



Council of the  
European Union

008095/EU XXVII.GP  
Eingelangt am 09/01/20

Brussels, 9 January 2020  
(OR. en)

5140/20

MAR 5  
OMI 4  
ENV 14  
CLIMA 7

#### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 9 January 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: SWD(2020) 4 final

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Subject: COMMISSION STAFF WORKING DOCUMENT For the Council Shipping  
Working Party IMO—Union submission to be submitted to the 75<sup>th</sup> session  
of the Marine Environment Protection Committee of the IMO in London  
from 30 March to 3 April 2020 commenting on MEPC 75/14 submitted by  
Canada and others proposing a new output to develop a work plan on  
underwater vessel noise on the agenda of MEPC 76

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Delegations will find attached document SWD(2020) 4 final.

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Encl.: SWD(2020) 4 final



Brussels, 9.1.2020  
SWD(2020) 4 final

**COMMISSION STAFF WORKING DOCUMENT**

**For the Council Shipping Working Party**

**IMO—Union submission to be submitted to the 75<sup>th</sup> session of the Marine Environment Protection Committee of the IMO in London from 30 March to 3 April 2020 commenting on MEPC 75/14 submitted by Canada and others proposing a new output to develop a work plan on underwater vessel noise on the agenda of MEPC 76**

## COMMISSION STAFF WORKING DOCUMENT For the Council Shipping Working party

**IMO—Union submission to be submitted to the 75<sup>th</sup> session of the Marine Environment Protection Committee of the IMO in London from 30 March to 3 April 2020 commenting on MEPC 75/14 submitted by Canada and others proposing a new output to develop a work plan on underwater vessel noise on the agenda of MEPC 76**

### PURPOSE

The document in Annex contains a draft Union submission to the 75<sup>th</sup> session of the Marine Environment Protection Committee of the International Maritime Organization (IMO). It comments and supports a submission by Canada. This submission requests a work plan based on a review of the IMO 2014 *Guidelines for the reduction of underwater noise from commercial shipping to address adverse impacts on marine life*.

This draft Union submission is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the document to the IMO prior to the required deadline of 7 February 2020<sup>1</sup>.

Directive 2008/56/EC<sup>2</sup>, the Marine Strategy Framework Directive, sets out eleven descriptors as the basis for determining ‘good environmental status’, i.e. the Directive’s main objective. The 11<sup>th</sup> descriptor reads: “Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment.” In addition, underwater noise is implicitly covered by overarching directives, e.g. the Habitats and Birds Directives (Council Directive 92/43/EEC<sup>3</sup> and Council Directive 79/409/EEC<sup>4</sup>) and the Environmental Impact Assessment Directive.

The Marine Strategy Framework Directive defines human-induced marine underwater noise as a pollutant and requires Member States to ensure that anthropogenic noise is at levels that do not adversely affect the marine environment. The Directive further requires Member States to address the effects at an ecosystem level and ensure coordination in marine regions, leading to programmes of measures that achieve or maintain good environmental status in all EU seas.

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<sup>1</sup> The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

<sup>2</sup> OJ L 164, 25.6.2008, p. 19–40

<sup>3</sup> OJ L 206, 22.7.1992, p. 7–50

<sup>4</sup> OJ L 103, 25.4.1979

Commission Decision (EU) 2017/848<sup>5</sup> sets out criteria and methodological standards to assess the extent to which good environmental status is achieved. It operationalises the descriptors of the Marine Strategy Framework Directive. This includes criteria and methodological standards for underwater noise. The said draft Union submission therefore falls under EU exclusive competence<sup>6</sup>.

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<sup>5</sup> OJ L 125, 18.5.2017, p. 43–74

<sup>6</sup> A formal EU position under Article 218(9) TFEU is to be established in due time as regards the subject matter covered by this draft Union submission. The act which the IMO Marine Environment Protection Committee will eventually be called upon to adopt will constitute an act having legal effects. The envisaged act will be capable of decisively influencing the content of the above EU legislation. The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’ (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64).

## WORK PROGRAMME OF THE COMMITTEE AND SUBSIDIARY BODIES

### Commenting document on MEPC 75/14 submitted by Canada and others proposing a new output to develop a work plan on underwater vessel noise on the agenda of MEPC 76

Submitted by the European Commission on behalf of the European Union

#### SUMMARY

*Executive summary:* The document MEPC 75/14 proposes a new output on the agenda of MEPC 76 to develop a work plan on underwater vessel noise. This document also introduces impact assessments on underwater noise pollution and presents all the initiatives taken at European level to limit underwater noise pollution from ships and its impact on the marine environment and species.

*Strategic direction, if applicable:* 1, 2, 3, 4 and 6

*High – level action:*

*Output:* Proposal for new output/standing agenda item

*Action to be taken:* Paragraph 22

*Related documents:* MEPC 58/19; MEPC 66/17; MEPC 66/21; MEPC 58/19; MEPC.1/Circ.833; A 30/Res. 1110; MEPC 71/16/5; MEPC 72/16/5; MEPC 73/18/4; MEPC 73/INF.23; MEPC 74/17/2; MEPC 74/INF.28; MEPC 74/INF.36.

#### Introduction

1. This document is submitted in accordance with paragraph 6.12.5 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5). It provides comments on the document submitted by Canada and others proposing a new output on the agenda of MEPC 76 to develop a work plan on underwater vessel noise.

#### Aim

2. This paper comments favourably on the Canadian request in MEPC 74/14, indicating what action is already in hand within European waters.

#### Background

3. At MEPC 71, Canada made a submission, MEPC 71/16/5, returning to the issue of underwater noise and its effects on marine life and indicating its desire to revisit this issue.

4. Canada in MEPC 72/16/5 provided further details of its work in this area and announced that it will seek an output on this subject at a later meeting. It invited interested parties to collaborate in drawing up such a submission. Canada subsequently announced an international workshop on this issue in January 2019 in MEPC 73/18/4, which was welcomed by many delegations.

5. Document MEPC 74/17/2 (Canada and France) provides information on initiatives taken by different bodies to further understand the effects of underwater noise from shipping. It also contains information on possible measures to mitigate negative effects on the sustainable development of the oceans. Amongst others, it notes that the Marine Strategy Framework Directive 2008/56/EC, which requires EU Member States to develop a Marine Strategy to achieve Good Environmental Status (GES) by 2020, includes underwater noise as an issue to consider.

6. It also mentions the international survey, being conducted by the European Institute for Marine Studies. This study aims to identify effective management frameworks that ports can use to mitigate underwater noise from shipping. Canada also announces that it intends to submit a request for a new work output to MEPC 75, which will aim to address the identified policy needs related to underwater vessel noise.

7. Canada supplemented document MEPC 74/17/2 with two information papers. One (MEPC 74/INF.36) highlights the recommendations and outcomes from the international technical workshop on underwater vessel noise. The workshop was entitled 'Quieting Ships to Protect the Marine Environment', held at the end of January 2019 at the IMO. The other (MEPC 74/INF.28) provides the results of a review of underwater-radiated noise mitigation measures from ships.

8. With a view to preparing a new work output to MEPC 75, Canada hosted a policy meeting that brought together IMO Member States and Observers at the end of November 2019. It aimed to help finalise a proposal for a new work output on reducing underwater vessel noise to be submitted for MEPC 75.

9. In MEPC 75/14, Canada sets out the case for the development and execution of a work plan, including a review of the 2014 IMO guidelines, with a view to reducing underwater vessel noise. The case made by Canada for international action is strong and reflects efforts undertaken at regional level within Europe.

## **Discussion**

10. Protection of the maritime environment across Europe is of the utmost importance for European Union. The Marine Strategy Framework Directive (MSFD; Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy) was adopted on 17 June 2008. It aims to achieve good environmental status in the European marine waters by 2020. In this regard, it identifies anthropogenic inputs of substance and energy into the maritime environment like underwater noises as pollution. It also dedicates one of the specific qualitative descriptors to define good environmental status to this issue.

11. Commission Decision (EU) 2017/848 of 17 May 2017 defines good environmental status of marine waters, and lays down criteria, specifications and standardised methods for their monitoring and assessment. As part of this, it sets out how to assess the extent to which good environmental status is being achieved for impulsive and continuous noise. For this, it considers the spatial distribution, temporal extent and the levels of anthropogenic noise.

12. In both cases, EU Member States are to establish threshold values for these levels through cooperation at European level, considering regional and sub-regional specificities. In

order to steer this work and advise EU Member States on the operational implementation of this descriptor, a technical group on underwater noise ("TG Noise") was set up in 2011. This group is a sub-group of a Commission expert group on the implementation of the MSFD.

13. So far, the work implemented at EU and regional levels through TG Noise, focused on monitoring issues and was closely related to activities undertaken in regional seas conventions (RSC, see paragraph 17 below). Such work included the publishing of monitoring guidance for underwater noise in the European Seas (<https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/monitoring-guidance-underwater-noise-european-seas-part-ii-monitoring-guidance>). It also comprises the setting up of a register of loud impulsive noise and the development of a joint monitoring programme for continuous noise. Consequently, significant progress has been made in this field during the first cycle of implementation of MSFD.

14. TG Noise is now focussing on the assessments of impacts of noise and the development of thresholds in relation to the indicators developed in the framework of the MSFD, as described above.

15. As part of their marine strategies, required under the MSFD, EU Member States have also implemented various measures aimed at maintaining noise at levels that do not cause harm to marine ecosystems. These include defining specific areas for both impulsive and continuous noise, developing eco-friendly ships, raising awareness, carrying out research and developing guidelines for noise assessments.

16. Other European laws on environmental impact assessments and nature protection contribute to the reduction of underwater noise:

16.1 Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (as amended by Directive 2014/52/EU) applies to all Member States. It requires the environmental effects of certain public and private projects likely to have significant effects on the environment *inter alia* by virtue of their size, nature or location to be assessed before the projects are authorised.

16.2 The EU's Habitats and Birds Directives (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds) are also relevant. Natura 2000 sites designated to protect features such as marine animal species listed the Habitats Directive require measures to avoid any significant disturbance of those species. Different human activities that are likely to have a significant effect on these sites need to be assessed and authorised in accordance with the provisions of the Habitats Directive. This provision also includes the obligation to assess the cumulative impacts of different activities on the conservation objectives of the site.

16.3 Furthermore, provisions of the Habitats Directive include an obligation to prohibit deliberate disturbance of strictly protected species. These provisions are also particularly relevant as all cetaceans and a number of marine vertebrates and invertebrates benefit from a system of strict protection. In addition, the Commission guidance document on 'establishing Natura 2000 sites in the marine environment' contains a specific section on noise pollution.

16.4 The EU's European Marine Observation and Data Network (EMODnet) provides open access to data and digital maps of underwater noise that are helping analysts determine its sources and level in order to develop measures for reducing its impact.

17. In Europe, the MSFD is also implemented through European Regional Seas Conventions (RSCs) such as OSPAR for the North-East Atlantic, HELCOM for the Baltic and the Barcelona Convention for the Mediterranean Sea. The Directive requires EU Member States to coordinate their actions on marine waters in these regions and their sub-regions using relevant mechanisms and structures of RSCs and other relevant international forums. Making use of the experiences and existing cooperation in monitoring, RSCs have played an essential role in developing and starting joint programmes to monitor underwater sound.

18. Most of these conventions have technical working groups dedicated to the issue of underwater noise (HELCOM EN-Noise, OSPAR ICG-Noise). The HELCOM and OSPAR work on impulsive sound monitoring has led to one combined register for impulsive sound available at the International Council for the Exploration of the Sea (ICES). In the Mediterranean and Black Seas, the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS) is taking forward work on underwater noise on behalf of the Barcelona Convention. HELCOM is also working on an action programme on underwater noise, in line with the commitments made in the Ministerial Declaration adopted in 2018 under the EU Presidency ([www.helcom.fi/Documents/HELCOM%20at%20work/HELCOM%20Brussels%20Ministerial%20Declaration.pdf](http://www.helcom.fi/Documents/HELCOM%20at%20work/HELCOM%20Brussels%20Ministerial%20Declaration.pdf)).

19. A list of projects or actions taken at European, regional or national level is set out in Annex to this document.

20. These legislative instruments and the projects flowing from them illustrate the importance that is attached to initiating a global action on this issue, and demonstrate a shared concern with the proposals contained in Canadian document MEPC 74/14.

### **Proposal**

21. Considering the urgent need to address underwater vessel noise at the international level, this paper supports the Canadian request in MEPC 75/14 for a new work plan item to protect the marine environment and resources by reducing underwater vessel noise.

### **Action requested of the Committee**

22. The Committee is invited to consider the above comments and proposal provided in paragraph 21.



## **Annex to document MEPC 75/14/XX**

Commenting document on MEPC 75/14 submitted by Canada and others proposing a new output to develop a work plan on underwater vessel noise on the next agenda of the MEPC Committee

This annex presents a selection of key European projects and initiatives addressing underwater noise and relevant for the implementation of the Marine Strategy Framework Directive.

### **1. Completed Projects & Initiatives in European marine waters**

BIAS - Baltic Sea Information on the Acoustic Soundscape. EU LIFE+ funded collaborative project (2013-2016).

[www.bias-project.eu](http://www.bias-project.eu)

AQUO - Achieve Quieter Oceans by shipping noise footprint reduction. Collaborative European Research Project in the scope of the 7<sup>th</sup> Framework Programme, theme "Sustainable Surface Transport", topic coordinated with the "Oceans of Tomorrow". (2012-2015).

<http://www.aquo.eu/>

MaRVEN – Environmental Impacts of Noise, Vibrations and Electromagnetic Emissions from Marine Renewable Energy- Study for the European Commission, Directorate-General for Research and Innovation (2013-2015)

<https://op.europa.eu/en/publication-detail/-/publication/01443de6-ffa-11e5-8529-01aa75ed71a1>

Baltic BOOST "Best Practices for Action Plans to Develop Integrated, Regional Monitoring Programmes, Coordinated Programmes of Measures and Addressing Data and Knowledge Gaps in Coastal and Marine Waters". EU co-funded project coordinated by HELCOM. (2015-2016)

[www.helcom.fi/helcom-at-work/projects/completed-projects/baltic-boost/results](http://www.helcom.fi/helcom-at-work/projects/completed-projects/baltic-boost/results)

BONUS SHEBA - Sustainable shipping and environment of the Baltic Sea region. Project launched the joint Baltic Sea research and development programme (2015-2018)

<https://www.sheba-project.eu/>

QUIETMED – Joint programme on noise for the implementation of the Second Cycle of the MSFD in the Mediterranean Sea co-funded under the DG ENV/MSFD Second Cycle/2016 programme of the European Commission (2016-2018)

<http://www.quietmed-project.eu/>

### **2. European Ongoing & New Initiatives**

Joint programme for Ocean Noise in the Atlantic Seas – JONAS. Interreg Atlantic Area-funded project (2019-2021)

<https://www.jonasproject.eu/>

Joint Monitoring Programme for Ambient Noise North Sea – JOMOPANS. Interreg North-Sea Region funded project (2018-2020)  
<https://northsearegion.eu/jomopans>

Soundscape - Soundscapes in the North Adriatic Sea. Interreg V-A funded-project (2019-2021)  
<https://www.blue-world.org/soundscape-soundscapes-in-the-north-adriatic-sea-and-their-impact-on-marine-biological-resources/>

QUIETMED2 - Joint programme for good environmental assessment on Descriptor 11-noise in the Mediterranean Marine Region funded within the “DG ENV/MSFD 2018 call (2019 – 2021)  
<https://quietmed2.eu/>

CeNoBS - Support MSFD implementation in the Black Sea through establishing a regional monitoring system of cetaceans (D1) and noise monitoring (D11) for achieving GES, funded within the “DG ENV/MSFD 2018 call (2019-2021)  
<https://www.marenostrum.ro/content/biodiversitate/cenobs>

Making the seas less noisy, LIFE-PIAQUO (2019-2022)  
[http://ec.europa.eu/environment/life/project/Projects/index.cfm?fuseaction=search.dspPage&n\\_proj\\_id=7204](http://ec.europa.eu/environment/life/project/Projects/index.cfm?fuseaction=search.dspPage&n_proj_id=7204)