

**Recent advances in the European Union’s Integrated Maritime Policy with particular reference to Maritime Spatial Planning and Integrated Coastal Management.**

Madame President, Committee Members of the Malta Maritime Law Association, Distinguished Guests.

Allow me to start by thanking you Madame President and the other Committee members of the Malta Maritime Law Association for conferring on me the title of Honourary Member of your Association and for inviting me to speak for the occasion.

After giving some thought to the subject of my intervention I came to the conclusion that it would be appropriate to dedicate my intervention to the salient features of the recent Proposal for a Directive on Maritime Spatial Planning and Integrated Coastal Management adopted by the European Commission just over two months ago, on the 12th March 2013, and on how it would apply to Malta.

The very first point I would like to make is that this Proposed Directive is intended as a framework Directive. Therefore, on the basis of the Proportionality Principle and as the Explanatory Memorandum itself spells out:

“The Proposal is limited to obliging Member States to set up or maintain a process or processes for maritime spatial planning and integrated coastal management. It establishes a set of minimum requirements for these

processes, building on existing experience in Member States and enabling their incorporation and continuation under a common EU framework.”

In the light of this, it is important to immediately spell out the rationale behind the Proposed Directive and what maritime spatial plans (MSPs) and integrated coastal management strategies (ICMSs) are all about.

Economic activities at sea are expanding and competition amongst them is therefore increasing; safety concerns are becoming more acute because of higher density considerations, notably in shipping, but not only; and environment impacts or conflicts between environmental uses and economic activities are becoming more prominent. It, therefore, makes sense, and it is increasingly necessary, for Member States to have effective management tools in hand which allow them to manage all of this offshore development coherently.

The Explanatory Memorandum very aptly describes maritime spatial planning as 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”. It further states that “the ultimate aim of maritime spatial planning is to draw up plans to identify the utilisation of maritime space for different sea uses.” It then goes on to describe integrated coastal management as “a tool for the integrated management of all policy processes affecting the coastal zone” that addresses “land-sea interactions of coastal activities in a coordinated way with a view to ensuring the sustainable development of coastal and marine areas”.

Article 5 of the Proposal establishes the principle that maritime spatial plans and integrated coastal management strategies shall apply an “ecosystem-based approach” to facilitate the co-existence of, and prevent conflicts between, competing sector activities in marine waters and coastal zones with particular reference to: **First**, ensuring security of energy supply of the Union – by promoting the development of marine energy sources, the development of new and renewable forms of energy, the interconnection of energy networks and energy efficiency; **Second**, enhancing the development of maritime transport, by the provision of efficient and cost effective shipping routes across Europe, including port accessibility and transport safety; **Third**, fostering sustainable development and growth of the fisheries and aquaculture sectors, including employment in fisheries and connected sectors; **Fourth**, guaranteeing the preservation, protection and improvement of the environment and the prudent and rational use of natural resources, halting the loss of biodiversity and the degradation of ecosystem services and reducing marine pollution risks; and **Fifth**, ensuring climate resilient coastal and marine areas.

At this stage, I want to make some observations on how Malta ought to proceed in order to seek to properly implement MSPs and ICMSs.

To do so I will be considering three separate, though inter-related, dimensions – that within the coastal and maritime areas of Malta; that relating to trans-boundary cooperation between Malta and other Member States – Italy in particular; and the inter-relationship between Malta and third countries in the same maritime region and/or sub-region.

As regards the first dimension, it is, in my view, essential first of all, for Malta to establish all existing and potential sector activities occurring or that can occur in its marine waters and coastal zones; then to identify the conflicts, both existing and potential, between all competing sector activities; furthermore to effect a prioritisation, where necessary, among the different competing sector activities taking into account all economic, social and environmental factors; and then to formulate the optimal distribution of maritime space among relevant stakeholders and the coordinated management of coastal zones, whether by establishing exclusivity of use in certain spaces or by coordinating the concurrent uses in others with a view to achieving the full potential of its maritime waters and coastal zones while at the same time ensuring that a good environmental status is maintained; and finally, it is also imperative that land-sea connectivity is ensured by requiring coherence between maritime spatial planning and integrated coastal management.

Malta will consequently need to fulfil minimum requirements which are procedural in nature. Malta will have to develop a maritime spatial plan and an integrated coastal management strategy, and establish the appropriate cross-border cooperation. The Proposal respects the Member States' prerogatives to tailor the content of the plans and strategies to their economic, social and environmental priorities, as well as their national sectorial policy objectives and legal traditions. The planning details and the determination of management objectives are therefore left in the hands of Malta, and the EU will not interfere.

In order to draw up the maritime spatial plans and the integrated coastal management strategies public participation and the collection of the best available data and information exchange become a must.

In this respect, the Proposal rightly insists that “public participation shall ensure that the relevant stakeholders and authorities and the public concerned are consulted on the draft plans and strategies” and that they are to “have access to the results once available”; and furthermore that Member States “shall organise the collection of the best available data and the exchange of information necessary” for the preparation of the MSPs and the ICMSs.

It therefore becomes imperative for all stakeholders to be consulted at an early stage in the formulation of our national MSP and ICMS and for them to assist in the collection of the best available data and to involve themselves in information exchange. It is only in this way that the existing and potential problems caused by the increasing and uncoordinated use of coastal and maritime areas, the inefficient and unsustainable use of marine and coastal resources, the uncertainties and lack of predictability on appropriate access to the maritime space, can be properly addressed and the optimal distribution of maritime space together with the appropriately coordinated management of coastal zones, can best be ensured.

The second dimension I mentioned above relates to the trans-boundary cooperation between Member States. It goes without saying that a Member State, like Malta, that has its own sea coast and that has a sea boundary with another Member State or Member States must see to it that what it does by

way of a MSP and an ICMS is not done in isolation, that it does not ignore the impact these instruments may have on its next door neighbour, and vice versa, so that the left hand knows what the right hand is doing and so that they act together and in tandem. The necessary coherence and coordination across the coastal zone or maritime region and/or sub-region concerned has to be ensured, since otherwise there would be a high risk that Member States establish a multitude of different systems operating in different timescales which will make cross-border cooperation almost impossible.

The Proposal specifies that this coordination should be achieved by means of: regional institutional cooperation structures covering the coastal zone or the marine region or sub-region concerned; or by means of a dedicated network of Member States' competent authorities covering the marine region and/or sub-region concerned. To this effect Member States are required to designate the authority or authorities competent for the implementation of the Directive for each coastal zone and marine region or sub-region concerned.

Again here it is imperative that Stakeholders who are representative of interests that are trans-national or Europe wide, liaise with the Member States concerned to ensure that the necessary structures are put in place.

The third dimension concerns cooperation with third countries. The Proposal is not very revealing on this. It simply says that "Member States bordering a coastal zone or maritime area of a third country shall make every effort to coordinate their maritime spatial plans and integrated coastal

management strategies with that third country in the marine region or sub-region and the related coastal zone concerned.”

In reality the Proposal cannot say much more since third countries are concerned here and it is obvious that the EU cannot make provisions binding on third countries without their concurrence and consent. And it is possibly this third dimension of the Proposal which, while aiming as it does, to complete the triangle, may be the most difficult to achieve.

It is clear from the above that the first dimension is exclusively dependent on the will and determination of Malta to do what it takes to introduce its own MSP and its ICMS. Having said this, it may not be a foregone conclusion that easy solutions can be found for existing or potential disputes between different interests competing for the use of the same space in such fields as energy, fisheries, aquaculture, maritime transport and the environment. The second dimension should not be too difficult to achieve given that cooperation and coordination between Member States is a matter that Member States have become, some to a greater and others to a lesser extent, used to. I would, however, not rule out difficulties when determining the coordination needed to iron out any discrepancies and conflicts that may arise between the MSPs and the ICMSs of two neighbouring Member States in a few isolated areas like, for example with regard to Spain and Gibraltar (the latter being part of the EU, having joined in 1973 under the UK) or with regard to the sea border dispute in the Gulf of Piran between Slovenia and Croatia although one hopes here that this will be finally resolved with the now imminent accession of Croatia to the EU on the 1<sup>st</sup> July 2013 and the commencement of the UN arbitration process thereafter.

The third dimension, since it involves cooperation with third countries, is intrinsically more complex and difficult to achieve even had there been no border or other disputes. Unfortunately this is not the case. It suffices to mention the difficult relationship between Greece and Turkey and, in particular, the Aegean dispute in so far as it relates to the Greek islands close to the Turkish coast; and the question of the division of Cyprus with the Turkish controlled Northern part of the island.

Other disputes that can, amongst others, be mentioned relate to those between Spain and Morocco concerning Ceuta and Melilla (both enclaves located on the North coast of Africa within the Mediterranean), and the dispute between Malta, Italy and Libya concerning the delimitation of the continental shelf between the three States for oil exploration purposes.

The drawing up of maritime spatial plans and of integrated coastal management strategies represent for a few Member States a predominantly internal exercise. For many others it becomes more complicated since it involves coordination with at least one other Member State, and for others still it becomes even more complex since it involves coordination with one or more third countries with whom the Member State concerned may not enjoy the best of relations, and, as outlined above, matters may be worse confounded because of some maritime boundary or territorial dispute.

I have highlighted some problems that may be encountered in the process of implementation of this Proposal once it becomes a Directive, not to throw cold water onto this very relevant Commission initiative, but in order to



sound a word of caution against an over zealous approach. In my view it is better to achieve the first dimension and most, if not all, of the second, with parts, if at all, of the third, rather than seeking to achieve everything all at once and risking to miss out completely or almost. It would be better if Member States introduce maritime spatial plans and integrated coastal management strategies for themselves and between themselves successfully and later on, by riding on the back of the success achieved, seek to complete the triangle by addressing any aspects not yet covered between Member States themselves and also those other aspects which concern third countries. It may also need to be decided early on that areas affected by border or territorial disputes, which are after all not too many, and do not cover vast expanses, especially when taking into account the totality of the coasts and waters covered by this Proposal, should be left aside without attempting to do anything in so far as MSPs and ICMSs are concerned rather than allowing such disputed parts to poison the atmosphere and stifle the possibility of cooperation on other trouble free parts.

After all, and I would like to conclude my intervention with these remarks: EU action in this area is of added value both because in this way Member State action on maritime spatial planning and integrated coastal management is ensured and streamlined, thereby guaranteeing consistent and coherent implementation across the EU; and because the cooperation needed among Member States and between Member States and third countries that share the same marine region or sub-region is also ensured or at least sought to be facilitated. After all cross-border cooperation in MSPs and ICMSs is needed since “ marine ecosystems, fishing grounds, marine protected areas as well

as maritime infrastructures, such as cables, pipelines, shipping lines, oil, gas and wind installations etc...run across national borders”.

If we manage to implement maritime spatial planning and integrated coastal management, we will achieve a far improved coordination of maritime and coastal activities and this can lead to significant benefits by providing transparency, predictability and stability, and by the reduction of administrative burdens and costs, for investors as well as for other operators and stakeholders.

If one were to consider for a moment the impact of MSPs on shipping, given that shipping is a major consideration for Malta, MSPs will not result in more restrictions or duplication of objectives for shipping. Rather, they will support the growth of maritime transport through a more efficient organisation of space. Furthermore, developments regarding shipping lanes and ports can be better coordinated and administrative costs for shipping companies will decrease since they will be less likely to fight unplanned decisions, lose time due to inefficient changes in shipping routes, or undergo uncertainty concerning the timing of infrastructure developments.

The expected outcome of implementation of this Proposal after that it becomes a Directive is described in the following manner:

“The ultimate aim of the Proposal is to secure the sustainable economic growth of marine and coastal economies while enabling diverse and sustainable uses of marine and coastal resources by considering the economic, social and environmental pillars of sustainability in line with the ecosystem approach.”

This is in agreement with the Europe 2020 Strategy for smart, sustainable and inclusive growth and more specifically with the European Commission's Blue Growth Strategy which seeks to create opportunities for marine and maritime sustainable growth.

Thank you