

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

Meeting of the Intersessional Correspondence Group for the Implementation of the Marine Strategy Framework Directive (ICG MSFD)

Paris (France): 16-17 October 2012

Statement on the definition of MSFD Descriptor 3

Submitted by MARINET and Friends of the Earth

The attached paper summarises MARINET and Friends of the Earth position as regards the definition of MSFD Descriptor 3 and ICG MSFD is invited to comment on it as appropriate.



OSPAR ICG MSFD Meeting, 16/17th October 2012, Paris.

Agenda Paper submitted by Marinet, Friends of the Earth (England, Wales and N. Ireland).

Agenda Item 6.2 : Statement on the Definition of MSFD Descriptor 3.

Descriptor 3: *“Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.”*

Statement:

- 1.** We have made earlier written submissions to OSPAR (ICG MSFD) on 28th March 2012, and to the European Union Workshop on 24/25th April 2012. Our present statement is referenced to those submissions.
- 2.** In those submissions we drew the attention of the chair and delegates to the serious inadequacies which we perceive to exist in the interpretation being presented to those meetings for the definition of Descriptor 3. Specifically:
 - a/.** A failure to correctly define *“safe biological limit”*. We observed that the definition currently being used is simply referenced to the spawning stock biomass which exists at the present time (often a seriously depleted stock level due to over-fishing and other factors), and that the definition of a truly *healthy stock* – as required by the central, core principle of the Directive – in fact requires the safe biological limit to be referenced to **the maximum level of abundance of the stock which current ecological conditions will permit.**

b/. A failure to define “. . . exhibiting a population age and size distribution that is indicative of a healthy stock.” We observed that the definition currently being used has simply referenced this requirement of the Descriptor to the spawning stock biomass level being used above (i.e. the existing, depleted stock level), and that under this approach a healthy age and size distribution for the stock is regarded as simply “the proportion of fish larger than the mean size of first sexual maturation”. In other words, the number (%) of fish surviving one year beyond sexual maturation, and nothing more. We have observed that this is a wholly inadequate definition. Firstly, it denies the fact that the most fecund cohort in a stock’s population are the older fish – every time an adult grows older and doubles in length, so its reproductive capacity also doubles thus making older fish a key component of a healthy and reproductively robust stock. Secondly, it denies the ability of stock levels to be restored to a **genuine** safe biological limit i.e. to re-attain the stock’s maximum level of abundance which current ecological conditions will permit.

3. To date, neither of our above interpretations of Descriptor 3, which are essential to meet the requirements of Recital 3 of the Directive, have been adopted, viz: “*The marine environment is a precious heritage that must be protected, preserved and, where practicable, restored with the ultimate aim of maintaining biodiversity and providing diverse and dynamic oceans and seas which are clean, healthy and productive.*” Specifically, the current definition for Descriptor 3 is failing to restore stocks, or to establish genuinely productive and healthy stocks, or to restore the biodiversity of the marine ecosystem as a whole.

4. Within the institutional framework (European Commission, OSPAR, ICES/JRC and national governmental departments) which is working on the definition of Descriptor 3, there are essentially two parties. One party carries political responsibility for the determination of the definition, and the other carries scientific responsibility. We have approached both parties concerning the shortcomings in the procedure for arriving at a sound definition. Those bearing political responsibility say they are relying on scientific advice in order to arrive at a sound definition (i.e. they expect the scientists to correct any perceived shortcomings in the definition). Those bearing scientific responsibility say that they are working to a political brief and cannot comment or act beyond that brief (i.e. if there are perceived shortcomings, they can only correct them if given “instruction” to do so by those bearing political responsibility). Thus, we perceive, neither party has or is able to act in a manner consistent with their true, professional responsibility. Whether this is deliberate or not is not the issue, but what most definitely is the issue is the fact that the procedure for the definition of Descriptor 3 has resulted in a definition that is **seriously deficient**. It is deficient in **political terms** because it has failed to implement the true legislative intent of the Directive and thus of the European governmental institutions, and hence is debasing and corrupting the law. It is deficient in **scientific terms** because it has failed to implement a definition that is consistent with scientific facts and principles, and hence deliver the scientific purposes of the law.

5. We have brought this matter before the present meeting of OSPAR (ICG MSFD) because failure to act to correct the shortcomings in the current definition of Descriptor 3, and to implement the principles we have set out, will not just result in a debasement of the integrity of the law (and, within a wider context, the outcome of the reform process in connection with the European Union’s Common Fisheries Policy). But it will also, even more seriously, likely result in a profound collapse in the present ecological structure of the North East Atlantic. Fish and shellfish are key members of the ecological structure, and therefore their continued poor condition and the failure to act to correct and restore that condition, may have consequences for the ecosystem as a whole that are irredeemable and irreversible.

6. It is not our intention to be controversial. Having said so, we have a responsibility to address reality as we see it and to speak plainly. This means we have to inform those with similar responsibilities about our distinct understanding and perception. It also means that those with

responsibility for the definition of Descriptor 3 and for the implementation of the MSFD must observe their duty and not act in a way that amounts to a dereliction of that duty. As a result, we profoundly hope that OSPAR, which is charged under its Charter with the Protection of the North East Atlantic, will consider carefully the advice which we have rendered both here and previously in respect of Descriptor 3 and the MSFD.

MARINET, Friends of the Earth,
11th October 2012.

