea Fisheries Committee
Marine Biological Association
The National Federation of Fishermen's Organisations
Scottish Borders Council
Royal Town Planning Institute
the Highland Council
RYA
Joint Nautical Archaeology Policy Committee.
North Yorkshire County Council
Marine Environment Data and Information Network (MEDIN)
Countryside Council for Wales
Oil & Gas UK
Northern Ireland Marine Task Force (NIMTF).
English Heritage
Scottish Water
Southern Water
Wessex Archaeology
Scottish Power Renewables
Aberdeen City Council
Ofwat
The Carbon Capture & Storage Association
Scottish Environment Protection Agency
EDF Energy
Sir Alister Hardy Foundation for Ocean Science -SAHFOS
Shetland Islands Council

Comhairle nan Eilean Siar
Natural Environment Research Council
Associated British Ports - ABP
KIMO UK
Environment Agency
WWF-UK
Wildlife and Consultation Link
Marine Conservation Society
British Wind Energy Association
Seafish Industry Authority
Institute of Civil Engineers & PIANC
Archaeology Forum for the UK
Scottish Natural Heritage
Aberdeen City Council, Enterprise, Planning & Infrastructure
Peel Ports Group
Local Government Association's Coastal Issues Special Interest Group's
(LGA Coastal SIG)
Commissioners of Irish Lights (CIL)
Council for Nature Conservation and the Countryside (an advisory council to
DOE NI)
Ulster Society for the protection of the countryside
DOE Planning Service
Northern Ireland Environment Agency
Aquaculture Initiative NI
Northern Ireland Tourist Board
Northern Ireland Water
Northern Ireland Assembly Standing Committee – the Environment
Committee
Historic Monuments Council (an advisory council to DOE NI)
Planning Service Headquarters
Department of Enterprise, Trade and Investment
Royal Town Planning Institute - NI
Department of Finance and Personnel
Northern Ireland Judicial Appointments Commission
Alliance Party NI
MEP -NI