



**EU legislation and policies with implications for coastal management**

*Compiled as part of the Corepoint Project*

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by



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### Foreword

Between 2005 and 2006, partners from the Corepoint project undertook to conduct three reviews of Integrated Coastal Management (ICM). The reviews focused on: International Approaches to ICM; European Legislation and Policies; and a Quantification of the Economic Benefits of Natural Coastal Ecosystems.

This document, **A Review of European Legislation and Policies with Implications for Coastal Management**, aims to examine how new legislative and policy developments will effect how European coastal management will evolve and develop. An additional aim is to establish the implications of this for north-west Europe as the region of interest in the Corepoint project. The Corepoint project, which aims to use research to build capacity for ICM, is funded under the Interreg IIIB programme, which supports regional development across the EU. The knowledge generated in Corepoint by reports such as this will ultimately feed into the strategic outputs of the project, such as the Corepoint Discussion Document on the Status of ICM in north-west Europe, as well as contributing to the Green Paper on a Maritime Policy for the European Union.

The research teams involved in this study have compiled a resource on legislation and policy with potential relevance to a large and diverse audience. These include coastal policy makers, practitioners, researchers, students, and the Corepoint partnership itself. This published document represents an important snapshot in time of the law and policy framework which will continue to evolve. The approach used involves a comprehensive, systematic assessment of European legislation and policies relevant to the coastal zone. The legislative assessment involves a wide range of themes which cover diverse issues such as maritime jurisdiction, conservation, landscape protection and coastal industries. Material specific to coastal Member States in the north-west Europe Interreg region is provided, covering Ireland, UK, France, Belgium, Holland and Germany.

In the overall assessment of European legislation, a number of obstacles are identified that need to be overcome if ICM is to be successfully implemented in north-west Europe. Transposition and compliance with Directives are issues of concern for the coastal zone. Research carried out as part of this report would suggest that information on compliance and general information on the implementation of European legislation of relevance to coastal zones is not easily accessible. The profusion of legislation that applies to the coastal zone poses additional constraints on the implementation of a common framework for ICM at every level. Nevertheless, the consolidation of relevant legislation into one Integrated Coastal Zone Management Directive, would be inherently difficult given the different legal regimes in operation in Member States as well as due to the fact that the majority of legislation not only relates to the coast but deals with a multitude of other important Community issues.

The policy review updates the previous policy analysis which was conducted as part of the EC Demonstration Programme by the Institute for European Environmental Policy (IEEP, 1999). Key policies include the European Recommendation on ICZM and the European Spatial Development Perspective, European Sustainable Development Strategy, the Common Agricultural Policy (CAP) and the Common Fisheries Policy (CFP). Each of these policies is considered in the context of the principles of best practice for ICM as contained in the Recommendation. For example, to what extent does the CFP provide for participatory approaches to planning or adaptive management?

Sustainable development of the coastal zone will not automatically flow from the adoption of a common legal or policy framework. The key challenge is to optimise the policies available for the coastal zone by delivering them in the context of the principles of best practice for ICM. Through projects such as Corepoint, north-west Europe has the potential to build capacity for ICM by providing opportunities for knowledge transfer in this regard.

It is hoped that this report will support the debate on the future development of ICM in north-west Europe, thus helping to meet the Corepoint objective of influencing policy. The report should also assist in delivering the Corepoint objective of capacity building, by providing an information resource to those who wish to further their knowledge of European legislation and policies with implications for the coastal zone.

Corepoint partnership  
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PART II

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## **1. INTRODUCTION**

The coastal zone has been described as an enigma in both management and law (Gibson, 1987). In the most simple terms, the coastal zone can be defined as an area encompassing both land and sea adjacent to the coastline. The ambiguous extent of the coastal zone creates many legal problems and, as a consequence, for administration and management. Normally, new legislation either introduces new controls where none existed previously or replaces one legal regime with another. In contrast, the coastal zone is covered by an inherited framework of existing law that must be updated and expanded to achieve new goals in a coastal context. Law is made up of a number of specialisations that generally correspond to the sectoral concerns of those who utilise the services of lawyers. The problem arising in coastal zone law is that no single, specific branch of law is applicable. In this respect, the legal problems match those faced by coastal management. The relevant legislation must be assimilated from a wide variety of legal categories, including European and international law, as well as consequent and additional national legislation and policies.

This report reviews both European legislation and policies that have direct and indirect implications for coastal management. In addition to Community legislation, the European Union is also a signatory to many international agreements and treaties. A short description of relevant agreements and treaties is presented in Part 1. Part 2 identifies a number of European laws relevant to the coastal zone. To put this into context, it is necessary to describe briefly the European Union, its institutions and procedures. As European Directives must be transposed into national legislation in order to become effective, a comparison of how this is achieved for each Member State of the North-west Europe area is detailed, concentrating on any gaps or inadequacies in transposition. This highlights the need for integration, but also how various problems have been dealt with by different Member States. Completed legislation matrices for each Member State are in Appendix 1. Directives are not the only form of European legislation, outlined below, but it is important to state that as a general rule for this exercise Regulations and Recommendations were not included as these are directly applicable by Member States and do not require a transposing mechanism. However the ICZM Recommendation is an exception to this position. European policies and programmes with implications for coastal management are examined in Part 3 of this Report. While it is beyond the scope of this report to examine all policies and programmes in detail, a number of policies with direct relevance are compared and contrasted with ICZM principles for compliance. From Parts 2 and 3, some general conclusions can be drawn and possible recommendations made that are presented in Part 4. An overall assessment of European legislation and policies can then be made, while also looking at how new legislative and policy developments may effect how European coastal management may evolve and develop.

**1.1 THE EUROPEAN UNION AND EC ENVIRONMENTAL LAW**

European legislation and policies with relevance to the coastal zone can take many forms. General European environmental law is enshrined in the 1957 Treaty of Rome, also known as the EC Treaty, as well as in secondary forms of legislation. These are summarised in Table 1.1.

Type of legislation	Description
Directives	A legally binding instrument for implementing the policies or decisions of the EU. It gives outline instructions for the legislation and the time period within which it must be implemented. Directives must be transposed into national legislation in order to become effective. If directives are not transposed into national law within the time period given the Member State can be taken to task by the European Commission.
Regulations	Within the EU a Regulation can be adopted by the Council or the Commission, and it is directly applicable in all member states and is similar to a national law. Agriculture, fisheries and external trade are areas which are often covered by Regulations. While regulations have the force of law, Member States are required to introduce measures for their enforcement, such as penalties for infringement and to clearly identify which national agency will be responsible for enforcement.
Decisions	A legally binding instrument used by the EU to implement policy or decisions which are usually addressed to one or more specifically named governments or individuals to clarify or elaborate a general piece of legislation in relation to a specific case. Decisions are binding on the individual or group to whom they are addressed, but they may also be directly effective.
Recommendations	These are the non-binding views on policy which have been expressed by the Council or the Commission on which no binding decision has been made.
Opinions	These are issued by Community institutions when giving an assessment of a given situation or development in the Community or individual Member States. In some cases, they prepare the way for subsequent, legally binding acts, or are a prerequisite for the institution of proceedings before the Court of Justice (Articles 226 and 227 EC).
Resolutions	These may be adopted by the European Council, the Council of the EU and the European Parliament. They set out jointly held views and intentions regarding the overall process of integration and specific tasks within and outside the Community. Resolutions relating to the internal working of the Community are concerned, for example, with basic questions regarding political union, regional policy, energy policy, economic and monetary union (particularly the European Monetary System). The primary significance of these resolutions is that they help to give the Council's future work a political direction.

**Table 1.1 Types of European legislation.** Those in blue are binding on all Member States. Decisions, indicated in pink, are binding only on those to who the decision is addressed. Those indicated in green are non-binding.

European environmental law is found in the EC Treaty (1957 Treaty of Rome), the Directives, Regulations and Decisions adopted by the Community's institutions, the international agreements ratified by the EC as well as the case law of the European Court and Court of the First Instance. Although there is no mention of coastal zones in the EC Treaty, there are many aspects of EC law that are directly or indirectly relevant to Integrated Coastal Zone Management. Article 3 of the Treaty states that the activities of the Community must include, *inter alia*, common policies in the sphere of the environment, transport, agriculture, fisheries, tourism and civil protection. EC environmental legislation is generally based on Articles 94 and/or 308. Article 94 provides for the approximation of laws of the Member States in so far as they directly affect the establishment or functioning of the common market. Article 308 allows the Council to take appropriate measures to achieve objectives of the Community where the Treaty has not provided the necessary powers. Any measures taken by the Community in relation to coastal zone management must be compatible with the principles of subsidiarity and proportionality that were introduced into the EC Treaty by the Maastricht Treaty (1992). According to Gibson (1999) this provides that in areas that do not fall within its exclusive competence:

- The Community shall take action only if the objectives cannot be sufficiently achieved by Member States, and can therefore be better achieved by the Community (**subsidiarity**);
- Any action by the Community shall not go beyond what is necessary to achieve the objectives of the EC Treaty (**proportionality**).

Bell & McGillivray (2000) state, in relation to the United Kingdom, that there are four main ways in which the EC<sup>1</sup> plays a role in shaping environmental law and policy. These comments can also be applied to other Member States:

1. Some pieces of EC legislation lay down rules and standards that are directly enforceable in Member States without any need for further implementation;
2. Other pieces of EC legislation are addressed to Member States and require changes in the law of that State or administrative practice. This is especially true of environmental legislation that has to be transcribed into national law before it can become enforceable;
3. The EC not only passes environmental laws, but also has an environmental policy. This exerts a strong influence on the future direction of environmental law and policy of any Member State;
4. Finally, the economic policies of the EC have a profound effect on the direction of both EC and domestic environmental law, as environmental protection cannot be isolated from economic policy.

<sup>1</sup> Under the Treaty on European Union of 1992, a distinction is made between the 'European Union' (EU) and the 'European Community' (EC). This treaty established the EU to provide a framework for the EC's Member States to work towards a common foreign and security policy and cooperation in the field of justice and home affairs. Although the institutions and Member States of the EU and EC are the same, environmental laws are adopted under the EC Treaty and are therefore 'EC laws'.

## EU legislation and policies with implications for coastal management

While many of the Member States do not share a common legal tradition and have different forms of national, regional and local government, EC law in many instances is supreme and takes precedence over the law of the Member States. The supremacy of EC law over national law is well established, and Member States are obliged to take all appropriate measures to fulfil Community obligations. Law-making in the EU is complex, and entails the European Commission initiating a legislative proposal, consultation with various committees and, in some instances, with the European Parliament depending on the content of the proposal. Draft proposals do not become law until they receive the requisite votes in the European Council that is made-up of the Ministers representing the Member States. The fact that law-making in the European Union is complicated poses particular problems for the development of new normative initiatives, such as those underpinning integrated coastal and/or ocean management (see Long & O'Hagan, 2005). Recently, Member States of the European Union finalised a treaty elaborating a European Constitution. This treaty, that will have to be ratified by all Member States, does not contain any express references to coasts or oceans but it does, however, bind the EU to be prudent and rational in its use of natural resources. Furthermore, the Constitution clearly states that the EU has exclusive competence in the conservation of marine biological resources under the Common Fisheries Policy. In other areas the EU shares competence with the Member States.

In 1973, the Council approved the first Programme of Action of the European Community on the Environment. Since then, five further Action Programmes have been adopted for the periods 1977-81, 1982-86, 1987-92, 1993-2000 and 2001-2010. These are not legally binding, but are useful indicators of the framework within which the Commission works to bring about new environmental laws. Currently, the Sixth Environmental Action Programme 2010, "Our Future, Our Choice" is underway. This Action Programme identifies four priority areas for urgent action (European Communities, 2001). These include climate change; nature and biodiversity; environment and health and quality of life; and natural resources and waste. Measures to achieve these priorities are outlined and include improving the application of environmental legislation, working together with the market and citizens and ensuring that other Community policies take greater account of environmental considerations (European Communities, 2001).

The Fifth Environmental Action programme entitled 'Towards Sustainability' was perhaps the most important Action Programme for coastal zones to date. This Programme introduced the concept of 'sustainable development'. Under the 5<sup>th</sup> Action programme, the European Commission launched a Demonstration Programme on Integrated Coastal Zone Management in 1996, which ran until 1999. It was a joint programme between the Directorates-General of the Environment (XI), Nuclear Safety & Civil Protection (XIV) and Fisheries (XVI). The lessons learned and outcomes of this programme are published in two reports by the European Commission (1999a and b). This programme is discussed further in Section 3.2.1.



The four main EU institutions of the European Union are the European Commission, The Council of Europe, The European Parliament and the European Court of Justice. The European Commission is essentially the executive of the European Union. It is made up of representatives from each Member State and has the responsibility for implementing policy and drawing up new legislation. The Council of Europe is the political body of the Union. It is also made up of one representative from each Member State. Basically, it has the role of ensuring that the objectives of the Treaty of Rome are met. The European Parliament has a role in the making of new legislation. It also raises Community awareness about issues of environmental concern. The European Court of Justice consists of judges appointed by common agreement of the Member States. It has supreme authority on matters of European law. The role of the Court of Justice together with the Court of First Instance is to provide the judicial safeguards of the Community legal system. The Court of First Instance was established in 1989. Its objective was not only to strengthen the protection of individuals' interests by introducing a second tier of judicial authority, but also to take some of the workload from the Court of Justice, enabling this institution to concentrate on its fundamental task.

### **1.2 INTERNATIONAL LAW APPLICABLE TO THE EUROPEAN UNION**

In addition to its own legislation, the European Union has already ratified many international environmental agreements, whether at global level (multilateral agreements negotiated under the auspices of the UN), at regional level (e.g. in the context of UN/ECE or the Council of Europe), and sub-regional level (for instance for the management of seas or transboundary rivers). These in turn become binding on Member States. A full review of these treaties is not possible here, however, those with direct implications for coastal management are listed and described briefly below.

General rules protecting the marine environment from pollution are well developed at both regional and global scales. Early international efforts addressed discharges of oil with the first treaty on Oil Pollution of Navigable Waters held in Washington in 1926. This treaty was not open for signature, but in 1954, the International Convention for the Prevention of Pollution of the Sea by Oil, that was based on the 1926 text, was opened for signature in London. The International Maritime Organisation (IMO) was responsible for the implementation and enforcement of this Convention and, since then, the Organisation has assumed many of the UN's functions in relation to oil pollution. Various international accidents, such as the Torrey Canyon in 1967, the Amoco Cadiz in 1978, the Exxon Valdez in 1989 and the Prestige in 2002 sparked further international efforts in this field. These include the Intervention Convention of 1969, the 1969 Convention on Civil Liability for Oil Pollution (amended in 1992), the 1971 Oil Pollution Fund Convention (now 1992) and various amendments to MARPOL. All of these Conventions were adopted under the auspices of the IMO. The International Convention for the Prevention of Pollution from Ships (MARPOL) Convention in 1973 was followed in 1976 by UNEP establishing the Regional Seas Programme. This has led to over thirty regional treaties, including those relating to the North East Atlantic and the Baltic. The adoption of the United Nations Law of the Sea Convention, in 1982, addresses pollution of the marine environment comprehensively, but it also aims to establish a "legal order for the seas and

oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment” (Preamble to the Convention). It wasn't until 1992 that these aims were taken a stage further, through the adoption of the Convention on Biodiversity (CBD), as well as regional agreements, such as the Convention on the Protection of the Baltic and the Convention for the Protection of the Marine Environment of the North-east Atlantic (OSPAR). While these two conventions address marine pollution from all sources, they also highlight the need for the protection of biodiversity.

Recent efforts by the international community to develop rules for the protection of the marine and coastal environment can also be derived from Agenda 21 and the Rio Declaration on the Environment and Development. These were adopted by more than 178 Governments also at the United Nations Conference on Environment and Development (UNCED) held in June 1992. Chapter 17 of Agenda 21 establishes seven programme areas for the protection of oceans and seas, of which two are particularly relevant: the programme to provide for integrated management and sustainable development of coastal areas (including the EEZ); and the programme on marine environmental protection. Chapter 17 also outlines proposals to guide future legislative developments at international level, including: integrated coastal and marine management; as well as the conservation and restoration of altered critical habitats. While Agenda 21 is not legally binding, it reflects a “global consensus and political commitment at the highest level” towards the implementation of national strategies, plans, policies and processes to be supported and supplemented by international cooperation (Chapter 1, para. 1.2).

The international Conventions and Agreements to which the European Union is a party are listed below under various categories and described briefly. Further information on each can be found in the EC Official Journal while general references are listed in the bibliography.

### **1.2.1 Marine Zones**

#### [United Nations Convention on the Law of the Sea \(UNCLOS\);](#)

Council Decision of 23 March 1998 concerning the conclusion by the EC of UNCLOS and the [Agreement of 28 July 1994 relating to the implementation of Part XI thereof](#) (98/392/EC), Official Journal L 179/1, 23 June 1998.

This Convention lays down a comprehensive regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their resources. The Convention entered into force in accordance with its Article 308 on 16 November 1994. It comprises 320 Articles and nine Annexes, governing all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters. The Convention lays down, first of all, the fundamental obligation of all States to protect and preserve the marine environment. It further urges all States to cooperate on a global and regional basis in formulating rules and

standards and otherwise take measures for the same purpose. As stated in Council Decision No. 98/392 on implementation, the European Union is committed to establishing an integrated approach to ocean and coastal management in accordance with the normative framework set out by the Law of the Sea Convention. Part XII of the Convention concerns the protection and preservation of the marine environment. Specifically this part of the Convention includes a general obligation on contracting parties to protect and preserve the marine environment as well as various measures on pollution prevention, reduction and control.

### **1.2.2 Management of open space in the coastal zone**

[Convention for the Protection of the Marine Environment of the North East Atlantic \(OSPAR Convention\), as amended](#); signed in Paris on 22 September 1992, (Council Decision on conclusion published in Official Journal L 104 03.04.1998, p. 0001-0001). [Amended Annex V to the OSPAR Convention on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area and the corresponding Annex 3](#) (Council Decision concerning the approval, of the new Annex V to the OSPAR Convention Official Journal L 118, 08/05/2000 p. 0044 – 0047).

In 1992, this Commission replaced, and combined the aims of, the Oslo Convention on the Prevention of Marine Pollution by Dumping of Ships & Aircraft (1972) and the Paris Convention for the Prevention of Marine Pollution from Land-Based Sources (1974). The Convention advocates the use of the precautionary principle, the “polluter pays” principle and best available techniques with respect to pollution. The 1998 Ministerial Meeting of the OSPAR Commission adopted strategies to direct future work in four main areas. These are hazardous substances; radioactive substances; eutrophication and protection and conservation of ecosystems and biological diversity. The strategy on protection and conservation of ecosystems and biological diversity contains four elements: ecological quality objectives, species and habitats assessments, marine protected areas and human activity assessments. The Commission has had to adopt specific mechanisms to implement this strategy. In addition, as agreed at the OSPAR Commission meeting in 1999, a further strategy on environmental goals and management mechanisms for offshore activities was adopted. The first Ministerial Meeting of the OSPAR Commission in 1998 also adopted Annex V to the Convention, to extend the cooperation of the Contracting Parties to cover all human activities that might adversely affect the marine environment of the North East Atlantic. It is important to note here, however, that programmes and measures relating to fisheries management cannot be adopted under the Convention.

[Convention on the Protection of the Marine Environment of the Baltic Sea Area](#), signed in Helsinki on 9 April 1992, signed by EC on same date (Council Decision published in Official Journal L 073, 16.03.1994, p. 0019-0019).

In 1974, for the first time ever, all the sources of pollution around an entire sea were made subject to a single convention signed by the then seven Baltic coastal states. In 1992, however, following political changes and international developments in the field of environmental law, a new Convention was adopted and signed by all the States bordering on the Baltic Sea and the

European Community. The Convention covers the whole of the Baltic Sea area, including inland waters as well as the water of the sea itself and the sea-bed. Measures are also taken in the whole catchment area of the Baltic Sea to reduce land-based pollution. The Convention is administered by HELCOM, also known as the Baltic Marine Environment Protection Commission. The 1992 Convention included new definitions on fundamental principles and obligations, notification and consultation, environmental impact assessment, nature conservation and biodiversity, reporting and exchange of information as well as public information. The 1992 Convention also amends the original Annexes and added a new Annex dealing in particular with the prevention of pollution from offshore activities. Within this, Parties must apply the precautionary principle and the “polluter-pays” principle. The Convention also contains provisions on pleasure craft, pollution incidents, prevention of marine pollution and water quality objectives along with requiring Parties to “conserve natural habitats and biological diversity and to protect ecological processes to ensure the sustainable use of natural resources” in Article 15.

### **1.2.3 Nature Conservation and Landscape Protection**

**Convention on Biological Diversity (UNCBD)** signed in Rio de Janeiro on 5 June 1992, signed by EC on 13 June 1992, (Council Decision 93/626 on the conclusion: Official Journal L 309, 1993, p.1) The 1992 Convention on Biological Diversity was negotiated under the auspices of UNEP and signed by 153 States and the EC at UNCED in June 1992. The Convention establishes three main goals: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits from the use of genetic resources. The agreement covers all ecosystems, species, and genetic resources. It links traditional conservation efforts to the economic goal of using biological resources sustainably. It sets principles for the fair and equitable sharing of the benefits arising from the use of genetic resources, notably those destined for commercial use. It also covers the rapidly expanding field of biotechnology, addressing technology development and transfer, benefit-sharing and biosafety. Without expressly endorsing the precautionary principle, the Convention states that measures should not be avoided or postponed where there is a lack of full scientific certainty. Under Article 5, all parties must cooperate for the conservation and sustainable use of biodiversity, in respect of areas beyond national jurisdiction and on other matters of mutual interest. In addition, parties must develop national strategies, plans or programmes, and integrate, wherever possible, the conservation and sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies. The parties to the Convention on Biological Diversity agreed on a programme of action for implementing the Convention specific to coastal and marine biodiversity. This programme called "Jakarta Mandate on Marine and Coastal Biological Diversity" was adopted in 1995. Through its programme of work, adopted in 1998, and reviewed and updated in 2004, the Convention focuses on integrated marine and coastal area management, the sustainable use of living resources, marine and coastal protected areas, mariculture and alien species.

[Convention on the Conservation of Migratory Species of Wild Animals \(CMS\) \(UNEP\)](#) signed in Bonn on 23 June 1979 (Council Decision published in Official Journal L 210 19.07.1982, p. 0010-0022).

The aim of this Convention is to conserve terrestrial, marine and avian migratory species throughout their range. It is a multi-party treaty, concluded under the aegis of the United Nations Environment Programme, concerned with the conservation of wildlife and habitats on a global scale. Since the Convention's entry into force, its membership has grown steadily to include 89 States (as of 1 February 2005). Appendix 1 of the Convention lists migratory species threatened with extinction. Parties strive towards strictly protecting these animals, conserving or restoring the places where they live, which are mostly coastal, mitigating obstacles to migration and controlling other factors that might endanger them. Appendix 2 of the Convention lists migratory species that need or would significantly benefit from international co-operation. To date, several Agreements have been concluded under the auspices of CMS including small cetaceans in the Baltic and North Seas (ASCOBANS, to which the EU is also a signatory) and a tri-lateral agreement on Wadden Sea seals.

[Convention on the Conservation of European Wildlife and Natural Habitats, signed in Berne on 19 September 1979, \(Council Decision on conclusion published in Official Journal L 038, 10.02.1982, p. 0001-0002.](#)

This is a Council of Europe treaty open to signature by EU Member States as well as non-Member States. The aim of this Convention is to conserve wild flora and fauna (including birds, fish and molluscs) and their natural habitats, especially those species and habitats whose conservation requires the co-operation of several States, and to promote such co-operation. The Parties undertake to take all appropriate measures to ensure the conservation of the habitats of the wild flora and fauna species. Such measures are to be included in State's planning and development policies and pollution control, paying particular attention to the conservation of wild flora and fauna.

#### **1.2.4 Safety at Sea and Marine Pollution**

[Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, Bonn, 13 September 1983, \(Council Decision 84/358/EEC of 28 June 1984, published in OJ No L 188, 16.7. 1984, p. 7\);](#)

This Agreement applies whenever the presence or the prospective presence of oil or other harmful substances polluting or threatening to pollute the North Sea presents a grave and imminent danger to the coast or related interests of one or more Contracting Parties. In this case, the Contracting Parties are Belgium, Denmark, France, Germany, the Netherlands, Norway, Sweden, the United Kingdom of Great Britain and Northern Ireland as well as the European Community. The first Bonn Agreement was agreed in 1969 following some major oil spills. As a consequence, the Agreement was developed to encourage North Sea States to improve their basic capacity for combating oil pollution. The current Bonn Agreement (1983) is a commitment by North Sea coastal states together with the European Union to offer mutual assistance and cooperation in combating

pollution; as well as to execute surveillance as an aid to detecting and combating pollution and to prevent violations of anti-pollution regulations.

[Basel Convention on the control of transboundary movements of hazardous wastes and their disposal](#), signed in Basel on 22 March 1989, (Council Decision 93/98/EEC of 1 February 1993, published in OJ No L 39, 16.2.1993, p. 1).

Originally the Basel Convention was principally devoted to setting up a framework for controlling transboundary movements of hazardous wastes, that is, the movement of hazardous wastes across international frontiers. As most of this movement is by shipping, the Convention has important implications for coastal Member States. The Convention also developed the criteria for environmentally sound management. Since its adoption, the Convention has concentrated more on the minimization of hazardous waste generation. The Secretariat, based in Geneva, provides assistance and guidelines on legal and technical issues, gathers statistical data, and conducts training on the proper management of hazardous waste. The Secretariat is administered by UNEP.

[Convention on Transboundary Effects of Industrial Accidents](#) (The Accident Convention) signed in Helsinki on 18 March 1992 and by the EC on the same date (Council Decision published in Official Journal L 326, 3.12.1998, p. 0001-0004).

This Convention aims to protect human beings and the environment against industrial accidents by preventing them as far as possible, by reducing their frequency and severity and by mitigating their effects. It promotes active international cooperation between the contracting Parties, before, during and after an industrial accident. Major industrial accidents may cause far-reaching transboundary effects and may lead to accidental water pollution. As a consequence of this, the Parties to the Convention on the Transboundary Effects of Industrial Accidents and the Parties to the Convention on the protection and Use of Transboundary Watercourses and International lakes decided to cooperate on issues related to the prevention of accidental pollution of transboundary waters. A joint expert group was formed in 1998, specifically to work on water and industrial accidents. Areas falling under the responsibility of this group include: safety guidelines and best practices for the prevention of accidental transboundary water pollution; safety guidelines and best practices for tailing dams, pipelines, and navigation of ships on rivers; alarm and notification systems; international response exercises and transboundary contingency planning.

[Convention on Persistent Organic Pollutants \(The POP Stockholm Convention\)](#), signed on 23 May 2001, (currently under final adoption procedure in the Council).

The Stockholm Convention is a global treaty to protect human health and the environment from persistent organic pollutants (POPs). POPs are chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of living organisms and are toxic to humans and wildlife. The Convention seeks the elimination or restriction of production and use of all intentionally produced POPs (i.e. industrial chemicals and pesticides). It also seeks the continuing minimization and, where feasible, ultimate elimination of releases of

unintentionally produced POPs such as dioxins. Stockpiles must be managed and disposed of in a safe, efficient and environmentally sound manner. The Convention also imposes certain trade restrictions. The Convention entered into force on 17 May 2004 and is currently in the final stages of adoption by the European Union.

### **1.2.5 Environmental Impact Assessment**

[Convention on Environmental Impact Assessment in a Transboundary context \(EIA Espoo Convention\) signed by the EC on 26 February 1991. Implemented by EIA Directive.](#)

The Espoo (EIA) Convention stipulates the obligations of Parties to assess the environmental impact of certain activities at an early stage of planning. It also lays down the general obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries. According to Appendix 1 of the Convention, activities to which the Convention pertains include, to name but a few, oil and gas pipelines, trading ports and offshore hydrocarbon production. While not specifically applicable to the coastal zone, this Convention is important as it has the potential to concern authorities with administrative responsibilities in the coastal and offshore area. The Convention has been supplemented by a Protocol on Strategic Environmental Assessment, adopted 21 May 2003, at Kiev (Ukraine) and subsequently signed by 36 States and the European Community.

**2. EUROPEAN LEGISLATION RELEVANT TO THE COASTAL ZONE**

European legislation relating to the coastal zone is mostly sectoral. The most relevant legislation is tabulated below followed by a short description of each Directive.

**2.1 MANAGEMENT OF THE COASTAL ZONE**

<b>Title</b>	<b>Date</b>	<b>Official Journal Reference &amp; Weblink</b>
Council Resolution on the future Community policy concerning the European coastal zone	25 Feb. 1992	<i>Official Journal C059, 06/03/1992 P. 0001 – 0001</i> <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992Y0306(01):EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992Y0306(01):EN:HTML</a>
Council Resolution on a Community strategy, for Integrated Coastal Zone Management	6 May 1994	<i>Official Journal C 135 , 18/05/1994 P. 0002 – 0002</i> <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31994Y0518(01):EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31994Y0518(01):EN:HTML</a>
Recommendation of the European Parliament and of the Council concerning the implementation of Integrated Coastal Zone Management in Europe	30 May 2002	<i>Official Journal L 148, 06/06/2002 P. 0024 – 0027</i> <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_148/l_14820020606en00240027.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_148/l_14820020606en00240027.pdf</a>

These resolutions provide guidance on European coastal management. The Recommendation was adopted subsequent to the European Demonstration Programme on Coastal Zones, described above.

**2.1.1 Management of Open Space within the Coastal Zone**

Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community	4 May 1976	<i>Official Journal L 129 , 18/05/1976 P. 0023 – 0029</i> <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31976L0464:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31976L0464:EN:HTML</a>
Council Directive 79/923/EEC on the quality required of shellfish waters	30 Oct. 1979	<i>Official Journal L 281, 10/11/1979 P. 0047 – 0052</i> <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1979&amp;nu_doc=923">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1979&amp;nu_doc=923</a>
Council Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances	17 Dec. 1979	<i>Official Journal L 020 , 26/01/1980 P. 0043 – 0048</i> <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1980&amp;nu_doc=68">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1980&amp;nu_doc=68</a>

Directive 91/271/EEC on urban waste water treatment (UWWT Dir.)	21 May 1991	Official Journal L 135 , 30/05/1991 P. 0040 – 0052  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1991&amp;nu_doc=271">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1991&amp;nu_doc=271</a>
Council Directive 91/692/EEC standardizing and rationalizing reports on the implementation of certain Directives relating to the environment	23 Dec. 1991	Official Journal L377 , 31/12/1991 P. 0048 – 0054.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31991L0692:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31991L0692:EN:HTML</a>
Directive 96/61/EC concerning Integrated Pollution Prevention and Control (IPPC)	24 Sept. 1996	Official Journal L 257 , 10/10/1996 P. 0026 – 0040  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=en&amp;numdoc=31996L0061&amp;model=guichett">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=en&amp;numdoc=31996L0061&amp;model=guichett</a>
Directive 98/15/EC amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof	27 Feb. 1998	Official Journal L 067, 07/03/1998 P. 0029 - 0030  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1998&amp;nu_doc=15">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1998&amp;nu_doc=15</a>
Directive 2000/60/EC establishing a framework for Community action in the field of water policy (WFD)	23 October 2000	Official Journal L327, 22/12/2000 P. 0001 – 0073.  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=en&amp;numdoc=32000L0060&amp;model=guichett">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=en&amp;numdoc=32000L0060&amp;model=guichett</a>

- **Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community** modified by Council Directive 91/692/EEC standardizing and rationalizing reports on the implementation of certain Directives relating to the environment.

Directive 76/464 was one of the first water-related Directives to be adopted by the European Community. It had the ambitious objective of regulating potential aquatic pollution by the thousands of chemicals produced in Europe at that time. The Directive made a distinction between pollutants that were to be eliminated (List I) and pollutants that were to be reduced (List II). In addition, eighteen of the substances in List I were regulated by five specific Directives (also called “daughter Directives”) setting emission limit values and quality objectives at a Community level. These Directives were the first mandatory minimum requirements for an approach based on Best Technical Means (later known as Best Available Techniques or BAT). Directive 76/464 covered discharges to inland surface waters, territorial waters, inland coastal waters and groundwater. In 1980 the protection of groundwater was taken out of 76/464/EEC and regulated under Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances. In 1996, the Directive on integrated pollution prevention and control, the IPPC (**Directive 96/61/EC**) was adopted and took over the regulation of List I substances originally regulated by the dangerous substances Directive. Other provisions of Directive 76/464/EEC are incorporated into the Water Framework Directive, (WFD) see below.

### **Council Directive 79/923/EEC on the quality required of shellfish waters**

This Directive concerns the quality of shellfish waters (bivalve and gastropod molluscs). Member States must designate those coastal and brackish waters to be considered as shellfish waters. The Directive also sets minimum quality criteria that must be met by shellfish waters, including the minimum sampling frequency and the reference methods of analysis of these waters. Directive 91/692/EEC amended this Directive by requiring Member States to publish a sectoral report on the implementation of the shellfish waters Directive every three years.

### **Council Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances**

This Directive requires Member States to apply a system of investigation and authorisation for waste disposal and other activities, in order to ensure that groundwater is not polluted by dangerous substances. In addition to the rules in Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances, groundwater protection is also a feature of the Water Framework Directive 2000/60/EC (WFD), see below. Article 17 of the WFD requires that, on the basis of a proposal from the Commission, the European Parliament and the Council shall adopt specific measures to prevent and control groundwater pollution by defining common criteria on good chemical status and on quality trends. Further details on the proposal for a Groundwater Daughter Directive is available in COM (2003) 550 Final available at:

[http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2003/com2003\\_0550en01.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2003/com2003_0550en01.pdf)

### **- Directive 91/271/EEC on urban waste water treatment**

This Directive concerns the collection, treatment and discharge of urban waste water and the treatment and discharge of waste water from domestic and certain industrial sectors. Its aim is to protect the environment from any adverse effects due to discharge of such waters. The Directive establishes a time-table, which Member States must adhere to, for the provision of collecting and treatment systems for urban waste water in agglomerations that meet the criteria laid down in the Directive. Annex II requires Member States to draw up lists of sensitive and less sensitive areas that receive the treated waters. These lists must be updated regularly. The treatment of urban water is to be varied according to the sensitivity of the receiving waters. In addition, there are specific requirements for discharges from certain industrial sectors of biodegradable industrial waste water not entering urban waste water treatment plants before discharge to receiving waters. **Directive 98/15/EC** clarifies the rules relating to discharges from urban waste water treatment plants in order to put an end to differences in interpretation by the Member States.

### **- Directive 2000/60/EC establishing a framework for Community action in the field of water policy.**

Article 22 together with Article 16 of the Water Framework Directive (2000/60/EC) set out the transitional provisions for the existing Directive on discharges of certain dangerous substances (76/464/EEC). In summary, the provisions are as following:



- Article 6 (list I substances) was repealed with the entry into force of Directive 2000/60/EC;
- ‘Rest’ of 76/464/EEC including the emission reduction programmes will be still in place until 2013 (transition period);
- Review of “daughter Directives” within 2 years after entry into force of Directive 2000/60/EC;
- List of priority substances replaces candidate list I.

The central objective of the Water Framework Directive (WFD) is to prevent the deterioration of ecological quality and the restoration of polluted surface and groundwaters by the end of 2015. To achieve this, the Member States are required to adopt implementation strategies as stipulated by the WFD. The main activities for the implementation of the WFD will take place in the context of River Basin Management Projects. This is of direct implication for coastal management as essentially all water management will be based on the natural unit of river basins. The overall objective of river basin projects is to establish an integrated monitoring and management system for all waters within a River Basin District (RBD), to develop a dynamic programme of management measures and to produce a River Basin Management Plan which must be updated and reviewed every six years. Such a plan must include:

- Mapping and identification of protected areas;
- Map of monitoring networks and presentation in map form of monitoring results carried out for surface water, groundwater and protected areas;
- List of environmental objectives;
- Summary of economic analysis of water use;
- Register of any more detailed programmes and management plans for the RBD dealing with particular sub-basins, sectors, issues or water types, together with a summary of their contents;
- Summary of the public information and consultation measures taken, their results and the changes to the plan made as a consequence;
- A list of the competent authorities; and
- Contact points and procedures for obtaining background documentation and information

The Directive requires that river basins which cross national frontiers must be assigned to an international RBD and the Member States involved must together ensure the co-ordination of measures for its implementation. It is important to note that the WFD addresses inland surface waters, estuarine and coastal waters and groundwater. A River Basin District must include coastal/marine waters up to one nautical mile beyond the baseline from which territorial waters are measured.

**2.1.2 Agriculture**

Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources	12 Dec. 1991	Official Journal L 375, 31/12/1991, P. 0001 - 0008  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=1991&amp;nu_doc=676">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=1991&amp;nu_doc=676</a>
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The Treaty of Rome defined the general objectives of a Common Agricultural Policy (CAP). The principles of CAP were set out at the Stresa Conference in July 1958. In 1960, the CAP mechanisms were adopted by the six founding Member States and two years later, in 1962, the CAP came into force. The aim of the common agricultural policy is to provide farmers with a reasonable standard of living and consumers with quality food at fair prices. The CAP is comprised of a set of rules and mechanisms, that regulate the production, trade and processing of agricultural products in the European Union (EU), with attention being focused increasingly on rural development. Like the Common Fisheries Policy, various EU regulations enforce different aspects of the Common Agricultural Policy but as it is a policy, it is described in greater detail in the policy section.

### **Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources**

The Nitrates Directive requires Member States to identify, on their territory, surface waters and groundwater affected or which could be affected by nitrate pollution, in accordance with the procedures and criteria set out in the Directive and vulnerable zones which contribute to pollution. The Member States must establish codes of good agricultural practice to be implemented by farmers on a voluntary basis, as defined in Annex II of the Directive. The Member States must also establish and implement action programmes in respect of vulnerable zones. These must include the measures prescribed in the codes of good agricultural practice and measures to limit the spreading on land of any fertiliser containing nitrogen and to set limits for the spreading of livestock effluent. The Directive authorises Member States to take additional measures or to reinforce the action programmes in order to attain the objectives of the Directive. The Member States must monitor water quality, applying standardised reference methods to measure the nitrogen concentration. Provisions on adaptation of the annexes to scientific and technical progress are also included. Member States must report regularly to the Commission on implementation of the Directive. Nitrogen is a major contributor to eutrophication which has been identified as a major threat to the coastal zones of Europe, especially the Baltic Sea area.

#### **2.1.3 Fisheries**

The European Union has a Common Fisheries Policy (CFP) in order to manage fisheries for the benefit of both fishing communities and consumers. Further details about this policy are in Section 3.2.5.2 of this report. The CFP contains measures on conservation, structures, markets and relations with States outside the European Union. Fishing regulations are necessary to protect fish stocks and to ensure the future of the fishing industry. Regulatory regimes and rules deriving from the CFP are generally implemented through Council Regulations that, as previously stated, are directly applicable in Member States. For this reason, they are not described in this report but are listed in Appendix 2 for reference. General information on fisheries can be obtained from the Europa website at: [http://europa.eu.int/comm/fisheries/doc\\_et\\_publ/cfp\\_en.htm](http://europa.eu.int/comm/fisheries/doc_et_publ/cfp_en.htm)

**2.1.4 Nature conservation & landscape protection**

Council Directive 79/409/EEC on the conservation of wild birds.	2 April 1979	Official Journal L 103, 25/4/1979 P. 0001 - 0018.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31979L0409:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31979L0409:EN:HTML</a>
Commission Directive 97/49/EC amending Council Directive 79/409/EEC on the conservation of wild birds	29 July 1997	Official Journal L 223, 13/08/1997 P. 0009 – 0017.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0049:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0049:EN:HTML</a>
Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.	21 May 1992	Official Journal L 206, 22/07/1992 P. 0007 – 0050.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992L0043:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992L0043:EN:HTML</a>
Council Regulation 338/97 on the protection of species of wild fauna and flora by regulating trade therein.	9 Dec. 1996	Official Journal L 061, 03/03/1997 P. 0001 – 0069.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997R0338:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997R0338:EN:HTML</a>
Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms.	23 April 1990	Official Journal L 117, 08/05/1990 P. 0001 - 0014  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31990L0219:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31990L0219:EN:HTML</a>
Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms.	12 March 2001	Official Journal L 106, 17/04/2001 P. 0001 – 0037.  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32001L0018:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32001L0018:EN:HTML</a>

- Council Directive 79/409/EEC on the conservation of wild birds.

- Commission Directive 97/49/EC amending the above.

The Birds Directive seeks to protect, manage and regulate all bird species naturally living in the wild within the European territory of the Member States, including the eggs of these birds, their nests and their habitats. It also regulates the exploitation of these species. Member States must conserve, maintain or restore the biotopes and habitats of these birds by creating protection zones; maintaining the habitats; restoring destroyed biotopes; and creating biotopes. Annex 1, as amended, lists particularly vulnerable species for protection. Member States are obliged to classify the most suitable areas (on land and sea) as Special Protection Areas (SPA) for these species. Only activities that do not have significant effects on birds are permitted within SPAs. The Birds Directive also requires the avoidance of pollution or deterioration of habitats generally, outside SPAs. This obligation has implications for land use and water use in coastal zones, and may require the prevention or control of activities on, near or in an area which is the habitat of a protected bird. Member States are required to pay particular attention to the protection of wetlands, especially wetlands of international importance (for example, Ramsar sites). In all SPAs, Member States must take steps to avoid the deterioration of habitats and significant disturbance of the species for which the areas have been designated. If any proposed plan or project is likely to have a significant effect on an SPA, its environmental implications must be assessed. Generally, national

authorities should only agree to such a proposal if the integrity of the site will not be affected. The project will have significant environmental effects, it can only go ahead if it is necessary for reasons of overriding public interest, including interests of a social and economic nature. Where this is claimed, permission must be obtained from the Commission and compensatory measures, usually in the form of habitat recreation, must also be taken.

**- Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.**

In 1992, the Council of the European Communities adopted the Habitats Directive on the conservation of natural and semi-natural habitats and species of flora and fauna. For animal species listed in Annex IV of the Directive, Member States must prohibit deliberate capture or killing in the wild, deliberate disturbance, especially during breeding, rearing, hibernation and migration periods, deliberate destruction or taking of eggs from the wild and deterioration or destruction of breeding sites or resting places. For plant species listed, Member States must prohibit deliberate picking, collecting, cutting, uprooting or destruction of these plants in the wild. The Directive establishes a European ecological network known as 'Natura 2000'. This network comprises Special Areas of Conservation (SACs), designated in accordance with the Habitats Directive, and Special Protection Areas, designated in accordance with the Birds Directive. Each Member State is required to designate Special Areas of Conservation (SACs) to protect those habitats and species that are listed in the Annexes of the Directive. Each SAC must be given significant protection so as to conserve adequately the listed habitats and/or species. A number of 'priority' habitats are listed in Annex I (Natural Habitat types of Community Interest) and include sand dunes and machair in coastal zones. SACs are designated in three stages. Following the criteria set out in the annexes, each Member State must draw up a list of sites that include natural habitats and wild fauna and flora. On the basis of the national lists, and by agreement with the Member States, the Commission will then adopt a list of Sites of Community Importance (SCI). No later than six years after the selection of a Site of Community Importance, the Member State concerned must designate it as a SAC. For less endangered wild plant and animal species listed in the Directive's Annex V, capture or killing of animals or picking of plants may not necessarily be prohibited but Member States may take measures to prevent overexploitation of these species. Such measures may include, for example, regulations regarding access to certain property or operation of a licensing system. The Habitats Directive was revised in 1997 (Directive 97/62/EC) to update the list of species and habitat types. The Habitats Directive applies to all European territory of Member States including both land and sea areas.

**- Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein.**

Although the EU is not yet a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in its own right, the EU has been implementing the provisions of the Convention since 1 January 1984 with Council Regulation (EEC) No 3626/82 (OJ L 384 of

31.12.82) and Commission Regulation (EEC) No 3418/83 (OJ L 344 of 7.12.83). In December 1991, the Commission proposed that the Council replace the 1982 Regulation by a much more comprehensive new Regulation as of 1 January 1993, the date of completion of the Single Market. This was considered as necessary due to the evolution of wildlife trade control techniques and policies. It took the Council of the European Union longer than expected to reach agreement on this new legislation, but on 9 December 1996, it adopted Council Regulation (EC) No 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein (OJ L61 of 3/3/97). At the same time, Commission Regulation (EEC) No 3418/83 (OJ L 344 of 7.12.83), containing detailed implementation provisions, particularly on the use of permits and certificates was replaced by Commission Regulation 939/97 (OJ L 140 of 30/05/97). These two new Regulations not only fully implement the provisions of CITES, but also include provisions to implement the bulk of currently applicable recommendations of the Conference of the Parties on their interpretation and implementation. Indeed, the Regulations go beyond CITES in many places ([http://europa.eu.int/comm/environment/cites/home\\_en.htm](http://europa.eu.int/comm/environment/cites/home_en.htm), accessed 19 April 2005).

**- Council Directive 90/219/EEC on the contained use of genetically modified micro-organisms. Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms.**

The contained use of genetically modified micro-organisms, e.g. laboratory research (in a confined environment), is regulated by Directive 90/219/EEC on the contained use of genetically modified micro-organisms. The directive requires assessment of the health and environmental risks that might result from the use of GMOs and lays down a system of notification, record-keeping, consent, emergency plans and accident procedures to protect human health and the environment generally, if not specifically coastal areas, from any dangers. The experimental release of GMOs into the environment, in other words the introduction of GMOs into the environment for experimental purposes (e.g. for field testing), is governed by Directive 2001/18/EC. It contains similar provisions to the earlier Directive, setting out a system for notification, risk assessment and consent which applies to the release of GMOs. European policy and legislation in this field also takes account of international regulations applicable to GMOs and the way in which they are implemented is consistent with rules laid down within the World Trade Organisation (WTO), the Cartagena Protocol on Biosafety and the *ad hoc* Intergovernmental Task Force on Food Biotechnology (ITFFB).

**2.1.5 Environmental Impact Assessment**

Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment	27 June 1985	<i>Official Journal L 175 , 05/07/1985 P. 0040 – 0048</i> <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31985L0337:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31985L0337:EN:HTML</a>
Council Directive 97/11/EC amending Directive	3 March 1997	<i>Official Journal L 073, 14/03/1997 P. 0005 – 0015.</i>

85/337/EEC on the assessment of the effects of certain public and private projects on the environment.		<a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0011:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0011:EN:HTML</a>
Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.	27 June 2001	<i>Official Journal L 197, 21/07/2001 P. 0030 – 0037.</i> <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_197/l_19720010721en00300037.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_197/l_19720010721en00300037.pdf</a>

**- Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment** as amended by Council Directive 97/11/EC.

The EIA Directive was introduced in 1985 and was amended in 1997. This Directive requires an assessment of the environmental impact (an EIA) of any project likely to have significant effects on the environment before consent can be granted. The public can give its opinion and is informed of the decision afterwards. The EIA Directive outlines which project categories shall be made subject to an EIA, which procedure shall be followed and the content of the assessment. Article 4 of the Directive states that an EIA is mandatory for projects of the classes listed in Annex I but is only mandatory for projects listed in Annex II “where Member States consider that their characteristics so require”. Annex I projects include crude-oil refineries, trading ports, pipelines for the transport of oil, gas or chemicals. Projects in Annex II include certain infrastructure projects including harbours, ports and fishing harbours (not covered by Annex I), intensive fish farming; reclamation of land from the sea; coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works; and marinas. Following the signature of the Aarhus Convention by the Community on 25 June 1998, the Community adopted in May 2003 Directive 2003/35/EC amending amongst others the EIA Directive. This Directive intends to align the provisions on public participation in accordance with the Aarhus Convention on public participation in decision-making and access to justice in environmental matters.

**- Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).**

The Strategic Environmental Assessment (SEA) Directive involves the systematic identification and evaluation of the impacts of a strategic action (e.g. a plan or programme) on the environment. In conjunction with the EIA Directive, the SEA Directive requires certain plans and programmes that are likely to have significant effects on the environment to undergo a formal environmental assessment. The Directive's overall aim is to contribute to the integration of environmental considerations into strategic decision-making with a view to promoting sustainable development. The Directive is of a procedural nature, and, according to Preamble Paragraph 9, its requirements should either be integrated into existing procedures in Member States or incorporated in specifically established procedures. The Directive sets out a series of steps that must be undertaken as part of any assessment. These include scoping, the consideration of alternatives, the preparation of an 'environmental report', public consultation and the proposal of mitigation and

monitoring measures. The findings of the environmental report must be taken into account during preparation of the plan or programme. Article 5 of the Directive states that “Member States shall in all cases take into account relevant criteria set out in Annex II, in order to ensure that plans and programmes with likely significant effects on the environment are covered by this Directive”. Annex II lists characteristics of the effects and of the area likely to be affected, in particular it lists the transboundary nature of the effects, the risks to the environment and the effects on areas or landscapes that have recognised international, Community or national protection status.

**2.1.6 Shipping**

Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations.	22 Nov. 1994	Official Journal L 319 , 12/12/1994 P. 0020 – 0027  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31994L0057:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31994L0057:EN:HTML</a>
Commission Directive 97/58/EC amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations	26 Sept. 1997	Official Journal L 274 , 07/10/1997 P. 0008 – 0008  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0058:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31997L0058:EN:HTML</a>
Directive 2001/105/EC amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations	19 Dec. 2001	Official Journal L 019 , 22/01/2002 P. 0009 – 0016  <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_019/l_01920020122en00090016.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_019/l_01920020122en00090016.pdf</a>
Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships	5 Nov. 2002	Official Journal L 324, 29/11/2002 P. 0053 – 0058.  <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf</a>
Directive 2003/44/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft	16 June 2003	Official Journal L 214, 26/08/2003 P. 0018 – 0035.  <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_214/l_21420030826en00180035.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_214/l_21420030826en00180035.pdf</a>

**- Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations, amended by Directive 97/58/EC, by Directive 2001/105/EC, and by Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships.**

The purpose of Directive 94/57/EC, and those that amend it, are to adopt the measures that must be taken by the Member States and organisations concerned with the inspection, survey and

certification of ships in order to ensure effective application of the international Conventions. Member States are required to ensure that their competent administrations can guarantee appropriate enforcement of the provisions of the international Conventions. Inspection, survey and certification duties must be carried out by recognised organisations, the criteria for which are set out in the Annex to the Directive. Directive 2001/105/EC was adopted following the Erika disaster to tighten and harmonise the Community arrangements regarding recognised organisations, while simplifying the monitoring and reporting obligations placed on the Member States. It is the responsibility of the Community to recognise, monitor and, where appropriate, suspend the recognition of an organisation, while the Member States retain competence for designating recognised organisations to inspect their fleets. Similarly, Directive 2002/84/EC is designed to improve implementation of Community legislation governing maritime safety, the prevention of pollution from ships and shipboard living and working conditions. It is closely linked to the adoption of Regulation (EC) No. 2099/2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships, see below.

**- Directive 2003/44/EC amending Directive 94/25/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft.**

Directive 94/25 sets essential requirements for the design and construction of recreational craft. Recreational craft are defined as "any craft intended for sport or leisure purposes, regardless of the type or the means of propulsion, with a hull length of 2.5 to 24 metres, measured according to the appropriate harmonized standards." The Directive applies to pleasure craft, partially completed boats and loose and assembled components. This Directive was reviewed and amended in 2003 to introduce limit values for exhaust and sound emissions of petrol and diesel marine engines and to extend its scope to personal watercraft such as jet skis. The Directive also stipulates limits for exhaust emissions of carbon monoxide, hydrocarbons, nitrogen oxides and various pollutants. These limits vary depending on whether the engine is two-stroke, four-stroke or compression-ignition. The proposed noise limits also take into account different types of engines: inboard, outboard, jet ski and single or multiple installations. Noise limits were deemed necessary as the Commission found that the majority of pleasure craft used in Europe were motor boats, generally operated in recreational areas where peace and quiet are perceived as important qualities. In addition, high levels of noise may also disturb the sensitive fauna also found in these environments. The environmental requirements of the amended Directive commenced from 1 January 2005 and must be fully implemented from the 1st January 2006 for all craft and engines covered by the Directive, with the exception of two stroke spark ignition engines which must be in force by 31 December 2006.

2.1.7 Safety at Sea

Council Directive 92/3 Euratom regarding the supervision and control of transfers of radioactive waste between Member States coming in and out of the Community	3 Feb. 1992	Official Journal L 035, 12/02/1992 P. 0024 – 0028 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1992&amp;nu_doc=3">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1992&amp;nu_doc=3</a>
Council Regulation (EC) No 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries)	8 Dec. 1995	Official Journal L 320, 30/12/1995 P. 0014 – 0024 <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31995R3051:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31995R3051:EN:HTML</a>
Council Directive 96/98/EC on marine equipment	20 Dec. 1996	Official Journal L046, 17/02/1997 P. 0025 - 0056 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=98">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=98</a>
Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over	11 Dec. 1997	Official Journal L 034 , 09/02/1998 P. 0001 – 0029 <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/l_034/l_03419980209en00010029.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/l_034/l_03419980209en00010029.pdf</a>
Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community	18 June 1998	Official Journal L 188 , 02/07/1998 P. 0035 – 0039 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1998&amp;nu_doc=41">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1998&amp;nu_doc=41</a>
Directive 2002/25/EC amending Council Directive 98/18/EC on safety rules and standards for passenger ships	5 March 2002	Official Journal L098, 15/04/2002 P. 0001 – 0126 <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_098/l_09820020415en00010126.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_098/l_09820020415en00010126.pdf</a>
Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC	27 June 2002	Official Journal L 208, 05/08/2002 P. 0010 – 0027. <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0059:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0059:EN:HTML</a>
Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships	5 Nov. 2002	Official Journal L 324, 29/11/2002 P. 0053 – 0058. <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf</a>
Directive 2003/24/EC amending Directive 98/18/EC on safety rules and standards for passenger ships	14 April 2003	Official Journal L 123, 17/05/2003 P. 0018 – 0021 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=24">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=24</a>
Directive 2003/25/EC on specific stability requirements for ro-ro passenger ships.	14 April 2003	Official Journal L 123 of 17/05/2003 P.0022-0041 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=25">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=25</a>

Directive 2003/75/EC amending Annex I to Council Directive 98/18/EC on safety rules and standards for passenger ships	29 July 2003	Official Journal L 190, 30/07/2003 P.0006 - 0009 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=75">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=75</a>
Directive 2003/103/EC amending Directive 2001/25/EC on the minimum level of training of seafarers	17 Nov. 2003	Official Journal L 326 , 13/12/2003 P. 0028 – 0031 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=103">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=103</a>
Commission Regulation No 415/2004 amending Regulation No 2099/2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the regulations on maritime safety and the prevention of pollution from ships	5 March 2004	Official Journal L 68, 06/03/2004 P. 0010 – 0011 <a href="http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_068/l_06820040306en00100011.pdf">http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_068/l_06820040306en00100011.pdf</a>

**- Council Directive 92/3 Euratom regarding the supervision and control of transfers of radioactive waste between Member States coming in and out of the Community**

The Directive applies to shipments of radioactive waste between Member States and shipments entering and/or leaving the Community. It does not cover the shipment of a sealed source that is returned to the supplier of the source by its user. It provides for a common, mandatory system of notification and a uniform control document for the transfer of radioactive waste. The Directive states that any conditions laid down by the competent authorities in respect of the shipment of radioactive waste within the Community may not be more stringent than those laid down by the national law of a Member State in respect of the shipment of radioactive waste on its territory. The Commission must prepare summary reports on the implementation of this Directive for the Council, the European Parliament and the Economic and Social Committee on the basis of the Member States' two-yearly reports. The third of these reports found that the number of transfrontier shipments of radioactive waste is low, 63 shipment authorisations were issued during the period covered by the report (COM (2001) 270 Final). Difficulties have been reported in exercising the right to return waste arising from reprocessing to its country of origin. The advisory committee established by the Directive suggested the possibility of a partial revision of the standard document established by Decision 93/552/Euratom.

**- Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries), amended by Commission Regulation (EC) No 415/2004 of 5 March 2004 amending Regulation (EC) No 2099/2002 of the European Parliament and of the Council establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the regulations on maritime safety and the prevention of pollution from ships.**

The objective of Council Regulation No. 3051/95 on the safety of roll-on/roll-off “ro-ro” ferries has the objective of enhancing passenger safety by improving their design and equipment, the quality of their crews and the responsibility of owners and operators of this type of ship. The Resolution invites Member States and European Commission to support the IMO’s initiative of a panel of maritime experts to recommend improvements in the safety of roll-on/roll-off passenger ferries. The Regulation was amended by Directive 2003/25/EC on specific stability requirements for ro-ro passenger ships.

**- Council Directive 96/98/EC of 20 December 1996 on marine equipment, amended by Directive 98/85/EC and subsequently by Directive 2002/84/EC on maritime safety and the prevention of pollution from ships.**

The objective of Directive 96/98/EC was to harmonize the application of international safety standards for marine equipment in the European Community. It also had the aim of preventing marine pollution through the uniform application of the relevant international instruments and ensuring the free movement of the equipment listed in Annex A throughout the European Union. The Directive was amended in 1998 by Directive 98/85/EC and later Directive 2002/84/EC outlined above.

**- Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, amended by Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships.**

Directive 97/70/EC introduced a standardised safety regime for fishing vessels of 24 metres in length and over and was adopted in December 1997. It is entirely based upon the 1993 IMO Torremolinos Protocol. For further information on this see:

[http://www.imo.org/Conventions/contents.asp?doc\\_id=675&topic\\_id=257](http://www.imo.org/Conventions/contents.asp?doc_id=675&topic_id=257) The Directive was amended by Directive 2002/84/EC outlined previously.

**- Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community; amended by Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships.**

To enhance the safety and possibilities of rescue of passengers and crew aboard passenger ships operating to or from ports in the Member States of the Community, and to ensure that the aftermath of any accident that occurs can be dealt with more effectively, Directive 98/41/EC was adopted. This Directive developed from the realisation, following shipping accidents in previous years (sinking of the Herald of Free Enterprise and the Estonia tragedy) of the need to improve the safety of the carriage of passengers by sea. All persons on board passenger ships departing from a port in a Member State must be counted prior to departure of the ship. The master of the ship, and the responsible person in the shipping company, must be given this information. The Directive allows for subsequent amendments so that any changes to the Safety of Life at Sea (SOLAS) Convention

can be applied. This Directive was also amended by Directive 2002/84/EC, above, on maritime safety and the prevention of pollution from ships.

**- Commission Directive 2002/25/EC of 5 March 2002 amending Council Directive 98/18/EC on safety rules and standards for passenger ships; amended by Directive 2003/24/EC, Directive 2003/75/EC and Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships.**

Council Directive 98/18/EC was adopted with the objective of establishing a harmonised set of safety rules and standards for passenger ships engaged on domestic voyages and to lay down procedures for international negotiation with a view to standardising the rules for passenger ships engaged on international voyages. The original Directive applied only to new passenger ships; existing passenger ships of 24 metres in length and above; and high-speed passenger craft. Directive 2003/24/EC was adopted to further tighten the safety rules and standards for passenger ships by establishing a uniform level of safety of life and property on new and existing passenger ships and high-speed passenger craft engaged on domestic voyages. It entered into force on 17 May 2003. In addition to the safety aspects of passenger ships, the Directive requires appropriate measures to be taken to enable persons with reduced mobility to have safe access to passenger ships and high-speed passenger craft engaged on domestic voyages in Member States. Each Member State must also compile and update a list of sea areas under its jurisdiction, delimiting the zones in which the four classes of ships, prescribed in the original Directive, operate all year round and those in which their operation is limited to a specific period. Directive 2003/75/EC amends Annex I of Directive 98/18/EC on safety rules and standards for passenger ships. Directive 2002/84/EC was described above.

**- Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC;**

The aim of Directive 2002/59 is to establish a Community monitoring, control and information system for maritime traffic, also subsequent to the sinking of the oil tanker Erika. The Commission felt that setting up a Community vessel traffic monitoring and information system would help to prevent accidents and pollution at sea and to minimise their impact on the marine and coastal environment, and on the economy and health of local communities. All ships of 300 gross tonnage and upwards are covered, whether or not they carry dangerous goods, with the exception of warships, fishing vessels and bunkers less than 5000 tons. The operator of a ship bound for a port of a Member State must supply information (ship identification, total number of persons on board, port of destination, estimated time of arrival) to the port authority at least twenty-four hours in advance, where this is feasible. The Directive also requires ships built on or after 1 July 2002 to be fitted with a “black box” to allow for investigations after an accident. Member States have until the end of 2007 to fulfill the requirements relating to this equipment. The Directive provides for the possibility of ships being prevented from leaving or entering port in the event of poor weather

conditions and obliges Member States to set up places of refuge to accommodate ships in distress. This is of particular importance for ships transporting dangerous or polluting goods.

**- Directive 2003/103/EC amending Directive 2001/25/EC on the minimum level of training of seafarers; and amended by Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships (see above).**

Directive 2001/25/EC stipulates minimum standards of training, certification and watch-keeping for seafarers serving on board Community vessels. It is aimed at ensuring that the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watch-keeping 1978 (STCW Convention), as revised, is implemented simultaneously and consistently in all Member States. The Directive does not apply to seafarers on fishing ships, warships, pleasure yachts or wooden ships of "primitive build". Amendments to the Directive were adopted and contained in Directive 2003/103/EC to improve, enhance and simplify the current procedure for recognition of certificates issued by third countries by introducing a recognition procedure at Community level for those certificates. As part of this, medical standards have also been introduced. In the interests of safety at sea, a Member State may recognise and endorse a certificate issued outside the EU only if it is from a country that is a party to the STCW Convention that has been identified by the IMO Maritime Safety Committee as having been shown to have given full effect to the standards set out in the STCW Convention.

**2.1.8 Pilotage**

Directive 79/115/EEC concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel	21 Dec. 1978	Official Journal L 033, 08/02/1979 P. 0032 – 0032. <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31979L0115:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31979L0115:EN:HTML</a>
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**- Council Directive 79/115/EEC of 21 December 1978 concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel;**

This Directive has the objective of ensuring that vessels wishing to use the services of pilots in the North Sea and the English Channel have access to adequately qualified deep-sea pilots. In addition, the Directive advocates the employment of such pilots in vessels flying the flags of Member States.

**2.1.9 Ports and Industry**

Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for	19 June 1995	Official Journal L 157, 07/07/1995 P. 0001 – 0019 <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31995L0021:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31995L0021:EN:HTML</a>
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ship safety, pollution prevention and shipboard living and working conditions		
Directive 98/25/EC amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions	27 April 1998	Official Journal L 133, 07/05/1998 P. 0019-0020  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31998L0025:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31998L0025:EN:HTML</a>
Directive 98/42/EC amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)	19 June 1998	Official Journal L 184 , 27/06/1998 P. 0040 – 0046  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31998L0042:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31998L0042:EN:HTML</a>
Directive 1999/97/EC amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)	13 Dec. 1999	Official Journal L 331, 23/12/1999 P. 0067 – 0070  <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31999L0097:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31999L0097:EN:HTML</a>
Directive 2000/59 on port reception facilities for ship-generated waste and cargo residues.	27 Nov. 2000	Official Journal L 332 , 28/12/2000 P. 0081 – 0090  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=2000&amp;nu_doc=59">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=2000&amp;nu_doc=59</a>
Directive 2001/106/EC amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)	19 Dec 2001	Official Journal L 019, 22/01/2002 P. 0017 – 0031.  <a href="http://europa.eu.int/eur-lex/prl/en/oj/dat/2002/l_019/l_01920020122en00170031.pdf">http://europa.eu.int/eur-lex/prl/en/oj/dat/2002/l_019/l_01920020122en00170031.pdf</a>

<p>Directive 2002/84/EC amending the Directives on maritime safety and the prevention of pollution from ships</p>	<p>5 Nov. 2002</p>	<p>Official Journal L 324, 29/11/2002 P. 0053 – 0058.   <a href="http://europa.eu.int/eur-lex/pr/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf">http://europa.eu.int/eur-lex/pr/en/oj/dat/2002/l_324/l_32420021129en00530058.pdf</a></p>
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- **Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (Port State control)** as amended by the Directives listed above.

- **Directive 2002/84/EC of 5 November 2002** amending the Directives on maritime safety and the prevention of pollution from ships (see above).

The purpose of Directive 95/21/EC was to improve maritime safety in Community waters by attempting to ban substandard shipping from them. It has been amended four times since its original adoption. The Directives apply to all merchant shipping and crews using a seaport of a Member State or offshore terminal or anchored off any such installation.

The first amendment to the Directive, Directive 98/25/EC, was adopted in order to take account of the recent changes made to MARPOL (Convention for the Prevention of Pollution from Ships) and SOLAS (International Convention for the Safety of Life at Sea) and the Convention on standards of training, certification and watch keeping for seafarers (STCW 1978).

Directive 98/42/EC amends Article 5.2 of the original Directive concerning the selection of ships for inspection by giving priority to ships referred to in Annex I, Part I.

Subsequent to changes to various IMO conventions, Directive 1999/97/EC was enacted to take such changes into account. Parallel to this, Member States are also obliged to take all necessary measures to remove any legal obstacle to the publication of the list of ships inspected, detained or being refused access to any port of the EU.

Directive 2000/59 on port reception facilities for ship-generated waste and cargo residues pursues the same aim as the 73/78 MARPOL Convention on the prevention of pollution by ships, that all the Member States have signed. However, in contrast to the Convention, that regulates discharges by ships at sea, the Directive focuses on ship operations in Community ports and addresses in detail the legal, financial and practical responsibilities of the different operators involved in delivery of waste and residues in ports.

The objective of Directive 2001/106/EC was to make compulsory rather than discretionary the system of inspections of certain potentially dangerous ships, to tighten up measures relating to manifestly substandard ships and to ensure more effective implementation of the original Directive 95/21/EC.

As outlined above, Directive 2002/84/EC has the overall aim to improve the implementation of Community legislation on maritime safety, prevention of pollution from ships and shipboard living and working conditions.

**2.1.10 Marine pollution**

*Pollution from shipping*

See list of Directives and descriptions under “Ports and Industry” above.

*Pollution from land*

See also the list of Directives and descriptions under “Management of Open Space in the Coastal Zone” above.

Directive 96/82/EC on the control of major-accident hazards involving dangerous substances	9 Dec. 1996	Official Journal L 010, 14/01/1997 P. 0013 - 0033 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=82">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=82</a>
Directive 2003/105/EC amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances	16 Dec. 2003	Official Journal L 345, 31/12/2003 P. 0097 – 0105 <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=105">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2003&amp;nu_doc=105</a>

**Directive 96/82/EC on the control of major-accident hazards involving dangerous substances** or the Seveso II Directive replaced Directive 82/501/EEC, the Seveso I Directive, named after the Italian town of Seveso that suffered exposure to an accidental release of dioxin in 1976. This 1996 Directive introduced important changes and new concepts. It focuses on protection of the environment, and was the first to cover substances considered dangerous for the environment, in particular aquatoxics. It introduced new requirements relating to safety management systems, emergency plans and land-use planning and tightened up the provisions on inspections and public information. Directive 2003/105/EC extended the scope of the Seveso II Directive to cover the processing and storage of minerals containing dangerous substances extracted in mining and quarrying, and the tailings disposal facilities used in these activities. Member States must ensure that the objectives of preventing major accidents are taken into account in their land-use policies, notably through controls on the siting of new establishments, modifications to existing establishments and new developments (transport links, residential areas etc.) in the vicinity of existing establishments.

**2.1.11 Waste**

Directive 75/442/EEC on waste	15 July 1975	Official Journal L 194, 25/07/1975 P. 0039 – 0041  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1975&amp;nu_doc=442">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1975&amp;nu_doc=442</a>
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Directive 75/439/EEC on the disposal of waste oils	16 June 1975	<i>Official Journal L 194, 25/07/1975 P. 0023 – 0025</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1975&amp;nu_doc=439">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1975&amp;nu_doc=439</a>
Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture	12 June 1986	<i>Official Journal L 181, 04/07/1986 P. 0006 – 0012</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1986&amp;nu_doc=278">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1986&amp;nu_doc=278</a>
Directive 91/689/EEC on hazardous waste	12 Dec. 1991	<i>Official Journal L 377, 31/12/1991 P. 0020 – 0027</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1991&amp;nu_doc=689">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1991&amp;nu_doc=689</a>
Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)	16 Sept. 1996	<i>Official Journal L 243, 24/09/1996 P. 0031 – 0035</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=59">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1996&amp;nu_doc=59</a>
Directive 99/31 on the landfill of waste	26 April 1999	<i>Official Journal L 182, 16/07/1999 P. 0001 – 001</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1999&amp;nu_doc=31">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=1999&amp;nu_doc=31</a>
Directive 2000/76/EC on the incineration of waste	4 Dec. 2000	<i>Official Journal L 332, 28/12/2000 P. 0091 – 0111</i>  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2000&amp;nu_doc=76">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_doc=2000&amp;nu_doc=76</a>

**- Directive 75/442/EEC on waste**

The objective of Directive 75/442/EEC on waste was to set up a system for the coordinated management of waste within the Community in order to limit waste production. Member States must prohibit the uncontrolled discarding, discharge and disposal of waste. They shall promote the prevention, recycling and conversion of wastes with a view to their reuse. The Directive does not apply to radioactive waste, mineral waste, animal carcasses and agricultural waste, wastewater, gaseous effluents and wastes that are subject to specific Community Regulations. This Directive has been amended many times: Directive 91/156/EEC, Directive 91/692/EEC and Directive 96/59/EC (see below).

**- Directive 75/439/EEC on the disposal of waste oils**

To aim of this Directive is to encourage the safe collection and disposal of waste oils and applies to any mineral-based lubrication or industrial oils that have become unfit for the use for which they were originally intended. Member States are required to ensure that waste oils are collected and disposed of by processing, destruction, storage or tipping above or under ground. Discharge into inland surface water, ground water, territorial sea water and drainage systems is prohibited.

**- Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture**

As some heavy metals present in sewage sludge may be toxic to plants and man, the use of sludges be regulated so as to prevent damage to soil, surface and ground water. The Directive lays down limit values for concentrations of heavy metals in the soil (Annex IA), in sludge (Annex IB) and for the maximum annual quantities of heavy metals that may be introduced into the soil (Annex IC). Five years after the enactment of this Directive, and subsequently every four years, Member States must prepare a consolidated report on the use of sludge in agriculture, specifying quantities used, criteria followed and any difficulties encountered. This report must be communicated to the Commission.

**- Directive 91/689/EEC on hazardous waste**

This Directive provides for the management, recovery and correct disposal of hazardous waste. Member States are obliged to make sure that hazardous waste is recorded and identified; they must also ensure that different categories of hazardous waste, according to the Annexes of the Directive, are not mixed and that hazardous waste is not mixed with non-hazardous waste. Any establishment or undertaking that carries out disposal operations must obtain a permit. This also applies in the case of operations that may lead to recovery. However, the permit requirement may be waived in the latter case, if the method of recovery is such that there is no danger to human health or the environment, or if the Member State has adopted general measures laying down conditions for various methods of recovery, provided the conditions have been communicated to the Commission. See also the various Directives listed under the Shipping and Safety at Sea sections their may also apply to hazardous waste.

**- Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)**

The objective of this directive was to harmonise the laws of the Member States on the controlled disposal of PCBs, the decontamination or disposal of equipment containing PCBs and/or the disposal of used PCBs in order to eliminate them completely. Member States were obliged to compile inventories of equipment with specified levels of PCBs in them to the Commission by September 1999 at the latest. Such equipment and PCBs contained in the inventories must then be decontaminated or disposed of by 2010 at the latest.

**- Directive 99/31 on the landfill of waste**

The Directive is intended to prevent or reduce the adverse effects of the landfill of waste on the environment, in particular on surface water and groundwater. The Directive classifies types of waste as well as types of landfill. Any site classified as a landfill site must comply with the provisions of the Directive. Member States must inform the Commission of implementation measures of this Directive every three years.

**- Directive 2000/76/EC on the incineration of waste**

Incineration of waste can cause air, soil and water pollution. As a preventative measure, this Directive was enacted to prevent and reduce as far as possible these effects as well as protect human health. Previous Directives on waste incineration were deemed to be inadequate and so this Directive was intended to fill the gaps existing in the legislation. The Directive covers the incineration of non-toxic non-municipal waste (such as sewage sludge, tyres and hospital waste) as well as toxic wastes not covered by Directive 94/67/EC. It also gives effect to various international agreements to which the European Union is a signatory, such as the protocols signed in 1998 under the aegis of the United Nations Economic Commission Convention on long-distance cross-border atmospheric pollution. By 31 December 2008, the Commission must report to Parliament and the Council on the application of the Directive, progress achieved in emission control techniques and experience with waste management. By the end of 2005, Directive 94/67/EC on hazardous waste and Directives 89/429/EC and 89/369/EC on air pollution from incinerators will be repealed.

**2.1.12 Tourism**

Directive 76/160/EEC concerning the quality of bathing water	8 Dec. 1975	<i>Official Journal L 031 , 05/02/1976 P. 0001 – 0007</i> <a href="http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31976L0160:EN:HTML">http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31976L0160:EN:HTML</a>
Communication from the Commission to the European Parliament and the Council Developing a new bathing water policy	21 Dec. 2000:	COM (2000) 860 Final <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=COMfinal&amp;an_doc=2000&amp;nu_doc=860">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=COMfinal&amp;an_doc=2000&amp;nu_doc=860</a>

**- Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water; amended by Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment (see above section on EIA)**

The Bathing Water Directive was introduced originally for the benefit of public health rather than to protect the environment. The Directive applies to both freshwater and seawater, where bathing is either officially authorised or traditionally practised. The Directive lays down the minimum quality criteria to be met by bathing water. This includes:

- physical, chemical and microbiological parameters;
- mandatory limit values and indicative values for such parameters; and,
- minimum sampling frequency and method of analysis or inspection of such water.

Member States are obliged to comply with the minimum standards set out in the Directive but may enforce more stringent standards if they wish. Sampling results must be submitted to the European

Commission annually. On 24 October 2002, the Commission adopted a proposal for a revised Directive concerning the Quality of Bathing Water COM (2002) 581. This is available from: [http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002\\_0581en01.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0581en01.pdf)

The new proposal is intended to deliver improved health standards, more efficient management including the active involvement of the public and allowing Member States greater flexibility in the way they implement the Directive. The proposed Directive makes use of only two bacteriological indicator parameters, but sets a higher health standard than the 1976/160 Directive. Based on international epidemiological research and on the experience with implementing the current Bathing Water and Water Framework Directives, the revised Directive provides long-term quality assessment and management methods in order to reduce both monitoring frequency and monitoring costs. The new Directive puts emphasis on the proactive management of beaches, not just the regular monitoring of water quality. It also foresees that an assessment should be made at each bathing site of the likely sources of contamination and a management plan drawn up in order to minimise the risks to bathers. Where bathing sites have a history of poor water quality, such as at times of unusually severe weather conditions, preventive measures should be taken to close the bathing site. Where standards are not respected, remedial measures must be taken.

The proposed Directive requires that information on the status of a bathing site, the monitoring data on water quality, the management plan and other relevant information be made readily available to the general public. As well as being physically displayed at the site, information should also be available through the media and the internet. The users of bathing water sites should be actively involved in the development of the management plan by way of public consultations. Both these factors, public involvement and reflecting local specificity, are two of the principles of ICZM outlined in the 2002 Recommendation. In addition to the proposed Directive, bathing water quality will also be improved through the implementation of the Water Framework Directive (2000/60/EC). The WFD requires that good status should be achieved for all waters. As outlined above, Member States must put in place river basin management plans including an analysis of the river basin's characteristics, a review of the impact of human activity on the waters in the basin, and an economic analysis of water use in the district. This integrated approach upstream will contribute to the improved quality of downstream bathing waters.

**2.1.13 Access to Environmental Information and Public Participation**

Directive 2003/4/EC on public access to environmental information	28 Jan. 2003	<i>Official Journal L 041, 14/02/2003 P. 0026 - 0032</i> <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=2003&amp;nu_doc=04">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=2003&amp;nu_doc=04</a>
Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans	26 May 2003	<i>Official Journal L 156, 25/06/2003 P. 0017 – 0025</i> <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celex">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celex</a>



and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC		<a href="#">plus!prod!DocNumber&amp;lg=en&amp;type_doc=Directive&amp;an_d oc=2003&amp;nu_doc=35</a>
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**- Directive 2003/4/EC on public access to environmental information**

On 25 June 1998 the Community signed the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). Community law needs to be consistent with the Convention in order for the latter to be ratified. This Directive aims at achieving that. Member States must ensure that public authorities make environmental information held by or for them available to any applicant on request and without having to state an interest. Information must be made available to the applicant not later than one month after receipt of the request. Member States must send the Commission a report on the application of the Directive not later than 14<sup>th</sup> August 2009. In turn, the Commission must report to the Council and the European Parliament and propose any appropriate revision of the Directive.

**- Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC**

This Directive is intended to implement the third pillar of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Århus Convention) at the level of the Community and the Member States. The ultimate aim is to improve the application of environmental law. Shortcomings of enforcement of environmental law are pointed out, inter alia, in the 6<sup>th</sup> Community Environment Action Programme (Official Journal L 242, 10/9/2002, p.1) where it was recognised that better access to courts for non-governmental organisations and individuals would have a beneficial effect on the implementation of Community law which culminated in the enactment and adoption of this Directive.

**2.2 TRANSLOCATION OF MAIN LEGISLATION AND ASSOCIATED PROBLEMS**

**2.2.1 General**

Directives are the only form of European legislation that need national implementing measures. Article 176 of the EC Treaty describes the relationship of European legislation with national legislation by establishing the principle of minimum standardisation. It states that “the protective measures adopted pursuant to Article 176 shall not prevent any Member State from maintaining or introducing more stringent protective measures”. In practical terms, the scope of national deviation from enacted European legislation is quite limited. Firstly, Member States may only adopt more stringent national measures. This means they are not allowed to adopt less stringent measures or measures that differ in orientation from those adopted by the EC. Secondly, the Treaty adds that such national measures must be compatible with the Treaty and must be communicated to the



## EU legislation and policies with implications for coastal management

Commission. Specifically this means that national measures must not contradict provisions relating to the common market, such as free movement of goods and competition. Article 211 of the Treaty entrusts the Commission with the task of supervising Treaty obligations and its secondary legislation by the Member States.

If a Member State fails to fulfil its Community obligations, the principle of dual vigilance allows Community law to be enforced at two levels. The Commission may institute proceedings under Article 226 of the European Treaty before the European Court of Justice against a defaulting State at the Community level. In addition, an individual may seek to protect rights granted by Community law before national Courts in the absence of implementation by a Member State. In this report, infringement proceedings by the Commission are of most relevance. It is important to note here, however, that as the Commission has no environmental inspectorate as such, most proceedings taken by it are based on complaints received by individuals and / or non-governmental organisations (NGOs) such as Greenpeace and Friends of the Earth. Such a complaint must be in writing but does not have to be technical in content. If the Commission receives and registers a legitimate complaint, the Secretariat General of the Commission will send the person making the complaint an acknowledgement and case number to be used in future communications. The Commission will then correspond with the Member State's permanent representative to the Community asking for a formal response and further information within a two-month time period. If no communication, or inadequate information, has been received from the representative by this time the Commission will send a letter of formal notice to the Member State's foreign secretary. This letter will define the subject matter of the alleged infringement and, at this stage, the Commission is said to be formally commencing an Article 226 procedure.

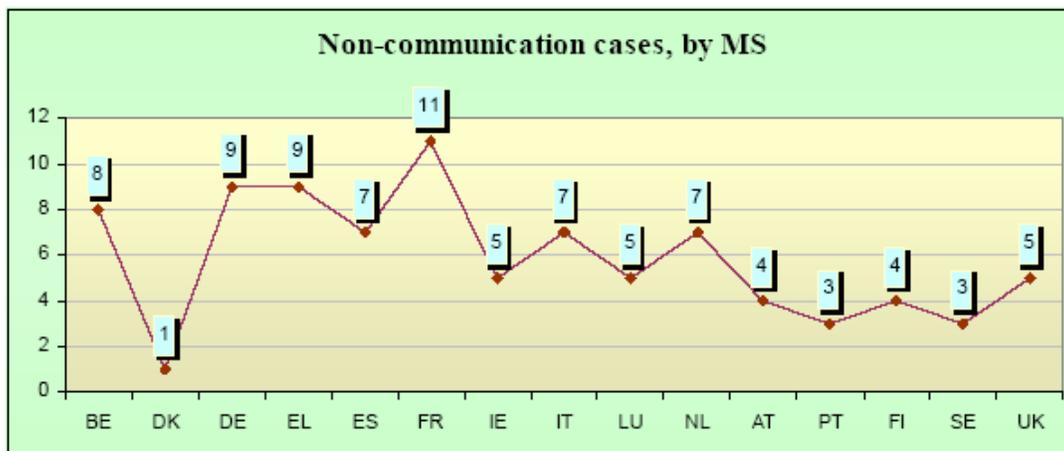
After this, the Commission will investigate the complaint with a view to making a decision on whether to open proceedings within one year of the date of registration of the complaint. During this time period, in-depth discussions will take place between the Commission and the Member State representatives. If the Commission is unsatisfied after these discussions, it will issue a reasoned opinion which details the legal arguments against the Member State. Further discussions will take place for up to two months after the issuing of the reasoned opinion. If at this stage the Commission remains unsatisfied, it will register an application with the Court of Justice. If the Court of Justice finds against the Member State, the latter is obliged to take the appropriate measures to comply with the judgement under Article 228 of the Treaty. With the adoption of the Maastricht Treaty, the Commission can now ask the Court of Justice to impose a specific lump sum as a penalty. Such fines range from €26,000 to €30,000 for each day the Member State in question continues to ignore the Court judgement. Revenue generated from such fines is paid into the Commission's EC Own Resources account and are not used or invested into alleviating environmental pressures (Davies, 2004).

Appendix 1 contains a matrix of European legislation with direct and indirect implications for the coastal zone. Column 1 of the matrix lists all European Directives with implications for the coastal zone. In addition to this information, column 2 lists the relevant national transposing mechanism(s) for each north-west Europe Member State. Column 3 was intended to give information on any inadequacies or gaps associated with the transposing mechanisms. It was found generally that such information was hard to compile from the relevant Member States. Many legal databases such as CELEX and Westlaw list national implementing mechanisms compiled from information sent directly to the Commission, however, few Member States supply this information in a standardised format or on a regular basis. In relation to this problem, Macrory (1996) stated that “some Member States seem to take an almost perverse pleasure in leaving it to Commission officials to puzzle out the intricacies of what are often complex national laws themselves and relate them to the Directive in question”. While every effort has been made to ensure accuracy, information from such databases should be used for guidance only.

According to the detailed implementation of environmental law reports that the Commission has prepared for the European Parliament since 1990, many environmental Directives are transposed too late and incompletely into national law. However, as Jan Brinkhorst (1999) states, the most important failure lies in the lack of operational application of Directives, even those that have been formally enshrined in national legislation. For these reasons, cases before the European Court of Justice regarding the non-implementation of essential Community Directives have increased considerably. Similar to earlier years, the fifth annual survey on the implementation and enforcement of Community environmental law in 2003 found that the environment sector represented over a third of all complaints and infringement cases concerning instances of non-compliance with Community law investigated by the Commission. The number of new complaints remains higher than 500 per year. In 2003, 505 new complaints alleging breaches of Community environmental law were lodged with the Commission. The Commission brought 58 cases against Member States before the Court of Justice and issued 122 reasoned opinions on the basis of Article 226 of the EC Treaty.

The fifth annual survey on the implementation and enforcement of Community environmental law provides a scoreboard per Member State and sector showing the number of non-communication, non-conformity and horizontal bad application cases. Those of concern in this report are non-communication and non-conformity. The Commission automatically opens an infringement procedure for non-communication if a Member State has not adopted the national measures to transpose the Directive within a prescribed deadline. Within two months of the adoption of a Directive, Member States are placed on notice by the Commission of the need to notify the national measures that transpose or implement the relevant EC measure. Non-communication may either be total, i.e. a Directive has not been transposed at all, or partial, i.e. only certain provisions of the Directive have been transposed and/or transposition measures do not cover the whole territory of a

Member State. Once transposition is complete, the Commission closes the infringement procedure. Results for each Member State on non-communication are illustrated in Table 2.1.

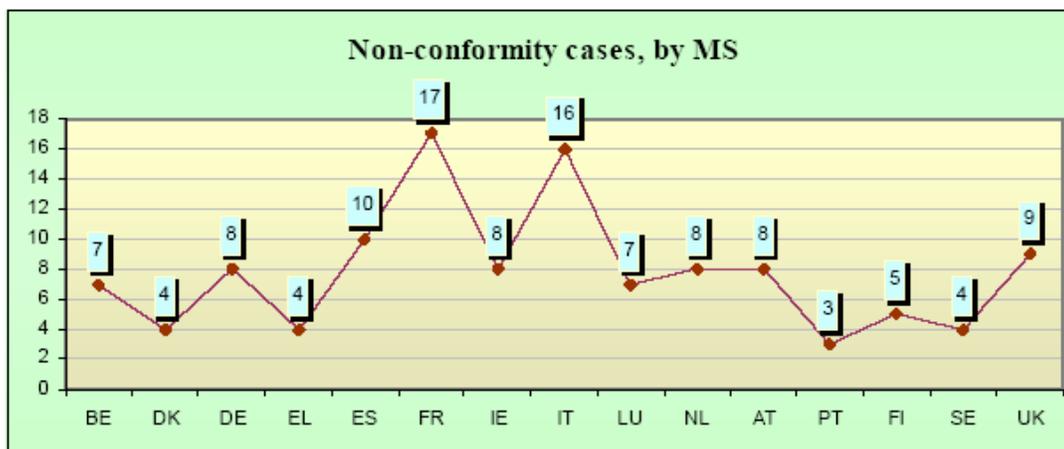


Source: Fifth Annual Survey on the implementation and enforcement of Community environmental law 2003. European Communities, 2004a.

**Table 2.1 Non-communication of transposing mechanisms by Member States within the prescribed time limit. Transposing mechanisms is taken to include national laws, regulations and administrative provisions.**

Once national implementing measures have been communicated to the Commission, the next priority is to ensure that such measures conform with the relevant Directive. The legal unit within DG Environment has the task of assessing compliance. In addition to this, the issue may be further complicated by the fact that competence is shared by central Government and regional Governments in several Member States, for example, the United Kingdom. In addition, the Directive may not be transposed by a single national measure but several sectoral measures, as is clearly evident from Column 2 of the matrices in Appendix 1. The EIA Directive in the United Kingdom, for example, has over forty separate implementing regulations implementing the provisions of the Directive (Haigh, 1999).

Non-conformity issues in the sector of water include non-compliance with the parameters of bathing water quality under the Bathing Water Directive and failure to adopt pollution reduction programmes under the Dangerous Substances Directive. With respect to nature conservation and landscape protection, non-conformity issues mainly include hunting periods and hunting practices not in line with the Birds Directive, as well as insufficient protection regimes for sites and species under the Habitats Directive. Environmental Impact Assessment conformity problems are often related to national laws that do not ensure that all qualifying projects are made subject to the assessment procedures required by the Directive, including public consultation. Results for each Member State on non-conformity are illustrated in Table 2.2.



Source: Fifth Annual Survey on the implementation and enforcement of Community environmental law 2003. European Communities, 2004a.

**Table 2.2 Non-conformity cases by Member States.**

With regard to the original EIA Directive (85/337/EEC) problems with the conformity of national measures have persisted. Conformity problems are often related to national laws that do not ensure that all projects for which impact assessment must be carried out are made subject to the assessment procedure required by the Directive. During 2003, the Commission brought Ireland to Court under Article 228 of the EC Treaty for not complying with a Court judgement from 1999 regarding proper transposition of certain provisions of the Directive, including especially, peat extraction projects (Case C-392/96). The Commission has also issued reasoned opinions to several Member States and decided to refer Germany, Ireland, the United Kingdom and Spain to the Court for incorrect transposition of the EIA Directive (European Communities, 2004a).

## 2.2.2 North-west Europe Member State specific

### 2.2.2.1 Belgium

Environmental responsibilities and powers in Belgium are to a large extent attributed to the regions, of which there are three. The federal legislator, who issues statutes, is only competent for those matters that have been explicitly indicated by the Constitution as federal competence. This includes general provisions on environmental policy and the protection of the North Sea. Generally, coastal areas are public property subject to public access rights. This can change between regions. Environmental legislation in Belgium traditionally had a very strong administrative nature. One of the earliest laws of relevance to the coastal zone was the Water Protection Act of 1971. After this, with federalisation, regions gained more authority and there was a pronounced increase in sectoral regional legislation or decrees. This has important implications for European legislation: as a result of federalisation the majority of responsibility with respect to environmental law has been attributed to the regions. Deketelaere & Faure (1999) state that one consequence of this was that a structure had to be devised to involve the regions at an early stage in the negotiations concerning matters that came into their remit. This process led to considerable delays in the implementation of

European Directives in one or more of the regions. In 2003, infringement proceedings were taken against Belgium for failure to communicate the necessary legislation giving effect to Directive 97/11/EC amending the 1985 EIA Directive. The deadline for communicating such implementing measures for all Member States was 14 March 1999. Given the competency of the regions a special article was included in the Reform Law of 1980 that provides for cooperation between the Federal State, the communities and the regions. The objective is to avoid a promulgation of conflicting or different regulations in the three regions, especially in relation to transboundary issues. In addition, if a region does not implement a Directive within the required time period the Federal State receives, under very strict conditions, the right to regulate instead of the negligent region. Obviously, such a division of responsibilities between federal and regional agencies pronounces the traditional land-sea divide problem.

### **2.2.2.2 France**

France has a long history of coastal management despite the numerous national, regional and local agencies with both statutory responsibilities and auxiliary interests in coastal issues. In 1974, the French Government published a report entitled "*Le Littoral Français*" from which two important initiatives developed. The first initiative was to introduce a principle of intensive, integrated management aimed at providing and sustaining large areas of natural coastline for leisure activities, while the second initiative culminated in the establishment of the *Conservatoire Cotier* in 1975. This programme had the aim of acquiring coastal lands for conservation purposes. The law defining this programme is now consolidated in the *Code Rural*. In 1986, a more substantial piece of coastal legislation, the *loi littoral*, was enacted that requires local areas or *communes* to consider the coastal environment when preparing plans for their local area. The *loi littoral* prohibits development along the coastal strip in an area 100 metres from the landward shore in urban areas. The concept of a public maritime domain was also introduced by this law. This generally ensures pedestrian access to the beach and prohibition of vehicular access in most coastal areas. France has had a chequered history in transposing European legislation, however, this has improved significantly in recent years. Between 1985 and 1990, the French Government tended to use administrative orders instead of primary legislation to transpose Directives until they were sentenced by the European Court of Justice (case 13-90). In certain cases, France considered the existing legislation to be sufficient to implement Directives on waste, natural habitats, wild birds and EIAs. With respect to the EIA Directive (85/737), the French considered that the 1976 law on classified installations rendered implementation of any further legislation unnecessary. France has also had difficulty in meeting time limits set by the Commission for implementing Directives. Recently the Court ruled against France for its failure to fulfil its obligations under Articles 2(a), 3(1), (2) and (4) of Directive 90/313/EEC on freedom of access to information on the environment (Case C-233/00). The Court decided that French measures did not ensure formal, explicit and correct transposition of several aspects of the Directive, including the obligation to provide reasons following a refusal to grant access to the information (European Communities, 2004a). The Commission also issued a letter of formal notice to France for non-compliance with a Court

judgement concerning bathing water quality (Case C-147/00). Until recently, due to the possibility offered by Articles 34 and 37 of the 1958 French Constitution, the Government was able to implement most European Directives in the area of environmental protection through regulations rather than by statute. This was recently amended however, through the Maastricht Treaty, by a new Article 88.4 that provides for a procedure that should allow the French Parliament to participate in the preparation of the French position with the EC Council of Ministers meetings (Dutheil de la Rochère, 1999).

### **2.2.2.3 Germany**

The enforcement of environmental law in Germany is the responsibility of both the federal Government and the regions, or *Länder*, in accordance with Article 83 of the Basic Law. Administrative authorities is not standardised throughout the regions. Germany has no defined national law or policy for coastal zone management. More than 30 national laws, regulations and Directives are relevant to the coastal zone. The laws usually meet specific, sectoral requirements. In coastal waters alone, more than 10 national and federal state ministries as well as national, federal state and regional authorities have responsibility. With respect to coastal zone management, many elements of the German spatial planning system already covers many aspects of ICZM but Schernewski (2002) points out several shortcomings:

- responsibilities are overlapping and scattered;
- legislation is sectoral and complex;
- spatial planning does not take the coastal waters into account;
- pronounced division between coastal waters and land still exists;
- shortcomings in co-operation, communication and public participation; and,
- availability of data and access to information still needs to be improved.

In the spatial planning system, the most important elements are the legally-binding Regional Planning Programmes prepared by State Regional Planning Authorities for every Federal State or region. The results of the planning process are maps showing actual uses and future development goals. European legislation assumes an increasing importance in Germany with some existing laws based on the stipulations of European Directives such as the Habitats and Birds Directives. In relation to the Habitats Directive, infringement proceedings were launched against Germany for failure to comply with an earlier Court judgement (Case C-071/1999) relating to Sites of Community Importance. In addition, with respect to the Environmental Impact Assessment Directive, Germany was referred to the Court in 2003 for incorrect transposition of the Directive. A reasoned opinion was also issued to Germany for failing to conform with Directive 91/676/EEC concerning the protection of waters against pollution by nitrates from agricultural sources. Germany is one of the signatories to the Trilateral Cooperation on the Protection of the Wadden Sea with the Netherlands and Denmark. It is also a party to the Helsinki Convention on the Protection of the Marine Environment of the North Sea.

#### **2.2.2.4 Ireland**

Coastal management in Ireland has proceeded largely in an *ad hoc* manner. Much of the legislation is out-dated and inadequate to provide successful coastal management. This is primarily due to the fact that the legislative framework is complex and largely sectoral, with a strong land-sea divide. As a result, administration of the coastal zone is also strongly divided with the Department of Communications, Marine & Natural Resources (DCMNR) responsible for the seaward side and the Department of the Environment, Heritage and Local Government responsible for landward planning and activities. The three Government departments responsible for the coastal zone in 1996 commissioned a team of consultants to prepare a draft policy on coastal zone management for Ireland. This was published in 1997, but to date no further action has been taken. Various changes to legislation since then, however, have aimed to simply and alleviate certain problems identified in the draft policy. The strong land-sea divide problem, for example, was addressed by changes to the Planning & Development Act, 2000 where foreshore development was added as a management function to local authorities. In practice, this has had little effect as ultimately jurisdiction remains with the DCMNR. Ireland has a good record in communicating implementation mechanisms to the Commission, however, in certain instances those mechanisms have been inadequate or weak. With respect to the EIA Directive, Ireland was taken to Court by the Commission in 2003 for not complying with a Court judgement from 1999 regarding proper transposition of certain provisions of the Directive, including especially, peat extraction projects (Case C-392/96). Similarly, Ireland has been issued with a reasoned opinion for contravening the terms of this Directive by designating and protecting too few shellfish waters. By its judgement of 11 September 2003, the Court condemned Ireland for not adopting programmes for all of its designated shellfish waters in accordance with Article 5 of the Directive (Case C-67/02). The Commission has also decided to refer Ireland to the European Court of Justice for failing to ensure groundwater investigations and authorisations in all the circumstances required by the groundwater Directive (80/68/EEC). Various authors have remarked on Ireland's inadequate transposition of both the Birds and Habitats Directives. Scannell *et al.*, (1999) state that the regulations implementing the Habitats contain "anomalies, mistakes and inconsistencies which reflect badly on the State". The Commission is also aware of this and during 2003, the Commission decided to refer Ireland to Court for failure to designate a sufficient number of SPAs for wild birds. The Wildlife (Amendment) Act, 2000 attempted to address these issues while simultaneous strengthening the habitat/site protection measures which, in the Wildlife Act, 1976 were relatively weak, and almost completely limited to measures that could be introduced in agreement with landowners.

#### **2.2.2.5 The Netherlands**

Coastal management in the Netherlands has always been of paramount concern to the nation. Over 50% of the land territory is susceptible to flooding especially during storm surges. At least \$3.5 billion has been spent on protecting the Dutch coast since the Delta Act of 1958. Generally Dutch coastal management programmes are based on strong Government control. Almost all coastal land is state-owned and managed. The Dutch Constitution reaffirms the importance of the

environment in Article 21 which states that public authorities will endeavour to ensure a good quality of life in the Netherlands and to protect and enhance the living environment. Like other European countries, legislation is predominantly sectoral in nature. National marine policy is developed by the Department of Transport, Public Works and Water Management. Policy coordination and implementation is undertaken by the *Rijkswaterstaat* that was founded in the 1700s. This agency is responsible for all aspects of water management including navigation and shoreline erosion. Gibson (1999) lists other main pieces of legislation relating to the coastal zone as including:

- Environmental Protection Act;
- Spatial Planning Act;
- Nature Conservation Act;
- Water Management Act;
- Reclamation and dike Building Act;
- Pollution of Surface Water Act;
- Fishing Act;
- Excavation Act; and,
- Shipping Traffic Act.

Provincial and municipal authorities have physical planning competencies in translating national policy, as well as regional and local policy plans into regional '*streekplannen*' and local '*bestemmingsplannen*'. Only the latter have a legal status. In addition, municipal authorities are entitled to issue public order regulations, e.g. to prohibit dangerous or disturbing recreational activities. The Netherlands is also one of the signatories to the Trilateral Cooperation on the Protection of the Wadden Sea with Denmark and Germany. With respect to European legislation, the Netherlands almost never chooses to implement the literal text of a Directive but almost always tries to maintain the national system and incorporate the requirements of the Directive within this system (Koeman, 1999). Such a form of implementation requires rather a lot of time and creates the risk that, in hindsight, it must be determined that the implementation did not occur directly. As a consequence, it regularly happens that implementation did not occur in accordance with the terms of the Directive and/or the implementation did not occur in a proper manner. With respect to the EIA Directive, the Dutch rules concerning EIAs are found in Chapter 7 of the Environmental Protection Act in conjunction with the EIA Decree. In the Netherlands, the list of activities that require an EIA is substantially larger than the list of activities listed in the Annexes of the EIA Directives.

### **2.2.2.6 The United Kingdom**

As the United Kingdom is made up of England, Wales, Scotland and Northern Ireland there are notable differences between the various states as regards what laws apply, the court system and the organisation and functions of different branches of Government. This is further complicated by the devolved powers of Scotland and Wales and perhaps Northern Ireland in future. This is

particularly evident in the United Kingdom matrix, Appendix 1(f), where it is clear that many legislative instruments enforce parent Acts in different jurisdictions. The United Kingdom, unlike many other European countries, has no written constitution, so there is no fundamental document ascribing functions to different branches of Government. Jones (1999) states that the British approach to legislation and Government generally is stronger on pragmatic solutions to perceived problems than it is in the enunciation of fundamental principles. Although there is a large amount of detailed environmental legislation, there is no framework measure for elaborating fundamental policies and principles. The most substantial pieces of environmental legislation are the Environmental Protection Act 1990 and the Environment Act 1995. Both these pieces of legislation were enacted in order to improve a variety of particular aspects of environmental regulation. Like the Irish legislation, the regulations seek to tackle specific issues of a sectoral nature and no more. In addition, landward activities are controlled and regulated primarily through the Town & Country Planning Act. Seaward activities are the responsibility of the Crown Estate, who manage the foreshore and territorial sea area for the Crown, as it is designated Crown property. In 2003, the UK Department for Environment, Food and Rural Affairs (DEFRA) and the devolved administrations joined together to commission the stocktake exercise for the UK. This was completed in April 2004. Parallel to this exercise, the UK Government is currently preparing a new Marine Bill that seeks to ensure greater protection of marine resources and simplify regulations, so that all uses of the sea can develop sustainably and harmoniously. This will be in addition to the new Offshore Marine Environment Regulations to be published this Autumn that will extend the EU Habitats and Birds Directives offshore, all the way to the 200 mile limit. With respect to the Habitats Directive, the UK were referred to the European Court of Justice in 2003 as a result of shortcomings in the legislation transposing the Directive.

## **2.3 CONCLUSIONS**

### **2.3.1 Implementation and enforcement aspects**

Implementation and enforcement of environmental legislation are not often seen as priorities by Member States as can be seen from the number of cases the Commission has taken against Member States to the European court. In the early days of the European Community, DG XI (or DG Environment as it is now) focused its energies on enacting new pieces of legislation rather than effective implementation and enforcement of existing measures. It was only when the European Parliament severely criticised the Commission in 1984 that it began to take its enforcement responsibilities seriously. Since the Maastricht Treaty, the Commission has strengthened its policy relating to enforcement and stresses the importance of coordination through the “regulatory chain”. The European Commission (1997) defined the regulatory chain as “the whole process through which legislation is designed, conceived, drafted, adopted, implemented and enforced” and as such, involves administrations at national and regional levels as well as at a European level. The threat of fines also seems to encourage compliance with ECJ judgements and the Commission appears prepared to use its powers. Four of the five cases taken by the Commission for the first

time in 1997 were settled to the Commission's satisfaction by the end of 1997 (European Commission, 2001a).

From the above outline of general implementation and transposition of European legislation, it can be concluded that most measures taken against Member States are a result of either late implementation or incorrect implementation. Where a Member State has transposed a Directive on time and correctly, attention then focuses on whether the aims of the Directive are being met in practice. In this regard, practical application refers to actions taken by Member States to fulfil or implement the specific requirements of Directives on the ground. These requirements could be achieving a defined quality standard, or compliance with a stated procedure. The Bathing Waters Directive, for example, defines quality standards. Tied to this is the fact that Member States must monitor compliance which may be difficult to guarantee given that many of the national authorities/agencies responsible for such tasks are often under-resourced.

### **2.3.2 Addressing the problem**

In the context of environmental law enforcement, the IMPEL Network was established by DG Environment in 1992 to act as a forum for the exchange of expertise and best practice among the national environmental agencies of the various Member States. The core of IMPEL's activities concern the training of inspectors, minimum criteria for environmental inspections, exchange of information and experience on implementation and enforcement of existing EU environmental legislation, development of common views on the coherence and practicality of current EU legislation and on commenting issues of practicality and enforceability at an early stage in the development of new EU legislation, before a proposal is formally tabled. IMPEL's work is explicitly recognised in the 6<sup>th</sup> Environment Action Programme.

The essence of the IMPEL network is its projects. As a general rule, the projects look at how legislation is currently applied and enforced and good practice is subsequently defined. IMPEL carried out a project to examine the challenges that IMPEL members face in the practical implementation of EU legislation and to suggest recommendations for improvements to legislation. This involved gathering information on experience in implementing EU legislation from IMPEL members and discussing the results and developing conclusions through project meetings. It covered a range of issues relating to the practical implementation of legislation, such as clarity, coherence and proportionality. The main recommendations of the project include, amongst others (European Commission, 2004a):

- More individuals with practical experience should be involved in the law making process;
- Before drafting a new law, it should be standard practice to review all related EU legislation, international Conventions and ECJ cases, including those from other policy fields;

- Issues such as coherence of legislation should be assessed during the Commission's extended impact assessment. The Council and European Parliament should also assess the consequences of their amendments, by comparing them to the Commission's original proposal and impact assessment;
- There is also a need for an overall, strategic approach to broad sectors of environmental policy, such as through the use of framework Directives;
- Definitions must be clear and unambiguous, especially in framework Directives, and particularly when they determine some key aspect of the scope of a measure or define the regulatory requirements. Technical definitions in different laws should be, as far as possible, identical in terms of units and scientific meaning;
- For current legislation, IMPEL projects may provide a route to compare and analyse implementation problems and make recommendations for improvement.

The fifth Annual Survey on the implementation and enforcement of Community environmental law (European Commission, 2004a) also states that, with new legislation, IMPEL could be involved in examining drafts at an early stage and commenting from the point of view of enforceability and practicality. IMPEL should give more attention to making use of its considerable practical experience in the implementation of EU environmental legislation. IMPEL members are in a good position to identify and comment on aspects of the current legislation that hinder its practicality and enforceability. In this regard, it could play an advisory role for the European Commission in the field of giving feed-back to the regulators by bringing in practical experiences. It could also be tasked with preparing guidelines on how to implement specific Directives that could then be distributed and used by the national, regional and local Governments in Member States that are responsible for implementing such Directives. This could clarify issues that sometimes present difficulties to regulators, such as definitions and scope of a Directive.

The establishment of the European Environment Agency (EEA) has been an important development for the provision of accurate environmental data. This data is made available to the Commission and to national legislators in order to assist in the development of environmental policy and legislation. In addition, the EEA has strived to provide accurate data to allow for more effective evaluation of legislation and its implementation. One of the tasks of the EEA, for example, has been to harmonise reporting of environmental data by Member States as well as assisting them in analysing such data. In this way, trends can be drawn more easily which allows for more efficient evaluation of the state of the environment and consequently the legislation which governs it. The Agency is obliged to report on the state of the environment in Europe every five years. The third report on the state of the European environment was published in 2003. While this report does not examine coastal zones specifically, it covers relevant sectors such as fisheries and aquaculture, tourism, biological diversity and water. The report also analyses how the main economic driving forces put pressure on the European environment and identifies key areas where

further action is needed, which is of importance to current regulatory mechanisms, as well as identifying key areas where new mechanisms or amendments are needed.

The effectiveness of legislation can only be evaluated if reliable information is available at a European level. As previously stated, most environmental Directives place an obligation on Member States to report on implementation progress to the Commission at regular intervals. These compliance reports are an essential source of information that the Commission itself is obliged to publish as a pan-European report incorporating the information supplied. With a relatively poor history in this regard, Directive 91/692 aimed to improve this by requiring Member States to submit sectoral reports to the Commission covering the implementation of various Directives every three years. These reports must contain questionnaires issued to Member States by the Commission in an attempt to standardise content. While such a measure has the potential to make information on implementation and translocation of Directives more accessible, it has not been as successful as initially anticipated. Reasoned opinions, for example, have been sent to both Ireland and Luxembourg for failure to submit any reports on implementation of water directives by the due date of September 1996 (European Commission, 2001a). Secondly, such reports are required only for air, water and waste directives and not other environmental directives such as those relating to nature conservation. What is needed is a table of compliance indicating the particular piece of national implementing legislation that is intended to implement individual obligations in each Community Directive as was the method first adopted by Denmark (Macrory, 1996).

### 3. EUROPEAN POLICIES AND PROGRAMMES RELEVANT TO THE COASTAL ZONE

#### 3.1 INTRODUCTION

In addition to EU legislation, there is a plethora of EU policies, which influence coastal activities, development and their management. Such policies not only impact directly on the coastal environment, but also can have an influence on the scope for integrating separate sectoral policy measures (Institute for European Environmental Policy, 1999). This chapter focuses on policy rather than legislative instruments that have already been detailed in the previous chapter, updating the previous policy analysis that was conducted as part of the EC Demonstration Programme by the Institute for European Environmental Policy (IEEP, 1999). The discussion below reviews some of the current and emerging policy areas that are likely to influence coastal areas and their management in North West Europe. The chapter is subdivided into several sections. Section 3.2 provides an overview of the main EU policies and programmes of relevance to ICZM, covering a range of EC strategies, programmes and policy areas and focusing on non-binding policy instruments, including *Recommendations*, *Resolutions* and *Opinions*. Although these lack legal status, they may exert moral and political pressure and be a preliminary requirement for subsequent legislation. Brief discussion of Green<sup>2</sup> and White<sup>3</sup> Papers is also presented as a guide to future policy developments of relevance to ICZM. Further discussion of future policy and legislation is provided in Chapter 4. In contrast to the rather general discussion in Section 3.2, Section 3.3 provides a more detailed evaluation of a selected range of policies and programmes against ICZM principles.

Before reviewing the impact of EU policies on coastal zones, a number of key characteristics of EU policy require some explanation. Firstly, it is important to differentiate between centralised and decentralised policy. With respect to the former, it is important to recognise that there are relatively few EU policies that are formulated and implemented centrally that exert a direct influence on coastal areas. Such policies include TEN-T guidelines and much of the Common Fisheries Policy (CFP). Instead, most EU policies involve a decentralised application, leaving a considerable amount of decision-making (and consequent flexibility and interpretation) to national and regional institutions. Geographical and economic variations also result in some measures being more relevant to some coasts rather others (IEEP, 1999). For example, policies on urban development are not relevant to the rural coasts of Bantry Bay. Coupled with the varying levels of development of national policies<sup>4</sup>, the geographical impact of EU policies is, therefore, complex and sometimes difficult to quantify. An analysis of the detailed implementation and impact of EU policies within the Member States of North West Europe would be an interesting and an important exercise and

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<sup>2</sup> *Green papers* are discussion papers published by the Commission on a specific policy area. In some cases these provide an impetus for subsequent legislation, but rarely provide information on the precise content of legislative measures.

<sup>3</sup> *White papers* are documents containing proposals for Community action in a specific area. These sometimes follow Green Papers, setting out more specific and official proposals for a particular policy area.

<sup>4</sup> In the Netherlands, for example, environmental impact legislation predated the EU's Directive.

possibly a prerequisite to development of a North West European regional perspective on ICZM. However, such a study lies outside the scope of this preliminary review<sup>5</sup>.

### **3.2 EU POLICIES AND PROGRAMMES OF RELEVANCE TO ICZM**

#### **3.2.1 ICZM Recommendation**

Following the experiences and recommendations of the Demonstration Programme on Integrated Coastal Zone Management (1996-1999), the Commission adopted the following documents:

- A Communication from the Commission to the Council and the European Parliament on “Integrated Coastal Zone Management: A Strategy for Europe” (COM/00/547 of 17<sup>th</sup> September, 2000);
- A Proposal for a European Parliament and Council Recommendation concerning the implementation of Integrated Coastal Zone Management in Europe (COM/00/545 of 8<sup>th</sup> September, 2000).

The Recommendation was adopted by Council and Parliament on 30 May 2002. The Communication explains how the Commission will be working to promote ICZM through the use of Community instruments and programmes. The Recommendation outlines steps that the Member States should take to develop national strategies for ICZM. Under the Recommendation, Member States are advised to develop national strategies that are intended to increase the coherence between the many national, regional and local regulations and initiatives affecting coastal zones. In formulating national strategies and measures based on these strategies, Member States are asked to follow the principles of ICZM to ensure good coastal management, taking into account the good practices identified, *inter alia*, in the Commission’s demonstration programme. These principles are:

- A broad holistic perspective (thematic and geographic);
- A long term perspective;
- Adaptive management during a gradual process;
- Reflecting local specificity;
- Working with natural processes;
- Participatory planning;
- Support and involvement of all relevant administrative bodies; and,
- Use of a combination of instruments.

In addition to clarifying the role that the administrative authorities in each country with responsibility for coastal zone management have to play, the Recommendation suggests that national strategies should involve all coastal stakeholders in their formulation. The related EC ICZM strategy stresses the need for ‘strategic, co-ordinated and concerted action at the local and regional level, guided

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<sup>5</sup> The tracking of non-legislative measures in particular is a difficult and time-consuming exercise.

and supported by an appropriate framework at the national level.’ The Recommendation states that national strategies should identify measures to promote bottom-up initiatives and public participation in coastal zone management (European Commission press release DN:IP/01/1506 of 29<sup>th</sup> October, 2001). It clearly acknowledges the need to engage in activities that, the EC Strategy suggests, are the ‘cornerstone’ of ICZM delivery and are coherent with the EU’s Subsidiarity Principle. The EC Strategy refers to the Commission’s intention to examine the need for a European coastal stakeholders forum and support for the establishment of a coastal zone practitioners network.<sup>6</sup>

The Recommendation refers to the need for national ICZM stocktakes to review applicable policy and legislative measures and suggests that national strategies should identify the ‘appropriate mix’ of instruments. The Terms of Reference of the ICZM Expert Group<sup>7</sup> provides a lengthy list of potential implementation processes and tools to be used for ICZM, ranging from conflict resolution methods, contractual and voluntary agreements, to economic and fiscal incentives. The related EC ICZM strategy stresses that, where possible, ICZM should build on existing instruments and programmes, many of which were not conceived exclusively for coastal zones. The first European ICZM High Level Forum, discussing progress related to the Recommendation, suggests that the ICZM strategies should ensure compatibility between, and ‘take advantage of, the synergies arising in the application of numerous Community instruments affecting the coastal zone.’

Interestingly, the Recommendation suggests that strategies can be either coastally specific or part of geographically wider strategies or programmes promoting integrated management of larger geographical areas. The related EC ICZM Strategy suggests that the Commission will work with Member States to support integrated spatial planning and management across administrative, natural and socio-economic units.

The Recommendation also highlights the importance of addressing the management of both the land and marine components of the coastal zone, given the close inter-relationship between activities and conditions in on and offshore. It suggests that Member States should adopt a strategic approach to the management of coastal zones. It notes that these should be based on a wide range of characteristics and values of the coastal zone, ‘including sustainable economic opportunities, and the functioning social and cultural systems in local communities as well as protecting the environment, based on the ecosystem approach.’

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<sup>6</sup> CoPraNet involves many partners and practitioners from within the North West Europe region (<http://www.coastalpractice.net/> website)

<sup>7</sup> To support the implementation of this Recommendation, the Commission has facilitated an Expert Group made up of representatives of Member States and Accession Countries to encourage exchange of experiences, establish common methodologies and approaches, and facilitate cross-border co-ordination.

The national strategies are due for Spring 2006. Member States are also encouraged to implement existing conventions/treaties with neighbouring countries, including non-Member States in the same regional sea area. This is aimed at establishing mechanisms for better coordination of cross-border issues. With a view to ensuring adequate follow-up action at a European level, Member States are obliged to report to the European Commission on their experience in implementing the Recommendation by February 2006. The European Commission in turn is obliged to provide the European Council and Parliament with an evaluation report and a proposal for EC legislation, if appropriate, by January 2007. It should be noted that the Commission's ICZM Strategy states that the Commission also intends to use the results emanating from the ICZM Recommendation to study how to promote and extend the Integrated Territorial Management approach across other parts of the EU territory.

The 6<sup>th</sup> Environment Action Programme identifies a number of threats to the quality of this environment including commercial fishing, oil and gas exploration, shipping, pollution, and the extraction of sand and gravel from the seabed. A blueprint outlining the principal elements in a strategy for the protection of the marine environment was published by the European Commission Communication in 2002.<sup>8</sup> This Communication was discussed at a Stakeholder Conference in Køge, Denmark in 2002 and at a European Council meeting which requested the European Commission, *inter alia*, to:

- a. base its proposal for a marine strategy on an *integrated approach*, that should include, where appropriate, relevant qualitative and quantitative targets and timetables, against which the foreseen measures can be measured and evaluated, as well as identify actions for its implementation (emphasis added);
- b. guide the development and implementation of the ecosystem approach including the further development of biological and environmental targets and benchmarks;
- c. recommend further measures for the integration of environmental aspects in other Community policies;
- d. enhance and facilitate the coordination and cooperation with and between the Regional Seas Conventions and agreements, the European Environment Agency, the European Maritime Safety Agency and other relevant for a; and to provide for a coordination and streamlining of monitoring and assessment to achieve the highest synergistic effect;
- e. invite neighbouring countries to participate in the process and develop partnerships, particularly in the Baltic, the Mediterranean and the Black Sea.

Subsequently, 34 European countries and 30 international governmental and non-governmental organisations participated in a series of meetings on topics related to the strategy.

<sup>8</sup> 'Towards a strategy to protect and conserve the marine environment', COM (2002)539.

In 2004, a second stakeholder conference on the development of a European marine strategy took place in Rotterdam. At this conference, the European Commission and several international organisations such as the International Council for the Exploration of the Seas (ICES) presented a broad range of documents including a paper entitled: "Thematic Strategy for the Protection and Conservation of the European Marine Environment".<sup>9</sup> Many of these documents set out guidance on the application of the ecosystem approach in the marine environment. Reviews on current regional schemes to protect the marine were presented by the Barcelona, Black Sea, Helsinki and OSPAR Commissions. In an address to the conference, a senior representative of the European Commission expressed the view that the European marine environment strategy will consist of a common vision with the overall goal of ensuring that "future generations can enjoy biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive".<sup>10</sup> This common vision will be accompanied by a long term political commitment to achieve a number of agreed objectives such as: the protection of marine ecosystems; the phasing out of some types of pollution in the marine environment within a defined timeframe; and the development of marine goods and services in a sustainable manner. The European Commission also emphasised the need for Europe to adopt an integrated approach to the management of the marine environment based upon: the ecosystem approach, the precautionary principle and involvement of the various stakeholders in the policy process.<sup>11</sup> Significantly, at the Rotterdam conference the various parties in attendance all expressed broad support for further integration and coherence of EU policies. Other than stating the obvious, that integration is required at all levels (multilateral, regional and state levels), many of the conference documents are vague in how this is to be achieved in practice. There were some suggestions by delegates at the conference that horizontal legal instruments such as the Water Framework Directive, the Habitats Directive, the Environmental Impact Assessment Directive and the Strategic Environmental Impact Assessment Directive could be used for the purpose of integration.<sup>12</sup> This suggestion is particularly surprising as many of these instruments have been drafted from a terrestrial perspective and contain few provisions that are directly related to the marine environment. Nevertheless, the European Commission signalled their intent to propose a specific thematic strategy on the protection of the marine environment in 2005. This is discussed further in Section 4.2 on future developments.

<sup>9</sup> Copies of these documents may be viewed at [www.forum.eu.int](http://www.forum.eu.int)

<sup>10</sup> See, address by Director-General, DG Environment, European Commission, Catherine Day, at the Marine Strategy - Second Stakeholder Conference, Rotterdam, November 10-12, 2004. Copy at [www.forum.europa.int](http://www.forum.europa.int)

<sup>11</sup> *Ibid.*

<sup>12</sup> The SEA Directive requires that plans and programmes regarding the building and location of large-scale infrastructure such as gas terminals, deep-water ports, and offshore energy installations will undergo environmental impact assessment and that public consultation takes place. The SEA Directive came into effect in July 2004 applies to a wide range of plans and programmes which impinge on marine activities including, agriculture, forestry, fisheries, energy, industry, transport, fisheries, water management, telecommunications, tourism, town and country planning or land use as well as projects listed in Annexes I and II to Directive 85/337/EEC. SEA may be distinguished from EIA which is carried out for an individual project or activity. In the United Kingdom, SEA is currently performed for hydrocarbon activities on the United Kingdom continental shelf and is being rigorously implemented by the United Kingdom Department of Trade and Industry. Significantly, the application of SEA in the United Kingdom extends to inshore bays and inshore areas even though these are not open for hydrocarbon licensing with a view to ensuring that the assessment applies to marine environment as a whole as far as the high water mark. See, [www.offshore-sea.org.uk](http://www.offshore-sea.org.uk).

### **3.2.2 The EU Sustainable Development Strategy**

The European Commission's proposal for a Sustainable Development Strategy (SDS)<sup>13</sup> was presented to the European Council at Gothenburg in June 2001. The Communication was prepared in response to an invitation from the Council in December 1999 "to prepare a proposal for a long-term strategy dovetailing policies for economically, socially and ecologically sustainable development..." The Strategy proposed measures to deal with important threats in priority areas, such as climate change, poverty, loss of biodiversity and threats to public health, that had been identified in a consultation paper in March 2001. The Commission prepared a second Communication<sup>14</sup> in 2002, focusing on the external dimension of sustainable development, that was endorsed by the European Council in Barcelona. Together the two texts form the basis of the comprehensive EU SDS. See Table 3.1 for a list of European policies related to sustainable development.

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<sup>13</sup> A sustainable Europe for a better world: a European Union strategy for sustainable development [COM (2001) 264 final].

<sup>14</sup> Towards a global partnership for sustainable development [COM (2002) 82 final].

Table 3.1 European policies related to Sustainable Development

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>General framework</b>		
<u>Strategy in favour of sustainable development</u>	To establish a long-term strategy to dovetail policies for economically, socially and environmentally sustainable development.	Communication from the Commission of 15 May 2001 - A sustainable Europe for a better world: a European Union strategy for sustainable development (Commission's proposal to the Gothenburg European Council). <u>COM (2001) 264 final</u>
<u>Environmental indicators</u>	To establish a list of environmental indicators with a view to choosing the seven most relevant for inclusion in the list of structural indicators to assess the implementation of the strategy to make the European Union the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth.	Report from the Commission to the Council of 20 September 2002, Analysis of the 'open list' of environment-related headline indicators <u>COM (2002) 524 final</u>
<u>Action plan in favour of environmental technologies</u>	The European Union is adopting an action plan to promote environmental technologies to reduce pressures on natural resources, improve the quality of life of European citizens and stimulate economic growth.  The action plan's objectives are to: <ul style="list-style-type: none"> <li>- remove obstacles so as to tap the full potential of environmental technologies;</li> <li>- ensure that the EU takes a leading role in applying them;</li> <li>- mobilise all stakeholders in support of these objectives.</li> </ul>	Communication from the Commission to the Council and the European Parliament of 28 January 2004 entitled: "Stimulating technologies for sustainable development: an environmental technologies action plan for the European Union" <u>COM(2004) 38 final</u>
<u>Environmental technology for sustainable development</u>	To see how environmental technology can contribute to sustainable development in the European Union.	Commission report of 13 March 2002, environmental technology for sustainable development <u>COM (2002) 122 final</u> - Not published in the Official Journal

The Strategy is designed to be a catalyst for policy makers and public opinion and become a driving force for institutional reform. It is built around cross-cutting proposals, measures to attain long-term objectives and progress reviews. The SDS focuses on the following key considerations:

- *Creating a broad vision of what is sustainable.* The 2001 Communication proposes that sustainable development offers the EU a “*positive long-term vision of a society that is more prosperous and more just, and which promises a cleaner, safer, healthier environment*”. The Strategy proposes actions to decouple environmental degradation and resource consumption from economic and social development and measures to strengthen progress towards environmentally-friendly technologies.
- *Improving the way in which policies are made.* Greater emphasis is placed upon improving policy coherence and increasing awareness of the trade-offs between conflicting objectives so that informed policy decisions can be made. The Strategy also requires that the global context is taken into consideration and impact assessment mechanisms are designed to promote consistency between internal and external policies.
- *Bridging the gap between the political vision and practical action.* The Strategy focuses on a small number of problems that pose severe or irreversible threats / trends that are clearly unsustainable, such as issues associated with climate change and energy use, threats to public health, poverty and social exclusion, management of natural resources, and land use and transport.
- *Addressing the international dimension of sustainable development.* The global dimension of the Strategy focuses on the priority objectives identified in the EU contribution to the World Summit on Sustainable Development (WSSD). These are harnessing globalisation, trade for sustainable development, fighting poverty, social development, sustainable management of natural and environmental resources, improving the coherence of European Union policies, better governance at all levels and financing sustainable development.

### **3.2.3 Environmental Programmes and Policies**

#### ***3.2.3.1 European programmes and policies related to general environmental matters***

##### **Sixth Environment Action Programme**

The Sixth Environment Action Programme of the European Community *Environment 2010: Our future, our choice*<sup>15</sup> covers the period from 2001 to 2010 (inclusive) and builds on the previous environment action programme (Fifth Environmental Action Programme: 1992 – 2000) and its review. The main aims, priority action areas and thematic strategies of the programme are listed in Table 3.2 overleaf.

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<sup>15</sup> Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 24 January 2001 on the Sixth Environment Action Programme of the European Community "Environment 2010: Our future, our choice" [COM (2001) 31 final] Implementing measure: Decision [1600/2002/EC](#) - Official Journal L 242, 10.09.2002 Decision of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme.

**Table 3.2 Key characteristics of the Sixth Environment Action Programme**

<b>Aims</b>
<ul style="list-style-type: none"> <li>- To define the priorities and objectives of Community environmental policy up to 2010 and beyond</li> <li>- To describe the measures to be taken to help implement the European Union's sustainable development strategy</li> </ul>
<b>Priority action areas</b>
<ul style="list-style-type: none"> <li>- climate change – to reduce greenhouse gases to a level that will not cause unnatural variations of the earth's climate</li> <li>- biodiversity - to protect and restore the structure and functioning of natural systems and halt the loss of biodiversity both in the European Union and on a global scale.</li> <li>- environment and health - to achieve a quality of the environment which does not give rise to significant impacts on, or risks to, human health</li> <li>- sustainable management of resources and wastes - to ensure that the consumption of renewable and non-renewable resources does not exceed the carrying capacity of the environment and to achieve a decoupling of resource use from economic growth through significantly improved resource efficiency and the reduction of waste</li> </ul>
<b>Thematic Strategies</b>
<ul style="list-style-type: none"> <li>- soil protection</li> <li>- protection and conservation of the marine environment</li> <li>- sustainable use of pesticides</li> <li>- air pollution</li> <li>- urban environment</li> <li>- sustainable use and management of resources</li> <li>- waste recycling</li> </ul>

The new Programme provides the environmental component of the Community's strategy for sustainable development (Section 3.2.2). As such, it places environmental policy in a broad perspective, considering economic and social conditions as well as growth and competitiveness. The need for a strategic approach is an essential element of the programme and concords with the ICZM principle related to holistic management. The environment programme recognises that a simple legislative approach will no longer suffice and provides for the use of a combination of approaches including:

- effective implementation and enforcement of environmental legislation;
- integration of environmental concerns into other policy areas;
- working closer with the market;
- using a combination of instruments to maximise efficiency and effectiveness;
- empowering all parties to participate in environmental decision-making;
- involving the public further in the application of environmental measures;

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- provision of accessible information on the environment to help change public behaviour; and
- taking account of the environment in land-use planning and management decisions.

To improve the implementation of environmental legislation, various specific actions are outlined, including the need for reporting and a "name, shame and fame" strategy on implementation of environmental law as well as the need to pursue action in the European Court in relation to non-implementation. Further key actions include improvements to environmental standards of inspection and initiatives to try to combat environmental crime. As the programme will be increasingly based on scientific and economic analyses and on environmental indicators, the Commission is anticipating to co-operate ever more closely with the European Environment Agency.

The current programme focuses on the needs and actions to achieve environmental improvements in following four priority actions areas, all of which are relevant to ICZM:

- climate change;
- biodiversity;
- environment and health; and,
- sustainable management of resources and wastes.

As such, most of the policy described in the subsequent sections of this chapter relates to these priority areas and the specific proposals and actions provided within the action programme for each of these (Table 3.3). Thematic Strategies are an important component of the programme and have been introduced to help tackle seven key environmental issues, which require a holistic approach because of:

- their complexity;
- the diversity of actors concerned; and,
- the need to find multiple and innovative solutions.

As noted in Section 3.4, one of the thematic strategies relates to the marine environment.

**Table 3.3 Selected proposals within the Sixth European Environmental Action Programme**

Priority Area	Proposals for action of particular relevance to ICZM
<b>Climate change</b>	<ul style="list-style-type: none"> <li>– the integration of climate change objectives into Community policies, particularly energy policy and transport policy;</li> <li>– the reduction of greenhouse gases through specific measures;</li> <li>– improved research on climate change;</li> <li>– improved information to citizens on climate change;</li> <li>– the preparation of society for climate change impacts.</li> </ul>



<p><b>Nature and biodiversity</b></p>	<ul style="list-style-type: none"> <li>- the implementation of environmental legislation, particularly that related to water and air;</li> <li>- the coordination of Member State action on accidents and natural disasters;</li> <li>- the protection, conservation and restoration of landscapes;</li> <li>- the protection and restoration of marine habitats and the coast including the extension of the Natura 2000 network to these areas;</li> <li>- the integration of nature conservation and biodiversity into commercial and development cooperation policies;</li> <li>- the creation of programmes for gathering information on nature conservation and biodiversity;</li> <li>- support for research in the field of nature conservation.</li> </ul>
<p><b>Environment and health</b></p>	<ul style="list-style-type: none"> <li>- the introduction of environmental and health priorities into other policies and standards on water, air, waste and soil;</li> <li>- the strengthening research on health and the environment;</li> <li>- ensuring the implementation of legislation on water.</li> </ul>
<p><b>Management of natural resources and waste</b></p>	<ul style="list-style-type: none"> <li>- the development of a strategy for the sustainable management of resources by laying down priorities and reducing consumption;</li> <li>- the taxation of resource use;</li> <li>- the removal of subsidies that encourage the overuse of resources;</li> <li>- the improvement of existing waste management schemes and investment in quantitative and qualitative prevention;</li> <li>- the integration of waste prevention into the integrated product policy and the Community strategy on chemicals</li> </ul>

Environmental policies

Alongside the continuing series of environmental action programmes and the considerable wealth of legislation on environmental matters, there is a large complement of policy instruments. Table 3.4 provides a brief resume of these recent environmental policy developments. These include those related to environmental principles, strategies to integrate environment into high level EU policy and sectoral policy areas, as well as emerging policy fields relating to environment and technology, and environment and health, all important elements relating to the environment action programme. The strategies for integrating the environment into EU policies and into the single market and economic policy are particularly challenging, but also noteworthy in the context of ICZM (Table 3.4). Section 3.3.3 discusses the strategy for integrating the environment into EU policies further, comparing this strategy and its development against the European ICZM principles. To maximise policy coherence, it is suggested that integration must occur at the EU, national and local levels, as well as between these different levels. The strategies relating to the integration of environment and sustainable development into various sectoral policy areas, including industry,

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fisheries and agriculture build on this framework strategy, promoting improved practices in these areas. The implications of improved environmental management of agriculture and fisheries are discussed more fully in Sections 3.2.5.1 and 3.2.5.2 respectively.



Table 3.4 European policies related to general environmental matters

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>Environmental principles and indicators</b>		
Precautionary Principle	This Communication develops guidelines for the application of the precautionary principle to ensure a high level of protection of the environment and of human, animal and plant health whenever the available scientific data do not permit a complete evaluation of the risk.  The Communication also helps to ensure that the precautionary principle is not used as a pretext for protectionist measures.	Communication from the Commission of 2 February 2000 on the precautionary principle.  COM(2000)1 final
<u>Environmental indicators</u>	To establish a list of environmental indicators. It is intended that seven of these will be selected to represent those most relevant for inclusion in the list of structural indicators.	Report from the Commission to the Council of 20 September 2002, Analysis of the 'open list' of environment-related headline indicators COM(2002)524 final
<b>Integrating environment into EU policy</b>		
<u>A strategy for integrating the environment into EU policies</u>	The 'Cardiff' process is designed to introduce a horizontal approach to environment policy by incorporating 'environment' into all Community policies. The guidelines from the Commission include suggestions for: <ul style="list-style-type: none"> <li>- integrating the environment into all activities by Community institutions;</li> <li>- reviewing existing policies;</li> <li>- introducing strategies for action in key areas;</li> <li>- defining priority actions and mechanisms for monitoring implementation;</li> <li>- reviewing of environmental integration into sectoral policies by the European Council</li> </ul>	Communication from the Commission to the European Council of 27 May 1998 on a partnership for integration: a strategy for integrating the environment into EU policies (Cardiff- June 1998) COM(1998) 333  Related measures: Commission working document of 1 June 2004 entitled "Integrating environmental considerations into other policy areas - a stocktaking of the Cardiff process" COM(2004) 394
<u>Integrating sustainable development into Community cooperation policy</u>	This strategy should ensure that the environment plays a key role in the European Union's economic and development aid to partner countries, to enable these countries to assume their environmental responsibilities in the long-term.	Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee: Integrating environment and sustainable development into economic and development cooperation policy - elements of a comprehensive strategy. COM(2000) 264 final
<u>Strategy for integrating the environment into the single market</u>	To develop the synergies between the single market and Community environment policy following the strategy formulated by the European Council in Vienna.	Communication of 8 June 1999 from the Commission to the European Parliament and the Council: Single market and environment. Commission Communication COM(99) 263 final
<u>Integration of the environment into economic policy</u>	To define a Community strategy to integrate environmental issues into economic policy. This will use existing instruments e.g. Member States' annual reports on structural reform and the Broad Economic	Communication from the Commission to the Council and the European Parliament: bringing our needs and responsibilities together - integrating environmental issues and economic policy.

	Policy Guidelines.	COM (2000) 576 final
<b>Integrating environment into sectoral policy areas</b>		
Strategy for integrating the environment into industry	These conclusions consider extending the strategy for integrating environment policy (see above) into Union policies in the industrial sector.	Conclusions of the Council of 29 April 1999 on integrating environment and sustainable development into the industry policy of the EU. Conclusions of the Council of 29 April 1999
Integrating environmental protection requirements into the common fisheries policy	This action plan outlines ways of integrating environmental protection requirements into the common fisheries policy (See Section 3.2.5.2)	Commission Communication of 28 May 2002 setting out a Community Action Plan to integrate environmental protection requirements into the Common Fisheries Policy [COM(2002) 186 final]
Strategy for integrating environmental considerations into the common fisheries policy	This defines priority objectives and implementing measures for improving the coordination and consistency of the environment policy and the common fisheries policy. (See Section 3.2.5.2)	Commission Communication [COM(99) 363 final]
Approaches to sustainable agriculture <a href="http://europa.eu.int/scadplu/s/leg/en/vb/28101.htm">http://europa.eu.int/scadplu/s/leg/en/vb/28101.htm</a>	This Communication pursues the approach adopted by the Commission to foster the integration of environmental aspects of agriculture into the reform of the CAP under Agenda 2000.	Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 27 January 1999 - Directions towards sustainable agriculture. [COM(1999) 22 final Official Journal C 173, 19.06.1999]
Promoting sustainable development in the non-energy extractive industry	Set broad policy lines for promoting sustainable development in the EU non-energy extractive industry, while reconciling the competitiveness of the industry with environmental protection.	Communication from the Commission promoting sustainable development in the EU non-energy extractive industry. [COM (2000) 265 final]
<b>Environment and technology</b>		
Action plan in favour of environmental technologies	The European Union is adopting an action plan to promote environmental technologies to reduce pressures on natural resources, improve the quality of life of European citizens and stimulate economic growth.  The action plan's objectives are to: - remove obstacles so as to tap the full potential of environmental technologies - ensure that the EU takes a leading role in applying them - mobilise all stakeholders in support of these objectives	Communication from the Commission to the Council and the European Parliament of 28 January 2004 entitled: "Stimulating technologies for sustainable development: an environmental technologies action plan for the European Union" [COM(2004) 38 final]

	<p>The actions proposed include:</p> <ul style="list-style-type: none"> <li>- getting environmental technologies from research laboratories to markets</li> <li>- improving market conditions to promote the adoption of environmental technologies</li> <li>- promoting environmental technologies at global level</li> </ul> <p>To see how environmental technology can contribute to sustainable development in the European Union.</p>	<p>Commission report of 13 March 2002, environmental technology for sustainable development COM (2002) 122 final - Not published in the Official Journal</p>
<b>Environment and health</b>		
<p>Environment and Health Strategy <a href="http://europa.eu.int/comm/environment/health/strat_en.htm">http://europa.eu.int/comm/environment/health/strat_en.htm</a> &amp; Environment and Health Action Plan 2004 – 2010 <a href="http://europa.eu.int/comm/environment/health/pdf/com2004416.pdf">http://europa.eu.int/comm/environment/health/pdf/com2004416.pdf</a></p>	<p>This strategy (also referred to as SCALE: Science, Children, Awareness, Legal instrument, Evaluation) and its associated action plan, aim to gain a better understanding of the complex interactions between the state of the environment, the ecosystem and health so that action to reduce the impact of environmental factors on human health can be taken.</p>	<p>European environment and health strategy of 11 June 2003 [COM(2003) 338 final (also known as the SCALE initiative).  Communication from the Commission of 9 June 2004, "European Environment and Health Action Plan 2004-2010" [COM(2004) 416]</p>
<b>Other environmental policies</b>		
<p>State aid for environmental protection  <a href="http://europa.eu.int/scadplus/leg/en/lvb/l26106.htm">http://europa.eu.int/scadplus/leg/en/lvb/l26106.htm</a></p>	<p>The guidelines help determine whether and under what conditions state aid may be regarded as necessary to ensure environmental protection and sustainable development without having disproportionate effects on competition and economic growth. The guidelines recognise three main types of environmental aid, namely:</p> <ul style="list-style-type: none"> <li>• operating aid to promote waste management and energy saving;</li> <li>• aid for small and medium-sized enterprises (SMEs) for advisory/consultancy services in the environmental field;</li> <li>• investment aid</li> </ul>	<p>Commission communication: Community guidelines on state aid for environmental protection [Official Journal C 37 of 03.02.2001].</p>
<p>Environmental Inspections: Minimum Criteria  <a href="http://europa.eu.int/scadplus/leg/en/lvb/l28080.htm">http://europa.eu.int/scadplus/leg/en/lvb/l28080.htm</a></p>	<p>To ensure greater compliance, and more uniform application and implementation, of Community environmental legislation. This Recommendation provides minimum criteria for organising, carrying out, following up and publicising of results of environmental inspections in all Member States. It also obliges Member States to aim for a high level of environmental protection when organising and carrying out environmental inspections.</p>	<p>Recommendation of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States.  Recommendation 2001/333/EC Official Journal L 118, 27.04.2001</p>
<p>Environment and employment</p>	<p>The Communication outlines a strategy to generate synergies between environmental and employment policy. This includes:</p> <ul style="list-style-type: none"> <li>- enlarging existing schemes for selecting the best available technology by including employment effects and detailed</li> </ul>	<p>Communication from the Commission of 18 November 1997 on environment and employment (Building a sustainable Europe). Communication from the Commission COM(97) 592 final Not published in the Official Journal</p>

	<p>- assessments of energy and resource usage building on Agenda 2000, ensuring that Community funds and instruments support employment and sustainable development in an integrated fashion promoting environmental education and training to support the use of "greener" technologies and working</p>	
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3.2.3.2 *Climate change and natural hazard management*

Climate change

Much of the Commission's policy related to climate change relates to the EU's commitment<sup>16</sup> to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (<http://unfccc.int/resource/docs/convkp/kpeng.html>; European Council Decision (2002/358/EC: Official Journal L 15.05.02) and the associated European Climate Change Programme (ECCP<sup>17</sup>)). Many of the *communications* listed in Table 3.5 are part of wider packages of instruments addressing climate change and its impacts, including various Council *decisions* and *proposals* for future legislation (Section 4.2). Climate change provides a clear example of the need to integrate environmental issues across community policies, relying on a range of horizontal, cross-cutting measures, including those such as the Integrated Pollution Prevention and Control Directive (IPPC, See Section 2.2.2). With particular implications for policy development associated with the energy, transport, agriculture and industry sectors, climate change policy is of especial note for ICZM. Climate change related discussions have already focused on many aspects that could have a profound affect on the use and environmental quality of the coastal zone. These include the use of renewables, the development of intermodal transport systems, afforestation measures, renewable energy crops, improved livestock feeding regimes, reduction of fertiliser use and the promotion of clean technology. Parallel policy developments in some sectors have already begun to address climate change issues. For example, the White Paper on a Common Transport Policy (Section 3.2.4.2) contained measures to help reduce greenhouse gas emissions and made proposals to promote lower emission transport modes, including water-borne transport.

Anticipating the international debate on the future global climate change regime, following the end of the Kyoto Protocol's first commitment period (2008 - 2012), the Commission has responded to the European Council's request to produce a detailed analysis of benefits and costs of action against climate change. This communication, 'Winning the Battle Against Climate Change', takes account both of environmental effectiveness and competitiveness. It outlines key elements for the EU's post-2012 strategy, highlighting the need for broader participation by countries and sectors, the development of low-carbon technologies, the continued and expanded use of market mechanisms, and the need to adapt to climate change impacts. It also recommends further research and the initiation of a new phase of ECCP that pays especial attention to energy efficiency, renewable energy and the transport sector (including and maritime transport). In relation to research needs, the report suggests that research on regional impacts is particularly needed along with further research to inform the development of cost-effective adaptation strategies (including those for coastal areas). It also recommends the need for further research and development of climate-friendly technology in energy, transport, agricultural and industrial sectors.

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<sup>16</sup> An 8% reduction in emissions of greenhouse gases responsible for global warming by 2008-2012 by the EU Member States.

<sup>17</sup> ECCP website: <http://www.climnet.org/EUenergy/ECCP.html>

### Flood risk management

A number of EU instruments already exist to address flood prevention and management, although some of these, such as the Water Framework Directive (Section 2.2.2), are not designed specifically with the prevention and mitigation of flooding as a central objective. Instruments include rapid financial assistance from the EU Solidarity Fund (Section 3.2.4.3) and research within the fifth and sixth research framework programmes as well as measures within the rural development component of the reform of the common agricultural policy. In addition to these instruments, the Commission's Communication 'Flood risk management - flood prevention, protection and mitigation' [COM (2004) 472] proposes that Member States should cooperate to establish and implement a coordinated action programme for flood prevention, protection and mitigation. Some key actions for inclusion within the programme are listed in Table 3.5. In the context of ICZM, the development and implementation of flood risk management plans for each adversely affected river basin and coastal zone is particularly noteworthy. In the context of the COREPOINT project, the need to develop stronger linkages between the research community and the authorities responsible for flood management, is also significant.

Table 3.5 European climate change and natural hazard management

Specific policy area	Objectives of specific policy area	Community measure(s)
<p><b>Climate change</b></p> <p>Global climate change</p> <p><a href="http://www.europa.eu.int/comm/environment/climat/future_action.htm">http://www.europa.eu.int/comm/environment/climat/future_action.htm</a></p>	<p>The Communication outlines key elements for the EU's post-2012 strategy. The communication sets out future policies of climate change and includes proposals designed to structure the future negotiations of the EU with its global partners over climate change policies after 2012 following the end of first commitment under the Kyoto protocol.</p> <p>The Commission's report, informed by a wide stakeholder exercise, recommends that the EU's post-2012 strategy includes the following:</p> <ul style="list-style-type: none"> <li>- international participation to reduce emissions</li> <li>- inclusion of more sectors – especially those not already subject to emissions reductions. The role and contribution of maritime transport, aviation and forestry have been highlighted.</li> <li>- innovation and the development and uptake of low-carbon technologies - particularly related to energy, transport and building infrastructure.</li> <li>- continued use of flexible market-based instruments - to reduce emissions (EU and globally)</li> <li>- adaptation policies – requiring further efforts to identify vulnerabilities and to implement measures to increase resilience (EU and globally)</li> </ul>	<p>Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, 'Winning the battle against global climate change,' [COM (2005) 35 final]</p>
<p>Greenhouse gas emissions trading and climatic change programme</p> <p><a href="http://europa.eu.int/scadplu/s/leg/en/vb/128109.htm">http://europa.eu.int/scadplu/s/leg/en/vb/128109.htm</a></p>	<p>To launch a public debate with a view to implementing a possible Community policy on emissions trading before the Kyoto Protocol is applied</p>	<p>Green Paper on greenhouse gas emissions trading within the European Union.</p> <p>Communication from the Commission to the Council and the European Parliament on EU policies and measures to reduce greenhouse gas emissions: Towards a European Climate Change Programme (ECCP). <a href="http://europa.eu.int/comm/environment/docum/0088_en.htm">http://europa.eu.int/comm/environment/docum/0088_en.htm</a></p>
<p>Implementation of the European Climate Change Programme (ECCP)</p>	<p>To combat climate change by means of various cross-cutting measures and measures in the fields of energy, industry and transport, in implementing the European Climate Change Programme (ECCP).</p>	<p>Communication from the Commission of 23 October 2001 on the implementation of the first phase of the European Climate Change Programme [COM(2001)580 final]</p>
<p>Community post-Kyoto strategy</p>	<p>To develop a Community strategy for achieving the targets laid down in the Kyoto Protocol and the Buenos Aires Action Plan.</p>	<p>Communication of 3 June 1998 from the Commission to the Council and the European Parliament - Climate change - Towards an EU post-Kyoto strategy. [COM(98) 353 final]</p> <p>Communication of 19 May 1999 from the Commission to the Council and the European Parliament - Preparing for implementation of the Kyoto Protocol. COM(1999) 230 final</p>

<p><b>Natural hazard management</b></p> <p><u>Flood risk management</u></p>	<p>Commission Communication of 12 July 2004 "Flood risk management - flood prevention, protection and mitigation" [COM(2004) 472]</p>
<p>Given the risks to health, economic assets and the environment, the Commission analyses the measures already taken and proposes an action programme on flood prevention, protection and mitigation.</p> <p>This action plan would include:</p> <ul style="list-style-type: none"> <li>• improving cooperation and coordination between Member States through the development and implementation of flood risk management plans for each adversely affected river basin and coastal zone;</li> <li>• development and implementation of flood risk maps by the Member States;</li> <li>• improving information exchange, sharing of experiences, and the coordinated development and promotion of best practices; these measures would in particular fall within the area of responsibility of the Commission;</li> <li>• developing stronger linkages between the research community and the authorities responsible for flood management;</li> <li>• improving coordination between the relevant Community policies;</li> <li>• increasing awareness of flood risks through wider stakeholder participation and more effective communication.</li> </ul> <p>The communication sets out guidelines concerning the essential features of the flood risk management plans and flood risk maps to be drawn up by the Member States.</p>	

### 3.2.3.3 Biodiversity and nature conservation

#### Biodiversity

Following the EU's commitment to the Convention on Biological Diversity (Section 1.2.3), the European Community Biodiversity Strategy has established a general framework to meet the Union's obligations under the Convention (*Council Decision 93/626/EEC*). This framework, that incorporates a range of Community policies and instruments as shown in Table 3.6, also helps address the EU's commitments to sustainable development, the precautionary principle and to the integration of environmental concerns into other sectoral policy areas (Section 3.3.3). The wide-ranging biodiversity strategy addresses four major themes, all of which are of relevance to ICZM and the COREPOINT project (Table 3.6). To date, biodiversity action plans have been produced for the protection of natural resources, agriculture, fisheries and development and economic co-operation.

Each action plan complements and builds on a wide range of existing and proposed Community instruments and associated measures. These not include technical measures, but also ones related to research, monitoring, education, training and awareness raising. The latter aspects are essential components for the effective implementation of the Biodiversity Action Plan for Protection of Fisheries, for example. Each plan also requires the establishment and use of relevant indicators for the long-term monitoring and benchmarking of each plans' implementation. It is also stated that the actions plans will be taken forward by future policy development<sup>18</sup>, that may introduce further new measures or enhance existing ones. biodiversity action plans have been produced for the protection of natural resources, agriculture, fisheries and development and economic co-operation In the context of ICZM, it should be noted that the *communication* relating to the Biodiversity Action Plan for the Protection of Natural Resources has singled out the Strategy for Integrated Coastal Zone Management as being a means of helping protect biodiversity in wetlands<sup>19</sup>.

#### Nature conservation

Complementing the completion of the Natura 2000 network and extensive nature conservation legislation referred to above, Communication (COM(2004) 431) addresses the funding of the Natura 2000 network, estimated to rise to about €6.1 billion a year within the next twenty years. Given the importance that the Commission places on designated Natura 2000 sites for the protection of biodiversity in the EU, and the recognised economic and social as well as the environmental benefits of the network, this is a priority area. The Communication indicates that co-financing the network through existing funding mechanisms will have various benefits (Table 3.6),

<sup>18</sup> The Communication (COM (2001) 162) states that the Biodiversity Action Plan for the Protection of Fisheries will be taken forward through the new common fisheries policy.

<sup>19</sup> This is in addition to utilising Natura 2000 and the Water Framework Directive. The plan also refers to need to follow other key EU legislation and policy, including that related to fisheries, aquaculture, Structural Funds and the urban environment as well as the precautionary principle, environmental liability, environmental impact assessment, strategic environmental assessment, public participation and access to information, eco-auditing and the strategy for EC chemicals policy.

## EU legislation and policies with implications for coastal management

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including ensuring that the management of designated sites becomes a component of the EU's wider land management policies, including the common agricultural policy and the rural and regional development policy areas.



Table 3.6 European policies related to environmental protection, biodiversity and nature conservation

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>Biodiversity</b>		
European Community Biodiversity Strategy <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celexplu:sprod:DocNumber&amp;lg=en&amp;ty.pe_doc=COMfinal&amp;an_doc=1998&amp;nu_doc=42">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:celexplu:sprod:DocNumber&amp;lg=en&amp;ty.pe_doc=COMfinal&amp;an_doc=1998&amp;nu_doc=42</a>	This Communication establishes a general framework in which appropriate Community policies and instruments are used to meet the obligations under the Convention on Biological Diversity.  The strategy addresses the following themes: <ul style="list-style-type: none"> <li>- conservation and sustainable use of biological diversity;</li> <li>- sharing of benefits accruing from the utilisation of genetic resources;</li> <li>- research, identification, monitoring and exchange of information;</li> <li>- education, training and awareness.</li> </ul>	Communication from the Commission to the Council and the European Parliament on a European Community biodiversity strategy, 1998 <a href="#">[COM/98/0042 final]</a>
Biodiversity Action Plan for the protection of: <u>natural resources</u>	Improving or maintaining the status of wild flora and fauna and their ecosystems and habitats.  The plan addresses the following objectives: <ul style="list-style-type: none"> <li>- conservation of wild fauna and flora;</li> <li>- preventing biodiversity loss related to management of water, soil, forests and wetlands; preventing biodiversity loss throughout EU territory;</li> <li>- conserving biodiversity worldwide.</li> </ul>	Commission Communication of 27 March 2001 to the Council and the European Parliament: Biodiversity Action Plan for the Conservation of Natural Resources (Volume II). <a href="#">COM(2001)_162 final</a>
Biodiversity Action Plan for the protection of <u>agriculture</u>	Establishing an action plan to improve or maintain biodiversity status and prevent further biodiversity loss due to agricultural activities.  Priorities include: <ul style="list-style-type: none"> <li>- maintaining intensive farming at a level which is not harmful to biodiversity through reducing the use of fertilisers, supporting non-intensive modes of production and establishing sustainable resource management</li> <li>- ensuring that farming is economically viable, socially acceptable and safeguards biodiversity</li> <li>- implementing agri-environmental measures</li> <li>- safeguarding the necessary ecological infrastructure.</li> </ul>	Commission Communication of 27 March 2001 to the Council and the European Parliament: Biodiversity Action Plan for Agriculture (Volume III). <a href="#">COM(2001)_162 final</a>
Biodiversity Action Plan for the protection of <u>fishing</u>	Establishing an action plan to improve, maintain or restore biodiversity status and preventing biodiversity loss due to fisheries and aquaculture activities.  Priorities include:	Commission Communication of 27 March 2001 to the Council and the European Parliament: Biodiversity Action Plan for Fisheries (Volume IV). <a href="#">COM(2001)_162 final</a>

	<ul style="list-style-type: none"> <li>- promotion of the conservation and sustainable use of fish stocks;</li> <li>- promotion of technical conservation measures to support the conservation and sustainable use of fish stocks;</li> <li>- reduction of fisheries activity impacts on non-target species and on marine and coastal ecosystems;</li> <li>- avoidance of aquaculture activities impacting on habitat conservation.</li> </ul>	
<p>Biodiversity Action Plan as an aid to Economic and Development Co-operation</p>	<p>To reverse the loss of biodiversity and environmental resources in developing countries as well as reducing poverty.</p>	<p>Communication of 27 March 2001 from the Commission to the Council and the European Parliament: Biodiversity Action Plan for Economic and Development Co-operation (volume V). COM (2001) 162 final</p>
<p>Rio de Janeiro Convention on biological diversity</p>	<p>Various instruments support the Union's commitment to the Convention on Biological Diversity.</p> <p>The Convention seeks to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source because of its intrinsic value and because of its ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic value.</p>	<p>Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity.</p> <p>Communication from the Commission to the European Parliament and the Council of 23 December 2003 "The implementation by the EC of the Bonn Guidelines on access to genetic resources and benefit-sharing under the Convention on Biological Diversity" [COM (2003) 821 final]</p> <p>Council Decision 2002/628/EC of 25 June 2002 concerning the conclusion, on behalf of the European Community, of the Cartagena Protocol on Biosafety [Official Journal L 201 of 31 July 2002].</p> <p>Communication from the Commission to the Council and the European Parliament of 5 February 1998 on a European Community Biodiversity Strategy [COM (98) 42 final]</p>
<p><b>Nature conservation</b></p>		
<p>Natural habitats (Natura 2000)</p>	<p>The ecological network of special protected areas, 'Natura 2000' has been established to ensure biodiversity by conserving natural habitats and wild fauna and flora in the territory of the Member States.</p> <p>The Communication (COM(2004) 431) considers the financial aspects of the Natura 2000 network and its management and suggests that co-financing through existing funds should enable:</p> <ul style="list-style-type: none"> <li>- the management of designated sites as part of the EU's broader land management policies</li> <li>- Member States to establish priorities and develop policies and measures reflecting their national and regional specificities;</li> <li>- duplication and overlap of different Community funding instruments to be avoided.</li> </ul>	<p>Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora</p> <p>Communication from the Commission to the Council and the European Parliament of 15 July 2004 - Financing Natura 2000 [COM (2004) 431]</p> <p>Report from the Commission of 5 January 2004 on the implementation of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora [COM (2003) 845 final] - not published in the Official Journal.</p>

*3.2.3.4 Pollution control, waste management and related aspects*

Table 3.7 provides a list of the somewhat eclectic mix of policy instruments that supplement and build on the already extensive range of EU legislation relating to pollution control and waste management, discussed in Section 2.1.10 and 2.1.11. There is a focus on products and sustainable production methods, accompanying the emerging discussions and proposals for a future European chemical policy (COM (2001) 88 final) and tighter regulation of chemical registration, evaluation and authorisation (REACH). However, in the context of ICZM, the Commission's discussion of the management of bathing water under the 1976 Bathing Water Directive (76/160/EEC)<sup>20</sup> and its most recent proposal (COM (2002) 581) for the revision of this directive that is shortly to go before the European Parliament, are probably most noteworthy.

There have also been questions regarding the associated increase in energy consumption by the water industry as a result of installation of additional treatment facilities required to meet the delivery of such environmental quality improvements. In relation to the integrated management of coastal zones, the implications for agriculture, the water industry and tourism as well as for local authorities (as beach operators) need to be fully considered. However, it is worth noting that the Commission's proposal states that the revised Bathing Water Directive will take ICZM principles into account.

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<sup>20</sup> This directive was one of the earliest examples of environmental water quality legislation to be adopted by the European Commission (EC).

Table 3.7 European policies related to pollution, waste management and chemicals

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>Products and production methods</b>		
Environmental Agreements <a href="http://europa.eu.int/scadpl/us/leg/en/vb/128126.htm">http://europa.eu.int/scadpl/us/leg/en/vb/128126.htm</a>	Improving the environmental performance of companies and sustainable production methods by encouraging voluntary commitments and agreements in accordance with the 6 <sup>th</sup> Action Programme for the environment (Table 3.3, Section 3.2.3)	Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions of 17 July 2002 on Environmental Agreements at Community Level within the Framework of the Action Plan on the "Simplification and Improvement of the Regulatory Environment" [COM (2002) 412 final]
Integrated Product policy <a href="http://europa.eu.int/scadpl/us/leg/en/vb/128011.htm">http://europa.eu.int/scadpl/us/leg/en/vb/128011.htm</a>	The Commission is presenting a strategy for strengthening and refocusing product-related environmental policies with a view to promoting the development of a market for greener products.  The Communication, which presents the Community's strategy for making products more environment-friendly, focuses on: establishing general conditions which will improve the environment-friendliness of products throughout their life cycle; products with the most potential for improvement (from an environmental standpoint)	Green Paper of 7 February 2001 on integrated product policy (presented by the Commission) [COM (2001) 68]  Communication from the Commission to the Council and the European Parliament of 18 June 2003 - Integrated Product Policy - Building on Environmental Life-Cycle Thinking [COM (2003) 302 final]
<b>Dangerous Substances</b>		
Community strategy for endocrine disruptors	This Communication suggests the formulation of a strategy to deal with the problem of endocrine disruptors which damage health and the environment.	Communication from the Commission to the Council and the European Parliament of 17 December on a Community strategy for endocrine disruptors, 1999 [COM (1999) 706 final]
<b>Pesticides</b>		
Thematic strategy on the sustainable use of pesticides	The proposed strategy would aim to: - reduce the impacts of pesticides on human health and the environment - achieve more sustainable use of pesticides - significant overall reduction in risks and use of pesticides	Communication of 1 July 2002 from the Commission to the Council, the European Parliament and the Economic and Social Committee - Towards a thematic strategy on the sustainable use of pesticides [COM (2002) 349 final]
<b>Waste Management</b>		
Removal and disposal of disused offshore oil and gas installations	To protect the environment by reducing pollution from disused offshore oil and gas installations.  This Communication provided a draft for the Ministerial Meeting of the	Communication from the Commission to the Council and the European Parliament of 18 February 1998 on removal and disposal of disused offshore oil and gas installations. [COM (98) 49 final]

	OSPAR Convention held in Portugal in July 1998.	
<p><b>Pollution Control</b>  <u>Bathing water</u></p>	<p>To reduce and prevent the pollution of bathing water.</p> <p>The Communication presents the strengths and weaknesses of the management of bathing water quality, proposing various approaches to the drafting a new, revised directive in this area.</p>	<p>Communication from the Commission to the European Parliament and the Council of 21 December 2000: Developing a new bathing water policy [COM (2000) 860 final]</p> <p>Proposal for a revised Directive of the European Parliament and of the Council concerning the Quality of Bathing Water COM (2002)581.</p>



### **3.2.4 Spatial Planning, regional policy and development**

#### *3.2.4.1 European Spatial Development Perspective*

The European Spatial Development Perspective (ESDP<sup>21</sup>) provides policy objectives and general principles of spatial development to ensure the sustainable and balanced development of the European territory, whilst respecting social, economic, cultural and environmental diversity. The ESDP, which is an intergovernmental, advisory document has two parts. These address:

- the contribution of spatial development policy to European policy; and
- the trends, opportunities and challenges facing the EU territory (Table 3.8).

In order to achieve economic and social cohesion, the ESDP promotes concerted action related to spatial development to correct regional, spatial disparities. The largest spatial imbalance in the EU lies between the central core, where most economic activity is concentrated, and the remaining, more peripheral regions. It should be noted that this core area has been defined by the EC as the triangle extending from North Yorkshire in the United Kingdom via Franche-Comté in France to Hamburg in Germany, much of which lies within the North West Europe region<sup>22</sup>. In providing an overarching strategy for spatial planning<sup>23</sup> and an indicative framework for future development in the territorial space of the European territory, the ESDP presents a common frame of reference for all institutions involved in spatial planning. This framework not only aims to reinforce trans-national co-operation in the development of space, but also attempts to improve co-operation amongst Community sectoral policies that are likely to cause significant spatial impacts.

#### **Box 3.1 The purpose of the European Spatial Development Perspective**

“to define at Union level policy objectives and general principles of spatial development to ensure the sustainable balanced development of the European territory which respects its diversity.”

The spatial development policies within the ESDP have been designed to support and accord with the principles of sustainable development and with the basic objectives of Community policy, notably:

- economic and social cohesion;
- effective, balanced and knowledge-based competition; and
- conservation of natural and cultural heritage.

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<sup>21</sup> The final version of the ESDP was adopted by the informal Council of EU Ministers responsible for Spatial Planning in Potsdam, 10-11 May 1999. The ESDP's twelve implementing actions were adopted at the Tampere Council in October 1999.

<sup>22</sup> In 2001 this area accounted for a one seventh of the EU's current land surface, was home to a third of its population and produced almost half (47%) of its GDP (COM(2001) 24 final).

<sup>23</sup> Spatial planning is NOT the equivalent of town and country planning of land use planning. It addresses the economic, environmental and social aspects of places as well as outcomes expressed as policies. These in turn form the framework for action (Healey, 2004).

So that the ESDP's policies can contribute to these objectives and provide for the development of European space, the central policy objectives and options of the ESDP are the:

- establishment of polycentric<sup>24</sup> spatial development and the associated redefining of the relationship between urban and rural areas;
- parity of access to infrastructure and knowledge; and
- development, conservation and wise management of natural and cultural heritage.

In terms of the development of ICZM in the North West Europe region, all of these objectives are very important. The decentralisation of urbanisation, associated with the first policy objective, is required as national economies gradually become integrated into the single market and the global economy. In terms of ICZM, this policy objective should assist in the reduction of regional disparities and facilitate the sustainable development of the more peripheral, coastal areas. Healey (2004) suggests that such a policy could assist the development of a more "collective asset base" of regions so they are more competitive and help redress the imbalance of distribution of opportunity. The ESDP also suggests that this could be accomplished through the expanding role of metropolitan areas<sup>25</sup> and 'gateways' including large ports. This objective is linked with EC instruments and measures dealing with rural and urban development (Table 3.8), with the ESDP promoting integrated development strategies to counter urban expansion. The ESDP suggests the 'compact city'<sup>26</sup> concept, particularly for coastal areas.

In relation to the second policy objective, the ESDP recognises the importance of transport and telecommunications infrastructure in helping to achieve economic and social cohesion. The creation of links (between core and periphery; and between urban and rural areas) are particularly important. The ESDP and the polycentric development model are, therefore, inextricably linked to the future extension of the trans-European networks. Accessibility is a key feature, particularly with the need to ensure balanced access to transport systems and centres including ports (Section 3.2.4.2). In the context of North West Europe, the following aspects are important:

- improved access to peripheral regions, including Member States such as Ireland;
- achieving better balance of use along coastlines;
- the inclusion of ports into EU transport policy;
- the promotion of a freight network based as far as possible on rail and water; and,
- diversity in the rural environment (COM (2001) 24 final).

Although the third policy objective centres around the need for integrated strategies for the sustainable management of environmental factors (air, water, soil), it targets protection of water resources (including surface, ground and sea waters) for special attention. Pollution prevention,

<sup>24</sup> Polycentric spatial development promotes the growth of multiple centres of development, avoiding over-concentration of population and economic, political and financial power in a single dynamic core area.

<sup>25</sup> Many of the metropolitan areas of North West Europe are on the coast.

<sup>26</sup> This results in short and more efficient transport distances, which assist in the reduction of environmental impacts.

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improved land use and hazard management (including floods), public awareness and cross-border cooperation are considered to be amongst the main requirements.



Table 3.8 The European Spatial Development Perspective and social and economic cohesion

Specific policy area	Objectives of specific policy area	Community measure(s)
<p>ESDP</p> <p><a href="http://europa.eu.int/scadpl/us/leg/en/tvb/g24401.htm">http://europa.eu.int/scadpl/us/leg/en/tvb/g24401.htm</a></p>	<p>To define at Union level policy objectives and general principles of spatial development to ensure the sustainable balanced development of the European territory which respects its diversity.</p> <p>The central policy objectives and options of the ESDP are:</p> <ul style="list-style-type: none"> <li>- The establishment of polycentric spatial development and balanced urban and rural system;</li> <li>- Parity of access to infrastructure and knowledge; and</li> <li>- The wise management of natural and cultural heritage.</li> </ul> <p>Four key areas which interact and exert considerable pressure on the spatial development of the EU are given particular prominence in the ESDP, namely:</p> <ul style="list-style-type: none"> <li>- development of urban areas</li> <li>- development of rural areas</li> <li>- transport</li> <li>- natural and cultural heritage</li> </ul>	<p>ESDP - European Spatial Development Perspective. Towards a balanced and sustainable development of the Union territory.</p> <p>Resolution on regional planning and the European Spatial Development Perspective [Official Journal C 226 of 20.07.1998].</p> <p>Opinion of the Economic and Social Committee on the European Spatial Development Perspective (ESDP) - first official draft [Official Journal C 407 of 28.12.1998].</p> <p>Opinion of the European Parliament on spatial planning and the European Spatial Development Perspective [Official Journal C 93 of 6.4.1999].</p> <p>1997 - ESDP. Meeting of Ministers responsible for spatial planning of the member states of the European Union. Noordwijk, 9 and 10 June 1997</p> <p>1999 - ESDP. Final version adopted by the informal Council of EU Ministers responsible for Spatial Planning in Potsdam, 10-11 May 1999. agreed by the responsible European Ministers at Potsdam in June 1999.</p>
<p>Economic and social cohesion</p> <p><a href="http://europa.eu.int/comm/regional_policy/index_en.htm">http://europa.eu.int/comm/regional_policy/index_en.htm</a></p>	<p>To promote economic and social cohesion</p> <p>Various reports stimulate economic and social cohesion and opening the debate on the future shape of European cohesion policy.</p>	<p>Second Report on Economic and Social Cohesion - an assessment "Unity, solidarity and diversity for Europe, its people and its territory" - the Second Report on Economic and Social Cohesion, 31 January 2001 [COM(2001) 24 final]</p> <p>Commission Communication of 18 February 2004 - Third progress report on economic and social cohesion [COM(2004) 107 final]</p> <p>Commission Communication of 30 January 2003 - Second progress report on economic and social cohesion [COM(2003) 34 final]</p> <p>Commission Communication of 30 January 2002 - First progress report on economic and social cohesion [COM(2002) 46 final]</p> <p>Commission Communication of 30 January 2002 - First progress report on economic and social cohesion [COM(2002) 46 final]</p>

**3.2.4.2 Trans-European Networks (TEN) and related policy developments**

The Community contributes to the establishment of the trans-European networks (TENs) related to the transport, telecommunications and energy supply sectors, although transport networks account for most of the Community's dedicated TEN-budget. The TENs include infrastructure<sup>27</sup> along with the services necessary for the operation of this infrastructure. The concept of TENs<sup>28</sup> has been linked to the single market since the end of the 1980s with the construction of TENs networks considered to be an important contributor to economic growth and employment creation. The legal basis for TENs was provided with the Maastricht Treaty. Under this, TENs are considered vital to help re-enforce economic and social cohesion<sup>29</sup> (Box 3.2). As such, the future extension of TENs is closely linked to the polycentric development model proposed within the ESDP (Section 3.2.4.1). Indeed, it has been suggested that TENs have already made a major contribution to spatial development, improving access to isolated, remote and island regions and stimulating a more even spread of development along coastlines. It is also intended that TENs should also assist the EU in achieving balanced and sustainable development. Such development requires interconnection and interoperability of national networks in addition to access to these networks – with significant implications for transport 'gateways' including ports.

**Box 3.2 Objectives and priority measures associated with TEN-T**

Objectives:

- To ensure mobility of persons and goods;
- To offer users high-quality infrastructures;
- To combine all modes of transport;
- To allow the optimal use of existing capacities;
- To be interoperable in all its components;
- To cover the whole territory of the Community;
- To allow for its extension to the EFTA Member States, countries of Central and Eastern Europe and the Mediterranean countries

The priority measures concern:

- completion of the connections needed to facilitate transport;
- optimization of the efficiency of existing infrastructure;
- achievement of interoperability of network components;
- integration of the environmental dimension in the network.

To help achieve these objectives, the Community has provided a general reference framework for the implementation of the network (Table 3.9). Guidelines cover objectives, priorities and definition of projects of common interest as well as broad measures associated with the three main themes. A considerable number of projects have received financial support from the TEN-budget line,

<sup>27</sup> The infrastructure includes roads, railways, waterways, ports, airports, navigation aids, intermodal freight terminals and product pipelines.

<sup>28</sup> Information on TENs can be viewed at: [http://europa.eu.int/comm/ten/index\\_en.html](http://europa.eu.int/comm/ten/index_en.html)

<sup>29</sup> The Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 14 January 1999: "Cohesion and Transport" (COM (1998) 806) promotes this aspect. Website: <http://europa.eu.int/scadplus/leg/en/lvb/l24207.htm>

Structural Funds, the Cohesion Fund and the European Investment Bank. A number of projects, reviewed as part of the ICZM Demonstration Project, showed mixed benefits to coastal areas from TEN-T project investment<sup>30</sup>. Within North West Europe, the importance of more effective integrated transport systems, however, will be crucial to future development with transport infrastructure continuing to influence the location of coastal development. For example, along the Welsh coast, the development pressures associated with the Euro-routes (the M4/A55 corridors) and the gateways (the port areas and bridges) has been recognised in a recent report on the development of ICZM in the Principality (Ballinger *et al.*, 2005).

With respect to transport, significant policy developments in the transport sector have resulted in various revisions of TEN-T guidelines. These include the issuing of the White Paper on a European transport policy 'European transport policy for 2010: time to decide' (COM (2001) 370)<sup>31</sup>, addressing new challenges facing the transport sector, and the Communications and related measures promoting Short-Sea Shipping<sup>32</sup>. The White Paper, designed to comply with and support the recent sustainable development strategy (Section 3.3.2), attempts to strike a balance between 'economic development and the quality and safety demands made by society in order to develop a modern, sustainable transport system for 2010' (*op. cit.*). The Commission has proposed a large range of measures to develop a transport system capable of shifting the balance between modes of transport that will include the revitalisation of railways and the promotion of sea transport. An important aspect within this, includes the promotion of 'motorways of the sea' as alternative routes to relieve bottlenecks on land, with a recent project promoting concentration of flows of goods within a limited number of ports. Emanating from this, the Commission has produced the programme promoting short sea shipping (COM (2003) 155) for the period 2003 – 2020. This is aiming to help reduce road transport, restore the balance between modes of transport, bypass bottlenecks and contribute to sustainable development and safety.

The changing policy arena along with delays in progressing the initial transport network (due for completion in 2010) and concern over new impacts associated with the expansion of the Union have resulted in some significant modifications to the TEN-T guidelines. Recent guidelines now promote the reduction of bottlenecks within the planned or existing network, concentrating

<sup>30</sup> This included a study of the impact of the TEN-T programme resulting from the completion of the Oresund fixed link Reference: The influence of EU Policies on the evolution of coastal zones (Thematic study E of the ICZM Demonstration Programme) Institute for European Environmental Policy (1999)

<sup>31</sup> White Paper 'European Transport policy for 2010: time to decide'

[http://europa.eu.int/comm/energy\\_transport/en/lb\\_en.html](http://europa.eu.int/comm/energy_transport/en/lb_en.html)

<sup>32</sup> These include the:

- Communication from the Commission: Programme for the Promotion of Short Sea Shipping [COM(2003) 155 final]
- Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions on Short Sea Shipping [COM(2004) 453 final]
- Implementing measures:

Directive [2002/6/EC](#) of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community [Official Journal L 67 of 9 March 2002].

investments on a limited number of new specific projects rather than adding new infrastructure routes (CEC, 2002). Later amendments to the TEN-T guidelines have begun to further recognise the multi-modal aspect of the network, addressing issues associated with seaports, inland ports and intermodal terminals, promoting many of the ideas. These are concordant and build on many of the ideas and approaches described within the 1997 Green Paper 'Seaports and Maritime Infrastructure' (COM (97) 678)<sup>33</sup>. However, a more fundamental revision of TEN-T guidelines and new outline plans for 2020 have been proposed that address the expected changes in traffic flows and other impacts associated with European enlargement. Within these, concentration on a primary network<sup>34</sup> and the introduction of 'sea motorway's are promoted. It is noteworthy that there are a number of TEN-T priority projects within North-west Europe that could have a profound impact on the development of coastal areas. These include:

- sea motorway projects ('motorways' proposed through the Irish / Celtic Sea and English Channel;
- multi-modal links project : Ireland/UK/Continental Europe;
- Seine –Scheldt inland waterway;
- road/railway corridor linking the west of Ireland and Dublin;
- road development: Dover – Fishguard (except M25); and
- Essen-Dublin road project (2010).

The European Union policy concerning Trans-European Energy Networks (TEN-E) is based on three cornerstones: the legal basis for TEN's introduced in the EC Treaty by the Maastricht Revision (1993); the regulation on TEN financial support; and the (recently revised) Guidelines decision for Energy TEN's, that identifies priority axes and projects of common interest for EU financing. The Trans European Energy Networks budget line is managed in accordance with Regulation (EC) No 2236/95 of the Council<sup>35</sup>, although there are several other European Community financial instruments that may come into play for financing energy infrastructure. For example, The European Regional Development Fund (ERDF) contributes to the financing of the Trans-European Energy Networks because of their role in the development of eligible regions. Funds have been allocated from the Community Support Frameworks (CSF I and II) and the Community initiatives (REGEN, INTERREG II).

The development of TEN-E aims at supporting the EU energy policy objectives of reinforcing security of supply and competitiveness as well as protecting the environment. The effective

<sup>33</sup> The Green Paper suggested ports had a major role in TEN-T through their ability to:

- increase the efficiency of the European transport system;
- promote short sea shipping into environmentally-friendly multimodal transport networks;
- encourage growth of intra-EU trade and trade with third countries;
- overcome congestion of the main land-corridors;
- enhance maritime links with island and peripheral regions;
- strengthen the multimodal aspect of the TEN-T.

<sup>34</sup> The primary network would be made up of the most important infrastructure for international traffic and cohesion on the European continent.

<sup>35</sup> As amended by Regulation (EC) No 1655/1999, No 788/2004 and No 807/2004.

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operation of the internal energy market, providing for cohesion in the Union and the climate change targets are central to these policies. The objectives and priority measures of TEN-E are shown in Box 3.2.



Table 3.9 European policies related to transport

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>General provisions</b>		
<a href="#">White paper: European transport policy for 2010</a>	To strike a balance between economic development and the quality and safety demands made by society in order to develop a modern, sustainable transport system for 2010.	White Paper submitted by the Commission on 12 September 2001: "European transport policy for 2010: time to decide" [COM (2001) 370 final]
<a href="#">Cohesion and transport</a>	To develop an efficient and sustainable European transport system taking account of economic development prospects at regional level, the enlargement of the Union to include new States and the importance of public transport.	Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 14 January 1999: "Cohesion and Transport" [COM (1998) 806 final]
<a href="#">Sustainable mobility: 2000-2004 action programme</a>	To implement a Common transport policy which is safe, efficient, competitive and socially and environmentally friendly	Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the common transport policy - "Sustainable mobility: perspectives for the future" 1998 [COM (1998) 716 final]
<a href="#">A Community Strategy for Sustainable Mobility</a>	Response to the Resolution adopted by the European Parliament in September 1991, which calls upon "the Commission to submit to the Council a framework programme for optimum environmental protection in the European transport market."	Green Paper on the impact of transport on the environment - A Community strategy for "sustainable mobility" [COM (92) 46 final], February 1992
<b>Maritime transport</b>		
<a href="#">Programme for the Promotion of Short Sea Shipping</a>	To establish a programme for the promotion of Short Sea Shipping within the European Union (EU).  The White Paper on European transport policy for 2010 highlights the role that Short Sea Shipping can play in curbing the growth of heavy goods vehicle traffic, rebalancing the modal split and bypassing land bottlenecks and contributing to sustainable development and safety.  The Commission's programme consists of 14 action areas within which there are various measures to be adopted within the period 2003-2010. The programme includes legislative, technical and operational initiatives aimed at developing EU, national, regional and industry adoption of Short Sea Shipping.	Communication from the Commission: Programme for the Promotion of Short Sea Shipping [COM (2003) 155 final]  Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions on Short Sea Shipping [COM (2004) 453 final]  Implementing measures: Directive 2002/6/EC of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community [Official Journal L 67 of 9 March 2002].

<p><a href="#">Strategy to reduce atmospheric emissions from seagoing ships</a></p>	<p>To take stock of the environmental and health problems caused by atmospheric emissions from seagoing ships and to define objectives, actions and recommendations to help reduce such emissions over the next ten years.</p> <p>The strategy includes the above communication and a <u>proposal for a Directive on the sulphur content of marine fuels</u>.</p>	<p>Communication from the Commission to the European Parliament and the Council, of 20 November 2002, "A European Union strategy to reduce atmospheric emissions from seagoing ships" [COM (2002) 595 final, Volume I - Not published]</p>
<p><a href="#">Green Paper: seaports and maritime infrastructure</a></p>	<p>To launch a debate on the efficiency of ports and maritime infrastructure, their integration into the multimodal trans-European network and the application of competition rules to this sector.</p>	<p>Green Paper of 10 December 1997 on Seaports and maritime infrastructure [COM (97) 678, December 1997]</p>



### *3.2.4.3 European Regional policy and development*

#### Background

Although the concept of economic cohesion was introduced in the Single European Act (1986), it was the Maastricht Treaty (1992) that established social and economic cohesion and solidarity as a priority objective of the European Union, alongside the single market and European economic union. Although significant financial assistance associated with a range of European instruments has attempted to reduce regional disparities, substantial differences remain. Cohesion, therefore, is still a priority. A considerable proportion of the budget of the EU is allocated to the reduction of gaps in development, with the structural policy remaining the second most heavily funded sector after the common agricultural policy.

European regional policy promotes solidarity, seeking to strengthen the economic, social and territorial 'cohesion' of the Union by:

- assisting disadvantaged and peripheral regions;
- restructuring declining industrial regions;
- diversifying rural economies particularly where agriculture is declining; and,
- revitalising declining neighbourhoods in the cities.

Currently, various EU grants provide financial assistance under various regional development programmes and specific Community initiatives and schemes as listed in Table 3.10. The following funds are the four main types of structural funding:

- The European Regional Development Fund (ERDF) – financing infrastructure, job creating investment, local development projects and aid for small firms;
- The European Social Fund (ESF) - promotes the return of unemployed and disadvantaged groups to the workforce;
- The European Agricultural Guidance and Guarantee Fund (EAGGF) - finances rural development measures and assistance to agriculture and forestry; and
- The Financial Instrument for Fisheries Guidance (FIFG) - helps adapt and modernise the fishing industry

Of these, the ERDF, is probably the most important Structural Fund in terms of financial resources. This fund, which aims to reduce regional imbalances in the Community, grants financial assistance for the development of the less-favoured regions and, to this end, contributes to INTERREG, the Urban Community Initiative and the new Objectives 1 and 2 initiatives.

In addition to these, the Cohesion Fund, a special solidarity fund, assists with the funding of projects related to the environment and transport infrastructure in Member States with a GDP 90% below the EU average. This currently included Ireland (until the end of 2003) within the North West Europe region.

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To improve the effectiveness of the structural measures, over 90% of structural funding for the period 2000–06 has concentrated on the following three priority objectives:

- Objective 1 – promoting development and structural adjustment of regions whose development is lagging behind (where GDP is less than 75% of the EU average);
- Objective 2 – contributing to supporting economic and social conversion in industrial, rural, urban or fisheries dependent areas facing structural difficulties;
- Objective 3 - modernising systems of training and promoting employment.

Within this same period, new Community initiatives assisting regional policy have included:

- INTERREG III – stimulating cross-border, trans-national and inter-regional co-operation;
- LEADER+ – promoting rural development;
- URBAN II – encouraging economic and social regeneration of urban areas (Table 3.10).

To assist regional development, the Commission has considered the setting up of a simple and transparent instrument for managing regional aid for large investment projects as well as establishing more systematic dialogue between European and national associations of regional and local authorities (Table 3.10).



Table 3.10 European regional policies

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>General Framework</b>		
INTERREG III <a href="http://europa.eu.int/s cadplus/leg/en/lvb/g 24204.htm">http://europa.eu.int/s cadplus/leg/en/lvb/g 24204.htm</a>	To strengthen economic and social cohesion in the Community by promoting cross-border, transnational and interregional cooperation and balanced development of the Community territory.	Commission Communication of 28 April 2000 to the Member States laying down guidelines for a Community Initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory (Interreg III) [Official Journal C 143 of 23.5.2000].
INTERREG III C <a href="http://europa.eu.int/s cadplus/leg/en/lvb/g 24205.htm">http://europa.eu.int/s cadplus/leg/en/lvb/g 24205.htm</a>	To explain the method for implementing interregional cooperation activities under strand C of the Interreg III Community Initiative for 2000-06 (Interreg III C).	Commission Communication to the Member States of 7 May 2001 - "Interregional cooperation" - Strand C of the Interreg III Community initiative [COM (2001) 1188 final - Official Journal, 15.5.2001].
LEADER+ <a href="http://europa.eu.int/s cadplus/leg/en/lvb/g 24208.htm">http://europa.eu.int/s cadplus/leg/en/lvb/g 24208.htm</a>	The Community Initiative Leader+ is part of the Community's rural development policy. In the period 2000-06, it is geared to the diversification of economic activity in rural areas by applying innovative, integrated and participative territorial development strategies.  This communication defines the Commission's guidelines for Leader+, focusing on cooperation between territories and networking.	Commission Communication of 14 April 2000 to the Member States laying down guidelines for the Community Initiative for Rural Development (Leader+)
URBAN II <a href="http://europa.eu.int/s cadplus/leg/en/lvb/g 24209.htm">http://europa.eu.int/s cadplus/leg/en/lvb/g 24209.htm</a>	To lay down Commission guidelines on the economic and social regeneration of cities and neighbourhoods in crisis in order to promote sustainable urban development.	Commission Communication of 28 April 2000 to the Member States laying down guidelines for a Community initiative concerning economic and social regeneration of cities and of neighbourhoods in crisis in order to promote sustainable urban development (Urban II) [Official Journal C 141, 19.05.2000]. Commission Communication of 14.06.2002 to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on "The programming of the Structural Funds 2000-2006: An initial assessment of the Urban Initiative" [COM(2002)308 final]
Innovative actions under the ERDF: 2000-06 <a href="http://europa.eu.int/s cadplus/leg/en/lvb/g 24210.htm">http://europa.eu.int/s cadplus/leg/en/lvb/g 24210.htm</a>	To encourage less-favoured regions to invest in innovation and technological development with a view to reducing the lag in their development and enhancing their competitiveness. To encourage exchanges of experience and best practice in these areas by supporting in particular the creation of inter-regional thematic networks.	Communication from the Commission "The regions and the new economy" - Guidelines for innovative actions under the ERDF in 2000-06 [COM (2001) 60 final]
Regional aid for large investment	To introduce a simple and transparent instrument for managing regional aid for large investment projects.	Communication from the Commission - Multisectoral framework on regional aid for large investment projects [Official Journal C 70, 19.03.2002].



<p>projects  <a href="http://europa.eu.int/scadplus/leg/en/lvb/g24215.htm">http://europa.eu.int/scadplus/leg/en/lvb/g24215.htm</a>                      Regional and local dialogue</p>	<p>The European Commission is establishing a systematic dialogue with the European and national associations of regional and local authorities.</p> <p>This dialogue aims to involve the local actors as far upstream as possible in the decision-making process so that fuller account will be taken of their opinions on Community policies with a significant regional and local impact.</p> <p>The Commission has established the framework and arrangements for this dialogue.</p>	<p>Commission Communication of 19 December 2003 - Dialogue with associations of regional and local authorities on the formulation of European Union policy [COM(2003) 811 final]</p>
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Contribution of regional policy funding to ICZM

In the context of the above, many of the remoter coastal regions of North West Europe have benefitted from regional development funds and Objective 1 finance. For example, much of the West Wales coast, which is part of the designated Objective 1 area, will have received €3bn funding in the period 2002-2006. As Table 3.11 shows, this funding has supported a considerable range of activities and themes important to ICZM, including rural development and the sustainable use of natural resources. However, as the funding programmes are based on short/medium term project funding cycles, this may cause problems in developing the long-term approach required for ICZM. Although the European research and funding programmes are co-ordinated by dedicated secretariats with contractual requirements to report project findings, the feedback from such projects is not always readily accessible. Many coastal projects have, therefore, suffered when a project has been discontinued, sometimes leading to loss of both personnel and the knowledge-base (Ballinger *et al.*, 2005).

**Table 3.11 Selected Examples of Key European Funded Coastal Projects in Wales**

Year	Programme/ Value Awarded	Topic	Welsh Grant Holder
1994-9	Interreg 2A 0.2m	Marine Mammal Strandings	MEM UK
2001-2	Interreg 3A 0.33m	CleanCoast	Keep Wales Tidy
2003-	Interreg 3A 0.14m	Leatherback turtles	UW Swansea
2003-	Interreg 3A 0.27m	Shellfish aquaculture in the Irish Sea – detection and prevention of diseases	UW Bangor
2003-	Interreg 3A 0.3m	Sustainable management of near shore water quality for aquaculture, recreation and tourism	UW Aberystwyth
2003-	Interreg 3A 0.034m	Coastal Communities Network – towards integrated coastal management (CoCoNet)	Cardiff University
2003-	Interreg 3A 0.017m	CZMnet Coastal Zone Management Network	Carmarthenshire CC
2003-	Interreg 3A 0.23m	Use of ferries to monitor water quality of Irish Sea	UW Bangor
2004-	Interreg 3A 0.24	Technological and scientific development of mussel hatchery	UW Bangor
2004-	Interreg 3A 0.32m	Predictive Irish Sea Models	UW Bangor
2004-	Interreg 3A 0.3m	Methods of assessment of Trophic Status in the Irish Sea (MATSIS)	UW Bangor
2004-	Interreg 3A 0.3m	HABMAP- Habitat mapping for conservation and management of the Southern Irish Sea	CCW
2004-	Interreg 3A 0.2m	Combined Coastal Biodiversity Management and Awareness Programme	National Trust Wales
2005-	Interreg 3A 0.2	Irish Sea Marine Aggregates Initiative-IMAGIN	Geoscience Wales Ltd

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2003-6	Interreg 3B 4.2m	Atlantic Arc Aquaculture Group	UW Bangor
2003-6	Interreg 3B 2.6m	CoastAtlantic	Severn Estuary Partnership
2005-8	Interreg 3B 4.2m	COREPOINT- ICZM	Cardiff Uni
2002	Objective 1 0.14m	Pembrokeshire Coastal Forum	Milford Haven Port Authority
2002	Objective 1 0.66m	Isle of Anglesey Coastal Path	Menter Mon
2002	Objective 1 0.17m	Conwy Coastal Key Fund	Conwy CC
2002	Objective 1 0.23m	Cardigan Bay/ Ceredigion Coast Path	Ceredigion CC
2002	Objective 1 0.063m	Pembrokeshire Marine Heritage Phase 1	Milford Haven Port Authority
2002	Objective 1 0.15m	Pembrokeshire Marine Leisure Facilities: Phase 1	Pembrokeshire CC
2003	Objective 1 1.6m	Green Seas Beach Infrastructure	Pembrokeshire CC
2002-3	Objective 1 0.4m	Millennium Coastal Park Building	Llanelli
2004	Objective 1 0.25m	Teifi/ Tywi/ Carmarthen Coast Strategic Trails	Carmarthenshire CC
2004	Objective 1 2.7m	Conwy Estuary Strategic Route	Conwy CBC
2004	Objective 1 1.1m	Teifi Estuary Tourism and Development Management Scheme	Ceredigion CC
25 FIGG Approved Grants 8.7m total e.g.:			
2003-5	Objective 1 0.28m	Coastal Fishing Vessels- Safety	Cardigan Bay Fishermen's Assoc.

Source: Ballinger, Gubbay, Stojanovic, Ball and Smith (2005b)

### Future regional policy

The enlargement of the European Union presents a significant challenge to social and economic cohesion, widening the development gulf across Europe and shifting the political centre of gravity eastwards, whilst not removing the inequalities that have always existed in the Europe of 15, including those along the coasts of North-west Europe. To address such challenges, a number of key reports from the Commission have discussed the future of regional policy and solidarity, notably economic and cohesion, in the light of the enlarged Union (Table 3.10). The structural policy provisions of the Agenda 2000 package<sup>36</sup> aim to improve the effectiveness and simplify the implementation of structural policy instruments so that economic and social cohesion can be achieved through strengthening growth, competitiveness and employment.

<sup>36</sup> Agenda 2000 aims to:

- Further institutional reform and a review of the Commission's organisation and operations
- Develop internal policies for growth, employment and quality of life
- Maintain economic and social cohesion through more effective Structural Funds
- Further reform the Common Agricultural Policy

### **3.2.5 Sectoral Policy Areas**

#### *3.2.5.1 Common Agricultural Policy*

The proposal for a Common Agricultural Policy (CAP) was enshrined in the Treaty of Rome, and its principles set out at the Stresa Conference in July 1958. The CAP entered into force in 1962 following the adoption of its mechanisms by the six founding Member States two years earlier. The CAP is regarded as one of the most important European policy areas, not only because of its share of the EU budget (once 70%, declining over the years), but also because of the almost exclusive competence of the EU in deciding the rules and mechanisms to be applied. Agriculture is also amongst the most important land uses affecting coastal areas of Europe, therefore the CAP has potentially significant implications for ICZM. Table 3.12 lists the elements of the CAP.

#### **Common Organisation of the Agricultural Markets and Financial Aspects of CAP**

The legal basis for the CAP is defined in Articles 32 to 38 in Title II of the EC Treaty, and was later amended by the Treaty of Amsterdam. The CAP is comprised of a series of rules and mechanisms that regulate the production, trade and processing of agricultural products in the EU. In recent years, the range of activities funded from the budget for agriculture has expanded to include rural development and the environment.

In order to achieve the objectives of CAP, in particular market stabilisation, a fair standard of living for farmers and increased productivity in agriculture, Article 34 of the EC Treaty provides for the creation of the common organisation of the agricultural markets (COMs) that have gradually replaced national market organisations. COMs consist of rules laid down by Community Decisions to regulate production of and trade in agricultural products in Member States. They are the basic instruments of the common agricultural market and now exist for most EU agricultural products, covering about 90% of final agricultural production in the Community. There are four types of market organisations. Some involve mechanisms for production premiums and intervention, others use a simple intervention system, some provide production aid or merely provide the products concerned with customs protection.

The CAP is financed from the European Agricultural Guidance and Guarantee Fund (EAGGF) that was set up in 1962. The current EAGGF is composed of the Guidance Section, one of the structural funds that contributes to the structural reforms in agriculture and the development of rural areas; and the Guarantee Section that is classified as compulsory expenditure within the Community budget. The Commission has proposed the creation of a single instrument for funding and programming, the European Agricultural Fund for Rural Development (EAFRD) that is intended to simplify the funding system.

#### **Agriculture and the Environment**

The CAP exerts an important influence upon agriculture's environmental impacts. Many of the changes in European farming that have led to environmental impacts are linked to technological

developments driven by competition in agricultural markets. Pollution of soil, water and air, fragmentation of habitats and loss of biodiversity can be the result of inappropriate agricultural practices and land use. Reform of the CAP has, therefore, increasingly focused on reducing the risks of environmental degradation, while encouraging farmers to play a positive role in the maintenance of the countryside through targeted rural development measures.

Integration of environmental goals into the CAP began in the 1980s, although two major reforms of the CAP in the 1990's saw increasing emphasis upon environmental objectives. The reforms of 1992 introduced some important new elements to the CAP, most notably the agri-environment regulation<sup>37</sup> that supports farming practices that help protect the environment and maintain the countryside. Agri-environment measures have become the main means of achieving environmental objectives within the CAP. Farmers commit, for a five-year minimum period, to adopt environmentally-friendly farming techniques that go beyond usual good agriculture practice and basic legal standards. For example, commitments may include preservation of landscape and historical features, or the conservation of high-value habitats and their associated biodiversity. These measures are co-financed by Member States. EU expenditure on agri-environment measures in 2002 amounted to around 44% of the EAGGF-Guarantee expenditure for rural development.

The EC's 1999 Communication 'Directions towards sustainable agriculture'<sup>38</sup> underlined the importance of integrating environmental concerns into the CAP. These were further highlighted by the 1999 CAP reform – part of the 'Agenda 2000' package of EU reforms that has been the most radical and comprehensive reform of the CAP since its inception. As part of Agenda 2000, the 'sustainable development of rural areas' has officially become the second pillar of the CAP alongside 'market policy'. The rural development regulation<sup>39</sup> consolidates earlier agri-environment measures and embraces the concepts of 'cross-compliance', 'direct income support', 'good farming practice' and 'modulation'. The implication of these measures is that production subsidies are being sharply curtailed in favour of direct payments to farmers. These are now linked to compliance with rules on the environment, animal welfare, and preservation of the countryside. Part of the contribution to farmers in direct payment may be made available by Member States. This concept (modulation) is part of the 'horizontal regulation'<sup>40</sup>, so called because it covers all direct payments established under the CAP. Starting in 2005, compulsory modulation will increase the budget available for rural development measures, including agri-environment schemes. Other major reforms implementing the principles of Agenda 2000 were adopted in mid-2003.

Another important measure is the Community's LEADER+ initiative for assisting rural communities in improving the quality of life and economic prosperity in their local area. LEADER+ incorporates a

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<sup>37</sup> Council Regulation (EEC) No.2078/92 of 30 June 1992 [Official Journal L 215, 30.7.1992].

<sup>38</sup> COM (1999) 22 final.

<sup>39</sup> Council Regulation (EC) No.1257/99 of 17 May 1999 [Official Journal L 160, 26.6.1999].

<sup>40</sup> Council Regulation (EC) No.1259/99 of 17 May 1999 [Official Journal L 160, 26.6.1999].

“bottom-up” approach, whereby local action groups take the lead in identifying local needs, developing and promoting a local strategy and in the selection of projects. LEADER+ funding assists these groups to encourage and support the development of small-scale, innovative projects that promote sustainable rural development. Through sharing experiences with others across the EU, benefits can extend beyond the initial project and can influence rural development policy.

The integration of environmental concerns into the CAP is reflective of a wider process initiated by the Cardiff integration process launched in June 1998. This recognises the importance of horizontal integration of all the sectoral policies of the EU and the need to develop comprehensive strategies to integrate the environment into the different spheres of activity. For example, the EU has set up measures in support of agricultural biodiversity, to contribute towards reaching the 2010 target of halting the loss of biodiversity, as set out in the EC Biodiversity Strategy adopted in 1998. The nature conservation interest of many coastal habitats is determined or modified by farming activity. A biodiversity action plan for agriculture<sup>41</sup> was officially launched by the EU in 2002 and includes priorities within the existing CAP for biodiversity conservation and sustainable use. The 2003 CAP reform reinforced the measures aimed at biodiversity conservation. In particular, there is reinforced support in areas with environmental restrictions arising from the implementation of the Birds and Habitats Directives. In addition, Agenda 2000 added ‘Areas with environmental restrictions’ (primarily Natura 2000 sites) to *Less Favoured Areas* (LFAs), where farmers are subject to restrictions on agricultural practices.

Water pollution by nitrates and pesticides and soil protection are also high on the agricultural agenda and have implications for ICZM. The 6<sup>th</sup> Environmental Action Programme highlighted the need for an EU strategy on soil protection. In response, the Commission’s Communication ‘Towards a thematic strategy for soil protection’<sup>42</sup> sets out core actions at national and EU level, including possible legislative responses, designed to arrest soil degradation. Agri-environmental measures, reinforced by the 2003 CAP reforms, provide important support by promoting organic farming, conservation tillage, safer pesticide use, integrated crop management, lowering stock density and management of low-intensity pasture systems. There are also links between the CAP and the EU’s water pollution legislation, most notably with the 1991 Nitrates Directive (Section 2.2.3) that aims to reduce water pollution by nitrates from agricultural sources and to prevent further pollution. The Directive involves monitoring of water quality in relation to agriculture, designation of nitrate vulnerable zones, establishment of (voluntary) codes of good agricultural practice and of (obligatory) measures to be implemented in nitrate vulnerable zones. The Directive, however, has not been widely adopted by Member States, although the increased emphasis upon good farming practice and respect of statutory environmental standards introduced by recent CAP

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<sup>41</sup> COM (2001) 162 final.

<sup>42</sup> COM (2002) 179 final.

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reforms may contribute to improved compliance with the Directive.<sup>43</sup> The Commission Communication 'Towards a thematic strategy on the sustainable use of pesticides'<sup>44</sup> proposes actions to reduce dependence upon chemical control, and these are supported by several agri-environment measures related to reducing pesticide use and conversion to organic farming.

The global impact of agriculture upon climate change is also recognised by the CAP. Agriculture contributes to greenhouse gas emissions through, amongst others, nitrogen fertilisation and manure management. Measures are being considered to reduce this problem and to contribute to other actions to mitigate climate change. For example, the 2003 CAP reform introduced a 'carbon credit' system offering financial incentives to farmers to produce biomass as an alternative energy source.

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<sup>43</sup> European Commission, Directorate General for Agriculture. *Agriculture and the environment* factsheet (undated).

<sup>44</sup> COM (2002) 349 final.



Table 3.12 Elements of the Common Agricultural Policy

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>General Framework</b>		
<p><a href="#">Common organisation of the agricultural markets</a></p>	<p>Article 34 of the EC Treaty provides for the creation of the common organisation of the agricultural markets (COM) which, depending on the product, shall take one of the following forms:</p> <ul style="list-style-type: none"> <li>• common rules on competition;</li> <li>• compulsory co-ordination of the various national market organisations;</li> <li>• a European market organisation.</li> </ul> <p>The COMs were introduced gradually and now exist for most EU agricultural products. They are the basic instruments of the common agricultural market in as far as they eliminate the obstacles to the intra-Union trade of agricultural products and maintain a common customs barrier with respect to third countries.</p>	<p>Although a number of common mechanisms govern their operation (e.g. system of single farm payments – see below), COMs vary depending on the product - regulated sectors include dairy products (Council Regulation (EC) No <a href="#">1255/1999</a> as amended), cereals (Council Regulation (EC) No <a href="#">1784/2003</a>) and fruit and vegetables (Council Regulation (EC) No <a href="#">2200/96</a>).</p> <p>There are four types of market organisations. Some organisations involve mechanisms for production premiums and intervention, others use a simple intervention system, some merely provide production aid or just provide the products concerned with customs protection.</p>
<p><a href="#">Single farm payments</a></p>	<p>The <a href="#">2003 reform of the CAP</a> introduces a new system of single farm payments (income support) and cuts the link between support and production (decoupling). The majority of common organisations of markets (COMs) will become subject to this new system in 2005 or 2006 (with the exception of the new Member States). Existing direct aids may be continued until 2012, subject to certain conditions (cross-compliance), but they will be gradually reduced (modulation). Certain crops are eligible for additional support to compensate for the loss of income resulting from modulation and the transition to the single farm payment.</p>	<p>Council Regulation (EC) No <a href="#">1782/2003</a> of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No <a href="#">2019/93</a>, (EC) No <a href="#">1452/2001</a>, (EC) No <a href="#">1453/2001</a>, (EC) No <a href="#">1454/2001</a>, (EC) No <a href="#">1868/94</a>, (EC) No <a href="#">1251/1999</a>, (EC) No <a href="#">1254/1999</a>, (EC) No <a href="#">1673/2000</a>, (EEC) No <a href="#">2358/71</a> and (EC) No <a href="#">2529/2001</a> [<a href="#">See amending acts</a>]</p>
<b>Financial Aspects of the Common Agricultural Policy</b>		
<p><a href="#">Financing the CAP</a></p>	<p>The CAP is financed from the European Agricultural Guidance and Guarantee Fund (EAGGF), which accounts for a substantial part of the Community budget. The EAGGF was set up in 1962 and separated in two sections in 1964:</p> <ul style="list-style-type: none"> <li>• the Guidance Section, one of the structural funds, which contributes to the structural reforms in agriculture and the development of rural areas (e.g. investing in new equipment and technology);</li> <li>• the Guarantee Section, which funds expenditure concerning the common organisation of the markets (e.g. to buy or store surplus and to encourage agricultural exports).</li> </ul> <p>The Guarantee Section is by far the more important one and is classified as compulsory expenditure within the Community budget. The Guidance Section is one of the structural funds aimed at promoting regional development and</p>	<p>Council Regulation (EC) No <a href="#">1258/1999</a> of 17 May 1999 on the financing of the common agricultural policy [Official Journal L 160 of 26.06.1999].</p> <p>Related measures:</p> <p>Commission Decision of 8 September 1999 fixing an indicative allocation by Member State of the allocations under the European Agricultural Guidance and Guarantee Fund Guarantee Section for rural development measures for the period 2000 to 2006 [Official Journal L 259, 06.10.1999].</p> <p>Council Regulation (EC) No <a href="#">814/2000</a> of 17 April 2000 on information measures relating to the common agricultural policy [Official Journal L 100, 20.04.2000]</p> <p>Proposal for a Council Regulation of 11.06.2002 amending Regulation (EC) No <a href="#">1258/1999</a> on the financing of the common agricultural policy [<a href="#">COM(2002) 293 final</a> - Not published in the Official Journal].</p>

	reducing disparities between areas in Europe.	
<a href="#">Revised budgetary framework</a>	<p>Under <a href="#">Agenda 2000</a>, and with a view to the expiry of the financial perspective (1993-99), a new inter-institutional Agreement has been adopted for the period 2000-2006. This Agreement, which is the core of the Agenda 2000 financial package, should enable the Union to expand and strengthen its policies while remaining within a rigorous financial framework. The provisions of the Agreement are in two main parts:</p> <ul style="list-style-type: none"> <li>• The first part of the agreement consists of the financial perspective and it's implementing details.</li> <li>• The second part of the agreement lays down the rules designed to improve the functioning of the annual budgetary procedure.</li> </ul>	<p><a href="#">Inter-institutional Agreement</a> of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure [Official Journal C 172 of 18.06.1999].</p> <p>Decision <a href="#">2003/429/EC</a> of the European Parliament and the Council of 19 May on the adjustment of the financial perspective for enlargement [Official Journal L 147 of 14.06.2003].</p> <p>Council Regulation (EC) No <a href="#">2040/2000</a> of 26 September 2000 on budgetary discipline.</p> <p>Related measures:  <a href="#">Commission Communication</a> of 10 February 2004, Building our common Future - Policy challenges and Budgetary means of the Enlarged Union, 2007-2013 [<a href="#">COM(2004)_101</a> final - Not published in the Official Journal].</p>
<b>Agriculture and the Environment</b>		
<a href="#">Sixth Environment Action Programme</a>	To define the priorities and objectives of Community environmental policy up to 2010 and beyond and to describe the measures to be taken to help implement the European Union's sustainable development strategy. The programme has been guided by the <a href="#">Fifth Environment Action Programme</a> (1992-2000) and the decision on its review.	<p>Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 24 January 2001 on the Sixth Environment Action Programme of the European Community "Environment 2010: Our future, our choice" [<a href="#">COM(2001)_31</a> final - Not published in the Official Journal].</p> <p>Related measures:                  Decision <a href="#">1600/2002/EC</a> of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme [Official Journal L 242, 10.09.2002].</p>
<a href="#">Directives towards sustainable agriculture</a>	To pursue the approach adopted by the Commission to the integration of the environmental aspects of agriculture into the reform of the CAP under <a href="#">Agenda 2000</a> .	<p>Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions of 27 January 1999 - Directions towards sustainable agriculture. [<a href="#">COM(1999)_22</a> final Official Journal C 173, 19.06.1999]</p>
<a href="#">Environmental taxes and charges</a>	To promote the use of fiscal instruments by Member States to increase the efficacy of environmental policy and ensure that environmental taxes and charges are used in accordance with Community legislation.	<p>Commission Communication of 26 March 1997 on environmental taxes and charges in the Single Market <a href="#">COM(97)_9</a> final [Official Journal C 224, 23.07.1997].</p>
<a href="#">Priority substances in the field</a>	To establish a list of priority substances in the field of water policy, for which quality standards and measurements for the reduction of emission	<p>Decision <a href="#">2455/2001/EC</a> of the European Parliament and of the Council of 20 November 2001, establishing the list of priority substances in the field of</p>

<p><a href="#">of water policy</a></p>	<p>controls will be set at Community level. This supplements the <a href="#">water framework directive</a>, and becomes Annex X.</p>	<p>water policy and amending Directive <a href="#">2000/60/EC</a> [Official Journal L331 of 15.12.2001].</p>
<p><a href="#">Action plan to promote biodiversity in agriculture</a></p>	<p>Establishing an action plan to improve or maintain biodiversity status and prevent further biodiversity loss due to agricultural activities. This communication is the third volume of the Commission Communication of 27 March 2001 on Biodiversity Action Plans in the areas of Conservation of Natural Resources, Agriculture, Fisheries, and Development and Economic Cooperation, and is specifically dedicated to agriculture. The action plan contains the following priorities:</p> <ul style="list-style-type: none"> <li>• keeping intensive farming at a level which is not harmful to biodiversity; by establishing good agricultural practice, reducing the use of fertilisers, supporting non-intensive modes de production and establishing sustainable resource management;</li> <li>• ensuring that farming activities are economically viable, socially acceptable and safeguard biodiversity;</li> <li>• implementing agri-environmental measures for the sustainable use of biodiversity;</li> <li>• ensuring that the necessary ecological infrastructure exists;</li> <li>• supporting measures related to maintaining local breeds and varieties and the diversity of varieties used in agriculture;</li> <li>• preventing the spreading of non-native species.</li> </ul>	<p>Commission Communication of 27 March 2001 to the Council and the European Parliament: Biodiversity Action Plan for Agriculture (Volume III) <a href="#">COM(2001)162</a> final - not published in the Official Journal</p> <p>The communication mentions several Community instruments that can be used to implement the biodiversity action plan:</p> <ul style="list-style-type: none"> <li>• The Council Regulation establishing common rules for direct support schemes under the common agricultural policy;</li> <li>• agri-environmental measures in the field of rural development: these are one of the key instruments of this action plan;</li> <li>• other rural development measures;</li> <li>• the environmental components of common market organisations;</li> <li>• the Regulation on genetic resources in agriculture [Council Regulation (EC) No <a href="#">1467/94</a>, Official Journal L 159, 26.8.1994];</li> <li>• the environmental components of market-related instruments on quality: as listed in Annex 2 of the communication;</li> <li>• <a href="#">phytosanitary legislation</a>;</li> <li>• <a href="#">SAPARD</a> (agricultural instrument for pre-accession).</li> </ul>
<p><a href="#">Strategy for soil protection</a></p>	<p>One of the objectives of the <a href="#">Sixth Environmental Action Programme</a> is to protect soils against erosion and pollution. In response, the Commission has published a Communication, which paves the way for developing a strategy on soil protection.</p>	<p>Communication of 16 April 2002 from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions - Towards a Thematic Strategy for Soil Protection [<a href="#">COM (2002) 179</a> final - Not published in the Official Journal].</p>
<p><b>Rural Development</b></p>		
<p><a href="#">Support for rural development</a></p>	<p>The future of agriculture is closely linked to the balanced development of the countryside, which accounts for 80% of the area of Europe. Alongside the market support measures, the European rural development policy plays a major role in economic, social and territorial cohesion. It is based on the following principles: recognising the multifunctional role of agriculture, improving competitiveness, ensuring that environmental issues are taken into account, diversifying economic activity, conserving rural heritage.</p>	<p>Council Regulation (EC) No <a href="#">1257/1999</a> of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations [Official Journal L 160 of 26.06.1999] [<a href="#">See amending acts</a>].</p>
<p><a href="#">Community initiative for rural development (Leader+)</a></p>	<p>The Community Initiative Leader+ is part of the Community's rural development policy, the second pillar of the common agricultural policy (CAP). In the period 2000-06, it is geared to the diversification of economic activity in rural areas by applying innovative, integrated and participative territorial</p>	<p>Commission Communication of 14 April 2000 to the Member States laying down guidelines for the Community Initiative for Rural Development (<a href="#">Leader+</a>) [Official Journal C 139 of 18.5.2000] [<a href="#">See amending acts</a>].</p>

<p>development strategies. This communication defines the Commission's guidelines for Leader+, focusing on cooperation between territories and networking.</p> <p>Leader+ is structured around three actions:</p> <ul style="list-style-type: none"> <li>• <b>Action 1:</b> Support for integrated territorial rural development strategies of a pilot nature based on the bottom-up approach and horizontal partnerships;</li> <li>• <b>Action 2:</b> Support for inter-territorial and transnational cooperation;</li> <li>• <b>Action 3:</b> the networking of all rural areas in the Community, whether or not they are beneficiaries under Leader+, and all rural development actors.</li> </ul>	<p>Related measure: Commission Decision C (2000) 1220 of 12 May 2000 fixing an indicative allocation by Member State of the commitment appropriations under the Community Initiative Leader+ for the period 2000-06.</p>
<p><b>Revision of the Common Agricultural Policy</b></p>	
<p><a href="#">Agenda 2000</a></p> <p>Agenda 2000 is an action programme whose main objectives are to strengthen Community policies and to give the European Union a new financial framework for the period 2000-06 with a view to enlargement. It was launched in 1999 in the form of twenty legislative texts relating to the following priority areas:</p> <ul style="list-style-type: none"> <li>• continuation of the agricultural reform along the lines of the changes made in 1988 and 1992, with a view to stimulating European competitiveness, taking great account of environmental considerations, ensuring fair income for farmers, simplifying legislation and decentralising the application of legislation;</li> <li>• increasing the effectiveness of the <b>Structural Funds</b> (including the <b>European Social Fund</b>) and the <b>Cohesion Fund</b> by greater thematic and geographic concentration of projects on specific objectives and geographical areas and thus improving management;</li> <li>• strengthening the pre-accession strategy for applicant countries by setting up two financial mechanisms: a pre-accession structural instrument (ISPA) to support improved transport and environmental protection infrastructures and a pre-accession agricultural instrument (<b>SAPARD</b>) to facilitate the long-term adjustment of agriculture and the rural areas of the applicant countries;</li> <li>• adopting a <b>financial framework for the period 2000-06</b> in order to enable the Union to meet the main challenges of the beginning of the 21st century, in particular enlargement, while ensuring budgetary discipline.</li> </ul>	<p><a href="#">Europe's Agenda 2000</a> - Strengthening and widening the European Union. Final version 31.8.</p>
<p><a href="#">Mid-term review of the Common Agricultural Policy</a></p>	<p>To review the common agricultural policy (CAP) halfway through the implementation of Agenda 2000.</p>
<p>Communication from the Commission to the Council and the European Parliament of 10 July 2002 - Mid-term review of the common agricultural policy (<a href="#">COM(2002) 394</a> - Not published in the Official Journal).</p>	

### 3.2.5.2 *The Common Fisheries Policy*

The EU has a Common Fisheries Policy (CFP) in order to manage fisheries for the benefit of both fishing communities and consumers. The legal basis of the CFP is laid down in Articles 32 to 38 of Title II of the EC Treaty that is devoted to agriculture<sup>45</sup>. The objectives of the CFP are set in Article 33, namely to increase productivity, ensure a fair standard of living for the fishing community, stabilise markets, assure the availability of supplies and ensure that supplies reach consumers at reasonable prices. Other Articles establish a common organisation of the markets (Article 34), provide for co-ordination of efforts in the spheres of research and vocational training (Article 35) and lay down competition rules (Article 36).

The first common measures in the fishing sector date from 1970. They set rules for access to fishing grounds, markets and structures. The legal framework of the CFP was strengthened in 1973 by the introduction of exclusive fishing rights inside the 12-mile limit. However, it took several years of negotiations and political wrangling before the Council laid the foundations for an overall Community fisheries policy in 1983. The 1992 interim review of the CFP resulted in the adoption of a regulation establishing a Community system for fisheries and aquaculture that provides the cornerstone of the new CFP and the basis for modernising policy on conservation and management of fisheries. Rules on the common organisation of the market and structural policy were also reformed.

The CFP was again reviewed in 2002 following the publication of a Green Paper on the future of the CFP in March 2001 (Section 4.2). The Green Paper outlined further proposals for reform to address the serious decline in many fish stocks. Around 40% of all EU catches are taken from stocks that are considered to be below safe biological limits. For certain types of fish, notably demersal and diadromous fish, the percentage is as high as 60%, with the situation for certain species, such as cod and hake, even more acute (CEC, 2004b). Following the review, new rules on conservation and the sustainable exploitation of fisheries resources<sup>46</sup> entered into force on 1 January 2003 that form the basis of the current CFP. The Regulations provide for technical measures, such as annual Total Allowable Catches (TACs) fixed on the basis of fish stocks, and accompanying conservation measures to prevent overfishing. For stocks that are outside safe biological limits, recovery plans based on sound scientific advice will be gradually introduced. These will include targets for the sustainable management of fisheries, the limiting of fishing effort, use of selective gear, mesh size regulations, and other control measures. A list of fisheries regulations applicable is contained in Appendix 2.

<sup>45</sup> Under Article 32, the internal market extends to fishery products and must be accompanied by the establishment of a Common Fisheries Policy.

<sup>46</sup> Council Regulation (EC) No.2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [Official Journal L 358 of 31.12.2002].

## EU legislation and policies with implications for coastal management

In order to increase the involvement of the fishing industry and other interests affected by the CFP, the reformed CFP provides for the establishment of Regional Advisory Councils covering sea areas falling within the jurisdiction of at least two Member States. Composed of representatives of fishermen, administrations, scientists, representatives of environmental NGOs and consumers, they may be consulted by the Commission on the preparation and implementation of management and recovery plans.

Arrangements for the adjustment of fishing capacity by Member States are also provided, with the aim of adapting the Community fleet to existing fishing possibilities. Member States have to observe the conditions in order to qualify for structural aid. The reform package includes measures to counter the social, economic and regional consequences of the restructuring of the fishing industry. Community structural assistance for the fisheries sector is provided by the Financial Instrument for Fisheries Guidance (FIFG) that was created in 1993. The FIFG supports the restructuring of the Community fleet by granting aid for scrapping, exporting and converting fishing vessels, and for modernisation<sup>47</sup>. Following reform of the CFP, state aid for the modernisation of the fleet was removed at the end of 2004. Given the importance of small-scale coastal fishing and the contribution it makes to employment, Member States may, subject to certain conditions, take additional measures concerning modernisation aid for these fishermen. In the longer term, the Commission is proposing further measures, such as allowing Member States to reserve certain coastal zones for vessels of less than 12m not using towed gear and practicing coastal fishing, to protect them from competition from larger, more modern vessels. Structural assistance could also be adapted to suit their needs with a view to saving jobs in coastal areas [COM (2002) 600 final].

Other EU policies that contribute to attaining the objectives of the CFP are shown in Table 3.13. Of particular note is the need to integrate environmental protection requirements into the CFP. Interactions between fishing activities and coastal and marine ecosystems are many and wide-ranging. Fishing activities can have a direct or indirect impact on coastal and marine habitats and species, but are also dependent upon the maintenance of a healthy ecosystem and the living resources it supports. In line with the integration process launched by the Cardiff European Council (June 1998), the Commission had already put forward its ideas on environmental integration in a number of policy documents, such as the Communications on fisheries management and nature conservation, elements of a strategy for the integration of environmental protection requirements into the CFP, and the biodiversity action plan. These are brought together into a Community Action Plan to integrate environmental protection requirements into the CFP in COM (2002) 186 final. The priority measures detailed in the plan are set out in Table 3.13. Other measures complement the action plan:

<sup>47</sup> The other Structural Funds, such as the European Regional Development Fund (ERDF) (Section 3.2.4.3), the European Social Fund (ESF), and the European Agricultural Guidance and Guarantee Fund (EAGGF) (Section 3.2.4.3) can also contribute to restructure the fishing industry. Operations to assist fisheries are being implemented under Objectives 1, 2 and 3 and the Community Initiatives such as INTERREG III, Equal and Leader+ (Section 3.2.4.3).

These will include:

- The promotion of a better understanding of marine ecosystems to facilitate the introduction of an ecosystem-based approach to fisheries management;
- The extension of management measures to include the protection of non-commercial species and habitats from the effects of fishing and aquaculture activities;
- The analysis of the implications of applying the principles of prevention, rectification at source and polluter-pays in the field of fisheries and aquaculture;
- Studies and projects by Member States collecting basic information on the relationship between fisheries and the environment;
- Close collaboration in implementing programmes for Integrated Coastal Zone Management;
- Public information;
- Assessment of trade measures designed to promote sustainable fishing practices;
- Investigation of the advantages of eco-labels as a way of encouraging environmentally sound fishing practices;
- Monitoring of activities not covered by the common fisheries policy and harmful to the marine environment with a view to remedial action.

Table 3.13 European policies related to fisheries

Specific policy area	Objectives of specific policy area	Community measure(s)
<b>Common Fisheries Policy</b>		
<a href="#">Uniform and effective implementation of the common fisheries policy</a>	<p>To implement an action plan to facilitate cooperation in implementing the Common Fisheries Policy (CFP) and to establish a joint inspection structure.</p> <p>The action plan will address the following aspects:</p> <ul style="list-style-type: none"> <li>- improving operational cooperation</li> <li>- harmonising surveillance activities</li> <li>- monitoring and review</li> <li>- Community Fisheries Control Agency (CFCA)</li> <li>- the role of the CFCA, Member States and the Commission</li> </ul>	<p>Commission communication of 21 March 2003: Towards uniform and effective implementation of the Common Fisheries Policy [COM(2003) 130 final]</p>
<a href="#">Scientific and technical advice</a>	<p>To improve scientific advice in the context of the common fisheries policy (CFP).</p> <p>The shortcomings in the current arrangements will be remedied by:</p> <ul style="list-style-type: none"> <li>- reorganising procedures for the provision of advice; and</li> <li>- increasing human resources available to prepare advice.</li> </ul>	<p>Commission communication of 23 December 2002 on improving scientific and technical advice for Community fisheries management [COM (2003) 47]</p>
<a href="#">Community action plan to reduce discards of fish</a>	<p>The European Commission is preparing an action plan to stop fishing fleets from discarding fish in Community waters.</p> <p>The Commission plans to act in order better to:</p> <ul style="list-style-type: none"> <li>- know the level of discards for all European fisheries;</li> <li>- understand the causes of each type of discard;</li> <li>- evaluate the consequences of discards for marine ecosystems;</li> <li>- reduce discards.</li> </ul>	<p>Communication of 26 November 2002 from the Commission to the Council and the European Parliament on a Community action plan to reduce discards of fish [COM(2002) 656 final]</p>
<a href="#">Dealing with the social, economic and regional consequences of the restructuring of the fishing industry</a>	<p>To adopt an action plan to counter the social, economic and regional consequences of the restructuring of the fishing industry.</p> <p>This will use existing instruments (various financial instruments including Financial Instrument for Fisheries Guidance (FIG) and other Structural Funds).</p> <p>In the longer term, the Commission is proposing further measures, including:</p> <ul style="list-style-type: none"> <li>- extending the scope of the FIG to fisheries during the period 2007-14;</li> <li>- Member States to be able to reserve certain coastal zones for vessels of less than 12m not using towed gear and practising coastal fishing, to protect them from competition from larger, more modern vessels.</li> </ul>	<p>Commission communication of 6 November 2002. Action plan to counter the social, economic and regional consequences of the restructuring of the EU fishing industry [COM(2002) 600 final]</p>

	<ul style="list-style-type: none"> <li>- improvement in the analysis of the dependency of coastal areas on fisheries and aquaculture.</li> <li>- encouraging diversification of activity in fisheries to facilitate the emergence of a strategy for the sustainable development of coastal regions.</li> </ul>	
<p><a href="#">A strategy for the sustainable development of European aquaculture</a></p>	<p>The European Commission is proposing the implementation of a strategy for the sustainable development of aquaculture. Supporting this, the Commission intends implementing various actions including:</p> <ul style="list-style-type: none"> <li>- increasing production, developing the market, marketing and information</li> <li>- improving the use of space</li> <li>- improving training - Economic decision-makers should take aquaculture into account as a factor in local development.</li> <li>- strengthening governance - The Commission is intending to strengthen stakeholder participation in decision-making. Meanwhile, self-regulation and voluntary agreements (e.g. codes of best practice and good conduct) are being encouraged. It is also intended that the Community eco-management and audit scheme (EMAS) be introduced to this sector.</li> <li>- Guaranteeing product safety and animal welfare.</li> <li>- Protecting the environment – Issues under consideration include the impacts of wastes (particularly nitrate emissions) and of catching wild fish to be reared in captivity.</li> <li>- Strengthening research</li> </ul>	<p>Communication from the Commission to the Council and European Parliament of 19 September 2002. A strategy for the sustainable development of European aquaculture [COM (2002) 511 final]</p>
<p><a href="#">Action plan for the eradication of illegal, unreported and unregulated fishing</a></p>	<p>The European Commission is proposing to take certain measures to control illegal, unreported and unregulated (IUU) fishing. To control illegal fishing, the Commission is proposing measures at Community and international level and in the context of regional fisheries organisations. These include 15 key action areas, including the identification and quantification of illegal catches and the definition of rights and responsibilities of port states.</p>	<p>Commission communication of 28 May 2002. Action plan to eradicate illegal, unreported and unregulated fishing [COM (2002) 180 final]</p>
<p>Future of the common fisheries policy</p>	<p>To launch a public consultation to determine the nature of the future common fisheries policy (CFP), in order to place it in a better position to ensure its general objective, namely a sustainable use of resources. To achieve this, the Commission green paper proposes a perspective based on an analysis of the current situation and the various possible developments or reactions within the fisheries sector.</p>	<p>Green Paper on the future of the Common Fisheries Policy [COM (2001) 135] March 2001</p>
<p><b>Interaction of the CFP with other Community Policies</b></p>		
<p><a href="#">Integration of environmental requirements into the</a></p>	<p>To create an action plan for integrating environmental protection requirements into the Common Fisheries Policy. The plan will address the following priorities: - The reduction of overall fishing pressure with impacts on both commercial and non-</p>	<p>Commission Communication of 28 May 2002 setting out a Community Action Plan to integrate environmental protection requirements into the Common Fisheries Policy [COM(2002) 186 final]</p>

<p><a href="#">CFP</a></p>	<p>commercial species, The improvement of:  <ul style="list-style-type: none"> <li>- fishing methods to help reduce discards, incidental by-catch and impact on habitats,</li> <li>- scientific assessment of the state of fish stocks,</li> </ul>                 The elimination of State aid with an adverse effect on the environment, particularly that likely to increase fishing capacity,                  The implementation of measures:  <ul style="list-style-type: none"> <li>- to stimulate fishing practices which add value to environmental integration,</li> <li>- defined in the Biodiversity Action Plan for Fisheries (BAPF – See Table 3.6; Section 3.2.3.3);</li> </ul>                 The integration of environmental protection into the aquaculture sector,                  The adoption of a Community strategy for distant water fisheries,                  The fulfilment of obligations imposed on the Member States by the habitats and birds directives.</p>	<p>Commission Communication to the Council and the European Parliament of 14 July 1999 on fisheries management and nature conservation in the marine environment  <a href="http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:lexplus:prod:DocNumber&amp;lg=en&amp;type_doc=COMfinal&amp;an_doc=1999&amp;nu_doc=363">http://europa.eu.int/smartapi/cgi/sga_doc?smartapi:lexplus:prod:DocNumber&amp;lg=en&amp;type_doc=COMfinal&amp;an_doc=1999&amp;nu_doc=363</a></p>
<p><a href="#">Strategy for integrating environmental considerations into the CFP</a></p>	<p>To define priority objectives and implementing measures for improving the coordination and consistency of the environment policy and the common fisheries policy.                  The Communication recognises that any strategy addressing this aspect must incorporate various practical sectoral measures, including:  <ul style="list-style-type: none"> <li>- Reducing the pressure exerted by fishing;</li> <li>- Protecting the marine environment, through                         <ul style="list-style-type: none"> <li>- improving the selectivity of fishing operations;</li> <li>- protecting natural habitats or the habitats of species of Community interest;</li> <li>- introducing, at national level, a system for the strict protection of marine animal species in their natural range;</li> <li>- introducing space-time limits on fisheries activities;</li> </ul> </li> <li>- <b>Integrating management of coastal areas;</b></li> <li>- Inshore fishing plays a special role in coastal regions. Properly managed, inshore fishing is a sustainable activity using a renewable resource to maintain the social and cultural fabric, contribute to the local economy and attract cultural tourism without having a significant negative environmental impact;</li> <li>- Adopting <b>Integrated Coastal Zone Management</b> – learning from the lessons of the Demonstration Programme;</li> </ul>                 Improving vocational training, information and consultation activities;                  Improving the contribution of scientific research.</p>	



### **3.3 EVALUATION OF SELECTED POLICIES AND PROGRAMMES WITH RESPECT TO ICZM PRINCIPLES**

#### **3.3.1 Introduction: evaluation against EU Principles**

This section reviews key European policies and programmes of particular relevance to ICZM, analysing each policy and programme with reference to the eight European principles of ICZM as well as the extent to which the policy/programme fosters integration and /or co-ordination. As these principles are the foundation for ICZM initiatives within North West Europe at regional, national and local levels, they are an important starting point for the analysis of policies and programmes. The analysis is guided by the current structures proposed by the European Commission in its Recommendation concerning the implementation of ICZM [COM (2000) 547].

#### **3.3.2 EU Sustainable Development Strategy**

##### **Timescale**

European Heads of State adopted the current EU Sustainable Development Strategy (SDS) in June 2001 based on a Commission Communication issued in May 2001 [COM(2001)264 final]. A second paper covering external policies was adopted by the Commission in February 2002, adding a global dimension to the EU Strategy ("Towards a global partnership for Sustainable Development"), ahead of the World Summit on Sustainable Development in Johannesburg in 2002. The Commission has undertaken to review the Strategy to assess progress towards **long-term** sustainable development. It is expected that a revised Strategy will be adopted later this year (2005).

##### **Holistic approach**

The Strategy indicates that EU policies need to be made more consistent and that they should all give priority to sustainable development. It states that careful assessment of the full effects of a policy proposal must include estimates of its economic, environmental and social impacts inside and outside the EU. However, there has been criticism that current EU policy focuses too much on the economic dimension of sustainable development to the detriment of social and environmental objectives and the Strategy's international dimension. Other stakeholders have expressed the opinion that the economic pillar of the Strategy is not sufficiently developed in comparison with its environmental and social dimensions. There are also diverging views on the scope of the six priority areas identified in the Strategy.

##### **Adaptive Management**

The Commission is committed to review the Strategy at the beginning of each new Commission's mandate. In addition, a review of the Strategy in 2005 was considered appropriate because a number of significant changes have occurred since its adoption in 2001, including the enlargement of the EU, persistent and increasingly apparent signs of environmental problems in the EU and globally, and EU commitment to a number of global initiatives and targets. The 2005 Review [COM (2005) 37 final] provides an initial assessment of the progress made since 2001 and outlines a number of future orientations, based on the debate over the preceding year, including the opinion of the European









integration, namely the mid-term review of the Lisbon Strategy (2005) and the preparation of the new financial perspective as of 2007.

### **3.3.4 European Spatial Development Perspective**

#### *ICZM Principles*

Reference to Section 3.2.4.1 should be made for a brief overview of the European Spatial Development Perspective (ESDP). In the context of ICZM, the ESDP provides a useful framework that generally supports the European ICZM principles, particularly those related to a holistic perspective, support and involvement of relevant administrative bodies and local specificity. Indeed, Kidd *et al.* (2003) suggest that ICZM could be used to achieve sustainable development within the ESDP. These authors (*ibid.*) have discussed the possibility and challenge of combining ESDP, ICZM and marine management, drawing on the findings of a project undertaken by the Spatial Vision Group for NW Europe (under INTERREG IIC).

#### **Timescale**

The ESDP has been designed to provide a framework for spatial planning that has a long-term strategic perspective. Regular reports on the achievement and trends towards economic and social cohesion (COM (2001) 24 final and COM (2002) 46 final) enable discussion and frequent revision and updating of the role and success of ESDP.

#### **Holistic approach**

Although the scope of the ESDP does not explicitly extend into the coastal waters of EU Member States, it is designed to cover the entire territory of the European Union. It also addresses all sectoral policy areas with a spatial dimension or impact and recognises the need for planning of multiple uses and users of space.

#### **Adaptive management**

The very nature of the generic ESDP framework that interlinks with a wide variety of different instruments and measures at European and other levels provides for an adaptive approach. The regular reporting, referred to above, assists in the realignment of the framework, as required.

#### **Natural Processes**

There is no specific reference to natural processes within the ESDP. However, the importance of the development, conservation and wise management of natural heritage is a central policy objective. This would suggest that approaches that work with natural processes should be preferred.

#### **Support & Involvement**

Without a formal treaty on spatial planning, the ESDP relies on the voluntary commitment of EU Member States, regional bodies and others to develop national, regional and local spatial plans

and policies (Shaw and Sykes, 2003). In some parts of the North West region this is already happening. In the UK, for example, the ESDP is being taken forward at the sub-UK level by the devolved and regional governments. Within this system, the Wales Spatial Plan has established a policy framework for development and use of land in Wales which is likely to have a substantial effect on the development and uses of the Welsh coastal zone (Ballinger, Taussik and Ball, 2005a).

It has been suggested that the intergovernmental and voluntary nature of the ESDP process should help develop the capacity to determine how space should be shared (*op. cit.*). Indeed, the development of ESDP itself was the result of an intensive discussion process involving a wide range of relevant stakeholders at all administrative levels. Healey (2004) has also suggested that ESDP can provide other related benefits, helping to:

- *strengthen local and regional governance; and*
- *increase opportunities to “capture” resources from higher levels of government (Healey, 2004).*

The ESDP is promoting cross-border and inter-regional co-operation and proposing that Member States, regional and local authorities implement further cross-border projects. These include the preparation of cross-border planning strategies, land-use plans, and implementation of sustainable development strategies in rural areas. It should be noted that the European Spatial Planning Observatory Network (ESPON) that is supported by INTERREG III, aims to facilitate co-ordination between the different regional levels of decision-making and serve as a liaison between policy-makers, government and scientists.

### **Combination of instruments**

As the ESDP provides the spatial framework for all EU sectoral policies that have a spatial dimension, it is inextricably linked to a wide range of policy areas. In attempting to achieve economic and social cohesion, it also requires a wide range of instruments and measures to be developed and adopted at all levels. At a European level, it can be argued that territorial impact is largely dependent on the nature of assistance. This includes:

- financial assistance (e.g. Common Agricultural Policy);
- regional policy (e.g. through Structural Funds);
- legislative instruments (e.g. policy on competition and the environment);
- Trans-European Networks (TENs) and planning policy on energy and transport; and
- research and technological development (including research into spatial development).

### **Participatory Planning**

It is proposed that all Member States should take account of the European dimension of spatial planning in their national policies as well as informing the public about European co-operation on



natural habitats in many rural coastal areas. Although the CAP is essentially a sector-specific policy, by nature of its scope and budget, it has implications for several other policy areas, including climate change, nature and biodiversity, and environment and health. The 2003 package of reforms represents a significant step forward in integrating environmental concerns into the CAP.

### **Adaptive Management**

As noted above, the CAP has undergone several reforms since its inception in an attempt to ensure that it evolves to reflect the changing needs of society. Although the CAP was extremely successful in meeting the EU's early objectives of attaining self-sufficiency, concerns over the cost of the CAP and fewer fears over food security have resulted in a shift in emphasis in modern farming and it has been necessary for the CAP to adapt accordingly. As a consequence of increasing concerns over the environmental sustainability of agriculture, the CAP has been increasingly adapted to better serve sustainability purposes. The modern CAP's objectives include helping agriculture to fulfil its multifunctional role in society by producing safe and healthy food, contributing to sustainable development of rural areas, and protecting and enhancing nature and biodiversity (op cit).

### **Natural Processes**

The links between natural processes and agricultural practices are complex. Whilst many valuable habitats, including coastal habitats supporting dependent species, are maintained by farming practices such as grazing, intensive farming can also have an adverse impact upon natural resources. Water and soil degradation, fragmentation of habitats, and loss of wildlife can be the result of inappropriate agricultural practices and land use. The CAP, therefore is increasingly aimed at reducing the risks of environmental degradation, and encouraging farmers to continue to play a positive role in the upkeep of the countryside and the environment (CEC, 2004b).

### **Support and Involvement**

The recent reform of the CAP has resulted in the most radical change to EU farming policy since the creation of the EU. The reforms attempt to simplify agricultural policy and reinforce the link between production decisions and agricultural markets, while placing sustainability at the core of agricultural policy. The reforms also represent significant simplification of the CAP, and were supported by the UK Government and the National Farmers' Union (NFU) of England and Wales that was virtually the only farm organisation in Europe to support the principle of CAP Reform. However, the NFU were concerned that in the final agreement individual countries were given considerable latitude in how they implemented certain aspects of the reform at the Member State level (UK) and also regionally (England, Northern Ireland, Scotland and Wales) within the Member State. The Assembly Government has consulted widely on the choices available in Wales.

### **Combination of Instruments**

A combination of instruments are used to achieve the CAP reforms. In particular, there are measures for:

- The reinforcement of the competitiveness of agricultural commodities in domestic and world markets;
- The promotion of a fair and decent standard of living for the farming community;
- The creation of substitute jobs and other sources of income for farmers;
- The formation of a new policy for rural development, which becomes the second pillar of the CAP;
- The integration of more environmental and structural considerations into the CAP;
- The improvement of food quality and safety;
- The simplification of agricultural legislation and decentralisation of its application.

Most of these measures are, however, given effect through Community Regulations.

### **Participatory Planning**

Agri-environment schemes under the CAP encourage farmers to provide environmental services that go beyond following good agricultural practice and to participate in specifically designed farming practices that help to protect the environment and maintain the countryside. Financial aid may be paid to farmers who voluntarily participate in agri-environment schemes for a minimum of five years. It is obligatory for Member States to offer such agri-environment schemes to farmers.

### **Local Issues**

An important aspect of the CAP, with regard to local issues, is the bottom-up approach of the public/private partnership initiative known as Leader+. The initiative provides for funding by the EU and national governments and private bodies for local rural development projects. The emphasis is upon enabling local communities (Local Action Groups) to select and fund projects that suit the local environment and that will present long-term benefits. LEADER+ is a new Programme for the period 2000-2006. Whereas previous Programmes (Leader I and Leader II) were very broad, encouraging Groups to undertake a wide range of activities (e.g. community development, tourism, support for crafts and SMEs, agri-food projects, etc.), LEADER+ is much more focused with Groups required to select one theme from the following:

- Quality of life;
- Adding value to local products;
- Making the best use of natural and cultural resources.

In Wales, Groups were asked to define their target groups, and select from the following:

- Micro and small businesses (which includes farms);
- Farming families;
- The under-employed;
- Welsh speaking communities;

- Young people;
- Women.

Following a competitive bidding process, LEADER+ Local Action Group status was awarded to 7 organisations in Wales (WAG, web resource)

### **Integration**

The Cardiff integration process recognises the importance of horizontal integration of all the sectoral policies of the EU. Integration of environmental goals into agricultural policy began in the 1980s, and received a significant boost as a result of the 2003 CAP reforms that included measures that integrate environmental concerns into agricultural market and income policy and that targeted environmental measures in rural development programmes (CEC, 2004b). However, more can be done to improve the environmental performance of agriculture and strengthen its integration with other policy areas. For example, water pollution caused by agricultural activities remains one of the most important environmental issues in Europe. Recent changes in both policy areas, the Common Agricultural Policy (CAP) and the Water Framework Directive (WFD), offer various possibilities for collaboration to achieve future synergies and benefits for the environment as a whole. It has been suggested that several tools of the CAP, e.g. the Cross-Compliance and the Rural Development Programmes, could contribute to implementation of the WFD<sup>49</sup>.

### **3.3.6 Common Fisheries Policy (CFP)**

The primary aim of the CFP is to ensure rational and sustainable exploitation of fish stocks through conservation and management policies designed to protect resources and reflect the needs of the fishing industry. The main components are structural policies, to balance catching capacity and resources through effort control, marketing, 3<sup>rd</sup> party agreements and conservation policies (to regulate quantities of fish caught through a system of Total Allowable Catches) to be achieved through technical measures such as minimum landing sizes, gear design and area closures.

### **Timescale**

The CFP has been operating since 1983. It is reviewed on a 10 yearly basis with the next review due to take place in 2012. Measures concerning fishing opportunities and related measures have been taken annually. They have often resulted in fluctuations that not only have prevented fishermen from planning ahead but have also failed to conserve fish stocks. Under the new CFP (agreed in 2002), long-term objectives for attaining and/or maintaining safe levels of adult fish in EU stocks will be set, as well as the measures needed to reach these levels. There remains discussion about whether these timescales are long enough and how to make they operate within the political decision-making framework of the CFP.

<sup>49</sup> [http://ecologic.de/modules.php?name=News&new\\_topic=50](http://ecologic.de/modules.php?name=News&new_topic=50)

### **Holistic approach**

While focused on commercial fisheries, the CFP has always including requirements to take account of wider implications of fishing, for example on marine ecosystems, but this has not been particularly successful. The basic premise of the new CFP (as of 2002) is an ecosystem based approach making this wider focus fundamental to operation of the CFP and providing a clear opportunity to further the conservation of ecosystems, rather than just of commercially important stocks of fish through the CFP.

### **Adaptive Management**

There is very limited flexibility in the overall direction of the CFP (10 yearly reviews and not necessarily all aspects of the policy). Most of the scope for change is through introduction of technical measures supported by regulations, quotas, emergency measures etc. While these can be used to respond to changing circumstances they are rarely able to respond rapidly (cf. Darwin Mounds emergency measures).

### **Natural Processes**

Recent agreement on an ecosystem based approach to decision making within the CFP provides a framework in which to consider natural process. Whether this will be successfully implemented has still to be determined.

### **Support & involvement**

Welsh interests in the CFP decision making process are represented by a UK delegation. There are procedures to facilitate this however it is difficult to ensure that a Welsh perspective is maintained in negotiations at the level of the EU Council of Ministers.

### **Combination of instruments**

A wide range of instruments are used in fisheries management from European to local regulation, non-statutory measures and codes of practice. Some could be used more widely or in different ways.

### **Participatory planning**

The 2002 review of the CFP recognised that stakeholders, particularly fishermen, need to take a greater part in the CFP management process and for fishermen and scientists share their expertise. As a result Regional Advisory Councils (RACs) will be created to enable them to work together to identify ways of achieving sustainable fisheries in the areas of interest to the RAC concerned. As fisheries affect a number of parties beyond the fisheries sector, fishermen and scientists will be joined by other stakeholders. An Advisory Committee on Fisheries & Aquaculture has also been set up. At a more local level in England and Wales, there are opportunities for participatory planning in Sea Fisheries Committees (SFCs). Traditionally membership of these

committees has been limited to fishermen and local authority representatives but there are now opportunities for wider participation, including an “environmental representative”.

### **Local issues**

The commercial fisheries sector in Wales is small in European terms but an important part of rural economy. Welsh strategies and policies on fisheries are available to inform the CFP debate at a UK and European level.

### **Integration**

The CFP is a sector specific policy however there is some integration with other sectoral interests, most particularly environmental issues although much remains to be done to achieve this. Integration across government and science-management does take place to develop a UK negotiating position but tends to be horizontal rather than from local to national level. Spatial integration with other sea users is not well developed as the CFP covers the entire 200mile zone of Member States (with exceptions within territorial waters) and spatial policies (e.g. fisheries boxes) are concerned with fish stock /fisheries management rather than the activities of other sea users.

## **3.4 EU MARINE THEMATIC STRATEGY**

### **3.4.1 Background to the strategy development**

The 6<sup>th</sup> Environment Action Programme identifies a number of threats to the quality of this environment including commercial fishing, oil and gas exploration, shipping, pollution, and the extraction of sand and gravel from the seabed. A blueprint outlining the principal elements in a strategy for the protection of the marine environment was published by the European Commission Communication in 2002.<sup>50</sup> This Communication was discussed at a Stakeholder Conference in Køge, Denmark, in 2002 and at a European Council meeting that requested the European Commission, *inter alia*, to:

- base its proposal for a marine strategy on an *integrated approach*, which should include, where appropriate, relevant qualitative and quantitative targets and timetables, against which the foreseen measures can be measured and evaluated, as well as identify actions for its implementation (emphasis added);
- guide the development and implementation of the ecosystem approach including the further development of biological and environmental targets and benchmarks;
- recommend further measures for the integration of environmental aspects in other Community policies;
- enhance and facilitate the coordination and cooperation with and between the Regional Seas Conventions and agreements, the European Environment Agency, the European Maritime Safety Agency and other relevant fora and to provide for a coordination and streamlining of monitoring and assessment to achieve the highest synergistic effect;

<sup>50</sup> 'Towards a strategy to protect and conserve the marine environment', COM (2002)539.

- invite neighbouring countries to participate in the process and develop partnerships, particularly in the Baltic, the Mediterranean and the Black Sea.

Subsequently, 34 European countries and 30 international governmental and non-governmental organisations participated in a series of meetings on topics related to the strategy.

A second stakeholder conference on the development of a European marine strategy took place in Rotterdam in 2004. At this conference, the European Commission and various international organisations including the International Council for the Exploration of the Seas (ICES) presented a broad range of documents. These included a paper entitled: “Thematic Strategy for the Protection and Conservation of the European Marine Environment.”<sup>51</sup> Many documents set out guidance on the application of the ecosystem approach in the marine environment. There were also presentations of reviews on current regional schemes to protect the marine environment by the Barcelona, Black Sea, Helsinki and OSPAR Commissions. Whilst addressing the conference, a senior representative of the European Commission expressed the view that the European marine environment strategy will consist of a common vision with the overall goal of ensuring that “future generations can enjoy biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive”.<sup>52</sup> This common vision will be accompanied by a long term political commitment to achieve a number of agreed objectives, including:

- the protection of marine ecosystems;
- the phasing out of some types of pollution in the marine environment within a defined timeframe; and
- the development of marine goods and services in a sustainable manner.

The European Commission has emphasised the need for Europe to adopt an integrated approach to the management of the marine environment based upon:

- the ecosystem approach;
- the precautionary principle; and
- involvement of the various stakeholders in the policy process.<sup>53</sup>

Significantly, at the Rotterdam conference the parties in attendance all expressed broad support for further integration and coherence of EU policies. Other than stating the obvious, that integration is required at all levels (multilateral, regional and state levels), many of the conference documents are vague on how this is to be achieved in practice. There were some suggestions by delegates at the conference that horizontal legal instruments such as the Water Framework Directive, the Habitats Directive, the Environmental Impact Assessment Directive and the Strategic Environmental Impact

<sup>51</sup> Copies of these documents may be viewed at [www.forum.eu.int](http://www.forum.eu.int)

<sup>52</sup> See, address by Director-General, DG Environment, European Commission, Catherine Day, at the Marine Strategy - Second Stakeholder Conference, Rotterdam, November 10-12, 2004. Copy at [www.forum.europa.int](http://www.forum.europa.int)

<sup>53</sup> *Ibid.*



### **Natural Processes**

As noted above, the ecosystem approach is a major theme of the strategy. Natural processes should, therefore, likely to be integral to the proposals and taken into account in the decision making process.

### **Support & Involvement**

Although many bodies have been involved in the discussions of the strategy to date these have been principally at the regional sea, European and national level. Work is currently being co-ordinated by DG Environment with representatives from marine conventions, regional fisheries organisations, nature protection organisations, EEA, ICES, JRC, other services of the Commission and IMO, as appropriate. Additionally, an Inter-Service Group has been established within the Commission for internal co-ordination. External co-ordination involves a two-tier informal and flexible co-ordination mechanism. One of these tiers focuses on the political dimension whilst the other concentrates on technical and practical coordination and cooperation:

### **Combination of instruments**

Although the final text of the strategy has still to be agreed, many of the objectives and actions as currently drafted are based on the implementation of existing EC legislation (e.g. Water Framework Directive and the Integrated Pollution Prevention Control Directive). Others are based on implementing OSPAR strategies for protecting the marine environment. The strategy may also contain proposals for new pieces of legislation or Directives.

### **Participatory Planning**

Using a number of working groups and stakeholder workshops, considerable stakeholder engagement has assisted the development of the strategy. Four EC Stakeholder Groups have been working on Strategic Goals and Objectives (SGO), Ecosystem Approach to Managing Human Activities (EAM), European Marine Monitoring and Assessment (EMMA), Hazardous Substances (HS).

### **Local Issues**

Although the strategy will be establishing a high level vision for all European Seas, it is likely to reflect threats, pressures and opportunities at a local level. Once complete, it will be essential to consider how the strategy might assist addressing local issues.

### **Integration**

There has been a strong drive for the strategy to integrate across sectors and geographically over the European Seas. As this is a high level strategy, vertical integration is currently probably the weakest aspect.

## **4. OVERALL ASSESSMENT OF EU LEGISLATION AND POLICIES**

### **4.1 INTRODUCTION**

This section attempts to discuss the common and broader issues relating to European legislation and policies with implications for coastal management. A number of obstacles that need to be overcome if the EU is to successfully implement ICZM and Integrated Ocean Management are also identified. As previously stated, there are many forms European legislation can take, not all of them requires national transposition. Regulations, for example, have an essential role to play in the enforcement of many of the European Union's common policies, such as the CAP and CFP. While regulations are directly applicable by all Member States, it is beyond the scope of this report to address the implementation and enforcement of such regulations. The general issue of implementation and enforcement of European legislation was a focus of Section 2.3.1 and the legislation matrices (Appendix 1) from where it was hoped that regional differences could be identified. However, a lack of information and the difficulties involved in obtaining such information necessitated the use of a different approach: relying heavily on information obtained by the EU on this subject already. Regional differences and the potential effects that these can have on coastal management are also highlighted in this section of the report. Likewise, many of the international conventions and treaties that the EU is a signatory to will also have important repercussions for future coastal management in Europe. Both the OSPAR Convention and the Convention on Biological Diversity, for example, have specific requirements for the protection of the marine environment. These could dictate the way in which future European policy develops. Likewise, all future legislative and policy developments will also have the potential to steer European coastal management. For this reason a specific section on future developments is included within this discussion section.

#### **4.1.1 Discussion: common issues and regional differences**

As the preceding sections show, there is a profusion of European legislation and policies that have both direct and indirect implications for coastal zone management. It is evident that such a body of both legislation and policies can in fact pose constraints on the implementation of coastal zone management. Whilst every attempt has been made to include all those that are relevant, it is important to note that virtually all legislation and policies have the potential to affect both land and/or sea anywhere in Europe, and could potentially apply to the coastal zone. It is inevitable that some may have been omitted and readers are advised to use the legislative matrices in Appendix 1 with caution. In addition, legislation and policies are continually evolving with many proposals currently at the final stages of Community procedures. For this reason, the CFP regulations identified and listed in Appendix 2 should be used as a guide only. To take account of the evolving nature of law and policy measures, the matrix should be regarded as a work in progress with room for amendment as developments occur during the life-span of the COREPOINT project. This in turn will be of direct value when assessing national stocktakes in response to the EU Recommendation on ICZM and in reporting on the status of ICZM in north west Europe – both additional tasks in COREPOINT.

As discussed further in Section 4.1.4 below, the sectoralised nature and current definitions of the coastal zone can also impede the management process. In the European Demonstration Programme, for example, the coastal zone was defined as a strip of land and sea of varying width depending on the nature of the environment and management needs. This definition certainly does not correspond to the administrative and planning boundaries that are currently established in the Member States, and does not correspond with the framework provided by international agreements such as UNCLOS. The European Commission expressed the view that the coastal zone may well extend beyond the limit of the territorial sea and many kilometres inland. While there is no uniform definition in European law regarding the extent or the size of the coastal zone and no consensus on how far landward or seaward such a zone should extend, it is entirely foreseeable that the baseline required by European and international law may be used at some future date as the obvious datum to measure such a zone. The blurring of definitions and the absence of a consistent approach to such a baseline will undoubtedly undermine the ability of the Member States to implement both ICZM in a uniform manner, as well as various pieces of legislation such as the Water Framework Directive and the Habitats Directive. The various tiers of legislation applicable in the coastal zone not only cause confusion, but there is also the problem of overlapping legislation and jurisdiction in practice. Another obvious conclusion that can be drawn from this report is that consolidation of relevant legislation into one Integrated Coastal Zone Management Directive, as previously suggested by various European institutions (Official Journal C155, 29/05/01, p.17), would be incredibly difficult, given that the majority of these laws not only relate to the coast but deal with a multitude of other important Community issues.

### **4.1.2 International aspects**

It is important to note here that the European Union is a party to the United Nations Convention on the Law of the Sea (UNCLOS). Article 56 of the Convention allows States to exercise sovereign rights in a 200 nautical mile exclusive economic zone for the purpose of exploring, exploiting, conserving and managing its living and non-living resources. As a signatory to the Convention, it can be argued that marine areas attributed to Member States under international law should also come under the jurisdiction and legal competence of the European Union. Under the Convention, Member States also have an obligation to protect and preserve the marine environment (Article 192) and prevent pollution from activities within their jurisdiction (Article 194). As Gibson (1999) points out, it would logically follow that the European Union should also have regulatory competence for these areas. Several Member States have not implemented the UNCLOS jurisdictional framework in a consistent manner and have failed to enact legislation asserting their maritime jurisdiction to the maximum possible extent permissible under international law. While France, Belgium, the Netherlands, and Germany have claimed exclusive economic zones, neither Ireland nor the United Kingdom has proclaimed such a zone. This is all the more surprising as both of these Member States have significant maritime interests, as well as, extensive sea areas under their sovereignty and jurisdiction.





definition of the coastal zone: legal or otherwise. If the Commission were to pursue a more stringent measure on coastal management, this would make the implementation of any programme incredibly difficult, unless a definition was provided. In addition, that different legal systems operate in the different Member States. With respect to North-west Europe, in Belgium and Germany, for example, a federal system operates while in the United Kingdom there is a system of devolved Governments. In federal systems, responsibility for implementation and enforcement of legislation is split between many authorities at all levels of Government, and ultimate responsibility remains with the local authority for the area. This makes the enforcement of European legislation particularly arduous because action by the Commission can only be taken at Member State level not local Government or regional Government level. In the case of Belgium, this problem brought about legal reform allowing the federal Government to assume responsibility, under very strict conditions, if a region had not transposed a Directive by the given time period. In other Member States, responsibility for implementation of a Directive is, in the majority of cases, also highly sectoralised but ultimate responsibility lies with the Government of that Member State. It should follow therefore that the various Departments and agencies tasked with implementing legislation are accountable to their own central Government.

In the United Kingdom, devolved administrations have a variety of powers attributed to them. One problem arising from this has been termed legislation lag – there can be a delay between enactment and implementation in a particular State. In the case of Northern Ireland, for example, this has been reported as being up to ten years in certain cases (Defra / Atkins, 2004). At the regional level, inconsistencies in legislation have also been identified. With respect to nature conservation in Northern Ireland, for example, the Amenity Lands Act 1965 provided for the establishment of Areas of Outstanding Natural Beauty (AONBs). Subsequently, eight areas were designated. In 1985, the legislation was revised to produce the Nature Conservation and Amenity Lands Order 1985. However, within these two pieces of legislation, the AONB designation carries different provisions. Those AONBs designated under the 1965 Act were so designated as the basis for planning control. The 1985 Nature Conservation and Amenity Lands Order designation is more orientated towards conservation management. On the passing of this Act, the Department of the Environment Northern Ireland set out to re-designate AONBs. To date, however, only four areas have been re-designated. In a similar vein, planning law in Northern Ireland differs from that of the United Kingdom. In Northern Ireland, terrestrial planning legislation is through the Planning (Northern Ireland) Order 1991 which mirrors the Town and Country Planning Act 1990, with an amendment proposed in 2003 for the Planning (Amendment) (NI) Order 2003. However, there are important differences to the English system with responsibility for forward planning and development control applications lying with the Department of the Environment (Northern Ireland), with no central role for local authorities.

The sectoral nature of both European and national legislative systems also impedes integration. There are a variety of possible explanations for this. Cole-King (1995) states that there is a

traditional presumption that human relationships to terrestrial and marine environments are fundamentally different on either side of the shoreline, and that managing the activities that use them accordingly requires a completely different basis. The heart of the problem lies in the inability to conceive the shoreline or, more broadly, the coastal zone as something other than the *separation* of land from the sea. Essentially in legal *and* administrative systems it remains a solely linear element, a boundary rather than a zone across which terrestrial and marine elements interplay. In the United Kingdom and Ireland, for example, the inherited traditional property rights of the Crown and the State in relation to the foreshore and seabed have indirectly defined legal rules as well as the jurisdiction of local authorities at all levels of Government. This in turn has resulted in the terrestrial/marine divide that inhibits integrated management of the coastal zone. Ballinger (1999) states that this division is preserved by differences in objectives, financial resources, timescales, levels of accountability, active involvement and local knowledge of the agencies managing either side of the High Water Mark, which remains the definitive boundary in the majority of cases.

Estuaries and transitional waters present further problems. In Ireland, for example, two loughs separate Northern Ireland from the Republic of Ireland. In the Good Friday Agreement a North-South Ministerial Council was established in addition to six cross border implementation bodies. One such body is the Foyle, Carlingford and Irish Lights Commission that is responsible for developing Lough Foyle and Carlingford Lough for commercial and recreational purposes and the management, conservation, protection, and development of the fisheries in these areas. To date, there is no integrated management for either of these Loughs. Another example is that of the Wadden Sea for which Denmark, Germany and the Netherlands signed a joint declaration on the protection of the Wadden Sea in 1982. This increased cooperation between these Member States and culminated in the adoption of the Wadden Sea Plan. For the purposes of the plan, the Wadden Sea area extends from the nationally fixed baseline 3 miles offshore, and inland it includes the terrestrial area as far as the designated Ramsar or SPA sites that adjoin the Wadden Sea Conservation Area. Integration is achieved through the work of the Wadden Sea Secretariat, the primary task of which is to support, initiate, facilitate and coordinate the activities of the three States involved.

### **4.1.5 Specific coastal legislation and administration**

Specific legislation relating to the coastal zone is largely absent from the Member States examined. Of those Member States that do have specific coastal legislation it tends to deal primarily with planning issues and/or public access, for example France. Again, coastal planning laws relate only to the terrestrial side of the coastal zone. They also tend to focus on urbanised coastal areas. Moreover, in most Member States the power to make planning decisions is devolved to local planning authorities that often do not have the technical expertise, finance or political will to fully embrace planning and management restrictions in the coastal zone. In Ireland, for example, local authorities also have responsibility for many hard engineered coastal protection works despite the

fact that only two Irish local authorities employ maritime engineers. At a European level, the various institutions do not have appropriate centralised structures for implementing and overseeing ICZM, (Krämer, 2003). Further offshore, many of the key decisions to protect the marine environment have been implemented through the regional seas programmes. In particular, the EU has used the Barcelona process, the OSPAR, HELCOM and the North Sea Conferences as frameworks for cooperation in the regional sea areas adjacent to the Europe.

Like national competences, European competences are also split between various Directorate Generals (DGs). Considerable demands are also placed on the executive functions of several external agencies and other bodies such as the European Environment Agency. The European Commission has recently tasked a directorate with specific responsibility for maritime affairs. This function is now placed in the fisheries directorate that has been renamed as the “Fisheries and Maritime Affairs Directorate”. The specific duties of this directorate are unclear at the time of writing, and may not include ICZM as this has to date been within the remit of the DG Environment. This is a step in the right direction and may lead to the establishment of integrated structures within the European institutions in due course. The first significant development has been the appointment a Maritime Task Force within the European Commission that will produce a Green Paper on a future EU Maritime Policy (see Section 4.2).

It should be noted that the EU still lags behind many States and has only taken a number of tentative steps to introduce integrated coastal and ocean management. These steps have been taken with a view to improving resource exploitation and environmental protection in coastal areas. Despite this progress, the EU still lacks a coherent legal framework to ensure that the various sector policies that regulate shipping, the marine environment, marine scientific research, energy, fishing activity and international trade are consistent with each other and achieve the same goals. In particular, the EU does not have instruments similar to the United States Coastal Zone Management Act of 1972 or Canada’s Oceans Act of 1996 to unify the conflicting approaches adopted by the Member States to coastal and ocean issues. The EU has, however, placed protection of the marine environment at the top of the political agenda and has a sophisticated institutional framework that is capable of policy development and conflict resolution (Long & O’Hagan, *in press*).

*Integrated Coastal Zone Management (ICZM)*, according to Barcena (1992), is both a concept and a tool for intersectoral co-operation, following modern principles of natural resource management, involving interdisciplinary processes and requiring both adequate information bases as well as public participation. Reviews of legislation, policies and their administration illustrate that these frameworks presently create unnecessary impediments to each other. The administrative system is meant to provide a medium for law and policy to be translated into action. To a certain extent, this does happen today, but it cannot be used to achieve successful *integrated* coastal zone management when there is such a strong land/sea administrative divide.

#### **4.1.6 Implementation and enforcement aspects**

The European Commission and other European agencies recognise that implementation and enforcement of legislation is of paramount concern and have taken various measures to improve these aspects. Information on transposition and national compliance with Directives is difficult to obtain. As previously stated, there is no standardised mechanism for reporting such information and as a consequence it is difficult to ascertain how a Directive is being implemented in a particular Member State. Ercmann (1996) states that the first step in achieving enforceable environmental measures is to draft laws and other instruments that provide the necessary authority for enforcement. In order to establish the credibility of an enforcement programme, the laws should clearly specify the powers and functions of the authorities responsible for enforcement. Generally, enforcement authorities are responsible for authorisations, permits, monitoring and reporting - all these concern civil or administrative law. While this could be considered primarily a facet of the administrative system, it is also linked to legislation. If statutory enactments and regulations clearly specified which agency was responsible for the enforcement of a given law, then not only would the legal system be comprehensive but it would provide a significant improvement on current administrative practices.

One of the major problems in current practice is that responsible institutions are not clear on which legislation they can enforce, or where they can enforce it. In addition, most European legislation can be applied to both elements of the coastal zone – the marine and terrestrial environments – each of which usually have separate responsible authorities. This is of particular importance when enforcing the Habitats and Birds Directives that are applicable in both environments. However, enforcement may be the responsibility of more than one agency, and as a result consistency of application may be hindered. Jurisdictional aspects may also come into play here. This situation is further complicated by the fact that implementing mechanisms in certain Member States, for example in Ireland, may not be sufficient to enforce these Directives in the offshore environment. As previously stated (Section 2.3.2) the work of IMPEL may help to address these problems by preparing guidelines on aspects of implementation of particular Directives.

#### **4.2 FUTURE DEVELOPMENTS**

The 6<sup>th</sup> Environmental Action Programme identifies seven thematic strategies that will make up one component of the overall action programme (Section 3.2.3.1). These seven key environmental issues require a holistic approach because of their complexity, the diversity of actors concerned and the need to find multiple and innovative solutions. One of the strategies specifically relates to the protection and conservation of the marine environment (COM (2002) 539 Final). As stated in Section 3.4.1, the overall aim of this strategy according to the Communication is “to promote sustainable use of the seas and conserve marine ecosystems”. The Communication continues to state that, while measures to control and reduce pressures and impacts on the marine environment do exist, they have been developed in a sector-by-sector approach, resulting in a patchwork of policies, legislation, programmes and action plans at national, regional, EU and international level,

that contribute to the protection of the marine environment. At the EU level, in addition to coastal management, no overall, integrated policy for marine protection exists. At present, the intention is that the Marine Strategy would comprise a package of a Communication and a Marine Framework Directive. The proposed new Marine Framework Directive would be based upon Article 175 of the EC Treaty and applicable to all European marine waters under the sovereignty or jurisdiction of the Member States. The objective of the directive would be to protect, conserve and improve the quality of the marine environment in these waters, through the achievement of good environmental status in European seas within a defined time period. In a similar way to the Water Framework Directive, the marine directive will define and establish ecosystem-based marine regions as the implementation unit. They will be defined on the basis of their hydrological, oceanographic and biogeographic features. The directive would include provisions on monitoring and reporting.

Parallel to on-going work on the European Marine Strategy, on 2 March 2005, the European Commission decided to start work on a Green Paper for an all embracing Maritime Policy (Section 3.4). This work is being carried out by DG Fisheries & Maritime Affairs. In the Communication "Towards a future Maritime Policy for the Union: a European Vision for the oceans and seas"<sup>55</sup> it is recognised that a valuable input to the future Maritime Policy is the work that has been done in relation to the Thematic Strategy to Protect and Conserve the Marine Environment. A Green Paper on a future EU Maritime Policy, to be adopted by the Commission in the first half of 2006, will constitute a first step towards an all embracing EU Maritime Policy, in line with the Commission's strategic objectives. The role of the Maritime Affairs Task Force established by this Communication is to produce this Green Paper and to launch a wide public debate on the subject. Stakeholders will be consulted on the preparation of the Green Paper.

The work of the recently appointed Maritime Task Force within the European Commission seeks to identify the potential for beneficial interfaces and synergies between the sectoral policies, and how they could be made useful. The Communication goes on to state that the work of the task force should address the international dimension of ocean and sea affairs, including the relationship between the Law of the Sea and Community policies, and take account of other international initiatives relating to oceans and seas. With respect to coastal management, the Communication states that "there is a growing awareness of the need for integrated coastal zone management and development in Europe's regional policy" (Para. 4.1) and this is one of the factors supporting the case for effective action at a European level on maritime affairs. Until the Green Paper is published and adopted its possible effects on coastal management cannot be assessed. However it is perhaps one of the strongest developments taking place at this time.

In addition to the marine and maritime strategies being developed, a number of proposed developments at a sectoral level are also set to take place during this year and next. These are

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<sup>55</sup> Available at [http://europa.eu.int/comm/fisheries/maritime/communications\\_en.htm](http://europa.eu.int/comm/fisheries/maritime/communications_en.htm)

tabulated and briefly described in Table 4.1. A directory of Commission proposals is available online at <http://europa.eu.int/eur-lex/en/com/index.html> Not all legislative proposals and communications are listed in the Directory. Those that are not listed but of relevance to coastal management are listed in Table 4.1.

**Table 4.1 List of proposals and communications currently before the Commission.**

<b>General</b>	
COM (2002) 0539 - Communication from the Commission to the Council and the European Parliament Towards a strategy to protect and conserve the marine environment	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0539en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0539en01.pdf</a>
COM (2004) 0621 - Proposal for a Regulation of the European Parliament and Council concerning the Financial Instrument for the Environment (LIFE +)	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0621en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0621en01.pdf</a>
COM (2004) 0516 - Proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0516en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0516en01.pdf</a>
COM (2002) 0412 - Communication from the Commission to the European Parliament, the Council, the Economic and social Committee and the Committee of the Regions Environmental Agreements at Community Level Within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0412en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0412en01.pdf</a>
COM (2001) 0580 - Communication from the Commission on the implementation of the first phase of the European Climate Change Programme	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2001/com2001_0580en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2001/com2001_0580en01.pdf</a>
<b>Agriculture</b>	
COM (2004) 0710 - Proposal for a Council Regulation amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0710en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0710en01.pdf</a>
COM (2004) 0652 - Proposal for a Council Regulation amending Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0652en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0652en01.pdf</a>
COM (2004) 0489 - Proposal for a Council Regulation on the financing of the common agricultural policy	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0489en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0489en01.pdf</a>
<b>Fishing</b>	
COM (2004) 0685 - Proposal for a Council Regulation amending Regulation (EC) No 2340/2002 and Regulation (EC) No 2347/2002 as concerns fishing opportunities for deep sea species for the Member States which acceded in 2004	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0685en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0685en01.pdf</a>
COM (2004) 0618 - Proposal for a Council Decision amending Decision 439/2000/EC of 29 June 2000 on a financial contribution from the Community towards the expenditure incurred by certain Member States in collecting data, and for financing studies and pilot projects for carrying out the common fisheries policy	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0618en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0618en01.pdf</a>
COM (2004) 0577 - Proposal for a Council Decision On the withdrawal by the European Community from the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0577en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0577en01.pdf</a>
COM (2004) 0289 - Proposal for a Council Regulation establishing a Community Fisheries Control Agency and amending Regulation (EC) No 2847/93 establishing a control system applicable to the Common Fisheries Policy	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0289en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0289en01.pdf</a>

COM (2002) 0186 - Communication from the Commission setting out a Community Action Plan to integrate environmental protection requirements into the Common Fisheries Policy	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0186en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0186en01.pdf</a>
COM (2002) 0181 - Communication from the Commission on the reform of the Common Fisheries Policy ("Roadmap")	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0181en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0181en01.pdf</a>
COM (2000) 0803 - Communication from the Commission to the Council and the European Parliament Application of the precautionary principle and multiannual arrangements for setting TACs	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0803en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0803en01.pdf</a>
COM (2000) 0190 - Proposal for a Council Regulation establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa)	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0190en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0190en01.pdf</a>
<b>Nature Conservation and species protection</b>	
COM (2004) 0531 - Proposal for a Council Decision On the conclusion by the European Community of the Agreement on the Conservation of African-Eurasian Migratory Waterbirds	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0531en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0531en01.pdf</a>
COM (2004) 0529 - Proposal for a Council Decision Proposal for a Council Decision on the Community position to be adopted on certain proposals submitted to the 13th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Bangkok, Thailand, 2 - 14 October 2004	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0529en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0529en01.pdf</a>
COM (2004) 0326 - Proposal for a Council Directive introducing minimum Community measures for the control of certain diseases affecting bivalve molluscs (Codified version)	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0326en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0326en01.pdf</a>
<b>Water</b>	
COM (2000) 0860 - Communication from the Commission to the European Parliament and the Council Developing a New Bathing Water Policy	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0860en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0860en01.pdf</a>
COM (2000) 0061 - Proposal for a Council Decision concerning the conclusion, on behalf of the Community, of the new Convention for the Protection of the Rhine	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0061en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0061en01.pdf</a>
<b>Marine Pollution</b>	
COM (2004) 0676 - Communication from the Commission to the European Parliament pursuant to the second subparagraph of Article 251 (2) of the EC Treaty concerning the common position of the Council on the adoption of a Directive on pollution caused by ships and the introduction in particular of criminal sanctions for infringements involving pollution	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0676en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0676en01.pdf</a>
COM (2004) 0635 - Proposal for a Council Decision on the conclusion, on behalf of the European Community, of the UN-ECE Protocol on Pollutant Release and Transfer Registers	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0635en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0635en01.pdf</a>
COM (2004) 0634 - Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0634en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0634en01.pdf</a>
<b>Shipping and Ports</b>	
COM (2004) 0453 - Communication from the Commission to the Council, the European Parliament, the European Economic and social Committee and the Committee of the Regions on Short Sea Shipping	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0453en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0453en01.pdf</a>
COM (2004) 0654 - Proposal for a Directive of the European Parliament and of the Council on market access to port services	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0654en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0654en01.pdf</a>
COM (2004) 0392 - Proposal for a Directive of the European Parliament and of the Council on harmonised River Traffic Information Services on inland waterways in the Community	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0392en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0392en01.pdf</a>
COM (2004) 0311 - Proposal for a Directive of the European Parliament and of the Council on the recognition of seafarers'	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0311en">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0311en</a>

certificates issued by the Member States and amending Directive 2001/25/EC	<a href="#">01.pdf</a>
<b>Waste</b>	
COM (2004) 0526 - Amended proposal for a Council Directive (Euratom) laying down basic obligations and general principles on the safety of nuclear installations Amended proposal for a Council Directive (Euratom) on the safe management of the spent nuclear fuel and radioactive waste	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0526en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0526en01.pdf</a>
COM (2003) 0731 - Proposal for a Directive of the European Parliament and of the Council on waste	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2003/com2003_0731en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2003/com2003_0731en01.pdf</a>
<b>Transport and Energy</b>	
COM (2004) 0475 - Proposal for a Regulation of the European Parliament and of the Council determining the general rules for the granting of Community financial aid in the field of the trans-European transport networks and energy and amending Council Regulation (EC) no. 2236/95	<a href="http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0475en01.pdf">http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0475en01.pdf</a>

With respect to the Common Fisheries Policy, for example, the Commission adopted a Green Paper in March 2001 on the future of the CFP. Its objective was to stimulate a debate and to give everyone concerned a chance to have their say before the Commission adopted its proposals for the review of the CFP. This culminated in the entry into force of the new Common Fisheries Policy on 1 January 2003 (see Section 3.3.6). The first package of reform measures, agreed in December 2002, are included in the new CFP. The main changes include, according to DG Fisheries & Maritime Affairs:

- **Long-term approach:** Under the new CFP, long-term objectives for attaining and/or maintaining safe levels of adult fish in EU stocks will be set as well as the measures needed to reach these levels.
- **New policy for the fleets:** Two sets of measures are included in this; a simpler fleet policy that puts responsibility for matching fishing capacity to fishing possibilities with the Member States; and a phasing out of public aid to private investors to help them renew or modernise fishing vessels.
- **Better application of the rules:** The diversity of national control systems and sanctions for rule breakers undermines the effectiveness of enforcement. This is why measures will be taken to develop co-operation among the various authorities concerned and to strengthen the uniformity of control and sanctions throughout the EU.
- **Stakeholders involvement:** stakeholders, particularly fishermen, need to take a greater part in the CFP management process. It is important that fishermen and scientists share their expertise. Regional advisory councils (RACs) will be created to enable them to work together to identify ways of achieving sustainable fisheries in the areas of interest to the RAC concerned.

Much has already been achieved in terms of the adoption of reform measures. Various Action Plans and Strategies have also been adopted within the framework of the reform process. Such strategies include a strategy for the sustainable development of European aquaculture, eradication of illegal fishing and integration of environmental protection requirements into the CFP. A

complimentary measure within the latter strategy states that the Commission and Member States should collaborate closely to progress implementation programmes for integrated coastal zone management as a tool to deal with the complex and sensitive aspects of sustainable development in coastal areas (Section 3.3.2).

As with all new legislative and policy developments, accountability and integrated decision-making is of the utmost importance and has the potential to improve compliance in certain circumstances. Directive 2003/4/EC on Freedom of Access to Information on the Environment aligns Community legislation with the provisions of the Århus Convention. The Directive imposes a number of strict obligations on Member States, notably as regards the active dissemination of environmental information by public authorities and extending the right of access to information from citizens of the EU to any person, regardless of residence. Member States of the European Union were obliged to have legislation implementing this Directive in force by 14 February 2005. A second Directive of importance here is Directive 2003/35/EC providing for public participation with respect to the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice the EIA and IPPC Directives. This Directive updates provisions on public participation under legislation on EIAs and IPPC and introduces rules on access to justice. Furthermore, it contains rules on public participation in the preparation of a number of environmental plans and programmes under Directives on waste, air pollution and protection of waters against nitrate pollution. Member States are required to have their laws and other provisions relating to this Directive transposed into national legislation by 25 June 2005 at the latest. As both of these Directives are relatively recent, their possible implications for coastal management cannot yet be assessed. However it can be said that by encouraging greater accountability through dissemination of information and participation of the public, the effects of the legislation can only be beneficial.

### **4.3 CONCLUSIONS**

There are examples of good practice within the current legislation and policy framework of the European Union but the current framework reflects the sectoral approach to managing coastal issues and the framework is not always representative of true ICZM principles. This sectoral approach cannot always deliver the principle of support and involvement of all relevant administrative bodies. Various pieces of legislation require public consultation that should now be widespread and an integral part of decision making at all levels from local initiatives through to Government consultations on policy direction. Further developments in law and policy can only strengthen this principle. It is possible that the principles outlined in the Recommendation are much more evident at a local level, "local specificity", than at the European, or even, national levels. Local initiatives are also more likely to reflect the principles of adaptive management and work with natural processes.

A long term perspective for coastal management cannot be taken into account adequately given the existing law and policy framework. Although standard practice in the planning of some sectoral marine activities, this is an area where there has been significant difficulty up to now. To date most, if not all, ICZM initiatives have been short-term projects rather than being an integral part of an established decision-making and delivery process. Coastal management, like sustainable development, aims to consider the needs of both present and future generations, but this does not sit well with administrative and political goals which, by definition, have defined life-spans. Adaptive management may also present problems for administrative structures, which ultimately have to take the ICZM process forward. The EU advocates that good coastal zone planning and management should be based on the 'precautionary principle'. While lessons have been learned from various short-term coastal management projects, such lessons cannot always be taken into account at the appropriate administrative level. There is also little chance of such lessons influencing law at the national and/or European level. Policy, by definition, is much easier to influence and in certain instances law in fact develops from policy.

Marine spatial planning is perceived as a way of improving decision-making and delivering a more ecosystem-based approach to management of coastal marine activities. In essence, it is a plan-led framework that enables integrated, forward-looking, consistent, decision-making on the use of the sea. This has come about because of the fact that there is no effective mechanism for integrating planning decisions across the land – sea divide. The European Commission is promoting this idea of marine spatial planning in its marine environment strategy. In addition, various international developments have also identified this as a way to take coastal management forward. At the 5<sup>th</sup> North Sea Conference, for example, Ministers agreed that strengthening of the spatial planning process of North Sea States related to the marine environment was required, and invited OSPAR to take forward a number of initiatives on this subject. The request to OSPAR was put to the Biodiversity Committee meeting in January 2003, who agreed to hold a workshop to discuss the subject of marine spatial planning in more detail. It is now included as a specific objective in the Biodiversity Committee's work programme 2003-2004. Various Member States have also included marine spatial planning as a current work area, for example in the U.K. Defra's report "Safeguarding our Seas" contained a specific commitment to "explore the role of spatial planning for the marine environment" (Defra, 2002).

A significant contribution to taking ICZM forward can be achieved by ensuring that current policies and future policies contribute to, rather than detract from, sustainable development of coastal and marine areas. This must take into account both environmental protection as well as economic and social development. Where the responsibility for implementation and enforcement of such policies is conferred on national and regional authorities, they must be integrated with policies already in existence. Recent trends in European policy and legislation reveal a move towards greater control as well as the need for greater integration and cooperation between national agencies and international action. This is especially evident in the current structural changes taking place in

traditional industries such as fishing and agriculture. Such changes may lead to the growth of other industries such as tourism that is already growing in many European coastal areas. Over dependence on such an industry will also bring development pressures which, if not properly managed and controlled, has the potential to affect conservation interests in many coastal areas.

Finally, it should be noted out that both Integrated Coastal and Ocean Management pose new challenges to the European Union and its Member States that are arguably best addressed by legal mechanisms. The European Spatial Development Perspective has been identified as an important step in progress towards European integration. The ESDP is also a suitable policy framework for sectoral European and Member State policies that have spatial impacts, as well as for regional and local authorities, aimed as it is at achieving sustainable development in Europe. Experience in other areas of EC law such as the Common Fisheries Policy tell us however that sustainable development does not automatically flow from the adoption of a common policy. One of the principal failures of common policies has come about as a result of poor compliance or no compliance in some instances.<sup>56</sup> Research carried out as part of this report would suggest that information on compliance and general information on the implementation of European legislation of relevance to coastal zones is not easily accessible. Integrated management should not be seen as a panacea that will deliver sustainable development, but as an iterative process that may facilitate ocean and coastal management in geographically complicated areas. Ultimately, prescription will have to be matched with rigorous implementation and compliance with national, European and indeed international law.

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<sup>56</sup> See, Long, R. and Curran, P. 2000. Enforcing the Common Fisheries Policy. Blackwell Science, Oxford.

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