

Maritime Spatial Planning Forum

Global Meets Regional



Hidden face of MSP: Legal and institutional dimensions

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Background

- The MSP [in more advanced cases] is already at a stage where planning documents must address more specific issues.
- Some issues such as public participation and ecosystem management have been widely discussed and debated.
- Interest in the international dimension is equally widespread with important initiatives by international bodies and the EU itself.
- Strong expectations have been placed on the MSP as a regulatory instrument with broad capacities for the resolution of conflicts and very diverse problems (economic growth, conservation and protection, conciliation of interests...).





It is less well known how this new instrument is being provided with the legal elements to enable it to intervene in the many different aspects of the maritime sector and to define goals and objectives.

How do the entry into force of new rules affect existing institutional structures: can the same institutions make the transition to the new management model for maritime activities?





Questions proposed

Main questions:

-Legal and administrative proceedings for an effective MSP plan (not sectorial):

National experiences.

- Examples of policy and plan formulation.

Additional questions

- Is the same institutional structure that manages the different activities maintained?
- Is the plan accompanied by an investment programme?

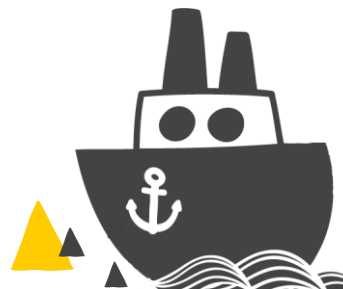




By way of recapitulation

Is the management plan as an administrative instrument responding to the expectations of different sectors and channelling environmental, economic and social objectives and goals?

With experience to date, what operational and institutional constraints and obstacles can be identified in the development of plans?



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Sea basin strategies Expected effects, probable limits

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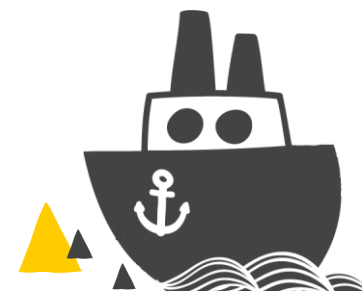


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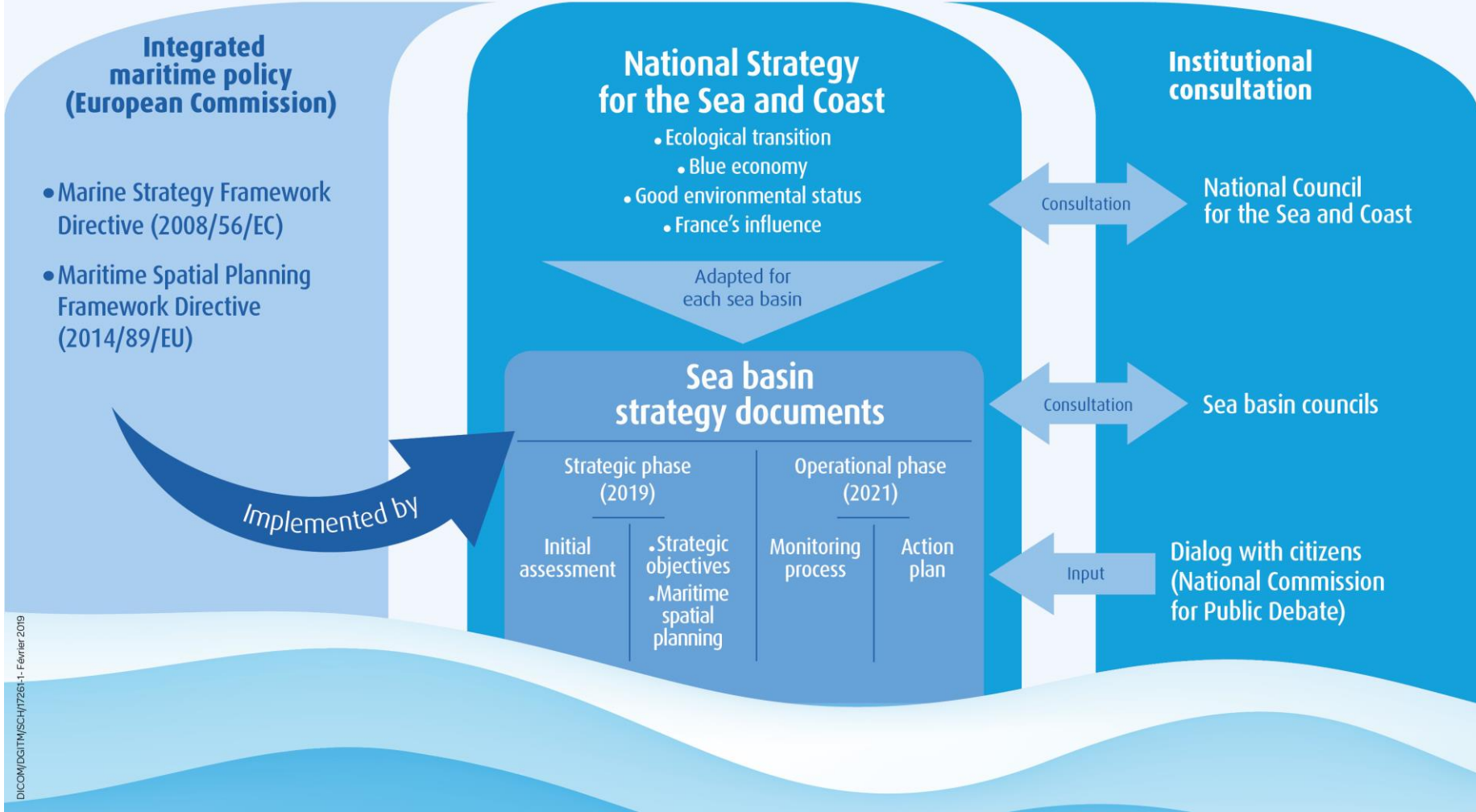
Summary

- General framework for strategic planning in France
- Expected effects (legal, administrative, practical)
- Expected limits
- Expected progresses in the near future

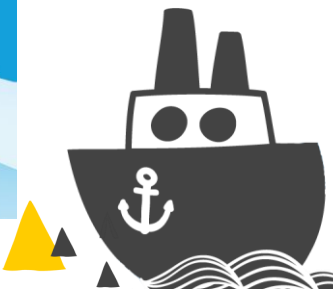


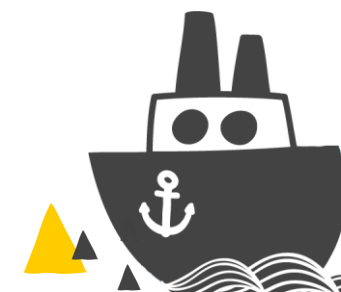
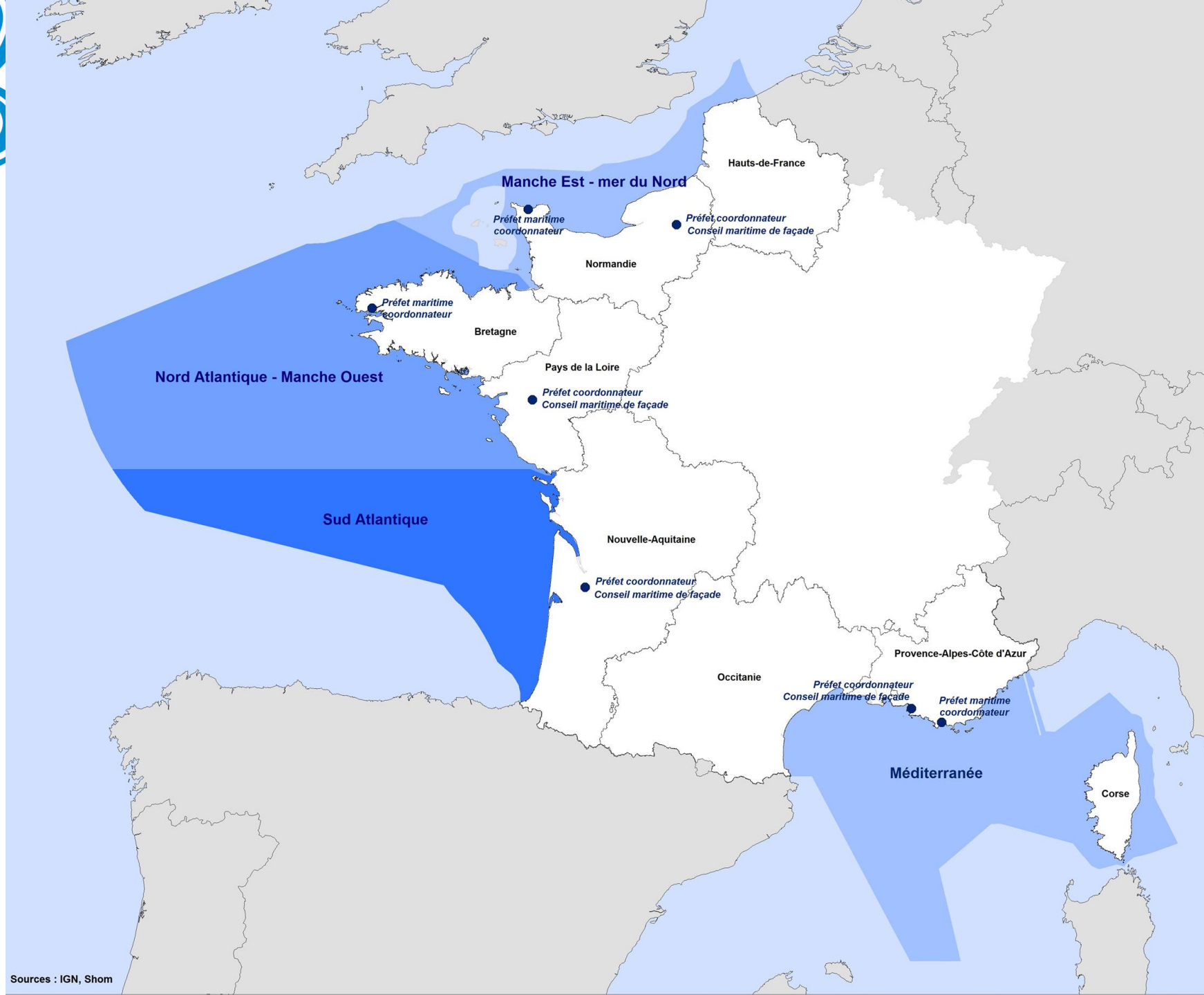


Sea basin strategy elaboration (mainland France)



DICOM/DGTM/SCH/172611 - Février 2019





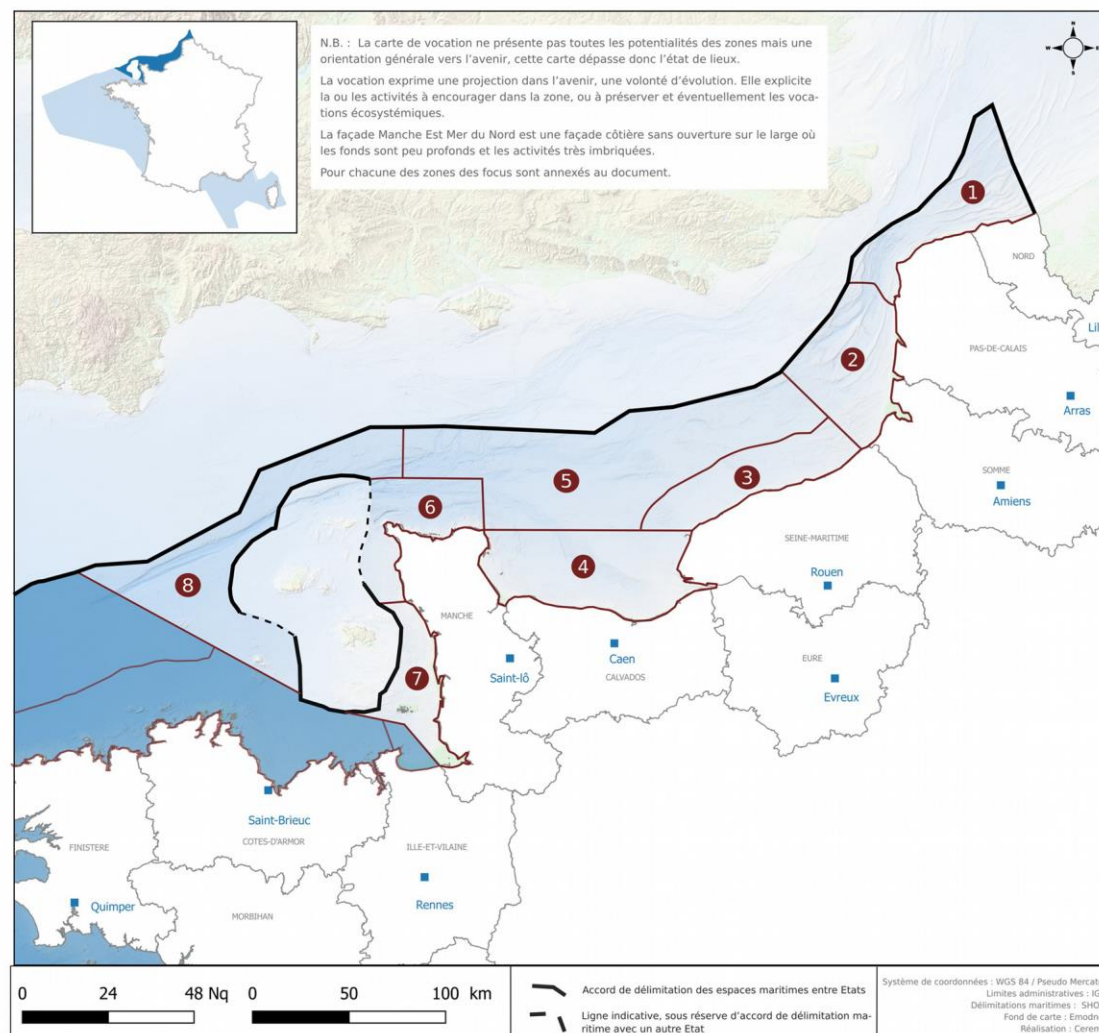


Vocation map (sept. 2019)

- Principles : zoning the sea with areas consistent for ecosystems and group of uses, for each of which general orientations are given

Carte des vocations de la façade maritime Manche Est - Mer du Nord

V8 - septembre 2018



- Caps et détroit du Pas de Calais**
Prédominance de la navigation maritime, des enjeux de sécurité maritime et des infrastructures portuaires et EMR. Besoin de maintenir l'activité de pêche maritime, le potentiel aquacole de la zone ainsi que de granulats marins, tout en permettant l'accueil des activités touristiques grandissantes. Préservation des corridors migratoires et des habitats remarquables.
- Estuaires picards et mer d'Opale**
Prédominance de la navigation maritime et des enjeux de sécurité maritime.
Zone de développement de la connaissance du patrimoine marin, de protection et de développement durable du milieu marin (pêche et aquaculture marine durables, et activités portuaires associées, tourisme littoral, préservation des zones fonctionnelles halieutiques et granulats).
- Côte d'Albâtre et ses ouverts**
Zone de confortement du potentiel des énergies marines renouvelables, des activités de pêche durable et d'extraction de granulats marins dans le respect des zones fonctionnelles halieutiques
- Baie de Seine**
Zone de renforcement de la cohabitation des usages dans un contexte de multi-activités présentes ou à venir (granulats marins, pêche, aquaculture, énergies marines renouvelables, attractivité touristiques, infrastructures portuaires, industrielles majeures et défense) et de forts enjeux écologiques estuariens (nourrices, frayères, sites de nidification, etc.).
- Large baie de Seine**
Prédominance de la navigation maritime et des enjeux de sécurité maritime.
Zone de développement des EMR et des granulats marins, en cohabitation avec les activités maritimes existantes, dont la pêche et la défense, et le besoin spécifique de protection des mammifères marins.
- Nord Cotentin**
Zone à fort potentiel de développement durable des activités maritimes actuelles ou émergentes (pêche et aquaculture marine durables, production d'énergie par hydroliennes, construction navale, activités militaires, tourisme littoral, etc.).
- Ouest Cotentin - Baie du Mont Saint-Michel**
Zone de conciliation de sa vocation conchylicole et de pêche maritime d'une part avec son attractivité touristique, la richesse de son patrimoine naturel et de ses écosystèmes marins d'autre part.
- Manche ouest au large des îles anglo-normandes**
Prédominance de la navigation maritime et des enjeux de sécurité maritime en cohabitation prioritairement avec les activités de pêches professionnelles durables et à vocation de développement d'énergies marines renouvelables.
Zone de préservation des mammifères et oiseaux marins.



Expected effects of spatial planning

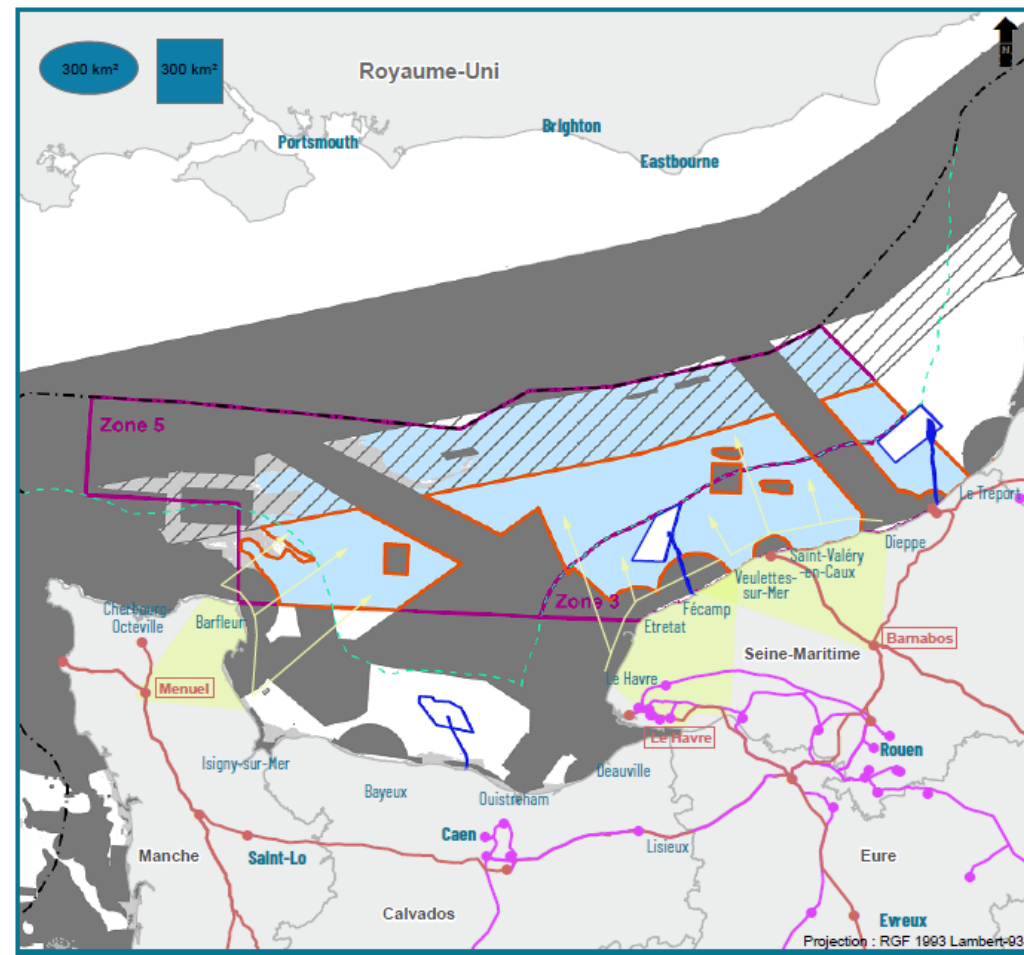
- Legal:
 - compatibility for all programmes, plans and projects
 - Cross compatibility with water basin strategies
- Administrative:
 - Guidelines
 - Justification for local regulations
- Practical:
 - Orientation for developers
 - Rich set of information about environment and uses
- Litigation:
 - Strengthening decisions against disputes



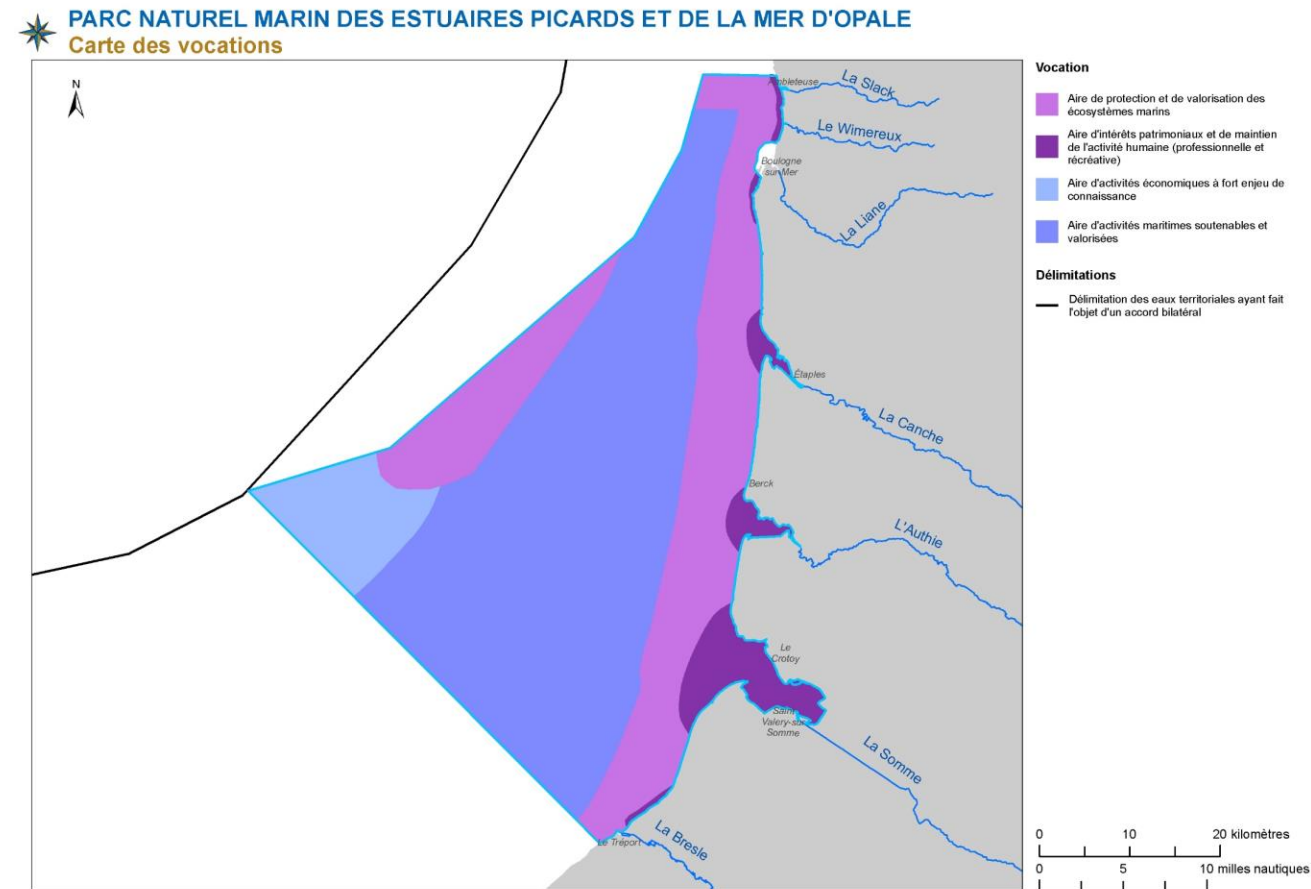


Expected limits

- Scale : sectoral and local complements needed



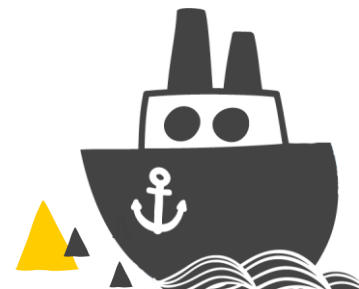
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Expected limits

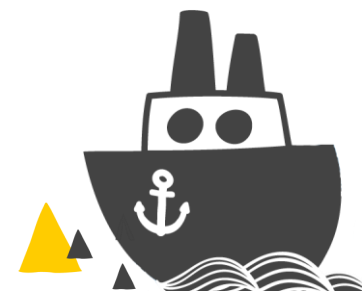
- Lack of prioritization because of :
 - Data missing
 - Knowledge missing
 - Know-how to implement spatial planning
 - Participatory process





Expected progresses

- More experience (it was the first time)
- Cultural gap to be reduced
- More and more accurate data
- Action plan under elaboration
- Governance at local level



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China's Marine Spatial Planning Practices ----- Marine Functional Zoning Institution

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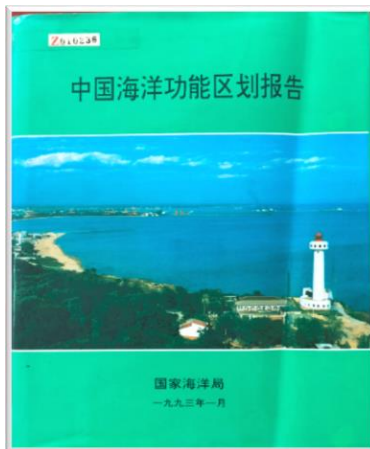


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1. China Marine Functional Zoning History

- Since the concept of Marine Functional Zoning (MFZ) was proposed in 1979, three generations of MFZ have been formulated and implemented.



The first generation:
Compiled from 1989 to 1993



The second generation:
Compiled from 1999 to 2004,
and implemented to 2010



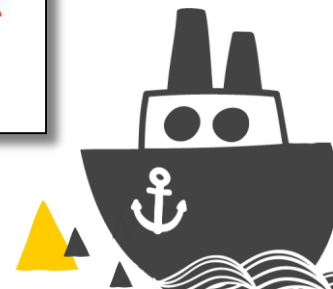
The third generation:
Compiled from 2009 to 2012,
and implemented to 2020





2. China MFZ Legal System

- The first generation of zoning had no legal standing since it was an experiment that was not implemented. However, it laid the foundation for the next round of MFZ plans.
- The State Council approved the National Marine Functional Zoning in 2002 after the zoning system was acknowledged in ***the Law of the People's Republic of China on the Administration of the Use of Sea Areas*** in the same year.
- The country implements MFZ system.
- All sea area use must conform to MFZ.
- It confirm the legal status of MFZ in China.
- When any organization or individual submits a sea use application to the government, they must comply with MFZ.



2. China MFZ Legal System

- *The Marine Environmental Protection Law of the P.R.C*

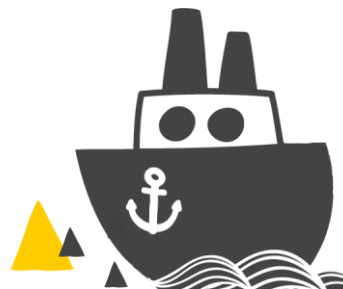


- Prepare marine environmental protection plan in accordance with MFZ.
- Development and utilization of marine resources shall be rationally arranged in accordance with MFZ.

- *Sea Island Protection Law of the P.R.C*



- In accordance with the national economic and social development plan and national MFZ, organize the compilation of national offshore Islands protection plan.





3. Institutional System of MFZ

- According to Laws, MFZ became an basic system and the legal basis for develop marine resources and protect marine ecosystem.



Hierarchy : China's MFZ is divided into three levels: national, provincial and municipal (county).

Classification System : China's MFZ adopts a two-level classification system, which is divided into 8 zones and 22 subzones.

Policies:

Marine Functional Zoning Management Regulations

Sea Area Use Rights Management Regulations

Notice on Regulating the Revision of Provincial Marine Functional Zoning

Technical standards :

Marine Functional Zoning Technical Guidelines

Technical Requirements for the Preparation of Provincial Marine Functional Zoning

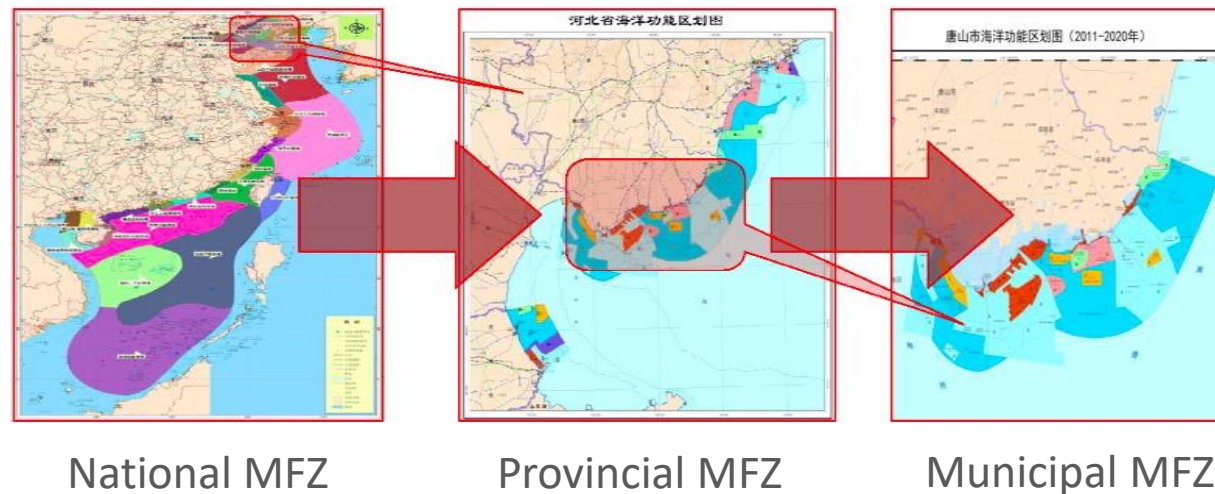
Technical Requirements for the Preparation of Municipal Marine Functional Zoning





3.1 Hierarchy of MFZ

- **Three levels: national, provincial and municipal (county).**
- **National MFZ:** a macro-level, specify overall objectives and policy measures.
- **Provincial MFZ:** a controlled level, based on the requirements of national MFZ and local characteristics, confirm provincial marine development objectives, strategic space allocations and zoning targets, and identify zones.
- **Municipal MFZ:** an operational level, implement the refined provincial zoning targets, identify the marine functional subzones with specific requirements for sea use and environmental protection as well as propose suggestions for guaranteeing the implementation of MFZ.





3.1 Hierarchy of MFZ

Three levels:

national, provincial and municipal (county).

- **National Marine Functional Zoning:** a macro-level, specify overall objectives and policy measures.
- China MFZ is the spatial planning based on overall consideration of national sea area ecosystem.
- According to the natural and geographic attribute, national sea area is divided into five 5 major sea areas, 29 key sea areas and 78 functional coastlines.
- The dominant function for each area has been defined, therefore through the national-level control to deal with the trans-provincial planning issues.





3.2 Objectives of MFZ

Act as the Top-level planning for national marine management, national MFZ sets six quantitative objectives. National zoning objectives are decomposed at the provincial level and provincial zoning objectives decomposed at the municipal or county level, ensuring their consistency at national, provincial and local levels.

Objectives	Indicators
By 2020, the area of marine protected areas reaches more than 5% of the total sea area under the jurisdiction of China, and the near-shore marine protected areas more than 11% of near-shore sea area.	Percent of sea area allocated to marine protected areas
By 2020, the area of mariculture zone is no less than 26,000km ² .	Sea area allocated to mariculture
By 2020 enforcement of the annual plan of sea reclamation has curbed the excessive growth of sea reclamation. The indicators for sea reclamation scale are set in provincial marine functional zoning plans.	The appropriate scale of sea reclamation is set in provincial-level plans
By 2020, the area of reservation zone comprises at least 10% of national near-shore sea area. Near-shore sea area means the water area adjacent to China mainland and sea islands.	Percent of sea area allocated to reservation zone
By 2020, the natural mainland coastline accounts for no less than 35% of mainland coastline.	Retention rate of natural mainland coastline
By 2020, the length of restored coastline is no less than 2000 kilometers.	Length of coastline with remediation

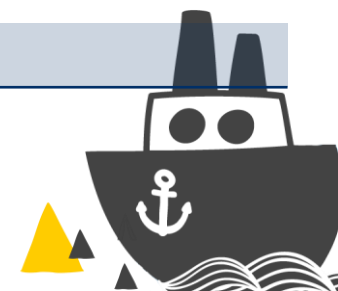




3.3 Classification System of MFZ

- Two-level classification system: 8 zones and 22 subzones
- China MFZ arranges the functions of sea area, and it covers all continuous sea use activities.

Zones		Code	Subzones
1	Mariculture & Fishery Zone	1.1	Maricultural reclamation zone
		1.2	Fishery infrastructure zone
		1.3	Mariculture zone
		1.4	Nursery zone
		1.5	Capture zone
		1.6	Conservation zone of key fishery species
2	Port & Navigation Zone	2.1	Port zone
		2.2	Waterway zone
		2.3	Anchorage zone
3	Industry & Urban Use Zone	3.1	Industrial construction zone
		3.2	Urban construction zone

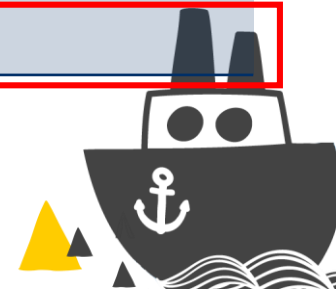




3.3 Classification System of MFZ

- Two-level classification system: 8 zones and 22 subzones.
- Balance the relationship between different sea use activities
- Balance marine resources utilization & ecosystem protection

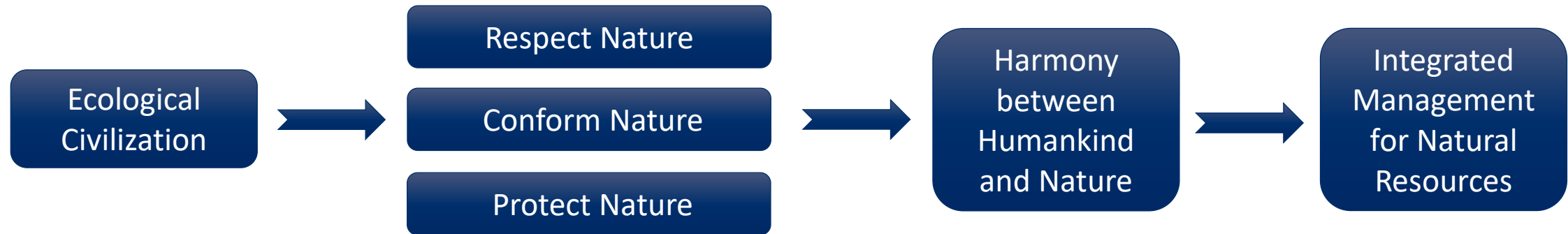
Zones		Code	Subzones
4	Minerals & Energy Zone	4.1	Oil and gas zone
		4.2	Solid mineral zone
		4.3	Salt pan
		4.4	Renewable energy zone
5	Tourism & Entertainment Zone	5.1	Tourism zone
		5.2	Recreation zone
6	Marine Protection Zone	6.1	Marine protected area
		6.2	Special marine protected area
7	Special Purpose Zone	7.1	Military zone
		7.2	Other special purpose zones
8	Reservation Zone	8.1	Reservation zone



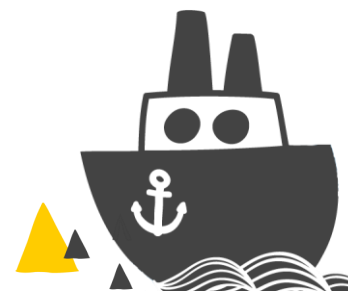
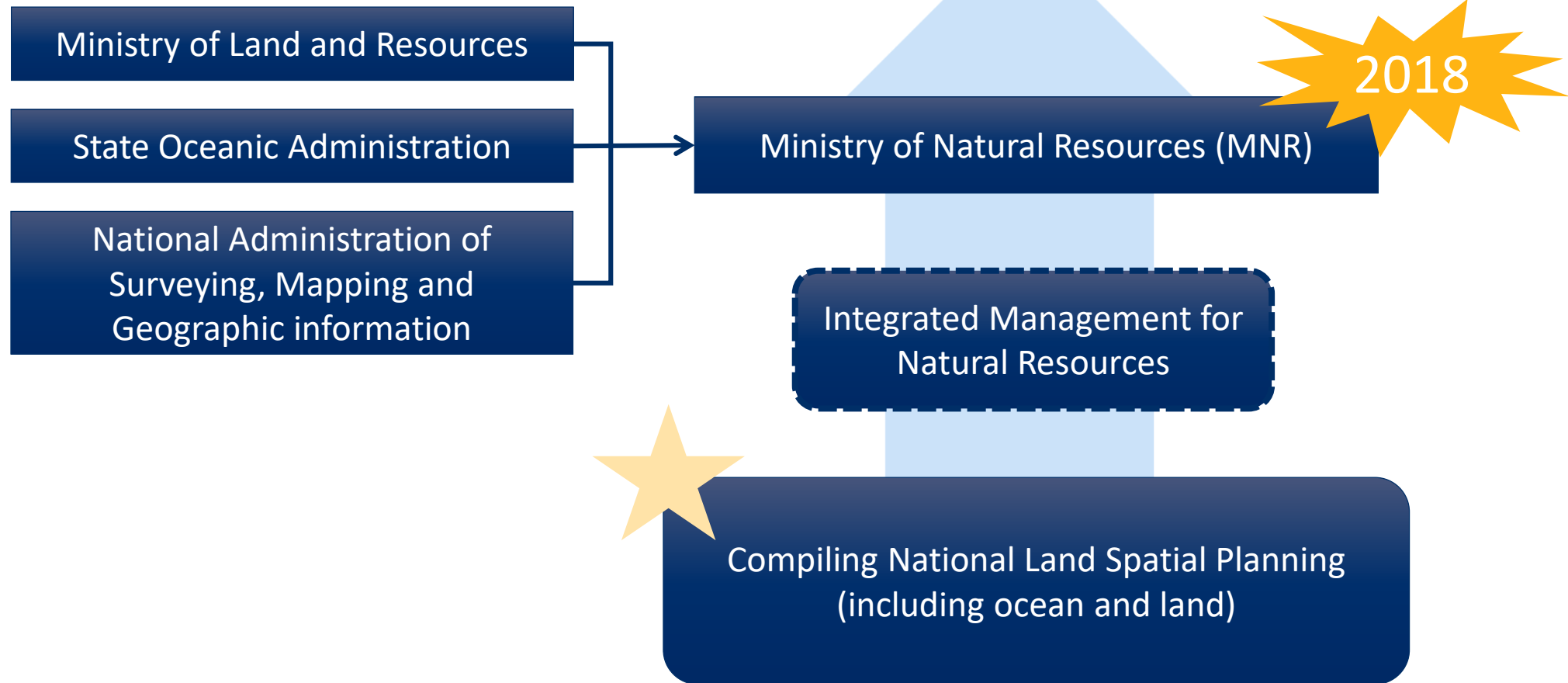


4. China's New MSP Practice

- In China, Planning is not the highest level Policy, it needs to adapt the national governing system and develops accompanied by the reform of governing institution.
- **New Ideology: Ecological Civilization**
- The material and non-material outcomes obtained when human beings follow the law of harmonious development between humans, nature and society. It represents a social status based on the coexistence, sustainability, common development and long-term prosperity between humans, nature and society.



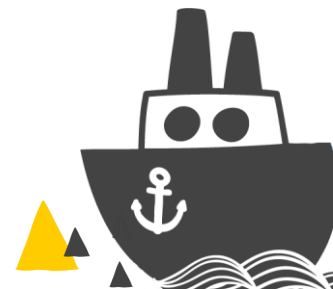
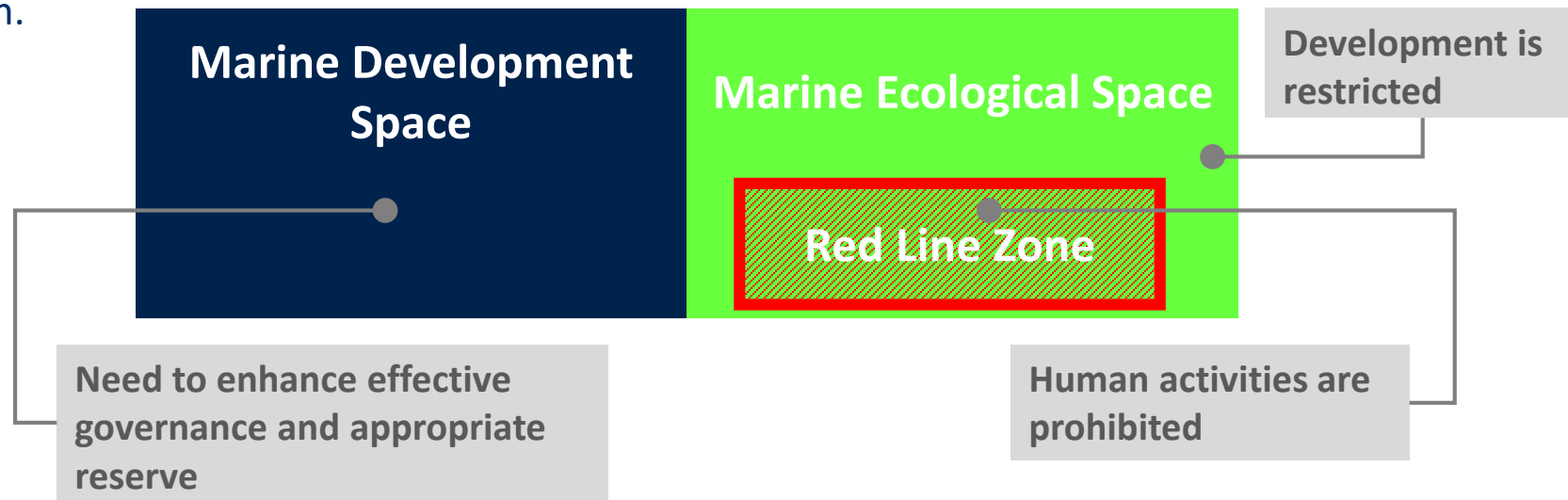
4. China's New MSP Practice





4. China's New MSP Practice

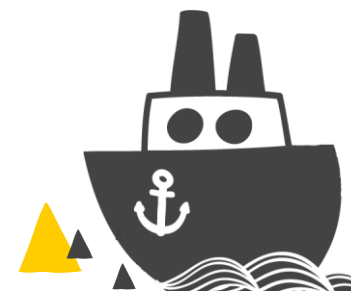
- **Ocean Part will divide functional zones based on “Two Spaces and One Red Line”**
- Put marine ecosystem protection into the most important occupation.
- In the marine development space, improve industries entry condition, strictly control sea reclamation activities, update marine industries to high-quality, low-energy consumption and low-pollution.
- For the damaged sea area and coastline, carrying out rehabilitation and restoration, to recover ecological function.





4. China's New MSP Practice

- Become more and more ecosystem-based.
- Still a top - down planning with national overall consideration.
- Guide marine industries toward to high-quality, low-energy consumption and low-pollution.
- Form new planning formulating approval system, implementing supervision system, laws & policies system and technical standards system.



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