

How to use the regulatory framework to develop MPA networks

Daniel Owen

Fenners Chambers

Cambridge

England, UK

Tel. +44 1223 368761

daniel.owen@fennerschambers.co.uk

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Contents – with a focus on networks

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- **Levels of law (4)**
- **Network design criteria**
- **Economic and social considerations**
- **Network scale**
- **Network functioning (2)**
- **Timing of network establishment**
- **Interaction with marine (spatial) planning**

Maritime zones

Principal zones

Within national jurisdiction:

- marine internal waters
- territorial sea
- exclusive economic zone (EEZ)
- continental shelf

Beyond national jurisdiction:

- high seas
- the Area

Maritime zones

Limitations and uncertainties

Limitations on rights, for example:

- EEZ sovereign rights as available in law
- EEZ sovereign rights as claimed in practice

Uncertainties about rights, for example:

- continental shelf rights beyond 200 nm
 - exercise pending outcome of CLCS process
- interaction with high seas freedoms

Levels of law

Introduction

International law (global or regional)

European Community law

Domestic law

Relevance:

- (1)** for enabling or requiring establishment and management of MPA network(s)
- (2)** for otherwise providing related opportunities and constraints

Levels of law

Establishing and managing MPA network(s) 1/2

Level of law	Example
International (regional).....	OSPAR Convention
European Community.....	Habitats Directive
Domestic.....	UK draft Marine Bill

[**Note:** UK draft Marine Bill is merely a draft Bill, issued by the government in April 2008 for consultation and pre-legislative scrutiny; it is not yet a formal Bill.]

Levels of law

Establishing and managing MPA network(s) 2/2

Interactions between networks at different levels of law

Conflict or complementarity ?

Example: Natura 2000 sites may form part of OSPAR network [OSPAR Recommendation 2003/3]

Levels of law

Providing opportunities and constraints

Level of law	Example
International (global).....	1982 UNCLOS
International (regional)..	OSPAR Convention
European Community...	Common Fisheries Policy
Domestic.....	UK devolution law

MPA networks

Design

Purpose clause, e.g. Art. 3 (1) of Habitats Directive

But what about including a definition of “coherence” in binding law ?

Absence of a definition: increased flexibility

Presence of a definition: increased legal certainty

- for environmental NGOs [environmental protection]
- for economic operators [investment decisions]
- for individual States [compliance; strategic interests]

MPA networks

Role of economic and social considerations

At what stage, if at all, do economic and social considerations operate ?

- network design ?
- site selection ?
- site management ?

Relevance and weight will depend on what the law requires or allows

e.g. Habitats Directive [and relevant ECJ judgments]

MPA networks

Scale

Examples:

- individual State's waters ?
- European Community waters ?
(e.g. Natura 2000)
- NE Atlantic waters, including high seas ?
(e.g. OSPAR network)

Defining **edges** of network or sub-networks:

- ecosystem or political considerations
- hybrid systems (e.g. ecosystem within political)

MPA networks

Functioning 1/2

Network functioning can be affected by:

- designation of sites
- management of sites

So factors affecting management can affect functioning of network

MPA networks

Functioning 2/2

Effects of legal regimes on management relevant to network functioning

Example 1: management of shipping

Territorial sea: innocent passage

EEZ and high seas: freedom of navigation

Example 2: fisheries in NE Atlantic

EC and non-EC coastal States / high seas

Differences within Community waters

MPA networks

Timing of establishment

All at once ?

Piecemeal ?

Managing expectations, for example:

- interactions with **IMO** regarding shipping
- interactions with **NEAFC** regarding fisheries
- interactions with **EC** regarding fisheries

Networks

Interaction with marine (spatial) planning

Two high level initiatives:

- MPA networks
- marine (spatial) planning

But which one drives the other ?

- do networks fit around marine plans ?
- do marine plans fit around networks ?

How to integrate them ?

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