

Regional cooperation for European seas: Governance models in support of the implementation of the MSFD

Jan van Tatenhove*, Jesper Raakjaer**, Judith van Leeuwen* and Luc van Hoof***

* Wageningen University Environmental Policy Group, Wageningen, The Netherlands

** Innovative Fisheries Management (IFM) - an Aalborg University Research Center, Aalborg, Denmark

*** IMARES, Wageningen University and Research Centre, Wageningen, The Netherlands

Correspondence: jan.vantatenhove@wur.nl

Abstract

During the implementation process of the Marine Strategy Framework Directive (MSFD), Member States are expected to cooperate and coordinate at the regional sea level as well as arrange stakeholder involvement. However, the MSFD does not specify any governing structures to do so. The aim of this paper is to address these key challenges of the MSFD by developing four governance models for regional cooperation and assess their impact on governance performance. The four models are based on the building blocks of stakeholder involvement (low or high) and decision-making power (binding or non-binding decisions): 1) Cross-border platforms; (2) Regional Sea Convention-PLUS; (3) Advisory Alliance and (4) Regional Sea Assembly. Secondly, the paper will do an ex ante assessment on how the alternative models will have an impact on governance performance. The assessment criteria for governance performance are: a) costs to set up and run a model; b) capacity to cooperate; c) policy coordination; d) institutional ambiguity; and e) implementation drift. In addition to this assessment of the performance based on expert judgement (i.e. scientists of WP7 of the ODEMM project), we have also undertaken 4 roundtable discussions in which stakeholders from the four regional seas did an assessment of the four models. Our main conclusion is that increasing stakeholder participation, a much desired development in regional organisation of marine management as expressed by the stakeholder community, will increase the costs of the policy making process. If stakeholder participation is not embedded in a wider institutional setting in which the participation of stakeholders is directly related to the policy process and the degree to which decisions taken are binding, the increase of costs does not lead to a more smoothly running model.

Keywords: MSFD; governance models; regional cooperation; marine regions; governance performance

1. Introduction

With the Marine Strategy Framework Directive (MSFD)(2008/56/EC) the EU is attempting to implement an eco-system based approach to marine management (EBM). The implementation of the Marine Strategy Framework Directive (MSFD) is the responsibility of the individual EU Member States (MSs). Each MS had to define Good Environmental Status (GES) for its Exclusive Economic Zone (EEZ), by July 2012, followed by the development of a programme of measures designed to achieve or maintain GES by 2015 (in operation by 2026 at the latest).

The focus of the MSFD is on marine regions. MSs sharing a marine region are supposed to cooperate and coordinate their activities. To achieve this coordination it is suggested they make use of existing regional institutional cooperation structures, such as the Regional Sea Conventions [1]. Despite this recognition for the need to organise regional cooperation and coordination between MSs and with efforts undertaken by the Regional Sea Conventions (RSCs), the MSFD itself does not provide any

specific legal framework nor specifies governing structures to ensure cooperation and coordination at the regional sea level between MSs. Subsequently, each MS can define its own GES without full coordination and collaboration with neighbouring countries.

Furthermore, the MSFD does not provide guidance on how to ensure genuine stakeholder participation in the implementation process. Whereas the Directive alludes in several instances to “*involvement of interested parties*” (such as in article 19 article 1,2 and article 9 section 3 [2] it does not as such elaborate a strategy of public consultation nor does it specify a specific inclusion of stakeholders in the several phases of the implementation of the MSFD.

Hence from an institutional perspective the MSFD is faced with great challenges and the present implementation is characterised by an almost endless stream of ad hoc solutions in a policy environment of institutional ambiguity and unclear division of competencies and responsibilities. The implementation of the MSFD brings about some key challenges in ensuring that an appropriate governance structure is established, promoting coordination and collaboration between MSs (neighbouring the same marine (sub) region) and getting stakeholders involved in this process. It is generally acknowledged that stakeholders have to become more actively involved in marine management to realise effective and legitimate marine policies [2,3,4].

The aim of this paper is to make a contribution to address the key challenges of the MSFD by developing different governance models in relation to the implementation of the MSFD. Firstly, the paper will provide an understanding of different possible forms of coordination and cooperation between MSs in a marine (sub)-region to define GES and to implement the measures to achieve or maintain GES. Secondly, it will initiate the discussion on how alternative models can have an impact on governance performance. To assess the performance of the governance models the following criteria are used: a) costs to set up and run a model; b) capacity to cooperate; c) policy coordination; d) institutional ambiguity; e) implementation drift. These criteria are based on earlier research about implementation drift in fisheries policies and the legal, stakeholder and institutional setting of the implementation of the MSFD [5,6,7,8], the drivers of the scenarios of regional cooperation [9] and a survey covering the 4 European seas aimed to collect stakeholders’ perspectives on their Regional Sea governance to implement the MSFD and to identify drivers of good governance [10].

In section 2, we describe the methodology used to develop the governance models, followed in section 3 by a characterisation of the existing governance structures, rules of coordination and regional cooperation, and stakeholder involvement (governance baseline for the implementation of the MSFD). Section 4 develops the institutional building blocks for regional governance structures: participation and decision-making power. Based on these building blocks we suggest four alternative governance models of regional cooperation for the implementation of the MSFD. In section 5 we discuss the assessment criteria to evaluate the governance performance for each of the four governance models, followed by an ex ante evaluation of the perceived costs and benefits of the models. Based on this analysis we assess the governance performance of the four governance models (section 6). While this assessment of the performance is based on expert judgement (i.e. scientists of WP7 of the ODEMM project), in section 7 we present a stakeholder assessment based on 4 roundtable discussions (RTD). Finally, in section 8 we draw some conclusions.

2. Methodology

The development of four alternative governance models for regional cooperation is based on the development of drivers and scenarios [9], which were subsequently tested through a pan-European survey. The survey showed a clear preference for scenarios of *regional* cooperation (as opposed to

the scenarios in which the implementation is done solely on a national or European level) and a wish of increased stakeholder involvement [10]. Based on these preferences this paper introduces four alternatives based on two main aspects of devolved regional cooperation: decision-making and participation. The survey also validated the assessment criteria of capacity to cooperate, securing coordination, scale of institutional ambiguity, efficiency in resource use and avoiding implementation drift.

The governance models were tested in four Roundtable Discussions (RTD). For each sea (i.e. the Mediterranean, the Black Sea, the Baltic Sea and the Greater North Sea), we organised a RTD consisting of 9-12 experts in the marine field, in the period January 2013 – February 2013. Participants came from governmental bodies, a broad spectrum of industry groups (fishing, energy, shipping), eNGOs and scientific organisations. During the RTD, subgroups first performed a SWOT analysis of each of the suggested models. Each subgroup presented its analysis in the plenary, culminating in a discussion on stakeholder involvement and cooperation aspects of the four models. Second, the participants developed their own governance model, using (elements of) some of the suggested models. The results of these four RTDs will be used to assess the performance of the governance models from a stakeholder perspective.

3. Governance baseline

Although defining, achieving and maintaining GES is the responsibility of the individual MS, coordination and cooperation between MSs are crucial for addressing transboundary issues. Currently, the EU has set up a common implementation structure through which the implementation of the MSFD is coordinated [8,11]. MSs are developing national instruments and processes to implement the MSFD. According to the MSFD, MSs and other countries sharing the same marine region “shall cooperate to ensure that (...) the measures required to achieve the objectives of the Directive (...) are coherent and coordinated across the marine region or sub-region concerned” (art. 5(2)) [2]. MSs can make use of “(...) existing regional institutional cooperation structures, including those under Regional Sea Conventions, covering that marine region or sub-region” (art 6(1)). There are four RSCs in Europe: the OSPAR Convention (OSPAR), the Helsinki Convention (HELCOM), the Barcelona Convention (UNEP-MAP) and the Bucharest Convention. These cooperation structures aim to protect the marine environment and bring together neighbouring countries that share marine waters. The RSCs are platforms for information exchange, and where possible, policies can be adopted in case national implementation practices converge in such extent that harmonisation through the RSC are desired by the MSs. For example, in its Regional Implementation Framework for the EU MSFD OSPAR “will use its efficient cooperation structures in order to facilitate the coordinated implementation of the MSFD” [12]. Also, HELCOM plays a role in the “coordination of indicator development and setting of environmental targets, as well as facilitation of regional coordination and cooperation on the preparation of national initial assessments. HELCOM is in the process of finding an agreement on common principles for core indicators and associated targets reflecting good environmental status as well as assessment methodologies” [13]. Core actors in this governance structure are thus the European institutions, MSs and the RSCs.

GES has been determined by MSs through an iterative process between the national level and the level of the marine region or sub region as referred to in Article 4 of the Directive. “Member States shall, when implementing their obligations under this Directive, take due account of the fact that marine waters covered by their sovereignty or jurisdiction form an integral part of the following marine regions: (a) the Baltic Sea; (b) the North-east Atlantic Ocean; (c) the Mediterranean Sea; (d) the Black Sea” (art 4(1)). Regional cooperation between MSs to define and to implement GES for the marine region (regional sea) is complicated by existing institutional and organisational arrangements. On the

one hand, this is the result of diffused responsibilities between the EU, Member States and the RSC; on the other hand, the implementation of the MSFD is influenced by the implementation of other EU policies, such as the Common Fisheries Policy (CFP), Integrated Maritime Policy (IMP), Marine Spatial Planning (MSP) and Natura 2000 (Habitat Directive and Birds Directive). Legal, institutional and stakeholder impediments make the implementation process of the MSFD a challenging one [14]. The patchwork of different policy domains, the mismatch of scale between the governance, ecological and socio-economic systems for the different maritime activities [15], the process of redefining political goals and pursuing alternative political goals during implementation (implementation drift) [5], and the lack of a participation structure, show the need of new governance models to achieve policy coordination at the level of the regional sea.

According to the MSFD "(...) Member States shall ensure that all interested parties are given early and effective opportunities to participate in the implementation of this Directive, involving, where possible, existing management bodies or structures, including Regional Sea Conventions, Scientific Advisory Bodies and Regional Advisory Councils" (art. 19(1)). However, what early and effective opportunity to participate means is not made explicit, nor is the role of existing management structures. Articles 19(2) and 19(13) put the emphasis on participation as informing: from the MS to the public and from the MS to the Commission. The Commission shall also consult all interesting parties about the criteria and standards to achieve GES (art. 9 (3)). However, the Directive does not specify a strategy of public consultation, nor how to involve stakeholders in the different phases of the implementation of the MSFD.

4. Developing Governance Models

In searching for alternative governance models, the main issue to address is how to organise regional cooperation, and what could be effective and legitimate governance models to realise regional cooperation and collaboration? In order to facilitate thinking about the options for organising regional cooperation and collaboration, we will first define two key institutional building blocks that are central to regional implementation processes for the MSFD, i.e. participation and decision-making. Based on these institutional building blocks, we will develop four governance models that to a different degree facilitate coordination and collaboration, as well as participation of stakeholders at the regional level.

4.1. Institutional building blocks

Central elements in the MSFD are the responsibility of MSs to define and to implement GES on the one hand and to organise regional cooperation and coordination with countries sharing the same marine region on the other. At the same time, stakeholder participation is a key principle adhered to by the European Commission and the MSs in implementing the MSFD. However, as we already stated, the MSFD does not provide any legal nor institutional model, nor specific criteria on how to ensure effective stakeholder involvement in the decision making process for implementation of the MSFD. Two key questions in setting up an appropriate governance structure at the regional level are how will the decision-making process at the regional level be organised and who should be involved (participation)? The institutional building blocks for the governance models developed in this paper are therefore participation and decision-making.

Decision making power

Decision-making "is the art of choosing reasonable decision rules, ones that are appropriate for each decision context. Reasonable decision rules are internally consistent and an outcome of moral argumentation, they are values-based" [16]. To choose reasonable decision rules actors need the authority to do so, i.e. the ability and capability to select and change the decision rules of a decision

making process in a specific context. Decision-making concerning regional cooperation at sea refers both to setting the power architecture of decision-making and to the decision-making process. The architecture of decision-making defines the organisational rules and the content. These include among others the rules through which actors are involved and whether decisions are binding or non-binding. The process of decision-making refers to the way the decision-making process is organised; e.g. top-down – bottom-up; centralised – decentralised. To develop our governance models we focus on whether decisions are binding or non-binding. We are well aware that decision-making power in reality is more complex than a straightforward binary relationship that is embedded in a neo-corporatists structure where stakeholders are on “unequal footing” in terms of being able to influence the outcome of the decision-making process. Furthermore, powerful stakeholders might through lobbying be able to exercise informal power and thus influence decisions.

Participation

In general, participation is defined as the involvement of actors/stakeholders in policy- and decision-making. Two dimensions of participation can be distinguished: participation width and depth [17]. The width of participation is the degree to which each stakeholder is offered a chance to participate in each step of the policy-making process. The depth of participation is determined by the degree to which stakeholders have the opportunity to determine the final outcome of the decision-making process.

To determine the depth of participation in political science and public administration different participation ladders have been developed [18,19,20,21,22]. The different types of participation: informing; consulting; advising; coproducing; co-deciding show an increasing influence of stakeholders on decision-making.

As stated in the governance baseline the MSFD does not specify how to involve stakeholders throughout the process. However, stakeholder involvement can be organised in many different ways, varying from stakeholder consultation organised by individual MSs to stakeholder involvement in regional platforms. Present stakeholder involvement could be characterised as informing and consulting wherever possible within the existing management bodies and structures, also implicitly assuming that stakeholder consultation is dealt with by MSs. Besides differences in the depth of participation, the width also differs. Earlier research [7] showed that the different maritime sectors vary in their ability to participate, because of the wide diversity in the institutional capabilities, economic strength, and political clout across the various economic sectors and eNGOs.

From both theoretical and empirical experiences [21,23,24] we know that stakeholder involvement improves policy legitimacy and often is an important condition for achieving policy/management objectives. In our search for appropriate governance institutions we go a step further by including the perception of different stakeholder groups and defining the depth of participation by making a distinction between low and high stakeholder involvement. In this paper stakeholders include societal organisations, (sectoral) maritime private parties, the scientific community and the public administration.

4.2. Alternative governance models

Based on the building blocks participation/stakeholder involvement and decision-making power (binding or non-binding decisions) we developed four alternative governance models for regional cooperation: (1) Cross-border platforms; (2) Regional Sea Convention-PLUS; (3) Advisory Alliance and (4) Regional Sea Assembly (see table 1).

Table 1. Alternative governance models for regional cooperation

	Non-binding decisions	Binding decisions
Low stakeholder involvement	1. Cross-border Platforms	2. Regional Sea Convention-PLUS
High stakeholder involvement	3. Advisory Alliance	4. Regional Sea Assembly

1) Cross-border platforms

Cross border platforms consist of neighbouring MSs working together on an ad hoc basis and coordinating their initiatives in implementing the MSFD through information sharing. Typically cooperation takes place between 2 or 3 MSs at the sub-regional level. Participation of representatives of marine sectors and eNGOs are mostly through consultation (asked for comments) at the national level, which according to the Hegland et al. [22] continuum is a weak form of participation.

This mode of governance emulates the present way of involving stakeholders in the MSFD process and will not provide stakeholders with formal influence on the outcome of decision-making processes (although can still exercise informal influence). Furthermore, the cross-border platforms will not have binding decision-making power. Each individual member state remains responsible for the implementation of the MSFD and use of shared information. Cross-border platforms are temporary, because no formal cross-border institutional arrangements are developed. Participating MSs themselves take the initiative to organise bilateral or trilateral meetings on an ad-hoc basis or will agree on more formal procedures for coordination and collaboration.

2) Regional Sea Convention-PLUS (RSC+)

The Regional Sea Convention-PLUS governance model is taking the existing structures between the EU, RSC and MSs a step further by providing the Regional Sea Convention with a stronger role and mandate in implementing and coordinating the regional aspects of the MSFD. This model will replace the nationally oriented implementation processes with a regional implementation processes coordinated by the RSC+. At the level of the marine region or sub-region, MSs negotiate assessment work to define GES, programmes of measures, implementation procedures and policies that shall direct the implementation of MSFD and monitoring programmes at the regional rather than at the national level. In this model, MSs still play a key role, but the difference with the existing situation is that binding decisions to which the MSs adhere, are taken in the RSC+. MS have to implement these decisions and follow implementation guidelines as formulated by the RSC+. Stakeholder involvement will remain to be implemented at the national level in accordance with MS procedures for stakeholder consultation.

3) Advisory Alliance

The governance model of the Advisory Alliance is comparable to the Regional Advisory Councils (RACs) known from fisheries under the CFP. The RACs are bodies providing advice to the EU DG for Maritime Affairs and Fisheries (DG MARE) and to national authorities of involved MSs on request. The here proposed Advisory Alliances consist of representatives of all maritime stakeholders: industry (fisheries, oil and gas industry, shipping, offshore wind energy, coastal tourism) societal groups (eNGOs) and relevant national administrations. An Advisory Alliance will be installed for each marine region or sub-region. The AAs formulate non-binding advice to the EU and the MSs and leave the implementation of decisions to the individual MSs. However, and in contrast to how RACs operate at

present, it is envisioned that MSs will take on the role of coordination and facilitate collaboration both between MSs and between MSs and stakeholders at regional sea level. Although this governance model is advisory in nature, and hence has no formal implementing authority in MSFD measures, the platform is intended to stimulate coordination and collaboration through soft modes of governance e.g. best practises and peer pressure.

4) Regional Sea Assembly

The Regional Sea Assembly (RSA) governance model proposes the establishment of a new institution. The RSA is given the exclusive competence of management of marine regions (regional sea), its natural resources, habitats and its uses. Hence an important responsibility of the RSA is to implement the MSFD, yet also to decide about other marine policies for a specific regional sea. The assembly is an entirely new governance arrangement at the level of the regional sea, with sovereign decision-making power and an elected representative body. Through elections all citizens and hence all stakeholders of the regional sea can be involved. The Members of the RSA are elected by a voting system and represent the Member States, ideally including neighbouring states (but likely impossible in practice) and the maritime sectors. The RSA has decision-making power on both operationalising and implementing maritime policies. There is a clear demarcation of the RSA from its bureaucracy responsible for the implementation processes. Decisions are taken by all the members of the RSA. The RSA will adopt binding policies for all Member States, industry and other uses or the marine environment in a particular Regional Sea. Because the RSA is responsible for the implementation, it will also have enforcement mechanisms at hand, such as sanctioning in case of non-implementation. Consultation and advice procedures will be set up for those stakeholders who do not participate in the RSA directly.

5. Costs and benefits of the governance models

In this section, we present the indicators used to assess the performance of the proposed governance models. These assessment indicators are based on the criteria 'costs' (to develop the model for the implementation of the MSFD and to organise cooperation) and 'benefits' (an effective and legitimate implementation both from the perspective of governmental/public actors and stakeholders). Although it is difficult to specify or even measure the cost-effectiveness of cooperation, the indicators to assess the models will shed light on the ratio between the costs needed and the benefits of each model, without an exact calculation of the monetary value of the exact investments, costs and returns.

5.1. Types of costs and benefits

5.1.1. Costs

We distinguish two types of costs needed to ensure the operation of a governance model. Those are the costs for setting up and running the model as well as making available the capacity (resources) to participate and cooperate.

- Costs for setting up and running the model

Different costs are involved in setting up and running a governance model. Costs vary between the (transaction) costs of establishing a governance model to the direct and indirect costs to maintain a governance model. For some models the initial costs of establishment and operation might appear high, while a model that is based on an existing cooperation structure might require less initial investments. By facilitating a process of effective and efficient regional implementation of policies the costs of actual regional cooperation add to the investment needed to make the model work.

- Capacity to cooperate

The capacity to cooperate refers to the resources available to MSs and other stakeholders, required to take part in a process of regional cooperation. Resources vary from the availability of manpower, financial means, knowledge and access to information, to the required knowledge and understanding of the decision-making and implementation process. If there are sufficient resources available (high capacity to cooperate) additional investments are not needed, if the amount of resources is insufficient, than additional investments are needed to organise participation and cooperation (low capacity to cooperate). Each of the governance models show different forms and possibilities of participation and require a different ability and capability of stakeholders to participate in the decision making process.

5.1.2. Benefits

The benefits of these investments refer to the rewards that different degrees of decision making and stakeholder involvement brings to the implementation of the MSFD. We distinguish the following three benefits: increased policy coordination between MSs and between MSs and the EU in implementing the MSFD; the reduction of confusion and uncertainty about procedures and rules of the game (institutional ambiguity); and a reduction of implementation drift (i.e. the extent to which the political goals of the MSFD are redefined during the implementation process).

- Policy Coordination

Policy coordination refers to how MSs and MSs and the EU work together in an organised way to tune one's activities to achieve coherence at the regional sea level in implementing the MSFD. The different governance models have different potential for coordination between MSs and between MSs and the EU at the European and regional level among others depending on the binding or non-binding nature of decision-making.

- Institutional ambiguity

Institutional ambiguity describes the mismatch between the institutional settings involved in decision-making and the specific territorial locations (i.e. marine regions and sub-regions) where decision making needs to take place. In the case of the regional seas, the institutional rules of the EU, the RSCs, MSs and bordering states all have some influence on decision making within the marine (sub)regions. At the same time, the locus for decision making in Ecosystem Based Management and thus the MSFD should be on the level of the marine (sub)region. The mismatch between existing, fragmented institutional settings and decision-making at the level of the marine (sub)region gives rise to institutional ambiguity, leading to uncertainty and confusion about the rules of participation and decision-making. The higher the level of institutional ambiguity the more room MSs and stakeholders have to influence decision-making or implementation strategies on different levels leading to implementation drift (see below), because rules are differently interpreted at the different levels in policy making. Although this room for influence might be positive for individual stakeholders, there is a disadvantage at the aggregated level when confusion and uncertain procedures lead to less efficient decision-making and stakeholder processes.

- Implementation drift

Implementation drift refers to the blurring boundaries between political decisions and administrative implementation. Political decisions can be redefined and alternative political aims pursued at the level of what should - in principle - be neutral administrative implementation. In relation to MSFD, MSs decide specific objectives, targets and indicators for GES. In this respect two kinds of drifts can occur:

1) circumvention of the overall political objectives of MSFD by either undermining the aim to achieve GES at the regional sea by being unambitious, but not directly violating the framework; or b) not complying with MSFD at all. At this stage in the process the latter is not as relevant as this is more directly related to the practical implementation of MSFD which will not happen before 2015 when monitoring programmes and programmes of measures will be agreed upon. The scope for manoeuvring and pursuing alternative political aims during implementation is highly dependent on the overall institutional set up. Gezelius et al. [5] use the principal-agent approach to understand the mechanisms that allow implementation drift. In this approach disloyalty on behalf of the agent is termed 'agency drifts', "which refers to the process of agents drifting towards carrying out the delegated tasks in a way that pursues their own goals and priorities rather than those intended by the principal".

5.2. Ex-ante evaluation of the costs and benefits of the models

In this sub-section, we present an ex-ante evaluation of the costs and the benefits of each of the four models. To do so we scored the indicators for each model by making use of an ordinal scale: low, low-medium, medium-high and high. Because the models differ in the way regional cooperation and collaboration is organised, they have specific investments in terms of resources and costs to organise decision-making and stakeholder participation as well as specific benefits in terms of an effective and legitimate implementation of the MSFD.

5.2.1. Cross Border Platforms

MSs define GES and programmes of measures for their own EEZ, but this implementation process could be influenced by cross border cooperation through Cross Border Platforms. The costs of organising cooperation in this model are low, because cooperation takes place between 2 or 3 MSs at the sub-regional level and is only organised when members of a CBP feel the need to discuss cross-border issues. The CBPs need little extra resources to cooperate. MSs have the personnel, time and information to define GES and to cooperate with neighbouring states about GES for the marine sub-region. Also no extra resources are needed for stakeholder consultation; this is part of the existing MSFD trajectory at the MS level.

The potential of policy coordination through the CBP is low-to-medium. The bottom-up and non-institutionalised nature of this model, i.e. the fact that CBP only takes place when more MSs have a wish for it, makes it uncertain whether policy coordination will occur between the MSs. Moreover, since this model organises coordination at the sub-regional level, there is a bigger gap with coordination taking place at the EU level. The level of institutional ambiguity is medium-to-high in this model, because of the ad hoc nature of CBPs. The non-institutionalised nature of CBPs gives rise to uncertainty about procedures of decision-making and the status of CBPs. This in turn creates uncertainty about the implementation of MSFD for the regional seas, because implementation rules are defined for several sub-marine regions rather than at the level of the marine region. Finally, the potential for implementation drift is low-to-medium; although the non-binding results reached at the CBP negotiation table can be reframed by the MS when implementing, the bottom-up nature of the model and the low number of MSs involved, ensure that non-binding results are only achieved when it is in the interest of the individual MS.

5.2.2. Regional Sea Convention – PLUS

This model foresees a shift from a national oriented implementation structure to a decision-making structure at the regional level. Decisions taken in the RSC+ are binding for the implementation of the MSFD in MSs. Low-to-medium costs in the RSC+ are related to the new coordination role of the RSC+

which needs a new decision-making structure. Since this model builds upon current RSC structures, costs for setting-up this model are kept to a minimum. Compared to the CBPs the costs for MSs will increase to set up and run such a structure, and the same holds for the resources needed for the capacity to cooperate. An extra effort, in terms of money, time and personnel of MSs is needed to participate in this new decision-making forum, because decision-making processes are more complicated than for a CBP.

Policy coordination between MSs takes place within the RSC+. In the negotiations MSs take into account the opinions of the stakeholders of their own country. Because binding decisions are taken by MSs at the regional level, the potential for policy coordination will be higher than for the CBP (i.e. medium-to-high). The binding nature of the decisions could make MSs more unwilling to come to consensus. Yet, when they do, coordination between the MSs and between the MSs and EU is established for an entire marine region. In addition, the institutional ambiguity of this model is low-to-medium, because clear procedures will be in place to come to decisions and implement them in this model. The scale of the RSC+ is at the regional level, reducing the mismatch between actual and desired institutional settings for EBM considerably. This model scores medium-to-high on implementation drift, because the RSC+ replaces the national implementation of the MSFD with a regional process of implementation.

5.2.3. Advisory Alliances

The costs of AA are medium-to-high, because a new advisory structure has to be developed for stakeholders of all maritime activities, instead of only for the fisheries sector and eNGOs such as in the RACs for the CFP. In this model, stakeholders have a formal position but their advice about GES or programmes of measures for a (sub) marine region is not binding for the individual MS. To realise regional coordination extra resources are also needed to organise regional cooperation, because informal and formal negotiations between MSs are needed to deal with the advices of the AAs. The capacity to cooperate is low-to-medium, because existing stakeholder involvement at national and EU level would be extended to the regional level, requiring limited extra resources, manpower and knowledge.

The advisory role of the AA complicates policy coordination in implementing the MSFD. Not only do MSs still have to coordinate their activities at the regional level, they also have to coordinate their activities with the EU and the AAs. Because of this lack of policy coordination at the regional sea level there is a lack of clarity about the implementation of the MSFD, resulting in high levels of implementation drift and institutional ambiguity. The rules of the game within the AA might be relatively clear, but institutional ambiguity exists about how the EU, MSs and possibly the current RSCs will deal with the non-binding advice of the AA. The misfit between the institutional settings of the AA, the EU and MS is therefore considerable. The implementation drift for this model is also high, because the advice of the AA is non-binding. MSs therefore have a lot of room to implement the MSFD according to national policy objectives rather than through regionally decided policy objectives, because they can choose to depart from the AA's advice.

5.2.4. Regional Sea Assembly

Costs of the RSAs are high because a new decision-making structure and organisation has to be established, including a regional structure of stakeholder involvement. This model also needs a lot of extra resources for representatives of MSs and stakeholder organisation not only to cooperate, but also to get involved, stay involved and to play the game. This model therefore needs the biggest investment in terms of setting-up, making it operational and capacity to cooperate.

An advantage of this model is that policy coordination between MSs and stakeholders is formally organised at the regional level, reducing coordination problems. Also institutional ambiguity and implementation drift are low because decision-making and implementation takes place and is initiated at the regional level. This model scores highest on the benefits, because of the mandate for binding decision-making coupled to a mandate for implementation. Because MSs are forced to participate in decision-making on the regional implementation of the MSFD high levels of policy coordination are achieved. The procedures for decision-making and implementation are clear resulting in low institutional ambiguity and MSs are also unable to engage in implementation drift, because the RSA has the mandate to implement its decisions.

6. Performance of the governance models

Based on the ex-ante evaluation of the costs and benefits of the four models, we analyse in this section the performance of the four governance models. The governance performance of a model refers to the effective and legitimate implementation of the MSFD, given the costs needed and the benefits achieved. To assess the governance performance of each model (i.e. the effective and legitimate cooperation and collaboration at the regional level to implement the MSFD and to define GES) we determined the ratio of costs and benefits¹.

The governance performance of a model is high if on the one hand the costs are low (low costs for developing and running a model and sufficient resources available for cooperation) and the benefits are high (high level of cooperation, low levels of institutional ambiguity and implementation drift). The governance performance is low if the costs are high (high cost for developing and running the model and insufficient resources available for cooperation) and the benefits are low (low level of cooperation and high levels of institutional ambiguity and implementation drift). Table 2 summarises the results of this performance assessment. The assessment shows that the Advisory Alliances score lowest on performance, because of the negative ratio between high costs and low benefits. The other three models score medium to high on performance. Both the CBP and RSC+ are associated with limited costs, while producing benefits at the same time, resulting in a high and medium-to-high overall performance respectively. The Regional Sea Assemblies have the highest score on benefits, but score at the same time worst on the costs involved in creating a new decision making structure. Overall, this leads to a ratio of medium-to-high performance.

¹ The scoring of the indicators and the assessment of the performance of the governance models is based on an expert judgement by the governance researchers in the EU FP7 ODEMM project.

Table 2. Governance performance of each of the four governance models.

	Costs*			Benefits**			Score BENEFITS	PERFORMANCE
	Costs (setting up and running)	Capacity to Cooperate (availability of resources)	Score COSTS	Policy coordination	Institutional ambiguity	Implementation drift		
CBP	Low (1)	High (1)	Very Good	Low-Medium (2)	Medium-High (2)	Low-Medium (3)	Good	High (0.4)
RSC+	Low-Medium (2)	Medium-High (2)	Good	Medium-High (3)	Low-Medium (3)	Medium-High (2)	Bad	Medium-High (0.7)
AA	Medium-High (3)	Low-Medium (3)	Bad	Low (1)	High (1)	High (1)	Very Bad	Medium-Low (3.0)
RSA	High (4)	Low (4)	Very Bad	High (4)	Low (4)	Low (4)	Very Good	Medium-High (1.0)

* **Costs:** 1=scores best on indicator; 4=scores worst on indicator

Costs (setting up/running model): Low=1; Low-Medium=2; Medium-High=3; High=4

Capacity to cooperate: Low=4; Low-Medium=3; Medium-High=2; High=1

** **Benefits:** 1=scores worst on indicator; 4=scores best on indicator

Coordination: Low=1; Low-Medium=2; Medium-High=3; High=4

Ambiguity: Low=4; Low-Medium=3; Medium-High=2; High=1

Drift: Low=4; Low-Medium=3; Medium-High=2; High=1

7. Stakeholder assessment of the governance models

During the period January – February 2013 for each of the regional seas a Roundtable Discussion was organised. During these sessions the participants performed a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis for the four models and developed a preferred model for their regional sea. We first give the stakeholder assessment for each of the models, followed by a summary of the preferred models developed for each regional sea.

7.1. Cross Border Platforms

The CBP was characterised as an issue-driven model. The Mediterranean, Black Sea and Baltic Sea participants specifically raised concerns about the non-binding nature of the model. The Baltic Sea participants suggested the CBP to be used for coordinating sub-regional cross border issues (such as Marine Spatial Planning) between two or three countries in a flexible and pragmatic way. The participants of the Mediterranean and North East Atlantic Ocean RTDs insisted on the need for CBPs to be integrated into a broader, regional strategy. The Black Sea participants argued CBP standing alone would fail because of national legislation differences, yet CBP was seen as "the most useful model at the moment" and a programme to be realised within the framework of the existing structure of the Black Sea convention. Participants in the Baltic and Black Sea RTD emphasised the lack of stakeholder involvement. For the North East Atlantic Ocean participants this model was cost-effective, while the Baltic participants perceived it as non-cost-effective.

7.2. Regional Sea Convention-Plus

In all RTDs the participants liked the general structure of the RSC+ model, because of its coherence with the current trend switching towards integrated management of the European Seas. In addition,

the existing experience with RSCs was seen as a strong point for this model. However, the main concerns about this model are the lack of stakeholder involvement and the lack of precision on how the decisions made by such body would be implemented and enforced. The Baltic and Black Sea RTDs also mentioned the bureaucratic nature of this model as a weakness. The RSC+ model would foster fast decision-making because stakeholders would not be consulted at the Regional Sea level according to the North East Atlantic Ocean RTD. In contrast, the Baltic RTD believes the RSC+ would lead to slow decision making and the Mediterranean RTD fears it could become a political circus. Participants overall clearly expressed that the RSC+ model has as main advantage that it represents the whole region, yet without stakeholder involvement nobody believes that RSC+ can be a long-term success.

7.3. Advisory Alliances

The participants believed the main strong point of the AA model, being a cross-sectoral platform, is to bring all stakeholders together. According to the Baltic RTD this would be good to use for brainstorming sessions with different specialists. Relevant outcomes were especially expected by the Baltic and North East Atlantic Ocean RTDs, because of the AA's non-binding quality. In addition, participants argued the AA cannot stand on its own as a regional platform otherwise it will lead to lack of action. It was widely considered as a much needed support for a decision forum. Especially the Mediterranean RTD discussed the AA as a supporting platform for the RSC+. However the effectiveness of the AA is not guaranteed because of the non-binding output and resulting lack of implementation of the advice. Success very much depends on whether the MSs would "play the game".

7.4. Regional Sea Assembly

The perception of the strength and weaknesses of this model was remarkably consistent across the four RTDs. While all saw advantages in the combination of high stakeholder involvement in binding decision making, some serious concerns were raised. Overall, this model was described as utopic ("too much democracy") (Baltic RTD), not viable (Mediterranean RTD) or overambitious (North East Atlantic Ocean RTD). The legal and political barriers were stressed by all RTDs as it was expected that developing such a model, also given the political difference within the regional seas, was almost impossible. Moreover the creation of this new structure will bring about tensions with current institutions according to the Baltic and Black Sea RTDs. Finally, participants raised the issue of the amount of resources needed for this model. Yet participants repeated that such a platform providing ground for long-term negotiations on marine issues was attractive.

7.5. Hybrid models

During the RTD discussions the participants came up with new governance models by developing hybrids of the different proposed models. Each model has the potential to improve a particular aspect of the current system, and models could be combined into a fully fleshed structure. Stakeholders build upon the "skeletons" constituted by the CBP, RSC+ and AA, leaving the model of the Regional Sea Assembly out. The RSC+ model appeared as more realistic and feasible yet it would need to be supplemented by an advisory body such as described in the Advisory Alliance model. Most participants would include stakeholder involvement rather at the regional level than at the national level to ensure that binding decisions are coherent to local concerns. A local, cross-border approach through the CBP is also seen as essential to provide ground for regional discussions. Cross-border platforms however need to fit into an "umbrella" structure that was envisioned as an interrelation between an advisory body such as the AA and a secretariat and decision-making body like the RSC+.

8. Discussion and conclusions

The MSFD provides no guidance on how to organise coordination and cooperation between MSs and stakeholder involvement at the level of the marine region. This paper contributes to this debate by developing four governance models to facilitate thinking about the options and possibilities of stakeholder involvement and of regional cooperation and collaboration. Based on the factors participation and decision-making power we developed the following models: Cross-border Platforms, Regional Sea Convention-Plus, Advisory Alliance and Regional Sea Assembly. For each of the models we assessed the governance performance. We defined the governance performance of a model as the effective and legitimate implementation of the MSFD, given the costs (in setting up and running the model and the capacity to cooperate of public and private actors) needed and the benefits achieved (in terms of cooperation, institutional ambiguity and implementation drift). The models were also evaluated by stakeholders in four regional Round Table Discussions (in the Baltic, the Mediterranean, the Black Sea and the Greater North Sea).

When we compare the different governance models, the Advisory Alliances score the lowest on performance. The high costs to organise participation are not rewarded by the outcome of the decision-making structure. Whereas increased participation is a strive supported by many of stakeholder groups, the associated governance performance is low as costs of running a model on high stakeholder involvement are high and these costs are not offset by a reduction in other governance performance criteria. The role of stakeholders is only advisory. This makes this model effective in giving insight in stakeholder preferences, but the legitimacy of implementation is low. Also the participants of the RTDs came to the same conclusion: the effectiveness of the AA is not guaranteed and this model could only function successfully in combination with (elements of) other governance models.

The performance of the other governance models is medium to high, with the highest governance performance for the Cross Border Platforms. An important reason for this is that the way stakeholders are involved in these models is clearly coupled to institutionalised decision-making settings. Yet even though the overall performance is comparable across the three models, the ratio between costs and benefits differs. For example, the Regional Sea Assemblies have the highest score on the benefits (high policy coordination and low degrees of ambiguity and implementation drift), but score at the same time worst on the costs involved in creating a new decision making structure. Although there is low stakeholder involvement in the CBP and RSC+, these models score high on governance performance because the costs (for setting up and running the model and the capacity to cooperate) are low to medium, while the benefits overall are medium as well.

Despite differences for the regional seas, the stakeholders in the RTDs perceived the CBP as a useful starting point for regional cooperation and the Regional Sea Assembly as the most unrealistic governance model. Stakeholders liked the general structure of the RSC+ model, because of its possibilities to contribute to integrated management of the European Seas but criticised the lack of stakeholder involvement and the lack of precision of the enforcement of decisions made of this model. The preference of the RTDs was therefore to combine the Advisory Alliance with the RSC+ to ensure both stakeholder involvement and binding decision-making.

We have learned that increasing stakeholder participation, a much desired development in regional organisation of marine management as expressed by the stakeholder community, will increase the direct costs of the policy making process. If stakeholder participation is not embedded in a wider institutional setting in which participation of stakeholders is directly related to the policy process and the degree to which decisions taken are binding, the increase of costs does not lead to a more smoothly running model.

Based on that, we conclude that stakeholder involvement at the regional level is costly and does not necessarily bring many benefits, unless it is combined with decision-making power. A second conclusion is that an effective and legitimate implementation of the MSFD can only be realised by a combination of the suggested models. In addition, we have to bear in mind that because of the institutional differences of the four regional seas there is no “one size fits all” solution. Depending on the regional sea as well as the phase of implementation (e.g. defining GES, formulating programmes of measures) different hybrid models are desired.

Competing interests

The authors declare that they have no competing interests.

Acknowledgements

This article has been written in connection with the Options for Delivering Ecosystem-Based Marine Management project (ODEMM, project website: www.liv.ac.uk/odemmm), funded by the European Commission through FP7 (Project number: 827301). This article does not necessarily reflect the Commission views and in no way anticipates its future policy. We remain grateful to our ODEMM project partners for their support all along the completion of this paper, in particular with their help in translating the survey to send it throughout Europe.

References

- [1] Commission of the European Communities. "Proposal for a Directive of the European Parliament And of the Council establishing a Framework for Community Action in the field of Marine Environmental Policy." (Marine Strategy Directive [SEC 2005 1290]. Brussels, COM 2005; 505 final.
- [2] Commission of the European Communities. Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).
- [3] Commission of the European Communities. "Green Paper Reform of the Common Fisheries Policy, COM 2009; 163 final."
- [4] Commission of the European Communities. Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management COM 2013; 133 final. Brussels.
- [5] Gezelius SS, Hegland TJ, Palevsky H and Raakjaer J. The Politics of implementation in resource conservation: comparing the EU, Denmark and Norway. 2008; 208-229. In Gezelius, S.S. and J. Raakjaer (eds.), *Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing*. Dordrecht: Springer.
- [6] Long R. The Marine Strategy Framework Directive: A new European approach to the regulation of the marine environment, marine natural resources and marine ecological services. *Journal of Energy & Natural Resources Law*. 2011; 29: 1-44.
- [7] Ounanian K, Delaney A, Raakjaer J, Ramirez-Monsalve P. On Unequal Footing: Stakeholders' perspectives on the Marine Strategy Framework Directive as a mechanism of the ecosystem-based approach to marine management. *Marine Policy* 2012; 36 (3): 658-666.
- [8] Van Leeuwen J, Van Hoof L, Van Tatenhove J. Institutional ambiguity in implementing the European Union Marine Strategy Framework Directive. *Marine Policy* 2012; 36 (3): 636-643.
- [9] Van Hoof L, Hendriksen A, Bloomfield H. Drivers and scenarios for regional cooperation in implementing the MSFD, forthcoming.
- [10] Hendriksen A, Jouanneau C, Raakjaer J. Fishing for Options: Stakeholder views on MSFD Implementation in European Seas, forthcoming.
- [11] Salomon M and Dross M. Challenges in cross-sectoral marine protection in Europe. *Marine Policy* 2013; 42: 142-149.
- [12] OSPAR Commission. Regional Implementation Framework for the EU Marine Strategy Framework Directive. 2012.
- [13] HELCOM. A coordination platform for the implementation of the EU Marine Strategy Framework Directive in the Baltic Sea region. 2011.
- [14] Van Leeuwen J, Raakjaer J, Van Hoof L, Van Tatenhove J, Long R, and Ounanian K. Implementing the Marine Strategy Framework Directive: A policy perspective on regulatory, institutional and stakeholder impediments to effective implementation, forthcoming.
- [15] Van Tatenhove J. How to turn the tide: Developing legitimate marine governance arrangements at the level of regional seas. *Ocean & Coastal Management* 2013; 71: 296-304.

- [16] Andrews CJ. Rationality in Policy Decision Making. 2007: 163. In Fisher, F. et.al. (ed.) Handbook of Public Policy Analysis. Theory, Politics, and Methods. London/New York: CRC Press.
- [17] Berry, JM, Portney KE, Thomson K. 1993. The rebirth of urban democracy. Washington, DC: Brookings Institution. In Edelenbos J and Kleijn EH. Managing Stakeholder involvement in Decision Making: A Comparative Analysis of six Interactive Processes in the Netherlands. Journal of Public Administration Research and Theory 2006; 16: 417-446.
- [18] Arnstein SR. A Ladder of Citizen Participation. Journal of the American Planning Association 1969; 35: 216-224.
- [19] Edelenbos J. Process in shape [in Dutch]. Ph.D. thesis, Lemma, Utrecht. 2000.
- [20] Edelenbos J and Kleijn EH. Managing Stakeholder involvement in Decision Making: A Comparative Analysis of six Interactive Processes in the Netherlands. Journal of Public Administration Research and Theory 2006; 16: 417-446.
- [21] Edelenbos J, Klok PJ, Van Tatenhove J. The institutional embedding of interactive policy making. Insights for a comparative research based on eight interactive projects in the Netherlands. The American Review of Public Administration. 2009; 39: 125-148.
- [22] Hegland TJ, Ounanian K, Raakjaer J. Why and how to regionalise the Common Fisheries Policy. Maritime studies 2012; 11 (7).
- [23] Reed MS. Stakeholder participation for environmental management: A literature review. Biological conservation 2008; 141: 1417-1431.
- [24] Young JC, Jordan A, Searle KR, Butler A, Chapman DS, Simmons P, and Watt AD. Does stakeholder involvement really benefit biodiversity conservation? Biological Conservation 2013; 158: 359-370.