



MODTAGE I  
DEPARTEMENTET  
16 JAN. 2017

**Karmenu VELLA**  
Member of the European Commission

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Brussels, 22.12.2016  
Ref Ares(2016)7551763

Mr Esben Lunde Larsen  
Minister for Environment and Food  
Slotsholmsgade 12  
1216 Copenhagen  
DENMARK

Dear Mr Lunde Larsen,

Thank you for your letter of 2 December 2016 setting out your concerns with regard to the adoption of threshold values by HELCOM Heads of Delegation on 14-15 December 2016. I have taken note of the issues you raise and I would like to reassure you that I am committed to finding a mutually acceptable way forward.

I understand that Denmark considers that the adoption of threshold values in HELCOM entails socio-economic impacts and costs. For the Marine Strategy Framework Directive, such considerations are clearly part of the process when Denmark is deciding on its measures and exceptions in Articles 13 and 14.

All HELCOM contracting parties have shown considerable commitment and made significant efforts over several years to ensure a meaningful outcome of the HOLAS II process. My objective is therefore to make sure that HOLAS II moves forward without delay, so that it is available for use as foreseen in 2018 for those EU contracting parties that wish to do so. This is why I do not support, at this stage, a change in the terminology agreed by HELCOM working groups.

I trust, however, that our respective delegations in HELCOM, working with other HELCOM contracting parties, will be able to come forward with a solution. A similar approach to the one proposed in OSPAR, i.e. acknowledging that threshold values adopted in a regional process such as HOLAS II are not binding for EU Member States when it comes to the Marine Strategy Framework Directive, is conceivable. This was also recognised in the version of the Commission Decision on good environmental status approved in the Regulatory Committee on 10 November.

I hope that we can continue the excellent work that is done in HELCOM on this basis and to the benefit of the Baltic marine environment.

Yours sincerely,







H.E. Karmenu Vella  
European Commissioner  
for the Environment, Maritime Affairs and Fisheries

2.12.2016

Dear Karmenu Vella,

Denmark is committed to safeguarding good environmental standards in the Baltic Sea to the benefit of people and businesses alike. Denmark considers HELCOM a crucial element in this regards and greatly values the cooperation under the auspices of the Convention at all levels.

For those HELCOM countries that are also EU Member States the EU Marine Strategy Framework Directive establishes a framework within which the Member States shall take the necessary measures to achieve or maintain good environmental status (GES) of the marine environment by 2020.

The EU Marine Strategy Framework Directive furthermore outlines that countries sharing a sea region should cooperate to ensure that the actions and initiatives necessary to achieve the goal of the Directive are consistent and coordinated. As the Regional Sea Convention for the Baltic Sea, HELCOM is the forum where this work is rightfully taking place.

Denmark has contributed to and recognises the important and comprehensive joint efforts that have been undertaken in HELCOM in recent years to describe and assess the environmental conditions of the Baltic Sea (the HOLAS II process). As part of this work it is being suggested to adopt a number quantitative threshold values for good environmental status. This was discussed at working group level earlier this month and will be submitted to the HELCOM Heads of Delegation meeting in Helsinki 14-15 December for further discussion and possible approval.

In line with the Danish Government position presented at the HELCOM working group State of Conservation meeting 7-11 November 2016 Denmark cannot at this point support the adoption in HELCOM of a number of quantitative threshold values for good environmental status or processes that will lead to the determination of such threshold values *before* it has been possible to carry out a more comprehensive basis for decision-making.

Denmark does not as such oppose setting quantitative targets to achieve good environmental status, but we believe it to be premature at this point to adopt specific threshold values, before sufficient information is available that will allow *thorough impact assessments* to be carried out in relation to suggested indicators. At the same time we recognise the great efforts that have already been made by all contracting parties in preparation of the HOLAS II and also that some kind of regionally accepted values are needed to go on with the HOLAS II process.

As a way forward I would like to suggest, that the assessment to be carried out by HELCOM in 2017-2018 is based on so called "assessment values". These values shall not necessarily be considered as equivalent to proposed EU Marine Strategy Framework Directive criteria threshold values or values which will lead to such threshold values, but may be used as such for contracting parties, being also EU Member States, which may wish to do so.

This approach would not only be in line with the EU Marine Strategy Framework Directive but would also in my view provide governments in HELCOM countries with a *real opportunity to assess the consequences before adopting values with potentially far reaching socio-economic consequences.*

This approach will be similar to the approach chosen by OSPAR, which is a regional sea convention similar to HELCOM. At the same time this approach will make it possible for each HELCOM country to define GES by its reporting to the European Commission in 2018.

I would value your consideration in this regards and look forward to our continued cooperation to reach our common goal of achieving good environmental status in the Baltic Sea.

Yours sincerely,

A handwritten signature in blue ink that reads "Esben Lunde Larsen". The signature is written in a cursive style.

Esben Lunde Larsen



Minister for  
Environment and Food

Letter sent to Ministers of Environment and Fisheries of [REDACTED]  
[REDACTED]  
[REDACTED]

20 October 2016

Copy to the Commission:  
Commissioner Karmenu Vella  
Commissioner for Environment, Maritime Affairs and Fisheries

Dear colleague,

I am writing to you to address my concerns about a current proposal for a Commission Decision on Good Environmental Status (GES) in the marine environment, pursuant to the Marine Strategy Framework Directive.

I am apprehensive about the fact that the general content of the proposed Commission Decision goes beyond a technical revision and thereby goes beyond the legal basis for Commission Decisions in the Marine Strategy Framework Directive.

The proposed Decision obliges the Member States to define quantitative values for GES on a large number of criteria. I am worried that this Decision will have significant economic implications for other policy strands such as fisheries, aquaculture, energy, transportation, offshore oil and gas, construction activities etc., as well as severe administrative burdens for the public sector in the Member States.

Further, I am concerned that such new GES values may alter the interpretation of other EU directives, e.g. the Habitats Directive and the Water Framework Directive.



Additionally, I believe that there is a lack of maturity in the science in order to set threshold values for many of the criteria, especially underwater noise, marine litter and habitats.

I find that this issue should be addressed by carrying out an impact assessment and would draw the attention to the Interinstitutional Agreement on Better Law-Making by the three EU institutions<sup>1</sup>. In this agreement, the Commission is required to carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. This proposal definitely falls within these criteria.

The negotiations are taking place in a Regulatory Committee under the Marine Strategy Framework Directive and the vote is expecting to take place 10 November 2016. I hope, you will take the concerns mentioned in this letter into consideration and consider voting against the Commission's decision.

Yours sincerely,



Esben Lunde Larsen

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<sup>1</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of April 13, 2016 on Better Law-Making.





EU og internationalt  
Ref. SIDBJ  
October 19 2016**Instruktion til ambassaderne i** [REDACTED]  
[REDACTED]  
[REDACTED]**Problemstilling**

Kommissionens forslag om nye metoder og kriterier for opgørelsen af god havmiljøtilstand i EU pålægger medlemslandene at opfylde kvantitative tærskelværdier for god havmiljøtilstand. Forslaget forventes at kunne få omfattende statsfinansielle og erhvervsøkonomiske konsekvenser for Danmark.

Kommissionens forslag vurderes problematisk, da Danmark formentlig vil blive forpligtet af tærskelværdier i regi af HELCOM og OSPAR, hvorved en lang række erhverv kan blive pålagt store byrder. Der kan endvidere være risiko for, at Danmarks konkurrenceevne vil blive forringet over for EU-lande, der indgår i andre havregionssamarbejder, hvor der fastsættes mere lempelige tærskelværdier. Derudover bemærkes det, at der endnu ikke foreligger et tilstrækkeligt videnskabeligt grundlag til at fastsætte tærskelværdier for en række af kriterierne i forslaget.

Miljø- og Fødevareministeren har den 19. oktober sendt ministerbrev til [REDACTED] lande<sup>1</sup> mhp. at forsøge at skabe et blokerende mindretal forud for afstemningen.

Sagen har været behandlet i regeringens Økonomiudvalg den 12. oktober 2016. Her blev det besluttet, at Danmark ikke kan støtte Kommissionens forslag. Derudover blev det vurderet nødvendigt at sikre mere politisk opmærksomhed om sagen.

I foråret var Miljø- og Fødevareministeriet med i en koalition af 14 ligesindede lande, "Group 14", der udegjorde et blokerende mindretal, der problematiserede, hvorvidt Kommissionen havde overskredet sin bemyndigelse i forslaget, hvorvidt der var tilstrækkeligt videnskabeligt grundlag for en række tærskelværdier, samt fremhævede de mulige økonomiske konsekvenser. Som følge heraf, er Kommissionen kommet med en række indrømmelse og justeringer af forslaget. Tilslutningen til gruppen af ligesindede har herefter været vigende, hvilket har resulteret i, at det blokerende mindretal ikke længere vurderes til stede. Det er således sandsynligt, at der opnås kvalificeret flertal for forslaget.

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1 [REDACTED]  
[REDACTED]



## **Instruktion**

På baggrund af dette anmodes ambassaderne i de [ ] lande om at tage kontakt til relevante myndigheder for at skabe opmærksomhed om de danske bekymringer ved forslaget samt at høre til forventet stemmeafgivelse.

## **Baggrund**

Forslaget behandles i en komité under Havstrategidirektivet og skal vedtages ved kvalificeret flertal. Forslaget forventes sat til afstemning den 10.-11. november 2016. Det er sandsynligt, at der opnås kvalificeret flertal for forslaget.

Forslagets formål er at sikre konsistens og sammenlignelighed mellem landenes implementering af Havstrategidirektivet. Inden for 11 deskriptorer/emner angiver forslaget således en række kriterier og metoder, som medlemslandene skal anvende til at vurdere havmiljøets tilstand. Derudover angiver forslaget, hvilke elementer i havmiljøet, der skal overvåges smat i nogle tilfælde også, hvor ofte disse skal overvåges.

Det har været en dansk overvejelse, om Kommissionen med forslaget muligvis overskrider sin bemyndigelse i Havstrategidirektivet, da Kommissionen efter komitéproceduren, som forslaget behandles under, kun har mulighed for at fremsætte ikke-væsentlige ændringsforslag. Udenrigsministeriets JTEU-kontor vurderer umiddelbart, at det ud fra en ordlydsfortolkning ikke er tydeligt, at Kommissionen overskrider sin kompetence.

## **Beredskab**

- Concerns about a current proposal for a Commission Decision on Good Environmental Status (GES) in the marine environment, pursuant to the Marine Strategy Framework Directive.
- Apprehensive about the fact that the general content of the proposed Commission Decision goes beyond a technical revision and thereby goes beyond the legal basis for Commission Decisions in the Marine Strategy Framework Directive.
- The proposed Decision obliges the Member States to define quantitative values for GES on a large number of criteria. Worried that this Decision will have significant economic implications for other policy strands such as fisheries, aquaculture, energy, transportation, offshore oil and gas, construction activities etc., as well as severe administrative burdens for the public sector in the Member States.
- Concerned that such new GES values may alter the interpretation of other EU directives, e.g. the Habitats Directive and the Water Framework Directive.
- Lack of maturity in the science in order to set threshold values for many of the criteria, especially underwater noise, marine litter and habitats.
- Issue should be addressed by carrying out an impact assessment and would draw the attention to the Interinstitutional Agreement on Better Law-Making by the three EU institutions. In this agreement, the Commission is required to carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. This proposal definitely falls within these criteria.

- We are very much concerned with the fact that a Decision with those far-reaching consequences for the Member States is negotiated in a Regulatory Committee rather than in the Council.

- The vote is expecting to take place November 10th, 2016 and I hope, you will take the concerns mentioned into consideration and consider voting against the Commission's decision.

### **Frist og modtagerkreds**

Torsdag den 3. november til [mfvm@mfvm.dk](mailto:mfvm@mfvm.dk), cc. [sidbj@mfvm.dk](mailto:sidbj@mfvm.dk); [liocl@svana.dk](mailto:liocl@svana.dk); [hacka@svana.dk](mailto:hacka@svana.dk); [hehol@mfvm.dk](mailto:hehol@mfvm.dk); [diman@svana.dk](mailto:diman@svana.dk); [makbj@mfvm.dk](mailto:makbj@mfvm.dk); [anmeg@fm.dk](mailto:anmeg@fm.dk); [jabaj@fm.dk](mailto:jabaj@fm.dk);

### **Kontaktpersoner i Miljø- og Fødevareministeriet**

Specialkonsulent Sidsel Bjøl, Miljø- og Fødevareministeriet, [sidbj@mfvm.dk](mailto:sidbj@mfvm.dk), +45 93 59 71 60

Fuldmægtig Maria Klint Thelander, Miljø- og Fødevareministeriet, [makbj@mfvm.dk](mailto:makbj@mfvm.dk), +45 91 36 58 47

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