

International Examples of Authorization for Marine Spatial Planning (MSP)

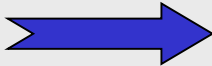
Prof. dr. F. Maes

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International authorization

- Shipping lanes: limited to one use, e.g. traffic separation schemes, areas to be avoided, ... approval by **IMO**. Objectives: safety at sea and prevention of pollution from accidents
- Law of the Sea before 1982: exploitation of natural resources in territorial sea and non-living resources on the continental shelf & fishery zones. Planning = **economic driven**
- Environmental protection from 1972 on with focus on prevention and reduction of pollution from activities at sea: balance between economic exploitation & environmental protection

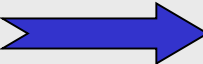
International authorization

- Law of the Sea Convention (1982): right for CS to regulate activities at sea – except shipping (e.g. art. 211 (6) LOSC – PSSA in EEZ, IMO approval), taking into account the duty to protect the marine environment (not only prevention, but also nature protection + conservation)
- EEZ  : driving force for nat. authorization to regulate new uses in a multiple use context + improved protection of marine environment.
- Int. conventions (Ramsar, CBD, ...) stimulate nature & species protection, habitat protect., and should ultimately lead to ecosystem protection: **environment driven**
- * **NO MSP required (legally): MSP is left for national states**

Regional authorization

- EU: - fisheries (authorization & implementation control)
 - nature (Habitat-1992) and species (Birds-1979) protection (duty MS & EU implementation control) with effects for other users
- (European) regional seas: Baltic Sea, OSPAR region, in planning phase. At the moment NO regional authorization required (legal), however strong political focus on protection of ecosystems through planning

MSP based on national authorisation

- Initially focused on MPAs (Florida Keys, Great Barrier Reef,), although MPAs are still the main driving force for MSP today
- EU MS have to identify SPAs & SACs at sea + provide sufficient protection (legal obligation) 
Natura 2000 Networks
- Spatial planning as part of ICZM

MSP on national level today

- new activities → new marine spatial claims
- new user conflicts and ecosystem interferences

→ two approaches:

- single use ad hoc: permits + EIA for each activity, without taking into account effects to or from other activities – assessment of ecological effects are limited in space
- multiple use approach through spatial planning: permits depending on effects of all activities in the area, such as user-user effects & ecosystem effects for a larger area

Spatial planning without spatial plan

No statutory basis for spatial planning (e.g. Belgium)

How:

- spatial planning on policy level needs a strong marine law (prohibitions, EIAs, concessions & permits (legal))

pro: - flexible allocation of activities based on demands

- flexible public or stakeholder participation depending on urgency

- policy can easily be adapted based on new scientific knowledge

contra: - does not solve competition among different governmental bodies

involved: no redistribution of competences if necessary for a holistic approach

- planning does not take into account user-user conflicts for a broader area

- no EIA or assessment of ecological effects for the whole planning area (SEA), single use EIA

Spatial planning based on spatial plan

How:

- spatial planning has a statutory basis (Germany, ...)

Pro:

- legally enforceable duty for governmental bodies

- public participation can not easily be offset due to legal procedures (access to courts)
- legal enforcement tools besides administrative enforcement
- a holistic legal basis for EIA (SEA) or assessment of ecological effects
- better legal protection of user rights and nature
- improved management on a long term scale

Contra:

- less flexible to take into account new scientific data due to rigid procedures for planning adaptation & results of public participation
- higher political and administrative resistance might result in a weak plan

MSP: Points of attention

- Planning scale: legal-administrative or ecosystems?
- Boundaries: regional or national or international
- Top down/bottom up approach or combined, how?
- Spatial planning based on a statutory or non-statutory plan?
- Conflict resolution: by public participation or legal procedures, ...
- Enforcement: administrative or legal?
- Should there be a hierarchy in managing conflicting uses
- Link with spatial planning on land