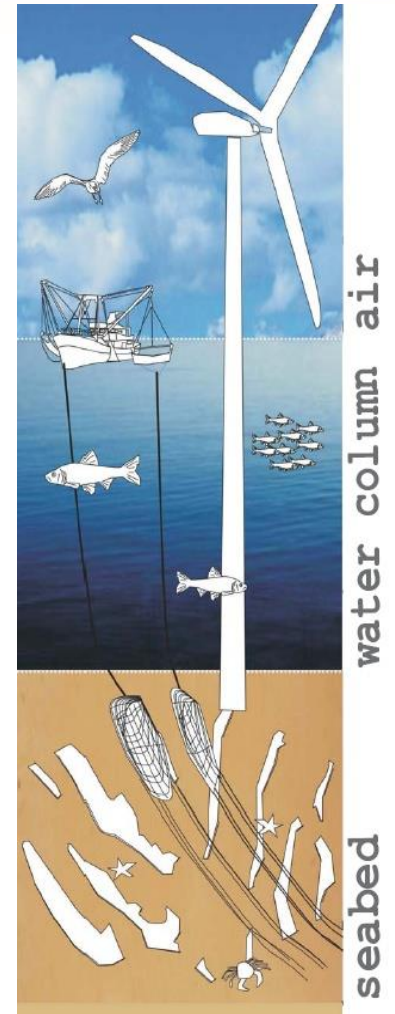


***Experiences with maritime
spatial planning: Belgian case
study***



Problem

Public is not fully aware of what happens at sea and for what purpose, except historical uses, such as shipping & fisheries

How to explain the public what this means?

- conservation of biological diversity
 - ecosystem-based approach
 - sustainable use of its components
- + new developments such as blue growth (EU strategy)
- Visualize through a MSP process indicating the range of choices to be made

Initial drivers for MSP in EU MS

ORE development & nature conservation was the policy basis for national MSP in BE, GER, NED and UK, starting from the beginning of 2000 and stimulated by the 5th North Sea Conference in Bergen (2002)

Two drivers in the EU:

- NC due to the Birds Directive (1979): identifying Special Protection Areas (SPAs) for rare and vulnerable or regularly occurring migratory species and the Habitats Directive (1992): designating Special Areas of Conservation (SACs), being sites in support of natural habitats or species and plants
- ORE due to the 1st RE Directive (2001) (replaced by RE Directive 2009/28/EC: 20% renewable energy in 2020)

MSP and EU

Directive 2014/89/EU establishes a framework for MSP

- MS are competent for planning their maritime area
- MSP is a process and should be ecosystem-based, taking into account sustainable and adaptive management, the precautionary principle and the principle of prevention
- MSP should contribute to sustainable development (management)
- MSP should respect the RE Directive (20% in 2020), the SEA Directive (2001/42/EC) & the public participation Directive (2003/35/EC)
- MSP should also respect rights and obligations of third countries (shipping, fisheries, research, laying of cables and pipelines)

Maritime spatial planning (MSP)

MSP Directive 2014/89/EU

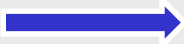
- Objectives (art. 5): sustainable development, growth maritime sector, ecosystem-based approach and promote coexistence of activities and uses.
MS determine how the different objectives are reflected and weighted in their plans
- Minimum requirements (art. 6):
 - establish a MSP process and make a spatial plan(s) (art. 8) (plan deadline = 31.03.2021)
 - ensure stakeholder and public participation (art. 9)
 - share data (art. 10)
 - ensure transboundary cooperation with other MS (art. 11)
 - designate a competent authority(ies) (art. 13) (18.09.2016)

Maritime spatial planning (MSP)

Excluded from MSP Directive:

- coastal waters as part of town and country planning (although land-sea interaction should be promoted) (cf. art. 192 (1), TFEU)
- activities with the sole purpose of defense and national security
- delimitation of maritime boundaries (e.g. The Netherlands-Germany in the Ems-Dollard region)
- rights and obligations under UNCLOS

Belgium: first years of zoning (1999-2002)

1. Legal basis: 1999 Law on the protection of the marine environment  **designating MPA's**
2. No plan and no integrated vision
3. No process and no single authority
4. Fishermen block coastal ports: authority conflict between nature protection + fisheries
5. Result: no designation of MPAs + fisheries transferred from federal to regional level

Major lesson learned: secure authority, use science and involve stakeholders in decision-making

Belgium: 2003-2005 Masterplan

Main objectives

- **Maintain and improve biological diversity (decision rule 1)**
Designation of **MPAs** (Birds Directive) 1979) by designating Special Protection Areas (SPAs) and the Habitats Directive (1992) by designating Areas of Conservation (SACs)
- **Create opportunities for offshore renewable energy (ORE) (decision rule 2):** nuclear energy as a major source for electricity production (+/- 60%) in hands of one player. **Why at sea?** small land area - NIMBY syndrome, difficulties with permits on land due to local resistance, energy security, no emissions of GHGs, SO₂, NO_x, ...
- **Reduce & control environmental effects of aggregate extraction + promote investment security & transparency (decision rule 3)**
- **Secure safety of shipping (decision rule 4)**

MSP Governance process (phase 1)

- 2003-2005** New function of **Minister for the North Sea** (= key figure in MPA process)
- All federal competences at sea “mandated” to one person (role of fed. Minister of Environment limited)
 - **NO** control over **Flemish competences** (e.g. Fisheries)
- ➔ **North Sea Masterplan** (‘zonation’ plan) initiated (2 phases)
- Phase 1: assignment of main industrial zones* (e.g. aggregate extraction & wind energy development ➔ re-gaining **trust** from stakeholders)
- Phase 2: designation of MPAs through 2 parallel processes*
- Stakeholder consultation on **MPA designation (bilateral)**
coastal mayors, fishermen, NGOs, scientists, recreational fisheries, watersport activities, departmental servants,...
 - Stakeholder consultation on **management measures** (mainly **behind closed doors**)
- ➔ **influence** and control by stakeholders (promises made?) unclear
- 2005** MPA approval by Council of Ministers (federal level)
- ➔ **3 SPAs** (Birds) and **2 SACs** (Habitats) legally **designated** (Belgian legislation)

Source: Ellen Pecceu, Kris Hostens & Frank Maes (MESMA, 2015), submitted to Marine Policy

2003-2005 Masterplan

- **Authority established:** Minister of the North Sea – Masterplan approved by the Council of Ministers: administrations of various competent ministers acted according to the plan
- **A plan, but still no planning process** due to lack of a legal basis
- **MPAs designated but no real management plan !**
- **Stakeholder participation** was well targeted, informal and often bilateral
- **No public participation & no SEA !**
- **Neighbouring countries** informed, but time to respond was short or there were language problems (France)
- **No fisheries !** (regional competence) – later on aquaculture areas designated
- **Final cost** of offshore renewable energy not clear – later on it became clear that the industry is over-subsidized

Adaptation Masterplan: MPA driven (phase 2)

2007: New request by EC to designate N2000 areas in Belgian EEZ

- second MPA process initiated by **Secretary of State** responsible for North Sea matters

2008-2009: Management plans for MPS in the BPNS

- The secretary of State for Mobility and North Sea matters ordered a **scientific study** on MPA designation
- Proposal to extend SAC "Trapegeer-Stroombank" into the 'large' **SAC "Vlaamse Banken"**
- Followed by consultations with France

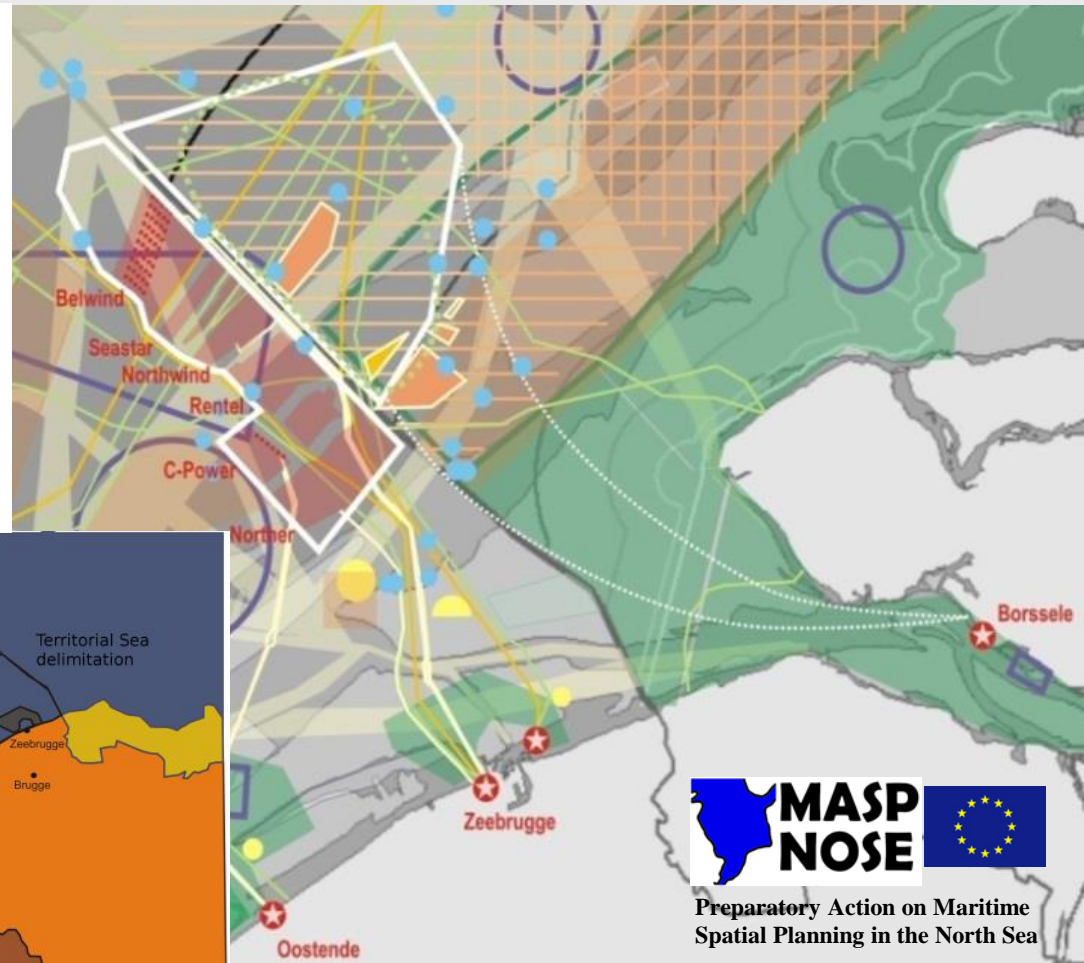
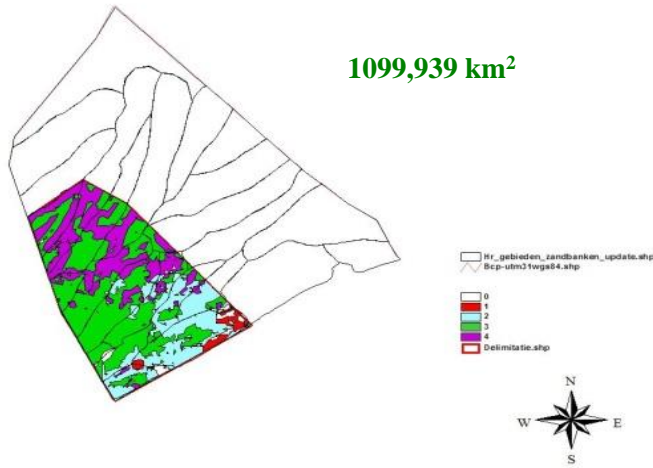
2010-2012: Federal **elections**, but no new government during a 541 days interim government

- Fed. Min. Environment continues with 4 **information meetings** + **public hearings** for a new MPA
- All stakeholders involved (but only scientific remarks accepted at this stage) → no major conflicts/resistance
- MPA "Vlaamse Banken" approved by Council of Ministers

Designation of MPA "Vlaamse Banken" approved by EU and in Belgian legislation

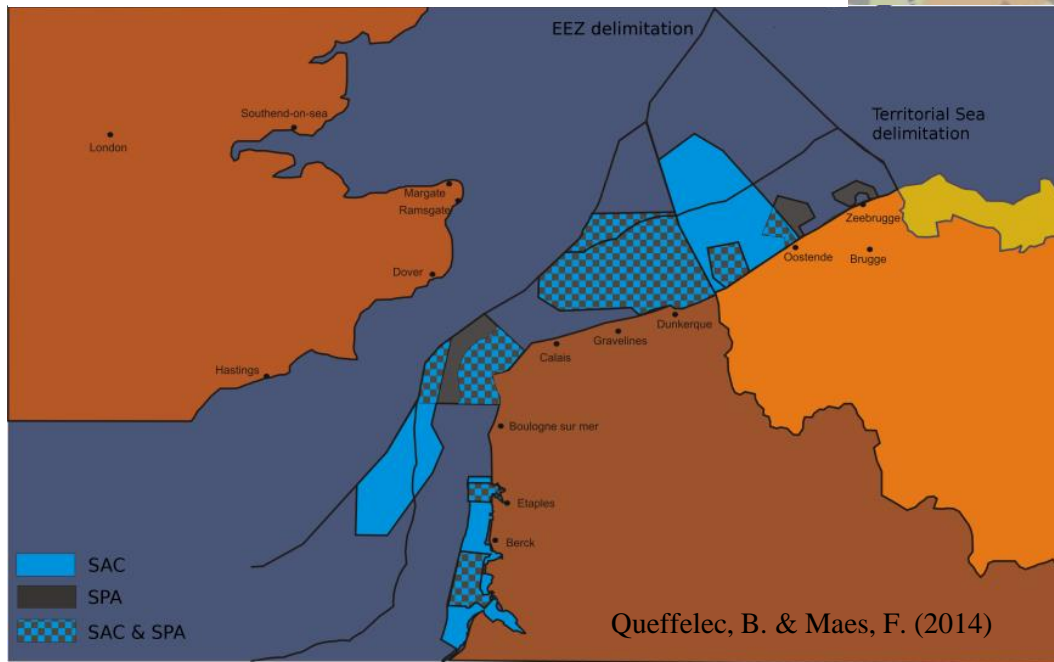
Source: Ellen Pecceu, Kris Hostens & Frank Maes (MESMA, 2015), submitted to Marine Policy

Transboundary MSP: opportunities



Preparatory Action on Maritime Spatial Planning in the North Sea

Transboundary map of the uses in the case study area in 2012: MASPNOSE D 1.2 (2011-2012)



Thornton Bank: decision rules

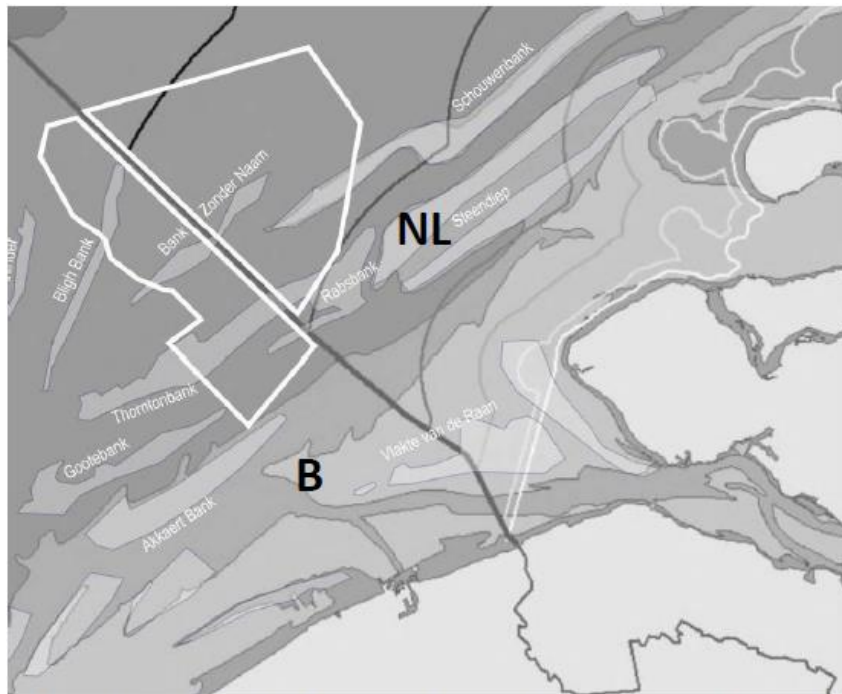


Figure 3.1.1: Location of the Thornton Bank (Maritime Institute, Ghent University)

Table 3.4.1. Priorities for actual policy considerations (1= low; 3 = mediate; 5 = high)

Function	Country	The Netherlands	Belgium
Wind energy		Search area renewable energy – future plans (3-4)	Actual plans (5)
Shipping		Intense (5)	Intense (5)
Fisheries ³		3-4	2-3
Aquaculture		Future plans (3-4)	Future plans (1-2)
Nature conservation		Natura 2000 (1-2)	Natura 2000 (1-2)
Sand extraction		X (3)	None (1)
Military exercises		None (1)	X (1-2)

Source: Hommes, S. *et al* (2012) - MASPNOSE d.1.2

Transboundary MSP: Belgium-The Netherlands

The following common objectives for the Thornton Bank were formulated by governmental participants involved:

1. Economic scenario with environmental benefits: renewable energy – wind farms in combination with indirect nature protection. Priorities are:
 - a. Other forms of renewable energy
 - b. Communal offshore electricity connections
 - c. Refuge area for fish stocks, but no nature protection in sense of Natura 2000;
2. Due regard to safety of shipping: shared interests;
3. Make full use of already existing formal ways of information exchange and consultations on project level (EIA) and plan/program level (SEA);
4. Besides existing formal consultations, preference at this time in the MSP policy cycle is given to less formal ways of consultation to avoid restricting national authorities in setting up their MSP process;
5. In order to improve cooperation, both countries could at least start their planning process at the same time, discuss the process and how to involve stakeholders in a transboundary context. This can include a formal transboundary information and consultation process.

Source: Hommes, S. *et al* (2012) - MASPNOSE d.1.2.

Adaptation Masterplan: ORE + shipping (phase 3)

Northern and southern part of the ORE concession zone is adapted several times due to complaints of the shipping industry and the Netherlands

The conflict became more visible due to progress in the construction of offshore wind farms + the adoption of safety zones

Belgian Royal decree of 11 April 2012:

Three types of safety zones in which **access is prohibited**, depending on construction progress:

- 500 meter from the outer edge of a wind mill (diameter rotor blades) (construction)
- 500 meter from the outer edge of each domain concession (exploitation)
- 500 meter from the outer edge of wind mill park zone (= whole concession area)

Exceptions in the 500 m zone: governmental ships exercising police tasks, ships from or on behalf of the concession holder (maintenance, repair, ...), ships used for scientific research (monitoring, ...), ships in distress, for the safety of life at sea and properties, and in case of force majeure.

No shipping and fisheries create NEW opportunities for nature development!!!

Towards a full fledged MSP (phase 4)

2012: New federal **Minister of the North Sea** (same person as in 2003)

- Law of 20 July 2012 on the organization of MSP provides a legal basis for the Masterplan in the Law on the protection of the marine environment – 1999, as amended + further implemented by Royal Decree of 13 November 2012

MSP requires :

- Spatial analysis + a long term vision + review every 6 years
 - Economic, social, environmental and safety objectives, with at least:
 - effective objectives;
 - indicators to achieve desirable objectives or changes of behavior.
 - Measures, instruments and actions to implement the plan (Law 20 July 2012)
- MSP procedure adopted in 2012 Royal Decree
 - the plan will be binding
 - next to the plan, management measures will be adopted in a Royal Decree

Towards a full fledged MSP (phase 4)

MSP Procedure (Royal Decree of 13.11.2012):

Initiative:

Draft MSP on demand of Minister of the North Sea (in practice the draft MSP had already been discussed with some scientists and major stakeholders).
The draft MSP includes: a spatial analysis, a long term vision, objectives, indicators and spatial choices for the future, implementation actions, maps and a SEA of the draft MSP)

Towards a full fledged MSP (phase 4)

Procedure

Opstellen voorontwerp marien ruimtelijk plan

informeel overleg



Voorontwerp marien ruimtelijk plan

advies raadgevende commissie (30 d.)



federale Ministerraad

Ontwerp marien ruimtelijk plan (+ strategische MER)

openbaar onderzoek (60 d.)

- socio-economische effecten
- milieuoverwegingen

van 2 juli tot 29 september 2013

gerichte consultatie (60 d.)

- 3 Gewesten
- Kustwacht
- Federale Raad Duurzame Ontwikkeling
- andere nuttige structuur

grensoverschrijdende consultatie (60 d.)

- NL, FR, UK, ev. andere nuttige Staat

Noordzeeminister maakt een ontwerpdecreet ter goedkeuring door de ministerraad + samenvatting van de opmerkingen en motivatie welke opmerkingen al dan niet opgenomen

federale Ministerraad



Marien ruimtelijk plan (bij KB)

Towards a full fledged MSP (phase 4)

Major objectives of the new MSP proposal:

1. No expansion or new concession zones for ORE
2. Gradual reduction of sand and gravel extraction
3. Fishery measures in MPAs
4. Expansion of fishery zone for coastal fishery vessels of less than 70 GT from 3 NM to 4.5 NM
5. Space for one or two energy islands



PROTECTED SAND BANKS, 'SAC FLEMISH BANKS' WITH 4 SUBZONES

C



Bottom disturbing fishing techniques are prohibited + testing of new techniques

3.454 km²

SUSTAINABLE AQUACULTURE

H

Bottom disturbing fishing techniques are prohibited

GRAVEL BEDS

A

SPECIAL PROTECTION AREAS FOR BIRDS

D



Bottom disturbing fishing techniques are prohibited + testing of new techniques

1099,9 km²

Nieuwpoort

SAND-MASON REEFS

B

Limited to fisheries with certain fishing gear (no beam trawl)

AREA FOR RENEWABLE ENERGY (WIND FARMS)

F

ARTIFICIAL REEFS

G



'PLUG AT SEA'

E



NATURE RESERVE 'BAAI VAN HEIST'

Zeebrugge

ENERGY ATOLLS

I



The Netherlands

Belgium

France

Energy islands

Two functions

- Storage renewable energy (major function)
- Active nature conservation measures: islands need to be build to stimulate nature development for e.g. to serve as breeding spots for coastal birds (common tern, ...) (additional function)
-
- Safety zone of 500 m, excluding shipping (and fisheries) in this zone
- No tourism nor buildings, except a potential visitors centre

Belgian MSP

- Before 2012, Belgium had a marine spatial plan, but no clear MSP process. Plan and process became legally binding in 2012
- MPAs are still lacking sound management plans
- Nature conservation and fisheries are often conflicting, although the intensity reduced
- Offshore wind farms closed for other users seem to contribute to habitat and species protection. Active measures are taken, e.g. artificial riff testing
- OWE increased monitoring and control opportunities, and attracts tourism
- MSP brings in the issue of transboundary cooperation, relevant to deal with fisheries and habitat connectivity

Conclusion: MSP

- Basic MSP components:

1. it's a **process** – mostly a top down initiated planning process, including stakeholder involvement and public participation
2. it's forward looking : what is taking place now, what do we know and where do we want to go to (objectives and vision) - **data**
3. its about zoning: the output is a spatial **plan** (GIS)
4. it's **adaptive**: a planning cycle seeking for improvements on the basis of new information (scientific data, new demands from society)

The aim: avoid sectoral conflicts, support an ecosystem based management, including an integrated approach in governance (sectors and governments) leading to a better sustainable management of the sea