Initial appraisal of a European Commission Impact Assessment

European Commission proposal establishing a framework for maritime spatial planning and integrated coastal management


- Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission’s Impact Assessment (IA) accompanying the above-mentioned proposal, submitted on 12 March 2013.

Limited space and resource availability in marine regions means that the organisation of activities in such regions face important challenges in different policy areas, including environment, fisheries, maritime transport and off-shore energy. (IA, p. 5). Maritime Spatial Planning (MSP) and Integrated Coastal Zone Management (ICZM) are two complementary governance tools the purpose of which is to ensure an integrated and comprehensive planning of maritime uses and management of coastal zones.

MSP is a public process for analysing and planning the spatial and temporal distribution of human activities in sea areas to achieve economic, environmental and social objectives. The process includes all sectoral policy decision-makers in a coherent decision-making process on the most efficient and sustainable use of sea space. In 2008, the Commission published its ‘Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU’, followed in 2010 by a Communication entitled ‘Maritime Spatial Planning in the EU – Achievements and future developments’.

ICZM is a tool for the integrated management of all policy processes affecting the coastal zone, addressing the land-sea interactions of coastal activities in a coordinated way. The ICZM Protocol to the Barcelona Convention makes ICZM compulsory for coastal Member States in the Mediterranean.

Both MSP and ICZM rely on similar key principles, such as stakeholder involvement, transparency, the ambition to implement the ecosystem approach and decision-making based on good data and information. One difference between the two concepts is that MSP focuses exclusively on the management of human uses of maritime space, and ICZM goes beyond human uses (IA, p. 9). Another difference is in geographical scope: all marine waters versus coastal land and waters. In practice, the two concepts have to a large extent been developed separately.

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• **Problem definition**

The IA identifies the following problems as requiring EU intervention. Increased demand for limited maritime space causes conflicts between sea uses (for example traditional activities such as fisheries and shipping could conflict with wind energy or offshore marine aquaculture). Lack of coordination has led to inefficient use of sea space, activities being more dispersed and larger sea areas than necessary being occupied. Human impact on coastal areas is growing and important aspects (for example coastal erosion or sediment management) are not covered by EU environmental legislation. The lack of coherent and transparent processes to manage human uses also leads to unnecessary costs and to a suboptimal exploitation of economic potentials. Climate change risks are significant in the EU’s coastal areas, but there is no coherent framework for integrating both mitigation and adaptation measures into the overall planning of sea of coastal use. The intense and increased use of coastal and maritime areas has led to degradation of marine and coastal environments.

The underlying causes for the identified problems relate to (i) the lack of coherent and sustainable planning and allocation by Member States of coastal and sea space to uses, including insufficient data sharing, (ii) insufficient coherence or linkage between the different elaboration of the spatial/human sea use management aspects of EU policies and programmes affecting the sea and coasts, (iii) lack of coherent and sustainable trans-boundary cooperation across marine regions and sub-regions, and (iv) inadequate involvement of the stakeholders in formulating and implementing solutions to coastal and maritime problems.

The IA also addresses the question of how the problem would evolve if no action at EU level was taken. In the absence of further EU MSP and ICZM policies, progress would be slow and insufficient, and there would be significant divergences between Member States. The significant benefits of integrated management would not be realised.

• **Objectives of the legislative proposal**

The *general* objective of the proposal is ‘to ensure a coherent approach to the sustainable development of the Member States’ uses of marine waters and coastal zones, in accordance with the ecosystem approach’ (IA, p.35).

Specific objectives are to ensure:
- balanced and sustainable territorial development of marine waters and coastal zones;
- optimised development of maritime activities and business climate;
- better adaptation to risks; and
- resource efficient and integrated coastal and maritime development.

These specific objectives are to be achieved through a number of operational objectives.

Annex I to the IA provides a very useful overview table of the links between ‘possible solutions’, underlying problem causes and the policy options.

• **Range of options considered**

In addition to the ‘no policy change’ option (baseline scenario), which is dealt with in the problem definition, the IA puts forward a sufficient number of policy options, ranging from non-binding guidance to legally binding measures ensuring implementation of MSP and ICZM.

*Option 1* – Providing guidance and development of *best practices*. 
Sub-option 1.a would entail the establishment and promotion of non-formalised guidelines on best practices for maritime planning and coastal management, to be elaborated together with a group of Member State experts.

Sub-option 1.b would go a step further by incorporating these guidelines in a dedicated Policy Programme, adding a series of supportive actions that promote and facilitate the implementation of MSP and ICZM, such as seminars, co-ordination of a platform or network, or development of a data and information system.

**Option 2** – Stimulating integrated maritime planning and coastal management through *non-binding measures*.

Sub-option 2.a would be to stimulate the establishment of a policy framework through a Council Recommendation to member States adopted in accordance with Article 292 of the EU Treaty, recommendations including for example the adoption of an integrated governance structure or provisions on stakeholder involvement.

Sub-option 2.b would mean linking the recommendation as described in sub-option 2.a to a funding instrument.

Both sub-options would be coupled with a process for the development of best practices.

**Option 3** – Obligation to implement integrated maritime planning and coastal management through a *legally binding framework*.

Sub-option 3.a would entail establishing a limited number of general binding obligations for the elaboration of a policy framework, through a framework Directive, coupled with the development of best practices. **Sub-option 3.a is the Commission’s preferred option.**

Sub-option 3.b would prescribe in more detail the way a policy framework should be elaborated, through a Directive.

Sub-option 3.c would set out in detail binding obligations regarding institutional set-up and co-ordination for MSP and ICZM, which would be directly applicable in Member States, through a Regulation.

The Commission indicates that the option of integrating MSP and ICZM processes through an amendment of the different sectoral policy instruments in EU legislation has been discarded, because of its complexity and time and resource constraints.

*• Scope of the Impact Assessment*

Each of the options and sub-options listed above is assessed for its effectiveness in reaching the stated policy objectives. The preferred option (framework directive) is expected to achieve transparency, stakeholder involvement, seamless planning and timely implementation of EU legislation that depends on sea use management, at the same time limiting the level of EU interference with Member States’ processes and competences to a minimum.

Under the heading ‘economic impacts’, the following economic benefits are identified:
- lower transaction costs for maritime businesses;
- improved certainty and predictability for private investments;
- improved certainty in obtaining financing for offshore investments;
- improved use of sea space and the best possible coexistence of uses in coastal zones and marine waters;
- improved attractiveness of coastal regions;
- reduced co-ordination costs for public authorities;
- greater development of innovation and research; and
- enhanced and integrated data and information.

Economic costs would be the implementation and administrative costs necessary for the required institutional set-up, co-ordination mechanisms, decision-making procedures, methods and tools for stakeholder involvement. The calculations are based on ‘general estimates’ in a very wide range (see below ‘budgetary and public finance implications’).

Positive environmental impacts are summarized as: (i) the improved use of coastal and maritime space; (ii) improved biodiversity conservation and environmental quality; and (iii) improved resilience to risks (relating to the impacts of climate change).

The social impacts taken into account are: (i) improved engagement of population and stakeholders; (ii) improved amenity and cultural heritage; (iii) increased business opportunities and jobs; (iv) improvements in maritime safety; and (v) an improved political co-operation climate.

According to the Commission, although all options would lead to similar kinds of (positive) impacts, the obligatory implementation of MSP/ICZM processes would provide the best guarantee for significant beneficial environmental and social impacts.

• Quality of data, research and analysis

The Commission has used several external studies and linked projects as data sources for this IA.

With the exception of the calculation of implementation and administrative costs, the assessment of the expected impacts is of a purely qualitative nature, evaluating the options on a four-point scale, graphically presented with symbols. The method used for calculating the costs is explained in Annex 6 (IA, p. 72).

The Commission warns that ‘Quantifying costs and benefits has proved to be very difficult as they are determined by the range of processes, functions and products and services found and produced in the coastal and maritime area. In addition, the long-term socio-economic benefits of implementation of MSP and ICZM and the fact that many positive impacts are based on further discretionary decisions means that they are extremely difficult to be quantified’ (IA, p. 41).

Costs are estimated and are within a very broad range (for example, total start-up costs in the EU are estimated to range from 40 to 420 million euro). Data used as a basis for these estimations result from case-studies, projects and questionnaire responses.

• Subsidiarity / proportionality

The proposal is based on Articles 43(2) (common agricultural policy), 100(2) (sea and air transport), 192(1) (environment) and 194(2) (energy) of the TFEU. The Commission argues that the added value of EU action in this area lies in the provision of an appropriate framework, allowing Member States to adopt comprehensive, co-ordinated planning and management mechanisms, because coastal and marine development processes both have a strong transboundary nature. At the same time, there is no EU involvement in the planning processes as such, or in determining detailed processes to be set up in Member States, where institutional systems are very different (IA, p. 33).

The national parliaments of Poland, Sweden, Germany, the Netherlands, Ireland, Romania, Belgium, Finland and Lithuania have issued reasoned opinions, raising problems with regard to the subsidiarity principle.

- **Budgetary or public finance implications**

The Commission warns that the costs of the different options are ‘subject to significant uncertainty’. This is in particular the case for start-up costs, which depend on the number and nature of support research and pilot projects necessary in the Member States (IA, p. 74).

Under the preferred option, the start-up costs for Member States would range between 18.8 and 148.3 million euro. Operational costs are estimated at between 4.8 and 9.7 million euro. The Commission argues that costs ‘are likely to be compensated by cost savings in the medium and long terms through efficiency gains’ (IA, p. 49).

- **Stakeholder consultation**

Between 23 March and 20 May 2011, a web-based public consultation was held, the result of which appeared to confirm the usefulness of implementing MSP and the benefits and added value of EU action on ICZM. Stakeholders stressed the need for a strong link between MSP and ICZM. However, from the public consultation, no clear preference could be derived for either a legally binding or a non-binding option for MSP in the EU.

The results of the public consultation are reported throughout the text of the IA. The full report and a more detailed summary of the outcomes are added to the IA in Annexes 9 and 10.

- **Monitoring and evaluation**

The IA contains examples of indicators to be used to monitor the implementation of the preferred option. It distinguishes between ‘output indicators’, linked to the operational objectives, ‘result indicators’, linked to the specific objectives, and ‘impact indicators’, linked to the general objective.

The Commission states that it intends to impose on Member States ‘only ‘light’ monitoring measures which are in line with achieving the optimal mix between administrative burden and regulatory effectiveness’ (IA, p. 11).

- **Commission Impact Assessment Board**

The Commission’s IA Board issues a first, very critical opinion of this IA on 16 December 2011, in which it asked the originating services, DG ENV and DG MARE, to resubmit a modified draft. In a second opinion of 30 April 2012, the IA Board asked further improvements. As a result, DG ENV and DG MARE seem to have better explained the expected synergies resulting from integrating/combining the MSP and ICZM policy tools within one legislative instrument, and have more illustratively portrayed the measures Member States will be expected to implement. However, the IA Board’s request to strengthen the impact analysis, by providing greater detail on the underlying evidence, assumptions made and methodologies used, and to distinguish more clearly between economic, social and environmental impacts for each policy option, seems to have been followed up only partially.

- **Coherence between the Commission’s legislative proposal and IA**

The legislative proposal seems to be coherent with the IA.
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This note, prepared by the Ex-Ante Impact Assessment Unit for the Committee on Transport and Tourism (TRAN), analyses whether the principal criteria laid down in the Commission’s own Impact Assessment Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.

This document is also available on the internet at:

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