



A guide to maritime spatial planning with  
nature in mind

Guidance for NGOs  
April 2019

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# 1 What is this guidance about?

## 1.1 Context

When the EU Directive on Maritime Spatial Planning (MSP) was adopted in 2014, it began the world's largest process on maritime spatial planning. 21 countries are due to submit their maritime spatial plans to the European Commission by 2021. This will be nothing new for some EU Member States, which started their maritime spatial planning some years ago. Belgium, for example, is already preparing its second plan. Germany has spatial plans in place for the territorial sea areas of three of its coastal federal states. England's first plans (of the 11 it has to make) were published in 2014, while Wales kicked off planning in 2009. For most other countries, however, this is their first time to develop a maritime spatial plan. The [EU MSP platform](#) gives an overview of country status.

The process of developing MSP involves stakeholder engagement and formal periods of public consultation. Article 9 of the MSP Directive states that 'Member States shall establish means of public participation by informing all interested parties and by consulting the relevant stakeholders and authorities, and the public concerned, at an early stage in the development of maritime spatial plans, in accordance with relevant provisions established in Union legislation. Member States shall also ensure that the relevant stakeholders and authorities, and the public concerned, have access to the plans once they are finalised.'

Effective engagement of environmental NGOs in these public participation and stakeholder consultation processes is crucial. However, the NGO community exhibits varying degrees of experience. NGOs of countries with longer standing practice in MSP are already well-versed in participating in MSP processes, while others have yet to establish the right contacts in their Ministries. [During the March 2017 Seas At Risk workshop on MSP](#) (examining how MSP can help to deliver good environmental status (GES)), these differences in experiences became very clear. One of the conclusions of the workshop was that sharing experiences among NGOs, and reflecting these in guidance, would be helpful in encouraging their involvement in MSP processes. This guide aims to contribute to that.

## 1.2 Objective of this guidance

The objective of this guidance is to raise awareness of how MSP can support healthy, productive and biologically diverse seas, instead of being simply an instrument for Blue Growth (as per the European Commission profile). It is therefore intended to support NGOs (Seas At Risk members and others) in their involvement in the MSP process in their country, and in their discussions with maritime planning authorities. Most importantly, it aims to share a vision of how MSP should be developed within the environmental limits set by the Marine Strategy Framework Directive (MSFD) and alongside the designation and management of Marine Protected Areas (MPAs). What unites these three policy instruments is the ecosystem-based approach (EBA) to management and planning, which is legally required by both the MSFD and the MSP Directive.

The guidance sets out:

1. Some legislative facts on the MSP Directive, and its links to the MSFD and MPAs;
2. Some core principles for good practice MSP;
3. Things NGOs should be mindful of when engaging in MSP;
4. Testimony from NGOs engaged in MSP processes in different European countries;
5. A repository of useful links to guidance documents and good practice examples.

## 2 Guiding principles for good practice maritime spatial planning

### 2.1 Guiding principles

The following guiding principles were developed, building on the principles (among others) that were developed by the Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM) and Vision And Strategies Around the Baltic Sea (VASAB)<sup>1</sup>.

1. Sustainable management – the environment as the foundation of social and economic development.
2. Ecosystem-based planning – breaking away from sectoral silos in planning.
3. Long-term perspective and objectives – getting the aims, objectives and policies of maritime spatial plans right.
4. Precautionary principle – not gambling with nature.
5. Marine Protected Areas, MSFD targets and sensitivity zoning as a precondition to MSP.
6. Strategic environmental assessment (SEA) – ensuring plans are in line with environmental objectives.
7. Participation and transparency – the importance of public participation and stakeholder engagement.
8. High-quality data and information basis – effective monitoring and closing evidence gaps.
9. Transnational coordination and consultation – the importance of cross-boundary cooperation on MSP.
10. Coherent terrestrial and maritime spatial planning – ensuring land-sea interactions.
11. Continuous planning – stay in the loop.

The sections in this guidance follow these principles and set out what NGOs should be mindful of when analysing MSPs from the perspective of nature.

### 2.2 The gap between MSP principles and reality

The MSP Directive identifies MSP as a cross-cutting policy tool, enabling public authorities and stakeholders to apply a coordinated, integrated and trans-boundary approach. The application of an EBA will contribute to promoting the sustainable development and growth of the maritime and coastal economies and the sustainable use of marine and coastal resources.

Implementing an ecosystem approach to Europe's seas — a key principle of the MSP Directive and several EU policies — is critical to securing the long-term health of our seas, but further efforts are needed to support its operationalisation. A key measure in the EBA tool box for Europe's seas is the development of an adequate – and well managed - network of MPAs. Implementing coherent and representative MPA networks is a failsafe option for safeguarding biodiversity and the services that marine ecosystems provide, such as seafood and oxygen. The EBA introduced by the MSFD and the MSP Directive provides an

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<sup>1</sup> Regional set of [MSP principles](#) adopted by all Baltic Sea Region countries within VASAB and HELCOM.



opportunity to employ a holistic process in designing, managing and evaluating MPA networks in Europe's seas<sup>2</sup>.

In practice, however, instead of framing the overall planning process, environmental targets often take a back seat to those of individual sectors. The push for accelerated 'blue growth' has led to more and more activities, such as wind parks and aquaculture, being planned in MPAs. Policy makers justify these activities on the grounds that they will support the achievement of GES and nature conservation goals. Aquaculture with algae, for instance, would decrease eutrophication of the sea, while the foundations of windmills would provide useful habitats for species living on hard substrates, meaning less need to actively restore habitats such as gravel beds.

The shortcomings of MSPs became very clear in Jones et al.'s 2016 analysis, which explored the realities of MSP by drawing on 12 case studies around Europe. It concluded that<sup>3</sup>:

- MSPs are often focused on achieving specific sectoral objectives related to nationally important strategic priorities and might thus be better termed 'strategic sectoral planning'.
- MSP processes tend to be complex, fragmented and ad hoc, rather than cyclical, adaptive and prescribed on an a priori basis.
- Top-down processes tend to dominate, with more participative platforms tending to be 'disconnected by design' from executive decision-making.
- Blue growth is the dominant overall priority, often aligned with strategic sectoral priorities, despite growing indications that the 2020 GES targets are unlikely to be met. This is consistent with increasing concerns about the tensions between the MSFD and the MSP Directive.

The paper also concluded that the realities of MSP in practice contrast sharply with widely recognised concepts and ideals of how MSP should work. This divergence stems from the fact that MSPs based on political expedience and blue growth priorities may potentially compete with ecosystem-based MSPs (including MPA networks), that are based on GES priorities.

## 3 What NGOs should be mindful of when engaging in MSP processes

### 3.1 Sustainable management – the environment as the foundation of social and economic development

In its preamble, the MSP Directive states that MSP is intended to be a cross-cutting policy tool, enabling public authorities and stakeholders to apply a coordinated, integrated and trans-boundary approach. The application of an EBA should contribute to promoting the sustainable development and growth of the maritime and coastal economies and the sustainable use of marine and coastal resources. There are however several different definitions and models of sustainable 'use' or development. The MSP Directive is, however, clearly inspired by a 'weak' model of sustainable development, i.e. a three-pillar model – economic, social and environmental – with MSP as the tool to establish the appropriate balance. It also very much profiles MSP as an 'economic blue growth' enabler. Article 1 of the Directive states, 'This Directive establishes a framework for maritime spatial planning aimed at promoting the sustainable growth

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<sup>2</sup> Seafood in Europe, EEA Report No 25/2016.

<sup>3</sup> Jones, P. J. S. et al., 2016, [Marine spatial planning in reality: Introduction to case studies and discussion of findings](#).

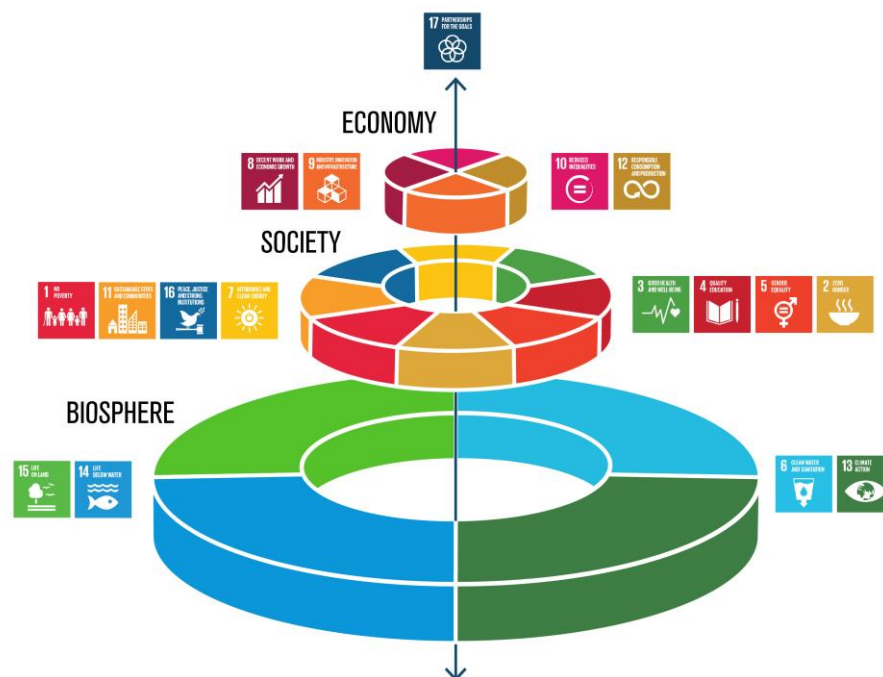
of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources.’ Article 5 goes on to list environmental objectives on par with economic and social objectives. This implicitly allows nature to be traded off against sectoral needs.

This is even more apparent in the recent publication of the Commission’s study ‘MSP for blue growth’. The study features a handbook on developing future visions and fiches for each sector, but any reflection on environmental limits or future visions is conspicuously lacking<sup>4</sup>.

#### Useful areas of focus for NGOs:

- From an EBA perspective, nature should be seen as the fundamental basis of all social and economic development (see Figure 1 below on the Sustainable Development Goals (SDGs)). An ocean economy can only thrive if seas are healthy.
- A stronger sustainability vision should be advocated, e.g. the ‘doughnut model’, in which the economy must ensure social targets, while staying within the limits of the planet (and ocean) or the SDG model below.
- Where blue growth is being disproportionately advantaged, speak up! It is often straightforward to prove this, by listing the advantages for the blue economy in the MSP alongside the direct advantages for nature protection.
- Sustainability means thinking about the coming generations, thus long-term impacts should be assessed in a transparent manner.

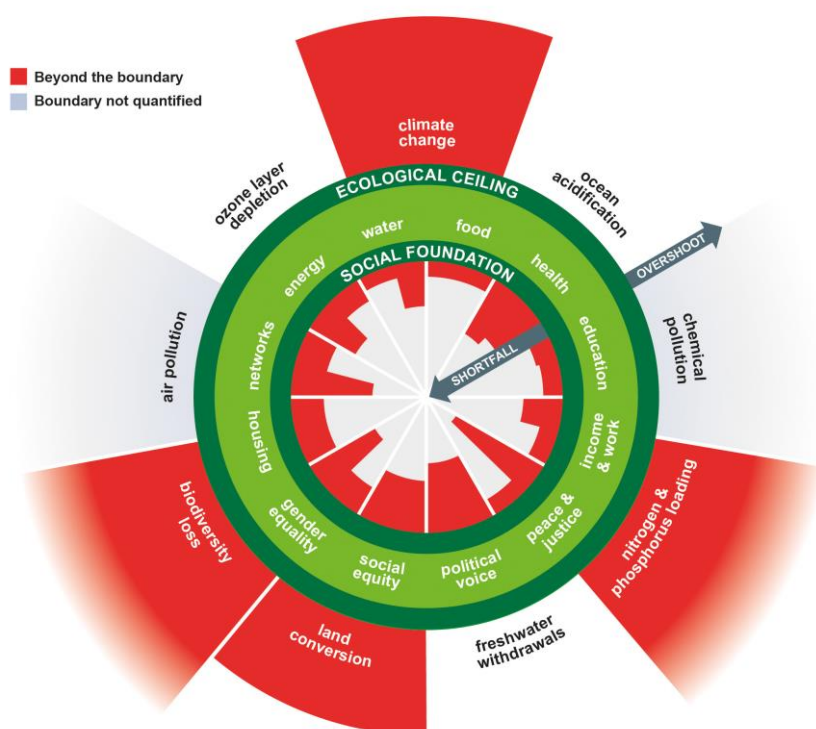
**Figure 1.** Sustainable Development Goals, with the environment as the underlying principle



Source: Stockholm Resilience Centre

<sup>4</sup> European Commission, April 2018, MSP for blue growth, <https://www.msp-platform.eu/events/msp-blue-growth-study-published>

**Figure 2.** The Doughnut Economy model



Source: Raworth, K., 2018, *Doughnut Economics: Seven Ways to Think Like a 21st-Century Economist?*, <https://www.kateraworth.com/doughnut/>

### 3.2 Ecosystem-based planning – breaking away from sectoral silos in planning

The MSP Directive states that the ‘application of an ecosystem-based approach will contribute to promoting the sustainable development and growth of the maritime and coastal economies and the sustainable use of marine and coastal resources’. It refers to the MSFD for the definition of ‘ecosystem-based approach’.

However, the MSFD does not really give a definition of ecosystem-based approach. It simply states that such an approach should be used with ‘*the aim of ensuring that the collective pressure of all activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while contributing to the sustainable use of marine goods and services by present and future generations.*’ It further specifies that ‘*the approach will also allow for an adaptive management which ensures refinement and further development as experience and knowledge increase, taking into account the availability of data and information at sea basin level to implement that approach. Member States should take into account the precautionary principle and the principle that preventive action should be taken, as laid down in Article 191(2) of the Treaty on the Functioning of the European Union.*’

A key problem is that the MSP Directive puts environmental objectives on par with economic and social objectives, and also promotes blue growth as an overarching objective. Article 5 states ‘1) *When establishing and implementing maritime spatial planning, Member States shall consider economic, social and environmental aspects to support sustainable development and growth in the maritime sector, applying*



*an ecosystem-based approach, and to promote the coexistence of relevant activities and uses. And 2) Through their maritime spatial plans, Member States shall aim to contribute to the sustainable development of energy sectors at sea, of maritime transport, and of the fisheries and aquaculture sectors, and to the preservation, protection and improvement of the environment, including resilience to climate change impacts. In addition, Member States may pursue other objectives such as the promotion of sustainable tourism and the sustainable extraction of raw materials.'*

The EBA is clearly defined by the Convention for Biological Biodiversity (CBD) (see Box 1 below). However, the functioning of the marine ecosystem and services as a whole still faces scientific uncertainties, the acceptance of which is inherent in asking for an EBA.

#### Useful areas of focus for NGOs:

- The EBA in MSP shall provide spatial solutions to managing human activities so that they are in line with the achievement of GES. Is this the case in your MSP? This requires you to find out how your country defined GES under the MSFD.
- Maritime planners should demonstrate how they have applied an EBA to the plan development process and how it has been used to identify spatial solutions to assure the achievement of GES. Planners will often assert that they have applied an EBA. Ask them to demonstrate this, e.g. ask them how the plan will achieve GES objectives for each of the MSFD descriptors.
- The EBA integrates several other MSP principles (see Section 2.1), which are similarly recognised in the MSP Directive. These include a long-term perspective and objectives, the precautionary principle, transparency and participation, high-quality data and information, planning that is adapted to characteristics and special conditions in different areas, coherent terrestrial and maritime spatial planning, and continuous planning. In analysing whether or not the MSP applies an EBA, ask yourself if these principles are evident.
- As a checklist, you can also use the EBA principles in Box 1 below, as well as the list of reports and guidelines in the Annex to this guidance.

#### **Box 1. Principles of an ecosystem-based approach, according to the CBD**

The following 12 principles are complementary and interlinked.

- Principle 1: The objectives of management of land, water and living resources are a matter of societal choices.
- Principle 2: Management should be decentralised to the lowest appropriate level.
- Principle 3: Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.
- Principle 4: Recognising potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem management programme should:
  - Reduce those market distortions that adversely affect biological diversity;
  - Align incentives to promote biodiversity conservation and sustainable use;
  - Internalise costs and benefits in the given ecosystem to the extent feasible.
- Principle 5: Conservation of ecosystem structure and functioning in order to maintain ecosystem services should be a priority target of the ecosystem approach.
- Principle 6: Ecosystems must be managed within the limits of their functioning.
- Principle 7: The ecosystem approach should be undertaken at the appropriate spatial and temporal scales.

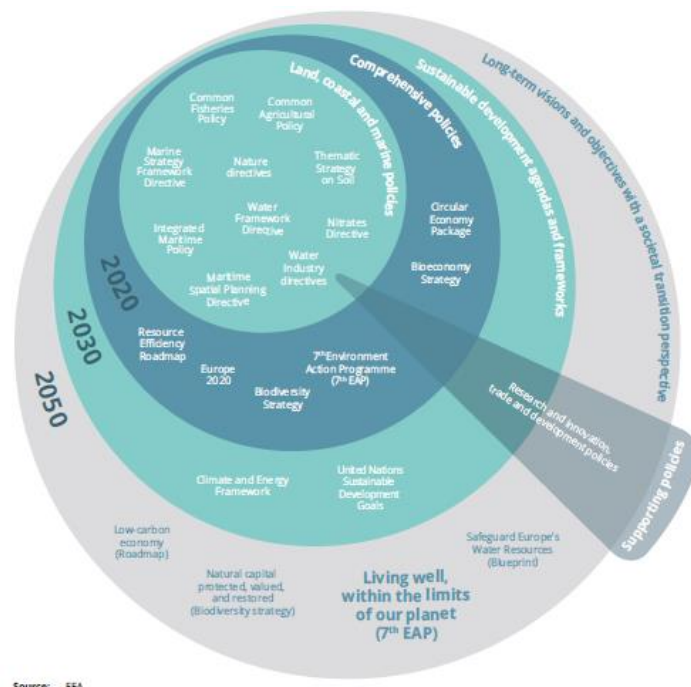
- Principle 8: Recognising the varying temporal scales and lag-effects that characterise ecosystem processes, objectives for ecosystem management should be set for the long-term.
- Principle 9: Management must recognise that change is inevitable.
- Principle 10: The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.
- Principle 11: The ecosystem approach should consider all forms of relevant information, including scientific, indigenous and local knowledge, innovations and practices.
- Principle 12: The ecosystem approach should involve all relevant sectors of society and scientific disciplines.

Source: <https://www.cbd.int/ecosystem/principles.shtml>

### 3.3 Long-term perspective and objectives – getting the aims, objectives and policies of maritime spatial plans right

The MSP Directive foresees a maximum 10-year cycle for MSP. It is important to place these planning cycles within a longer term context, preferably through an overall vision of sustainable development of the seas and oceans. Such a perspective could incorporate regional environmental measures, MSFD descriptors, Agenda 2030 and goals such as SDG 13 ([climate action](#)), SDG14 ([life below water](#)) and SDG 15 ([life on land](#)), among others. The overall vision should go even further: the 7<sup>th</sup> Environment Action Programme of the EU states that ‘by 2050 we will all live well within the limits of the planet’ (Figure 3). It is this long-term vision towards which MSP should strive.

**Figure 3.** Relevant EU policies for seas and sustainability until 2050



Source: EEA.

Source: European Environment Agency

#### Useful areas of focus for NGOs:

- As an NGO with nature in mind, check if the overall vision clarifies the long-term value of protection of marine environments and the importance of healthy and clean seas and oceans, rather than simply focusing on the provision of services for humans and economic growth.
- One of the key objectives of the MSP should be to support the achievement of GES, as the key objective of the MSFD. Often, however, countries have set very weak targets for the MSFD, and the MSP process may present an opportunity to strengthen those.
- In a longer term strategic framework, the MSP should contribute to the delivery of the Sustainable Development Goals. A recent UN Environment report gives possible solutions and guidance on how area based management approaches can be used to support SDG delivery<sup>5</sup>
- Policies or actions within the plan should be identified to support the delivery of the MSFD descriptors. For instance, maritime spatial planners may want to set out the requirement that developers must demonstrate how they will minimise potential impacts of underwater noise, certainly in MPAs.
- Check that it is clear how the policies and actions set out in the plan will ensure that the key objectives are fulfilled, and that the long-term vision is targeted.
- To make sure that MSFD objectives are implemented in the MSP, both planning cycles should be aligned.

#### **Box 2. NGO case study: a long-term vision for the second Belgian MSP**

A very small, yet busy, part of the North Sea belongs to Belgium. The North Sea acts as a hub for international activity, such as shipping lanes to non-Belgian harbours and fishing grounds for non-Belgian fisheries. In recent years, pressure has grown to increase the opportunities for blue growth.

Belgium was one of the first EU Member States to develop an MSP in accordance with the MSP Directive. That MSP applies from 2014 to 2020, and, in December 2016, the federal Secretary of State responsible for the North Sea launched a review of the plan.

The kick-off event for the review of the MSP in December 2016 and was various stakeholders, i.e. marine scientists, administrators, sector representatives and interested citizens. The Secretary of State confirmed his intention to develop a long-term vision with all stakeholders. In spring 2017, three working groups were set up: 'naturalness', 'multiple uses of space' and 'blue economy and innovation', with several experts ensuring that integrated coastal management, for example, were handled across the groups. Each working group met at least four times between January and June. Natuurpunt, together with other Belgian environmental NGOs such as WWF Belgium and Bond Beter Leefmilieu, coordinated their attendance at these meetings.

Natuurpunt attended the working group 'blue growth and innovation'. Each stakeholder was asked to draft a long-term vision for the North Sea. Such sharing of perspectives was useful: the 'economic driven' stakeholders, for example, proved to be unfamiliar with the principles of the ecosystem approach. Each working group compiled a final report, with every group member invited to contribute to the conclusions

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<sup>5</sup> UN Environment (2018). The Contributions of Marine and Coastal Area-Based Management Approaches to Sustainable Development Goals and Targets. UN Regional Seas Reports and Studies No. 205.

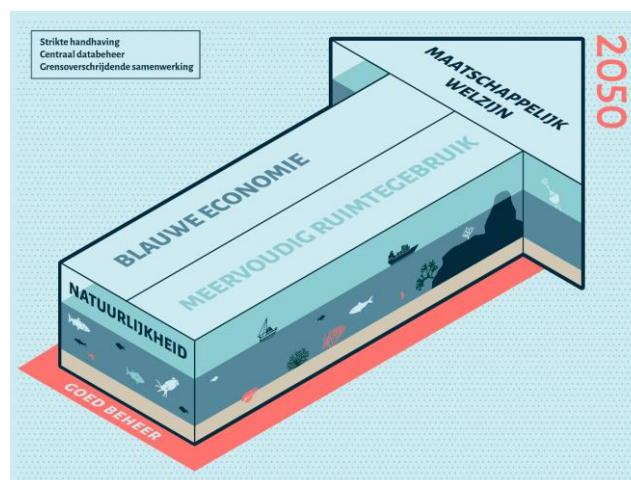
[https://wcmc.io/oceansdgs\\_technicalreport](https://wcmc.io/oceansdgs_technicalreport)

drawn. Although reaching a final agreed version was demanding, the end report indeed represented the vision of the members.

Following presentation of the final reports, the Secretary of State finalised a long-term vision. In December 2017, that vision was presented to the public (see Figure 4 below). It represents a clear ecosystem approach to human activities in the North Sea. The three NGOs, like all of the stakeholders involved, are satisfied with both the vision and the process by which it was agreed. The Secretary of State subsequently launched a 'North Sea think tank' to build on the positive contacts between stakeholders and to ensure that they are kept informed of relevant topics. Natuurpunt has requested a session on the EBA for all stakeholders and continues to await a response.

In June 2018, the draft MSP was made available for public consultation. However, the ecosystem approach of the long term-vision is not integrated fully in this new MSP, in which supporting the development of the blue economy appears to be given priority. This is a missed opportunity.

**Figure 4.** Summarised long-term vision of the Belgian MSP



(Author: Krien Hansen, Natuurpunt)

### 3.4 Precautionary principle – not gambling with nature

The MSP Directive states that '*Member States should take into account the precautionary principle and the principle that preventive action should be taken, as laid down in Article 191(2) of the Treaty on the Functioning of the European Union*' (see point 14, p. 3 in the Directive).

This means that planning has an obligation to anticipate potential adverse effects on the environment before they occur and to take all precautionary measures so that an activity will not result in significant harm. A similar, but distinct, forward-looking perspective should be applied with respect to the economic and social dimensions.

#### Useful areas of focus for NGOs:

- Precaution is a key element of the EBA. Planners should therefore demonstrate if, how and where precaution has been considered in the MSP.
- The functioning of the marine ecosystem still faces many unknowns. Asking for an EBA thus implies accepting a degree of uncertainty and calls for a precautionary approach. Impacts should be monitored in detail to improve knowledge of the marine ecosystem.
- The European Environment Agency developed a useful list of 12 rules to apply the precautionary principle (see Box 3 below).

- The development of alternative plans and options is particularly important (see rule 7 in Box 3 below). Make sure that these are also evaluated in the SEA (see Section 3.6).
- If precaution is lacking where it is needed to protect the marine environment, speak out!

### Box 3: Issues to consider in relation to precaution

1. Acknowledge and respond to ignorance, as well as uncertainty and risk, in technology appraisal and public policy-making.
2. Provide adequate long-term environmental and health monitoring and research into early warnings.
3. Identify and work to reduce 'blind spots' and gaps in scientific knowledge.
4. Identify and reduce interdisciplinary obstacles to learning.
5. Ensure that real world conditions are adequately accounted for in regulatory appraisal.
6. Systematically scrutinise the claimed justifications and benefits alongside the potential risks.
7. Evaluate a range of alternative options for meeting needs alongside the option under appraisal, and promote more robust, diverse and adaptable technologies so as to minimise the costs of surprises and maximise the benefits of innovation.
8. Ensure use of 'lay' and local knowledge, as well as relevant specialist expertise in the appraisal.
9. Take full account of the assumptions and values of different social groups.
10. Maintain the regulatory independence of interested parties while retaining an inclusive approach to information and opinion gathering.
11. Identify and reduce institutional obstacles to learning and action.
12. Avoid 'paralysis by analysis' by acting to reduce potential harm when there are reasonable grounds for concern.

Source: European Environment Agency, 2001, Late lessons from early warnings: the precautionary principle 1896-2000, Chapter 16: Twelve Late Lessons

## 3.5 Marine Protected Areas, Marine Strategy Framework Directive objectives as a precondition to Maritime Spatial Planning

There is a clear connection between MSP, the MSFD, the EBA and MPAs. Preamble 15 of the MSP Directive states that '*MSP has to contribute to achieving the objectives of, inter alia, MSFD, [Habitats](#) and Birds Directives, the Water Framework Directive as well as the Common Fisheries Policy.*'

The key objective of the MSP should in our view be to support the delivery of GES, as the core requirement of the MSFD, including supporting the functioning of an ecological coherent network of MPAs.

MSPs should advance Member State targets set under the MSFD and lead the way in their implementation. The EBA, which was developed in the context of the CBD and is required under both the MSP Directive and the MSFD, is an important holistic approach, with a focus on preserving and restoring marine ecosystems and maintaining ecosystem services to support human needs.



#### Useful areas of focus for NGOs:

- Countries are lagging behind in the implementation of the Birds and Habitats Directives in the seas and oceans. MSP should not be used as an excuse to delay designation and implementation of management measures in MPAs still further but, rather, should be used as an opportunity to designate new Natura 2000 areas (in particular gaps still persist offshore and in the Mediterranean and Black Sea regions) and more importantly to establish management measures in designated areas. In Belgium, for instance, the measures to protect the Vlaamse Banken Natura 2000 area were first set up under the MSFD framework, repeated in the first MSP and then integrated into a specific management plan for the area.
- For designation of new areas, keep in mind that MPAs, and especially Natura 2000 areas, should be identified on the basis of scientific criteria (described in the Nature Directives or in guidance from the Regional Sea Conventions) rather than simply being the 'leftovers' after all other space is taken up by sectoral plans.
- Sensitivity mapping of ecosystems and future marine and maritime activities is important in determining the scale of future pressures on the marine environment. In carrying out this exercise, planners should seek to direct activities away from highly sensitive/protected areas by identifying areas of least and highest environmental constraint.
- Sensitivity mapping could also be carried out to identify areas suitable for habitat and species recovery and enhancement.
- If the MSP includes measures to manage activities inside Natura 2000 areas, you need to check carefully that the planners have made an Appropriate Assessment<sup>6</sup> of all of the activities – existing and future – taking place there, in particular fisheries, before defining management measures.
- The GES description and objectives that your country set under the MSFD should fully frame the MSP. Bear in mind that the MSFD is the legal instrument that provides the framework for an EBA to human activities (Article 1(3) MSFD).

## 3.6 Strategic Environmental Assessment: a key tool to ensure plans are in line with environmental objectives

The [SEA Directive](#) (2001/42/EC) establishes environmental assessment as an important tool in integrating environmental considerations into the preparation and adoption of plans and programmes.

Early, participatory and iterative SEA of the plan should help to identify where sectoral plans and spatial elements may be incompatible with each other or with MPAs and wider biodiversity. The results of the SEA should then be used to refine policies and spatial mapping.

Article 3 of the SEA Directive, on scope, does not explicitly mention maritime spatial plans but states that SEA *'Shall be carried out for plans and programmes referred to in paragraphs 2 to 4 which are likely to have significant environmental effects.'*

Similarly, Preamble 23 of the MSP Directive states that *'Where maritime spatial plans are likely to have significant effects on the environment, they are subject to Directive 2001/42/EC (SEA Directive). Where*

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<sup>6</sup> An Appropriate Assessment differs from an Environmental Impact Assessment (EIA), as it relates to the conservation objectives of the Natura 2000 sites and the objective to achieve Favourable Conservation Status of the species and habitats protected.

*maritime spatial plans include Natura 2000 sites, such an environmental assessment can be combined with the requirements of Article 6 of Directive 92/43/EEC<sup>7</sup>, to avoid duplication<sup>8</sup>.*

Member States must put in place a screening process to decide whether or not their MSP is likely to have a significant effect and thus requires an SEA. In practice, however, most Member States seem to be willing to carry out an SEA.

Useful areas of focus for NGOs:

- Make sure that the planning process goes hand-in-hand with an SEA. MSPs by default have an impact on the marine environment (unless they are a do-nothing plan).
- In the (unlikely) event that planning authorities claim that an MSP does not require a SEA because it does not risk significant environmental effects, you should emphasise that this can only be decided with a 'screening' procedure, as required under both the SEA and Habitats Directives. This screening process must incorporate stakeholder consultation.
- The SEA Directive is quite prescriptive about the content and involvement of stakeholders and the public. The MSP should be opened to public consultation together with the SEA, after which the authorities should document how comments were dealt with. Draft plans should then be adapted on foot of the SEA and the public consultation. The final plan should be different from the draft plan.
- The purpose of SEA is to assess the plan and its alternatives. Cumulative impacts have to be assessed, providing a useful means of breaking through sectoral silos. You should make sure that 'do-nothing' plans are also evaluated, i.e. what is the current state of the environment and the impact of existing activities?
- Ensure that the SEA looks at transboundary impacts (required by the Espoo Convention).
- If the MSP includes Natura 2000 sites, the SEA must specifically address the requirements of the Habitats Directive and of the Appropriate Assessment<sup>9</sup> (even if the two assessments are combined).
- Bear in mind that there is a difference in approach for plans and projects. Not all impacts can be assessed for MSPs at plan level, e.g. the effect of new 'project zones'. The Appropriate Assessment undertaken for the MSP thus cannot replace an Appropriate Assessment for a specific project

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<sup>7</sup> Habitats Directive.

<sup>8</sup> Article 6(3) of the Habitats Directive: Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

<sup>9</sup> See footnote 6.

### 3.7 Participation and transparency – the importance of public participation and stakeholder engagement

The MSP Directive makes provision for public participation, though fails to set out a concrete procedure. Article 9 sets out that Member States:

- shall establish means of public participation by informing all interested parties and consulting the relevant stakeholders and authorities, and the public concerned, at an early stage in the development of MSPs, in accordance with relevant provisions established in Union legislation.
- shall also ensure that the relevant stakeholders and authorities, and the public concerned, have access to the plans once they are finalised.

For procedural steps to be followed, the MSP Directive refers to the public participation provisions of [Directive 2003/35/EC](#) providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment, as well as [the SEA Directive](#).

Public participation and stakeholder consultation is a key prerequisite in the MSP Directive, and, if conducted properly, will substantially contribute to . overall effectiveness and success in integrating environmental concerns into MSP. Two-way communication between the competent authorities, stakeholders and the public is the cornerstone of best practice in MSP. Active involvement is particularly important, as it will help to enhance the effectiveness of MSP implementation. Trust, transparency of the process, and good management of expectations will help to achieve positive participation. The benefits for improved decision-making and public acceptance of the measures to be taken can be considerable.

Public participation in general is a process for which no one-size-fits-all blueprint exists. Rather, it needs to be tailored to national, regional and local circumstances. One unifying feature across public participation systems, however, is that the best results come from processes that look further than the minimum requirements.

#### Useful areas of focus for NGOs:

- Right from the beginning of the process, the MSP authority must share a clear plan for stakeholder involvement and public participation, providing ample time and resources to this.
- Best practice stakeholder involvement and public participation should adhere to following principles:
  - Foster active involvement of stakeholders and the public;
  - Organise effective consultation;
  - Ensure access to background information.
- Maritime planning authorities should establish methods by which interested stakeholders can engage in the development of the maritime planning process, whether through local workshops or stakeholder interest groups. Ensure that participation is activated, rather than reduced to passively uploading documents to a website.
- A key element of the plan is the natural environment, therefore those groups representing the natural environment should have equal access to the plan and maritime planners as those representing maritime industry. The planners should be able to demonstrate the ways in which public opinion has been included and how it has helped to shape the development of the plan. Make sure the planning authority has identified all relevant stakeholders upfront and ensure a good balance between representatives from different backgrounds.
- After consultation, the planners should document how comments have been integrated and how the MSP has been adapted accordingly.

#### **Box 4. The UNESCO step-by-step guide to participation for effective MSP**

UNESCO provides some useful guidance on the who-how-when of involving stakeholders. They list the following reasons for involving stakeholders in MSP:

1. To encourage 'ownership' of the spatial plan, engender trust among stakeholders and decision makers, and encourage voluntary compliance with rules and regulations.
2. To gain a better understanding of the complexity (spatial, temporal, and other) of the maritime management area.
3. To gain a better understanding of the human influences on the management area.
4. To deepen mutual and shared understanding of the problems and challenges in the management area.
5. To gain a better understanding of underlying (often sector-oriented) desires, perceptions and interests that stimulate and/or prohibit integration of policies in the management area.
6. To examine existing and potential compatibility and/or conflict between multiple use objectives of the management area.
7. To generate new options and solutions that may not have been considered individually.
8. To expand and diversify the capacity of the planning team, in particular through the inclusion of secondary and tertiary information (e.g. local knowledge and traditions).

#### **Box 5. NGO case study: the Marine Conservation Society and engagement in Wales (UK)**

The Wales National Marine Plan covers Welsh inshore (0-12nm) and offshore waters (12nm- out to the median line with England, Ireland, Northern Ireland and Isle of Man) and is due to be adopted by the end of 2019. It is developed by the Welsh government (rather than an arms-length organisation), by a small number of officials within the Marine and Fisheries Division.

Several steps led to the development of the Plan.

- The first action for the Welsh Government as the Marine Planning Authority was to publish a Statement of Public Participation (as required by the Marine and Coastal Access Act 2009). This statement set out key dates for plan development and stakeholder engagement, providing a useful means of understanding the ways in which the Marine Conservation Society could engage with marine planning.
- The Welsh government subsequently set up a Marine Planning Stakeholder Reference Group, comprising representatives from different maritime industry, environmental regulators, and a number of voluntary groups, including those representing heritage and the environment. As the key environmental representative on the group, the Marine Conservation Society shares information with other environmental groups, as well as acting as a conduit for their concerns or questions.
- The Stakeholder Reference Group generally works well as a platform to discuss issues with the marine planners. One issue, however, is the short turnaround time for comments on documents. As these do not have an audit trail, it is often unclear whether comments have been accepted or rejected by planners. The fact that the Welsh government does not have to take the comments on board remains a periodic source of frustration.
- The Welsh government has also held a workshop and 'drop-in sessions' (often in coastal towns) to make the wider public more aware of the development of the marine plan in Wales. The workshops have been well attended but attendance at the local drop-in sessions has been very low.

The process of development of the plan, including consideration of marine planning approaches through to actual Plan development, has taken close to 10 years, with the Welsh Ministers having marine planning powers since 2009. This has been due to a range of issues including: political elections and changes in both UK and Welsh governments; changes in the priority afforded to marine plan development; and challenging stakeholder representations on contentious marine renewable development policy in the draft Plan issued for consultation, namely tidal lagoons and levels of spatial prescription in the Plan. As a consequence, notable changes have been made to the Plan to reconcile and resolve stakeholder concerns.

All in all, the Welsh government has taken solid steps to engage with stakeholders but could be more transparent about how such feedback is taken into account to inform the plan. It should also seek new ways to reach more people (e.g. the wider fishing groups and local community/coastal groups in Wales).

Whilst there has been a clear and consistent commitment to stakeholder engagement throughout, the reality is that marine planners in the Welsh Government have had to balance stakeholder expectations and wishes with Ministerial policy ambitions for Welsh seas. There is a requirement for the Welsh Government to periodically report on the monitoring and implementation of the plan, with a report to be published between 3 and 6 years from the expiration of the plan. Stakeholder engagement will continue to be incredibly important to the monitoring of the plan's efficacy, particularly given it is first ever marine plan for Welsh seas.

*(Author: Clare Reed and Wendy Dodds, Marine Conservation Society)*

### 3.8 High-quality data and information basis – effective monitoring and closing evidence gaps

Article 10 of the MSP Directive states '*Member States shall organise the use of the best available data, and decide how to organise the sharing of information, necessary for maritime spatial plans.*'

Planners often use poor data and gaps in knowledge to limit their efforts in developing effective MSPs. Often, data are available but spread between various authorities. International data collection projects and systems can also contribute to planning at national level. The MSFD requires Member States to collect huge amounts of environmental data and these should be fully integrated into MSP data systems.

Useful areas of focus for NGOs:

- Recognising that the sea is often a data-poor environment, planners should seek to develop a strategic programme of work to close data and evidence gaps and improve the information available for future plans. This should fully draw on data collection activities developed under the MSFD and, where possible, use cross-boundary cooperation (to ensure consistency between the MSP databases of neighbouring countries).
- Authorities often point to a lack of data as the reason for failing to carry out an effective impact assessment. Here, you should use the 'precautionary principle' as a counter-argument: if the impact is unknown because of data and knowledge gaps, then action should be taken to prevent it (i.e. redesign the plan to avoid the activity happening, consider alternatives etc).
- Citizen science networks should be involved to support the data and knowledge collection process.
- Monitoring of plans should, where possible, align with monitoring programmes established for MSFD descriptor targets, in order to demonstrate how the MSP supports the delivery of GES.



- Check if the considerations in the MSP are supported by reliable data, where data are lacking and how the planners intend to tackle issues of absent or unreliable data.

### 3.9 Transnational coordination and consultation – the importance of cross-boundary cooperation for Maritime Spatial Planning

Preamble 20 and Article 11 of the MSP Directive stipulate that Member States should consult and coordinate their plans with the relevant Member States. Similarly, they should cooperate with third-country authorities in the marine region concerned. The Directive acknowledges that effective cross-border cooperation between Member States and neighbouring third countries requires the competent authorities in each Member State to be identified. Member States thus need to designate the competent authority or authorities responsible for the implementation of the Directive. Outside of this identification obligation, Member States are free to organise cooperation to coordinate MSPs in the manner they see fit.

Article 11 mentions ‘existing regional institutional cooperation structures such as Regional Sea Conventions’. It makes sense to give such a coordination role to the Regional Sea Conventions (RSCs), which are already mandated to coordinate the implementation of the MSFD. To date, some, but not all, RSCs are involved in MSP coordination<sup>10</sup>. In the Baltic Sea, HELCOM shares its coordinating role with [VASAB](#), an intergovernmental multilateral co-operation of 10 countries of the Baltic Sea Region in spatial planning and development). The Barcelona Convention adopted the “Conceptual Framework for Marine Spatial Planning” in the Mediterranean Sea. UNEP/MAP was firstly created to address marine pollution issues in the Mediterranean and now includes integrated coastal zone spatial planning (ICZM) and ecosystem-based management (EBM). It promotes MSP in this context. OSPAR (North East Atlantic) and the Black Sea Convention so far have no coordinating role for MSP.

The Commission has created a Member State Expert Group on MSP (MSEG-MSP). Unlike the Marine Strategy Coordination Group (where Member States discuss progress with implementation of the MSFD and tackle coordination issues), the MSEG MSP focuses chiefly on exchanging experiences and organising workshops on certain aspects of MSP, rather than implementation. In addition, the Commission (DG MARE/EMFF and Interreg) also funds some projects to promote cross boundary cooperation, such as the NorthSEE, SUPREME, SIMWESTMED and Pan Baltic Scope projects.

Useful areas of focus for NGOs:

- Does (or did) the MSP process incorporate cross-border and regional cooperation on the MSP, as well as on the SEA? Has this been documented in the plan?
- Has there been any harmonisation of the MSPs between neighbouring countries or within the region, for instance through specific cross-border MSP programmes or the RSCs?
- If you are involved in OSPAR or Black Sea Convention processes, e.g. as observer, try to put MSP coordination on their agenda. (see box above).
- Find out whether you can get involved in the ongoing EU funded MSP projects on cross boundary MSPs. You find these listed in the [MSP Platform](#).

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<sup>10</sup> An overview of regional coordination initiatives can be found here: <https://www.msp-platform.eu/msp-practice/seabasins>

- Make sure that the coordination and harmonisation recognises nature areas and wildlife on both sides of a border. For instance, if the MSP designs management measures for fishing activities in a Natura 2000 area, make sure that the CFP Article 11 procedure has been followed, i.e. that these measures have been designed in cooperation with other Member States also fishing in this area.
- If you are aware of certain coordination issues or implementation failures and want this brought to the MSEG-MSP, then contact Seas At Risk (which has observer status in the expert group).

### 3.10 Coherent terrestrial and maritime spatial planning – ensuring land-sea interactions

Environmental problems in the sea are often caused by onshore activities, and vice versa. Originally, the draft proposal of the MSP Directive included integrated coastal zone management (ICZM). This was, however, vetoed by several countries, which argued that land planning falls solely within Member State competence.

The Directive states that ‘land-sea’ interactions have to be addressed (Article 1, Article 4, Article 6 MSP Directive), with Member States free to interpret this as they like. For example, they may use formal or informal processes, such as integrated coastal management, or reflect such interactions in their MSPs.

Article 7 (on land-sea interactions) states that ‘1) *In order to take into account land-sea interactions in accordance with Article 4(2), should this not form part of the maritime spatial planning process as such, Member States may use other formal or informal processes, such as integrated coastal management. The outcome shall be reflected by Member States in their maritime spatial plans.* 2). *Without prejudice to Article 2(3), Member States shall aim through maritime spatial planning to promote coherence of the resulting maritime spatial plan or plans with other relevant processes.*’

Preamble 16 states that ‘*Marine and coastal activities are often closely interrelated. In order to promote the sustainable use of maritime space, maritime spatial planning should take into account land-sea interactions. For this reason, maritime spatial planning can play a very useful role in determining orientations related to sustainable and integrated management of human activities at sea, preservation of the living environment, the fragility of coastal ecosystems, erosion and social and economic factors. Maritime spatial planning should aim to integrate the maritime dimension of some coastal uses or activities and their impacts and ultimately allow an integrated and strategic vision.*’

Preamble 17 seems to counter this land-sea integrated approach, however. It states that ‘*This framework Directive does not interfere with Member States’ competence for town and country planning, including any terrestrial or land spatial planning system used to plan how land and coastal zone should be used. If Member States apply terrestrial planning to coastal waters or parts thereof, this Directive should not apply to those waters.*’

Overall, a widely recognised definition of land-sea interactions for use in MSP/territorial planning activities, is lacking.

Useful areas of focus for NGOs:

- All relevant terrestrial planning and management authorities must be involved in the MSP process if it is to be balanced and effective. Ask the MSP planning authorities how land authorities (including municipalities) and stakeholders are engaged.
- Right from the beginning, relevant land-based developments should be included, as well as those in coastal waters.
- Ensure that NGO colleagues dealing with terrestrial and coastal issues are engaged when needed. Several countries are obliged to put ICZM in place, such as Mediterranean countries (required by the Barcelona Convention). Countries like e.g. Belgium and the Netherlands also have ICZM systems in place. Ask planners how ICZM processes are linked with the MSP process. Aim for a consistent integrated process combining ICZM and MSP.
- DG Environment commissioned a study which led to the production of the brochure, '[Land-sea interactions in Maritime Spatial Planning](#)'. This is designed to give an understanding of how land-sea interactions can be addressed when developing MSPs.
- It is important to remember that land-sea interactions are not just confined to the coastal strip, thus effective land-sea interaction planning and management may require extensive landward and transnational involvement<sup>11</sup>.

### 3.11 Continuous planning – staying in the loop!

MSP is a continuous process. According to the MSP Directive, MSPs shall be reviewed by Member States at least every 10 years (and more frequently, if the Member State wishes).

Useful areas of focus for NGOs:

- Regular monitoring of the MSP is essential. This should include both the ongoing process and the implementation of regulations and guidelines stipulated in the plan to support sustainable management of marine environments and decision-making processes.
- Environmental NGOs have a key role in following the implementation of the MSP to protect the marine world from potential environmental backlash.
- The impacts of the implementation of the MSP need to be monitored frequently. If you see negative environmental impacts as a result of the MSP, react! Remember that the MSP is intended to support the achievement of GES.
- Finally, make sure that the planning cycles of MSP and MSFD are aligned so as to be mutually strengthening.

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<sup>11</sup> Kid, S. et al., 2018, Maritime Spatial Planning and Land-Sea Interactions, ESPON interim report.

## 4 Some useful links to existing guidance:

A wide array of guidance and good practice on MSP already exists.

### EU and international

1. The European MSP Platform [European MSP Platform](#): is a service for Member States to share relevant knowledge and experiences of MSP. Here you can find a wealth of information on progress with national MSPs, regional coordination, international initiatives, guidance, etc.
2. European Commission studies: <https://www.msp-platform.eu/msp-resources/ec-msp-studies>
3. The [UNESCO/IOC maritime spatial planning programme](#) contains a comprehensive international overview of progress by country, including guidance on a [step by step approach to ecosystem based marine spatial planning](#)
4. UN Environment (2018). The Contributions of Marine and Coastal Area-Based Management Approaches to Sustainable Development Goals and Targets. UN Regional Seas Reports and Studies No. 205. [https://wcmc.io/oceansdgs\\_technicalreport](https://wcmc.io/oceansdgs_technicalreport)

### National and regional

1. eNGO report: [Effective UK marine planning: delivery of Good Environmental Status by 2020](#)
2. The UK National Ecosystem Assessment Toolkit (guidance on how to apply an EBA to decision-making) <http://neat.ecosystemsknowledge.net/>
3. Scottish Natural Heritage report: [An ecosystem approach to marine planning – a summary of selected tools, examples & guidance](#)
4. VASAB [Guidelines for the implementation of ecosystem-based approach in MSP in the Baltic Sea area](#) and [Guidelines on transboundary consultations, public participation and co-operation in MSP process](#) (adopted in 2016).
5. Regional set of [MSP principles](#) adopted by all Baltic Sea Region countries within VASAB and HELCOM.
6. [Maritime Spatial Planning: transboundary cooperation in the ... - SimCelt](#)
7. Coastal & Marine Union (EUCC) - <https://www.eucc.net/en> - provides guidance on land-sea interactions.



# SEAS AT RISK

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for the protection and restoration of the marine environment

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