

ESEC input to the European Commission's progress report on Maritime Policy

Introduction

What is ESEC?

ESEC is a cooperation between the environmental NGO networks which work for the protection of the marine environment in Europe's regional sea basins: the Baltic, Black and Mediterranean Seas and the North-East Atlantic Ocean.

In 1996, the first ESEC conference took place in Lisbon, with the participation of Seas at Risk (SAR), Coalition Clean Baltic (CCB), the Mediterranean Information Office for Environment, Culture and Sustainable Development (MIO-ECSDE), and the Black Sea NGO Network (BSNN). The goals of the meeting were to increase communication between the several regional networks and find possible ways to address common concerns, as well as to coordinate action in EU and international policy fora. A second meeting was held in Helsinki in 1997.

In September 2008, the NGO networks gathered again in Brussels, due to a number of policy developments which pose new opportunities, challenges and threats to the protection of the marine environment in Europe. The Marine Strategy Framework Directive (MSFD) is the first encompassing piece of European legislation specifically aimed at the protection of the marine environment, and foresees a regional approach to the application of its provisions; and the EU's Integrated Maritime Policy (IMP), of which the MSFD is the environmental "pillar", is drawing unprecedented attention to maritime sectors at European level, posing potential dangers to the marine environment due to its foreseen growth in maritime industry activity.

The four NGO networks agreed at their Brussels meeting to cooperate further on the implementation of the Marine Strategy Framework Directive and on the Integrated Maritime Policy. They expressed some hopes and concerns in a joint statement, sent to Commissioner Borg on the 20th of October 2008.

At the 2009 European Maritime Day celebrations in Rome, the ESEC networks met again and decided to rise to Commissioner Borg's challenge to stakeholders. ESEC will remain an interested stakeholder in the development of the Integrated Maritime Policy, and as such the four networks have prepared this input to the Commission's progress report on Maritime Policy.

Why is ESEC interested in the European Union's Integrated Maritime Policy?

On the 10th of October 2007, and after a year-long consultation period, the European Commission published its Communication on "An Integrated Maritime Policy for the European Union"¹, also known as the "Blue Book", with an accompanying Action Plan². The stated aim of the Integrated Maritime Policy (IMP) is to integrate policies in the maritime domain, in order to ensure synergies and coherence between sectoral policies, with the ultimate goal of promoting European competitiveness. The Marine Strategy Framework Directive (MSFD) is supposed to be the environmental "pillar" of the Maritime Policy.

The Maritime Policy is thus aimed at establishing a coherent policy framework for actions under different sectoral policies in the maritime sphere, in order to avoid policy contradictions and to take advantage of mutually favourable policy opportunities.

However, the Maritime Policy Communication and its accompanying Action Plan are undoubtedly too focused on the economic perspective. Throughout the Blue Book and the Action Plan the oceans and seas are seen as sources of revenue, of economic possibilities and of resources to be exploited. Sustainability is mentioned as a prerequisite for the good

¹ COM (2007) 575 final

² COM (2007) 574 final

economic performance of sea-related activities and as a global challenge, but the environment is more often than not depicted as an aspect that has to be “balanced” against economic considerations, rather than as an opportunity and a prerequisite for economic growth and sustainability.

The implementation to this date of the Action Plan attached to the Blue Book mirrors this premise: most of the actions developed relate to maritime transport or other maritime economic activities, whereas actions to tackle biodiversity issues, for instance, are in far fewer numbers.

The NGO networks cooperating under ESEC are concerned about this trend and would like to make sure that new policies do not result in increased maritime economic activity which is followed by further environmental damage and pressure on ecosystems. Therefore, ESEC would like to contribute to the European Commission’s progress report on Maritime Policy and provide some ideas for the future of a truly integrated and sustainable policy for Europe’s coasts and seas.

ESEC’s priorities for a future Integrated Maritime Policy

The Maritime Policy of the European Union will be significant in relation to the development of maritime economic sectors. It mentions the concept of sustainability, but it is at its core an economic agenda where the environment simply plays a role. The NGO networks however are confident that the MSFD, as the environmental “pillar” of this policy, will effectively serve as the benchmark for the implementation of the Maritime Policy actions. Its regional approach places regionally-based NGO networks in a good position to follow-up on the implementation process, through their knowledge of regional specificities and their observership status and active participation in Regional Seas Conventions.

The compliance with all Good Environmental Status (GES) descriptors included in the MSFD will be a difficult task for Member States and will require cooperation from all stakeholders. The networks participating in ESEC believe that an Integrated Maritime Policy must assist Member States in achieving this legally binding goal, by designing integrated policies that enhance and in no way compromise Europe’s ability to reach a Good Environmental Status in all its marine waters by 2020.

Nevertheless, NGO networks are concerned about the efficiency of the integration of policies so far, and of the integration of environmental considerations into sectoral policies in particular. The following pages will provide some suggestions as to which policy areas and actions could contribute to a truly integrated Maritime Policy and to achieving GES in the marine environment by 2020.

The future of an European Integrated Maritime Policy

Commissioner Joe Borg announced in Rome, during the European Maritime Day celebrations, that the Commission would conduct a full progress report of the implementation of the Integrated Maritime Policy by October 2009, and that this report would also lay out the work for the following years.

The NGO networks participating in ESEC would like to draw attention to some aspects which they would like to see included in such a forward looking review of the European Union's Integrated Maritime Policy:

a) Principles

Environmental policy integration

The principle of environmental policy integration is currently (under the Treaty Establishing the European Community) an overarching objective of the EU. The Treaty's Article 6 reads: "Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3³, in particular with a view to promoting sustainable development", thus constituting a "quasi-constitutional commitment to environmental policy integration"⁴ for the European Union. The wording is kept in the Treaty on the Functioning of the European Union, but the new Article 11 does not limit the policy areas subject to this principle anymore.

This legal requirement should mean that the future Maritime Policy integrates environmental concerns at every level and in every step of the policy- and decision-making processes. Policies are environmentally integrated "when policy makers in 'non'- environmental sectors recognize the environmental repercussions of their decisions *and* adjust them by appropriate amounts when they undermine sustainable development"⁵. This has not been the case with the Maritime Policy launched in 2007, as exemplified by the policy analysis below:

Policy analysis 1: Shipping⁶

The Blue Book recognised the environmental impact of shipping (air pollution, port facilities, etc), but then came up with proposals to reverse the competitive disadvantage of maritime transport when compared to road transport. EU programmes (TENT and MARCO POLO) were to continue to support the creation of the Motorways of the Sea/Short Sea Shipping Networks, and the Commission further suggested the creation of a European Maritime Transport Space without barriers, which will allow for a less complex and time-consuming procedure for maritime transport. This denotes a clear conflict of interest: on the one hand, it is acknowledged that the marine and coastal environment is already excessively burdened with shipping activities; on the other hand, a further increase of such activity is deemed necessary and encouraged.

In order to reduce the environmental impact of shipping, the Commission has expressed an intention to actively support international efforts to diminish air pollution and greenhouse gas emissions from ships and make proposals at European level in the absence of progress in such efforts elsewhere. They would also make proposals for dismantling obsolete ships in an efficient, safe and environmentally sustainable manner. The Third Maritime Safety Package was also expected to contribute positively to the Community acquis on the prevention of

³Article 3 of TEC mentions, among others, common agricultural and fisheries policies, a common transport policy, environmental policy, the promotion of research and technological development, development cooperation policies, consumer protection, and measures in the spheres of energy, civil protection and tourism.

⁴JORDAN, Andrew and SCHOUT, Adriaan, "Environmental Policy Integration at European Union Level", in JORDAN, Andrew and LENSCHOW, Andrea (eds.), (2008): *Innovation in Environmental Policy? Integrating Environment for Sustainability*, Edward Elgar: Cheltenham

⁵JORDAN, Andrew and LENSCHOW, Andrea (2000), "'Greening' the European Union: What Can Be Learned from the 'Leaders' of EU Environmental Policy?", in *European Environment*, vol 10, p. 111

⁶*The Marine Strategy Directive and the EU Maritime Policy: Strategies for ecologically sustainable use in the light of existing and future growing levels of maritime industry activity*. Report produced by Seas At Risk on behalf of the Netherlands Ministry for Transport and Water. OSPAR document: OSPAR 08/05/info.01-Add.01-E

pollution caused by ships, and all of these things would help reduce the impact of growing traffic levels.

It must be remembered, though, that an increase in ship traffic also entails an additional burden on port facilities and logistic platforms. There are currently already some conflicts between port authorities that would like to expand their facilities, and environmental legislation, and in particular the Habitats Directive. Some port authorities have been expressing the view that ports need to expand into Natura 2000 sites, which is likely to result in serious impacts on sites already designated as of special environmental importance. The Commission mentioned some actions to reduce the environmental impact from shipping and ports, such as the reduction of the levels of air pollution from ships in ports, namely by removing tax disadvantages for shore side electricity, and the issuing of guidelines on the application of the relevant Community environmental legislation to port development. However, such initiatives are not nearly enough to counterbalance the negative impact of the foreseen increase in maritime transport.

The environment at the heart of an integrated policy

No “development” can result from the destruction of the marine environment. Protecting the marine environment must form the basis for economic growth, and it must be recognised that some economic activities (among which fisheries is the paradigmatic, but not sole, example) cannot even exist without a healthy environment and balanced ecosystems. Therefore, a truly integrated Maritime Policy must put environmental considerations at the heart of policy making. The currently ongoing reform of the Common Fisheries Policy is a step in that direction, in that the Commission's Green Paper acknowledges that environmental sustainability is a *sine qua non* for economic and social sustainability.

Putting the environment first can also provide opportunities, as exemplified by the case studies below.

Case study 1: The Clean Ship Concept - A strategy for uncoupling growth in shipping from environmental harm.⁷

The Clean Ship concept holds a real possibility of uncoupling growth in shipping traffic from environmental harm, and urgently needs EU leadership. A Clean Ship is designed and operated in an integrated manner to be efficient and to eliminate harmful operational discharges and emissions throughout its life. The Clean Ship approach requires a safety culture that maximises the opportunities for safe and environmental navigation while at the same time providing all possible safeguards in the event of an accident. It is a process that deliberately includes all stakeholders and has a clear objective in sight. In many respects it is a model example of applying the ecosystem-based approach to an industrial sector, and presents the possibility not just of achieving environmental goals but also creating commercial opportunities for businesses that target Clean Ship technologies and practices.

While some quality ship operators are already adopting Clean Ship approaches, and niche marketing themselves accordingly, most of the shipping industry continues to apply minimum standards with many not even managing that. Recommendations for EU action to forward the Clean Ship approach include:

- the development of an IMO Clean Ship Strategy;
- the establishment of Clean Ship Innovation Forums to promote and progress the concept at home and abroad;
- the establishment of a Clean Ship Data Centre to collect and disseminate data and information on the environmental impacts of shipping and on Clean Ship best practice;

⁷The Marine Strategy Directive and the EU Maritime Policy: Strategies for ecologically sustainable use in the light of existing and future growing levels of maritime industry activity. Report produced by Seas At Risk on behalf of the Netherlands Ministry for Transport and Water. OSPAR document: OSPAR 08/05/info.01-Add.01-E

- a Clean Ship pilot project for Maritime Schools to ensure seafarers know why it is important to protect the marine environment; and
- organisation of a system of economic incentives to encourage Clean Shipping and penalise sub-standard operators.

Case study 2: Reducing the carbon footprint of fisheries: A strategy for greening the fishing industry⁸

In the case of fisheries the careful selection of policies aimed at tackling one important issue can result in solutions to other serious problems; identifying actions that have multiple positive outcomes makes for efficient and effective policy-making. A significant reduction of CO₂ emissions in fishing activities can be achieved by switching from active, fuel intensive techniques to less fuel intensive (more passive) fishing techniques; in general less fuel intensive more passive fishing techniques are also substantially less damaging to the marine environment. Recommendations for EU action therefore include:

- the ending of direct fuel subsidies (through a revision of the EU's "de minimis" regulation on state aid for fishing enterprises);
- the imposition of duty on marine fuel (through the review of the Energy Taxation Directive in 2008);
- the use of financial incentives to facilitate and promote the transition to less fuel intensive and low impact fishing methods and gears;
- the treatment of direct and indirect fuel subsidies as environmentally-harmful subsidies (to be addressed through DG Environment's Roadmap for the Reform of Environmentally-harmful Subsidies);
- allocation of special quota and/or fishing zones for less fuel intensive, low impact fishing methods;
- environmental/ecological fiscal reform to make the market work better for sustainable development (through a shift in taxation from labour to fuels); and by
- making carbon footprint criteria part of sustainability assessments of fish products.

This would be difficult to achieve in a sectorally divided regulatory environment, but it should become substantially easier in the context of a fully integrated EU maritime policy. Indeed, perhaps the most positive aspect of an integrated maritime policy is that it contains the potential to effectively integrate policy and decisions regarding the Common Fisheries Policy (CFP), the MSFD and all other policy fields associated with the marine environment.

Ecosystem based approach

The Marine Strategy Framework Directive defines the ecosystem approach, in its Art. 1.3, in the following way:

Marine strategies shall apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such 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 enabling the sustainable use of marine goods and services by present and future generations.

An integrated Maritime Policy should apply the ecosystem-based approach to all sectors for which decisions are taken and policies are devised.

⁸The Marine Strategy Directive and the EU Maritime Policy: Strategies for ecologically sustainable use in the light of existing and future growing levels of maritime industry activity. Report produced by Seas At Risk on behalf of the Netherlands Ministry for Transport and Water. OSPAR document: OSPAR 08/05/info.01-Add.01-E

Transparency

An integrated Maritime Policy must be transparent throughout all steps of policy and decision-making processes. All stakeholders with an interest in the policy issue at hand must be involved and consulted. An all embracing stakeholder platform, as called for by Commissioner Borg, may be an adequate means to involve stakeholders from all quadrants, but it remains to be seen in which format such a platform will work. Different stakeholders have different levels of available resources to invest in providing the Commission with the necessary expertise and such circumstances must be taken into account when establishing such a stakeholder platform.

In order for public participation to be effective, resources need to be available to civil society. Not only should public access to policies, plans and programmes be ensured, but also such information should be translated into versions which are easier to comprehend and accessible to the general public for dissemination.

While DG Mare is normally transparent regarding the overall process of establishing a maritime policy, it is sometimes difficult for stakeholders to reach out to other Directorates General which often take the lead on specific actions. Integration of policies should also lead to an integration of principles, and transparency should be key amongst these.

In order to improve the understanding of those responsible for taking decisions and to ensure public accountability, transparency of the decision-making process and stakeholder participation is essential. Meaningful participation is only possible with accessible, timely, and accurate information for all stakeholders.

b) Policy areas

The merit of the Integrated Maritime Policy is that it aims to bring together all sectoral policies which are relevant to maritime activities and the marine environment. As experience has shown so far, maritime issues are not only relevant to coastal communities (landlocked countries have maritime industries too) or to the "traditional" maritime economic sectors of fishing and shipping.

While the NGO networks applaud this attempt at policy integration, there is a feeling that some policy areas which are relevant to an Integrated Maritime Policy are not being duly taken into account under the current Action Plan. On the other hand, there are policy areas which are already included in the efforts towards integration, but which the NGO networks feel should be addressed more carefully or in greater detail.

The implementation of the MSFD should provide the guiding lines for future policy developments. While the policy process which led to the Directive is over, its implementation is in full swing. The responsibility for ensuring that Good Environmental Status (GES) is reached by 2020 in all European waters lies with Member States, but it must be ensured no policy process initiated by the Commission hampers the achievement of that goal. Therefore, MSFD provisions must be kept in mind and complied with when devising policies in the fields of fisheries, maritime transport, coastal development, energy supply, etc. While criteria and methodological standards for further interpreting the 11 descriptors of GES are still under preparation, the Commission, as well as other policy and decision making bodies, should keep the spirit of the Directive in mind.

The review of the Common Fisheries Policy (CFP) will pose one such opportunity to create a policy framework which will contribute to the achievement of GES by 2020. Environmental objectives should be enshrined in the CFP as a prerequisite to fulfilling social and economic objectives, and the precautionary approach and the ecosystem-based approach to fisheries management must form the fundamental base upon which fisheries management is built within the CFP. In addition to that, the CFP should define a decision-making framework that ensures decisions are taken at the appropriate levels, differentiating between long-term strategic and operational management decisions. The CFP should also define instruments and competencies which deliver sustainable fishing capacity at EU and regional level; this includes legally-binding and time-bound capacity limits per fishery, both in quantitative and qualitative terms. In addition to that, access rules should be based on a set of criteria that ensure a transition to, and support for, environmentally and socially sustainable fishing. Finally, the decision-making processes under the revised CFP should be transparent and participatory.

Marine biodiversity is important, but usually somewhat neglected in Community papers relating to biodiversity issues. When the EU revises its biodiversity strategy, a substantial section should be dedicated to the specificities of marine biodiversity. In addition to that, invasive alien species remain a threat to the marine environment in Europe, with international shipping acting as a major vector for the introduction of such species. ESEC urges for the rapid implementation of the IMO's Ballast Water Convention actions to substantially reduce risks for introduction of aquatic alien species in European waters, as well as the development of EU regulations for ports and harbours, creating programmes to limit and prevent the spreading of already established aquatic alien species.

Other Community policies or legislation also have an impact on the marine environment and should not be neglected under a new Maritime Policy. The contribution of agricultural practices to marine eutrophication is all but negligible, which calls for integrating marine considerations under the Common Agricultural Policy (CAP). Current subsidies given under the CAP create major pollution problems, such as heavy eutrophication, in some European Sea Areas. In the Baltic Sea, for example, 50 % of the total nutrient load (nitrogen and phosphorus) in the drainage basin comes from the agricultural production nutrient run-off. Minor parts of the agricultural subsidies is used in agri-environmental schemes to reduce the agricultural nutrient run-off, but there is still not enough financing available to support good environmental agricultural practices, which means that CAP policies/subsidies undermine sustainable development. In order to address this problem, ESEC recommends that the CAP should be regionalised and that special requirements should be created for European Sea Areas having adverse eutrophication problems, making sure that the major part of agricultural subsidies in such drainage basins contribute to solving the eutrophication problem. Alternatively, other mechanisms to secure a substantial reduction of agricultural nutrient run-off in certain European sea areas must be developed.

Similarly, marine litter is an increasingly worrying threat, which needs to be tackled from several angles. EU waste policies should take it into consideration, as the quantity of waste at sea can only be substantially reduced by preventing waste creation at its source. The revision of the EU Directive on Port Reception Facilities and the process to review Marpol Annex V at the IMO will provide the Commission with a precious opportunity to create policies aimed at reducing ship-source marine litter.

Climate change policies must continue to have a two-fold marine focus: on the one hand, mitigation efforts can still go a long way as far as maritime sectors are concerned. Maritime economic sectors such as shipping and fisheries contribute substantially to greenhouse gas emissions. The world fleet of merchant vessels is estimated to contribute 2.7% of global GHG emissions in 2009⁹, whereas fisheries accounted for 1.2% of global oil consumption in 2006¹⁰. An integrated Maritime Policy must therefore ensure that all possible measures are taken to mitigate the climate impacts of these sectors. On the shipping side, the EU should be engaged in finding solutions at Copenhagen and at the IMO, and be prepared to take unilateral action to restrict GHG emissions from shipping if so needed. As far as fisheries are concerned, the reform of the Common Fisheries Policy should make sure that fishing capacity in the EU is reduced, and that reduction efforts focus on substantially cutting the most fuel intensive (which are usually also the most environmentally damaging) sectors of the fleet. Another course of action which should be facilitated by an integrated Maritime Policy would be to dismiss fuel subsidies under *de minimis* aid and to eliminate fuel tax exemption for fisheries.

On the other hand, adaptation to climate change also passes by building up ecosystem resilience in the marine environment. Preserving diverse and abundant marine life, through tackling problems such as overfishing and pollution, is paramount to maintaining and strengthening this resilience¹¹.

Finally, the European Neighbourhood Policy should also be considered in its marine-related components. In particular, the ENP could contribute to processes leading to the creation of real mechanisms and incentives for widening the membership of the Bucharest Convention, so as to strengthen opportunities and increase the availability of resources for the protection and sustainable management of the Black Sea. In particular, further efforts are needed to amend

⁹http://www.noordzee.nl/upload/actueel/Leaflet_CO2_shipping_2009.pdf

¹⁰Thrane, M. (2006), LCA of Danish Fish Products: New Methods and Insights. Int. J. LCA 11

¹¹Brander, K. (2008), Tackling the old familiar problems of pollution, habitat alteration and overfishing will help with adapting to climate change. Marine Pollution Bulletin, Volume 56, Issue 12, December 2008, pp. 1957-1958

the Convention on the Protection of the Black Sea against Pollution so as to allow the accession of the EC and other regional organisations of economic cooperation. In addition to that, cooperation and information exchange between countries of the Black Sea basin on environmental issues, as well as a closer cooperation between regional seas conventions for the Black Sea, the Mediterranean Sea, the Baltic Sea and the North-East Atlantic, would enhance environmental protection.