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TECHNICAL PAPER FROM THE CPMR GENERAL SECRETARIAT

CONTRIBUTION TO THE EUROPEAN COMMISSION CONSULTATION ON INTERNATIONAL MARITIME GOVERNANCE

In June 2015[1] the European Commission launched a consultation with a view to identifying possible ways of improving international maritime governance and overcoming certain aspects that are deemed inefficient.

This Technical Paper is a contribution to the consultation, based on the CPMR's Maritime Policy guidelines. It begins by considering the important role played by the European Union in international maritime governance. It then puts forward a number of proposals regarding the definition and implementation of European Union positions in the maritime sector on an international level.

I. The European Union at the centre of International Maritime Governance

I.1. Gradual development of UN-related international agreements and agencies

Within the UN framework, International Maritime Governance consists of a set of rules and processes implemented to provide management of international maritime areas.
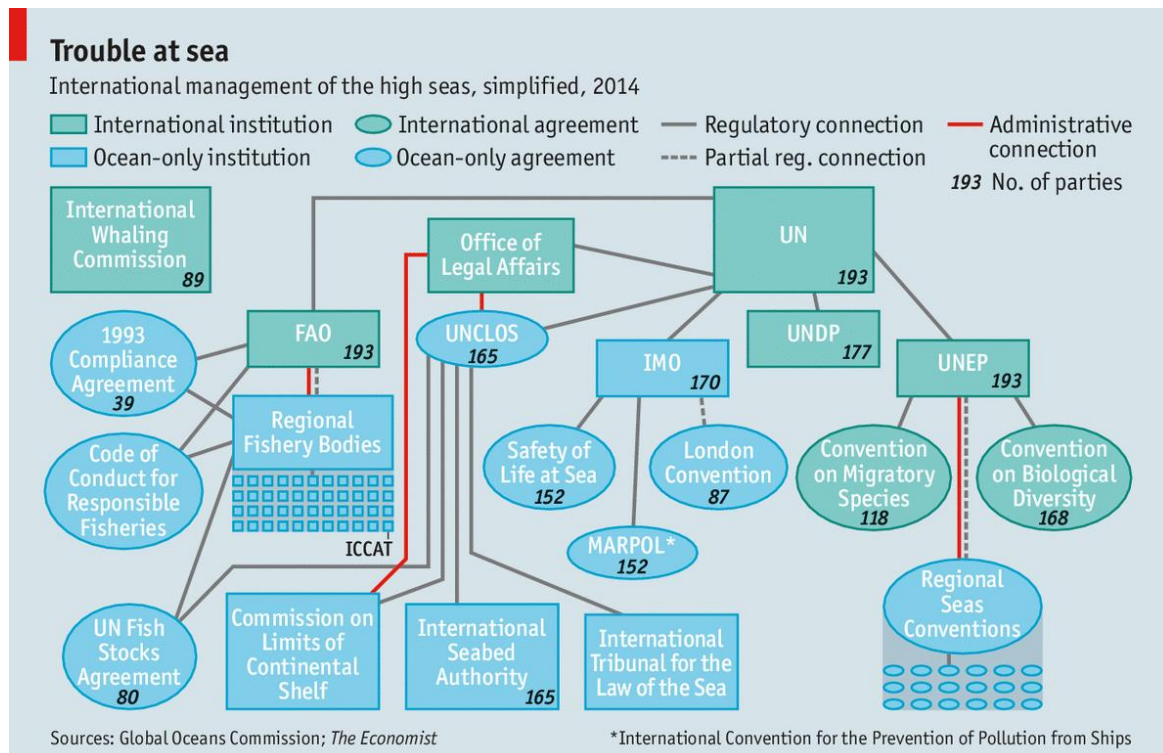

Diagram 1: Management of International Waters

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[1] http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance/index_fr.htm

The rules and processes refer mainly to issues regarding:

- **Fisheries and aquaculture**, through the FAO[2] set up in 1945. High seas fishing is also supervised by a network of international Regional Authorities linked to the FAO. Some of them cover specific species, such as the International Commission for the Conservation of Atlantic Tunas (ICCAT on Diagram 2). Others cover fishing within a given geographical area such as the North-East Atlantic or the South Pacific;

- **Maritime safety** through the International Maritime Organisation[3] (IMO), which was set up in 1948;

- **Marine environment**, through the United Nations Environment Programme[4] (UNEP) set up in 1972 and the Regional Seas Conventions (including Ospar, Helcom, Barcelona and Bucarest)[5];

- **Sovereignty over maritime areas** through the United Nations Convention on the Law of the Sea[6] (UNCLOS) dating from 1982 but not brought into effect until 16 November 1994[7]. A number of specialist bodies have been set up to supervise specific issues. One such body is the International Seabed Authority[8], which monitors the mining of the seabed.
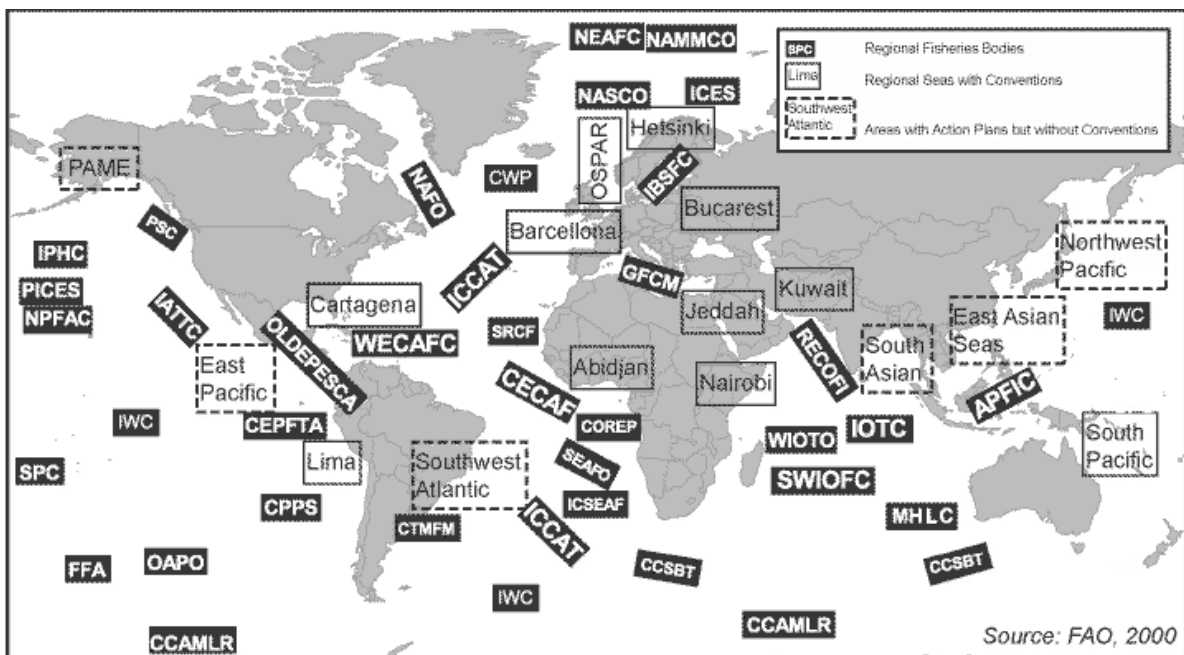

Diagram 2: Regional fisheries agreements and UNEP Regional Conventions

I.2. Implementation depending on States and on a complex set of organisations

The effectiveness of existing agreements and structures takes into consideration the fact that:

- In most cases, the international framework has less ability to introduce constraints than the European Union and, with even more reason, individual States. Its implementation depends largely on the goodwill of signatory States;

- Overall, international conventions and organisations, and their link with the governance specific to States and the European Union, constitute a complex issue. In fact, the areas covered by international governance are, in some instances, also covered by the European Union. Even if the objectives at international, European and national level are designed to be complementary, there may be a legislative overlap between structures and areas of implementation.

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[2] http://www.fao.org/home/fr/
[3] http://www.imo.org/FR/Pages/Default.aspx
[4] http://www.unep.org/french/
[5] http://www.unep.org/regionalseas/default.asp (in English only)
[6] http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_f.pdf
[7] After ratification of the 60th State
[8] http://www.isa.org.jm/

In its consultation, the European Commission highlights the complexity of international governance, considering this as an obstacle to its achievement. The following diagram shows the links between international commitments and European and national provisions in the United Kingdom with regard to the protection of the marine environment.
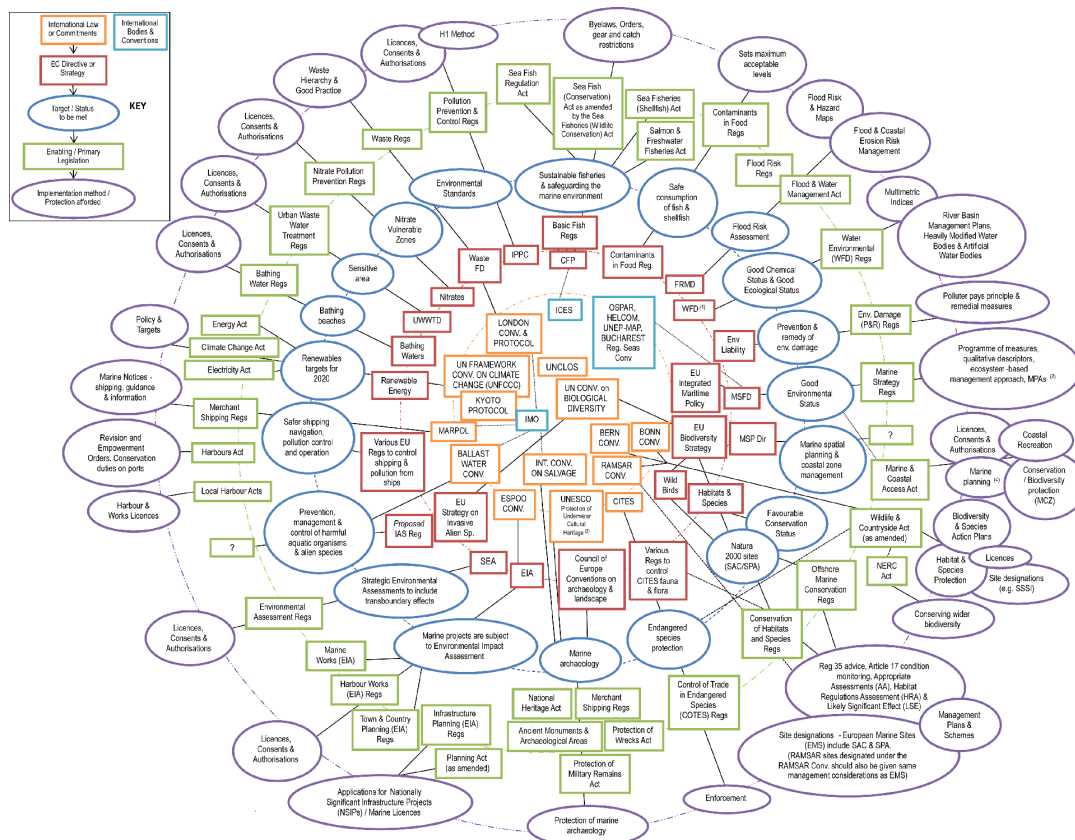

Diagram 3: International, European and English legislation on the protection of the marine environment. Source: VECTOR project, co-funded by the FP7

I.3. The European Union, a powerful player in the sectors subject to International Maritime Governance

In this respect, the European Union can:

- Define more ambitious objectives than the international framework. The relative uniformity of its Member States enables it to go further than international agreements, notably with regard to environmental commitments;

- Support the introduction of its objectives within a specific legal framework that provides the possibility of coercion and includes budgetary resources that are vastly different to those found in the international framework.

Because of this, in many areas that lie within the international framework, the European Union is a powerful player, able to determine and implement specific guidelines rather than being just one level in the implementation of international guidelines. In these cases, it is at European level rather than at International level that key transnational maritime objectives for European territories tend to be defined. The example of the MSFD is interesting in this respect.

European decisions and International Maritime Governance: protection of the marine environment and the Marine Strategy Framework Directive (MSFD)

The MSFD is one example in which the European Union, with its scope for guidance and action, is acting more ambitiously and with greater resources than those available for the top-down, mechanical implementation of international commitments. The aims of the MSFD, which sets an objective for the good environmental status of marine waters by 2020, follows on from the international commitments made in Rio and from the UNEP's regional conventions.

The achievement of this objective depends on the following:

- Areas of implementation that overlap the areas covered by UNEP's regional conventions.

The MSFD defines four areas of implementation corresponding to the areas covered by the UNEP's regional conventions for Europe's maritime area (OSPAR – North Sea; HELCOM – Baltic Sea; BARCELONA – Mediterranean; BUCAREST – Black Sea).

To enable Member States to take account of the specific character of certain maritime areas in the implementation of the MSFD, the Directive also proposes dividing the areas into sub-regional seas as illustrated in Diagram 4. Taking the Atlantic area as an example, the sub-regional seas correspond perfectly to the OSPAR subdivision (Diagram 5). However, it is worth noting that these divisions do not take account of regional administrative contexts. Therefore Brittany Region is shared between three distinct sub-regions – Celtic Seas, North Sea and Bay of Biscay, which complicates the management of the maritime area as far as the Regional Authorities are concerned.
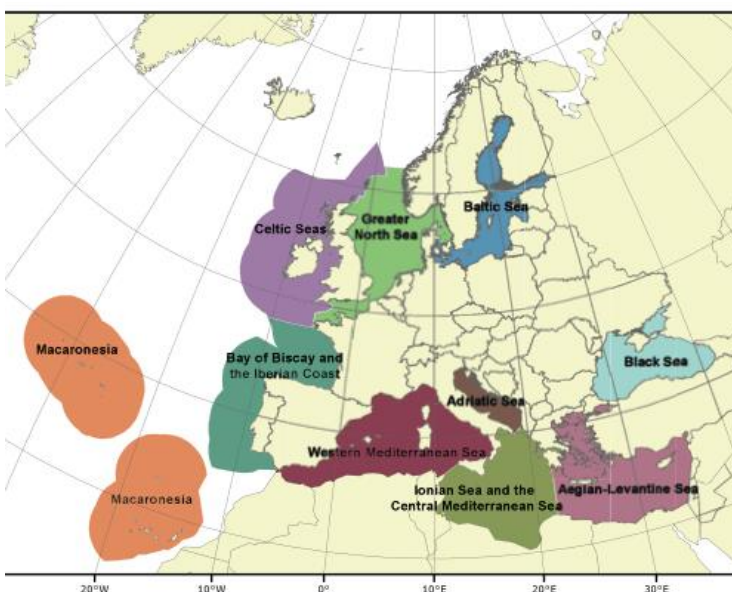

Diagram 4: MSFD sub-regional seas   Diagram 5: OSPAR sub-regional seas

- The definition of the condition of marine waters based on indicators provided by Member States. The MSFD's capacity for action, which directly involves States since they are required to gather the data used to assess the quality of marine waters, is much higher than the capacity of international frameworks.

- The definition of necessary protection measures with States. The MSFD has a constraint capacity that is much greater than that of international frameworks.

The interaction between the MSFD and UNEP's regional conventions can be seen as the implementation, by the European Union, of a strong approach to the environmental protection of marine waters, going far beyond the implementation of international guidelines. In fact, the European Union is the main vector for action that has an impact on European Regions.

The Directive requires Member States to use international regional cooperation structures to coordinate action taken jointly by Member States and with third countries that share the same maritime area when drawing up their marine strategies. The aim is the gradual implementation of processes that are adapted to suit the maritime basin, thereby reflecting the demands of the Directive.

II. Strengthening the partnership with Regions in the definition of the EU's international guidelines

International commitments impact mechanically on the integral nature of maritime and coastal areas i.e. on coastal regions. At the same time, the Regions play an important part in implementing European and international obligations with regard to the Sea.

The Regions are therefore players from which the European Union and its Member States must seek support when defining and implementing international guidelines.

II.1. The CPMR's Maritime Policy guidelines based on certain international issues

As they relate to international issues, the CPMR's policy guidelines are an extension of its guidelines at European level. They are designed to promote the interests of European maritime territories, based on:

- Cross-cutting principles:
  - Consistency between economic and environmental objectives and the development strategies of maritime territories. The increased economic potential of the maritime sector, both internationally and on a European level, raises new challenges when it comes to defining the link between environmental protection and economic development. This is obvious, for example, in new topics such as the mining and use of marine mineral resources or issues relating to the implementation of the Marine Strategy Framework Directive or the Maritime Spatial Planning Directive. On this point, the CPMR hopes that the integration of environmental and economic objectives within Europe will be interpreted in a manner that is consistent with the development strategies of Europe's Regions and notably of Smart Specialisation Strategies.
  - Simplicity of governance standards and structures. The complexity described above has a marked impact on the legibility of objectives and their real implementation in the territories. In this context, it is important to simplify the international and European frameworks as much as possible, and to facilitate concrete dialogue between maritime stakeholders on the implementation of regulations.

- A limited number of more thematic subjects:
  - There is a likelihood that coastal regions will naturally be strongly impacted by **global warming** and, at the same time, they are major players in the reduction of such warming and adaptation to climate change. In addition, the oceans play a major role in regulating the climate[9]. In this respect[10], the CPMR would like the European Union to promote ambitious objectives within the framework of COP 21 and support the development of renewable energy sources, particularly marine renewables;
  - **High sea** fishing is covered by agreements targeting a given species or maritime area. On this point, it is important to ensure that:
    - o Decisions on European fisheries in European waters, which are made within the framework of the Common Fisheries Policy, continue to be made at EU level after discussion with fishermen, scientists and politicians. International agreements signed without the involvement of territorial players cannot serve as a basis for discussions on the CFP;
    - o The specific situation of OMRs which, more than other European Regions, are impacted by illegal fishing in their waters, in their areas and in their fishing grounds, must be given particular support on an international level;
  - The EU must support an ambitious position with regard to environmental protection and the fight against marine pollution of all kinds, with the particular aim of obtaining recognition of the ecological damage caused by shipping accidents. At the present time, such recognition is insufficient on both a European and international level[11];
  - Marine data and knowledge of the oceans are both essential factors in any maritime initiative. There is a need, on both an international and a European level[12], to ensure:
    - o Standardisation in the procedures used to collect data;
    - o Interoperability and standardisation so that the data may potentially be used by all European players;
    - o Provision of all available marine data;
    - o Information on the availability of data.

II.2. Strengthen the resources for the European Parliament when undertaking international negotiations

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[9] http://www.earth-syst-sci-data-discuss.net/5/1107/2012/essdd-5-1107-2012.pdf
[10] CPMR Paper of June 2015 on climate change
[11] Link to IOPC Funds 2013 paper
[12] The CPMR is involved in the Coastal Mapping project

The procedure used to adopt international agreements signed by the European Union and a third country (Article 218, TFEU[13]) gives the European Commission general powers to represent the EU, based on a mandate from the Council if appropriate.

The voice of the Regions is expressed in negotiations on international agreements in the maritime field firstly through national authorities, under conditions that depend on the political and constitutional context specific to each Member State.

At the same time, the Regions are able to interact more directly with the European Parliament in its role as a natural territorial intermediary and its role in international agreements was increased by the Treaty of Lisbon. The European Parliament is now consulted, at the very least, whatever the type of agreement.

However, the strengthening of the European Parliament is actually limited by difficulties in obtaining the material resources it requires (expertise, time) to completely fulfil its role[14]. Strengthening the Parliament's actual resources to enable it to become involved in the drafting of international agreements would be a worthwhile way of giving Regions a stronger voice.

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[13] http://eur-lex.europa.eu/legal-content/FR/ALL/?uri=CELEX%3A12008E218

[14] As an example, the European Parliament is expected to attend meetings and discussions on international fishing agreements but these meetings are often incompatible with the Parliament's own timetable.