

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.11.2008
COM(2008) 791 final

COMMUNICATION FROM THE COMMISSION

Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU

COMMUNICATION FROM THE COMMISSION

Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU

1. INTRODUCTION

On 10 October 2007, the European Commission adopted the Blue Paper proposing an Integrated Maritime Policy (IMP) for the EU,¹ and a detailed Action Plan.² The European Council endorsed the IMP and the Action Plan on 14 December 2007.

Maritime Spatial Planning (MSP)³ is a key instrument for the IMP. It helps public authorities and stakeholders to coordinate their action and optimises the use of marine space to benefit economic development and the marine environment. This Communication aims to facilitate the development of MSP by Member States and encourage its implementation at national and EU level.⁴ It sets out key principles for MSP and seeks, by way of debate, to encourage the development of a common approach among Member States.

2. RATIONALE

2.1. Why maritime spatial planning?

Increased activity on Europe's seas leads to competition between sectoral interests, such as shipping and maritime transport, offshore energy, ports development, fisheries and aquaculture and environmental concerns.

Climate change, in particular the rise of sea levels, acidification, increasing water temperatures, and frequency of extreme weather events is likely to cause a shift in economic activities in maritime areas and to alter marine ecosystems. MSP can play an important role in mitigation, by promoting the efficient use of maritime space and renewable energy, and in cost-efficient adaptation to the impact of climate change in maritime areas and coastal waters.

MSP is a tool for improved decision-making. It provides a framework for arbitrating between competing human activities and managing their impact on the marine environment. Its objective is to balance sectoral interests and achieve sustainable use of marine resources in line with the EU Sustainable Development Strategy.⁵

¹ COM(2007) 575.

² SEC(2007) 1278.

³ The term **maritime spatial planning** will be used throughout the document even though different terms tend to be used synonymously, e.g. by Member States, in current practice. The term maritime spatial planning is favoured over marine spatial planning to underline the holistic cross-sectoral approach of the process.

⁴ The Communication is in accordance with Section 3.2 of the Blue Paper.

⁵ <http://ec.europa.eu/environment/eussd/>

MSP should be based on the specificities of individual marine regions or sub-regions. It is a **process** that consists of data collection, stakeholder consultation and the participatory development of a plan, the subsequent stages of implementation, enforcement, evaluation and revision.

2.2. Benefits of a European approach

Implementation of MSP is the responsibility of the Member States. The subsidiarity principle applies, but action at EU level can provide significant added value.

The use of MSP will enhance the competitiveness of the EU's maritime economy, promoting growth and jobs in line with the Lisbon agenda. The maritime economy is important for Europe, representing some five million jobs.⁶ Between 3 and 5% of Europe's Gross Domestic Product (GDP) is estimated to be generated by maritime industries and services,⁷ some with high growth potential. A stable planning framework providing legal certainty and predictability will promote investment in such sectors, which include offshore energy development, shipping and maritime transport, ports development, oil and gas exploitation and aquaculture, boosting Europe's capacity to attract foreign investment.

Sectoral approaches to the use of maritime resources lead to fragmented policy-making. This places constraints on maritime activities, reducing their potential for growth and impairing the capacity of public bodies to protect the marine environment. Joint work on MSP provides a framework for coordinating sectoral approaches. It increases the effectiveness and coherence of EU and national policies, reducing economic **costs of non-coordination**.⁸

Maritime activities have a **cross-border dimension**. National decisions have an impact on adjacent countries. Member States sharing a common approach to the management of marine space in the same sea basin will find it easier to meet these challenges. The role of the EU is to promote a common approach among Member States that takes account of cross-border impacts.

For the **Internal Market**, MSP provides a basis for simplified permit systems and for reducing the costs of regulatory and administrative procedures, providing a transparent and reliable planning framework.

The sea is a **complex ecosystem** that cuts across administrative borders. For balanced long-term management, the whole ecosystem and its determining factors must be taken into account. Planning must seek to protect and enhance the marine environment. Work on MSP at EU level provides an appropriate forum for Member States to discuss and develop a holistic approach to the management of maritime activities in line with ecosystem requirements.

⁶ http://ec.europa.eu/maritimeaffairs/study_employment_en.html

⁷ This does not include the value of raw materials such as oil, gas or fish. http://ec.europa.eu/maritimeaffairs/pdf/com_2006_0275_en_part2.pdf.

⁸ Here probably reference to the guidelines on port development currently prepared by DG ENV and DG TREN

2.3. How will this aim be achieved?

This Communication sets out the main issues for a debate on MSP at EU level. It provides information on:

- existing approaches to MSP in the Member States and other international examples, including lessons learned from EU projects, in particular INTERREG and Research Framework Programmes (chapter 3);
- international and EU instruments that have an impact on MSP (chapter 4).

Based on these examples, the Communication identifies key principles for MSP (chapter 5) as a basis for a broad debate on a common approach to MSP in the EU.

3. GENERAL PLANNING APPROACHES AND PROJECTS

MSP is a fairly new process. An increasing number of Member States are using or preparing to use it, and EU projects have started to develop a range of tools and criteria for MSP.

3.1. Existing approaches to maritime spatial planning

The UK has prepared a Marine Bill as an overarching legislative policy framework, which sets up a maritime planning system for all UK waters.⁹ Scotland has drafted a Marine Bill for the management of its seas.¹⁰ Both Bills provide for a new administrative structure (the Marine Management Organisation) to simplify permit and licensing procedures. In Sweden the adoption of a Marine Bill is scheduled for early 2009. What these bills have in common is an integrated approach to national maritime policy, including the use of MSP.

In Portugal, the National Strategy for the Seas (2006) seeks to integrate sectoral policies and to define principles for MSP and Integrated Coastal Zone Management (ICZM). An Inter-ministerial Committee for Sea Affairs was created in 2007.

Germany has extended its terrestrial planning law and thus federal powers for MSP to the EEZ. This extension was prompted by the development of the offshore wind energy sector. The recently developed maritime spatial plan covers all three dimensions of MSP (surface, water column and sea bed), and identifies zones for specific maritime activities. The plans will enter into force with the adoption of a legal ordinance. Currently, no evaluation process is planned.¹¹

Belgium uses zoning in a 'Master Plan' to allocate marine space for specific maritime uses. The driving forces are sand and gravel extraction and offshore wind energy. A second planning phase will determine sites for marine protected areas (NATURA 2000 network). The plan allows permits and licences for a given type of

⁹ <http://www.defra.gov.uk/marine/legislation/index.htm>.

¹⁰ www.scotland.gov.uk/marinebill.

¹¹ http://www.bsh.de/en/The_BSH/Notifications/Spatial_Planning_in_the_German_EEZ.jsp.

activity to be granted only within the identified zones and is subject to regular monitoring and evaluation.¹²

Poland regulates spatial planning in marine areas through the Marine Areas of the Republic of Poland and Maritime Administration Act. Under Interreg IIIB a pilot project on MSP in Puck Bay was recently finalised including a study on spatial development on adjacent land. Poland intends to change its national planning law to give maritime spatial plans legal status and develop such plans for all Polish waters.¹³ The results of the project are being used to guide the government in this process.

Some Member States and other European countries have developed integrated maritime management plans, which provide guidance for decisions relating to the concerned marine area. The Netherlands have developed an Integrated Management Plan for the North Sea 2015. The main motivation is the need to plan offshore wind energy. The plan introduces an integrated assessment framework for all activities requiring a permit. Opportunity maps have been created for maritime uses that are bound to fixed locations and expected to show the strongest growth.¹⁴

Norway has developed an Integrated Management Plan for the Barents Sea and the sea area off the Lofoten Islands. It provides a framework for sustainable resource use and for existing and new activities. It takes into account that marine environment vulnerability varies over time and emphasises the importance of scientific knowledge. Norway intends to develop integrated management plans for the Norwegian Sea and the Norwegian part of the North Sea.¹⁵

France introduced the *schéma de mise en valeur de la mer*¹⁶ for Lake Thau in the Mediterranean and the Arcachon Basin in the Atlantic. The scheme focuses on coastal zone development, includes measures such as zoning of activities, and identifies areas for particular maritime uses. France is currently developing a framework law for the environment that will include specific provisions for the management of maritime activities.

Several Member States and regions have started to implement ICZM strategies that could be of relevance for MSP. Among these is the region Emilia-Romagna in Italy, which under an INTERREG IIIB project has developed an implementation strategy for ICZM principles.¹⁷ Slovenia is also participating in this project and has shown interest in cooperating with Italy and Croatia on MSP.

Spain adopted a Strategy for the Sustainability of the Coast in 2007. The Spanish regions of Asturias, Cantabria and Andalusia have developed integrated plans to

¹² <http://www.mumm.ac.be/EN/Management/Sea-based/index.php>.

¹³ <http://www.plancoast.eu/>.

¹⁴ <http://www.noordzee.org/nz/index.jsp>.

¹⁵ http://www.regjeringen.no/en/dep/md/Selected-topics/Svalbard_og_polaromradene/Integrated-Management-of-the-Barents-Sea.html?id=87148.

¹⁶ *Sea Enhancement Scheme (SES)*

¹⁷ <http://www.plancoast.eu/>.

manage their coastal zones. Spain has also launched a study on zoning of its territorial waters for the use of offshore wind energy.¹⁸

Canada has adopted an objective-based approach to the management of maritime activities, which provides guidance for solving cross-sectoral conflicts. Australia is advanced in the use of three-dimensional maritime zoning and involves a wide array of stakeholders in this process.

3.2. Projects funded by European means

Through the European Territorial Cooperation objective, the European Regional Development Fund (ERDF) can support spatial development projects several of which are of relevance for MSP.¹⁹ They cover mapping, common criteria for MSP, and transnational approaches to sea use management.

EU Research Programmes have supported multidisciplinary research in coastal and marine sciences since the 1980s. Research on coastal erosion and flooding, ICZM and marine ecosystem thresholds is particularly relevant. MESMA is focusing on monitoring and evaluation of spatially managed areas, and will develop innovative methods and integrated planning strategies. HERMES aims to gain insights into ecosystems along Europe's deep-ocean margin.²⁰

Within the TEN-T programme, priority projects and preparatory studies for “Motorways of the Seas” can be supported through MARCO POLO II, regional and R&D funds. Currently, projects for “Motorways of the Sea” cover the Baltic Sea, Western Europe, Western and Eastern Mediterranean, and the Black Sea. The European Neighbourhood and Partnership Initiative (ENPI) Cross-Border Cooperation programmes for the period 2007-2013 will be able to support projects in eligible regions in the Baltic, Mediterranean and Black Seas.²¹

4. INTERNATIONAL AND EU INSTRUMENTS WITH AN IMPACT ON MARITIME SPATIAL PLANNING

4.1. International instruments

The United Nations Convention on the Law of the Sea (UNCLOS)²² balances the rights and interests of, for instance, flag states, coastal states and port states. The division of seas and oceans into maritime zones, some of which must be claimed by coastal states in order to have legal effect, is particularly relevant.

Also of importance is the principle of freedom of navigation guaranteed under UNCLOS, which is conditional upon rules and standards on maritime safety and protection of the marine environment being met.

¹⁸ <http://www.mityc.es/Electricidad/Seccion/InstalacionesEolicas/EstudioEstrategico/>.

¹⁹ For example, projects funded by the transnational programmes for the Baltic Sea, the North Sea and the Central, Adriatic, Danubian and South-Eastern Sea (CADSES) areas.

²⁰ www.eu-hermes.net

²¹ http://ec.europa.eu/world/enp/funding_en.htm

²² Adopted in 1982, entered into force in 1994. The European Community and all EU Member States are party to UNCLOS.

The International Maritime Organisation (IMO) establishes internationally recognised rules and standards for shipping and maritime transport such as traffic separation schemes. The London Convention Protocol (2006) introduces the precautionary principle which constitutes a major change of approach to the regulation of depositing waste materials in the sea.²³

4.2. EU instruments

4.2.1. Environmental legislation

The Marine Strategy Framework Directive (MSFD)²⁴ is the environmental pillar of the IMP.²⁵ It requires Member States to achieve good marine environmental status by 2020, to apply an ecosystem approach, and to ensure that pressure from human activities is compatible with good environmental status. Member States are required to cooperate where they share a marine region or sub-region and use existing regional structures for coordination proposes, including with third countries.

The MSFD does not directly regulate maritime activities, but their impact must be taken into account for the determination of good environmental status. Annex VI lists examples of possible measures, including spatial and temporal distribution controls and tools for coordinated management. Some Member States have declared that they will use MSP to implement the MSFD (e.g. UK).

The Water Framework Directive (WFD)²⁶, with provisions applicable to the coastal and transitional waters, requires Member States to publish River Basin Management Plans (RBMP) by December 2009. As a consequence, Member States have established water bodies that must cooperate to ensure WFD compliance with regard to transboundary river basin districts.

The Habitats Directive and the Birds Directive (NATURA 2000)²⁷ require Member States to identify and protect areas for the conservation of species or habitats they host. The designation of coastal and marine areas is ongoing and appropriate management measures are required. The Habitats Directive requires an assessment of plans or projects that may significantly impact a NATURA 2000 site.

The Strategic Environment Assessment (SEA) Directive²⁸ requires an environmental assessment of certain plans and programmes, consultation provisions (including cross-border), assessment of alternatives, and measures to prevent and/or mitigate adverse effects. The Environmental Impact Assessment Directive establishes similar requirements for projects.²⁹

²³ http://www.imo.org/Conventions/contents.asp?topic_id=258&doc_id=681

²⁴ 2008/56/EC

²⁵ Recital 3 of the Marine Strategy Framework Directive.

²⁶ 2000/60/EC

²⁷ 79/409/EEC, OJ L 103, 25.04.1979 (Birds Directive) and 92/43/EEC, OJ L 206, 22.07.1992 (Habitats Directive).

²⁸ 2001/42/EC, OJ L 197

²⁹ 97/11/EC, OJ L 073, 14.03.1997 (amending 85/337/EEC).

4.2.2. *The Common Fisheries Policy (CFP)*

The CFP is exclusive EU competence. A good example of integrated management of marine space across sectoral policies is the decision (based on Article 9 of the Basic Regulation of the CFP)³⁰ adopted by the Commission at the request of the Dutch government to protect a habitat on the Dutch North Sea Coast (Voordelta area).³¹ Given the interaction of fisheries with the ecosystem and the mobility of fish stocks, sustainable management of fisheries in EU waters would benefit from coherent MSP.

The Commission has announced a Communication on a strategy for the sustainable development of European aquaculture. Increasing competition for marine and coastal space, and quality of water are the main challenges for the development of aquaculture. MSP can provide guidance and reliable data for the location of activities.

4.2.3. *Other instruments*

The EU ICZM Recommendation³² sets out common principles (including coherence of spatial planning across the land-sea boundary) and calls on Member States to develop ICZM strategies. It encourages Member States to cooperate with neighbouring third countries.

The Commission has adopted a Communication on offshore wind energy.³³ MSP can assist the development of renewable sources of offshore energy through the provision of a stable regulatory framework.

4.3. **Regional Conventions**

Work under the OSPAR convention of 1992 is based on an ecosystem approach and is organised around six strategies. OSPAR has served as a platform for exchange of information on MSP following the Fifth North Sea Conference³⁴, and has taken this further in the context of its Biological Diversity and Ecosystem Strategy.

The Helsinki Commission (HELCOM) is working to protect the marine environment in the Baltic Sea since 1974. Of particular relevance is the HELCOM Baltic Sea Action Plan adopted in 2007 with Recommendation 28E/9 on the development of MSP principles for the Baltic Sea region.

The Mediterranean became the first region to adopt a Management Plan (Mediterranean Action Plan — MAP) in 1975, under the UN Environment Programme. The MAP is to be implemented through the Barcelona Convention. The Convention's recently adopted ICZM Protocol³⁵ requires contracting parties to

³⁰ Regulation (EC) No 2371/2002.

³¹ http://ec.europa.eu/fisheries/cfp/management_resources/environment/natura_2000_en.htm: DG MARE and DG ENV guidelines for fisheries measures for marine Natura 2000 sites.

³² 2002/413/EC, OJ L148

³³ COM(2008)736

³⁴ Ministerial Declaration on the Protection of the North Sea. March 2002, Chapter XI. Cooperation in the Process of Spatial Planning in the North Sea.

³⁵ Signed in Madrid on 21.01.2008.

establish a common framework for integrated management of the Mediterranean coastal zones.

The Bucharest Convention of 1992 sets out to protect the Black Sea marine environment. Work is ongoing on a Protocol and strategic Action Plan for ICZM.

5. KEY PRINCIPLES EMERGING FROM MARITIME SPATIAL PLANNING PRACTICE

The preceding chapters allow identifying the following set of common principles of relevance to MSP in the EU.

Sustainable management of marine regions depends on the condition of the respective ecosystem. In line with the IMP, the ecosystem approach is an overarching principle for MSP. Although activities on land may have a direct impact on sea regions, MSP manages only maritime activities and activities in coastal waters. The scope of MSP in terms of geographic coverage will differ according to regional conditions. Development of MSP must take into consideration, and where appropriate contribute to, the implementation of several international and EU instruments having direct relevance, notably in the field of the environment. Implementation of the MSFD will be particularly relevant in this context.

5.1. Using MSP according to area and type of activity

Management of maritime spaces through MSP should be based on the type of planned or existing activities and their impact on the environment. A maritime spatial plan may not need to cover a whole area (e.g. EEZ of a Member State).

For densely used or particularly vulnerable areas, a more prescriptive maritime spatial plan might be needed, whereas general management principles might suffice for areas with lower density of use. The decision to opt for a stricter or more flexible approach should be subject to an evaluation process.

MSP operates within three dimensions, addressing activities (a) on the sea bed; (b) in the water column; and (c) on the surface. This allows the same space to be used by different purposes. Time should also be taken into account as a fourth dimension, as the compatibility of uses and the “management need” of a particular maritime region might vary over time.

5.2. Defining objectives to guide MSP

MSP should be used to manage ongoing activities and guide future development in a sea area. A strategic plan for the overall management of a given sea area should include detailed objectives. These objectives should allow arbitration in the case of conflicting sectoral interests.

5.3. Developing MSP in a transparent manner

Transparency is needed for all documents and procedures related to MSP. Its different steps need to be easily understandable to the general public. This will allow full information to all parties concerned and therefore improve predictability and increase acceptance.

5.4. Stakeholder participation

In order to achieve broad acceptance, ownership and support for implementation, it is equally important to involve all stakeholders, including coastal regions, at the earliest possible stage in the planning process. Stakeholder participation is also a source of knowledge that can significantly raise the quality of MSP.

5.5. Coordination within Member States — Simplifying decision processes

MSP simplifies decision making and speeds up licensing and permit procedures, for the benefit of maritime users and maritime investment alike. Coordinated and cross-cutting plans need a single or streamlined application process and cumulative effects should be taken into account. The internal coordination of maritime affairs within Member States proposed in the Guidelines for an Integrated Approach to Maritime Policy³⁶ should also benefit the implementation of MSP. Developments in the Member States (e.g. UK and Scottish Marine Bill) demonstrate that national authorities are keen to reap these benefits through the establishment of a coordinating administrative body.

5.6. Ensuring the legal effect of national MSP

MSP does not replicate terrestrial planning at sea, given its tri-dimensionality and the fact that the same sea area can host several uses provided they are compatible. However, in the same way that terrestrial planning set up a legally binding framework for the management of land, MSP should be legally binding if it is to be effective. This might also raise the issue of the appropriate administrative framework for MSP.

5.7. Cross-border cooperation and consultation

Cooperation across borders is necessary to ensure coherence of plans across ecosystems. It will lead to the development of common standards and processes and raise the overall quality of MSP. Some organisations such as HELCOM have already started this work.

5.8. Incorporating monitoring and evaluation in the planning process

MSP operates in an environment exposed to constant change. It is based on data and information likely to vary over time. The planning process must be flexible enough to react to such changes and allow plans to be revised in due course. To meet these two requirements, a transparent regular monitoring and evaluation mechanism should be part of MSP.

5.9. Achieving coherence between terrestrial and maritime spatial planning — relation with ICZM

Achieving consistency between terrestrial planning (including coastal zones) and maritime planning systems is a challenge. Coastal zones are the “hinge” between maritime and terrestrial development. Drainage areas or land-based impacts from

³⁶ COM(2008)395 final

activities such as agriculture and urban growth are relevant in the context of MSP. This is why terrestrial spatial planning should be coordinated with MSP. The respective services should cooperate and involve stakeholders so as to ensure coherence.

5.10. A strong data and knowledge base

MSP has to be based on sound information and scientific knowledge. Planning needs to evolve with knowledge (adaptive management). The Commission has started several scientific and data gathering tools that will assist MSP in this process. These include a European Marine Observation and Data Network (EMODNET), an integrated database for maritime socio-economic statistics (currently under development by ESTAT), the European Atlas of the Seas (to be delivered in 2009) and the Global Monitoring for Environment and Security (Kopernikus).

6. CONCLUSIONS AND OUTLOOK

MSP is an important tool for the development of an Integrated Maritime Policy in Europe. This Communication aims to sketch the first steps towards a common approach on MSP. In identifying key principles both from ongoing practice and existing regulations, it seeks to encourage a debate to help guide the development of MSP in the EU.

To facilitate this debate, the European Commission will, in early 2009, launch a work programme, which will consist of the following steps:

- the organisation of a series of 4 workshops in 2009. These workshops will bring together representative stakeholders from all relevant areas. Their objective will be to discuss the principles suggested in this Communication;
- the organisation, in 2009, of pilot projects aiming at developing cross-border cooperation aspects of MSP;
- the production of a report drawing conclusions based on the results of the workshops, and proposing further steps and action to follow-up on it.

The Integrated EU Maritime Policy takes an innovative approach to policy-making. MSP is one of the tools that can be used to take this approach forward.