



Document title	Comments to Strategic follow-up to Commission Decision 2017/848/EU based on the Document 5-4 to GEAR 19-2018
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Background

GEAR 18-2018 agreed on the content of this document to be part of a GEAR planning document to inform further discussions on future work related to coordinated implementation of the MSFD by the HELCOM countries also being EU member states. This document focuses on aspects relating the strategic follow-up to Commission Decision 2017/848/EU.

The content of this document was submitted as part of the Report on follow-up work on GES Decision at regional level in the Baltic Sea, submitted by the Contracting Parties in HELCOM that are also EU member states to WG GES 19, which took place on the 18 October 2018.

CG MSFD 1, 2018 agreed that discussion on topics relating to the implementation of Commission Decision 2017/848 to be taken up at GEAR 20, with the exception of indicators which was tabled already at GEAR 19-2018.

CG MSFD 3-2019 agreed that there is a need to highlight a few, precise topics, with precise questions, for each meeting to ensure constructive discussions at GEAR. The meeting agreed to have a written procedure prior to GEAR 20-2019 to scope which topics the CPs are ready to discuss, or which would be timely to consider. This document proposes how such questions could be specified (see yellow highlights) for few of the topics in the Background for strategic discussions on rev Com Dec_ CG MSFD 3-2019 document.

Action requested

The Meeting is invited to take note of the information and use it as appropriate.

Strategic follow-up to Commission Decision 2017/848/EU

Commission Decision 2017/848/EU is part of the wider review package of MSFD-implementation. The Decision follows conceptual considerations, explored in the EU Commission's "cross-cutting issues document" (last update in November 2017, [MSCG 21-2017-06](#)). As a result, the Decision includes requirements (e.g. in its Art. 3 and 4) which are in need of specification. Guidance and interpretation aid is expected to be taken up in the further development of the EU CIS Art. 8 MSFD assessment guidance, which has been released by WG GES in February 2017 as a test version. As a common understanding of these issues is important for guiding regional cooperation on the technical follow-up work, early strategic discussions in 2018 may be warranted in HELCOM and may later, if appropriate, result in input into the EU MSFD CIS process. The questions are:

- Do we have a common understanding on the requirement or topic?
- What guidance is needed by, and should be given to, HELCOM groups to follow-up on the requirements or topic?
- Where appropriate, how can Baltic regional knowledge and needs be communicated and represented in the discussion and guidance in the EU MSFD CIS process?
- Can the questions below help in prioritizing regional cooperation work and how?

Additional note: There is a plan in WG GES to discuss overarching /cross-cutting issues and in workshop format (e.g. tentatively in second half of 2019), and we could consider whether the below topics would be informed by, or inform, such a workshop.

Examples of issues for discussion may include:

a. A **risk-based approach** should apply to the criteria retained in order to allow Member States to focus their efforts on the main anthropogenic pressures affecting their waters (recital 6 to Commission Decision 2017/848/EU). Risk considerations relate for example to:

- the use of secondary criteria (Art. 3(2) Commission Decision)

As regards the use of secondary criteria (Art. 3(2) Commission Decision 2017/848/EU); it would be useful to have an understanding of the approach which has been taken by different CPs in the MSFD work. Based on this information, it would be possible for GEAR to discuss the topic and inform the planned indicator workshop, to help it and HELCOM WGs in prioritizing regional indicator work. It would be timely to bring up at GEAR 20.

A proposal for questions to prepare could include:

- what is your national view on, or approach to, the use of secondary criteria (Art. 3(2) Commission Decision 2017/848/EU in your indicator work; (for example do you use risk considerations)? We could possibly also discuss: if relevant, would you consider a different approach for future work than was used for the 2018 assessment?
 - What should the status and relation between primary and secondary criteria be? Or: what is your national interpretation of this relationship?
 - In cases where primary criteria are not used; how is this motivated? Are there primary criteria that no Helcom country uses?
- the selection of criteria elements (recital 19 to Commission Decision and Annex I thereto: D1C1, D2C3, D8C1, D8C2, D9C1, D10C4)

A question is whether this discussion should rather start from the WGs Pressure and State. GEAR could give general advice such as: harmonization with MSFD, WFD, Habitats Directive is needed. Detailed discussions can also take place in relation to the indicator development work.

- the setting of threshold values *on the basis of the precautionary principle, reflecting the potential risks to the marine environment* (Art. 4 (1) (e) Commission Decision).

This topic and point b), c), d) below all concern threshold values. The topic could be timely to discuss as the indicator work has progressed a little further (GEAR 22 or 23) and guidance to WGs may be useful in development of new indicators and thresholds.

Questions for discussion could include:

- What principle have you used nationally for setting thresholds in relation to the below aspects?
- Could an indicator become “Core” even though a threshold cannot be agreed?
- To what extent /in what aspects can thresholds differ within Helcom CPs and still be considered coordinated (from the point of view of MSFD)?

- monitoring effort (all descriptors and criteria, but mentioned specifically under D5, D8 – Annex I to the Commission Decision). **Proposal to discuss this topic at a later stage.**

- b. Establishment of ***thresholds where knowledge is limited***. Art. 2 of Commission Decision 2017/848/EU allows Member States in the absence of threshold values to use a) national thresholds, provided the obligation of regional cooperation is complied with, b) directional trends of the values or c) pressure-based threshold values as proxies for status-based threshold values.
- c. Threshold values should be set ***consistent across different criteria*** when they relate to the same ecosystem element (Art. 4 (1) (f) Commission Decision). This requires mechanisms that allow working across criteria where these are developed through different expert groups.
- d. Threshold values should be ***consistent with other Union legislation***, e.g. the Habitats-, Birds- and Water Framework Directives. This could result in the need for reviewing some of the existing threshold values, e.g. for contaminants.
- e. Undertaking an ***ecosystem-based assessment*** remains still a challenge. How could this be usefully achieved in order to support the management of human activities and pressures including spatial planning, and to be comparable across EU marine regions. For HOLAS II a refined Baltic Sea Pressure and Impact Index has been used as a spatial approach.