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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**MARITIME SPATIAL PLANNING IN THE EU - ACHIEVEMENTS AND FUTURE
DEVELOPMENT**

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1. INTRODUCTION

1.1. Policy background and purpose

In the Blue Paper and the Action Plan on an EU Integrated Maritime Policy (IMP)¹, Maritime Spatial Planning (MSP) was identified as one of the cross-sectoral tools supporting the implementation of the IMP.

In 2008, the Commission adopted the Communication "Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU"², which proposed a set of key principles for MSP. In the Roadmap, the Commission undertook to produce a report on the series of workshops which were to be held during 2009 and to propose further steps and actions. The present Communication fulfils this commitment and seeks to outline the current context of MSP in the EU.

MSP is commonly defined as a process of public authorities of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives.

2. WHY EU ACTION ON MSP?

The Commission emphasises that the implementation of MSP is the responsibility of Member States and that it is ready to act as a facilitator for cooperation and developing a common approach. Although a great deal can be achieved at national level, the Commission considers it important to pursue action at EU level to achieve a coherent framework for MSP within the EU:

- A common approach would enable efficient and smooth application of MSP in cross-border marine areas, favouring the development of maritime activities and the protection of the marine environment based on a common framework and similar legislative implications.
- Ensuring that MSP is used in all Member States would enhance sustainable growth in the maritime sectors. MSP is crucial for legal certainty, predictability and transparency, thus reducing costs for investors and operators, in particular those operating in more than one Member State. These elements are instrumental in promoting investments and creating growth and jobs in line with the Europe 2020 initiative³. In addition, without any MSP in

¹ Communication from the Commission "An Integrated Maritime Policy for the European Union", COM(2007) 575 final of 10.10.2007 and SEC(2007) 1278 of 10.10.2007

² COM(2008) 791 final of 25.11.2008

³ Communication from the Commission "Europe 2020 - A strategy for smart, sustainable and inclusive growth", COM(2010) 2020 of 3.3.2010

place, the increased risk of spatial conflicts between expanding maritime uses, including the protection of the marine environment, may result in a suboptimal combination of growth and sustainability.

- MSP would support the implementation of existing EU legislation (cf. chapter 5).
- A common approach would provide Member States who apply MSP with an opportunity to share their expertise with others.

3. WORKSHOPS

The Roadmap Communication launched a debate on MSP in the EU. Five workshops on MSP were held in 2009 to discuss the principles of the Roadmap with Member States, regions, NGOs and industry.

The overall result was a general agreement that the ten principles of the Roadmap were appropriate and comprehensive and provided an important basis for the further development of MSP at EU level, which was broadly welcomed.

One of the most common views put forward was that MSP is an integrated and balanced tool that has the potential to provide long-term stability and predictability, as well as to manage competition for space in intensively used areas. This is crucial for all economic sectors such as maritime transport, oil and gas, sand and gravel, renewable energy, fisheries, aquaculture, tourism and for the protection of the environment.

On the basis of this debate, the Commission draws the following conclusions.

3.1. Ecosystem approach

In the Roadmap, the ecosystem approach was highlighted as an overarching principle for MSP. The discussions confirmed the Commission's assessment that the ecosystem must form the basis of, the overall framework for MSP.

The Marine Strategy Framework Directive requires the application of the ecosystem approach to the management of human activities (cf. section 5.2.). The workshops highlighted that elements of the MSFD can contribute to the application of MSP and vice versa.

3.2. Using MSP according to area and type of activity

MSP must take into account all area specificities (size, density and character of the maritime uses, environmental vulnerability, administrative and political structure) when it is applied. Management areas must also be defined accordingly. An area with many intensive maritime uses should be subject to a more detailed MSP process than an area with few activities.

3.3. Defining objectives to guide MSP

Setting objectives for MSP at a national or regional level should be seen as a process beginning with an agreement on strategic objectives, which are then defined further by operational - i.e. clearly measurable and quantitative - objectives. Starting with broad visions and general objectives allows more space for negotiation, but clear objectives must be specified in order to be useful for drafting, implementing and monitoring a plan.

Objectives should be based on long-term perspectives and must be future-oriented.

Planning objectives should take into consideration entire regional seas or sea basins, keeping the global dimension in mind. Strategic or operational objectives on different spatial scales (global, European, regional, national, local) should be seen as components of the same planning framework.

3.4. Developing MSP in a transparent manner

Transparency underpins accountability and legitimacy. All relevant decision-makers and stakeholders must be identified and all stages of the process must be understandable. Expectations concerning the decision-making process should be addressed adequately and reasons for decisions taken within the process need to be communicated and justified to relevant stakeholders.

3.5. Stakeholder participation

All stakeholders should be involved early in the MSP process. This is essential when looking for synergies and innovation and for making the goals and benefits of the process clear. An open debate must take place between the different sectors in order to identify conflicts and a means of coexistence between them.

It is important to demarcate roles and responsibilities and encourage interaction between stakeholder groups and not just between policy-makers and stakeholders.

Substantial stakeholder participation lengthens the process; therefore enough time must be allowed for this. This time will be recouped later on in the implementation phase, through an increased sense of ownership resulting from continuous involvement.

3.6. Coordination within Member States – simplifying decision-making processes

It would be beneficial for the MSP process to have a single administrative entity leading the process (a one-stop-shop), which can clarify responsibilities and levels of authorisation (e.g. national vs. regional). This does not necessarily mean that a *new* entity has to be created: a one-stop-shop based on *existing* governance structures can achieve this objective.

3.7. Ensuring the legal effect of national MSP

MSP must be applied in accordance with international law.

To ensure the legal effect of national maritime spatial planning, inter-institutional cooperation should be ensured and administrative competencies must be clear. An Exclusive Economic Zone (EEZ) provides more favourable conditions for an efficient implementation of MSP, as it makes it easier to enforce.

To elaborate a maritime spatial plan, both tools that are legally binding or of a more indicative nature can be used. It is essential to clarify who is to be bound by the plan (i.e. economic actors, public authorities, general public).

3.8. Cross-border cooperation and consultation

Communication, consultation and cooperation with neighbouring States need to take place at an early stage. Relevant contact persons and groups (policy-makers, stakeholders, researchers, etc.) in the countries concerned must be identified. Effective cross-border MSP requires the development of a joint vision based on exploration of common interests (e.g. offshore electricity grid, fisheries, shipping).

A strong political will for cooperation is necessary.

3.9. Incorporating monitoring and evaluation in the planning process

Monitoring and evaluation are needed for adaptive management of sea areas and should cover socio-economic, environmental and governance. Indicators need to be defined early on in the process. This work should build on existing frameworks (global, European, regional, national, local). The fact that natural marine environmental processes and different uses of marine space have different spatial/temporal scales should be fully built into the monitoring and evaluation systems.

3.10. Achieving coherence between terrestrial spatial planning and MSP – relationship with ICZM

The sea is not subject to individual property rights in the same way as land, planning conditions are different for each of them. Planning from land to sea is, crucial and requires coherence between marine and terrestrial strategies and plans, as well as their coherent implementation. Specific attention must be devoted to a spatial strategy for the transitional space from land to sea, which is part of the Integrated Coastal Zone Management (ICZM) process.

Hence the close links between MSP in coastal waters and ICZM (cf. section 5.4.).

3.11. A strong data and knowledge base

The design principles of the European Marine Observation and Data Network (EMODNET) are valid and compatible with those of other initiatives that could be used for MSP (cf. section 5.1.).⁴

Data should be managed at the appropriate level (global, European, regional, national, local). For example, more detailed data are needed in areas near the coast and different scales of data must be part of the process. Different types of knowledge (environmental, socio-economic, etc.) are needed. Research to turn data into integrated knowledge that can support MSP at different levels⁵ can be provided by projects supported under the EU strategy for marine and maritime research.

The gathering of data and of relevant knowledge should be carried out on the basis of collaboration within maritime regions, not only between EU Member States, but also with other parties within those regions; third countries, regional organisations, as well as other stakeholders.

4. DEVELOPMENTS ON MSP SINCE THE ROADMAP COMMUNICATION

⁴ http://ec.europa.eu/maritimeaffairs/emodnet_en.html

⁵ COM (2008) 534 final on an EU strategy for marine and maritime research

4.1. National level

There have been significant developments on MSP in many Member States and different maritime areas, as well as a large variety of human uses, have led to different approaches to MSP. Different administrative structures and legal systems give rise to a variety of policies, ranging from no policy or legislation, through policies on ICZM that also reach out to sea, and partial use of MSP, all the way to full MSP application in the territorial sea and/or EEZ. There are also large variations as regards the governance system for MSP (central, regional and/or local authorities, involvement of stakeholders, etc.).

There is a general trend towards an increasing use of MSP. Developments among Member States are proceeding at different speeds and the resulting MSP processes are likely to be quite different from each other. This reinforces the conclusion of the Commission that the early development of a common approach or framework for MSP at EU level would be beneficial.

Cross-border cooperation is a crucial component. It is increasingly being pioneered by Member States and in projects that explore the potential of MSP in regional sea basins. The needs created by recent economic developments such as projects for an electricity "supergrid" in the North Sea, as well as the implementation of EU legislation, e.g. the spatial distribution measures within the MSFD, make such cooperation necessary. This, in turn, strengthens the case for a common framework at EU level to support cooperation between Member States on MSP.

Similar developments are taking place in third countries, for example the US, Canada and Australia.

4.2. International level

MSP is increasingly the subject of attention in various international fora, such as UNESCO/IOC, the Convention on Biological Diversity and the International Council for the Exploration of the Sea.

Regional sea conventions⁶ are important partners for the EU, given their involvement in the international environmental management of sea basins and the implementation of the MSFD. Several have also included MSP in their area of work⁷. These developments are in line with the approach of the Roadmap.

5. CURRENT CONTEXT AT EU LEVEL

There is a wide range of EU policies for which a common EU-level approach to MSP is relevant and useful.

5.1. EU Integrated Maritime Policy, regional specificities and marine data and knowledge

The following two aspects of IMP implementation are of particular importance for MSP:

⁶ Notably the OSPAR Convention for the North Atlantic, the Helsinki Convention (HELCOM) for the Baltic Sea, the Barcelona Convention for the Mediterranean Sea and the Bucharest Convention for the Black Sea.

⁷ http://www.helcom.fi/Recommendations/en_GB/rec28E_9/

- The diversity in the sea basins around the EU has prompted the Commission to adopt a regional sea basin approach for implementing the IMP. Examples are the regional approaches for the Arctic⁸, the Mediterranean⁹, and the macro-regional strategy for the Baltic Sea region¹⁰. The need to consider the specifics of each sea basin is equally essential for MSP.
- The Commission's initiative on marine knowledge and data aims¹¹ to provide quality-checked and easily accessible marine knowledge and data for the benefit of private industry, public decision-making and marine scientific research, all of which are highly important in the development of MSP.

5.2. Marine Strategy Framework Directive (MSFD)

The MSFD¹² is the environmental pillar of the IMP. It aims to achieve or maintain good environmental status in the marine environment by 2020, to manage human activities in marine areas in accordance with the ecosystem approach and contribute to the integration of environmental concerns into different policies¹³. The Directive specifies that the programme of measures which Member States are due to set up by 2015 to achieve this objective may include spatial measures¹⁴, spatial and temporal distribution controls and management coordination measures¹⁵. MSP can thus be an important tool for Member States to support certain aspects of MSFD implementation, including in the context of cross-border coordination of marine strategies. Both MSP and MSFD depend on sound data and knowledge (cf. section 3.11). There is also a link between the spatial measures of the MSFD and the implementation of the Birds and Habitats Directives¹⁶ in coastal and marine areas.

5.3. European maritime activities

Fishing is one of the oldest economic activities taking place in EU waters. In addition to problems of overcapacity of the fleet, declining fish stocks and reduced profitability, the fishing sector also faces increasing competition for space. Aquaculture requires specific areas to be reserved for their activities. The catching sector needs flexible access in order to respond to changes in distribution patterns of fish stocks. Well defined and long-term access to marine space is important for both sectors and an MSP framework involving stakeholders and cross-border cooperation is essential. In addition, the knowledge of fishermen about the sea can be useful to optimise the location of, for example, Marine Protected Areas (MPA) and wind

⁸ Communication from the Commission "The EU and the Arctic region", COM(2008) 763 final of 20.11.2008

⁹ Communication from the Commission "Towards an IMP for better governance in the Mediterranean", COM(2009) 466 final of 11.9.2009

¹⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the EU Strategy for the Baltic Sea Region, COM(2009) 248 final, SEC(2009) 712

¹¹ Communication from the Commission "Marine Knowledge 2020. Marine data and observation for smart and sustainable growth" COM(2010) 461 final of 9.9.2010

¹² 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, OJ L 164 of 25.6.2008

¹³ Article 1 of the MSFD

¹⁴ Article 13 (4) of the MSFD

¹⁵ Annex VI of the MSFD

¹⁶ Council directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L206, 22.7.1992, and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the Conservation of wild birds, OJ L 20, 26.1.2010

farms, while at the same time limiting costs. The need to ensure coherence in spatial plans between sea areas becomes apparent in the context of fisheries management, because of the mobility of the resource and because such decisions are taken at EU level in the CFP. A similar need for spatial coherence and flexibility is apparent in marine environment protection, e.g. in the designation and delimitation of MPAs.

The use of renewable energies is crucial for the EU's climate change policy, as well as for other EU objectives. The 2009 Directive on **renewable energy**¹⁷ sets a target of a 20% share of such energy sources by 2020. Offshore renewable energy sources, in particular offshore wind, will be an important contributor to this. Offshore wind farms and other renewable energy sources must be connected to the onshore grid. New grid infrastructure requirements will be addressed in the Commission's Energy Infrastructure package to be adopted soon. These installations will require significant amounts of space, including in cross-border areas. There are significant benefits to be expected from a common approach to, and enhanced cross-border coordination on, MSP. EU funded research within the 7th Research Framework Programme (FP7) is aimed at supporting offshore renewable energy development and at optimising MSP.

Some parts of the waters off the EU shores are intensively exploited for the production of oil and gas. The EU has a vital interest in ensuring the safety of **offshore oil and gas activities**. The Deepwater Horizon accident prompted the Commission to envisage comprehensive EU legislation on oil platforms aimed at ensuring the highest safety standards. The 2010 Communication on the safety of offshore oil and gas activities¹⁸ underlines the fact that public authorities are responsible for putting in place a proper regulatory framework for offshore activities which takes into account the principles of MSP.

Maritime transport in the waters surrounding the EU is intense. Use of the sea by maritime transport and traffic separation schemes is regulated at international level, mainly by UNCLOS, the SOLAS Convention and IMO Resolutions. Directive 2002/59/EC requires that Member States and the Commission work together towards mandatory maritime traffic services and appropriate ships' routing systems¹⁹. MSP can support this, taking into account internationally and EU agreed shipping lanes and their management, and vessel movement taking place outside them. The advantages of short sea shipping (environmental performance and energy) have encouraged the Commission to promote this mode of transport through initiatives such as "Motorways of the Sea" and a "European maritime transport space without barriers"²⁰. Action under these initiatives will require coordination of the related spatial measures.

5.4. Integrated Coastal Zone Management (ICZM)

¹⁷ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140, 5.6.2009

¹⁸ Communication from the Commission "Facing the challenge of offshore oil and gas activities", COM(2010) 560 final of 12.10.2010

¹⁹ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing council Directive 93/75/EEC, OJ L 208, 5.8.2002

²⁰ Directive 2010/65/EC of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC

ICZM aims at a comprehensive management framework for the whole coastal zone, including environmental policy, spatial planning, industrial policy and other policies and instruments which have an effect on coastal regions. ICZM seeks to improve the economic and social well-being of coastal zones and helps to develop their full potential. In practice, it has focused more on land and the immediate shore vicinity. In comparison, MSP has focused on the allocation of space and achieving a balance of spatial uses in marine areas, although there are similarities in terms of stakeholder involvement.

The European Parliament and Council adopted a Recommendation in 2002²¹ which outlines the steps to be taken by Member States in order to develop national ICZM strategies. The EU ratified the Barcelona Protocol on ICZM for the Mediterranean in 2010²².

6. CONCEPTUAL DEVELOPMENTS OF MSP AT EU LEVEL

In order to advance the conceptual development of MSP, the Commission initiated studies on various aspects of MSP:

- In 2008 a study on the legal aspects of MSP²³;
- In 2010 a study on the economic effects of MSP, which concluded that economic effects of MSP are reduced transaction costs for new maritime activities and an improved investment climate²⁴;
- In 2010 a study looking into the potential of MSP in the Mediterranean.²⁵

In addition, a major FP7 research project was started in 2009 aiming at producing integrated management tools for monitoring, evaluation and implementation of spatially managed areas.

Furthermore, the EU will co-finance two test projects on MSP in the Baltic Sea and in the North East Atlantic, including the North Sea and the Channel area. Each project involves bodies from at least two Member States and aims to gain practical experience of applying MSP in a cross-border area.²⁶ The Commission also adopted a proposal for a regulation to support the further development of an IMP, which will contribute to the development of MSP in the period 2011-2013; more precisely it proposes more test projects on cross-border MSP for selected maritime areas.²⁷

Finally, several INTERREG programmes²⁸ include important MSP components. The LIFE programme supports spatial management measures, in the context of the Natura 2000 network and the application of the ecosystem approach in the implementation of the MSFD. These

²¹ Recommendation of the European Parliament and of the Council of 30 May 2002 concerning the implementation of ICZM in Europe 2002/413/EC, OJ L 148, 6.6.2002

²² Council decision of 13 September 2010 (2010/631/EU)

²³ http://ec.europa.eu/maritimeaffairs/spatial_planning_en.html#6

²⁴ http://ec.europa.eu/maritimeaffairs/study_msp_en.html

²⁵ http://ec.europa.eu/maritimeaffairs/spatial_planning_en.html

²⁶ http://ec.europa.eu/maritimeaffairs/call_proposals_tenders_en.html

²⁷ Proposal for a Regulation of the European Parliament and of the Council establishing a Programme to support the further development of an IMP, COM(2010) 494 final of 29.9.2010

²⁸ http://www.plancoast.eu/files/baltcoast_final_report.pdf; <http://www.balance-eu.org>;
<http://www.plancoast.eu/>; <http://www.baltseaplan.eu>

projects are essential to ensuring the development of best practices and experiences in MSP in a cross-border context.

7. CONCLUSIONS AND FUTURE OUTLOOK

The Commission draws three main conclusions from the experience gained on MSP since the launch of the EU IMP and the Roadmap Communication on MSP:

- The consultation process that followed the Roadmap revealed broad agreement on the need for a common approach on MSP and confirmed an interest to develop MSP further at EU level for the reasons explained in chapter 2.
- Development of MSP processes by Member States is taking place, but on an ad hoc basis, following different paths and time scales. A more coherent common approach would significantly enhance the potential value of MSP for the EU as a whole, as well as in a sea-basin context.
- The increased need for coordinated planning of sea basins, both in the context of current economic developments and in the context of the implementation of EU policies and legislation, would benefit strongly from MSP, as this policy would set out parameters that facilitate cross-border cooperation on MSP among Member States.

In the light of these conclusions, the Commission sees a clear need for, and added value in, continued work towards a common approach to MSP. Further action on MSP at EU level needs to be based on the significant experience that has been gathered in the Member States, as well as in international fora and third countries. The Commission also believes that an important added value of further action on MSP at EU level lies in focusing on cross-border aspects and establishing a common process-oriented framework within which Member States can carry out MSP in an optimal way. The Commission will therefore propose further action on MSP in 2011.

Any further action on MSP at EU level must be developed in full coordination with, and in support of, current and future policies and initiatives within the field of maritime policy, including in particular the implementation of the MSFD and future developments of ICZM, and fully respecting the existing competences and jurisdictions of the relevant authorities.

To determine the way forward, the Commission has launched an impact assessment, including public consultation, to explore a range of options to promote and develop MSP further, in conjunction with options to develop ICZM further, and taking other EU policies into account. This range of options will, in principle, cover:

- Non-binding options, such as exchange of best practices, cross-border projects, studies and research, guidelines and/or recommendations.
- Legislative options for setting the common approach and cross-border cooperation on a firm legal footing, whilst leaving implementation to the Member States.
-