



Overview of national spatial planning and control systems relevant to the OSPAR Maritime Area



OSPAR Convention

The Convention for the Protection of the Marine Environment of the North-East Atlantic (the “OSPAR Convention”) was opened for signature at the Ministerial Meeting of the former Oslo and Paris Commissions in Paris on 22 September 1992. The Convention entered into force on 25 March 1998. It has been ratified by Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, Netherlands, Norway, Portugal, Sweden, Switzerland and the United Kingdom and approved by the European Community and Spain.

Convention OSPAR

La Convention pour la protection du milieu marin de l'Atlantique du Nord-Est, dite Convention OSPAR, a été ouverte à la signature à la réunion ministérielle des anciennes Commissions d'Oslo et de Paris, à Paris le 22 septembre 1992. La Convention est entrée en vigueur le 25 mars 1998. La Convention a été ratifiée par l'Allemagne, la Belgique, le Danemark, la Finlande, la France, l'Irlande, l'Islande, le Luxembourg, la Norvège, les Pays-Bas, le Portugal, le Royaume-Uni de Grande Bretagne et d'Irlande du Nord, la Suède et la Suisse et approuvée par la Communauté européenne et l'Espagne.

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Executive summary

Marine spatial planning is a new tool for delivering ecosystem-based management of human activities

Marine spatial planning is defined by UNESCO as 'a way of improving decision making and delivering an ecosystem-based approach to managing human activities in the marine environment'. The remit of marine spatial plans varies according to the planning systems of coastal states and the location in which they apply. While plans can be implemented unilaterally within a Contracting Party's internal and territorial waters, providing there is no interference with innocent passage, further offshore planning is generally limited to activities such as exploring, exploiting, conserving and managing living and non-living natural resources. On the high seas, OSPAR Contracting Parties can adopt programmes and measures to prevent pollution and conserve marine ecosystems, but only in respect of a Contracting Party's own nationals. While the OSPAR Biological Diversity and Ecosystems Strategy provides for the setting up of a network of marine protected areas (MPAs) throughout the OSPAR area, including the high seas, the enforcement of any marine spatial planning system does not appear possible on the high seas under the current legal regime.

Recent developments have included publication of roadmaps and guidance documents

In November 2008, the European Commission published a communication entitled 'Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU'. The Roadmap provides information on existing approaches to marine spatial planning, both within and outside the European Union. The Roadmap views the ecosystem approach as the overarching principle for marine spatial planning and identifies 10 additional key principles for its implementation.

Most OSPAR Contracting Parties have well-developed terrestrial spatial planning and control systems, but in many cases these do not all extend into the maritime area. However, national systems for marine spatial planning have or are being developed in several countries. The use of environmental, including strategic, impact assessments in this context ensures social, economic and environmental requirements are considered during the planning and development process and also allows for public participation.

Where marine spatial plans exist, they can serve to reduce conflicts

Some OSPAR Contracting Parties incorporate measures to reduce or resolve conflicts in their plans. For example, within the German marine spatial planning process, planners strive for the spatial separation of conflicting uses if possible and the spatial concentration of uses to protect the openness of the seascape. The engagement of stakeholders was viewed as key to reducing conflict.

OSPAR faces challenges in developing marine spatial planning across the Regions

Access to good quality data may prove to be a challenge when implementing marine spatial planning. There are also potential problems with overcoming sectoral thinking. A common language within marine spatial planning, which can be understood by all sectors, is seen as an important step.

Given the transboundary nature of marine resources and some marine activities, cooperation between Contracting Parties is important in developing marine spatial plans. The Trilateral Cooperation on the Protection of the Wadden Sea has shown that transboundary cooperation in ecosystem management can be successful. This is especially relevant in the light of the Marine Strategy Framework Directive, which encourages a regional seas approach to marine spatial planning and use of existing regional organisations, such as OSPAR, to facilitate this process.

Récapitulatif

Planification spatiale marine: nouvel outil de gestion des activités humaines basé sur les écosystèmes

L'UNESCO définit la planification spatiale marine comme «un moyen d'améliorer la prise de décision et l'application de l'approche basée sur les écosystèmes pour la gestion des activités humaines dans le milieu marin». Les attributions de la planification spatiale marine varient selon les systèmes de planification des états côtiers et leur champ d'application. Des plans peuvent être mis en œuvre unilatéralement dans les eaux intérieures et territoriales d'une Partie contractante, dans la mesure où ils n'affectent pas les passages innocents, mais une planification supplémentaire pour l'offshore se limite généralement à des activités telles que l'exploration, l'exploitation, la conservation et la gestion des ressources naturelles vivantes et inanimées (avec quelques exceptions). Les Parties contractantes OSPAR peuvent adopter des programmes et mesures de prévention et de conservation des écosystèmes marins en haute mer mais seulement en ce qui concerne ses propres ressortissants. La Stratégie OSPAR diversité biologique et écosystèmes prévoit la création d'un réseau de zone marine protégée (MPA) dans l'ensemble de la zone OSPAR, notamment la haute mer, mais la mise en vigueur d'un système de planification spatiale marine ne semble pas possible en haute mer dans le cadre du régime juridique actuel.

Avancées récentes : notamment, publication de feuilles de route et de documents d'orientation

La Commission européenne a publié, en novembre 2008, la «Feuille de route pour la planification de l'espace maritime: élaboration de principes communs pour l'Union européenne». Cette feuille de route comporte des informations sur les approches existantes de planification spatiale marine aussi bien au sein de l'Union européenne qu'en dehors. La feuille de route considère l'approche écosystémique comme le principe essentiel de la planification spatiale marine et détermine dix principes clés supplémentaires de sa mise en œuvre.

La plupart des Parties contractantes OSPAR disposent de systèmes de planification spatiale et de contrôle terrestres bien développés mais ceux-ci ne s'étendent pas à la zone maritime. Des systèmes nationaux de planification marine ont cependant été développés, ou sont en cours de développement, dans plusieurs pays. L'utilisation d'évaluations environnementales de l'impact, notamment stratégiques, dans ce contexte permet de s'assurer que l'on envisage les exigences sociales, économiques et environnementales lors du processus de planification et de développement et de la participation du public.

La planification spatiale marine peut, le cas échéant, permettre de réduire les conflits

Certaines Parties contractantes OSPAR font figurer dans leurs plans des mesures permettant de réduire ou de résoudre des conflits. Par exemple, dans le cadre du processus de planification spatiale marine allemand, les responsables de la planification œuvrent dans le sens de la séparation spatiale des usages conflictuels, si possible, et de la concentration spatiale des usages afin de protéger un paysage marin ouvert. L'engagement des parties prenantes est considéré essentiel à la réduction du conflit.

Défi d'OSPAR: développement de la planification spatiale marine dans l'ensemble des Régions

Il risque de s'avérer difficile d'avoir accès à des données de bonne qualité lors de la mise en œuvre de la planification spatiale marine. Des problèmes potentiels se présentent également lorsqu'il s'agit de surmonter les points de vue sectoriels. On considère que l'utilisation d'un langage commun au sein de la planification spatiale marine, que tous les secteurs peuvent comprendre, représente une étape importante.

Il est important que les Parties contractantes coopèrent entre elles lors du développement de plans spatiaux marins, étant donné le caractère transfrontalier des ressources marines et de certaines activités marines. La coopération trilatérale pour la protection de la mer des Wadden a montré que l'on peut gérer les écosystèmes avec succès grâce à la coopération transfrontière. Ceci est particulièrement pertinent à la lumière de la Directive cadre de stratégie marine qui encourage une approche au niveau des mers régionales pour la planification spatiale marine et la participation d'organisations régionales existantes, telles qu'OSPAR, afin de faciliter ce projet.

Part I – Background to the OSPAR Convention, to marine spatial planning concepts and a brief overview of relevant international legalisation

1. Introduction

Fifteen countries and the European Community have signed and ratified the OSPAR Convention. Of these countries Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom have coastlines bordering the North-East Atlantic, Figure 1. The OSPAR maritime area is 13.5 million km² and this represents some 16% of the surface area of the Atlantic.

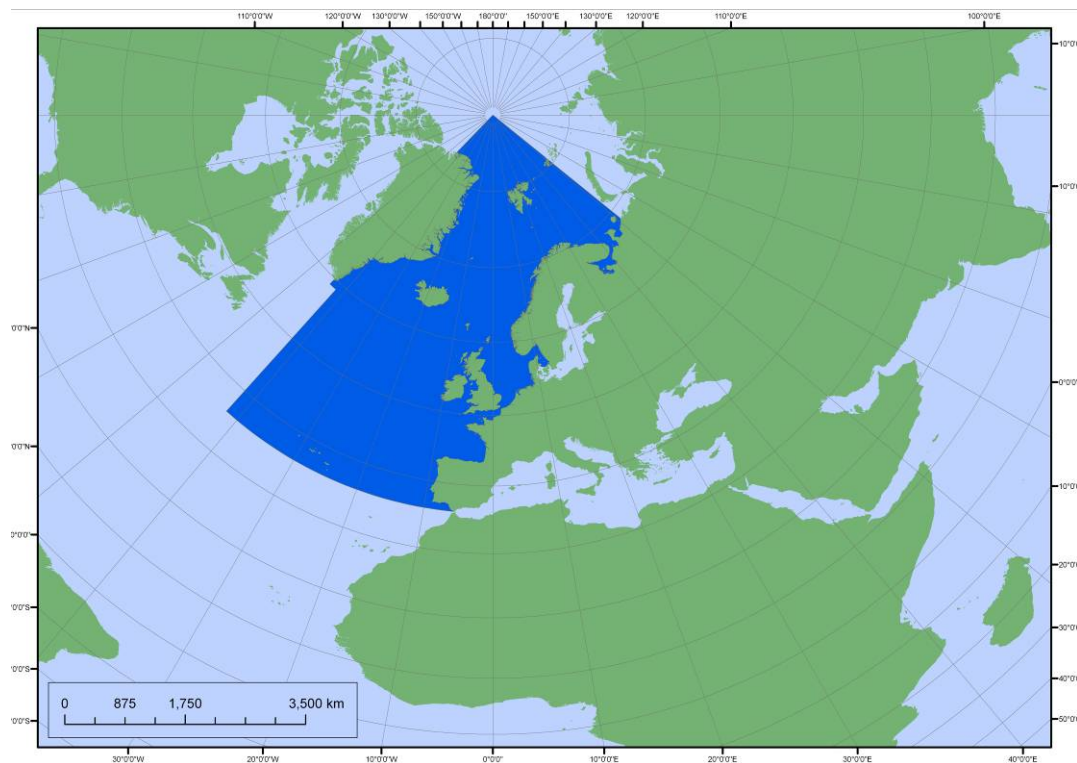


Figure1: OSPAR Convention Area

The Bergen Declaration from the 5th North Sea Conference 2002ⁱ invited OSPAR:

- to improve arrangements for the exchange of information and national experiences in the spatial planning processes of the North Sea States;
- to investigate the possibilities for further international cooperation in planning and managing marine activities through spatial planning of the North Sea States taking into account cumulative and transboundary effects; and
- to consider the possibilities for improving environmental assessment of human activities in the marine environment, taking into account existing legal requirements.

In response, the First Joint Ministerial Meeting of the Helsinki and OSPAR Commissions, Bremen June 2003ⁱⁱ issued the statement *'Towards an Ecosystem Approach to the Management of Human Activities'* in which all Contracting Parties agreed to pursue strategies that would promote cooperation in spatial planning between competent authorities, especially in the development of spatial planning tools for the maritime area.

As a first step to fulfilling this commitment, OSPAR held five workshops between 2004 and 2007 on marine spatial planning and management. To facilitate discussion and exchange of information the Secretariat prepared a draft document describing spatial control mechanisms in the North Sea (SPINS 04/2/1). Building on that draft document and information supplied by Contracting Parties this document provides an overview of the planning and control systems relevant to coastal and marine spatial planning for the OSPAR Convention area.

The current spatial planning and control systems, both terrestrial and marine, operating in each Contracting Party evolved over many decades. This evolution process which, to a greater or lesser extent, proceeded autonomously in each state has been fundamentally influenced by the legal and administration systems operating in each state. The extent to which states have influenced each other depends largely on proximity to each other as well as historical affiliations. It is clear that planning and control systems are continuing to evolve and adapt to current demands for space and changes in land and sea use practices. The increased interest in marine spatial planning reflects this ongoing evolution.

Demands for marine space are increasing. New and developing technologies for harnessing offshore renewable energy, increased demands for marine aggregates, marine transport, conservation, tourism and leisure, aquaculture and changes in fishing practices are the main forces driving these demands. Planning and managing these often conflicting demands is further complicated by the uncertainty associated with climate change and sea-level rise. Faced with these pressures and uncertainties there is an obvious need to ensure marine and coastal planning systems are integrated and based on the ecosystem approach and the principles of sustainable development. At a Regional Seas level such as the OSPAR Area, this can only be achieved through cooperation between Contracting Parties.

To facilitate this cooperation it is important for Contracting Parties to have a basic understanding of coastal and marine planning and control processes and principles operating in the different parts of the Convention area. In particular, differences should be identified and information exchanged on best practices and on the most effective planning tools available. This will assist in developing strategies for international cooperation on marine spatial planning as agreed by the First Joint Ministerial Meeting of the Helsinki and OSPAR Commissions.

2. Basic concepts of spatial planning and control

The First International Workshop on marine spatial planning organised by UNESCO in November 2006ⁱⁱⁱ defined marine spatial planning as *'a way of improving decision making and delivering an ecosystem-based approach to managing human activities in the marine environment. It is a planning process that enables integrated, forward-looking, and consistent decision making on the human uses of the sea. Marine spatial planning is analogous to spatial or land use planning in terrestrial environments. Ecosystem-based, marine spatial planning seeks to sustain the benefits of the ecological goods and services that the oceans provide to humans as well as all living organisms on the planet.'*

This definition may encapsulate the essence of a system that Contracting Parties could aspire to. Some Contracting Parties may have planning and control systems that meet, or go a long way towards meeting this definition. For OSPAR Contracting Parties the definition or common understanding of what spatial planning is, has not been developed. However, in order to prepare an

overview of existing national spatial planning and control systems, it is important that there is a common understanding between Contracting Parties of what constitutes the main elements of spatial planning and control systems. This is essential to ensure that all relevant information from Contracting Parties is included in this overview of contemporary spatial planning practices.

Therefore, for the purpose of this overview, it can be assumed that “planning” is forward-looking and “spatial planning” is forward planning for a space. Exactly what form it takes and how it is practised depends on the specific social, economic, environmental, political, administrative and legal systems within which it operates. It can be understood as a way of making management decisions that deliver multi-sectoral policy and objectives. It can be understood as the production of a plan showing spaces/zones that seek to steer or manage activities in a certain way. It can also be understood as a process of decision-making and resolving conflicts.

“Control” refers to how decisions are made within the area covered by the forward-looking plan, and is effectively the ‘implementation’ of the plan and it is also considered in this overview.

3. Where in the OSPAR Maritime Area and for what activities can marine spatial planning and control take place?

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) ^{iv} provides the framework within which States exercise their rights and obligations relating to maritime affairs.

Under Article 3 of the UNCLOS, Territorial Seas extend from the straight baselines out to 12 nautical miles (NM). The method for establishing the straight baselines is set out in Article 7 of UNCLOS. The area inside the straight baselines is defined as the State’s internal waters (Article 8, UNCLOS). Full sovereign rights apply to the territorial waters, providing the state does not hamper the innocent passage of foreign vessels. However, coastal states may adopt laws relating to innocent passage for, *inter alia*, the protection of facilities, installations, cables and pipelines, for the conservation of living marine resources, and for the preservation of the environment of the coastal State (Article 21, UNCLOS). In particular, the coastal State can impose the use of specified sea lanes and traffic separation schemes, taking into account recommendations of the competent international organisation, the International Maritime Organisation (IMO), customary practices and the nature and density of the traffic.

The area on the landward side of the baseline is known as the Internal Waters, and, unlike the Territorial Waters, there is no general right of innocent passage. However, based on the *Aramco* arbitration of 1958, international practice is that the ports of every state are open to foreign vessels and are only closed when the vital interest of the State so requires ^v.

Article 33 of UNCLOS provides for the Contiguous Zone, out to 24 NM from the straight baselines within which coastal states may prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations.

Under Part V of UNCLOS, States may declare an exclusive economic zone (EEZ) for the area beyond their territorial seas but it shall not extend beyond 200 NM from the baseline. Not all Contracting Parties have formally declared an EEZ under Article 57 of UNCLOS and there remain some uncertainties due to differences of opinion as to whether certain sand-banks do, or do not, constitute “low-water elevations” and whether they can be used, in accordance with Article 13 of UNCLOS, for determining the baseline. Within an EEZ, States have sovereign rights for the purpose of exploring and exploiting, conserving and managing the living and non-living natural resources of the seabed and subsoil and the superjacent water, including energy from water, currents and winds. In respect of offshore installations, UNCLOS confers exclusive rights to construct, authorise and regulate the construction, operation and use of artificial islands, installations and structures. States may establish

safety zones of 500 metres or less around artificial islands, installations and structures. Within EEZs the freedom of navigation, the laying of cables and pipelines and other lawful uses of the sea are protected.

Under Article 76 of UNCLOS a State can lay claim to its Continental Shelf, to a distance of 350 NM from the baselines or to a distance that shall not exceed 100 NM from the 2500 metres isobath, which is a line connecting the depth of 2500 metres. Detailed rules and guidelines for establishing the outer limits of the Continental Shelf^{vi} exist, but these will not be discussed here. Within its Continental Shelf, States have sovereign rights for the exploitation, conservation and management of living and non-living natural resources, with the exception of free-swimming fish. A number of Contracting Parties have established Continental Shelves under UNCLOS, however, there are still claims being considered by the UNCLOS Commission on the limits of the Continental Shelf (CLCS).

Based on, and limited by, the provisions of international law Contracting Parties may make coastal and marine spatial plans covering their land and sea under their jurisdiction, i.e. to the outer limit of their established EEZ and/or Continental Shelf. The OSPAR Maritime Area is defined as:

the internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law, and the high seas, including the bed of all those waters and its sub-soil, situated within the following limits:

1. *Those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:*
 - *the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Griben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen;*
 - *the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5° 36' west longitude;*
2. *That part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude^{vii}.*

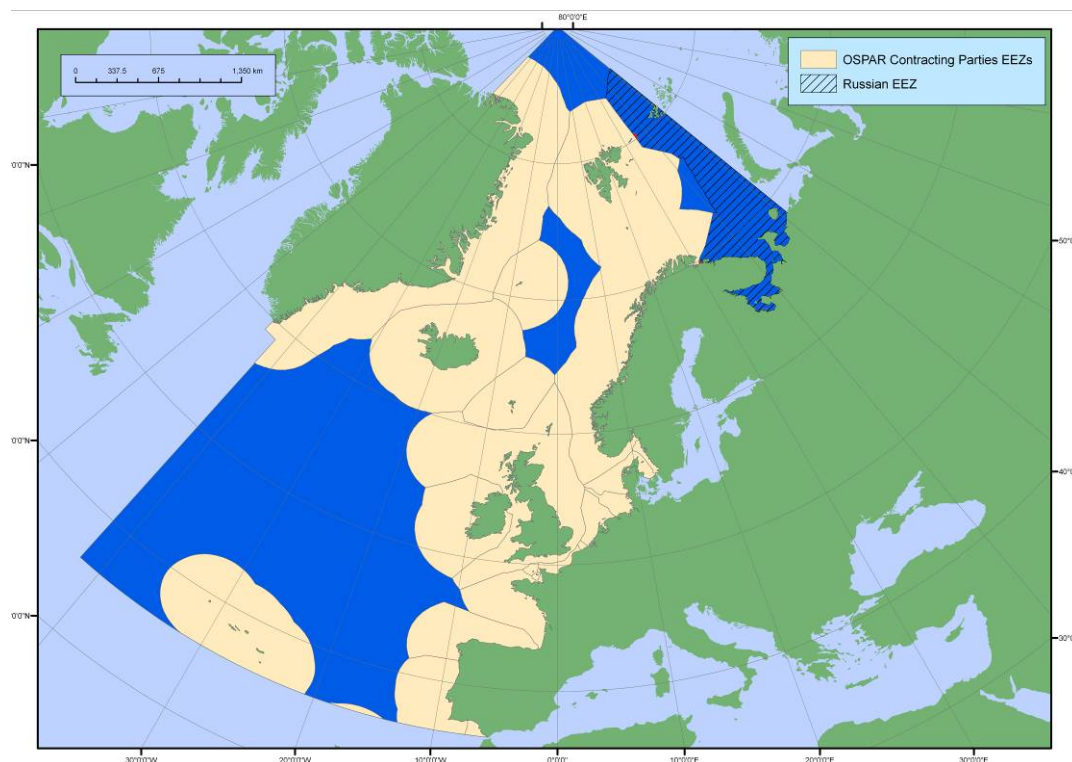


Figure 2: Shows the extent of the OSPAR Maritime Area and Contracting Parties' EEZs. That part of the Russian EEZ that overlaps with the OSPAR Maritime Area is also shown. Source: Modified EEZ shape files VLIZ (2005). Maritime Boundaries Geodatabase available at <http://www.vliz.be/vmdcdata/marbound>. Consulted on 2008-09-24

4. To what parts of the OSPAR Maritime Area do other existing international agreements have a bearing on forward planning?

The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL) can define certain sea areas as "special areas" in which, for technical reasons relating to their oceanographical and ecological condition and to their sea traffic, the adoption of special mandatory methods for the prevention of marine pollution is required^{viii}. Under MARPOL, these special areas are provided with a higher level of protection than other areas of the sea. Figure 3 shows the Western European Waters Particularly Sensitive Sea Area (PSSA) which came into force on 1 July 2005. All oil tankers of more than 600 tonnes deadweight and carrying cargos of heavy crude or fuel oils or bitumen and tar and their emulsions are obliged, under the mandatory ships reporting system, to report when they enter into the area, leave a port within the area, deviate from their original declared route and leave the area covered by the PSSA.

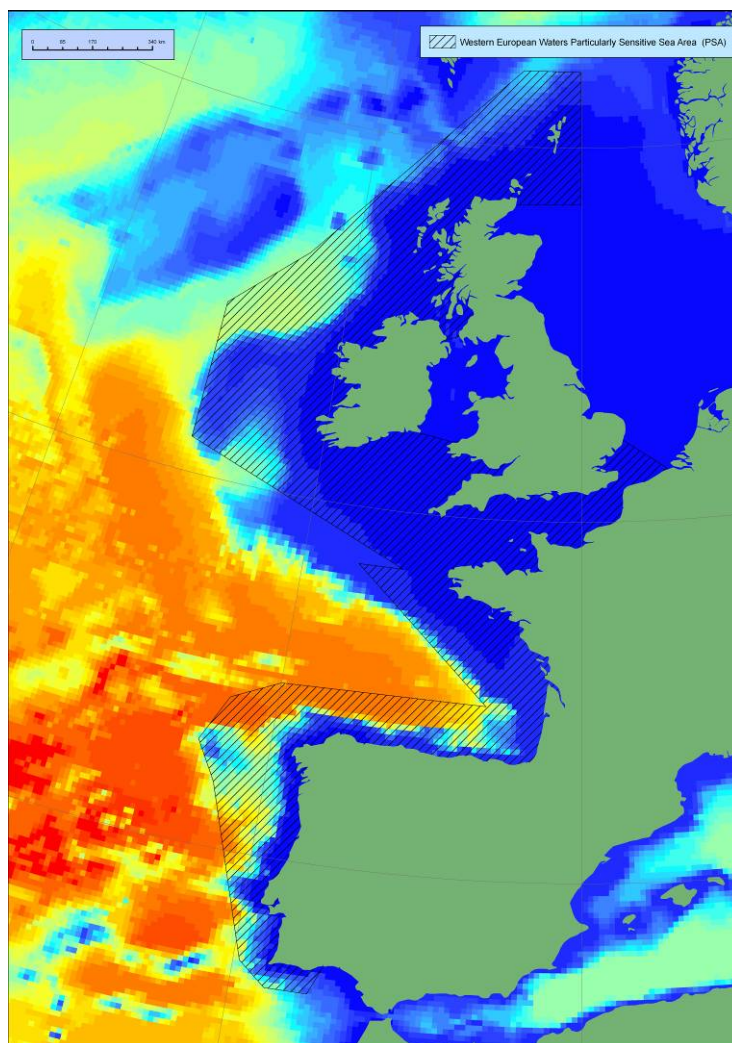


Figure 3: Location of the designated Western European Waters Particularly Sensitive Sea Area (PSSA) adopted by the IMO's Marine Environment Protection Committee, October 2004. Source: Adapted from IMO Resolution MEPC 121 (52). Available from http://www.imo.org/includes/blastDataOnly.asp/data_id%3D15724/121%2852%29.pdf

Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom as Member States of the European Union are bound by Community Law. Of particular relevance to marine spatial planning is legalisation in the areas of fisheries and environment protection. The Common Fisheries Policy^{ix} (CFP) is the European Union's instrument for the management of fisheries and aquaculture. It was created to manage a common resource and to meet the obligation of creating a common policy in the sphere of fisheries as set out in the original Treaties of the then European Community. The CFP requires Member States to apply the precautionary approach to protect and conserve living aquatic resources and aims to implement the ecosystem-based approach to fisheries management. From a spatial management viewpoint, measures can be agreed that will lead to the conservation and limitation of the environmental impact of fishing. The CFP applies to all waters within Member States' EEZs except, by derogation, within 12 NM, whose administration is left to the Member State in question. Traditional access by other nations is permitted up to 6 NM from the baselines.

The need for spatial planning is also acknowledged by the Commission in its Strategy for the sustainable development of European aquaculture (COM (2002) 511)^x. In this the Commission states

that 'Future aquaculture development should be based on Integrated Zone Strategies and Management Plans, which consider aquaculture in relation to all other existing and potential activities and take account of their combined impact on the environment.'

In relation to environmental protection, the most relevant Community Laws are the Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora ^{xi}, Directive 97/409/EEC on the Conservation of Wild Birds ^{xii} and Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).

In order to create a coherent European ecological network of protected areas, Member States are required to designate Special Areas of Conservation (SAC) for certain species and habitats, and to establish Special Protection Areas (SPA) for the protection of rare, vulnerable or regularly occurring migratory birds. For Special Areas of Conservation, '*Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites*'^{xi}. Collectively, SAC and SPA sites are known as Natura 2000 Sites. Figure 4 shows the location of the Natura 2000 sites throughout the OSPAR Maritime Area.

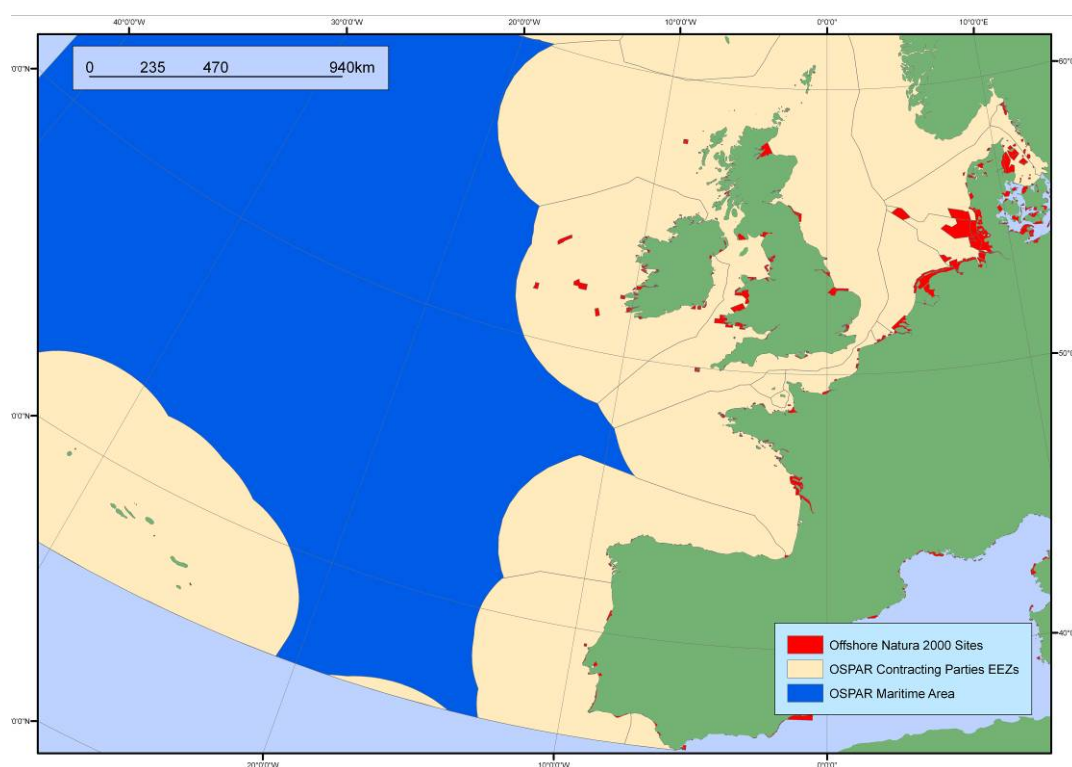


Figure 4: Location of Natura 2000 sites within the OSPAR Maritime Area. Source: European Commission, DG Environment, October 2008.

<http://dataservice.eea.europa.eu/dataservice/metadetails.asp?id=774>

The objective of the Marine Strategy Framework Directive ^{xiii} is to establish a framework for marine environmental policy with the aim of achieving good environmental status of the European Union (EU) marine environment by 2020. It applies to '*waters, the seabed and subsoil on the seaward side of the baseline from which the extent of territorial waters is measured extending to the outmost reach of the area where a Member State has and/or exercises jurisdictional rights, in accordance with the UNCLOS*'. The Directive does not establish specific management measures but sets out common objectives and principles to which Member States must adhere. The Directive has established a series of marine regions and sub-regions for the purpose of facilitating implementation. These have been determined taking into account hydrological, oceanographic and bio-geographic features. The Marine

Regions established are: the Baltic Sea, the North East Atlantic Ocean, the Mediterranean Sea and the Black Sea. The North East Atlantic Ocean is further divided into the following Sub-Regions: the Greater North Sea, including the Kattegat and the English Channel; the Celtic Seas; the Bay of Biscay and the Iberian Coast; and the Atlantic Ocean, including the waters surrounding the Azores, Madeira and the Canary Islands. The Mediterranean is divided into the Western Mediterranean Sea; the Adriatic Sea; the Ionian Sea and the Central Mediterranean Sea; and the Aegean-Levantine Sea. These regions are based on advice on eco-regions for the implementation of an ecosystem approach in European waters from ICES to the European Commission, Figure 5.^{xiv}

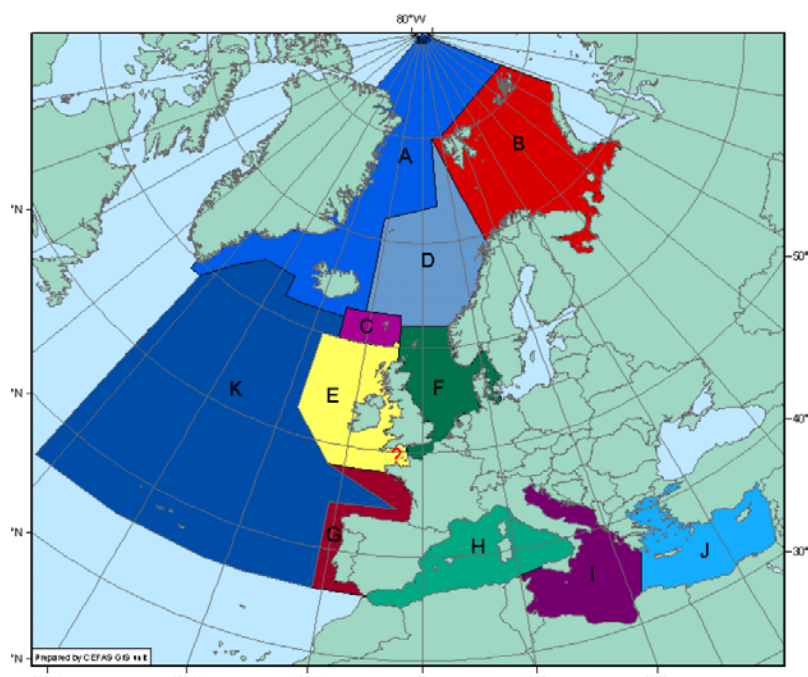


Figure 5: Proposed ecoregions for the implementation of the ecosystem approach in European waters.

Further information on Pan-European marine ecosystems, developed using the Large Marine Ecosystem (LME) approach is available from the European Environment Agency^{xv}. In addition, the 'Atlas of the European Seas and Oceans' provides further useful information on marine jurisdictions, sea uses and governance^{xvi}.

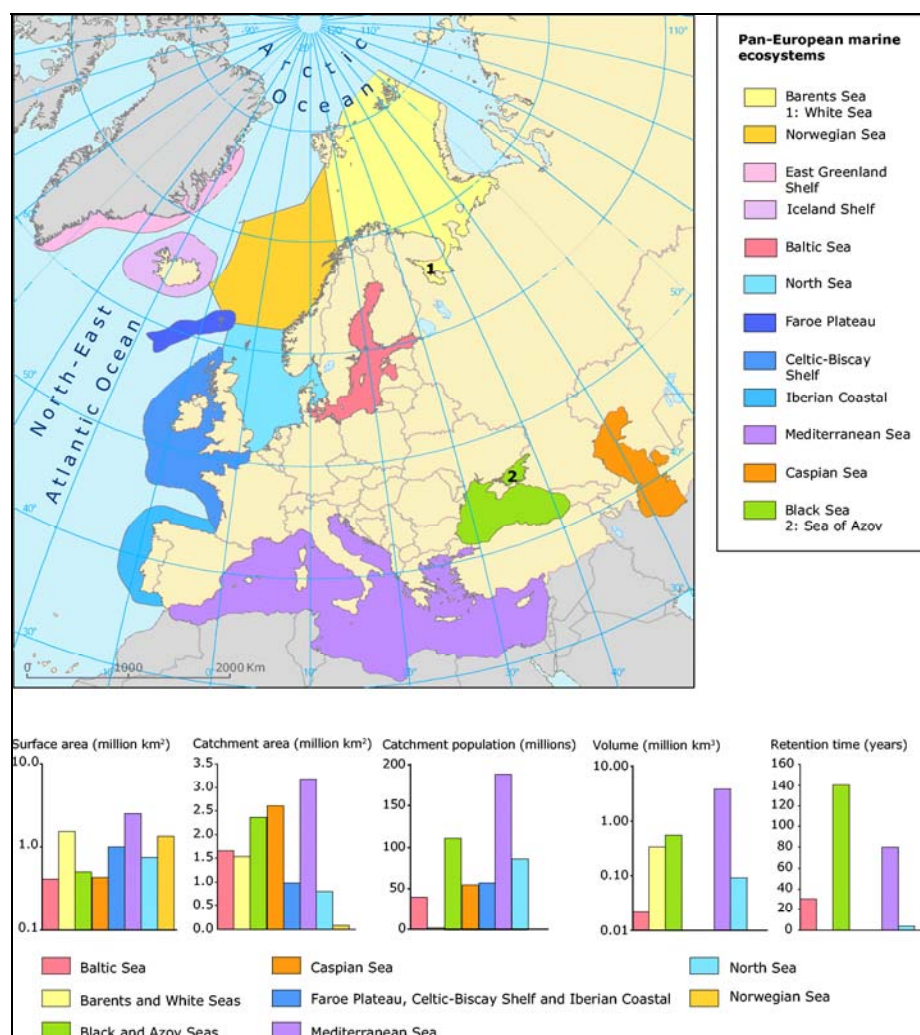


Figure 6: Pan-European marine ecosystems. Source: European Environment Agency.
<http://dataservice.eea.europa.eu/atlas/viewdata/viewpub.asp?id=2904>.

Other environmental Directives which will impact on where and how marine spatial planning occurs include the Strategic Environmental Assessment (SEA) Directive 2001/42/EC^{xvii} and the Environmental Impact Assessment (EIA) Directive 85/337/EEC^{xviii}. The SEA Directive states that an environmental assessment must be carried out on the effects certain plans or programmes will have on the environment. These include plans and programmes:

- ‘which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or’.*
- which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/42/EEC^{xiii}.*

Annex I of Directive 85/337/EEC lists trading ports as a project requiring an EIA. Annex II includes salmon breeding, reclamation of land from the sea, deep drillings, extraction of minerals, extraction of petroleum, extraction of natural gas, industrial installations for the production of electricity, shipyards, oil and gas pipeline installations, and yacht marinas as projects that may need EIAs, but that it was up to Member States to decide, either on a case-by-case examination or by employing certain criteria or thresholds, if an EIA is necessary.

The Water Framework Directive 2000/60/EC^{xix} established a common policy for Member States in respect to the management of water resources in the EU. It provides a framework for the protection of inland surface waters, transitional waters, coastal waters (up to 1 NM from the baselines) and groundwaters. In regard to marine spatial planning, the Directive requires Member States to formulate river basin management plans. Where a river basin covers the territory of more than one Member State, the river basin will be assigned an international river basin district. The Member States concerned *'shall together ensure this coordination and may, for this purpose, use existing structures stemming from international agreements'*.

The EC White Paper on Transport, *European transport policy for 2010: time to decide*^{xx}, proposed the development of 'motorways of the sea' as an alternative to land transport. Decision No 884/2004/EC of the European Parliament and of the Council of 29 April 2004, amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network, outlined four priority motorways of the sea projects which are due to start before 2010. These are:

- Motorway of the Baltic Sea (linking the Baltic Sea Member States with Member States in Central and Western Europe, including the route through the North Sea/Baltic Sea canal);
- Motorway of the Sea of western Europe (leading from Portugal and Spain via the Atlantic Arc to the North Sea and the Irish Sea);
- Motorway of the Sea of south-east Europe (connecting the Adriatic Sea to the Ionian Sea and the Eastern Mediterranean, including Cyprus);
- Motorway of the Sea of south-west Europe (western Mediterranean, connecting Spain, France, Italy and including Malta and linking with the Motorway of the Sea of south-east Europe and including links to the Black Sea)^{xxi}.

In June 2006 the EC launched a Green Paper^{xxii} to generate discussion on the future of a coordinated maritime policy. In it, the Commission argued for the implementation of marine spatial planning for *'activities on the waters under the jurisdiction of or controlled by the Member States'*^{xviii}. This *'should build on the ecosystem-based approach laid down in the Thematic Strategy for the Marine Environment, but should also deal with licensing, promoting or placing restrictions on maritime activities'*^{xviii}. In its review of the consultation on the Green Paper, the Commission concluded that although views *'vary greatly on the concept, its scope, and links to existing instruments...a majority of stakeholders agree that maritime spatial planning would be a good tool to apply across the EU, but should remain a Member State competence'*^{xxiii}.

Following the Green Paper consultation, the EC proposed an Integrated Maritime Policy for the European Union, the so-called Blue Book^{xxiv}. This policy was based on the recognition that all matters relating to Europe's oceans and seas are interlinked, and that sea-related policies must develop in a joined-up way if we are to reap the desired results. The Commission sees marine spatial planning as a fundamental tool for the sustainable development of marine areas and coastal regions, and for the restoration of Europe's seas to environmental health. The Blue Book points out however, that decision-making competence in this area lies with the Member States and that what is needed at European level is a commitment to common principles and guidelines to facilitate the process in a flexible manner and to ensure that regional marine ecosystems that transcend national maritime boundaries are respected. In the policy, the Commission commits itself to delivering an action plan which includes the preparation of a 'Roadmap' to facilitate the development of marine spatial planning by Member States.

In June 2008, the European Commission published a communication on *Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation*^{xxv}. This identifies the need to avoid duplication of regulatory powers, for

coordinated planning of competing maritime activities, strategic management of maritime areas and the implementation of the ecosystem approach as the main drivers for an integrated approach to maritime governance. The guidelines recommend that Member States develop national integrated maritime policies, coordinated structures and local and stakeholder involvement in decision making.

In November 2008, the EC published a communication entitled 'Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU'. The Roadmap provides information on existing approaches to marine spatial planning, both within and outside the European Union. It describes international and EU instruments that have an impact on such planning. More importantly, the Roadmap views the ecosystem approach as the overarching principle for marine spatial planning and the following as key principles for its implementation:-

Marine spatial planning should:

- be based on the type of planned or existing activities and their impact on the environment
- be used to manage ongoing activities and guide future development in a sea area
- be transparent in terms of all documents and procedures used
- involve all stakeholders, including coastal regions, at the earliest possible stage in the planning process
- simplify decision making and speed up licensing and permit procedures, for the benefit of maritime users and maritime investment alike
- be legally binding if it is to be effective
- promote cooperation across borders which is necessary to ensure coherence of plans across eco-systems
- be flexible enough to react to environmental changes and allow plans to be revised in due course
- achieve coherence between terrestrial and maritime spatial planning – ICZM
- be based on sound information and scientific knowledge but be able to evolve with knowledge (adaptive management).

Under the OSPAR Biological Diversity and Ecosystems Strategy, a network of marine protected areas will be identified on the basis of the Guidelines for the Identification and Selection of Marine Protected Areas (MPA) in the OSPAR Maritime Area. This network may also include areas in the OSPAR Maritime Area which the Contracting Parties which are EU Member States are required to designate as Special Areas of Conservation or Specially Protected Areas under the EC Habitats and Birds Directives. Figure 7 shows the areas designated as MPAs.

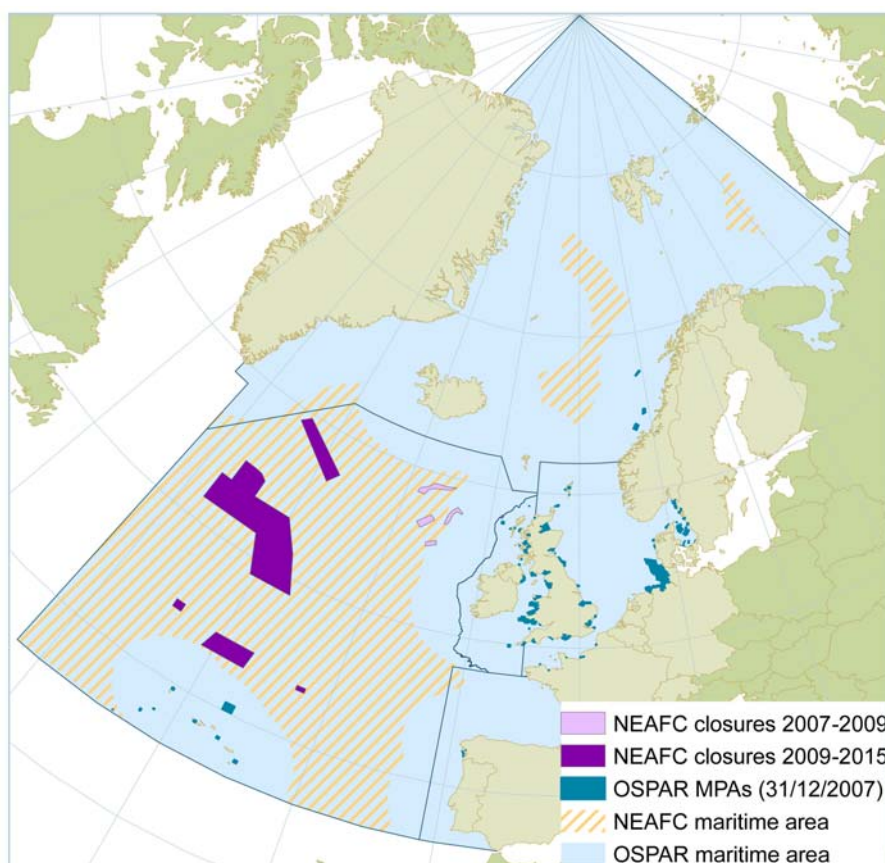


Figure 7: Map showing all MPAs reported by Contracting Parties as of 2008 and NEAFC Bottom Trawling Closures. Source: OSPAR Database. *French data are © MNHN. UK data are © Crown copyright. All rights reserved. English Nature, 100017954 [2009], Scottish Natural Heritage, 100017908 [2009], Countryside Council for Wales, 100018813 [2009], Environment and Heritage Service (Northern Ireland), [2009]*

A number of international bodies can impose restrictions on activities on the High Seas. One such body is the North-East Atlantic Fisheries Commission (NEAFC). Contracting Parties to NEAFC are Denmark (in respect of the Faroe Islands and Greenland), the EU, Iceland, Norway and the Russian Federation. Parties to NEAFC have the common objective to ensure the long-term conservation and optimum utilisation of the fishery resources in the NEAFC Convention Area, providing sustainable economic, environmental and social benefits. In pursuit of this objective NEAFC agreed that bottom trawling and fishing with static gear (including bottom gill nets and longlines) shall be prohibited on the Hatton Bank and on the certain parts of the western slopes of the Rockall Bank so as to protect coldwater corals from the negative effects of fishing activities^{xxvi}. Areas beyond national jurisdiction and areas subject to NEAFC fishing restrictions are shown in Figure 7.

5. Constraints for forward-looking multi-sectoral spatial plans in the OSPAR Maritime Area

Considering international obligations described above, forward-looking multi-sectoral spatial plans can be prepared unilaterally by Contracting Parties for their Internal Waters and their Territorial Seas. These plans can regulate navigation by way of shipping lanes providing these do not hamper free passage of vessels and fishing.

Outside the territorial waters but within the EEZs of Contracting Parties, forward-looking multi-sector spatial plans can be prepared dealing with many marine related activities including exploring and

exploiting, conserving and managing living and non-living natural resources. There are however some important exceptions. Under UNCLOS there is freedom of navigation, the laying of cables and pipelines and scientific research and, for areas under EC Member States' jurisdiction, fishing is regulated under the CFP.

For areas within designated Continental Shelves, Contracting Parties can carry out spatial planning governing all the activities relating to exploring, exploiting, conserving and managing the living and non-living natural resources. However, they have no authority to regulate navigation, the laying of cables and pipelines, scientific research and exploitation of free-swimming fish stocks.

On the high seas of the OSPAR Maritime Area, Contracting Parties can adopt programmes and measures to prevent and eliminate pollution and take measures to protect against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems. Because the high seas are not controlled by individual nations, any regulatory or planning measures taken by OSPAR Contracting Parties generally relate to actions in respect of a Contracting Party's own nationals. While the OSPAR Biological Diversity and Ecosystems Strategy provides for the setting up of a network of MPAs throughout the OSPAR area, including the high seas, the enforcement of any MSP system does not appear possible on the high seas under the current legal regime.

Part II - Contracting Parties marine spatial planning and control systems currently operating within the OSPAR Maritime Area

The majority of Contracting Parties have well-developed terrestrial spatial planning and control systems. In some countries the terrestrial system does not extend into the marine area. For example, the terrestrial planning system stops at the mean high or low water mark in Ireland and the UK respectively. In other states, the terrestrial system extends a considerable distance offshore, for example in Sweden, Finland and Germany the regulatory framework for terrestrial spatial planning extends to the limit of territorial waters (12 NM offshore) and spatial plans can be prepared by the Local or Regional Authorities^{xxvii}.

The definition of the OSPAR Maritime Area sets the limits of the landward extent as *'the waters on the landward side of the baselines from which the breadth of the territorial sea is measured, extending in the case of watercourses up to the freshwater limit.'* The freshwater limit is defined as *'the place in a watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater.'* It is necessary for the purposes of this overview to have a common understanding of the boundary between land and sea. Therefore, for practical reasons and without prejudice to any national or legal boundaries, the mean low water mark will be used as the boundary between the land and the sea. Consequently, this overview describes both land-based planning systems that extend beyond the mean low water mark as well as those systems that operate exclusively below the mean low water mark.

6. Spatial planning in the OSPAR Maritime Area

To collect information on national spatial planning and control systems of relevance to the OSPAR Maritime Area, Contracting Parties were asked to complete a questionnaire. Responses, which are annexed separately, were received from Belgium, Denmark, Germany, Iceland, Ireland, the Netherlands, Norway, Spain, Sweden and the United Kingdom. The questionnaire is divided into five sections: Marine Spatial Planning Principles and Responsibility; Content of Marine Spatial Plans; Producing and Implementing Marine Spatial Plans; Control and Permitting Systems of Contracting Parties; and Challenges and Lessons Learnt.

7. Marine spatial planning principles and responsibility

Some of the responding Contracting Parties are yet to develop a marine spatial planning system for their entire EEZ. Table 1 shows that Germany and the Netherlands have implemented marine spatial planning for their EEZs and the United Kingdom is in the process of doing so. In Spain, spatial planning has been applied out to 12 NM but only to the wind farm sector, whereas in Sweden municipal planning includes the maritime area out to 12 NM. No forward-looking planning system, as defined in Part I, exists in Denmark, Iceland and Ireland. Table 1 shows that, even in the countries which have implemented marine spatial planning, responsibility for implementing the plan is divided between a plethora of ministries and agencies. The United Kingdom indicated that it will establish a body, the Marine Management Organisation, which will oversee the implementation of its marine spatial plans.

Table 1. System of marine spatial planning, competent authorities, and terrestrial planning boundary

Contracting Party	Operational system for marine spatial planning	Responsible Authorities	Boundary between terrestrial and marine spatial planning
Belgium	A major exercise on Marine Spatial planning undertaken in 2003 but no formal, legislative based system in place. Plans adopted by executive body.	Federal Minister for the North Sea to coordinate protection of the marine environment. The Flemish Region for matters such as coastal defence, access to the harbours, search and rescue, marine fisheries.	Mean low water mark at spring tide (MLWS).
Denmark	No, management is sector-based, with no overarching policy, strategy or integrated system.		
Germany	Yes (Regional Planning applies to the 12 NM zone; Federal Spatial Planning to the EEZ). Plans formally adopted by respective governments (State/Federal). Legislation: Fed. Spatial Planning Act and state legislation.	12 NM limit: State ministries for spatial planning; EEZ: Federal Ministry of Transport, Building and Urban Affairs with the participation of the ministries concerned; Federal Maritime and Hydrographic Agency for the preparatory process.	Terrestrial planning extends to 12 NM (states).
Iceland	No, management is sector-based.		
Ireland	No.	Activities below the high water mark are regulated on a sector-by-sector basis and are generally developer led rather than plan led.	Terrestrial plans in general do not extend below the Mean high water mark (MHW). In their statutory development plans, Local Planning Authorities can set out planning objectives for the foreshore below the high water mark even though it is outside their planning jurisdiction.
The Netherlands	Yes. Plans formally adopted by the central government.	Ministries of: Transport, Public Works and Water management; Economic Affairs; Housing; and Agriculture, Nature and Food Quality.	Terrestrial planning extends to 1 km.

Contracting Party	Operational system for marine spatial planning	Responsible Authorities	Boundary between terrestrial and marine spatial planning
Norway	Yes. The Open Ocean Management Plan for the Barents Sea is adopted by Parliament and plans are being prepared for the Norwegian and North Seas. The aim of the plan is to establish a holistic and ecosystem-based management of the activities in the ocean area. This means that all activities in the area should be managed within a single context and that the total environmental pressure from activities should not threaten the structure, functioning and productivity of the ecosystems.	Sector authorities.	
Spain	No, other than preliminary zoning for wind farms, but national government seeking to establish a basis for such a system.	Ministries of: Environment; Public Works; Agriculture, Fisheries and Food; Culture; Economy and Treasury; Industry, Tourism and Trade; and Education and Science sectoral agencies (fisheries, maritime traffic, etc.), Regional Administration.	Terrestrial planning defined by the limit of 'inland public domain.'
Sweden	No but Municipal Planning extends to the 12 NM zone. These plans are formally adopted by municipal parliament.	Municipalities, County Administrative Boards, and National sector authorities.	Terrestrial planning extend to 12 NM.
United Kingdom	No, legislation which will introduce marine spatial planning to be introduced (the draft Marine and Coastal Access Bill is expected to gain Royal Assent and become law in 2009)	UK Government Ministers and the Devolved Administrations.	Terrestrial planning extends to Low Water Mark (MLW), proposed marine spatial planning system will begin at Mean High Water Springs (MHWS).

What are the guiding principles of marine spatial planning?

Most Contracting Parties that answered this question (Germany, the Netherlands, Norway, Spain, Sweden and the United Kingdom) stated that sustainable development was, or should be, the guiding principle of marine spatial planning. In Belgium the common interest and benefit of each legitimate user of the sea and environmental protection are guiding principles. According to these answers sustainable development should take into account, *inter alia*, the social, economic, cultural, and ecological functions of the marine environment. Contracting Parties attributed different weight to each

one of these functions, with the Netherlands and Germany in particular emphasising that enhancing the economic function of the marine environment should be a key objective of marine spatial planning.

How are social, economic and environmental requirements reconciled within the planning process?

Many Contracting Parties use environmental impact assessments to ensure that social, economic and environmental requirements are considered during the planning and development process. Most of these assessment processes are based on EC Directives such as the Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA), Habitats, and Water Framework Directives. Belgium, the Netherlands, Germany, Spain, Sweden and the United Kingdom include mechanisms for public participation in the planning process. This serves as a means of reconciling these three spheres and decisions are often made by democratically elected bodies.

Germany, Norway and the United Kingdom emphasize that ecological and scientific data are required for the plan area, including oceanographic, bathymetric and environmental data. Germany, the Netherlands, and the United Kingdom also point out that data regarding current and future uses of the marine environment is necessary for marine spatial planning.

Germany, Norway and the Netherlands use Geographic Information Systems (GIS) systems in their marine spatial planning, with Sweden and the United Kingdom developing such a system.

8. Content of marine spatial plans

The content of and description of sectors managed and planned under marine spatial plans are shown in Table 2.

Table 2. Contents of marine spatial plans

Contracting Party	Contents of marine spatial plans	Sectors specifically excluded from marine spatial planning	Reason for excluding specific activities from plans
Belgium	All marine activities are considered. Most relevant in this context are renewable energy, extraction of marine aggregates, dumping of dredged material and mariculture.	Research, fisheries, and legitimate navigation.	
Germany	Environmental protection; shipping; resource exploitation; laying of pipelines and cables; fishing and mariculture; power generation; scientific research; ICZM; wind farms; bundling of cables; resource exploitation; tourism; harbours; coastal fisheries; and shipping routes.	Military activity, general regulations about fishery but no restrictions.	Military activity not a subject for MSP in the EEZ because of UNCLOS. Fisheries covered by the CFP.
Netherlands	Mining and mineral exploitation, aquaculture, shipping and transportation, military exercise area, land reclamation, wind energy, recreation areas, nature conservation, dumping sites for dredged material and sand extraction.	Fisheries.	

Contracting Party	Contents of marine spatial plans	Sectors specifically excluded from marine spatial planning	Reason for excluding specific activities from plans
Norway	Seen as a framework for integrating Fisheries, Shipping and Petroleum sectoral plans.	Naval activities and fisheries which are regulated under fisheries regulation.	
Spain	Should regulate: Aquaculture, Ports, Shipping, Infrastructures, Tourism, Marine Protected Areas, Mineral Resources, Gas pipelines & Submarine cables, Offshore Renewable Energies.	National Defence.	Security.
Sweden	National: fisheries; marine transport; defence; conservation; and cultural heritage. Municipal: harbours/marinas; and dumpsites for dredging material.	National Defence, some elements of fisheries.	Security, CFP.
United Kingdom	Marine spatial planning will consider all relevant activities in the marine environment.	None excluded.	No significant damage to wider environment.

Belgium, Germany, the Netherlands and Sweden (Table 3), all employ zoning as a management tool in their marine spatial plans. In Sweden this is still confined to the 12 NM zone but it is possible to zone areas for specific sector use, conservation or mixed uses. Both Germany and the Netherlands divide their marine area into 3 different zone types. Depending on the plan for the EEZ or territorial zone, Germany zones its activities into Priority, Reservation and Suitable areas per activity, using these classifications to address use-use conflicts, for example, should an area be deemed Priority for one activity and Reservation or Suitable for a conflicting activity, the Priority activity will be given precedence. The Netherlands employ 3 general zones based on distance from the coast: 1) From the coast to the established Normaal Amsterdams Peil (NAP - Amsterdam Ordnance Datum) – 20 m depth line is zoned for coastal protection, ecology and landscape; 2) From established NAP – 20 m depth line to 12 NM limit is zoned for surface mineral extraction; and 3) From the 12 NM seaward is zoned for wind farms, possibly combined with aquaculture. Other zones that are defined independently of these 'area zones' include zones for shipping, nature conservation, marine based energy infrastructures, sand extraction and defence exercises. Norway does not use zoning specifically, but can exclude certain activities from an area if it is necessary for the protection of the most valuable and vulnerable areas against negative pressures. The priority in case of a conflict is given to protecting living resources and environmental values.

Table 3. Zoning within planned area

Contracting Party	Zoning within marine spatial plan
Belgium	Done on a case by case basis but could have spatial or temporal restrictions, for example, sand extraction restrictions due to fish spawning.
Germany	Depending on the plan for the EEZ or territorial zone there is zoning for wind farms, shipping, conservation, resource exploitation, cable lines, scientific purposes and tourism, furthermore areas designated on sectoral law can be shown for information purposes.
Netherlands	Recreation, aquaculture, conservation, mineral extraction, wind farms, shipping, and defence exercises.
Sweden	Mixed and sector specific zones.
United Kingdom	Currently undertaking research to inform decisions about the types of zoning we may use.

9. Producing and adopting marine spatial plans

The duration of plans for Contracting Parties are undetermined or range from 10 to 25 years. All Contracting Parties said that their marine spatial plans could be amended and that this entailed the same consultation and adoption processes that were used in the development of the original plans (Table 4).

Table 4. Duration, focus, and process for amending plans

Contracting Party	Duration of plans	Plans based on forecast or current use	Can plans be amended during their lifespan?	Adoption process same as original plan?
Belgium	Undetermined.	Environmental objectives – Kyoto.	Yes.	Likely to be more formal in future.
Germany	No legal requirements concerning the review of plans in EEZ. One regional plan for 12 NM zone scheduled for 2025.	A mix but with an emphasis on present use except for the Schleswig-Holstein plan for the 12 NM zone which has an emphasis on forecast.	Yes, if developments make it necessary.	Yes.
Netherlands	10 years, but no requirement to make a plan every 10 years.	Present use (to 2020) and forecast (to 2040).	Amendments require political decision and can be made, when important and politically agreed arguments are available. However it is tried to formulate the plan in a way that areas or themes that are expected to change are already addressed in the plan.	Yes.

Contracting Party	Duration of plans	Plans based on forecast or current use	Can plans be amended during their lifespan?	Adoption process same as original plan?
Norway	Revision after 4 years, no fixed lifespan.	Both.	Yes, updates and amendments can be made at the revision of the plan.	
Sweden	Revised every 10 years.	Based on present use.	Yes.	Yes.
United Kingdom	20-25 year plan revised every 6 years	Strong element of forward-looking.	Yes.	Yes.

Responding Contracting Parties engage in various forms of consultation processes during the plan development phase (see Table 5). They range from relatively tokenistic participation such as inviting stakeholders to comment on draft plans (Germany and Sweden) and stakeholder workshops (Belgium, Germany and the Netherlands) to consultation with stakeholder advisory committees (the Netherlands). Only Germany and the Netherlands from the responding Contracting Parties included other measures which they employ to reduce or resolve conflicts. Within the German marine spatial planning process, planners strive for the spatial separation of conflicting uses if possible and the spatial concentration of uses to protect the openness of the seascape. Also priority is given to certain uses in accordance with UNCLOS (for example shipping). While a general method of conflict resolution is not employed by the Netherlands, the engagement of stakeholders was viewed as key to reducing conflict. Also plans are discussed at Interdepartmental Directors' Consultative Committee North Sea so that potential conflicts are identified early in the planning process. Norway utilises public hearings in the Environmental Impact Assessment process for all sectors involved and holds annual consultation meetings. Belgium identified the difficulty in evaluating (in terms of financial value) decision options as well as managing uncertainties.

Table 5. Consultation processes

Contracting Party	Public consultation and participation	Consultation/ participation process	Innovative tools for full participation	Consultation with neighbouring states	Problems encountered in consultation
Belgium	Yes.	<i>Ad hoc</i> and through workshops.		Yes – using ESPOO.	
Germany	Yes, mandatory for both EEZ and 12 NM zone.	Draft plans made available for comment, public information events and hearings.	Use of internet.	Yes.	Translations of texts required for consultation with neighbouring states.
Netherlands	Yes.	Consultation with advisory committee of stakeholders on a national level, as well as in a more informal way in workshops, bilateral contacts.	Use both formal and informal methods of stakeholder involvement.	Yes. Conducted in accordance with the ESPOO EIA Convention.	Some language problems with informal documentation.

Contracting Party	Public consultation and participation	Consultation/ participation process	Innovative tools for full participation	Consultation with neighbouring states	Problems encountered in consultation
Norway	Yes.	Public hearings of EIAs for all sectors involved, plus annual consultation meetings.	No.	Yes.	Language may be limiting.
Spain	Yes, for offshore wind farms.	Public advertisement and consultation with various organisations.			
Sweden	Yes.	Public exhibitions of plans which allow for comment.	Use of a large variety of tools so as to engage different types of stakeholders.	No.	Difficult to have round table discussion involving all stakeholders.
United Kingdom	Yes.	Full public consultation is required for draft marine spatial plans under draft legislation. Stakeholder engagement will also play a key role throughout the planning process.	Envisage that we will use variety of tools to fully engage with public during preparation of plans. i.e. public forums, publications, internet.	No.	The only anticipated challenge will be ensuring diversity of stakeholders can contribute equally in preparation of draft plans.

Germany and the Netherlands, the only responding Contracting Parties actively engaged in marine spatial planning in their EEZs, consult with neighbouring countries. During their transboundary consultation processes they have not encountered any major difficulties bar the requirement to have texts and documents translated.

The use of the internet, formal and informal methods of stakeholder involvement, and as wide a range of participation tools have been suggested as innovative ways of striving for full stakeholder participation. The United Kingdom is also proposing to use a similar system of consultation based on the success of coastal partnerships participation in ICZM.

The involvement of such a wide diversity of stakeholders was also flagged as a potential problem, when implementing marine spatial planning, by Sweden and the United Kingdom.

In Germany the marine spatial plan for the EEZ will take the contents of state plans, which include the 12 NM zone, into consideration. In Germany and the Netherlands marine spatial plans are integrated with terrestrial planning through the use of ICZM, though the Netherlands indicated that the process for doing this needs to be improved. The United Kingdom hopes that having overlapping planning systems (with marine spatial planning beginning at Mean High Water Springs and terrestrial planning extending as far as the Low Water Mark) will encourage the integration of plans. It also points out that

ICZM is a priority for its government and has been considered when developing its marine planning system. The various municipal plans in Sweden, which include the 12 NM zone, are integrated through the County Administrative Board.

10. Control and permitting systems

The various control and permitting systems employed by Contracting Parties can be seen in Table 6. There is no zoning in the United Kingdom as of yet. Permits are required for a range of activities in its waters including but not limited to: making deposits; some forms of dredging; constructing or altering of works; the scuttling of vessels; and anything that may pose a danger or obstruction to navigation. Its planned marine legislation will add to this list the removal of objects or substances from the seabed.

Table 6. Control and permitting systems

Contracting Party	Zoning for specific sectors	Permits required for zoned activities	Activities not zoned that require permits	Consultation on permits	Conditions attached to permits
Belgium	Case-by-case.	Yes - spatial considerations taken into account.	All activities except for navigation, recreational fisheries, military activities and most research activities.	Yes – according to strict procedures – concerns can be expressed and must be taken into account in decision making.	Many - including spatial, security, environmental criteria, monitoring, reporting, etc.
Germany	Depending on the plan for the EEZ or territorial zone there is zoning for wind farms, shipping: Conservation, resource exploitation; cable lines, scientific purposes and tourism; furthermore areas designated on sectoral law.	Yes with few exceptions (for example shipping). Permits are issued by responsible technical authority.	All except for shipping and fishing.	A consultation process (both public and stakeholder) is necessary for wind energy, cables and pipelines, resource exploitation. Marine scientific research relating to the continental shelf is subject to stakeholder consultation only.	A wide range of conditions can be attached to permits. Usually they will aim at minimising the impact on the environment and at reducing other potential conflicts.

Contracting Party	Zoning for specific sectors	Permits required for zoned activities	Activities not zoned that require permits	Consultation on permits	Conditions attached to permits
Netherlands	Recreation, aquaculture, nature conservation, mineral extraction, wind farms, shipping, and defence exercises.	Yes except for shipping military activities, nature conservation, some forms of recreation and several small scale activities. Issued by responsible ministry.	All activities require a permit, except for shipping and some very small scale activities, nature conservation and defence exercises.	Yes, there is a formal system of public and stakeholder consultation during the process of issuing a permit.	Any condition relevant to ensure safe and environmentally friendly use of the sea.
Sweden	Mixed and sector specific zones	For some activities. Issued by sector authorities.	Construction, fisheries (among other).	Only for building permits.	Varies with the sector legislation regulating the activity.

Permits in all Contracting Parties are issued on a sector-by-sector basis by the competent ministry or agency with no one authority overseeing the process. The United Kingdom proposes to streamline this process when it implements its new marine legislation by having a single Marine Management Organisation (MMO) responsible for developing and implementing marine spatial plans.

11. Challenges and lessons learnt

Germany and the United Kingdom point out that access to good quality data may prove to be a challenge when implementing marine spatial planning. There are, according to Germany and the Netherlands, also problems with overcoming sectoral thinking. In this regard, the Netherlands has pointed out that there is a need to develop a common language within marine spatial planning which can be understood by all sectors. The development of a glossary of terms could assist in this regard. This may facilitate the integration of the highly specialised knowledge held within each sector. Related to this, the Netherlands believes there is a challenge in recasting marine spatial planning as a 'way of working and thinking' rather than as a 'tool' to deliver environmental goals.

To generate a greater sense of urgency or need to implement marine spatial planning, the Netherlands suggests illustrating in understandable and concrete ways how it relates to today's major issues such as energy supply and global warming.

It was also pointed out by the Netherlands that existing users might resist change. This ties in with the challenge of managing uncertainties and stakeholders' expectations, especially during the initial learning phase, that is foreseen by the United Kingdom. It also envisages a possible problem in gaining effective stakeholder involvement. This problem was mirrored in the response from Germany where it was pointed out that they had difficulty in coordinating efforts with shipping interests.

For the Netherlands and Norway lessons learnt included: marine spatial planning can help institutions work together; and promote cross-sectoral understanding; potential spatial conflicts and challenges are clearly made visible and have political relevance; considered spatial developments and ambitions of stakeholders should comprise expectations in both the short and long term; and plans should have the right balance between clearness and flexibility.

12. Analysis

As can be seen from Table 1 above a range of authorities, within Contracting Parties, are responsible for various activities requiring spatial planning in the marine environment. Without an overall coordinating authority it could be argued that procedures are not consistent with the ecosystem-based approach to planning. The ecosystem-based approach requires integration across all sectors so as to advance sustainable development objectives. Having several regulatory bodies responsible for individual sector of the marine area, without clear horizontal integration, will make it difficult for Contracting Parties to implement the ecosystem approach. Norway is working to develop a holistic and ecosystem based management in each of the LMEs in their EEZ, giving priority to environmental protection where there is a major conflict of interests. The plans are being created to encourage horizontal co-operation in an existing sectoral framework.

Most responding Contracting Parties indicated that sustainable development was the guiding principle for their system of marine spatial planning. This provides a good starting basis for transboundary and international cooperation. The fact that the responding Contracting Parties use environmental impact assessments, which were based on EU Directives, as a means of improving the balancing of the social, economic, and environmental spheres means that a common language, of sorts, exists with regard to the planning process. Though not strictly applicable to Norway, they are adopting some EU measures such as the Marine Strategy Framework Directive. This in turn can facilitate cooperation between Contracting Parties on marine spatial planning.

The duration of plans for Contracting Parties is undetermined or range from 10 to 25 years. The Marine Strategy Framework Directive, implemented through marine regions and sub regions, will require consideration to be given to coordinating the time span for marine spatial plans which cover adjacent areas. This would facilitate better ecosystem management and monitoring.

The process of marine spatial planning should involve three ongoing phases: Planning and Analysis (including forecasting and developing alternative scenarios); Implementation; and Monitoring and Evaluation. The 'Planning and Analysis' phase should include forecasts about the future spatial use of the marine environment and the development of alternative scenarios. Of the responding Contracting Parties only the Netherlands and Germany indicated that a future forecast on the use of the marine environment was incorporated into their plans. In Germany this was confined to the Schleswig-Holstein state plan which contains a future vision incorporating the 12 NM zone. The United Kingdom indicated that when its proposed system of marine spatial planning is operational it will include a strong element of forecasting with regard to the future use of its marine environment. Policy which gives clear guidance for future objectives for the marine environment, such as the National Spatial Planning Policy Document for the Netherlands strengthens the process of marine spatial planning. Contracting Parties can learn from the experience of the Netherlands in this regard.

Ongoing evaluation of plans is also considered to be a crucial part of the marine planning process. Only Sweden indicated that it was legally required to review plans before they were completed although Norway and the United Kingdom do include a plan revision process in their proposed marine spatial planning systems. The Netherlands also pointed out that although its current Integrated Management Plan does not require it to be reviewed before its expiry date (2015), a new future vision will be adopted in 2009, as part of a National Waterplan, and that this will be renewed every six years.

While this is not a formal review or evaluation of the management plan it will have an effect on it. It is vital to establish review processes for marine spatial plans so that their effectiveness can be evaluated, including their time scales and methods of implementation, so that ways of improving the plan can be considered and the plan can be adapted if considered necessary. The evaluation also feeds back into the initial planning stage and the process starts again.

It was also recognised by Belgium, Germany, the Netherlands, Spain, Sweden and the United Kingdom that public participation in the planning process can help reconcile the social, economic, and environmental spheres. Early and meaningful engagement of stakeholders in the planning process can help reduce conflicts and help overcome the sectoral way of thinking. Contracting Parties can learn from the experiences of one another in this regard, especially in the use of innovative tools of participation, as well as from international examples of marine spatial planning such as the Eastern Scotian Shelf Integrated Management Initiative.

Contracting Parties can also learn from the German and the Netherlands experience of integrating marine spatial plans with existing terrestrial plans. In particular, their experiences of using ICZM could help inform the processes used by other Contracting Parties when implementing marine spatial planning.

Contracting Parties can learn from the German and the Netherlands experience of zoning within their EEZs. They have adopted different criteria for zoning the marine area and are in the process of coordinating different uses and functions on the one hand and safeguarding the quality of the marine environment on the other hand. Instruments like priority areas, exclusion areas for specific activities, or spatial concentration of uses can be helpful in doing so. It would be useful if these processes were evaluated for their ability to deliver the ecosystem approach and to reduce conflicts. All Contracting Parties employing zoning also employ a sectoral approach to the issuing of permits which may not lend itself to the integrated management of human activities in the marine environment as required by the ecosystem approach.

13. Conclusions and recommendations

There is a need for further cooperation between Contracting Parties when constructing marine spatial plans. The experiences of Germany and the Netherlands in marine spatial planning, and the experiences of the Trilateral Cooperation on the Protection of the Wadden Sea, indicate that transboundary cooperation for ecosystem management is possible. This is especially relevant in the light of the Marine Strategy Framework Directive which encourages a regional seas approach to marine spatial planning and use of existing regional organisations, such as OSPAR, to facilitate this process.

OSPAR should continue to work on the development of a joint regional marine spatial planning perspective. This might include the development of OSPAR-region specific, tailor-made principles for marine spatial planning. Transboundary and regional aspects as well as specific sector-interests could be identified along with organisations relevant for them.

OSPAR should develop mechanisms for early transnational consultation on spatial plans. Such interactions could help promote integration, early stakeholder involvement and the introduction of marine spatial planning by all Contracting Parties.

OSPAR should develop mechanisms for Contracting Parties to exchange information on progress made, difficulties experienced and identify topics and areas where Contracting Parties' cooperation with marine spatial planning would be beneficial.

The benefits from international cooperation in meeting the spatial demand for Marine Renewable Energy are increasingly being recognised and marine spatial planning is an important tool in identifying such opportunities.

OSPAR should identify international organisations with interests in marine spatial planning and where closer cooperation would assist OSPAR to meet its obligations under the OSPAR Convention. Mechanisms for such cooperation should be developed and established.

Progress and future work in marine spatial planning will be reported to Ministers in 2010, including options for MSP in Region V and Areas Beyond National Jurisdiction.

OSPAR should be actively involved in and supportive of initiatives and projects on marine spatial planning undertaken by the European Commission under the Integrated Maritime Policy, for example pilot projects and workshops.

OSPAR should review, test and provide feedback on the UNESCO/IOC Guidelines on marine spatial planning focusing on the practical implication of the guidelines in areas under the jurisdiction of Contracting Parties as well as Areas Beyond National Jurisdiction.

The responding Contracting Parties actively engaged in marine spatial planning should adopt a truly integrated approach to the forward planning and management of the marine area. Attention should be paid to the United Kingdom Government's proposals to establish an agency (the Marine Management Organisation) which will oversee marine spatial planning in England, to see what lessons can be learnt for other Contracting Parties.

Contracting Parties need to develop marine policies, such as those used in the Netherlands, to facilitate future looking planning of their marine environments. Although sustainable development is viewed as the guiding principle for marine spatial planning by Contracting Parties, strong marine policy will define management objectives for the future use of the marine environment which will be incorporated into the plans. The principles of ICZM should be used in considering the sea-land interactions.

Participative and collaborative methods of engaging stakeholders in the planning process need to be developed. Tokenistic participation, such as allowing comments on draft plans to be made, only promotes reactive responses from stakeholders rather than involving them in the planning process. The 'early and continuing engagement of stakeholders in a clear management process is critical to the success' of marine spatial planning as it 'engenders trust and ownership of the process'. Contracting Parties can learn from the experiences of one another in this process. This can also help overcome the sectoral way of thinking and resistance to change.

Belgium, Germany and the Netherlands use GIS Systems in their marine spatial planning processes, with Sweden and the United Kingdom developing similar systems. Therefore it is recommended that other Contracting Parties implementing marine spatial planning utilise GIS Systems in order to facilitate cooperation.

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