



An International Instrument on Conservation and Sustainable Use of Biodiversity in Marine Areas beyond National Jurisdiction

Exploring Different Elements to Consider

PAPER VII

**Relation between Environmental Impact Assessments, Strategic
Environmental Assessments and Marine Spatial Planning***

By Thomas Greiber and Marissa Knodel, with comments from Robin Warner

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* DISCLAIMER: The views expressed in this paper do not necessarily reflect those of the German Federal Agency for Nature Conservation or the German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety.

1. Background

At the 2012 United Nations Conference on Sustainable Development (Rio+20), States committed themselves *'to address, on an urgent basis, building on the work of the Ad Hoc Open-ended Informal Working Group and before the end of the sixty-ninth session of the General Assembly, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the United Nations Convention on the Law of the Sea.'*¹ This commitment was recalled and reaffirmed by the United Nations General Assembly (UNGA) in its 67th and 68th session.² In its resolution 68/70, the UNGA also requested the United Nations Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (UN Working Group) to make recommendations to the UNGA *'on the scope, parameters and feasibility of an international instrument under the Convention'*.³ These recommendations shall help to prepare for the decision to be taken at the 69th session of the UNGA in 2015, whether to start the negotiation of an international instrument on the conservation and sustainable use of biodiversity in areas beyond national jurisdiction (ABNJ).

The International Union for Conservation of Nature (IUCN) in collaboration with different partners has prepared a series of policy briefs to provide technical input to the ongoing ABNJ discussions, and thereby support the UNGA decision-making process. As indicated in **Paper I**, one of the operational mechanisms to be discussed under 'parameters' could be environmental impact assessments (EIAs). The following **Paper VII** aims to explain the differences and relations between EIAs, strategic environmental assessments (SEAs) and marine spatial planning (MSP). **Paper VIII** will then provide a more focused look at EIA implementation in ABNJ.

2. Understanding EIA, SEA and MSP

An EIA is a process to identify and evaluate projects that may have significant environmental impacts in order to decide whether they should proceed and under what circumstances. The process involves consideration by a designated decision-making authority of a wide variety of factors, alternatives, mitigation measures, and public comments. If the project proceeds, the EIA process continues through monitoring its actual environmental impacts and revising the management plan as necessary. Thus, EIAs aim *'to predict environmental impacts at an early stage in project planning and design, find ways and means to reduce adverse impacts, shape projects to suit the local environment and present the predictions and options to decision-makers.'*⁴

An SEA is a procedural tool to identify and evaluate policies, plans, or programmes that may have significant environmental impacts in order to ensure environmental considerations and objectives

¹ UNGA resolution 66/288. *'The future we want.'* UN doc. A/RES/66/288, of 11 September 2012. Paragraph 162.

² UNGA resolution 67/78. *'Oceans and the law of the sea.'* UN doc. A/RES/67/78, of 11 December 2012. Paragraph 181. UNGA resolution 68/70. *'Oceans and the law of the sea.'* UN doc. A/RES/68/70, of 9 December 2013. Paragraph 197.

³ UNGA resolution 68/70. *'Oceans and the law of the sea.'* UN doc. A/RES/68/70, of 9 December 2013. Paragraph 198.

⁴ Convention on Biological Diversity. Online, What is Impact Assessment? Available at www.cbd.int/impact/whatis.shtml.

are integrated into the decision-making process at an early stage and interlinked with economic and social considerations. The primary objectives of SEAs are to⁵

- help achieve environmental protection and sustainable development through consideration of environmental effects of proposed strategic actions, identification of the best practicable environmental option, and early warning of cumulative effects and large-scale changes;
- strengthen and streamline EIAs for individual projects or activities through prior identification of the scope of potential impacts and information needs, clearance of strategic issues and concerns related to justification of proposals, and reducing the time and effort necessary to conduct individual reviews;
- integrate the environment into sector-specific decision-making on a broader scale by promoting environmentally sound and sustainable proposals, and changing the way decisions are made.

MSP is an area-based management framework that aims to balance multiple use objectives of the marine environment. MSP involves

- an ecosystem-based, area-based, integrated, adaptive, strategic and participatory process that
- balances economic development with environmental conservation and
- utilizes spatial and non-spatial tools in order to achieve social and economic objectives.⁶

MSP is often described as a framework to guide marine management that is forward-looking, participatory, iterative, comprehensive, science-supported, area-based, and sustainability-focused.⁷

Selected definitions of the terms EIA, SEA and MSP can be found in Annex I to this document.

3. Relationship between EIA, SEA and MSP

Environmental impact assessments and strategic environmental assessments are two environmental assessment procedures that aim to *'facilitate sound, integrated decision-making in which environmental considerations are explicitly included'* by providing *'clear, well organized information on the environmental effects, risks, and consequences of development options and proposals'* in order to achieve or support environmental protection and/or sustainable development.⁸ EIAs and SEAs share common values, guiding principles, and procedural steps, but differ in their scope. EIAs apply to specific projects while SEAs apply to overarching policies, plans, and programmes.

⁵ Partidário, M.R. (2003). *'Strategic Environmental Assessment (SEA): current practices, future demands and capacity-building needs.'* International Association for Impact Assessment (IAIA) Training Course. Portugal. P. 4.

⁶ Marine Spatial Planning Initiative. Online, Marine Spatial Planning (MSP). United Nations Educational, Scientific, and Cultural Organization (UNESCO). Available at www.unesco-ioc-marinesp.be/marine_spatial_planning_msp?PHPSESSID=gmfteu0nmkv17hstj6enc6prc6 .

⁷ Secretariat of the Convention on Biological Diversity and the Scientific and Technical Advisory Panel—GEF. (2012). *'Marine Spatial Planning in the Context of the Convention on Biological Diversity: A study carried out in response to CBD COP 10 decision X/29.'* Technical Series No. 68. Montreal, Canada. P. 13.

⁸ Sadler, B. (1996). *'Environmental Assessment in a Changing World: Evaluating Practice to Improve Performance, International Study of the Effectiveness of Environmental Assessment.'* Canadian Environmental Assessment Agency and the International Association for Impact Assessment. Art. 2.1.2.

Table: Main Differences between SEA and EIA⁹

	SEA	EIA
Nature of action	Strategy, visions, concepts	Construction/operation actions
Focus	Critical decision moments along decision processes	Products of decision processes (final outcomes)
Level of decision	Policy, planning	Project
Alternatives	Spatial balance of location, technologies, fiscal measures, economic, social or physical strategies	Specific alternative locations, design, construction, operation
Scale of impacts	Macroscopic (mainly global, national, regional)	Microscopic (mainly local)
Scope of impacts	Sustainability issues, economic and social issues may be more tangible than physical or ecological issues	Environmental with a sustainability focus, physical or ecological issues, and also social and economic
Time scale	Long to medium-term	Medium to short-term
Types of data sources	State of the environment reports, statistical data, policy and planning instruments	Field work, sample analysis, statistical data
Assessment benchmarks	Sustainability benchmarks (criteria and objectives)	Legal restrictions and best practice
Outputs	Broad	Detailed
Post-evaluation	Other strategic actions or project planning	Objective evidence/construction and operation

Marine spatial planning is an area-based approach to marine management that also aims to improve decision-making for the sustainable use of marine resources and space.¹⁰ Similar to EIA and SEA procedures, MSP aims to promote sustainable development through integrating and balancing environmental considerations and objectives into decision-making processes. MSP, however, presents a framework for marine management rather than a process to guide decision-making about a particular project, policy, plan, or programme.

4. Conclusion

The integration of SEA and EIA allows for a tiered approach to environmental assessment and decision-making. SEAs and EIAs interact as follows:

- SEAs do not replace EIAs.
- SEAs examine a wider range of strategic alternatives to policies, plans and programmes as well as their impacts, including large-scale, cumulative, synergistic, and indirect impacts.
- SEAs can help identify and set a framework for important issues to be considered at subsequent levels, even if such guidance is not binding.

⁹ Adapted from Rosário Partidário, M. (2003). *'Strategic Environmental Assessment (SEA): current practices, future demands and capacity-building needs.'* International Association for Impact Assessment (IAIA) Training Course. Portugal. P. 20.

¹⁰ Ban, Natalie C., et al. (Undated). *'Better integration of sectoral planning and management approaches for the interlinked ecology of the open oceans.'* P. 12.

- Though difficult to quantify, SEAs often reduce the time and cost needed for EIAs, while increasing the transparency of the planning and assessment process for the public and stakeholders.
- SEA and EIA interactions present opportunities to learn, communicate, and strengthen strategic, environmental decision-making and planning structures.¹¹

In order to avoid duplication and integrate SEAs and EIAs, SEAs should concentrate on exploring a broad scope of alternatives while EIAs should focus on location-specific or operational alternatives.¹² In addition, SEAs should address broad, cumulative impacts at the policy, plan, or programme level, while EIAs should address specific impacts on the project level.¹³

EIAs or SEAs can also integrate with MSP through an assessment of a particular spatial management plan. For example, MSP may present specific projects (e.g. deep seabed mining, marine parks) and/or policies, plans, or programmes (e.g. regional fishery management organizations, marine protected areas) that require an EIA or SEA, respectively. EIAs and SEAs may contribute to the decision-making process for a particular spatial management plan through a comprehensive, systematic, and transparent assessment of its environmental, social, and economic impacts and alternatives, thereby mitigating 'spatial planning negatives.'¹⁴

¹¹ Nootboom, S. (1999). *Environmental Assessments of Strategic Decisions and Project Decisions: Interactions and Benefits.* DHV Environment and Infrastructure, Ministry of Housing, Spatial Planning and the Environment of The Netherlands. P. 57-67.

¹² Sheate, W. et al. (2005). *The Relationship between the EIA and SEA Directives: Final Report to the European Commission.* Contract No.: ENV.G.4./ETU/2004/0020r. Imperial College London Consultants. P. 57-58.

¹³ Ibid.

¹⁴ Belcáková, I. and Nelson, P. (2011). Online, SEA in spatial planning. Special meeting on 'International Experience and Perspectives in SEA.' Available at www.iaia.org/conferences/special-meetings/prague/sea-spatial-planning.aspx.

Annex I: Definitions

Definitions for EIA	Source
<i>'Process of identifying, predicting, evaluating, and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments being made.'</i> ¹⁶	International Association for Impact Assessment, in cooperation with the Institute of Environmental Assessment, UK (1999)
<i>'Process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse.'</i> ¹⁷	Convention on Biological Diversity (2002)
<i>'Public process by which the likely effects of a project on the environment are identified, assessed and then taken into account by the consenting authority in the decision-making process.'</i> ¹⁸	Imperial College London Consultants, Report to the European Commission (2005)
<i>'Process by which the environmental consequences of a proposed project or programme are evaluated, undertaken as an integral part of planning and decision-making processes with a view to limiting or reducing the adverse impacts of the project or programme.'</i> <i>'Policy tool that provides evidence and analysis of environmental impacts of activities from conception to decision-making' and should include 'detailed risk assessments and provide alternatives, solutions or options to deal with identified problems.'</i> ¹⁹	United Nations Office for Disaster Risk Reduction (2007)

Definitions for SEA	Source
<i>'The formalised, systematic and comprehensive process of evaluating the environmental effects of a policy, plan or programme and its alternatives, including the preparation of a written report on the findings of that evaluation, and using the findings in publicly accountable decision-making.'</i> ²⁰	Therivel et al. (1992)
<i>'The formalized, systematic and comprehensive process of identifying and evaluating the environmental consequences of proposed policies, plans or programmes to ensure that they are fully included and appropriately addressed at the earliest possible stage of decision-making on a par with economic and social considerations.'</i> ²¹	Sadler & Verheem (1996)

¹⁶ Principles of Environmental Impact Assessment Best Practice. (1999). International Association for Impact Assessment, in cooperation with Institute of Environmental Assessment, UK. P. 2.

¹⁷ Convention on Biological Diversity. (2002). Decision VI/7 *'Identification, monitoring, indicators and assessments.'* Annex 1.a.

¹⁸ Sheate, W. et al. (2005). *'The Relationship between the EIA and SEA Directives: Final Report to the European Commission.'* Contract No.: ENV.G.4./ETU/2004/0020r. Imperial College London Consultants. P. xiii.

¹⁹ United Nations Office for Disaster Risk Reduction. Online, Terminology: Environmental Impact Assessment. Last updated 30 August 2007. Available at www.unisdr.org/we/inform/terminology .

²⁰ Therivel et al. (1992). *'Strategic Environmental Assessment.'* Earthscan Publications, London.

²¹ Sadler, B. and Verheem, R. (1996). *'Strategic Environmental Assessment: Status, challenges and future directions.'* Netherlands Ministry of Housing, Spatial Planning and the Environment, The Netherlands, and the International Study of Effectiveness of Environmental Assessment.

<p><i>'Process of prior examination and appraisal of policies, plans, and programmes and other higher level or pre-project initiatives,' where:</i></p> <ul style="list-style-type: none"> • a policy is <i>'a general course of action or proposed overall direction that a government is, or will be, pursuing and which guides ongoing decision making;'</i> • a plan is <i>'a purposeful, forward-looking strategy or design, often with coordinated priorities, options and measures, that elaborates and implements policy;'</i> • a programme is <i>'a coherent, organized agenda or schedule of commitments, proposals, instruments, and/or activities that elaborates and implements policy.'</i>²² 	Sadler (1996)
<p><i>'A form of environmental assessment intended to identify and assess the likely significant effects of a plan or programme on the environment, the results of which are then taken into account in the decision-making process.'</i>²³</p>	Imperial College London Consultants, Report to the European Commission (2005)
<p><i>'A tool to structure the public and government debate in the preparation of policies, plans and programmes;'</i> feeding <i>'this debate through a robust assessment of the environmental consequences and their interrelationships with social and economic aspects;'</i> and ensuring <i>'that the results of assessment and debate are taken into account during decision making and implementation.'</i>²⁴</p>	Netherlands Commission for Environmental Assessment
<p><i>'The evaluation of the likely environmental, including health, effects, which comprises the determination of the scope of an environmental report and its preparation, the carrying-out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.'</i>²⁵</p>	United Nations Economic Commission for Europe (UNECE), Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (2003)
<p><i>'A range of approaches which use a variety of tools to integrate environmental considerations into policies, plans and programmes and evaluate their interlinkages with economic and social considerations.'</i>²⁶</p>	Organization for Economic Cooperation and Development (OECD) Development Assistance Committee Network on Environment and Development Cooperation—Task Team on Strategic Environmental Assessment (2006)
<p><i>'Strategic instrument that helps to create a development context towards sustainability, by integrating environment</i></p>	Partidário (2012)

²² Sadler, B. (1996). *'Environmental Assessment in a Changing World: Evaluating Practice to Improve Performance, International Study of the Effectiveness of Environmental Assessment.'* Canadian Environmental Assessment Agency and the International Association for Impact Assessment, Box 6.1. P. 140.

²³ Sheate, W. et al. (2005). *'The Relationship between the EIA and SEA Directives: Final Report to the European Commission.'* Contract No.: ENV.G.4./ETU/2004/0020r. Imperial College London Consultants. P. xiii.

²⁴ Netherlands Commission for Environmental Assessment. Online, SEA. Available at www.eia.nl/en/environmental-assessment/sea.

²⁵ United Nations Economic Commission for Europe. (2003). Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context. Art. 2.6. Kyiv, Ukraine, 21 May 2003.

²⁶ Organization for Economic Cooperation and Development. (2006). *'Applying Strategic Environmental Assessment: Good Practice Guidance for Development Co-operation.'* P. 17.

*and sustainability issues in decision-making and assessing development options in face of contextual conditions.*²⁷

Definitions for MSP	Source
<i>'Regional/spatial planning gives geographical expression to the economic, social, cultural and ecological policies of society. It is at the same time a scientific discipline, an administrative technique and a policy developed as an interdisciplinary and comprehensive approach directed towards a balanced regional development and the physical organisation of space according to an overall strategy.'</i> ²⁸	European Regional/Spatial Planning Charter (1983)
<i>'A place-based approach to coastal and ocean management, aimed primarily at reducing conflicts among marine users in order to balance economic development with conservation and ecosystem-based management goals.'</i> ²⁹	Ban et al. (undated)
<i>'A public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that are usually specified through a political process.'</i> ³⁰	Intergovernmental Oceanographic Commission (2009)
<i>'A tool for improved decision-making with the objective to balance sectoral interests and achieve sustainable use of marine resources and provide stability and transparency.'</i> ³¹	Freestone et al. (2010)
<i>'An area-based management framework that addresses multiple management objectives. It is not a single tool, but rather an approach or framework to provide a means for improving decision-making as it relates to the use of marine resources and space. Marine Spatial Planning is seen as a new form of public process that collects, analyses, and identifies where human activities occur, and sets into motion planning of future activities in order to achieve agreed upon ecological economic and social goals.'</i> ³²	Secretariat to the Convention on Biological Diversity (2012)

²⁷ Rosário Partidário, M. (2012). *'Strategic Environmental Assessment Better Practice Guide—methodological guidance for strategic thinking in SEA.'* Portuguese Environment Agency and Redes Energéticas Nacionais, Lisbon, Portugal, Glossary. P. 63.

²⁸ European Regional/Spatial Planning Charter. (1983). Adopted by the European Conference of Ministers responsible for Regional Planning (CEMAT).

²⁹ Ban, Natalie C., et al. (Undated). *'Better integration of sectoral planning and management approaches for the interlinked ecology of the open oceans.'* P. 11.

³⁰ Intergovernmental Oceanographic Commission. (2009). *'Marine Spatial Planning: A Step-by-Step Approach toward Ecosystem-based Management.'* Manual and Guides No. 53, ICAM Dossier No. 6. P. 18.

³¹ Freestone, D. et al. (2010). *'Draft Policy Brief on Improving Governance: Achieving Integrated Ecosystem-Based Ocean and Coastal Management.'* Global Forum on Oceans, Coasts, and Islands, Global Oceans Conference, May 3-7, 2010, UNESCO, Paris. P. 8.

³² Secretariat of the Convention on Biological Diversity and the Scientific and Technical Advisory Panel—GEF. (2012). *'Marine Spatial Planning in the Context of the Convention on Biological Diversity: A study carried out in response to CBD COP 10 decision X/29.'* Technical Series No. 68. Montreal, Canada. P. 11.

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