

## Chapter 2

### Challenges to Ocean Policy Making

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#### 2.1. Introduction

The formulation of national ocean policies is a recent phenomenon as witnessed by the practice of states. This development relates to the fact that the present-day constitution for the oceans, namely the United Nations Convention on the Law of the Sea, starts from the premise “that the problems of ocean space are closely interrelated and need to be considered as a whole,”<sup>1</sup> while at the same time adhering to a zonal approach.<sup>2</sup> States, when addressing ocean issues, normally follow this latter approach,<sup>3</sup> which raises questions about the coherence of their ocean policies. However, if sustainability is ever to be achieved, coherence of national policies seems to be a *conditio sine qua non*. Hence there is a need for states to try to develop an approach that not only appreciates the unique nature of ocean ecology but also the continued escalation of ocean use interactions.<sup>4</sup> States must coordinate their separately developed zonal pieces of legislation into an integrated whole. Often all of this is packaged under the label “ocean policy.”

The call for an integrated development of the ocean and its resources received prominence during the United Nations Conference on Environment

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<sup>1</sup> *United Nations Convention on the Law of the Sea*, 10 December 1982, entered into force on 16 November 1994, 1833 *U.N.T.S.* 397 et seq., available: <[http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf)> (retrieved 10 February 2009) [hereinafter LOS Convention], third preambular paragraph.

<sup>2</sup> It will suffice to notice in this respect that in addition to existing maritime zones under the 1958 Law of the Sea Conventions system, the LOS Convention added complexity to the zonal approach by adding two new zones, namely the exclusive economic zone and the international seabed area.

<sup>3</sup> Y. Tanaka, “Zonal and Integrated Management Approaches to Ocean Governance: Reflections on a Dual Approach in International Law of the Sea,” *International Journal of Marine and Coastal Law* 19 (2004), pp. 483–514, giving arguments pro and contra the zonal approach in ocean management.

<sup>4</sup> L. Juda, “Changing National Approaches to Ocean Governance: The United States, Canada, and Australia,” *Ocean Development and International Law* 34 (2003), p. 161, 162. Juda also refers to the approach as the “systems” approach as opposed to a sectoral or zonal approach in ocean governance.

and Development held at Rio de Janeiro in June 1992, where it was declared that “the marine environment ... forms an integrated whole that is an essential component of the global life-support system and a positive asset that presents opportunities for sustainable development.”<sup>5</sup> The Rio Conference developed the observations of the 1987 World Commission on Environment and Development report “Our Common Future.”<sup>6</sup> It attempted to formulate a pathway through which states, in appreciating the linkages inherent in the environment, could formulate integrated policies or measures in the management of resources.<sup>7</sup> Subsequently, organisations such as the Intergovernmental Oceanographic Commission (IOC) and the Food and Agriculture Organization of the United Nations (FAO) adopted programmes which advocate the benefits of integrated coastal zone management. Within the European Union, the Council in 1994 adopted the Implementation of Coastal Zone Management in Europe.<sup>8</sup> Nevertheless, with rare exceptions, one had to wait for the twenty-first century to see countries embark upon this new avenue of trying to bring some order into the divergent approaches to ocean matters, and above all, to bring some hierarchy in the way future policy would be developed.

## 2.2. National Ocean Policies: A General Comparison

With several countries now having adopted a national ocean policy, it is interesting to have a closer look at these policies from a comparative perspective in order to disclose some of their similarities, but, as it will turn out, mostly their divergences. Separate contributions in this volume will address the Canadian and European approaches in some detail. The present contribution intends to provide, with a thick brush, the general picture which frames these two case studies.

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<sup>5</sup> United Nations General Assembly, *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, UN Doc. A/CONF.151/26/REV.1, Vols. 1-III (1992), paragraph 17.1, available: <<http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21chapter17.htm>> (retrieved 10 February 2009).

<sup>6</sup> G. H. Brundtland, *Our Common Future* (Oxford: Oxford University Press, 1987), available: <<http://www.worldinbalance.net/agreements/1987-brundtland.php>> (retrieved 10 February 2009).

<sup>7</sup> *Id.*, Chapter 1 (A Threatened Future), Section 48.

<sup>8</sup> Implementation of the Integrated Coastal Zone Management in Europe. *Official Journal C127 E/271*, 29 May 2003, available: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2003:127E:0269:0273:EN:PDF>> (retrieved 10 February 2009).

Without trying to be exhaustive, the present contribution simply takes as point of departure a recent UNESCO publication that brings together the national ocean policies of ten different countries, namely Australia, Brazil, Canada, China, Colombia, Japan, Norway, Portugal, the Russian Federation and the United States, adopted between 1994 and 2007.<sup>9</sup> This is an ongoing project that will be updated as new texts become available through the webpages of the Advisory Body of Experts on the Law of the Sea<sup>10</sup> of the IOC.<sup>11</sup> As of the time of writing, no new texts have been added. This contribution will therefore be limited to the countries listed above, less Canada as it is dealt with in a separate contribution in this volume.

As remarked by the IOC Executive Secretary in his introductory remarks to the above-mentioned UNESCO publication, it should first of all be noted that this new trend is not sparked by any intellectual exercise. Rather it is driven by the necessity of states who feel that the increased reliance on the oceans in an ever expanding quest to master the remaining untapped resources, be they located on the seabed and ocean floor, in its subsoil, or in the waters superjacent thereto, has reached the limit of what the zonal approach can reasonably be expected to accomplish without starting to substantially compromise the further development of these resources.<sup>12</sup> States have attempted to remedy this situation by trial and error rather than by following a general and clear roadmap from which they could not deviate. Indeed, in order to overcome the inherent deficiencies accumulated over the years by applying the zonal approach to ocean matters, each country finds itself today in a totally different position and consequently tries to find the most appropriate way to bring coherence and sustainability in the way it manages its own ocean's affairs. It should therefore not come as a surprise that the leitmotiv when reading through these national ocean policies can be best captured by the "united in diversity" motto so dear to the European Union.

Comparing the expressed reasons why a national ocean policy has been or should be elaborated reveals the concordance of the many countries that

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<sup>9</sup> International Oceanographic Commission, *National Ocean Policy. The Basic Texts from Australia, Brazil, Canada, China, Colombia, Japan, Norway, Portugal, Russian Federation, United States of America*, IOC Technical Paper, 75, Law of the Sea Dossier 1 (Paris: UNESCO, 2007), available: <[http://ioc3.unesco.org/abelos/index.php?option=com\\_docman&task=doc\\_download&gid=267](http://ioc3.unesco.org/abelos/index.php?option=com_docman&task=doc_download&gid=267)> (retrieved 10 February 2009) [hereinafter IOC Study].

<sup>10</sup> This committee is composed of legal and scientific experts and assists the IOC with respect to the latter's role in relation to the LOS Convention. The present author represents Belgium on this body.

<sup>11</sup> See more specifically <[http://ioc3.unesco.org/abelos/index.php?option=com\\_content&task=view&id=55&Itemid=62](http://ioc3.unesco.org/abelos/index.php?option=com_content&task=view&id=55&Itemid=62)> (retrieved 10 February 2009).

<sup>12</sup> P. Bernal, *National Ocean Policy*, Introduction. In: IOC Study, n. 9 above, p. 1.

emphasise their respective importance as a maritime nation. Often this is based on the long coastlines countries possess, washing different oceans,<sup>13</sup> sometimes in combination with their overseas territories,<sup>14</sup> the extent of their maritime zones in a particular area,<sup>15</sup> the revenues generated by the sea,<sup>16</sup> or simply because a country is totally surrounded by water.<sup>17</sup> Other states stress historic considerations, either alone<sup>18</sup> or in combination with other factors.<sup>19</sup> In this respect the case of China is interesting. China also justifies its national oceans policy by the fact that, in combination with many of the above features, demographic pressure naturally directs China's interest to offshore areas.<sup>20</sup>

What all of the policies have in common is that sustainability generally forms a basic cornerstone of the edifice.<sup>21</sup> However, in the national ocean policy of the Russian Federation, it is applied to the state itself rather than to the oceans and its resources.<sup>22</sup>

But that is where most of the similarities end. If one looks, for instance, at the nature of the documents included in the IOC Study, great differences have to be noted. The document of the United States, no matter how impressive,<sup>23</sup> remains a mere blueprint for action drawn up by a commission established by Congress to make recommendations.<sup>24</sup> On the other side of the spectrum one

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<sup>13</sup> Especially if it is the only such country on a particular continent, such as Colombia in South America (IOC Study, n. 9 above, p. 103).

<sup>14</sup> E.g., Australia (IOC Study, n. 9 above, p. 8).

<sup>15</sup> E.g., Portugal which states that it has one of the largest exclusive economic zones in Europe (IOC Study, n. 9 above, p. 208).

<sup>16</sup> E.g., the United States (IOC Study, n. 9 above, p. 249).

<sup>17</sup> E.g., Japan (IOC Study, n. 9 above, p. 121).

<sup>18</sup> E.g., Norway (IOC Study, n. 9 above, p. 131).

<sup>19</sup> E.g., the Russian Federation (IOC Study, n. 9 above, p. 231).

<sup>20</sup> IOC Study, n. 9 above, p. 76.

<sup>21</sup> See Australia (IOC Study, n. 9 above, p. 5); Brazil (id., pp. 50–52); China (id., p. 76); Colombia (id., p. 95); Japan (id., p. 121); Norway (id., p. 132); Portugal (id., pp. 208–212); and the United States (id., p. 247). Often only the basic reliance on the sustainability principle has been pinpointed here, even though the texts may contain many practical applications of the principle.

<sup>22</sup> IOC Study, n. 9 above, pp. 233, 240 and 245. It is also applied to the Russian fleet (id., p. 236) and food security for minority peoples in coastal regions (id., p. 244).

<sup>23</sup> U.S. Commission on Ocean Policy, *An Ocean Blueprint for the 21st Century*. Final Report (20 September 2004), Available: <[http://www.oceancommission.gov/documents/full\\_color\\_rpt/welcome.html#full](http://www.oceancommission.gov/documents/full_color_rpt/welcome.html#full)>. The full report, including several appendices, contains 522 pp. Several appendices published separately can be found there as well.

<sup>24</sup> 33 *United States Code* §857–19 note (National Ocean Policy). Colombia seems to follow a similar path (IOC Study, n. 9 above, p. 94). The same holds true for Portugal (task force instructed to work out a comprehensive policy), but this document was later approved by the Council of Ministers (IOC Study, n. 9 above, pp. 205–207).

finds Australia, where a clear centralisation in the decision making process is imposed by law.<sup>25</sup> This is seen in the institutionalised stipulation in Australia's policy document which provides for the establishment of a National Oceans Ministerial Board consisting of commonwealth ministers.<sup>26</sup> The Ministerial Board will be advised by the National Oceans Advisory Body, whereas the development of regional initiatives and secretariat support will be handled by the Regional Marine Plan Steering Committee and the National Oceans Office respectively.<sup>27</sup> In the middle of the spectrum, one observes the situation in Brazil where a comprehensive legal package of laws formally integrating all levels of government (regional, state and federal) in the process has been met with "incipient implementation."<sup>28</sup>

Another major point of divergence is the method relied upon to arrive at a national ocean policy. Some of the states in this study provide for a general procedure that governmental agencies are obliged to follow during the enactment process of ocean-related legislation with a harmonised national policy as the logical outcome.<sup>29</sup> Others merely state what the policy is, either by looking into the future<sup>30</sup> or to the past by stating what has already been accomplished.<sup>31</sup> In between these approaches are states that provide for rather

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<sup>25</sup> Once adopted, regional marine plans involving the different stakeholders will be binding on all relevant agencies (IOC Study, n. 9 above, pp. 11–12).

<sup>26</sup> Australia (IOC Study, n. 9 above, pp. 14–15).

<sup>27</sup> Id. See also Juda, n. 4 above, p. 174 et seq. for background to the Australian Ocean Policy recommendation.

<sup>28</sup> S. Jablonski, and M. Filet, "Coastal Management in Brazil, a Political Riddle?" *Ocean and Coastal Management* 51 (2008):536-543, p. 541. The authors focus on Brazil's definition of its oceans as a coastal patrimony, arguing that the reason for this could be because the more incisive laws in relation to ocean and coastal management are in the form of resolutions and not of decrees, hence the presumption of a weak system by those required to act.

<sup>29</sup> Once again, Australia can be cited as an example (IOC Study, n. 9 above, pp. 11–13). Japan also seems to fit this category (id., pp. 121–129).

<sup>30</sup> The Russian Federation is a good example of this approach (IOC Study, n. 9 above, pp. 231–245), projecting a policy up to 2020.

<sup>31</sup> The example of China can be mentioned (IOC Study, n. 9 above, pp. 74–91), even though mention is made of the Long-Term National Marine Environmental Protection Programme, which runs to 2010. In China, moreover, these policies are deeply rooted in the political structure of the state. See M. Lau, "Integrated Coastal Zone Management in the Peoples Republic of China. An Assessment of Structural Impacts on Decision Making Processes," *Ocean and Coastal Management* 48 (2005): 115–159. Lau divides the political system into functioning legislation, implementing agency, and public participation. Lau notes the further division of the State Oceanic Administration into six departments (key departments include marine environmental protection, international cooperation, sea area management, as well as science and technology) that supervise 23 sub-units ranging from research and development to media organisations and training institutions (id., p. 135). This is in addition to the State Oceanic Administration's split into three branches with responsibility for the Northern Sea,

detailed overviews, indicating which administration is responsible for taking the lead in situations where the interests of different ministries overlap.<sup>32</sup>

This tendency towards overlapping sectors in ocean policy requires an improved operational process in order to balance sectoral interests and coordinate action and goals in accordance with sustainability principles.<sup>33</sup> There is some action, albeit divergent, on the part of states to reduce fragmentation in policy making. Some states institute a comprehensive legal framework covering their oceans,<sup>34</sup> some take a sector-by-sector approach,<sup>35</sup> whereas others are still embroiled in determining their remit of responsibility over marine areas due to clear overlaps between key agencies.<sup>36</sup>

Coherence is a desired framework in the implementation process. However, states take diverging approaches to arriving at a coherent national policy, following an integrated approach in order to sustainably use the oceans. Some of the reviewed ocean policies are guided by the ultimate objective of sustainability.<sup>37</sup> Others simply pay lip service to it.<sup>38</sup> Finally, a few countries

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the Eastern China Sea and the South China Sea. This is coupled with the political-economic network of participation, usually by stakeholders with political leanings as politicians in China can be involved in business matters (id., p. 135).

<sup>32</sup> The example of Brazil can be mentioned here (IOC Study, n. 9 above, pp. 45–49).

<sup>33</sup> Addressing overlapping sectors and possible tensions in policy beforehand ensures fewer anomalies in the regulation of coastal states' marine environments and economies.

<sup>34</sup> The UK's *Marine and Coastal Access Bill*, 2008, H.L. Bill [1] is a good example of an overarching policy framework for all UK waters. Available: <<http://www.publications.parliament.uk/pa/ld200809/ldbills/001/2009001.pdf>> (retrieved 10 February 2009) [hereinafter UK Marine Bill].

<sup>35</sup> Norway is a good example of a state that uses the sectoral method. Currently, there is an integrated management framework in place for fisheries, transport and petroleum in the Barents Sea area off the Lofoten Islands. Similar plans will follow for the Norwegian Sea and the Norwegian part of the North Sea. See Ministry of Environment (Norway), *Integrated Management of the Marine Environment of the Barents Sea and the Sea Areas off the Lofoten Islands (management plan)*, available: <[http://www.regjeringen.no/en/dep/md/Selected-topics/Svalbard\\_og\\_polaromradene/Integrated-Management-of-the-Barents-Sea.html?id=87148](http://www.regjeringen.no/en/dep/md/Selected-topics/Svalbard_og_polaromradene/Integrated-Management-of-the-Barents-Sea.html?id=87148)> (retrieved 10 February 2009) for more on this process in the Barents area.

<sup>36</sup> Lau, n. 31 above, pp. 142–145. In looking at China, Lau notes the State Oceanic Administration's acknowledgement of conflicts in spheres of influence with agencies like the Ministry of Science and Technology, the Chinese Academy of Sciences, the Ministry of Land and Resources, the State Environmental Protection Administration, the National Bureau of Forestry, and the Ministry of Agriculture.

<sup>37</sup> In alphabetical order the following countries can be mentioned: Australia (IOC Study, n. 9 above, pp. 11–12, 17–18 and 38–39); Norway (id., pp. 132 and 139–198); Portugal (id., p. 206); and the United States (id., pp. 252–260).

<sup>38</sup> Brazil, for instance, simply mentions harmonisation and prioritisation as basic principles (IOC Study, n. 9 above, p. 50). The Colombian entry has a section on integrated coastal area

look at national ocean policy from a military perspective, focussing on their need to be able to adequately defend their ocean interests.<sup>39</sup>

The role of ecological sustainability in ocean policies varies widely. Sustainable management of marine regions is dependent on the condition of the ecosystem under consideration.<sup>40</sup> Some countries are willing to further strengthen this concept by, for instance, adopting a more robust approach to the precautionary principle, a key element in achieving ecological sustainability. Normally, the precautionary approach requires that the absence of adequate scientific information is not a hindrance to the implementation of conservation and management measures.<sup>41</sup> For example, Australia's statement that incomplete information is not to be used as a reason for postponing precautionary measures<sup>42</sup> is evidence of an enhanced intrinsic value in conservation and management. Some countries may highlight the precautionary principle as a fundamental policy objective,<sup>43</sup> while others barely mention it<sup>44</sup> or remain silent on the issue.<sup>45</sup>

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management that remains, however, rather vague (id., p. 109) and contrasts sharply with the crux of the document which outlines specific actions to be taken in specific domains.

<sup>39</sup> The best example is the Russian Federation. It states as one of the principles of its domestic marine policy the “[p]ossession of the required naval capacity and its effective use where necessary to support by force the marine activity of the State” (IOC Study, n. 9 above, p. 234). Sustainability under this approach is tied to the development of the state and aims at strengthening the position of the Russian Federation as one of the leading maritime powers (id., p. 245). To a lesser extent Brazil fits this category as well (id., pp. 43–44).

<sup>40</sup> European Commission, *Communication from the Commission. Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU. The European Union notes the importance of sustainability in its recent policy document on maritime spatial planning*, COM(2008) 791 final (Brussels, 25 November 2008) [hereinafter MSP Document].

<sup>41</sup> See, for example, the definition in the *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, 8 September 1995, *International Legal Materials* 34 (1995): 1542–1580, Art. 6(2), available: <<http://daccessdds.un.org/doc/UNDOC/GEN/N95/274/67/PDF/N9527467.pdf?OpenElement>>.

<sup>42</sup> IOC Study, n. 9 above, p. 17. Australia also wholeheartedly adopts an ecosystem-based approach (id., pp. 11–13) and aims at ecosystem integrity (id., pp. 38–39).

<sup>43</sup> See the examples of Colombia (IOC Study, n. 9 above, especially at p. 113), Norway (id., pp. 140 and 199–200) preparing for an ecosystem-based approach (id., p. 132), Portugal (id., pp. 213–216), and the United States, which makes the ecosystem-based management approach a fundamental pillar of its policy proposals (id., p. 246 (statement of principle) and the other references in the text itself to this approach).

<sup>44</sup> A good example is Brazil (IOC Study, n. 9 above, pp. 50 and 52). See also the examples of China (id., pp. 80 and 83) and Russia (id., pp. 238–239).

<sup>45</sup> G. Hønneland, “Towards a Precautionary Fisheries Management in Russia?” *Ocean and Coastal Management* 48 (2005): 619–631, pp. 619, 621. Hønneland notes Russia's silence in ensuring that the precautionary principle is translated in national legislation. For instance, the

Divergences between national ocean policies of the countries are also evident in the extent of the powers vested in the administrative organs responsible for implementing the proposed changes. On the one extreme of the spectrum one finds Japan, which has created a Headquarters for Ocean Policy led by the Prime Minister and composed of all Ministers of State.<sup>46</sup> In other countries, e.g., Norway, the proposed structural changes tend to be weak.<sup>47</sup> However, this does not necessarily mean that concrete plans are lacking in such countries. The Norwegian plans, for instance, are much more concrete than those of Japan. In some cases, there are divergences in the kind of power given to administrative units. For example in China, where the State Oceanic Administration, an established administrative unit, has substantial powers, a plethora of lower administrative units and sub-units can preclude the completion of recommendations, with some recommendations achieving their goals and others falling short.<sup>48</sup> While this might signify the need for a stronger State Oceanic Administration, this can also point in the direction of a more structural problem that needs to be solved first.

Finally, the issue of securing the necessary financial resources to sustain such an integrated ocean policy is not uniformly regulated. Some countries do address the issue, be it in a most general<sup>49</sup> or, inversely, a very specific

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2001 Maritime Doctrine of the Russian Federation even though it specifically deals with exploitation of Russia's oceans is silent on the aspect of precaution. Another inactive state in relation to the precautionary principle is Japan (IOC Study, n. 9 above, p. 127). Article 25 of its *Basic Act on Ocean Policy* is the closest to a preventative provision in the country's basic plan, and states the government's intention to ensure that the coast is protected and exploited appropriately.

<sup>46</sup> IOC Study, n. 9 above, p. 128.

<sup>47</sup> E.g., Norway (IOC Study, n. 9 above, p. 198).

<sup>48</sup> Lau, n. 31 above, p. 416. See also B. Penga, H. Honga, X. Xuea, & D. Jin, "On the Measurement of Socioeconomic Benefits of Integrated Coastal Management (ICM) Application to Xiamen, China," *Ocean and Coastal Management* 49 (2006): 93–109. The authors examine the impact of the sectoral approach in Xiamen Province, noting the benefits of successful implementation of the integrated coastal management approach in the province (id., pp. 101–106). However, the accuracy of these estimates, lack of data on the impact of the State Oceanic Administration in ocean management in this region, as well as the report's lack of data on fisheries management, leaves this so-called success open to refutations.

<sup>49</sup> For example, Japan states that the government shall take all necessary financial measures (IOC Study, n. 9 above, p. 123). See also the Brazilian (id., p. 53), Colombian (id., pp. 105–107 and 119), American (id., pp. 254, 258–259, 261–265, 267 and 269–271), and Portuguese entries in this respect (id., pp. 217, 219 and 228–229).

manner.<sup>50</sup> Others only mention specific actions that will be financed.<sup>51</sup> Still others do not specifically touch upon this issue.<sup>52</sup>

## 2.3. Conclusion

Other examples could be given, but this list suffices to press home the point that a national oceans policy is a chameleonic type of notion. Its content is easily adapted to the political priorities of the countries establishing them. Nevertheless, states are all confronted with the same basic problem, namely that if coherence and sustainability are to be achieved in future ocean use, some difficult issues will have to be tackled, if not now, then probably with more vigour at a later stage. It is therefore a positive development to see that countries are at least willing to learn from each other's experiences. Japan, for instance, when it embarked upon this process based its policy decisions, *inter alia*, on the preparatory work of a non-governmental institution that very carefully studied the examples of other countries that had already had some experience with the process.<sup>53</sup>

The European Union, in its attempt to regulate usage of the oceans by bringing all maritime concerns within the region into a centralised policy as well as balancing the different uses of the oceans, adds one more policy-making

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<sup>50</sup> Australia, for example, indicates the amount of money put aside for the implementation of the plan (IOC Study, n. 9 above, p. 6). It also pinpoints specific sources (see *id.*, pp. 20, 22, 24–26 and 34).

<sup>51</sup> See the Norwegian (IOC Study, n. 9 above, pp. 163, 168–171, 173–174, 183, 186, 194 and 197) and Russian (*id.*, pp. 236, 238 and 243–244) examples.

<sup>52</sup> UK Marine Bill, n. 34 above, had its Second Reading in the House of Lords on 15 December 2008 and started its Committee stages on 12 January 2009. The bill does not specifically address the issue of funding. See: Department for Environment, Food and Rural Affairs, *A Sea Change. A Marine Bill White Paper*, Cm. 7047 (March 2007), available: <<http://www.defra.gov.uk/marine/pdf/legislation/marinebill-whitepaper07.pdf>> (retrieved 10 February 2009). For additional concerns regarding funding see Department for Environment, Food and Rural Affairs, *Taking forward the Marine Bill: The Government response to pre-legislative scrutiny and public consultation*, 2008, Cm. 7422, pp. 13–14, available: <<http://www.official-documents.gov.uk/document/cm74/7422/7422.asp>> (retrieved 10 February 2009).

<sup>53</sup> M. Hayashi, “The Re-birth of Japan as an Ocean State: The New Basic Act and Ocean Policy” (contribution to an international conference, entitled “Ocean Governance: Structures, Functions, and Innovation,” organised by the Law of the Sea Institute, University of California, Berkeley, and Inha University, Seoul, at Berkeley, California, United States, 4–5 November 2008). Point reaffirmed during a personal conversation between M. Hayashi and the present author at that occasion.

level that requires harmonisation and prioritisation to the already complicated picture sketched above.<sup>54</sup> This European initiative may well be the precursor of the future state of ocean policy making. Indeed, ocean policies as they have been articulated so far are primarily state-centric. However, it cannot be overemphasised that there is a real need to ensure a coordinated effort spanning bordering states' policies. This will not only simplify decision-making processes for licensing procedures but can also lead to cross-border cooperation and consultation.<sup>55</sup> The nature of the maritime domain as an ecosystem cuts across administrative lines highlighting the importance of a coordinated approach in policy making and implementation<sup>56</sup> which so far is not readily found in states' ocean policies.

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<sup>54</sup> J. Rankin, "Taming Tensions on Europe's Seas," *Maritime Policy* 13, 1 (2007).

<sup>55</sup> MSP Document, n. 40 above, p. 10.

<sup>56</sup> The UK Marine Bill, n. 34 above, is also a good example of best practice as it is designed to work together with Scotland's current consultations on a Scottish Marine Bill. These pieces of legislation recognise the need for a symbiotic approach in the development of both policies within the Union. See <<http://www.scotland.gov.uk/Publications/2008/07/11100221/5>> (retrieved 10 February 2009) for a full version of this bill. Chapter 2, Articles 48–49 are especially relevant to this study. Within the EU member states and non-member states, the INTERREG IIIB CADSES (Central, Adriatic, Danubian and South-Eastern European Space) Project is the best example of a cross-border initiative. Sixteen states in the Baltic, Adriatic and Black Sea regions, in accordance with sustainability principles, aim to ensure a cross-border approach in policy making and consultations. For a copy of the Project's handbook, see PlanCoast, *Handbook on Integrated Maritime Spatial Planning* (April 2008), available: <[http://www.plancoast.eu/files/handbook\\_web.pdf](http://www.plancoast.eu/files/handbook_web.pdf)> (retrieved 10 February 2009).