

## The Integrated EU Maritime Policy and Maritime Spatial Planning – The Way Ahead

Nicole Schäfer<sup>i</sup>

European Commission, DG Maritime Affairs and Fisheries (MARE), Unit E.1 Maritime Policy in North Sea, Baltic Sea and Landlocked Countries, Rue Joseph II, 79 1049 Brussels; [nicole.schaefer@ec.europa.eu](mailto:nicole.schaefer@ec.europa.eu)

### Abstract

On 25 November 2008 the European Commission adopted the Communication *Roadmap on Maritime Spatial Planning: Achieving Common Principles in the EU*. Maritime Spatial Planning (MSP) is a key tool to implement the new Integrated EU Maritime Policy. It is an holistic process that builds on the ecosystem-based approach and aims to secure sustainable development which balances economic, social and environmental objectives. MSP seeks to integrate all relevant maritime sectors and human activities and aims to allocate marine space in a rational manner. It should be implemented to manage ongoing activities as well as future development in maritime regions. MSP provides a reliable planning framework that creates certainty and predictability for investments in maritime sectors, e.g. the dredging industry. Due to its objective-led set up MSP offers an appropriate way to arbitrate between conflicting sectoral interests and thus reduce their impact on the marine environment.

### 1. Rationale – The need for an all-embracing maritime policy

"The seas are Europe's lifeblood" (European Commission, the "Blue Book" 2007, p. 2).

The European Continent has thousands of kilometres of coast. This geographical reality leads to the fact that over two thirds of the European Union's borders are coastal and that the marine spaces under the jurisdiction of its Member States are larger than their terrestrial territory. For centuries the oceans have played a leading role in the design and determination of Europe's culture, identity, and heritage.

Virtually all human activities have a maritime dimension and sectoral uses are largely intertwined at sea. Notwithstanding this, Community policies<sup>i</sup> have been developed primarily with a sectoral approach. A fragmented way of policy making was the result. The past has shown that this can lead to the adoption of conflicting measures, which in turn have unintended consequences on the marine environment, or may impose disproportionate constraints on competing maritime activities.

To improve this situation a new way of policy making regarding the management of Europe's oceans and seas was urgently needed. Consequently, the European Commission decided in its Strategic Objectives 2005-2009 to develop a new vision for Europe's oceans and seas. On 10 October 2007 a Communication (the so-called "Blue Book") was adopted that contains the main elements of a new integrated maritime policy including its founding principles and main objectives, the required governance framework and appropriate tools for policy-making (European Commission, COM (2007) 575 2007): The "Blue Book" was accompanied by a detailed Action Plan (European Commission, SEC (2007) 1278 2007) that enumerated a set of concrete actions to take a first step towards the implementation of this policy.

The new Integrated EU Maritime Policy recognises that Europe's maritime and coastal areas are central to its well-being and prosperity. It aims to enhance Europe's capacity to face challenges imposed by e.g.

globalisation, climate change, degradation of the marine environment, maritime safety and security, and energy security and sustainability. The Integrated EU Maritime Policy is based on excellence in marine research, technology and innovation, and is anchored in the Lisbon and Gothenburg agendas which are the political foundation for the promotion of growth and jobs in a sustainable manner. Sustainable development is at the heart of the Integrated EU Maritime Policy which is reflected by its holistic, cross-sectoral approach.

An integrated governance framework as set out in this policy requires appropriate horizontal tools that help policy makers and economic and environmental actors to join up their policies, interlink their activities and optimise the use of marine and coastal space in an environmentally sustainable manner.

Maritime Spatial Planning (MSP) is such a horizontal tool and therefore a key instrument for the implementation of the Integrated EU Maritime Policy.<sup>iii</sup> MSP helps public authorities and stakeholders to coordinate their action and optimise the use of marine space to benefit economic development and the marine environment.

### 2. Maritime Spatial Planning – not a final stage but a process

Marine space is a limited resource. Additional to traditional maritime uses such as fisheries, use of marine sand and gravel for aggregates or beach replenishment, and oil and gas exploitation, innovation and increased know-how allow for extracting ever more value from the sea. Cumulated effects of all these human activities lead to conflicts of use and increasing competition for space and resources. Particularly, the development of offshore renewable energy like wind, wave and tidal have fostered the pressure on marine space and may conflict with other uses by preventing practical exploitation of resources such as sand and gravel. At the same time the European Community – as contracting party to the Convention on Biological Diversity (BCD) adopted in May 2006 a *Communication on Halting the Loss of Biodiversity By 2010 – And Beyond*<sup>iv</sup> which sets out an ambitious policy approach towards halting the loss of

biodiversity by 2010. In particular it provides an EU Action Plan (the so-called EU Biodiversity Action Plan) with clear prioritised objectives and actions to achieve the set target. One of the most important actions identified is to accelerate effort to finalise the Natura 2000 network.

Regarding the marine environment several key timelines are identified: the completion of the marine network of Special Protected Areas (SPA) by 2008, the adoption of the list of marine Sites of Community Importance (SCI) also by 2008, the designation of marine Special Areas of Conservation (SAC) by 2012 as well as the establishment of management priorities and necessary conservation measures for both marine SPAs and SACs by 2012.

The emergence of maritime spatial planning and its increasing importance can be mainly attributed to two recent developments: The requirements resulting from the establishment of the Natura 2000 network and the increasing demand for licenses, (particularly for offshore wind farms).

Existing planning frameworks have a largely terrestrial focus and often do not address how coastal developments affect the sea and vice versa. A **coordinated approach to the allocation of marine space** is urgently needed to achieve a sustainable development of maritime areas and coastal regions, and to aid the restoration of Europe's seas to environmental health.

On 25 November 2008 the European Commission adopted the Communication *Roadmap on Maritime Spatial Planning: Achieving Common Principles in the EU*.<sup>9</sup> This Communication aims to facilitate the development of MSP and to encourage its implementation both at national and EU level. To support this objective the Roadmap provides information on existing approaches in EU Member States and other international examples as well as international and EU legal instruments that have an impact on MSP. Based on this stocktaking exercise the Roadmap identifies 10 key principles for MSP that will form the basis for a broad debate on a common approach to MSP in the EU.

MSP is a fairly new approach and its implementation in EU Member States remains limited. However, several EU Member States have started to develop integrated management strategies for their sea areas. The activities vary significantly regarding their legally binding function and their sectoral coverage. Some Member States have developed – on the basis of their terrestrial planning law – maritime spatial plans that will become executive order law once the consultation process is finalised (e.g. Germany). Others have developed strategic or integrated management plans that are not legally binding but aim to give guidance to the maritime sectors regarding for example the location of maritime installations (e.g. the Netherlands and Norway). Furthermore, policy framework documents – Marine Bills – have been prepared (by the UK and Scotland) or are currently under preparation (e.g. by Sweden) to implement a national integrated maritime policy and to steer future maritime development in a sustainable way. MSP plays in all these policy setting documents an important role to implement a coordinated approach to the allocation of marine space.

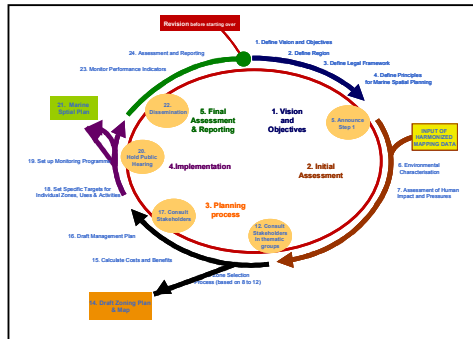
MSP is an integrated process that builds on the ecosystem-based approach. This approach requires the consideration of ecological and socio-economic aspects. Consequently, all maritime uses have to be managed in an integrated way that is in compliance with a healthy ecosystem. The main objective of MSP is to allocate marine space in a rational manner and thus to arbitrate between different sectoral or user interests. MSP is reaching beyond managing and protecting the marine environment. It seeks to integrate all relevant maritime sectors – no sector is given priority over the other. In this regard, MSP treats all maritime uses neutrally. However, managing the limited resources in a sustainable way might in a particularly vulnerable or densely used sea area require the prioritisation of uses. This has to be a political decision based on an overall political strategy which is defining development objectives for the given sea area.

The management process set up by MSP has to reflect the specific needs and challenges of a given sea area. It is important to define the planning area in a transparent and perfectly clear way in order to avoid any misunderstandings or user conflicts throughout the process. This might lead to the fact that a Member State decides to develop a maritime spatial plan only for a limited area of its EEZ or territorial waters. While a prescriptive maritime spatial plan might be needed for either densely used areas where conflicts between maritime sectors are likely to occur, or particularly vulnerable areas, general management principles might suffice for areas with a lower density of use. Vulnerability in this regard is related to the existing ecosystem. Norway, for example, has within its Integrated Management Plan for the Barents Sea and the Sea Area off the Lofoten Islands decided to exclude petroleum activities from very sensitive and ecologically highly valuable area. This has been a political decision in order to prevent major damages to the ecosystem due to oil spills or maritime accidents that might occur. The decision to opt for a stricter or more flexible approach should be subject to an evaluation process.

MSP can be implemented through various instruments of which zoning is only one possible option. It is far more than the mere existence of a plan. **Maritime spatial planning is a circular process** that consists of the definition of development objectives, the assessment of the present situation for which the best available data and information should be used, stakeholder involvement, the transparent and participatory development of a maritime spatial plan, the implementation of this plan, enforcement measures, evaluation and subsequent revision or amendments. The following figure explains the different steps of the MSP planning process and its circular character.

Fig

Figure 1: Planning Cycle developed by the BALANCE project



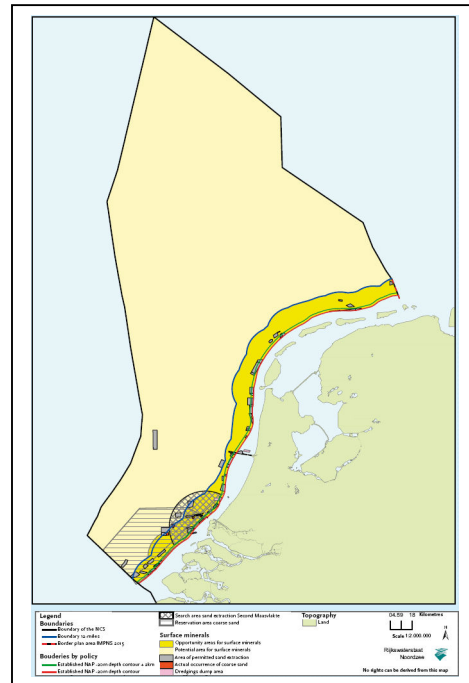
It has to be highlighted that MSP has not only a present but also forward looking dimension. As far as the current practice is concerned EU Member States tend to focus mainly on the management of already ongoing maritime uses and related licensing procedures. Given the ecosystem-based approach of MSP and the cross-border nature of all maritime activities this approach can be seen as too short-sighted. In order to use MSP up to its full management capacity foreseeable user demands and sectoral developments have to be taken into account as well as political decisions that may influence the development of a given sea area.

The following example shows how MSP can be used in a forward looking way. The Netherlands developed an Integrated Management Plan for the North Sea 2015 (Interdepartmental Directors' Consultative Committee North Sea 2005) which consists of so-called opportunity maps for those maritime sectors that are most important for the Netherlands, are expected to show the strongest growth over the coming years and are bound to a fixed location – like wind farms or the extraction of surface minerals and conservation. The dredging sector has always been of high importance for the Netherlands – not only for the extraction of sand and gravel for the building sector but particularly for coastal protection measures. The map shows the locations for sand and gravel extraction that have the most potential within established parameters of policy. Even more interesting is the fact that the Netherlands use MSP in order to manage future needs for mineral extraction. Different scenarios regarding the effect of climate change and sea level rise have been developed by the Dutch government and the approach to MSP is currently under revision.

The following map shows the currently licensed areas for sand and gravel extraction (grey areas) as well as the opportunity areas (dark yellow, all within 12 nm) and the potential area for surface minerals (light yellow).

The recently adopted Pre-Policy document on the North Sea states that MSP should be used to guarantee sufficient affordable for coastal defence, building activities and infrastructure, and, in the light of climate change allowing for new sand extraction strategies.

Figure 2: Opportunity map sand extraction and dredging dump



MSP has to be flexible and adaptive. General framework conditions like the climate in general and the sea temperature in particular are changing and knowledge about conditions at sea (e.g. seabed mapping, marine landscapes) and how they effect habitats is subject of ongoing research. Furthermore, information regarding the cumulative effects of human activities at sea or the compatibility of different maritime uses remains limited and is often only available on a case by case basis. A sound knowledge base is an important precondition for MSP. However, a lack of knowledge should not hinder or delay the use of MSP. On the contrary, MSP should be implemented with the best knowledge available. In some cases it might even be worth considering to start with MSP while conflicts between different sectors are not solved to the entire extend. Sectors can be actively involved in order to develop solutions that in the end are acceptable for all sides.

MSP has to be adaptive to changing conditions and flexible enough to incorporate new information whenever they become available and relevant for the planning in place. To ensure this flexibility it is of utmost importance to incorporate appropriate monitoring and evaluation measures in the MSP process and to foresee necessary resources for these activities already when MSP is set up.

Despite some similarities **MSP differs significantly from terrestrial planning**. A given terrestrial planning system can not simply be transferred to the marine side. MSP operates constantly in a three-dimensional environment and has to simultaneously address activities that take place (a) on the sea bed; (b) in the water column; and (c) on the water surface. These activities are usually not independent from each other but permanently intertwined. For instance, if a pipeline is installed on the seabed this might have an impact on the fishing gear that is used in the water

column above and anchoring will certainly be limited. MSP must take account of both fixed structures, such as oil rigs, pipelines or wind farms, but also the mobile nature of many maritime activities (such as fishing and navigation) that use space but not permanent structures. Additionally, the time dimension is of high importance in MSP which makes it in fact a four-dimensional process. The compatibility of uses and the resulting management need of a particular maritime region might significantly vary over time. This variation has to be taken into account when management decisions are made.<sup>vii</sup> The most striking difference, however, between MSP and land use planning, is the legal framework in which the related activities take place. Land use planning takes place against a common background of land tenure rights which do not have a maritime equivalent. Instead maritime activities are regulated through a range of sectoral laws, plans and licenses/permits.

### **3. Benefits for the dredging sector**

MSP is a process that integrates all maritime sectors. In that sense it is not an instrument to specifically promote the dredging industry and related maritime activities. Nevertheless, MSP provides a beneficiary set up for the dredging sector both at European and national level.

The application of the subsidiarity principle notwithstanding (implementation of MSP is the responsibility of Member States) action on MSP at European level can provide significant added value.

Climate change, in particular the rise of sea levels and the frequency of extreme weather events is likely to increase investments in coastal and flood protection measures. The dredging industry plays a major role in realising these activities. Implemented MSP will promote the efficient use of marine space and provides a stable regulatory framework for sustainable and long-term planning of maritime areas and coastal waters. This will ease the dredging industries' engagement in the field of climate change adaptation.

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. Sectoral approaches to the use of maritime resources lead to fragmented policy-making. This places constraints on maritime activities. Competition for limited marine space will undoubtedly increase in the future. This competition will also influence the development perspectives of the dredging industry. MSP provides a framework for coordinating sectoral approaches taking all the different needs and demands into account. It is based on the best available knowledge. MSP will increase the effectiveness and coherence of EU and national policies and thus reduce the economic costs of non-coordination.<sup>viii</sup> It is important to take the ecosystem as a whole into account and thus manage the resources across administrative borders. It is common sense that it is impossible to manage resources or to protect the environment even within the largest EEZ if there is no management beyond the boundary.

The European dredging industry has emerged as the world leader in its specific sector. The implementation of MSP will enhance the

competitiveness of the EU's maritime economy through creating a predictable framework for investment which in turn will promote growth and jobs in line with the Lisbon agenda. MSP creates a stable planning framework that provides legal certainty and predictability. This will promote investments in sectors such as offshore energy development, shipping and maritime transport, aquaculture or ports development, sectors that either need dredging (and are thus linked with the dredging industry), or that are competing with it for marine space.

The sea is a complex ecosystem that cuts across administrative borders. MSP is founded on the ecosystem-based approach. 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.

The dredging industry highlights its aim to accomplish sand and gravel extraction in a sustainable and ecologically responsible way and to integrate its activities with the habitats of wildlife and natural organisms. Cross-sector integration is at the heart of MSP. It creates a predictable planning framework that can help to avoid conflicts between different maritime sectors and user interests.

MSP is a tool for promoting the development of maritime regions. It provides a stable and transparent regulatory framework for all maritime activities and thus streamlines regulatory procedures. This is particularly the case in densely used areas (e.g. development of tourism and offshore wind development in the North Sea and the Baltic). MSP will create framework conditions that support the simplification of decision making procedures: This will be of benefit for the dredging industry as licensing and permit procedures can be speed up and issued in a transparent and predictable manner. A good example for a possible way forward in this respect is the UK who pursuant to their Marine and Coastal Access Bill will establish a Marine Management Organisation. This body is meant to become the central licensing authority and shall thus help to speed up licensing procedures with a kind of "one-stop-shop" approach. However, it is still too early to prove how successful this new way of decision-making will be.

MSP will be used to manage both ongoing activities and guide future maritime development. Strategic development objectives have to be developed that reflect the specific situation of the maritime region and the ecosystem concerned. These objectives will allow arbitration in the case of conflicting sectoral interests and thus aid to balance different maritime human activities and their impact on the marine environment.

Dredging projects are usually accomplished by a scientific assessment in which the relevant elements are analysed and their importance taken into account. MSP has to be built on solid and reliable data and information base. The data and information requirements for both MSP and dredging can benefit each other to the extent that dredging industry profits from information collected to implement MSP which provides certainty regarding the location of other maritime activities. The BALANCE project which was funded by the INTRREG IIIB Baltic Sea programme

made some promising progress in collecting data from different sources and harmonising them. But the project also showed how difficult and challenging data collection for the sake of MSP is. Further work and research is needed in order to identify synergies between sectoral data collection and how efforts can be joined. Such knowledge can increase the information e.g. on the compatibility of uses and cumulative effects of human activities at sea.

Last but not least MSP provides a way to manage maritime resources in a sustainable and environmentally healthy manner. This could offer an interesting, innovative opportunity for the dredging sector as it could consider the development of a *trademark* that proves that dredging products have been exploited in a well balanced manner in line with the ecosystem and that pressure on the marine environment has been limited to the maximum extend possible. Customers become increasingly sensitive regarding the ecological conditions under which a product is developed. MSP can offer the right framework to prove that maritime activities are set up in a coordinated way that reduces the burden on the ecosystem and takes social issues into account.

#### 4. Outlook – the way ahead

The Commissions Roadmap on Maritime Spatial planning identifies the following 10 key principles for MSP in the EU:

- Using MSP according to area and type of activity;
- Defining objectives to guide MSP;
- Developing MSP in a transparent manner;
- Stakeholder participation;
- Coordination within Member States – Simplifying decision processes;
- Ensuring the legal effect of national MSP;
- Cross-border cooperation and consultation;
- Incorporating monitoring and evaluation in the planning process;
- Achieving coherence between terrestrial and maritime spatial planning – relation with ICZM.

These principles have been either derived from existing planning approaches and projects or from existing international and EU instruments. These principles are meant to encourage the involvement of a common understanding about MSP amongst Member States and stakeholders and to help guide the development of a common approach to MSP in the EU.

As announced in the Roadmap the European Commission is currently organising a series of workshops throughout 2009 involving Member States, regions stakeholders and all parties concerned by MSP. The aim of these workshops is to discuss the overall conditions for the implementation of MSP in the EU, and the specific key principles set out in the Roadmap. Specific topics that are of

relevance for the successful realisation of MSP will also be discussed during these workshops, e.g. the links between MSP and Integrated Coastal Zone Management or the link between MSP and EU environmental directives.

The Commission will also launch two pilot projects in 2009 that are aiming to test the cross-border development of objectives for MSP as well as the cross-border implementation of a management strategy for a given sea area that is shared by a group of EU Member States.

MSP doesn't stand just on its own. It has been based on existing EU initiatives with a strong maritime spatial planning dimension including the ICZM recommendation (European Commission, ICZM Recommendation, 2002/413/EC, 2002). Coastal zones are the "hinge" between maritime and terrestrial developments and their integrated management is closely linked to MSP. One of the major challenges for the future will thus be to ensure continuity between maritime spatial planning and terrestrial planning.

The recently adopted Marine Strategy Framework Directive (MSFD) (European Commission, Directive 2008/56/EC 2008) is the so-called environmental pillar of the Integrated Maritime Policy. The Directive supports the implementation of MSP through the requirement that Member States have to achieve or maintain good environmental status of the marine environment by 2020. It particularly asks EU Member States to develop marine strategies for their marine waters and to cooperate if they are sharing a marine region or subregion (article 5). Annex VI of the Directive explicitly mentions programmes of measures amongst which are management measures that influence where and when an activity is allowed to occur and tools to ensure that management is coordinated – in other words MSP.

In order to achieve the defined objectives of both the Integrated EU Maritime Policy and the Marine Strategy Framework Directive the different Commission services will continue to closely work together.

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<sup>i</sup> The author is policy officer at the European Commission, DG Maritime Affairs and Fisheries. The views expressed in this article are those of the author and do not necessarily reflect the views of the European Commission.

<sup>ii</sup> For example policies on maritime transport, ports development, industry, coastal regions, offshore energy or the marine environment.

<sup>iii</sup> The other integrated tools as set out in the Integrated Maritime Policy Communication COM(2007) 575 (the "Blue Book") , 10.10.2007 comprise the development of a more integrated network of surveillance systems for European waters and an EU Marine Observation and Data Network (EMODNET) to optimise and bring coherence to the current fragmented initiatives that gather data on oceans and seas.

<sup>iv</sup> COM(2006) 216 final

<sup>v</sup> COM(2008) 791 final

<sup>vi</sup> Integrated Management Plan for the North Sea 2015, Interdepartmental Directors' Consultative Committee North Sea (IDON), The Netherlands

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vii One example could be arrangements between fisheries and marine protection. Conservation objectives might be achieved in parallel with fisheries activities if particular sensitive spawning areas are closed for fishing only during a certain time period of the year. However, reliable and accessible data to measure the compatibility of maritime uses remain very limited and further research is urgently needed in this field.

vii The European Commission will launch a study on the economic benefits of Maritime Spatial Planning in 2009.

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