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JOINT NATURE CONSERVATION COMMITTEE

RELATIONSHIPS BETWEEN EU DIRECTIVES AFFECTING NATURE CONSERVATION

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1. Background

- 1.1 The principal European Union (EU) directives affecting nature conservation are:
 - i. Habitats Directive
 - ii. Birds Directive
 - iii. Water Framework Directive
 - iv. Environmental Liability Directive
 - v. Marine Strategy Framework Directive
- 1.2 There are overlaps between these five directives and their respective policies and fiscal supportive measures. Sometimes the overlap is designed to be complementary (e.g. the Water Framework, Environmental Liability and Marine Strategy Framework Directives specifically include references to the Natura 2000 site network or the conservation status of habitats and species) but in other cases the overlaps do not appear to have been fully considered when the legislation was prepared and may lead to unforeseen consequences. The situation is further complicated by the transposition of directives into national law and national variations in the application of policies and fiscal initiatives.
- 1.3 The Directives do not have a hierarchy, although in practice greater weight is generally given to the Habitats and Birds Directives (the wildlife directives), primarily because of the requirement to apply the precautionary principle when considering the risk of impacts on habitats and species of European importance.
- 1.4 In some cases resolution of problems associated with the relationship between directives may only be achieved through the provision of guidance from the European Commission or a ruling from the European Court of Justice.
- 1.5 There may also be real or perceived conflicts between directives and wider EU policy frameworks.

2. Extent of the directives

- 2.1 With the exception of the Water Framework Directive, each of the directives listed in 1.1 applies to all UK waters, extending beyond the 12 nautical mile territorial limit to include offshore waters. The Water Framework Directive deals with freshwaters and extends to coastal waters 1 nautical mile beyond baseline.
- 2.2 The implementation of the directives in the marine environment is a challenge given the limited availability of information on biodiversity, especially in the offshore zone. It is therefore difficult to identify areas of high biodiversity value with any degree of certainty let alone to provide advice on possible impacts. There is also the added challenge of addressing the requirements of highly mobile species, which may not be well-suited to a site-based approach to conservation.
- 2.3 Natura 2000 sites may straddle national borders and in these cases liaison with other Member States is required to ensure a measure of consistency.

3. Aims and objectives of the directives

- 3.1 There are broad overlaps between the aims and objectives of the five directives. Overall, these are to secure 'good' or 'favourable' status, defined in terms of the conservation of habitats and species or a wider range of environmental parameters, and broadly to assess any impacts upon maintaining or achieving this status. 'Good' and 'favourable' are well defined in the legislation but in practice making judgements is challenging. In addition, the relationship between judgements on status undertaken under different directives is unclear because the assessment parameters are different.
- 3.2 The first assessment of conservation status of habitats and species listed in the annexes to the Habitats Directive was produced in 2007 (report for the period 2001-2006). The assessments under the Water Framework Directive of ecological and chemical status are well advanced but not yet finalised; the relevant statutory bodies are working closely together to ensure consistent practical application.
- 3.3 The Water Framework Directive and Marine Strategy Framework Directive set target dates by which good status must be established and subsequently maintained. In contrast, there are no target dates by which favourable conservation status must be achieved under the Habitats Directive.
- 3.4 Under the Environmental Liability Directive the threshold for determining risk or damage to biodiversity is based on whether there is an impact on reaching or maintaining favourable conservation status for habitats and species. In this respect, biodiversity includes birds (and their habitats) listed in Annex I of the Birds Directive and the relevant migratory species.

4. Protected areas

- 4.1 Natura 2000 sites are afforded special attention within River Basin Management Plans under the Water Framework Directive, being included in the Register of Protected Areas for each Plan.
- 4.2 In the marine environment work is progressing to complete the Natura 2000 network of sites. These will be nested within the network of marine protected areas established under the Marine Strategy Framework Directive. The provisions mirror those of the Convention for the Protection of the Marine Environment in the North-East Atlantic (OSPAR). There are also proposals to establish marine protected areas under forthcoming national legislation.
- 4.3 The network of protected areas established under the wildlife directives and the Marine Strategy Framework Directive will make a significant contribution to meeting the aims and objectives of the directives. Establishment of a coherent ecological network of sites will also contribute to environmental resilience in the face of climate change.

5. Protection and management

- 5.1 Measures taken under the Water Framework Directive and the wildlife directives to secure appropriate management and thereby meet the aims and objectives of the directives are broadly complementary. The relevant authorities are working closely together.
- 5.2 Management plans have been produced for most of the existing marine Natura 2000 sites but more sites are to be identified and designated. The integration of these plans with the additional sites in the proposed wider marine protected area network is likely to be beneficial.
- 5.3 Although they have different purposes, assessments of the impacts of plans and projects under the Habitats Directive are complementary to assessments of plans and programmes under the Strategic Environmental Assessment Directive and of projects under the Environmental Impact Assessment Directive. The key difference is the need to apply the precautionary principle when undertaking assessments under the Habitats Directive. The consequence of this is that there is greater weight given to the protection of habitats and species of Community interest.
- 5.4 The EU Common Agricultural Policy is a key mechanism for the management and protection of Natura 2000 sites. This is reasonably effective but could be improved, in particular if more resources were available for agri-environment measures. The same cannot be said of the EU Common Fisheries Policy which can in effect undermine the protection and management of marine Natura 2000 sites.

- 5.5 Other potential conflicts between the aims of the wildlife directives and wider EU policies include are also becoming apparent. For example, projects proposed to enable the UK to meet its renewable energy target may adversely impact Natura 2000 sites.

6. Monitoring and reporting

- 6.1 Overlaps in monitoring and reporting provisions under the directives are evident and need to be addressed. Some progress is being made to merge the reporting requirements of the wildlife directives, and the principles being developed could usefully be extended to include multilateral environmental agreements such as the Ramsar and OSPAR Conventions.
- 6.2 As each directive will report on its specific aims and objectives, there may appear to be conflicting results. For example, reports may show that good ecological status has been reached under the Water Framework Directive but many freshwater habitats and species may be judged as being in unfavourable conservation status under the Habitats Directive.

7. Conclusions

- 7.1 Whilst there is overlap between the directives considered, they are generally complementary and it is reassuring that no serious problems have been identified. However, the directives are at different stages in their implementation and therefore a full assessment is not possible at present.
- 7.2 There is a strong need for the relevant competent authorities and other stakeholders to work closely together to implement the directives. In the main such frameworks appear to be in place or proposed but their effectiveness is unclear.
- 7.3 There are major challenges for the nature conservation community in developing, implementing and revising EU policies affecting the environment, such as fisheries and energy.