



AAC Recommendation on the European Union Marine Strategy Framework Directive

AAC 2024-02

April 2024



The Aquaculture Advisory Council (AAC) gratefully acknowledges EU funding support





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I. Background

The marine environment is subject to multiple pressures and impacts from human activities at sea and on land. Pollution, seabed damage, overexploitation, biodiversity loss, ocean warming, and acidification are the results. In 2008, the EU adopted the Marine Strategy Framework Directive (MSFD)¹. This legislation aimed to achieve Good Environmental Status (GES) of the EU's marine waters to maintain marine ecosystems in a healthy, productive, and resilient condition while securing a sustainable use of marine resources to benefit current and future generations. The EU biodiversity strategy for 2030, adopted in May 2020, calls for stronger action on marine ecosystem protection and restoration. In the zero pollution action plan for air, water, and soil², adopted one year later, the European Commission, recalling the importance of achieving 'good status' for fulfilling the Green Deal's zero pollution ambition for all aquatic ecosystems, indicated that it would review and, if necessary, revise the MSFD. The MSFD requires EU Member States to take measures to achieve and maintain GES in the marine environment. GES is to be achieved by developing national marine strategies following an ecosystem-based approach that applies to all marine waters of the Member States. The marine strategies comprise regular assessments of the marine environment, setting objectives and targets, establishing monitoring programmes, and enacting measures to preserve and restore the state of marine waters, acting when they are polluted or altered by anthropic activities. All of these actions must be undertaken in close coordination with neighbouring countries at the regional sea level.

Marine aquaculture occurs within coastal and marine ecosystems, making it dependent on the quality of marine and oceanic waters. Moreover, the European Commission's Communication on the "Strategic guidelines for more sustainable and competitive EU aquaculture for the period of 2021 to 2030"³ recognises that the complexity of national licensing systems and the lack of predictability of the timeline and outcome of licensing procedures are important growth barriers. Licensing procedures can be particularly burdensome for Small and Medium Enterprises (SMEs). Challenges lie in both the sector's complex regulatory framework and the need to involve multiple authorities in the licensing process, especially from an environmental perspective. Furthermore, concerns about the impact of aquaculture activities on the environment, or on other economic activities, often lead to appeal procedures, which further delay the process for obtaining or renewing licences.

II. Justification

Article 23 of the MSFD requires the European Commission to review the directive in the coming months. The Aquaculture Advisory Council (AAC) aims to provide input to the European Commission for the review of the MSFD for the sustainable development of aquaculture in the EU. However, the AAC recognises that, for aquaculture operators and other stakeholders that are not public administrations, assessing the implementation and global results of the MSFD is complex as each of them only has a partial view of the situation. In this recommendation, the AAC, therefore, aims to

¹ Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0056>

² EC Communication: Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil': <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2021%3A400%3AFIN>

³ EC Communication : Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:236:FIN>



express the challenges that the implementation of the MSFD imposes on the development of aquaculture in the European Union and to provide advice to overcome them.

Marine aquaculture is situated in coastal waters and, in most cases, is developed directly in the natural environment. The improvement of the environmental status of the marine environment, as pursued by the MSFD, should directly benefit all aquaculture's subsectors, including algae, shellfish, and finfish. It should be recalled that aquaculture predominantly concerns food production. Thus, the quality of the waters directly affects productivity, the quality of aquaculture products, and their marketing possibilities. Their quality is especially relevant to organic shellfish production because this production can only be officially recognised as organic if it occurs in waters having GES.

Maintaining seawater trophic patterns in shellfish production areas aligned with historical levels is also important. For instance, the approach, apparently shareable, of reducing nitrogen and phosphate concentrations in seawater can appear suitable for improving GES but can also lead to impoverishment in water nutrients under the levels that, in the past, have made the concerned areas suitable for shellfish farming. Each area has specificities and priorities for GES improvement. A proper ecosystem-based approach cannot be addressed with shortcuts or precautionary principles and should allow for managing the complexity of the involved mechanisms by seeking compromises across the different requirements. It must be clear that the impact of anthropic activities cannot be addressed using the same reference values in different environments, such as the intertidal areas along the Atlantic coast and the deltas of large rivers in the Mediterranean or Black Sea.

The AAC considers that the unsuccessful achievement of the objectives set in the directive hinders the development of aquaculture. Furthermore, the AAC has been unable to showcase examples of the positive impacts of the implementation of the MSFD on aquaculture for achieving GES and for its indirect positive impact on the development of aquaculture.

On the contrary, the AAC perceives how national and regional administrations pursue MSFD objectives not only as inefficient for reaching GES but also as a hurdle that makes administrative procedures related to the activity and the licensing for sites the main bottlenecks for this sector's development. Similarly, the inclusion of GES as a criterion for organic production conditions in a situation in which some sea areas still risk losing the GES has the consequence of declassification for shellfish growing areas previously dedicated to organic shellfish farming. This declassification creates considerable social and economic viability challenges for hundreds of micro and small mollusc farms.

The AAC believes that the EU, its Member States, and regions have not mobilised sufficient resources to achieve the objectives of GES set by the MSFD. The AAC has also noted that, when sufficient scientific knowledge is unavailable, the precautionary principle is invoked in different ways by competent authorities as a last resource tool for pursuing GES. The AAC finds that this invocation creates an unlevel playing field situation for undertakings in the aquaculture sector as well as for other marine activities, such as the tourism sector and renewable energies.

The AAC considers that the MSFD is neither coherent nor mainstreamed with EU aquaculture production-related policies and other legal instruments for aquaculture, including the allocation of zones for aquaculture (spatial planning) or with the Commission's 2021 Strategic Guidelines for Aquaculture. Furthermore, the MSFD is not aligned with other EU policies, such as the Food Hygiene Package, or with broader policies, such as those related to food security in the EU.



III. Recommendations

Recommendations for the Commission

1. Conduct a coordinated action to ensure that the precautionary principle for achieving GES in the marine environment is applied evenly throughout the EU Member States and regions, following ecosystem- and science-based approaches.
2. Promote further research on environmental impacts and ecosystem approaches to coastal management to reach GES in the marine environment.
3. Consider the impact of climate change on the marine environment and adapt the targets and associated indicators of the MSFD accordingly and dynamically. Consider the inclusion of cultivated shellfish mortality as a descriptor or sub-descriptor of the GES.
4. Pursue coherence between the MSFD and other European Union policies, including the strategic guidelines for more sustainable and competitive EU aquaculture for the period of 2021 to 2030, the Farm to Fork Strategy, and maritime spatial planning.
5. Broaden GES indicators to achieve viable and complete protection for shellfish waters with higher standards that simultaneously consider consumer, shellfish, and environmental health.
6. Identify and report on culturally relevant social indicators and data gaps.

Recommendations for Member States

1. The pathways followed by the Member States and the regions for achieving GES in the marine environment should be balanced with the social and economic pillars of sustainability.
2. Pursue reaching GES in the marine environment of national waters by considering small geographical areas rather than large ones, as they could evolve differently.
3. Implement measures for reaching GES in the marine environment that address not only marine sources of pollution but also land-born sources.
4. Propose ways to develop aquaculture when the GES indicators in a certain area allow for its possibility.
5. Consider that the particular circumstances of each area are as important as the establishment of common guidelines for the EU's GES management.



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