ClientEarth

February 2026

Ocean Act: Charting a course from paper commitments to real practice

Response to the Call for Evidence

Content

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Charting a course from paper commitments to real practice

With the new Ocean Act, the European Commission aims to "improve the coherence and effective implementation of maritime governance in the EU"[1]. Both, the lack of **coherence** and **implementation** – including the lack of **enforcement** – are key problems identified by the European Commission[2], as well as observed in practice by ClientEarth and stakeholders across the EU, including the Marine Strategy Framework Directive, the Birds and Habitats Directives, the Common Fisheries Policy, the Maritime Spatial Planning Directive and other ocean-related laws and policies[3].

At the same time, the Commission explicitly recognises in both the European Ocean Pact and in the Call for Evidence for the Ocean Act that the "EU is committed to upholding international law"[4]. It seeks to improve "**alignment with international frameworks**[5] and strengthens EU geopolitical leadership in maritime spatial planning, marine environmental management, ocean observation and technology"[6].

With these objectives, the new Ocean Act can now build a bridge from promises on paper – made in international and European laws and policies – to real-world practice.

Bringing EU law in line with promised objectives – and make them work

The latest case law of the world's top courts – the International Tribunal of the Law of the Sea and the International Court of Justice – have just spelled out the content and standard of marine obligations resulting from customary international law, the United Nations Convention on the Law of the Sea and other relevant international agreements, including but not limited to the Convention on Biological Diversity and the Paris Agreement[7]. Given that both the EU and all EU Member States are subject to customary international law and parties to these agreements, this case law is authoritative to them.

There are three key takeaways[8] resulting from the latest international case law that are authoritative for the Ocean Act:

1) **The time for thinking in siloes has passed – policy coherence is key**. Marine protection and the fight against climate change go hand in hand and obligations under **environmental treaties, climate treaties, customary law, as well as human rights** inform each other.

[1] European Commission, Call for evidence for an impact assessment – Ares(2026)258640 (Ocean Act Call for Evidence), p.1.
[2] See e.g. on environmental laws: European Commission, 2025 Environmental Implementation Review, June 2025; on the Marine Strategy Framework Directive: European Commission, MSFD evaluation report, March 2025; on the Common Fisheries Policy: European Commission, Fisheries and Oceans Pact, COM(2023) 103 final, February 2023.
[3] See, among others: ClientEarth, Response to European Ocean Pact Call for Evidence, February 2025; ClientEarth and other NGOs, Don't sink the Common Fisheries Policy – fulfil its potential, November 2025; ClientEarth, CFP Implementation and Enforcement – The Simple Plan, April 2025.
[4] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Ocean Pact, COM/2025/281 final, June 2025 (EOP) p.19.
[5] For the entire document, the emphasis in quotes in bold have been added by ClientEarth, unless otherwise stated.
[6] Ocean Act Call for Evidence, p.2.
[7] See recent landmark advisory opinions: International Tribunal of the Law of the Sea (ITLOS), Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion, No. 31, 21 of May 2024 (**ITLOS, AO 2024**); have been issued by the International Court of Justice (ICJ); International Court of Justice (ICJ), Obligations of States in Respect of Climate Change, Advisory Opinion, I.C.J. Reports 2025, 21 of July 2025 (**ICJ, AO 2025**). Another breakthrough advisory opinion has been issued by the Inter-American Court of Human Rights (IACtHR), The Climate Emergency and Human Rights. Advisory Opinion OC-32/25, 29 April 2025, (**IACtHR, AO 2025**), although the latter is not directing binding on the EU / its Member States.
[8] The cited case law contains numerous additional clarifications beyond those discussed here. This paper highlights only selected key takeaways. For a brief overview, see Ocean Vision Legal, Unlocking Climate Accountability: How Advisory Opinions Advance Environmental and Ocean Justice, July 2025.

→ The Ocean Act is foreseen to gather all relevant international and European targets under one roof. To facilitate their coherent and effective implementation, **they must be legally tangible and align with the overarching objective to achieve a healthy Ocean** as defined under the Marine Strategy Framework Directive (MSFD).

2) **The EU and the EU Member States must do their "utmost"** to protect marine environment and fight climate change[9]. There is a **"stringent" due diligence** standard to be met by State Parties when complying with this obligation, and measures taken must be **based on best available science and the precautionary approach**[10].

   → The Ocean Act is now the key instrument to translate the stringent due diligence standard for marine protection. **An explicit 'Ocean Mainstreaming' is the tool to ensure that the due diligence for marine protection is reflected in all relevant decision-making**.

3) **From laws to action:** The EU and its Member States must deliver on all fronts. From legislation, administrative procedures and enforcement mechanisms – all of it is needed to fulfil international obligations.

   → In the same vein, the Ocean Act seeks to improve effective implementation of ocean governance – to make that happen, it needs a **strong ocean governance structure, including enforcement mechanisms**.

None of these conclusions and obligations are "new": they result from existing compromises that the EU and its Member States have already agreed to. Specifically, the European Commission itself confirms in its European Ocean Pact that its actions are **"based on four key principles: a source-to-sea approach on tackling pollution; a precautionary principle; a science-based approach to policy decisions; and an ecosystems-based approach"**[11].

The Ocean Act must now chart a course from paper commitments to real-world practice. The following document elaborates what this means in more detail, by outlining the three priorities: (1) implementing EU and international targets; (2) Ocean mainstreaming; and (3) enabling compliance and enforcement.

This document builds on the previous submission of ClientEarth's response to the Call for Evidence on the European Ocean Pact[12] as well as on the **joint NGO position on the Ocean Act** that is attached as an Annex to this document[13].

[9] ICJ, AO 2025, para 270.
[10] The precautionary approach is an "integral part of the general obligation of due diligence" under the duty to prevent significant harm to the environment, ICJ, AO 2025, para. 294, quoting from para. 131 of ITLOS, Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10, at p. 47, para. 135. The precautionary approach (or principle) is largely recognised as one of the most important principles of international environmental law. Its most frequently cited version of the principle is enshrined in Principle 15 of the 1992 Rio Declaration, which provides that the lack of scientific certainty shall not be used as a reason for postponing cost-effective measures in case of a threat of serious or irreversible harm. UN General Assembly, *Report of the United Nations Conference on Environment and Development – Annex I: Rio Declaration on Environment and Development*, A/CONF.151/26 (Vol. I) (3-14 June 1992), Principle 15.
[11] EOP, p.6.
[12] ClientEarth, Response to European Ocean Pact Call for Evidence, February 2025.
[13] Birdlife, Bloom, Blue Marine Foundation, ClientEarth, Environmental Justice Foundation, Oceana, Seas at Risk, Surfrider, WWF, Ocean Act Position Paper Summary, February 2025.

Priority 1: Implementing international and European laws and policies

a) International targets and principles

The United Nations of the Law of the Sea (UNCLOS) is the backbone of the ocean legal infrastructure. Under UNCLOS Part XII and especially Article 192, State Parties have a duty to "protect and preserve the marine environment".

The obligation under Article 192 – which has even been recognised as part of customary law with an erga omnes character[14] – encompasses many aspects: it requires States to (1) prevent, or at least mitigate, marine environmental harm, and (2) maintain "ecosystem health and the natural balance of the marine environment"[15]. This may include restoring marine habitats and ecosystems where the process of reversing degraded ecosystems is necessary in order to regain ecological balance[16]. In addition, the international courts clarified that, by logical implication, protecting and preserving the marine environment entails the negative obligation not to degrade the marine environment[17]. Finally, the "open-ended" nature of this obligation means it can be invoked to combat "any form of degradation to the marine environment, including climate change impacts, such as ocean warming, and sea level rise, and ocean acidification"[18]. States also, under this obligation, have a duty to protect the "living resources of the sea"[19].

But it doesn't stop here. The international case law makes crystal clear that States are required to take account of all the relevant international and regional instruments. Namely, an **integrated, mutually supportive approach is required between fisheries, biodiversity, and climate frameworks as well as customary international law.** For the Ocean Act, the following international targets and principles are of particular relevance:

- The **United Nations Framework Convention on Climate Change (UNFCCC)** and **the Paris Agreement** with the legally relevant benchmark to **limit global warming to 1.5°C** above pre-industrial levels. Explicitly, the parties need to adopt Nationally Determined Contributions (NDCs) which must "reflect [their] highest possible ambitions"[20]. Parties do not enjoy unfettered discretion – in contrast, they must do their "utmost"[21]. "Stringent"[22] due diligence is needed to prevent, reduce and control any forms of marine pollution, including GHG emissions, consistent with the goal of limiting global warming to 1.5°C – a standard informed by best available science and the precautionary approach[23].
- The **Convention on Biological Diversity (CBD)** aiming to conserve biodiversity, ensure its sustainable use, and guarantee the fair and equitable sharing of benefits arising from genetic

[14] While formulated in UNCLOS, the obligation under Article 192 reflects customary international law and protects a collective interest of the international community, exhibiting an erga omnes character.
[15] ITLOS, AO 2024, para. 385.
[16] ITLOS, AO 2024, para 386.
[17] The South China Sea Arbitration between the Republic of the Philippines and the People's Republic of China, Award of 12 July 2016, RIAA, Vol. XXXIII, p. 153, at p. 519, para. 941; ITLOS, AO 2024, para. 385; ICJ, AO 2025, para. 342.
[18] ITLOS, AO 2024, para 388.
[19] Southern Bluefin Tuna (New Zealand v. Japan; Australia v. Japan), Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999, p. 280, at p. 295, para. 70; ITLOS Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission (SRFC), Advisory Opinion, 2 April 2015, ITLOS Reports 2015, para. 120. See also South China Sea Arbitration, para. 956.
[20] Article 4, para. 2, Paris Agreement; ITLOS, AO 2024, para 218.
[21] ICJ, AO 2025, para. 275.
[22] ITLOS, AO 2024, para. 239; ICJ, AO 2025, paras. 138 and 343.
[23] ITLOS, AO 2024, paras. 207-213.

resources. The content and interpretation of its obligations are further detailed through relevant Conference of the Parties (CoP) Decisions. First and foremost, the CoP Decision 15/4 adopting the Kunming-Montreal **Global Biodiversity Framework (GBF)** calls for urgent action to halt and reverse biodiversity loss, while determining four goals by 2050 and 23 action-oriented targets by 2030 – including the **30x30 targets** (restoration and protection, Target 2 and 3), the target to **mainstream biodiversity** in all decision-making (Target 14 et seq), and a **phase out target for harmful subsidies** (Target 18). Other key instruments are the **Convention on International trade in Endangered Species of Wild Fauna and Flora (CITES)** as well as the new Agreement **on Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement or 'High Seas Treaty'),** entailing further objectives and principles to give full account when interpreting ocean-related obligations.

- The **United Nations Fish Stock Agreement (UNFSA)**, with its objective to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation. Of particular relevance is its Article 5 establishing general principles for the conservation and management of such stocks, including the precautionary approach, an ecosystem approach and the protection of biodiversity.

Furthermore, the link to **human rights** has also been established in international law: the ICJ 2025 advisory opinion states that environmental protection, including of the marine environment, is a "precondition for the enjoyment of human rights"[24] – especially when it comes to the right to life, health, family life, adequate food and water, as well as the right to self-determination[25]. The Ocean Act should therefore not only be informed by human rights law[26] but it should also bring together all existing international and European commitments and targets, it must do so in a **tangible manner** – i.e. targets should be clear, timebound (including intermediate targets), measurable and enforceable. A comparison can be made with criteria set out in the recent judgment of the European Court of Human Rights (ECtHR) in light of climate change (Klimaseniorinnen)[27]. This included the finding that in working towards achieving carbon neutrality States needed to set out clear, **tangible intermediate targets, timelines and pathways**. The ECtHR also outlined that these targets need to be updated with due diligence, and in line with the best available science. Following this type of approach in the Ocean Act would provide for greater – and simplified – coherence for all actors involved.

[24] ICJ AO 2025, para 373.
[25] ICJ AO 2025, paras. 357, 369-393.
[26] All EU Member States are Parties to international and regional human rights instruments such as the International Covenant on Civil and Political Rights (**ICCPR**), the International Covenant on Economic, Social and Cultural Rights (**ICESCR**), and the Convention for the Protection of Human Rights and Fundamental Freedoms (**ECHR**). Both the EU and the Member States are bound by the **Charter of Fundamental Rights** (limited to cases of implementation of EU law).
[27] See ECtHR, 9 April 2024, Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (application no. 53600/20): "550. When assessing whether a State has remained within its margin of appreciation (see paragraph 543 above), the Court will examine whether the competent domestic authorities, be it at the legislative, executive or judicial level, have had due regard to the need to: (a) adopt general measures specifying a **target timeline** for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another **equivalent method of quantification** of future GHG emissions, in line with the overarching goal for national and/or global climate-change mitigation commitments; (b) set **out intermediate** GHG emissions reduction **targets and pathways (by sector or other relevant methodologies)** that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies; (c) **provide evidence showing whether they have duly complied, or are in the process of complying,** with the relevant GHG reduction targets (see sub-paragraphs (a)-(b) above); (d) keep the relevant GHG reduction targets updated with **due diligence**, and based on the **best available evidence**; and (e) act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures".

b) Making the Ocean Act targets tangible and predictable

The Ocean Act must now integrate the existing international targets and commitments, as well as relevant European objectives resulting from EU laws and policies. International targets have already been agreed to by the EU and its Member State and therefore are not "new". Their explicit, **binding** reference in EU law simply facilitates their implementation and provides for utmost clarity and predictability for Member States, authorities and stakeholders.

The EU Treaties themselves prescribe coherence among its own EU acquis (Art. 7 TFEU), especially when it comes to environmental protection (Art. 11 TFEU). Both, the EU and its Member States, need to adhere to the principle of sincere cooperation. This includes the obligation for Member States to ensure the fulfilment of the obligations resulting from EU law, as well as the obligation to refrain from any measure which could jeopardise the attainment of the EU's objectives (Art. 4(3) TEU).

The European Ocean Pact already entails a selection of targets from EU laws and policies that need to be referred to in the Ocean Act – including first and foremost the Marine Strategy Framework Directive (MSFD) aiming to achieve Good Environmental Status of the European waters and determining the ecosystem-based approach as the key principle when applying ocean-related legislation, as well as those targets stemming from the EU Climate Law, to the Nature Restoration Law, the Common Fisheries Policy, and other relevant laws and policies such as the EU Biodiversity Strategy or Zero Pollution Strategy[28] .

However, instead of simply "listing" those targets, it is of utmost importance to confirm their interaction between one another to actually enable and facilitate their implementation. The Call for Evidence rightly points out that not only policy coherence, but also effective implementation are key to improve with the Ocean Act[29]. In the same vein, the European Ocean Pact affirms that "[s]trengthened governance should facilitate implementation of such targets and ensure enforcement of existing legislation in a coherent manner"[30]. The Ocean Act must avoid using a siloed approach and should clearly outline existing targets in a legally enforceable way. Only then would the Ocean Act strengthen implementation and truly reach 'simplification' in practice while complying with international and European principles – from the ecosystem-based approach, to the based available science, to the precautionary principle.

Therefore, the Ocean Act (e.g. in a new first Article or if based on the Maritime Spatial Planning Directive (MSPD) in its Article 5) must explicitly affirm that the achievement of the **Good Environmental Status as defined under the Marine Strategy Framework Directive (MSFD) is the overarching objective** of the Ocean Act. The MSFD is already the most comprehensive, integrated regime for effecting ecosystem approach in the entire marine environment, and its descriptors already capture many other legal objectives, targets, impacts and pressures – including fisheries, energy or pollution. It also provides for the main principles that the European Commission seeks to implement according to the European Ocean Pact, namely the "four key principles: a source-to-sea approach on tackling pollution; a precautionary principle; a science-based approach to policy decisions; and an ecosystems-based approach"[31].

The relevance of the MSFD and its ecosystem-based approach as the backbone of ocean governance, including the maritime spatial planning under the MSPD, has already been acknowledged by the European Commission. Be it in the "Guidelines for implementing an ecosystem-based approach in maritime spatial planning" from CINEA in 2021, or in the MSFD evaluation report 2025, the European Commission stresses

[28] EOP, Annex.
[29] Ocean Act Call for Evidence, p.1.
[30] EOP, p.2.
[31] EOP, p.6.

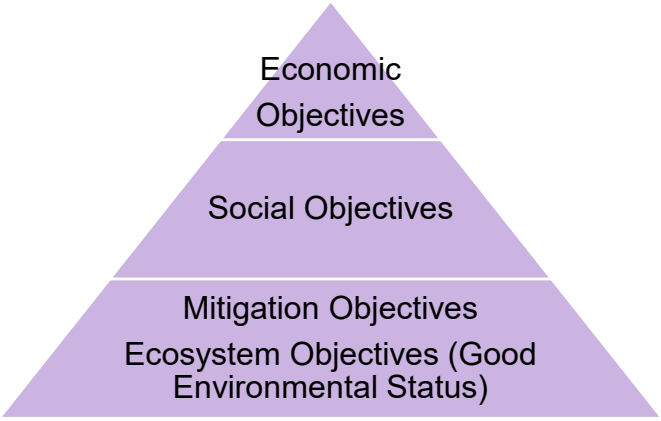
that both, the MSFD and MSPD, follow a 'strong sustainability' perspective. This means that "**economic goals can only be pursued if the basic societal needs are fulfilled which, in turn, can only be achieved within the limits of a healthy environment**. This implies that the environmental goals should take precedence, followed by the social and economic goals. Decision-making should thus always occur within the environmentally safe and socially just space. In practice this implies that environmental thresholds are not exceeded"[32].

The explicit reference from the Ocean Act to the MSFD as the underlying fundament of any other objectives can finally ensure a better application of the ecosystem-based approach in practice and avoid any incoherent, inconsistent and flawed implementation. The Ocean Act brings simplification by explicitly confirming that the achievement of socio-economic objectives cannot lead to deterioration of the marine environment or contradict the achievement of GES. By contrast, simple trade-offs between environmental, social and economic targets considered at the same level would not acknowledge latest scientific evidence[33]. Social and economic targets require a healthy ocean – to support livelihoods in the long term, a blue economy and thriving local communities for generations to come.

In light of these clarifications, the EU Ocean can clarify the conditionality as follows:

- **Ecosystem objectives:** objectives and targets related to the state of the ecosystems or their specific components – these objectives describe the commitments for environmental quality that is needed for achieving the broader goals of ecosystem health (guaranteeing functioning ecosystem services at all) and high level of environmental protection (as required under the EU Treaties).

  Examples: **MSFD, 30x30 and 10x30, WFD, HD&BD, NRL, Climate Law** (obligations resulting from European and international laws and policies)



- **Mitigation objectives:** objectives and targets related to mitigating impacts of certain pressures, sectors and activities – these objectives describe necessary mitigations of or permissible levels for disturbance or impacts that certain sectors or activities should aim towards in order to be compatible with the ecosystem objectives.

  Examples: Zero Pollution Action Plan, Nitrates Directive, Urban Waste Water Treatment Directive, etc. (obligations resulting from European and international laws and policies)

[32] European Commission, MSFD evaluation report, March 2025, p. 39, 40, and footnote 139; European Commission, Guidelines for implementing an Ecosystem-based Approach in Maritime Spatial Planning, September 2021, p. 20.
[33] See e.g. footnote 32 with references to the 'strong sustainability' concept, as well as IPBES on the transformative change determinants in IPBES, Thematic Assessment Report on the Underlying Causes of Biodiversity Loss and the Determinants of Transformative Change and Options for Achieving the 2050 Vision for Biodiversity, December 2024; or the model of planetary boundaries, with more information e.g. under Stockholm Resilience Centre, Planetary boundaries.

- **Social objectives:** objectives strengthening the interlinkages between marine environmental protection and human rights fully in line with international law, including targets supporting small-scale, low impact fishers and coastal communities[34].
- **Economic objectives.**

Finally, for simplification purposes and to be fully aligned with the objectives to halt and reverse biodiversity loss, achieve climate neutrality and zero pollution, the Ocean Act should include explicitly **a precautionary pause on deep-sea mining in international and European waters,** and advocate for the adoption of a moratorium within the International Seabed Authority and other international ocean governance bodies. It should further propose a **ban on all new offshore oil and gas exploration and extraction**, and a **strategy to phase out offshore oil and gas drilling.** In addition, the Ocean Act should ban destructive activities in all EU Marine Protected Areas (MPAs) including, but not limited to, bottom trawling.

Last but not least, one important addition needs to be made in light of the fact that the Ocean Act will be applied even beyond 2030: It will be of utmost importance to ensure that all targets are always kept up to date – and especially based on latest best available science, including from, but not limited to, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) and the Intergovernmental Panel on Climate Change (IPCC). Therefore, the Ocean Act must make crystal clear that **targets need to be updated on a regular basis**, e.g. through a yearly review clause and based on regular progress assessments, fully taking into account the progress tracking under the Ocean Act[35], as well as under other relevant legislation such as, for example, the EU Climate Law and Nature Restoration Regulation (NRR).

c) Lessons from practice: How the Ocean Act can close the implementation gap

1. Marine Protected Areas: making 30x30 legally binding and ensuring effective implementation

At EU level the science is clear on the benefits of achieving effective Marine Protected Areas (MPAs): the Europe Environmental Agency (EEA) states that covering 30% of Europe's seas with MPAs is a "key measure for restoring ecosystem resilience", including against the effects of climate change[36]. It also iterates the importance of implementing the EU's Action Plan to protect and restore marine ecosystems for sustainable and resilient fisheries[37] which outlines that mobile bottom fishing activities, including bottom trawling, need to be phased out by 2030.

The aim of these frameworks is to conserve habitats and species to support thriving marine ecosystems through the setting of MPAs, yet their implementation have failed at both national and EU level: by allowing destructive activities to take place in these areas for the former, and by not properly enforcing EU nature conservation laws for the latter[38]: The result is that between 2015 and 2023, more than 4.4 million hours of bottom trawling[39] have been recorded in MPAs. This systemic lack of enforcement and implementation

[34] See also Priority 1 c) (2) on Strengthening implementation of the Common Fisheries Policy and (3) on funding.
[35] See also the Ocean mainstreaming and Ocean assessment priority in Priority 2 below.
[36] European Environment Agency (EEA) Report, How climate change impacts marine life, November 2023,
[37] EEA Report, How climate change impacts marine life, November 2023
[38] Seas At Risk, Factsheet: Marine Protected Areas in the EU: ensuring legal compliance and effective enforcement, June 2025
[39] Marine Conservation Society, Oceana, Seas at Risk, A quantification of bottom towed fishing activity in marine Natura 200 sites, April 2024.

of the Habitats Directive has led to the filing of two complaints by ClientEarth and partners to the European Commission against a number of Member States, namely France, Germany, Italy [40], Denmark, Netherlands and Spain[41]. There are also a number of national legal actions happening in Spain[42], France[43] and the Netherlands[44] on the same topic of destructive fishing activities happening in MPAs. Allowing these fishing activities to take place in MPAs makes little economic sense, as in European waters, bottom trawling is estimated to cost society up to €11 billion annually[45].

The EOP does not demonstrate adequately how it will progress on implementation of Marine Protected Areas. While it includes both achieving 30x30 and phasing out bottom trawling in MPAs by 2030[46] as targets under the EOP, it also mentions that whether fishing techniques are compatible with conservation objectives of MPAs should be assessed on a case-by-case basis[47]. This goes against the recommended science and is contrary to the reading of the Habitats Directive, whereby bottom contacting fishing gears should de facto be prohibited unless it can be shown on a case-by-case basis that the integrity of the site will not be undermined. It also falls short of the international stringent due diligence standard which requires measures to be taken according to the best available science.

Strong international obligations already exist on the need for effective MPAs networks. State Parties have an obligation under Article 8 **CBD** to "establish a system of protected areas (…) taken to conserve biological diversity". Article 2 of the CBD defines a "protected area" as "geographically defined area which is designated or regulated and managed to achieve specific conservation objectives". The **GBF** builds on this obligation and sets a further spatial target of having 30% of "effectively conserved and managed" protected areas in the sea by 2030[48]. The **BBNJ** states that area-based management tools, including MPAs should have as an objective to "protect, preserve, restore and maintain biological diversity and ecosystems, including with a view to enhancing their productivity and health, and strengthen resilience to stressors, including those linked to climate change"[49]. They also serve to "support food security and other socioeconomic objectives" [50]. It is important to note that under the BBNJ, MPAs must be proposed according to "the best available science and scientific information and (…) relevant traditional knowledge (…) taking into account the precautionary approach and an ecosystem based approach". The Commission has gone some way to include these targets into the EU frameworks by including, in its EU Biodiversity Strategy[51], a commitment to "effectively manage all protected areas, defining clear conservation objectives and measures and monitoring them appropriately[52]" and by achieving the above mentioned 30x30 target as well as 10% strictly protected areas.

[40] ClientEarth, EU faces legal complaint as France, Germany, Italy leave "protected" marine areas open to destruction, April 2025.
[41]ClientEarth, UNOC countdown: Fresh legal challenge over untackled bottom-trawling in EU Marine Protected Areas, June 2025.
[42] ClientEarth, NGOs continue to fight against bottom trawling in marine protected areas with lawsuit in Spain, October 2024.
[43] ClientEarth, NGOs take France to court over trawling in Mediterranean "protected" marine areas, September 2024.
[44] ClientEarth, Netherlands faces court as pressure to end bottom trawling in marine protected areas mounts, January 2025.
[45] National Geographic Press Release, Study: Bottom Trawling in European Waters Costs Society up to 11Billion Annually March 2025.
[46] Though they are only listed as aspirational targets. See EOP Annex, p.24.
[47] EOP, p.7.
[48] Target 3, CoP Decision 15/4 adopting the Kunming-Montreal Global Biodiversity Framework (GBF), December 2022.
[49] Article 17(c) Agreement on Marine Biological Diversity of Areas Beyond National Jurisdictions (BBNJ).
[50] Article 17(d) BBNJ.
[51] European Commission, EU Biodiversity Strategy for 2030 : Bringing Nature back into our lives COM(2020) 380 Final (EU Biodiversity Strategy), May 2020.
[52] EU Biodiversity Strategy, May 2020, p.5.

The Ocean Act is as a key opportunity for protected to really mean protected. It needs to:

- Include a **legally binding target** for achieving **effectively conserved and managed MPAs in 30% of EU seas** in line with international law and the EU Biodiversity Strategy by 2030.
    - The latest data shows that only 13.7% of EU seas have been designated as MPAs[53]. This does not necessarily entail that the designated MPAs are effectively managed.
- Include a **legally binding target for achieving 10% of strictly protected areas by 2030** in line with the EU Biodiversity Strategy and with IUCN categories[54].
    - The IUCN guidelines distinguish between two types of strict protection: "strict nature reserves" and "wildnerness areas". They aim to be "as undisturbed" by human activity as possible[55] and to secure the environment in its natural state.
- Support the **effective implementation of the Habitats Directive, particularly as relates to effective management**. In light of the Habitats Directive, support the application of clear, adequate and site-specific conservation objectives and measures, proper monitoring of these, and guarantee implementation and enforcement. **Effective management should also be ensured for MPAs designated under other frameworks.**
    - The EEA states that the next "major implementation challenge" of the Natura 2000 network is to "increase the effectiveness of its management"[56]. In line with IUCN's indications, management systems and processes should be both adequate and appropriate, enabling protected areas to deliver on their objectives, including conservation of values[57].
- Include a **ban on mobile bottom fishing activities, including bottom trawling, in MPAs** by 2030 in line with the Marine Action Plan. A case-by-case approach as suggested in the EOP does not only create additional burden, but also goes against the interpretation of the existing legislation.

2. Strengthening implementation of the Common Fisheries Policy

The need for – and benefits of – better implementation and enforcement of the existing Common Fisheries Policy (CFP) are well documented:

According to the European Environment Agency, **transitioning to sustainable fisheries "requires the full implementation and enforcement of existing management tools**, especially those targeted at reducing the negative impacts of these pressures on marine resources. This is **vital for improving the social, economic and environmental dimensions of fisheries**"[58].

The European Commission explicitly confirms that the 2013 CFP Regulation "provides the stability needed by the fisheries sector. (…) However, several challenges remain for the CFP to be **fully implemented**. Faster and more structural transformation is needed to reduce environmental and climate impacts of

[53] European Commission, EU Biodiversity Dashboard (accessed February 2026); and EEA Indicators Marine Protected Areas in Europe's Seas, November 2025.
[54] International Union for Conservation of Nature (IUCN), Guidelines for Applying Protected Area Management Categories, Best Practice Protected Areas Guidelines Series No.21.
[55] IUCN, Guidelines for Applying Protected Area Management Categories, Best Practice Protected Areas Guidelines Series No.21, p.13-14.
[56] EEA Report, Management effectiveness in the EU's Natura 2000 network of protected areas, October 2020.
[57] IUCN, Guidelines for Applying Protected Area Management Categories, Best Practice Protected Areas Guidelines Series No.21.
[58] EEA Report, Healthy seas, thriving fisheries: transitioning to an environmentally sustainable sector, August 2024

fishing and aquaculture. This is necessary to restore a healthy marine environment and ensure food security, as well as to help the sector become more resilient, increase energy efficiency and contribute to climate neutrality quickly. This will help to save on fuel costs and thrive on green energy"[59]. The Commission makes crystal clear: "A healthy marine environment with healthy fish stocks and rich biodiversity is **the only way we make sure that our fisheries communities have a prosperous future** over the medium and long term. (…) There is a need to renew the EU's collective commitment to marine conservation and secure a clear political commitment of all stakeholders and institutions to implement the environmental legislation effectively, **use the current CFP policy tools and make them work**"[60].

And yet: Member States have failed to end overfishing by 2020 as required under Art. 2 CFP and the ocean is in a dire state, putting the very fundament of fisheries – fish in the sea – at risk. This is despite the evidence that, where applied, the CFP can actually deliver[61]. For the Baltic Sea, the Commission was unequivocal in its statement: "**unless the Member States apply and implement EU legislation in full, fish stocks will not recover**"[62].

At the same time, the livelihoods of small-scale, low-impact fisheries are at risk. Small-scale fishers (SSF) across Europe state: "The **SSF has reached a tipping point in decline**, which is becoming increasingly challenging to reverse if urgent action is not taken. The EU cannot afford any further delay in protecting and promoting this sector and its potential to legislate and steer policies that are **fair for the fishers, fair for future generations and fair for nature**"[63],

The dependency of the future of fisheries on a healthy marine environment has also been stressed by ITLOS, especially in light of ocean warming and ocean acidification adversely affecting food production, including fisheries. Fish distribution variations have a major impact on the "income, livelihoods, and food security of marine resource-dependent communities", as well as "key cultural dimensions of lives and livelihoods at risk"[64]. ITLOS stresses that UNFSA "may provide guidance in responding to distributional changes and range shifts of stocks due to climate change and ocean acidification"[65]. Notably, its Article 5 outlines several key principles that need to be taken into account when setting targets, objectives and principles for the Ocean Act and the revision of the MSPD, including taking into account the interests of artisanal and subsistence fishers.

Overall, the interconnection between (marine) environmental protection and human rights is more and more reflected in international law and of particular relevance in the fisheries sector, too[66].Especially the relevance of traditional knowledge of Indigenous Peoples and local communities has been stressed heavily in the recent BBNJ Agreement. This should be equally important for the design of the Ocean Act, as SSF play a vital role in preserving cultural heritage and traditional knowledge.

- The Ocean Act has the potential to finally ensure further "effective implementation"[67] of the CFP Regulation and its related policies – especially by affirming that environmental objectives

[59] European Commission, The Common Fisheries policy today and tomorrow: a Fisheries and Oceans Pact towards sustainable, science-based, innovative and inclusive fisheries management, COM(2023) 103 final, February 2023
[60] European Commission, Marine Action Plan 2023, COM(2023) 102 final., February 2023 For more, see also State of play and orientations for 2025, COM(2024) 235 final, June 2024.
[61] NGO Briefing, Don't Sink the Common Fisheries Policy – fulfil its potential, October 2025.
[62] European Commission, State of play and orientations for 2025, COM(2024) 235 final, June 2024.
[63] Make Fishing Fair Roadmap 2025.
[64] ITLOS, AO 2024, paras. 409, 410.
[65] ITLOS, AO 2024, para 426.
[66] See in this context also A/HRC/58/59: The ocean and human rights, Report of the Special Rapporteur on the human right to a clean healthy and sustainable environment, Astrid Puentes Riaño, December 2024.
[67] EOP, p.2.

(especially to achieve GES under the MSFD) cannot be traded off against and overridden by economic interests[68]. The Ocean Act can also make an explicit reference to the objective to achieve the **Maximum Sustainable Yield (Art. 2(2) CFP)** and to key principles in fisheries management, including those resulting from **Art. 5 of UNFSA**.

- The Ocean Act should also **strengthen the social dimension and support of small-scale, low-impact fisheries**[69]. Following the aim of the Ocean Act to strengthen policy coherence and effective implementation[70], supporting the SSF sector and strengthening the CFP implementation via the Ocean Act could have a greater impact than revising the CFP that would not address the real issue (i.e. lack of implementation), and that would risk wasting time and resources on a revision process that may merely result in a deregulation law that would have major adverse impacts on the fisheries sector and coastal communities.

- To strengthen the implementation of the CFP and support SSF, the Ocean Act should clarify key asks from SSF made in the "**Make Fishing Fair Roadmap**", such as strengthening co-management systems or preferential access areas for SSF – especially since the Ocean Act is meant to be linked to the revision of the MSPD. In addition, the Ocean Act should clarify the use of the **EU Ocean Dashboard** in tracking the allocation of fishing opportunities in a transparent and objective manner, including tracking progress of the use of environmental and social criteria in line with Art. 17 and Recital 33 CFP.

- Next to the Ocean Act, it must be stressed that the Commission and Member States must fully implement and enforce the CFP Regulation in any case. ClientEarth's **CFP Implementation and Enforcement Plan – the "Simple Plan"** suggests a way forward for strengthening the implementation and enforcement as the simplest way to reap the environmental, social and economic benefits of the CFP, as well as guarantee the wellbeing of coastal communities including traditional fishers[71].

3. Enabling implementation by setting the right funding framework

An effective Ocean Act will fail (a) if EU public spending continues to finance activities that degrade the ocean; and (b) if its policy objectives are not backed by realistic funding expectations.

Experience has shown how EU marine and fisheries goals can remain ineffective unless directly linked to public spending. **In the past, instruments such as the Multiannual Financial Framework (MFF) and the European Maritime, Fisheries and Aquaculture Fund (EMFAF) were not sufficiently aligned with binding policy objectives, resulting in investments that often undermined the CFP objectives rather than support them**. Past and current EU fisheries and ocean subsidies illustrated this challenge. Between 5% and 12% of the funds distributed by Member States through the EMFAF (between €59-138 millions) were channelled into harmful subsidies for the marine environment – more than twice the amount of the funding dedicated to protecting and restoring biodiversity[72]. **At the same time, most vulnerable part of the blue economy,** such as the **small-scale coastal fishing sector,** remain under-supported: despite

[68] By way of example: The European Court of Auditors repeats findings from the European Environmental Agency that "commercial fisheries interests were favoured over nature conservation requirements" (in the context of Art. 11 CFP), see European Court of Auditors, Marine environment: EU protection is wide but not deep, Special report 26/2020.
[69] See also next sub-section 3 on funding.
[70] Ocean Act Call for Evidence, p.1.
[71] ClientEarth, CFP Implementation and Enforcement – The Simple Plan, April 2025.
[72] WWF Report, Can your Money Do Better ? Member States spend billions of EU funds on activities that harm nature, May 2024.

representing 75% of the total EU fleet, the small-scale fishers received only about 20% of funding from the past European Maritime and Fisheries Fund (EMFF)[73].

While the Ocean Act is not intended to allocate financial resources, it must play a key role **in setting the policy and legal framework that guides future EU spending related to the ocean.** In this respect, the Ocean Act should :

- explicitly acknowledge the objective to phase out harmful subsidies as already agreed under Target 18 of the GBF;
- ensure coherence with new international fisheries commitments, including the phase-out of harmful subsidies under the WTO Fisheries Subsidies Agreement; and
- explicitly acknowledge the need for coherence between ocean governance objectives and EU budgetary instruments, in particular the upcoming Multiannual Financial Framework (MFF).

The next Multiannual Financial Framework (MFF) will define the financial architecture underpinning the EU's maritime, fisheries and blue economy policies. However, the European Commission's current proposal for the EU budget lacks adequate support for ocean protection. This is at odds with the recommendations of the European Court of Auditors[74], which have consistently highlighted the need for increased and better-targeted funding – not only for the effective protection of marine areas through properly managed Marine Protected Areas, but also for the restoration of marine ecosystems through the implementation of the Nature Restoration Regulation's binding targets, as well as for pollution reduction and climate resilience measures.

Adequate and coherent funding under the MFF is essential to enable Member States to effectively comply with the obligations stemming from the Ocean Act, including the protection and restoration of marine ecosystems and the achievement of Good Environmental Status.

Ensuring such coherence is not merely a matter of ambition, but of effectiveness. Public funding that directly or indirectly supports activities undermining marine ecosystems weakens the credibility of EU ocean policy, distorts markets, and delays the transition towards a sustainable, low-impact blue economy. Conversely, aligning financial instruments with ocean objectives can reduce policy fragmentation, support long-term economic resilience, and ensure a fair transition for ocean-based sectors and coastal communities.

For the Ocean Act to deliver tangible results, its development and implementation must therefore be supported by EU and national public funding fully aligned with its objectives. This includes the systematic exclusion of public support for environmentally harmful activities, as well as the prioritisation of investments in marine protection, restoration and sustainable practices across all ocean-related sectors.

In this context, the Ocean Act should provide a clear framework ensuring that EU financial instruments are consistent with existing legal constraints and obligations applicable to maritime and fisheries subsidies. In particular, the recent entry into force of the WTO Agreement on Fisheries Subsidies establishes binding rules prohibiting subsidies that contribute to overfishing, overcapacity and illegal, unreported and unregulated (IUU) fishing. As a matter of EU law, these prohibitions must be effectively reflected in the Union's regulatory and budgetary frameworks[75].

[73] ClientEarth, Small-scale fishers revealed as least supported recipients of EU funds, March 2023.
[74] European Court of Auditors, 'Marine environment: EU protection is wide but not deep', 2020.
[75] ClientEarth, The next EU budget: Investing in ocean resilience and thriving coastal communities, February 2026, p.8.

The Ocean Act should act as an enabling instrument in this regard, ensuring that EU funding mechanisms – including those under the MFF and their implementing instruments – are designed and applied in a manner that is fully consistent with these rules. Doing so would enhance legal certainty, prevent contradictions between policy objectives and public spending, and support the effective implementation of sustainable fisheries and ocean protection goals across the Union.

Priority 2: Creating coherence via Ocean mainstreaming

The European Ocean Pact states that the Ocean Act will enable '"coherent and effective implementation"[76]. The International Court of Justice Advisory Opinion on Climate Change confirms that the time for thinking in silos has passed:

- all countries have binding obligations to cut emissions under a range of international law, including human rights law, the Law of the Sea, as well as the UNFCCC, the Paris Agreements etc[77].
- States cannot not fulfil their human rights obligations without also protecting the environment because the two are interdependent.

The EU needs to align with international frameworks and commitments by putting in place **a comprehensive tool to enable policy coherence** – including for administrative processes[78]. Ocean Mainstreaming (OM) offers a solution: it would require the EU and its Member States to systematically integrate the protection, restoration and sustainable use of the ocean and its ecosystems into all EU policies.

a) The international case for Ocean Mainstreaming

The concept of OM draws from the notion of "biodiversity mainstreaming" which is heavily grounded in international law. The Convention on Biodiversity (CBD) outlines the obligation for State Parties to "integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral place, programmes and policies"[79]. This concept continued to evolve in international law, where we have as seen in Decision 15/4 adopting the Kunming-Montreal **Global Biodiversity Framework (GBF)** in 2022, which calls for State Parties to "mainstream the conservation and sustainable use of biodiversity"[80] and, in its **Target 14**, to "[e]nsure the full integration of biodiversity and its multiple values into policies, regulations, planning and development processes (…) within and across all levels of government and across all sectors (…) and fiscal and financial flows with the goals and targets of this framework"[81]. **Biodiversity mainstreaming has to take place in all relevant policy- and decision-making, from laws and policies to plans and programmes to individual decisions in all sectors, including finance**. It is clear that, at international level, biodiversity

[76] EOP, p.2.
[77] ICJ, AO 2025, para 311 "*treaties are to be "interpreted and applied within the framework of the entire legal system prevailing at the time of interpretation*".
[78] State (and EU) action must not only include legislative measures, but also "administrative procedures, and enforcement mechanisms necessary to regulate the activities in question, and … exercise adequate vigilance to make such a system function efficiently, with a view to achieving the intended objective", see ICJ, AO 2025, para 281; ITLOS, AO 2024, para 235.
[79] Article 6, Convention on Biological Diversity (CBD), adopted 5 June 1992, entered into force 29 December 1993), signed by the EU on 13 June 1992 and approved on 25 October 1993.
[80] Target 12, GBF.
[81] Target 14, GBF.

encompasses the "marine and other aquatic ecosystem"[82] and that therefore, this type of mainstreaming must apply to the ocean ecosystems – hence the adaptation of biodiversity into OM.

Of course, our Ocean relates to much more than biodiversity – it impacts health, climate, livelihoods of coastal communities and much more. As such, the concept of OM should be adapted to encompass a wider array of elements. For instance, recent **international jurisprudence** on the international obligation to protect and preserve the environment[83] clarified that this obligation encompasses "**any form** of degradation of the marine environment, including climate change impacts, such as ocean warming and sea level rise, and ocean acidification"[84]. Further, States also have a duty to cooperate on a "global or regional basis" in formulating "rules, standards and recommended practices and procedures" for the protection and preservation of the marine environment[85]. The EU therefore has a clear mandate to put in place practices such as OM: it would enable clear cross-sectoral policy and would support Member States, who are signatories to the above mentioned international frameworks, to comply with obligations they have already agreed to. This approach is further reiterated in the recent **BBNJ Agreement** which sets out as a guiding principle and approach to be applied to all parties: an "integrated approach to ocean management"[86]. International frameworks through all these provisions recognise that, when it comes to the Ocean, we need to move beyond a sectoral approach and instead adopt an interconnected approach to ocean governance, with tools that would enable the analysis of cumulative impacts of activities on the ocean.

b) Precedence within the EU Frameworks for Ocean Mainstreaming

The importance of the marine environment to the EU is undisputed: the EU Biodiversity Strategy highlights the need for the EU to take "measures to protect and sustainably use sensitive maritime ecosystems and species"[87]. This is key, as it would then support the substantial EU Blue Economy sectors which generated a gross turnover of 623.6 billion euros in 2021[88]. These sectors are however at threat: the World Economic Forum declares biodiversity loss and ecosystem collapse – including the marine ecosystem – as one of the most severe risks in the next decade[89]. The Ocean Act needs to address this implementation gap for the EU to remain a credible leader, and OM would contribute to this, by ensuring all sectors – on land and in the sea, adequately consider the cumulative pressures of human activities on the marine environment.

Beyond the international frameworks, there are grounds within our EU frameworks for this to be put in place. For instance, **Article 11 on the Treaty on the Functioning of the European Union (TFEU)** states that environmental protection must be "integrated into the definition and implementation of the Union's policies and activities" – setting a strong basis for OM in line with the international frameworks to be implemented at EU level. Further, the **EOP itself** has referenced this type of approach by stating the goal to build a "single reference framework aimed at streamlining coordination processes (…) and offering a strategy for implementing existing legislations and achieving policy goals more coherently across all sectors"[90]. The Pact further explicitly recognizes the importance of the CBD and the need to achieve the

[82] Article 2, CBD.
[83] Article 192 of the United Nations Convention on the Law of the Sea (UNCLOS).
[84] ITLOS, AO 2024, paragraph 388.
[85] Article 197 UNCLOS.
[86] Article 7(g), BBNJ.
[87] EU Biodiversity Strategy, May 2020, Section 4.2.1 International Ocean Governance, p.20.
[88] European Commission, The EU blue Economy Report, 2024, p.4.
[89] World Economic Forum, Global Risks Report 2025.
[90] EOP, p.1.

targets of the GBF[91] which, as we've seen above, contain the obligation to carry out biodiversity mainstreaming.

Finally, we can turn to existing EU law for inspiration in setting up adequate OM: the **EU Climate Law**. This Regulation asks for "**climate assessments**" for any measures or proposals, including budgetary ones by the Commission under Article 6, as well as in the national context under Article 7. Specifically, the Commission is required to carry out targeted assessments to not only assess the collective progress of Member States towards the achievement of climate-neutrality objectives outlined in the Regulation, but also to assess whether EU policies are consistent with these goals[92]. If the (collective) Union measures are found to be inconsistent with the achievement of these goals, the Regulation puts an obligation on the Commission to take "necessary measures in accordance with the Treaties"[93]. In addition, the Commission must also assess the consistency of national measures, and, if inconsistencies have been identified, the Member State should follow specific recommendations of the Commission[94]. To facilitate the implementation of OM, we can also draw further conclusions from the EU Climate Law. For example, it puts in place the 'European Scientific Advisory Board on Climate Change' (the 'Advisory Board') to provide scientific information and knowledge relating to climate change[95], as well as issue reports and advice on existing and proposed measures taken by the EU[96].

c) What OM would look like in the Ocean Act

The benefits of adding an OM into the EU legal system are clear: it would operationalize coherence, namely between the MSFD and MSPD, as well as align with international obligations in the CBD, GBF and BBNJ that Member States have already committed to – as well as facilitating links with other targets like the climate objectives. It would enable a **holistic approach to ocean governance and move away from a sectoral governance model**.

That being said, the Ocean does not need more rules and principles that exist only on paper, with no means of enforcement or implementation to back it up.

Instead, OM in the Ocean Act would:

- ensure the achievement of key EU objectives such as the Good Environmental Status as outlined in the MSFD, becomes a consistent consideration throughout the Union's frameworks.
- set a **procedural obligation which would require the EU and its Member States to exercise due diligence in integrating ocean protection across all relevant policies**: climate, energy, fisheries, trade, transport, agriculture etc. as well as in accounting and budget consideration. Public authorities – from local, to national, to regional and European level – would need to anticipate, prevent and mitigate foreseeable harm to the marine environment in line with international and EU principles such as the precautionary approach and ecosystem-based approach.

[91] EOP, p.22.
[92] Articles 6, Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (EU Climate Law).
[93], Article 6(3), EU Climate Law.
[94] The exact procedure is outlined in EU Climate Law, Article 7(2) and (3).
[95] Article 3 and Article 10a, EU Climate Law.
[96] Article 3(2)(b), EU Climate Law.

- provide for an **assessment tool for the European Commission**, which would be enabled to carry out assessments on whether measures are consistent with the overarching goal for ocean health, i.e. the Good Environmental Status as the legally binding target under the MSFD. Where lack of progress is identified, the Commission will be equipped with **appropriate instruments to support compliance with EU law**.

Priority 3. Providing for effective compliance tools

The international courts ruled that State action needs to include **monitoring and enforcement mechanism.** They explicitly clarified that due diligence requires parties "to put in place a national system, including legislation, administrative procedures and an **enforcement mechanism**" – which means a "certain level of vigilance in their enforcement and the exercise of administrative control"[97] .

Safeguarding compliance and investing in enforcement is therefore not a "nice-to-have" – it is what enables and drives real change: going beyond the law on paper, and into practice. It is what brings certainty and predictability for citizens and businesses – they know that if the EU says it is going to achieve something, it will follow through. With the Ocean Act, the Commission has an opportunity to fully act as Guardian of the Treaties.

a) The state of enforcement and implementation of ocean law in the EU

The European Environment Agency outlines in its 2024 Report on Healthy Seas, thriving fisheries, that existing measures within the EU and Member States could address the biodiversity, pollution and climate crises. These include "ensuring all harvested stocks are exploited at sustainable levels, promoting low-impact activities, and establishing a large-scale, well-designed and effectively managed network of marine protected areas" [98] . It further outlines that transitioning to sustainable fisheries "requires the full implementation and enforcement of existing management tools, especially those targeted at reducing the negative impacts of these pressures on marine resources"[99].

And yet, we know that "Europe's seas are generally in poor condition due to increasing pressures from human activities", with more than "93% of Europe's marine areas (…) already under pressure from human activities[100]. It is estimated that 40% of fish and shellfish populations in Europe's seas are "still not in good status or fished sustainably"[101]. Climate change may also "account for up to half of the combined impacts on marine ecosystems"[102]. We also know that the goal of achieving Good Environmental Status by 2020 has not been achieved, overfishing is still happening despite the legal deadline to end it by 2020, and we are still far away from having enough effectively managed MPAs by 2030.

Implementation and enforcement is understood to be a priority for this Commission: in its Communication on a Simpler and Faster Europe commitments are made to "pursue a resolute enforcement action as Guardian of the Treaties, to ensure that rules are implemented (…). It will also continue to pursue its strategic approach, **prioritizing breaches that have the most significant impact on public** and

[97] Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010 (I) para. 197.
[98] EEA Report, Healthy seas, thriving fisheries: transitioning to an environmentally sustainable sector, August 2024.
[99] EEA Report, Healthy seas, thriving fisheries: transitioning to an environmentally sustainable sector, August 2024.
[100] EEA Report, August 2024, "Healthy Seas, thriving fisheries: transitioning to an environmentally sustainable sector".
[101] EEA Report, August 2024, "Healthy Seas, thriving fisheries: transitioning to an environmentally sustainable sector".
[102] EEA, November 2023, How climate change impacts marine life.

business interests"[103]. At the start of her mandate, Commission's President von der Leyen also made clear in her political guidelines[104] as well as in her mission letters to the Commissioners that they "should make full use of all instruments for implementation and enforcement, including infringement proceedings"[105]. However, despite these announcements and prioritisation, little progress has been made on enforcement: DG MARE has only opened one new case in 2025, and no new cases at all in 2024[106]. For DG ENVI as well, we could observe a worrying trend: the last mandate under Commission's President von der Leyen has opened fewer than 560 legal proceedings against EU Member States in environmental law matters – which is the lowest number in two decades[107]. In 2024, DG ENVI launched 77 new infringement proceedings, and 70 in 2025[108].

The gap of implementation and enforcement is especially concerning from an economic perspective: The Commission's 2025 Environmental Implementation Review states that "EU environmental law and policy contributes to the EU's prosperity, competitiveness and security and is essential to achieve its sustainable development"[109]. Simply implementing existing EU environmental legislation would **save the EU economy around 180 billion EUR per year** in health costs and direct costs to the environment (not even including fisheries legislation, so the number could be even higher)[110]. Clearly, those savings are higher than the costs of implementation – making implementation "a sound investment"[111]. To put these numbers in context: With the 2025 Omnibus proposals, the Commission only aims to save **less than 12 billion EUR** for EU businesses[112] – which demonstrates even more the massive economic mismatch between implementation benefits and deregulation chaos.

b) Transparency and enforcement provisions safeguarding compliance with EU law

The Commission's Environmental Implementation Review identified five key factors which make the difference between "good" and "poor" implementation: " (1) the **integration of environmental objectives in public policies**, through political dialogues and choices on sharing the implementation cost among stakeholders; (2) **financing**; (3) administrative **capacity**, especially to ensure proper planning and coordination; (4) digital data; and (5) the **role of public participation in environmental decision-making and access to justice**"[113].

The problem: Ocean policies are approached in a siloed manner, rather than in a holistic approach which would consider the cumulative impacts of human activities on marine ecosystems[114]. Financing has remained inadequate and insufficient to support conservation and restoration efforts as well as a just

[103] European Commission, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, A simpler and faster Europe: Communication on implementation and simplification, Com(2025) 47 final, , February 2025, p.4.
[104] Ursula von der Leyen, Political Guidelines for the next European Commission 2024-2029, July 2024: implementation is mentioned as a priority throughout.
[105] See e.g. Mission Letter to Commissioner for Fisheries and Oceans, Costas Kadis, September 2024.
[106] European Commission at Work Website, Infringement database (checked in February 2026)
[107] Politico, Ursula von der Leyen has taken green enforcement behind doors, 27th August 2024
[108] European Commission Website, Infringement Cases in the EU Database (checked in February 2026)
[109] European Commission, Communication from the Commission to the European Parliament, The council, The European Economic and Social Committee and the Committee of the Regions, 2025 Environmental Implementation Review, Environmental implementation for prosperity and security, COM (2025) 420 Final (2025 Environmental Implementation Review), June 2025, p.11.
[110] European commission, 2025 Environmental Implementation Review, June 2025.
[111] European Commission, 2025 Environmental Implementation Review, June 2025, p.11.
[112] European Commission, 2025 Omnibus proposal.
[113] European Commission, 2025 Environmental Implementation Review, June 2025, p.7.
[114] See above, Priority 1 and 2.

transition [115]. Further, the Environmental Implementation Review finds that "public participation in environmental decision-making at national level and access to justice in the national courts has not been sufficient. **Ensuring that these tools are effective is a key component of environmental implementation**"[116].

In light of these findings, it is absolutely crucial that the European Commission makes the Ocean Act a law that provides for sufficient transparency and its rules are clear, predictable and therefore as enforceable as possible – based on its lessons learnt from existing laws and policies. By way of example, the MSFD is described as lacking both, "clearly enforceable provisions" (and instead providing for broad discretion and flexibility for Member States)[117], as well as enforcement provisions itself (i.e. no penalty nor access to justice provision)[118]. The MSPD, too, does not have an access to justice provision. Even more concerning, the Commission does not even assess access to justice in its evaluation report[119].

The European Commission has acknowledged in previous communications and proposals the importance of including stronger justice provisions in new or revised EU laws concerning environmental matters[120]. Therefore, recent examples introducing access to justice provisions, as well as improved penalties, and compensation right provisions, are the Microplastic Pollution Regulation, the Urban Waste Water Treatment Directive or the Ambient Air Quality Directive.

The Ocean Act must now follow the European Commission's same logic and design the law in a way that will safeguard the consistent implementation of the EU law. This includes, as a minimum, provisions on access to information, public participation and access to justice (fully in line with the Aarhus Convention), as well as other effective enforcement provisions, including penalties, suspensions (of activities and/or funding) and compensation right mechanisms.

c) Effectuate coherent implementation through an Ocean Regulation

Another tool to truly achieve a coherent implementation is choosing the right legal character of the Ocean Act itself – and making it a Regulation. A regulation ensures direct applicability which is of utmost importance in light of competitiveness and simplification.

On competitiveness, the Draghi Report[121] states that the lack of coordination between Member States and their national policies leads to "considerable duplication, incompatible standards and failure to consider externalities". It further states that "uneven implementation of legislation (directives) across Member States adds to uncertainty and compliance costs, and weakens the level playing field within the EU"[122]. It

[115] See above, Priority 1 c) (3).
[116] European Commission, 2025 Environmental Implementation Review, June 2025, p. 10 .
[117] European Commission, Commission Staff Working Document, Evaluation of Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) SWD(2025) 51 Final (MSFD evaluation report), March 2025, Executive Summary.
[118] See also European Commission, MSFD evaluation report, March 2025.
[119] European Commission, Report from the Commission to the European Parliament and the Council outlining the progress made in implementing Directive 2014/89/EU establishing a framework for maritime spatial planning, COM(2022) 185 final, February 2022.
[120] European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Improving access to justice in environmental matters in the EU and its Member States, COM(2020) 643 Final.
[121] European Commission, The Draghi Report on EU Competitiveness, September 2025 p.16.
[122] European Commission, The Draghi Report on EU Competitiveness, September 2025 p. p.101.

concludes that, to reduce red tape and regulatory burden, the Commission should "prefer EU regulation to directives in areas where the level playing field is important"[123].

Arguably, this would particularly be the case when looking at ocean laws and policies given the cross-boundary nature of our seas with maritime activities undertaken often by non-national actors – setting a level playing field across Member States and operators in the marine environment via the instrument of a Regulation is markedly important and would satisfy the findings of the Draghi Report.

For simplification, it is even more important to provide the greatest clarity on how to achieve a "strong governance framework" and approach the Ocean Act as the "one roof" that has been announced in the European Ocean Pact[124]. **A law that seeks to create first and foremost "coherent and effective implementation" through a "single reference framework"[125], cannot be a law that lacks the power to ensure that all Member States will follow its overarching objectives.**

In the same way, it has been acknowledged that this level playing field and simplifying harmonisation is needed in other nature and climate contexts which is of utmost relevance for the Ocean Act. There is precedence with the European Climate Law and Nature Restoration Regulation (NRR) to set an overarching framework of governance, all the while giving Member States autonomy in the implementation of respective plans. The Ocean Act is not only comparable with the relevance of the NRR and EU Climate Law, but even more, it is of importance to ensure a coherent policy approach between those three legislation as well – making it of utmost importance to give the Ocean Act a Regulation – character just as for the NRR and Climate Law. Only then can we ensure that the Ocean Act has the power and predictability to set a clear overarching framework affecting all relevant sectors and legal targets.

d) Accompanying instruments as part of Ocean governance infrastructure

The Ocean Act cannot deliver and improve coherence and implementation of ocean objectives when there are no capacities or instruments accompanying its own implementation. In addition to the right financial investments and framework (to which the Ocean Act can contribute by setting the right targets and principles[126]), it is as important to set up an overall ocean governance *infrastructure*. Therefore, at a minimum, two key monitoring and control instruments should be strengthened through the Ocean Act:

1. Providing for sufficient capacities and resources

With the Ocean Act, the European Commission must adopt a zero-tolerance policy against infringements of EU ocean-related legislation and increase its number of enforcement actions against Member States who violate the law, including through infringement proceedings and suspension of EU funds. Therefore, the Commission itself must increase its staff and capacity allocated to its legal and enforcement units – and also ensure stronger cooperation between the various DGs being involved in cross-cutting cases.

2. Monitoring and control progress via the EU Ocean Dashboard

The new EU Ocean Dashboard, announced in the European Ocean Pact[127], should create a user-friendly, transparent, and up-to-date tool to track ongoing progress on all relevant targets under the new Ocean

[123] European Commission, The Draghi Report on EU Competitiveness, September 2025 p.p.107.
[124] EOP, p.2.
[125] EOP, p.1.
[126] See above, Priority 1 c) (3).
[127] EOP, p.3.

Act. Therefore, the Ocean Act must ensure that it entails sufficient indicators[128] to make it an instrument that will help in assessing compliance both the Member States individually and the EU as a whole is on track to deliver on its promises[129].

About ClientEarth

ClientEarth is a non-profit organisation that uses the law to create systemic change that protects the Earth for – and with – its inhabitants. We are tackling climate change, protecting nature and stopping pollution, with partners and citizens around the globe. We hold industry and governments to account, and defend everyone's right to a healthy world. From our offices in Europe, Asia and the USA we shape, implement and enforce the law, to build a future for our planet in which people and nature can thrive together.

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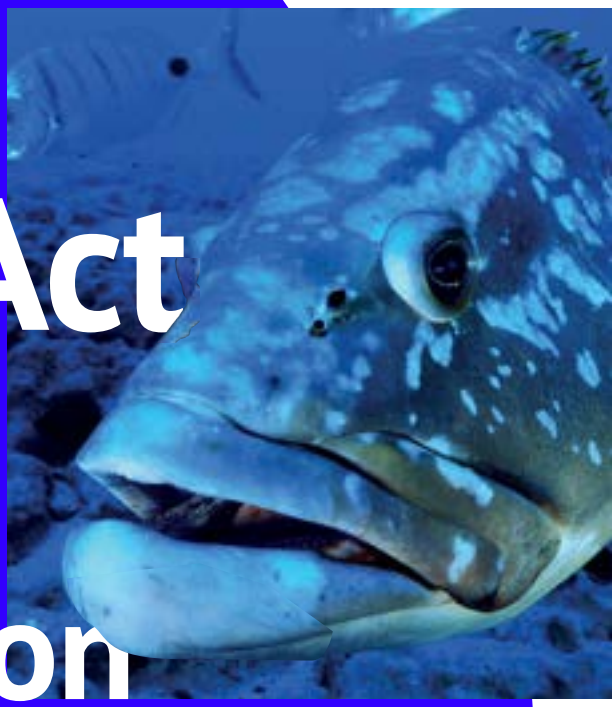
[128] See also Priority 1 c) (2) on additional indicators for the EU Dashboard to track progress on the CFP Regulation, including its Article 17.

[129] See for more Priority 2 on Ocean Mainstreaming and the comparison with the climate assessment under EU Climate Law, Article 6 and 7.



The Ocean Act
Europe's Ocean Regulation

This is a historic decade for the ocean. Political support for ocean regeneration has gained momentum internationally with the ratification of the High Seas Treaty and the commitments countries made at the 2025 UN Ocean Conference in Nice. The world's top Courts, i.e. the International Tribunal of the Law of the Sea and International Court of Justice, have furthermore highlighted the intrinsic links between healthy marine environment, climate and human rights.

A healthy ocean is not a nice-to-have: it is fundamental for all life on earth, a crucial ally in the fight against climate change, and essential to ensure public health and wellbeing for generations to come.

We have an international duty to protect and preserve the marine environment. This does not require new targets to be put in place – it is a simple question of implementing what has already been agreed by countries at the EU and international levels. The EU already has plenty of policy instruments in place to achieve this. More than a decade ago, the EU had the ambition to restore its seas to 'good environmental status' by 2020 and put in place various tools to achieve this. These failed to deliver because they were poorly aligned and weakly implemented.

In 2024, our Blue Manifesto - signed by 140+ organisations - set out a clear and urgent roadmap for EU action to address these systemic problems and ensure a healthy and resilient ocean by 2030. It highlighted the need for an overarching mechanism for policy coherence.

The Ocean Act has the immense potential to deliver on this and to build a unifying framework that brings much needed coherence, accountability and ambition to EU ocean governance, with ocean health at its heart. It must turn ocean policy into enforceable law, instead of voluntary planning, and ensure full alignment with the legally binding objective of Good Environmental Status and international environmental and climate commitments as a sine-qua-non baseline for all marine activities.

WE HAVE AN INTERNATIONAL DUTY TO PROTECT AND PRESERVE THE MARINE ENVIRONMENT

The building blocks of an Ocean Act that works for both planet and people:

- The Ocean Act must encompass all existing international and EU ocean targets and objectives that are not yet legally binding in EU law: notably establishing Marine Protected Areas covering at least 30% of EU seas with effective management measures by 2030 and strictly protecting at least 10% of EU seas and the phasing out of harmful activities and subsidies.

- To be credible, the Ocean Act must take the shape of a Regulation (following the example of the EU Climate Law and Nature Restoration Regulation), which is the simplest way to set a framework for 27 EU countries and make it directly applicable.

- Ensure policy coherence: EU ocean governance and policies are still split across silos (fisheries, energy, shipping, raw materials, environment). The Act must function as a unifying legal framework by ensuring ocean regeneration targets are mainstreamed in sectoral policies through a mechanism that requires the systematic evaluation of the impacts of sectoral policies on ocean health

- The Act must ensure science-based policy making, i.e. ensure that its policies respect scientific ecological limits and social wellbeing, with economic activity operating within those boundaries, not alongside them.

- Good Environmental Status must be the Act's overarching goal, as it is the precondition for the wellbeing and health of people and communities and for thriving economies. Allowing Member States to define ambition nationally and to agree on sea basin targets and thresholds has largely failed. Baseline EU targets and thresholds should be set by the Commission in the revised MSFD to stop the race to the bottom.

- The EU needs to deliver a well-coordinated revision of the Marine Strategy Framework Directive (MSFD) and Maritime Spatial Planning Directive (MSPD): The MSFD programmes of measures, combined with maritime spatial plans, are key to delivering good environmental status and ensuring targets are met.

- **The MSFD sets the key framework for the ecosystem-based approach to the management of our seas. The Ocean Act should ensure strong and consistent application of this Ecosystem Based Approach framework across maritime spatial plans and accross the implementation of sectoral policies.**

- **The ecosystem-based approach requires a sea basin approach and cross-border coordination of the implementation of the MSFD and MSPD. This should preferably be overseen by the Regional Seas Conventions (HELCOM is already coordinating MSFD and MSPD in the Baltic Sea). For the Regional Seas Conventions to be up to this task, their mandate and capacity need to be strengthened.**

- **Phase out destructive marine activities: this includes bottom-trawling in Marine Protected Areas (as prescribed in the 2023 EU Marine Action Plan), and offshore oil and gas drilling.**

- **In line with the precautionary principle: ban high-risk and harmful new activities - such as deep-sea mining and marine geo-engineering – in European seas.**

- **Guide the just transition towards a regenerative blue economy that respects ecological limits, promotes sufficiency principles over pure economic growth, supports sustainable livelihoods, fosters social justice, health and well-being, and supports workers and communities affected by the transition.**

- **The Ocean Act can only be effective if it is backed by substantial funding under the next EU's Multiannual Financial Framework, which should ensure funding of any activity is conditional to environmental and social performance and phase out harmful subsidies.**

This work was made possible through the support the European Union. Views and opinions expressed are however those of the authors only and do not necessarily reflect those of the funders. The European Union cannot be held responsible for them.