

Maritime Spatial Planning

Joint NGO Position Paper

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GREENPEACE



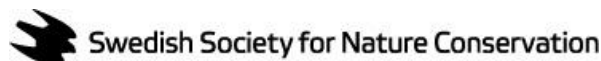
Coalition Clean Baltic



SEO/BirdLife



voice



Contacts:

- **BirdLife Europe** – Dr Sharon Thompson, Senior Marine Policy Officer, The RSPB (BirdLife UK); email: sharon.thompson@rspb.org.uk; Tel: +44 (0)1767 69 31 98
- **European Environmental Bureau** – Sarolta Tripolszky, Biodiversity, Water & Soil Policy Officer, EEB, Brussels; email: sarolta.tripolszky@eeb.org; Tel: +32 (0) 2289 10 93
- **Greenpeace** – Saskia Richartz, EU Oceans Policy Adviser, Greenpeace European Unit, Brussels; email: saskia.richartz@greenpeace.org; Tel: +32 (0)2 274 19 02; Mobile: +32 (0)495 290 028
- **Oceana** – Nicolas Fournier, Policy Advisor, Oceana, Brussels; email: nfournier@oceana.org; Tel: +32 (0)2 513 22 42; Mobile: +32 (0)47260 42 28
- **Seas at Risk** – Vera Coelho, Assistant Director, SAR Brussels; email: vcoelho@seas-at-risk.org; Tel: +32 (0)2 893 09 65; Mobile: +32 (0)485731086

Introduction

- The above environmental NGOs share the concern that an ever increasing array of maritime activities result in individual and cumulative impacts on the marine environment and are in potential conflict and competition with each other for marine space and resources. We are of the view that Maritime Spatial Planning (MSP), if properly applied, can help assess and address ensuing problems; we thus recognise the benefits of effective MSP for improving the sustainable management of human activities, protecting the marine environment and reducing conflicts between users of the sea.
- Provided that conservation areas are identified and designated on the basis of scientific criteria in accordance with, for example the EU Habitat and Birds Directives, we support MSP as a good tool to deliver further goals, notably Good Environmental Status (GES) under the EU Marine Strategy Framework Directive (MSFD) and the ecosystem-based approach to the management of human activities.
- We welcome the work to date by the Commission on furthering the concept of MSP, including the ten Principles of MSP as set out in the 2008 MSP Roadmap¹, and the 2010 update on progress in the “Achievements and Future Development” Communication².
- We believe that at the EU level, guidance on issues such as transparency, openness, cooperation and coordination between Member States and particularly on transboundary issues would be invaluable, recognising the principle of subsidiarity.
- However, we do not share the Commission’s view that an additional legally-binding instrument is the right option to promote the EU’s objectives in terms of sustainable development. It is our view that the MSFD provides the framework for the sustainable use of Europe’s seas and oceans, including a specific requirement for the use of spatial measures. We therefore feel that any binding commitment to apply MSP should be enshrined in the MSFD, perhaps as an annex to the existing Directive, rather than fragmented into a new legal instrument.
- Should the Commission still consider that a new legal instrument is the best option to promote MSP, we would like to draw the Commission’s attention to some key points in the following sections.

Issues of concern

- The objective (i): Directives are pieces of legislation which traditionally outline a specific policy objective (achieving Good Environmental Status in the marine environment by 2020; ensuring transparency and access to information; etc), leaving the choice of instruments and detailed application to the Member States. We see with concern that a MSP Directive – as currently envisaged by the Commission – would not set a single overarching policy objective, but rather would contribute to the objectives of other Directives and policy agreements. Furthermore, that the purpose of the Directive would simply be to impose the tool of maritime spatial planning upon the Member States. While we agree that MSP is a very useful tool, we think it should be used to meet certain objectives, and not used as an end in itself.
- The objective (ii): Another concern is that it is a legal instrument which is solely process-oriented (prescribing that Member States apply maritime spatial planning and that in doing so they apply certain principles). As a result, apart from being required to produce a plan, there will be no measurable result to be evaluated, and Member States are quite

¹ COM(2008) 791 final – *Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU*. Brussels, 25 November 2008.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0791:FIN:EN:PDF>

² COM(2010) 771 – *Maritime Spatial Planning in the EU - Achievements and Future Development*. Brussels, 17 December 2010. http://ec.europa.eu/maritimeaffairs/pdf/com_2010_771_en.pdf

adept at being legally compliant, but without any discernable alteration to their behaviour or the decisions they make.

- The motivation: Arguments that the MSFD is a piece of environmental legislation and therefore not geared towards solving conflicts of use is fallacious in our opinion. The MSFD was specifically designed with the aim to achieve GES *within a framework of sustainable use* of the marine environment and its resources. It also explicitly refers to a range of maritime sectors. Adding a new piece of legislation aimed at coordinating those uses seems redundant.
- The timing: Waiting for the development and implementation of any MSP Directive could be used as a delaying tactic with respect to Natura 2000 designation at sea, as well as other Marine Protected Areas (MPAs). For example, in the UK, some sectors have voiced the opinion that the process of designating nationally important MPAs should be delayed until marine plans are in place “to tell us where the MPAs should be”. In addition, the implementation of the MSFD is currently ongoing and Member States would be faced with an additional burden if they had to work on the implementation of a related Directive simultaneously.

Suggestions for ways forward

If the Commission decides a legislative option is absolutely necessary:

- Our preferred option is an annex to the MSFD, as an alternative to a MSP Directive.

If the Commission decides that an MSP Directive is necessary:

- The objective: An MSP Directive, should it go forward separately, should have as its main goal the strengthening of the MSFD. The goal of the MSP Directive should be to facilitate the implementation of an ecosystem-based approach to the management of human activities at sea, and it should assist the MSFD in achieving Good Environmental Status by 2020 in a framework of sustainable use of marine space and resources.
- The timing: The deadlines of the MSP Directive should be aligned with those of the MSFD. Maritime spatial plans should be part of the programmes of measures which need to be prepared by Member States by July 2015 and enter into force in 2016.
- The priorities:
 - The MSP Directive must contain an obligation for Member States to finalise their Natura 2000 network as part of a representative and well-managed network of MPAs which will also include nationally important MPAs and MPAs designated under the Regional Seas Conventions, and to meet the target set at Nagoya to conserve 10% or marine areas by 2020³. It must make it clear that, as stipulated by the Habitats Directive, the environmental protection areas need to be chosen independently based on the location and requirements of the features to be protected, and not dictated by the locational preferences of human activities. Ecologically significant areas are site-specific and cannot be “planned” around the needs of human activities. The integrity of ecosystems is the basis for ecosystem services and products, and not vice versa.
 - To deliver added value, a MSP Directive could be used as a tool to require data collection in the marine area, resulting in systematic surveys and data collection of environmental parameters at sea.

³ The Tenth Meeting of the Conference of the Parties (COP10) to the Convention on Biological Diversity (CBD), UNEP/CBD/COP/10/27, Strategic Goals and the Aichi Biodiversity Targets – “Target 11: By 2020, at least 17 per cent of terrestrial and inland water areas, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes.”