



# Update on the implementation of EU nature, marine and fisheries policies relevant for ASCOBANS activities

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# European **Green Deal** – Environment and Oceans

- Lead the world in protecting biodiversity
- EU Biodiversity strategy for 2030
- Environment, blue economy and fisheries - an integral part of the Green Deal
- Full implementation of the CFP and its evaluation by 2022
- Implementation and enforcement of EU law



State of play with the implementation of the Habitats Directive and the *Action plan for nature, people and the economy* (relevant issues)

# EU Habitats Directive:

## two pillars of protection

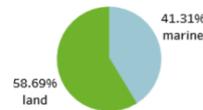
- **Strict protection of species**

For species listed in Annex IV (includes **all cetaceans**), **a strict protection regime** must be applied **across their entire natural range** in the EU (both within and outside Natura 2000 sites).

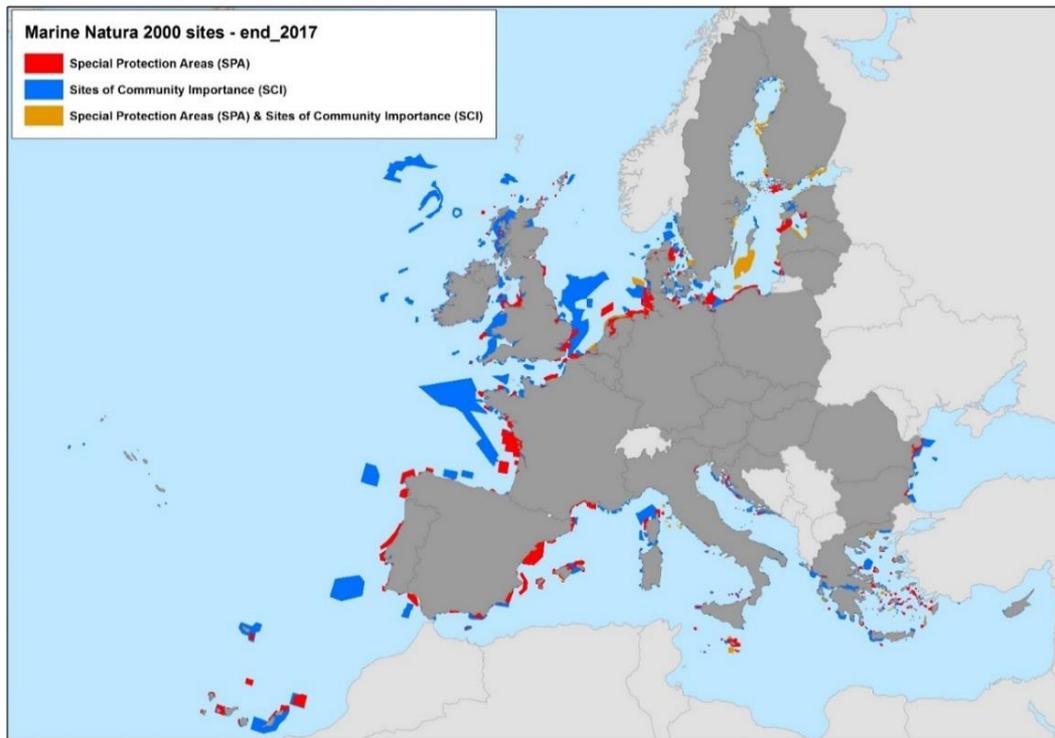
- **Natura 2000 sites**

For species listed in Annex II (includes *Tursiops truncatus* and *Phocoena phocoena*) **special areas of conservation (SAC)** should be **designated, protected and managed** - **conservation measures** should be in accordance with **the ecological requirements** of the species and appropriate to reach the sites' conservation objectives.

# Marine Natura 2000 – state of play



- More than **3200** marine sites (out of **>27000**)
- Covers **>9.5% of EU seas** (**551899** km<sup>2</sup>)  
NE Atlantic >10.3% , Greater NS>23.8%
- Network is not complete in the **offshore** area and big differences across **regional seas**
- **Collective EU effort: the area under marine Natura 2000 doubled in the last 5 years!**
- Marine Natura 2000 is the main driver of MPA designation in the EU and makes **the main contribution to reaching international targets** ('Aichi Target 11' and SDG 14)



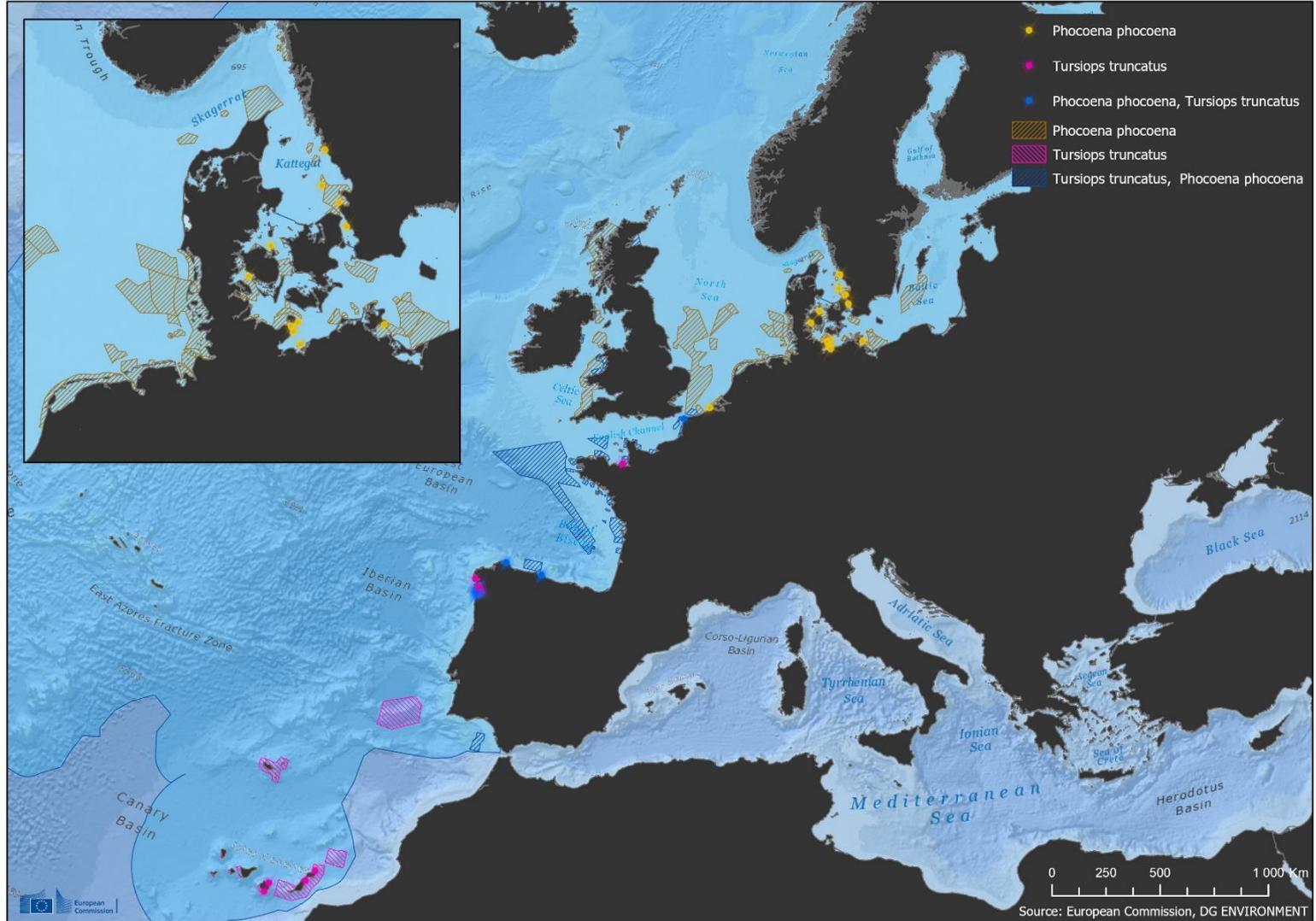
# Marine Natura 2000

Sites designated for the protection of *Phocoena phocoena*

- Baltic: **36** sites covering 23 501 km<sup>2</sup>
- Atlantic: **89** sites covering 195 101 km<sup>2</sup>

Sites designated for the protection of *Tursiops truncatus*

- Atlantic: **76** sites covering 141 508 km<sup>2</sup>
- Still **gaps in designation** in few MS. Management plans/conservation measures?
- Priority of the COM “Nature action plan”: **complete the designation and establish conservation objectives and measures for all sites**
- Legal action against Poland and Portugal (**designation** of sites for HP and/or BD)
- Legal action against Belgium, Germany, Ireland, Portugal, Spain and the United Kingdom (**management** of sites-general)



# Natura 2000 sites

## Supporting the cooperation in Natura 2000 management

- ✓ Marine Expert Group
- ✓ Marine **Natura 2000 seminars** – working together for Natura 2000 management
- ✓ Second marine seminar: Palma de Mallorca, Spain, 13-15 November 2018
  - ✓ Themes: setting conservation objectives, favourable reference values, conservation measures – for particular species/habitats
  - ✓ *Phocoena phocoena* in the Baltic, *Tursiops truncatus* in the Atlantic and the Mediterranean (for details see [report](#))
- ✓ Support of **follow-up events/workshops**-nomination process

# Strict protection of species

## SYSTEM of strict protection under Article 12 of the Habitats Directive

- ✓ **Prohibited:** deliberate capture or killing, disturbance and deterioration or destruction of breeding sites or resting places
- ✓ **A system to monitor the incidental capture** or killing and further research and **measures to ensure that it does not have a significant negative impact** on the species

Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC -Currently **updated**

# Bycatch - what is required under the Habitats Directive?

The Directive requires **effective measures** to **prevent** the negative impact of fishing activities on cetaceans – primarily **bycatch (incidental catch)**. Two essential conditions for ensuring compliance:

- **systematic and robust monitoring** of the level of incidental capture and killing  
(all relevant fisheries and areas adequately covered by appropriate sampling)
- establishment of **threshold values**

This should lead to an appropriate **assessment of impact** on the species concerned and to the implementation of the necessary **preventive measures (enforcement)**.

The Commission is currently looking into the **compliance** of Member States with the legal requirements under the Habitats Directive related to bycatch of protected species.

# MSFD GES decision: D1C1 criterion for bycatch

**D1C1: Mortality rate per species from incidental bycatch is below levels which threaten the species, such that its long-term viability is ensured**

- Member States shall establish **a list of species** (birds, mammals, reptiles and non-commercially-exploited species of fish and cephalopods)
- Member States shall establish **threshold values** per species
- Member States should report in order to express extent of GES achieved the mortality rate per species and whether this has achieved the threshold value set
- Joint Research Centre (JRC) is working on methods to harmonise threshold values for D1C1. Proposal to be presented in working group on Good Environmental Status meeting (19-20 September 2019, Brussels)

Commission Decision (EU) 2017/848 of 17 May 2017 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and repealing Decision 2010/477/EU

- ✓ **The data collection and implementation of measures** require **close inter-sectoral and inter-institutional cooperation**, enforcement of rules and adequate support for and by fishers.
- ✓ Close **cooperation of all countries** in the species range is essential, as well as the **support of scientific organisations**.
- ✓ **Priority:** robust monitoring programmes, definition of threshold values and developing effective mitigation measures.
- ✓ **Precautionary principle** should prevail where there is uncertainty.
- ✓ **Links with the CFP: Data collection (DCF) and management tools (TM)**

# Ship strikes - what is required under the Habitats Directive?

The system of **strict protection** under the Habitats Directive - **effective measures** to prevent the negative impact of **shipping** on cetaceans (ship strikes and underwater noise).

Data should be collected on their killing or disturbance and appropriate measures need to be taken to ensure that such an impact does not have a negative impact on the species concerned.

**Wide range of measures**, including reducing the speed of vessels or rerouting.

Implemented under the rules of the **International Maritime Organisation** (IMO) and could include e.g. the designation of PSSAs.

Depending on the scope of the measures proposed and their impact on the normal maritime traffic, pursuant to **Directive 2002/59/EC** this might need to be done through the **EU submission to the IMO**. The Commission will soon provide additional guidance on this matter.

# Reporting under the Habitats Directive

- ✓ **New reports** on the conservation status (**2013-2018**) of habitats and species delivered, analysis of results by mid-2020, EEA/COM: **“State of nature” report**
- ✓ **Synergies with the MSFD** reporting-more efforts in 2020

## Article 17 national summary dashboards

<https://www.eea.europa.eu/themes/biodiversity/state-of-nature-in-the-eu/article-17-national-summaries>

Dashboard (Tableau) — Prod-ID: DAS-110-en — Published 22 May 2019

### Article 17 dashboards providing summary of results for each Member State (national summaries)

1. Conservation status | 2. Trend in conservation status | 3. List of habitats & species re...

Conservation status/trend with reason for change reported for habitats and species - **DRAFT**

*(based on data as reported by Member States prior to quality analysis and harmonisation)*

Description	Region	Country	Presence	Conclusion of assessment	Reason for change - CS	Conclusion of assessment trend	Reason for change - trend in CS	Natura 2000 trend	
Phocoena phocoena	MATL	BE	PRE	XX	improved knowledge	NA	no info provided	=	
		DE	PRE	U1	no change	=	no change	=	
		DK	PRE	FV	no change	=	no change	-	
		ES	PRE	U1	genuine change	-	genuine change	-	
		FR	PRE	U1	no change	=	no change	+	
		IE	PRE	FV	no change	=	no change		
		NL	PRE	FV	no change	=	no change	=	
		PT	PRE	U2	genuine change	-	no change	x	
		SE	PRE	FV	improved knowledge	=	different method	x	
	UK	PRE	XX	different method	x	no change	x		
	MBAL	DE	PRE	U2	no change	+	genuine change	=	
		DK	PRE	U2	no change	=	genuine change		
		FI	OCC	NA	expert revision needed	NA	expert revision needed		
		LV	MAR	NA	expert revision needed	NA	expert revision needed		
		PL	PRE	U2	no change	=	improved knowledge	x	
		SE	PRE	U2	no change	x	no change	x	
	MBLS	RO	PRE	U1	no change	=	improved knowledge	=	
	MMAC	ES	MAR	XX	no info provided	NA	no info provided	x	
	MMED	ES	MAR	XX	no info provided	NA	no info provided	x	
GR		PRE	U2	no change	-	no change	x		



# State of play with the implementation of the Marine Strategy Framework Directive (relevant issues)

# The Marine Strategy Framework Directive

**Good Environmental Status:** "the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive"



<b>1</b>	<b>Biological diversity</b>
2	Non-indigenous species
3	Commercial fish and shellfish
<b>4</b>	<b>Food-webs</b>
5	Eutrophication
6	Sea-floor integrity
7	Hydrography
<b>8</b>	<b>Contaminants</b>
9	Contaminants in seafood
<b>10</b>	<b>Marine litter</b>
<b>11</b>	<b>Energy, including underwater noise</b>



# Commission's assessment of Member States' programmes of measures

- MS have made **considerable efforts** to develop their **programmes of measures**, with many new measures established
- However, not all pressures on the marine environment are covered properly and there is a **lack of regional or EU coordination** which leads to a **fragmented approach** for certain pressures of transboundary nature.

# Commission report on the implementation of the MSFD

COM **review of the implementation of the MSFD** to date - key policy messages and lessons learnt from the first cycle of implementation (*end 2019*)

## The second MSFD implementation cycle

Member States to review and update the initial assessment of their marine waters, determination of GES and set of environmental targets **by 15 October 2018**.

**Delay:** As of July 2019, only 13 Member States have provided paper-based reports and 7 digital reports

## Preliminary analysis of the information received about marine mammals:

- Most of GES criteria assessed, **except by-catch** (D1C1) and the **habitats condition** for the species (D1C5), by-catch has been reported as '*Not assessed*' in **48%** of the cases and as '*Unknown*' in **40%** of the cases).
- **None** of the reported assessments for small toothed cetaceans has resulted in an achievement of the **GES**, and in 80% of the cases the GES will be achieved only later than 2020, without any exception having been reported under Article 14.
- The **top three reported pressures** are: extraction of, or mortality/injury, disturbance of species due to human presence, input of anthropogenic sound.



# State of play with the implementation of the common fisheries policy (CFP) - relevant aspects

# Common fisheries policy (CFP)



**Fishing at MSY by 2020**  
**Precautionary principle**  
**Ecosystem-based approach**

- ✓ The CFP shall implement the **ecosystem-based approach to fisheries management** so as to ensure that negative impact of fishing activities on the marine ecosystem are minimised (Art.2(3) CFP Regulation 1380/2013)
- ✓ Member States shall (...) collect biological, environmental, technical and socio-economic data necessary for fisheries management (Art. 25 CFP)

# Common fisheries policy (CFP)

## Current issues: cetaceans

- ✓ **Regulation 812/2004** requiring MS to monitor and mitigate cetacean by-catches in certain fishing gears, areas and seasons **has been repealed by**
- ✓ **Technical Measures Regulation 2019/1241** (new framework for the conservation of fishery resources and the protection of marine ecosystems through technical measures), published on 25 July 2019, entered into force 14 August 2019) → incorporates main requirements contained in Regulation 812/2004 and goes beyond
- ✓ Current uncertainty about cetacean by-catches is high
- ✓ **Continuity and improvement of monitoring as well as mitigation measures are needed**

# New Technical Measures (I)

## Objectives (Article 3)

- ✓ ensure that **incidental catches of sensitive marine species**, including those listed under Directives 92/43/EEC and 2009/147/EC, **that result from fishing are minimised and where possible eliminated** such that they do not represent a threat to the conservation status of these species;
- ✓ ensure, including by using appropriate incentives, that the negative environmental impacts of fishing on marine habitats are minimised;
- ✓ have in place **fisheries management measures** for the purposes of complying with the obligations under Directives 92/43/EEC, 2000/60/EC, 2008/56/EC in particular with a view to achieving good environmental status in line with Article 9(1) of that Directive, and with Directive 2009/147/EC

# New Technical Measures (II)

## Sensitive species

- ✓ **Sensitive species** are species whose conservation status, including its habitat, distribution, population size or population condition is adversely affected by pressures arising from human activities, including fishing activities.
- ✓ **Sensitive species**, in particular, include species listed in Annexes II and IV to Directive 92/43/EC, species covered by Directive 2009/147/EC and species whose protection is necessary to achieve good environmental status under Directive 2008/56/EC (Habitats, Birds and Marine Strategy Framework Directives) (Article 6(8) of new TM)

# New Technical Measures (III)

## Targets (Article 4):

- ✓ Technical measures shall aim to ensure that [...]:
- ✓ [...] **incidental catches of marine mammals, marine reptiles, seabirds and other non-commercially exploited species do not exceed levels provided for in Union legislation and international agreements** that are binding on the Union.

## Reporting (Article 31):

- ✓ Current annual reporting under Regulation 812/2004 is deleted but COM will incorporate a specific reporting requirement into the triennial report to Council & EP on implementation of regulation.
- ✓ First report required by 31 December 2020

# New Technical Measures (IV)

## Annex XIII measures applicable to cetaceans, seabirds and turtles

- ✓ Member States shall take the necessary steps to **collect scientific data on incidental catches of sensitive species**.
- ✓ As a result of scientific evidence, validated by ICES, STECF, or in the framework of GFCM, of negative impacts of fishing gears on sensitive species, Member States shall submit **joint recommendations for additional mitigation measures for the reduction of incidental catches** of the concerned species or in a concerned area on the basis of Article 15 of this Regulation.
- ✓ Member States shall **monitor and assess the effectiveness of the mitigation measures** established under this Annex.

# Data Collection Framework (I)

- ✓ The **EU data collection framework** (DCF, revised in 2017): rules on the collection, management and use of biological, environmental, technical and socio-economic data
- ✓ **Multiannual Union programme** for the collection, management and use of data in the fisheries and aquaculture sectors for the period 2017-2019 (→ under renewal to ensure continuity after 2019)
- ✓ **Requirements** on collection of data to assess the impact of EU fisheries on **marine ecosystems**, in particular on **incidental bycatch** of birds, mammals, reptiles and fish protected under Union legislation and international agreements

# Data Collection Framework (II)

- ✓ Data collection **methods and quality** - appropriate for the intended purposes, follow the **best practices** and relevant methodologies advised by the **relevant scientific bodies**
- ✓ For **all types of fisheries and vessels**: incidental bycatch of **all protected species**, including absence in the catch - collected during scientific observer trips or by the fishers themselves through logbooks (+ additional methods if needed)
- ✓ The selection of these methodologies shall be coordinated at **marine region level** and be based on **end-user needs**
- ✓ The **Regional Coordination Groups** – ongoing meetings

→ **DCF contributes to fill the existing data gaps**

# CFP management tools

## Multiannual plans (MAP)

- ✓ Baltic MAP (cod, herring and sprat stocks) and North Sea MAP (demersal stocks) in force for few years
- ✓ MAP for demersals in Western Waters in force since March 2019
- ✓ MAP for demersals in the Western Mediterranean in force since July 2019
- ✓ Proposed MAP for pelagic stocks in the Adriatic – under negotiations

## Measures to comply with obligations under environmental legislation

- ✓ Article 11 CFP for Natura 2000 sites and MSFD purposes
- ✓ Adopted through **regionalisation** process (so far in Baltic and North Seas)
- ✓ Guidance: COM Staff Working Document ([SWD\(2018\)288 final](#))

# Fisheries control

- ✓ COM proposal to **revise the fisheries control system** (May 2018): changes to the Control Regulation, Regulation on illegal, unregulated and unreported fishing and to the EFCA founding Regulation
- ✓ Objective: to **modernise, strengthen and simplify** the EU fisheries control system and to increase the level playing field in fisheries controls

## **Main provisions** that should have **a positive impact on the protection of marine environment:**

- ✓ Improved control of the small scale fisheries and recreational fisheries
- ✓ Control of fishing activities in all MPAs
- ✓ Electronic reporting of lost fishing gears (with the e-logbook)
- ✓ Improved sanctioning system for infringements to the CFP rules.

The proposal is debated by the Council and European Parliament; after adoption there is a transition period of two years scheduled

# European Maritime and Fisheries Fund, EMFF

- ✓ EMFF can be used to finance measures relevant for Natura 2000, marine biodiversity, MSFD
- ✓ Nature Action Plan: facilitate **full and effective use** of the financial resources allocated for biodiversity protection and Natura 2000 under the EMFF for the period 2014-2020 → *Planned contribution EUR 647 million*

- ✓ **COM proposal for post-2020 EMFF (May 2019)** under negotiation

Continue to support **species protection** under the Birds and Habitats Directives; the management, restoration and monitoring of **Natura 2000 sites; MSFD** implementation; collection by fishers of lost fishing gears and marine litter from the sea; **collection, management and use of data** on the state of the marine environment, with a view to fulfilling monitoring and site designation and management requirements under the Birds and Habitats Directives; focus on supporting small-scale fishers



# Thank you

Please see Document ASCOBANS/AC25/Inf.6c:  
Background document on relevant EU policy matters

**<http://ec.europa.eu/environment/>**

**<http://ec.europa.eu/fisheries/>**