TRANSATLANTIC PLATFORM FOR ACTION ON THE GLOBAL ENVIRONMENT (T-PAGE)[1]

Review of EU Legislation and Implementation of Marine Protected Areas (MPAs)

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1 INTRODUCTION

Marine protected areas (MPAs) are now being implemented by a wide number of institutions and governments worldwide to address a range of problems from fish stock depletion to habitat degradation. In 2003, it was estimated that worldwide there were 4,116 MPAs containing coastal and marine elements (WWF, 2004).

The implementation of MPAs in the European Union (EU) is driven by a number of international, EU and national obligations and initiatives to which the EU and its Member States are committed. These include:

1. the World Summit on Sustainable Development (WSSD) and the Convention on Biological Diversity (CBD) targets to establish representative networks of MPAs by 2012;
2. the OSPAR agreement to work with HELCOM and the European Community, to identify the first set of Marine Protected Areas (MPAs) by 2006 and complete by 2010 a joint network of well-managed marine protected areas that will be ecologically coherent with the NATURA 2000 network;
3. EU Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the habitats Directive) (1992) which requires the establishment of Special Areas of Conservation (SACs); and
4. EU Council Directive 79/409/EEC on the Conservation of Wild Birds (the birds Directive) (1979) that requires designation of Special Protection Areas (SPAs).

Despite several international and regional political commitments, a legal basis that is over twenty five years old and strong support of environmental NGOs, progress on implementation of MPAs in the EU remains slow. As they can play a role in *inter alia* fisheries management and conservation, the poor implementation record is particularly striking when the EU is faltering in meeting its broader targets in two key areas (e.g. restoring stocks to maximum sustainable yield (MSY) levels by 2015 and halting the loss of biodiversity by 2010).

The purpose of review the institutional and practical arrangements for the common MPA categories used in EU waters. The document presents a brief summary of stakeholder perspectives on MPAs and highlights the blockages in the current system to further progress on implementation in Europe. The document is intended to inform US partners about current developments in Europe on MPA designation, and stimulate debate on effective ways in which to overcome blockages towards further implementation.

2 LEGISLATIVE AND OTHER ARRANGEMENTS RELATING TO MPAS

This section begins by describing the legal arrangements that are relevant to the establishment of MPAs. The international level is first considered, before discussing the EU. Throughout, the legal weights of the various instruments are discussed together with how they relate to nature conservation and fisheries management. To close, a summary is drawn that includes a comparison of legal definitions, including the IUCN classification system.

2.1 International/Regional

Originally the MPA concept arose from the idea of protected areas for biodiversity on land. It has now evolved to also include areas protected for other values, such as fish stocks. Nonetheless, the international or regional agreements, conventions and treaties in relation to MPAs are still essentially concerned with nature conservation rather than fisheries. In theory, these international/regional instruments are legally binding on Contracting Parties however, in practice, their effectiveness is very dependent on the political will for national implementation. Unless mentioned specifically, the UK is a Party to all of the instruments discussed, and other EU Member States may also be Parties.

2.1.1 Convention on Biological Diversity

The seventh meeting of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) adopted a Programme of Work on protected areas in 2004, including an objective of establishment and maintenance by 2010 for terrestrial and by 2012 for marine areas of a global network of comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas.

The CBD's Ad Hoc Technical Expert Group used the term 'marine and coastal protected areas' rather than MPAs in order to make it clear that its work applied in the coastal zone as well as at sea. It adopted the following definition: 'any defined area within or adjacent to the marine environment, together with its overlying waters and associated flora, fauna, and historical and cultural features, which has been reserved by legislation or other effective means, including custom, with the effect that its marine and/or coastal biodiversity enjoys a higher level of protection than its surroundings' (Secretariat of the Convention of Biological Diversity, 2004). The CBD's work on marine protected areas can be considered to be the leading work in this area in relation to nature conservation.

2.1.2 The Ramsar Convention

The Ramsar Convention requires Parties to take measures for the conservation and wise use of wetlands. According to the Ramsar definition, wetlands can include 'areas of marine water the depth of which at low tide does not exceed six metres'. Contracting Parties should promote the conservation and wise use of designated Wetlands of International Importance in their territory. Areas classified under Ramsar for protection do not necessarily receive any protection at national level; Parties must legislate separately for this to occur.

2.1.3 The Bern Convention

The Bern Convention aims to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the cooperation of several States, and to promote such cooperation. Parties to the Bern Convention are required to nominate protected sites, which make up the 'Emerald Network'. In EU Member States, those sites that are part of Natura 2000 (see section 2.2.1) are included in the Emerald Network.

2.1.4 OSPAR and Helcom

The 1992 Convention for the Protection of the Marine Environment in the Northeast Atlantic (OSPAR) is the instrument guiding international cooperation on the

protection of the marine environment of the North-East Atlantic. It combined and up-dated the 1972 Oslo Convention on dumping waste at sea and the 1974 Paris Convention on land-based sources of marine pollution.

In 1998, OSPAR Parties adopted a new Annex V to the Convention along with a Strategy to protect and conserve the biological diversity of the maritime area […] and to restore, where practicable, marine areas which have been adversely affected (Sintra statement[2]). One of the tools proposed in the Strategy was a network of marine protected areas.

The Helsinki Convention[3] also contains provisions for the establishing of Baltic Sea Protected Areas (BSPAs) for the protection of species and natural habitats and nature types of the marine and coastal ecosystems of the Baltic Sea Area to conserve biological and genetic diversity and to protect ecological processes. In the case of resource exploitation, the Convention specifies that this should be done in the context of sustainable utilisation.

In 2003, at the first joint session of the OSPAR and HELCOM Conventions, ministers pledged to create by 2010 an ecologically coherent network of well managed marine protected areas covering the North-East Atlantic and the Baltic Sea, in support of commitments made at the World Summit on Sustainable Development in 2002 (OSPAR, 2003). To this end, HELCOM and OSPAR adopted a joint work programme to ensure consistency in their approach.

2.2 EU Legislation and Strategies relating to MPAs

There are four primary groups of instruments at the EU level that relate to MPAs. At present only two of these are legally binding (habitats and birds Directives; and the Common Fisheries Policy), and their approach reflects the sectoral approach of EU policy development.

2.2.1 Habitats and Birds Directives

The EU habitat Directive (92/43/EEC) requires Member States to designate Special Areas of Conservation (SACs) to protect some of the most threatened habitats and species across Europe. SACs are an integral part of the Directive and required the first listing of proposed Sites of Community Importance (pSCIs) by June 1998. Member States were then given six years, until June 2004, to designate sites as SACs. Under the EU birds Directive (79/409/EEC), Member States are required to designate Special Protection Areas (SPAs) for the conservation of a specific list of bird species. The sites designated under both Directives will together form an EU-wide network of protected sites known as 'Natura 2000'.

Natura 2000 is therefore the primary network of EU nature conservation protected areas, including in the marine environment. It is the basis on which the EU works to meet the international and regional obligations outlined above. The birds and habitat

[2] See http://www.ospar.org/eng/html/md/sintra.htm

[3] Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992. The Convention entered into force in 2000.

Directives are legally binding on EU Member States. As Directives however they differ from EU Regulations, for example, in that they set out what should be achieved by Member States rather than how to achieve it.

2.2.2 Common Fisheries Policy

The Common Fisheries Policy (CFP) is *the* framework for the management of EU and national fisheries. The basic Regulation (2371/2002) defines the general scope and objectives of the CFP as well as setting out in more detail specific objectives, management measures, access conditions and control and enforcement rules. The purpose of the CFP is to manage fisheries for both stock conservation and environmental purposes. Historically its focus has been on stock conservation and management however, as reflected by the significant body of Regulations focussed specifically on this area (see section 2.2.2).

The basic CFP Regulation *provides for* the establishment of 'zones and/or periods in which fishing activities are prohibited or restricted including for the protection of spawning and nursery areas' as well as specific measures to reduce environmental impacts of fishing. It does not require the EU or Member States to develop MPAs, but rather puts in place a legal framework through which they could be established. Indeed, as fisheries is a policy area of 'exclusive competence' of the EU, the management of fisheries beyond inshore waters, including spatial management, should be done through the CFP at an EU level.

2.2.3 Proposed Marine Strategy Directive

On 24 October 2005 the Commission proposed a Marine Strategy Directive (COM (2005)505). It has the aim of achieving 'good environmental status' in the marine environment by 2021, at the latest. It recognises the commitments made under the CBD to create a global network of MPAs by 2012[4]. Rather than creating new legal provisions or requirements for designating MPAs, the proposed Directive supports the implementation of existing legislation, notably the habitats Directive, and designation of Natura 2000 sites. Under the Directive Member States are not *required* to designate MPAs. Rather, Member States are required to 'identify measures' that need to be taken in order to achieve good environmental status, 'taking into consideration' the types of measures listed in Annex V. Of the measures in Annex V, the most relevant to MPAs are 'Spatial and temporal distribution controls: management measures which influence where and when an activity is allowed to occur.' As it now reads therefore, nothing is added to the existing birds and habitats Directives obligations. While the proposed Directive is yet to go through the European Parliament and Council, if it is adopted in its current form it is not expected to add any impetus for MPA designation or management.

The proposed Directive is the central implementing instrument of the Thematic Strategy on the protection and Conservation of the Marine Environment (COM (2005)504). This was adopted by the Commission at the same time as the Directive proposal. The overall objective of the Thematic Strategy is 'to protect and restore Europe's oceans and seas and ensure that human activities are carried out in a sustainable manner so that current and future generations enjoy and benefit from

[4] http://ec.europa.eu/environment/cites/pdf/diff_between_eu-cites.pdf

biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive'. As a Commission Communication, the Strategy does not carry any legal weight, but sets out how the Commission suggests the EU works to meet the objective and an analysis of the issues.

2.2.4 Integrated Coastal Zone Management

MPAs, especially those in the coastal region, should arguably be implemented within the context of integrated coastal zone management (ICZM). That is, taking a holistic and long term perspective to managing the coastal environment. The only EU level policy relating to ICZM is a Recommendation (2002/413) of May 2002 adopted by the Council and the Parliament on the implementation of ICZM in Europe.

This recommends a strategic approach and principles that Member States should follow in undertaking national ICZM stocktaking and national ICZM strategies. It is important to note that such recommendations are non-binding, so it remains to be seen to what extent the Recommendation is implemented. One element of the strategic approach recommended is the 'protection of the coastal environment, based on an ecosystem approach' based on *inter alia* the 'use of a combination of instruments'. Beyond this however there is no reference to MPAs. The Commission should review the Recommendation by 30 December 2006 and submit to the European Parliament and the Council an evaluation report.

2.3 MPA categories and terminology

The types of MPAs described above can be compared to the IUCN definition of MPA:

'Any area of the intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law or other effective means to protect part or all of the enclosed environment' (IUCN 1998)

Beyond this broad definition, IUCN go on to classify six types of protected areas, depending on their objectives:

Category I – Protected area managed mainly for science or wilderness protection (Strict Nature Reserve/Wilderness Area);
Category II – Protected area managed mainly for ecosystem protection and recreation (National Park);
Category III – Protected area managed mainly for conservation of specific natural features (Natural Monument);
Category IV – Protected area managed mainly for conservation through management intervention (Habitat/Species Management Area);
Category V – Protected area managed mainly for landscape/seascape conservation and recreation (Protected Landscape/Seascape);
Category VI – Protected area managed mainly for the sustainable use of natural ecosystems (Managed Resource Protected Area). (IUCN, 1994)

All of the MPAs legally defined in relation to the EU fall under the broad IUCN MPA definition. Most however relate to IUCN Categories III or IV. In the EU these two types of MPAs should contribute to developing a network of MPAs, so could be

considered as Category II. At the EU level there is no provision however for Category I MPAs.

3 IMPLEMENTATION OF MPAS

3.1 International

3.1.1 International Biodiversity Conventions

Parties to these Conventions are required to report periodically on their progress with implementation of commitments, including those to establish protected areas. Recent reports indicate that:

- in relation to the CBD, reports at the eighth Conference of the Parties to the Convention (2006) indicated that marine and coastal areas were underrepresented in protected area networks, and that there were particular issues with establishing marine protected areas outside the limits of national jurisdictions. Less than 0.5 per cent of the ocean is currently protected[5].
- for Ramsar, some thought has been given to the contribution that Ramsar sites could make to the conservation and sustainable use of fish resources[6]. However, papers for the meeting of Ramsar Parties in Uganda in 2005 noted that: 'since Criteria […] for the designation of Ramsar sites for fish were adopted […] 264 Ramsar sites have been designated using these Criteria (as of 21 April 2005), although these occur in only 77 of the current 145 Contracting Parties. It is clear that for fish the Ramsar site network is not yet the coherent and comprehensive national and international network envisaged by the 1999 Strategic Framework. Some systems lack representative sites to cover essential habitats for some important fish species.'
- in relation to the Bern Convention, although the Pan-European Biodiversity Strategy considers the establishment of a European coastal and marine ecological network to be an integral part of the Pan-European Ecological Network, marine sites are still poorly represented in the network[7]. The 2006 target is now considered to be too ambitious.

3.1.2 Regional Agreements

Baltic

In 2006, a network of MPAs in the Baltic is still not fully implemented. In many cases the Contracting Parties have not yet managed to demarcate Baltic Sea Protected Areas (BSPAs) or prepare management plans, and very few concrete steps have been taken to include the 24 proposed offshore BSPAs into a coherent network (OSPAR,2005)

North East Atlantic

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[5] See UNEP/CBD/COP/8/8: Report of the First Meeting of the Ad Hoc Open Ended Working Group on Protected Areas: http://www.biodiv.org/doc/meetings/cop/cop-08/official/cop-08-08-en.pdf.

[6] See: http://www.ramsar.org/sc/31/key_sc31_doc17.htm

[7] See STRA-CO (2006)12, Report on Protected areas and ecological networks. Available at http://www.strategyguide.org/200602/Documents/STRA-CO%202006%2012%20_protected%20areas__E_final.pdf

The Intersessional Correspondence Group on Marine Protected Areas (ICG-MPA) met 24-26 January 2006, in Gothenburg Sweden, to review MPA nominations by countries towards the OSPAR network of MPAs. Six Contracting Parties reported progress with nomination of sites to be considered as components of the OSPAR network (Annex 2). This means that only six of the twelve coastal Parties have nominated sites and although, the ICG-MPA has not completed its work of evaluating the sites, it is not expected that the current nominated sites will constitute an ecologically coherent or well managed network of MPAs (OSPAR, 2006).

3.2 European Union

3.2.1 Nature conservation MPAs - Natura 2000

Data on site designation contains so many limitations that drawing meaningful conclusions on extent of area designation becomes impossible[8]. Nonetheless, designation of marine sites is evidently slow and lags behind the proposed timeframe (as outlined in 2.2.1). This is further illustrated by the pushing back of the implementation deadline. The Action Plan issued with the Commission's recent 'Biodiversity Communication' (COM(2006)216) includes an action in reference to marine implementation of Natura 2000, aiming at having designations complete by 2008 and any necessary management measures in place by 2012 (action 1.1.1). This is eight years later than the deadline set in the CFP environmental integration Action Plan (COM (2002)186). Without excusing its poor performance, the EU is not alone in being behind schedule in implementing MPAs for nature conservation. It is estimated that the CBD 2012 target will not be met until 2069 (MPA News 2005).

In May 2004 Germany nominated ten Natura 2000 areas in the offshore areas of its EEZ in the North Sea and Baltic Sea, making it the first Member State to complete its marine nominations. Indeed, it is one of the few Member States to have designated offshore sites. The nominated MPAs within the German EEZ account for 31.5 per cent of the total offshore German marine area[9] and will be supported by a three year ICES project entitled 'Environmentally Sound Fishery Management in Protected Areas' developing fisheries management plans for each of the ten German NATURA 2000 areas.

3.2.2 Fisheries MPAs – the CFP

There are a number of cases of fishing activities being managed on a spatial basis under the CFP. Indeed, it is estimated that, in UK territorial waters around England and Wales, spatial management measures under the CFP cover 33 per cent of those waters (Rogers *et al*, 2005). Such measures are introduced for a number of different reasons, including fish stock management, nature conservation and resource access. It is often unclear what the objective behind area restrictions are. Examples include access restrictions in the Shetland and Orkney regions known as the 'Shetland box'

[8] Numerous sites have been designated according to both the Birds and the Habitats Directives, either in their totality or partially. The data on numbers of sites and area coverage may therefore not necessarily add up. http://europa.eu.int/comm/environment/nature/nature_conservation/useful_info/barometer/index_en.htm

[9] For more information, see http://www.ices.dk/marineworld/protectedAreas.asp.

for species which are 'biologically sensitive because of their exploitation characteristics' (Regulation 2371/2002, Article 18) and access restrictions in the 'Irish box', a 'biologically sensitive area' of high concentration of juvenile hake. (Regulation 1954/2003). While stock protection is their stated objectives, protection of local fishing fleets against the presence of vessels from other Member States also lay behind their establishment.

Other examples include the Norway pout, mackerel and plaice boxes, and boxes that protect spawning herring. The plaice box was set up in 1989 to protect juvenile plaice by restricting beam trawling. The Norway pout box was introduced in 1986, covering 95,000 km^2, to protect juvenile stocks of haddock and whiting from industrial fishing for Norway pout. The Mackerel Box was established in 1981 off southern England and Ireland in order to protect relatively high concentrations of juvenile mackerel. Seasonal area closures are also an increasing feature of the EU stock recovery plans.

The establishment of areas protected from fishing for nature conservation, such as the protection of sensitive habitats, is much more limited under the CFP however. Indeed, the European Commission only considers there to be seven such examples, most of which were adopted in the last two years:

- bottom trawling prohibition above the Posidonia meadows or other marine phanerogams in the Mediterranean since 1994;
- bottom trawling prohibition in the Mediterranean within three nautical miles from the coast or at depths less than 50 m where that depth is reached at a shorter distance;
- Prohibition on using bottom trawls or similar towed nets in contact with the bottom of the sea in the area known as "Darwin Mounds' north-west of Scotland adopted in 2004;
- similar prohibitions adopted in areas surrounding the Azores, Madeira and Canary islands adopted in 2005;
- restriction of trawling activities to only 14 geographically identified trawlable areas within the 25 nautical miles zone of Malta adopted in 2004;
- 'transitional' prohibitions on bottom set-nets at depths beyond 200 metres in ICES Divisions VIab, VIIbcjk and Subarea XII adopted in 2005; and
- bottom trawling and static gears ban for the protection of vulnerable deep-sea habitats on: the Hecate Seamounts, the Faraday Seamounts, Reykjanes Ridge (partem), the Altair Seamounts, and the Antialtair Seamounts adopted in 2005 (European Community, 2006).

In none of these cases is fishing completely prohibited for fisheries or nature conservation purposes.

4 STAKEHOLDER PESRPECTIVES

While working towards meeting is political and legal MPA commitments, the EU and Member States are not immune to the pressures from stakeholders, including industry and environmental NGOs. Indeed, it is important that stakeholders are involved in as managing fisheries and the broader marine environment. In considering the reasons behind the mixed level of implementation it is therefore important to consider the various perspectives of the various interest groups and government. Through another project funded by the Esmee Fairbairn Foundation, IEEP held a consultation with UK

stakeholders to discuss perspectives, issues and the reasons for slow progress on MPAs.

Some key points from that consultations:

- Most stakeholders are well-informed about the general purpose and intent of MPAs and supportive of their use.
- A large number of stakeholders have position papers on MPAs, although NGO positions were more developed than the fishing industry, for example.
- In Europe, MPAs designated for nature conservation purposes were not considered an issue, in that everyone agrees on the benefits that they could potentially offer.
- But there was general agreement that there was greater room for progress on MPAs for fisheries management purposes.
- There is scepticism (mainly fishing industry and governmental) over the benefits of fisheries MPAs and it was suggested that MPAs for fisheries purposes should be considered in its broadest context in order to ensure that the negative impacts of isolated MPAs, through the displacement of fishing effort, is not transferred to adjacent areas.
- In the case of MPAs under the habitats Directive, there are specific nature conservation objectives, but it the site specific objectives in relation to fisheries MPAs are particularly lacking and ambiguous.

Generally there is agreement that the MPAs debate in Europe has matured over the last few years but the two hot topics remain – the development of multipurpose MPAs and no take zones (NTZs). Stakeholders felt that the confusion over MPAs was further confounded by the concept of multipurpose MPAs and the lack of clarity in the use of specific MPA terminology.

4.1 EU perspectives

An EU level conference was held in 2005 on the role of MPAs in fisheries management and the protection of marine biodiversity. Participants included Member States representatives, the European Commission, members of the European Parliament, FAO representatives, and the fishing industry and NGOs. The discussions reflect the approaches and views/positions of most the key EU players (EBCD, 2005).

The European Commission is perhaps the most significant institution as it develops and proposes policy. Its approach largely reflects the legal framework, with DG Environment overseeing the implementation of Natura 2000 and DG Fish concerned with the CFP. As discussed in section 3.2.2, MPAs under the CFP are largely fisheries MPAs, with nature conservation being secondary in practice. DG Fish cites the lack of knowledge on the role of MPAs in fisheries and nature conservation, and questions the benefits of nature conservation MPAs for fisheries (EBCD, 2005). Its current approach to the issue is to promote research on MPAs.

4.2 Environmental NGO positions

There was generally a high level of coherence between the NGO positions in terms of their approach to MPAs and their implementation. The approach advocated by the environmental interests is a tiered approach to MPAs, building upon and going beyond the Natura 2000 network. Notably, Greenpeace appears to have higher

demands than the other NGOs with their specific call for MPA coverage of 40 per cent of the oceans as part of their marine environment vision.

4.3 European industry perspectives

A good summary of the European fisheries sector's view on MPAs can be found in the EBCD Conference report (2005). The key points emerging from that meeting were the following:

- Fishers have a poor understanding of the MPA concept as a whole
- Fishers feel that they have not been sufficiently involved in the debate on MPAs so far
- They agree that sensitive areas should also be protected from human activities but this should only be fishing activities but transport, pollution etc.
- They believe that a timetable for a network of MPAs is absurd
- They also believe that there needs to be a clear definition of what needs protection and
- The benefits of MPAs for fisheries still need to be assessed.

5 DISCUSSION AND CONCLUSION

5.1 Legal framework

There is a legal framework for MPAs for nature conservation and fisheries purposes at the international, regional, European and national levels. This means that the political and legal scene is now set for further implementation of MPAs and networks of MPAs. The EU is party to many international and regional instruments (discussed in section 2) and is now committed to specific timelines, for example the CBD 2012 target. A significant weakness of many international legal instruments as opposed to those at EU or national level is that they often lack an enforcement mechanism, so that even if Parties do not fulfil their obligations there is no consequence of such failure (Miller, 2005).

The types of MPAs required under the international commitments are loosely defined, leaving the level of protection to interpretation by contracting parties. This also applies to the EU Natura 2000 network, with Member States having significant flexibility in defining, developing and implementing MPAs. In terms of fisheries MPAs, there are no legal requirements to establish fisheries MPAs, but rather they are an available tool. The CFP and EU environmental policies (habitats and birds Directives) however do provide a reasonable legal basis on which to further implementation of MPAs at a national and European level.

In the EU, Member States have a legal obligation to designate Natura 2000 sites, including in offshore marine areas. This obligation was confirmed by the European Court of Justice in Case C-6/04, and appears to apply to all Member States that exercise sovereignty in offshore areas (eg in relation to oil and gas exploration). As the obligation to nominate Natura 2000 sites is binding and can be enforced with

financial penalties, it is likely that Member States will give priority to nomination of these sites, as opposed to nomination of sites under other international Conventions[10].

However, a number of questions remain to be answered in relation to Natura 2000 sites in marine areas. Once sites have been nominated and included on the Commission's site lists, Member States are obliged to prevent deterioration of sites, and to restore them to, or maintain, favourable conservation status. In theory, this could include a need to restrict fishing effort, though this would need to be done through the mechanisms of the CFP. Due to a lack of baseline information in marine sites, and overall a general paucity of information on the functioning of many marine ecosystems, it remains to be seen how the Commission will assess whether Member States are fulfilling their obligations under the Directive.

5.2 Implementation

Progress in implementing MPAs at the EU is mixed. A large area of EU waters can be considered as fisheries MPAs, whereby fishing is restricted spatially and/or seasonally for fisheries management purposes. Such spatial and seasonal controls are more common place in inshore waters where management is better developed and there is more control of local vessels. These fisheries MPAs are broad and shallow however. They are developed primarily for fisheries purposes (often single stock), apply only to certain gear/vessel categories and are often temporary. The restriction of fisheries on a spatial basis for environmental purposes is not common, although it may be increasing. Even these however lack permanency, in some cases, and rarely applies to all forms of fishing.

Progress on nature conservation MPAs is driven by the obligatory nature of EU legislation for the development of the Natura 2000 network. To date, most progress on the implementation of MPAs for nature conservation is being made inshore and very little offshore. MPAs for nature conservation are more permanent than fisheries MPAs. The Natura 2000 network tends not to be highly restrictive however, being concerned essentially with sustainable use rather than non-use. The consequence is that HPMRs are lacking..

5.3 Key barriers to implementation

The reasons for the variable progress in implementation of MPAs at the EU level, can be attributed to several factors:

1. **Lack of common terminology**. The MPA debate is complex and existing MPA definitions are very broad. Whilst this creates flexibility which can be positive as MPAs can be then tailored to fit specific circumstances, this can also lead to ambiguity. Consequently, the arguments presented for and against their use are more diffuse than effective in moving the debate forward. This has been a factor in stalling the MPA debate, both in fisheries management and nature conservation.
2. **Lack of detailed objectives for nature conservation and, in particular, fisheries at the European and national.** Nature conservation policies, including the habitats and birds Directives, and fisheries management both lack

[10] However, it is likely that Natura 2000 sites will also fulfil Member States obligations under international Conventions such as the Convention on Biological Diversity.

detailed objectives. This leads to conflicts amongst stakeholders about the types of MPAs are needed, either generally or specific cases.

3. **Mismatch of competences.** While Member States have obligations under the habitats and birds Directives, they have no powers to manage fisheries beyond 12 miles to meet those obligations. Beyond 12 miles, any measures for nature conservation purposes, whether for national or foreign vessels, must be adopted at the EU level.
4. **Arguments that there is little empirical evidence** to support MPAs. While this may be true in cases, and more data should further our understanding of MPAs, this argument is supported in light of the above two problems.

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Annex 1 Nominated sites to be considered as part of OSPAR network of MPAs

Country	Nominated sites	Comments
Portugal	One site, Formigas/Dollabarat bank, within the waters of the Azores, was reported to MASH[11] 05. It was the first OSPAR MPA nomination. It is a nature reserve with a delimited area of 52 527 hectares, extending to below 1500 metres in depth. Of that, 3 628 ha is also a Natura 2000 site, down to the 200 metre isobath.	Electronic nomination and Annex 1 of Rec. 2003/03 was submitted in January 2006.
Norway	Six sites were reported in December 2005. The six sites are: Selligrunnen (nature reserve), Røstrevet, Sularevet, Iverryggen, Tisler, and Fjellknausene, the latter five of which have fisheries closures to bottom-tending gear. The six in total are 190 539 hectares	Norway completed all the reporting requirements, including the electronic nomination database, on time.
Germany	Two very large sites were reported in January 2006, and two more in April 2006. The sites are: Helgoland Seabird Protected Area (a Natura 2000 SPA), Schleswig-Holstein Wadden Sea (national park and Natura 2000 SCI), SPA-Eastern German Bight (Natura 2000 SPA), and Lower Saxony Wadden Sea National Park (Natura 2000 SPA and SAC). The sites comprise a total of 1 192 278 hectares	
Sweden	Six sites were reported in January 06: Koster-Väderö archipelago (some enhanced protections including fisheries restrictions), Gullmarn fjord (also with enhanced protections), Nordre älv estuary (fisheries closures), Kungsbacka fjord (nature reserve), Fladen, and Lilla Middelgrund. The six sites overlap Natura 2000 sites, and are a total of 63 900 hectares	
UK	Fifty-six sites were reported in January 06. Full reporting requirements are not yet completed. Total area of sites reported by UK to the OSPAR network in Apr. 2006 is estimated to exceed one million hectares.	Accurate area data for the sites were not yet reported within the timescale, and will be reported in subsequent years.
France	Eight sites were reported in March 2006: Réserve Naturelle Nationale de la Baie de Somme, Réserve Naturelle de l'Estuaire de la Seine, Réserve Naturelle Nationale du Domaine de Beauguillot, Réserve Naturelle de la Baie de l'Aiguillon, Réserve Naturelle de la baie de Saint Brieuc, Archipel des Sept îles, Réserve Naturelle de Moëze-Oléron, Réserve Naturelle du Banc d'Arguin. They total 24 252 hectares, and are also Natura 2000 sites.	

Source : OSPAR, 2006

[11] MASH – Marine Protected Areas, Species and Habitats