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To:	Delegations

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Subject:	European Court of Auditors' Special Report No 26/2020 entitled "Marine environment: EU protection is wide but not deep"
	- Council conclusions

Delegations will find in Annex the Council conclusions on above mentioned subject as approved by the Council at its 3787th meeting held on 22 March 2021.

European Court of Auditors' Special Report No 26/2020 entitled "Marine environment: EU protection is wide but not deep"

- Council conclusions -

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING its conclusions on improving the examination of special reports drawn up by the Court of Auditors ('Court') in the context of the discharge procedure¹;
2. WELCOMES the Special Report No 26/2020 from the Court entitled "Marine environment: EU protection is wide but not deep";
3. UNDERLINES the economic, social and environmental importance of the marine environment and its natural resources;
4. RECALLS the commitment of the EU to implement the UN adopted Agenda 2030 for Sustainable Development, notably, the Sustainable Development Goal 14 which sets targets related to "life below water"; as well as the commitment of the EU to the UN adopted Aichi targets under the Convention on Biological Diversity; NOTICES that these targets have not yet been reached;
5. RECALLS the European Commission's Communication "European Green Deal", which puts forward proposals for an economy-wide transition and a sustainable growth strategy, striving to be both just and inclusive, and which aims to safeguard prosperity while protecting our planet;

¹ 7515/00 + COR 1.

6. FURTHER RECALLS the EU Biodiversity Strategy for 2030 and the Council conclusions² approved on that matter; HIGHLIGHTS the Strategy's objective to develop an EU Nature Restoration Plan and to establish a larger EU-wide network of protected areas on land and at sea that is coherent and effectively managed, including protecting a minimum of 30% of the sea in Europe, one third of which strictly protected, with all Members States jointly participating to reach these targets, taking into account national conditions; NOTES that the EU's Biodiversity Strategy for 2030 calls for the full implementation of the EU Common Fisheries Policy (CFP), the Marine Strategy Framework Directive (MSFD) and the Birds and Habitats Directives (BHD); and also RECALLS the Farm to Fork Strategy, which was launched at the same time as the EU Biodiversity Strategy;
7. ACKNOWLEDGES that some fishing methods and other activities through resource extraction and damage to the seabed put pressure on the marine environment; in this context, NOTES that the effects of climate change, pollution in all its forms, including marine litter, microplastics and underwater noise, the spread of non-indigenous species, coastal development, and other human activities can also affect marine biodiversity negatively;
8. STRESSES that, to address the challenges faced by the marine ecosystems, by promoting their conservation and restoration, and for the achievement or maintenance of Good Environmental Status (GES) under the MSFD, the environmental dimension of the EU Integrated Maritime Policy, an integrated approach to the protection and sustainable use of the marine environment is urgently needed, *inter alia*, through active contributions of all relevant sectoral policies and instruments, such as the CFP, the BHD, the Water Framework Directive, and the Common Agricultural Policy, both at national and EU levels, while acknowledging the special role of the Regional Seas Conventions and, where relevant, Regional Fisheries Management Organisations (RMFOs);

² 12210/20.

9. RECALLS that, in line with the Treaties, environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development; UNDERLINES that the EU is committed to protecting the marine environment and the conservation of marine biological resources through its environmental and fisheries policies, respectively.
10. RECALLS that the EU has exclusive competence over the conservation of marine biological resources under the CFP and that the EU and Member States share competence in the environment area, including conservation of marine biodiversity; HIGHLIGHTS that the scope of the CFP includes the conservation of marine biological resources and the management of fisheries and fleets exploiting such resources, and that it aims to ensure that fishing activities and the common organisation of the market in fishery and aquaculture products (the common market organisations) are environmentally, socially and economically sustainable in order to minimise their negative impacts on the marine ecosystem;
11. ACKNOWLEDGES the measures already taken by the Commission and the Member States in order to maintain or achieve the GES of the marine environment; RECOGNISES the importance of supporting all efforts in advancing the effective protection of marine ecosystems, and to decrease pressure from human activities impacting them and, while promoting sustainable fisheries, including actions by Member States to fully implement the provisions from environmental and fisheries legislation;
12. REGRETS that, despite on-going efforts, action has so far been unable to restore EU Member States marine waters to GES, nor fishing to sustainable levels for some species, nor halting marine biodiversity loss in ~~our~~ seas covered by the Court's Report; NOTES that according to the Court's report in the Atlantic, where fisheries management is mostly linked to limits on allowable catches, there has been measureable improvement with regard to achieve the maximum sustainable yield, whereas in the Mediterranean, where fisheries management is mostly linked to limits on fishing effort (and not catches), fishing rates were at twice the sustainable levels;

13. In this context, NOTES that the shared management of fisheries with non-EU countries is an added challenge for protecting the marine environment in the Mediterranean. Furthermore; NOTES that the ongoing efforts to improve fisheries management in the Mediterranean started delivering measurable results as demonstrated in the new report on the State of Mediterranean and Black Sea Fisheries (SoMFi 2020) according to which the percentage of overfished stock fell by more than 10 percent between 2014 and 2018 and the number of fish stocks with high relative biomass has doubled in the last 2 years;
14. ENCOURAGES the Court to extend this review to all marine regions or subregions; CONSIDERS that for future improvements, the audit should cover other aspects of the MSFD, in order to include all-the descriptors of the marine environment, focusing on the predominant pressures on each region or subregion as identified under the national marine strategies established under the MSFD, and barriers to achieve GES;
15. RECALLS the European Topic Centre on Inland, Coastal and Marine waters (ETC/ICM) Technical Report 4/2019 from the European Environment Agency entitled “Multiple pressures and their combined effects in Europe’s seas”, which makes similar observations relating to the anthropogenic pressures on the marine ecosystem; NOTES that this document might provide further insight on the descriptors and regions not covered in the ECA Special Report n.º26/2020;
16. NOTES that the actions towards the conservation of marine biological resources can be funded through, *inter alia*, the European Maritime Fisheries and Aquaculture Fund (EMFAF) for 2021-2027, LIFE and Interreg programmes; and RECALLS that the EU Biodiversity Strategy for 2030 states the EMFF should also support the transition to more selective and less damaging fishing techniques;
17. WELCOMES the three recommendations of the Court in relation to the EU's marine environment, while considering the regional focus of the Report, and acknowledging the need for a coordinated action to also assess the effects of other activities on the marine environment.

Identifying the regulatory and administrative changes necessary to protect sensitive species and habitats

18. ACKNOWLEDGES the Court's recommendation that the Commission and the relevant Member States should, by 2022, strengthen the links between environmental and fisheries policies by identifying the regulatory and administrative changes necessary to protect sensitive species and habitats, which both:
- facilitate faster application of conservation measures required under the CFP, and
 - extend protection to more species (in particular those classified as critically endangered) and-habitats in the light of current scientific knowledge.
19. In this context, SUPPORTS:
- the full implementation of the existing legislation, as well as an ambitious review of the MSFD;
 - establishing, by Member States, the conservation objectives for all MPAs and strengthening and fully implementing the necessary conservation, protection and restoration measures to reach those objectives, including the strengthening or the elaboration of management plans, when missing, with the appropriate involvement of stakeholders, in order to ensure that protected species and habitats achieve or maintain GES;
 - making more effective the procedures under Article 15 of the MSFD and Article 11 of the CFP Regulation, taking into account the relevant procedures under BHD;
 - ensuring that the lists of threatened and declining species and habitats is up to date, taking into account best available scientific advice, as well as the precautionary principle contributing to the adoption by Member States of conservation measures necessary for compliance with obligations under Union environmental legislation, as set out in Article 11 of the CFP Regulation;
 - improving the design and management of MPAs to create coherent, representative and well managed networks in the EU Member States marine waters.

20. ACKNOWLEDGES the Court's recommendation that the Commission and the relevant Member States, by 2023, given the long-standing degradation of marine ecosystems in the Mediterranean:

- examine the case for establishing further fishing protected areas in the Mediterranean Sea basin; and
- report regularly on the progress achieved and on the need for corrective actions, under the Western Mediterranean multiannual plan to enable corrective actions to be identified and taken.

21. In this context, SUPPORTS:

- that the management and conservation measures under CFP continue to be established in accordance with the best available scientific advice to tackle overfishing, and prevent the overexploitation of marine resources by taking the appropriate actions on management towards a more sustainable fisheries activity;
- an effective fisheries control system, in particular to combat Illegal, Unreported and Unregulated fishing;
- that the EU tools for tackling fishing overcapacity are aligned with regional needs and environmental impacts.

22. STRESSES that any additional action aimed at improving the protection measures in the Mediterranean, should be coherent with the UNEP/MAP Barcelona Convention, and with the competent international and regional organizations for fishing, in order to ensure consistency of efforts in this field.

Increasing the potential of EU funding

23. ACKNOWLEDGES the Court's recommendation that the Commission and the Member States, in the context of the next EMFAF programming exercise, at the latest by 2023, identify instruments to increase the contribution of EMFAF funding to marine conservation objectives;
24. STRESSES that the lack of specific funds for the protection of the marine environment is a critical problem; UNDERLINES that the EMFF is used, nationally, only partially for monitoring and establishing measures (including spatial protection measures) in compliance with the MSFD, and for the management, restoration and monitoring of Natura 2000 sites in compliance with the Habitats Directive; RECALLS that the current scope of LIFE funds is limited to pilot and innovative projects, and, thus, narrowing the possibility to be used for management and implementation measures, aimed at the achievement or maintenance of the GES of the marine environment, and other additional support to the conservation of biodiversity;
25. RECALLS that 30% of the EU budget and Next Generation EU expenditures should be dedicated to climate action, while 7,5% of the annual spending should be dedicated to biodiversity objectives from 2024, and 10% from 2026 and onwards;
26. In this context, UNDERLINES the importance of:
- finalizing as early as possible the adoption of funds and programmes under the MFF for the 2021-2027 period that will contribute to financing the protection and conservation of the marine environment;
 - foreseeing specific funding to achieve the objective of increasing the network of MPAs, set out in the EU Biodiversity Strategy for 2030, including financing by the private sector.