



Dialectics of nature: The emergence of policy on the management of commercial fisheries in english European Marine Sites



Robert Clark^{a,*}, John Humphreys^b, Jean-Luc Solandt^c, Catherine Weller^d

^a Southern Inshore Fisheries and Conservation Authority, 64 Ashley Road, Parkstone, Poole BH14 9BN, England

^b Institute of Marine Sciences, University of Portsmouth, Ferry Road, Eastney, Hampshire PO4 9LY, England

^c Marine Conservation Society, Over Ross House, Ross Park, Ross-on-Wye HR9 7QQ, England

^d ClientEarth Fieldworks, 274 Richmond Rd, London E8 3QW, England

A B S T R A C T

European Marine Sites (EMS), designated under either the Habitats or Birds Directives, protect the biodiversity of the European Union (EU) and contribute to the implementation of the 1992 UN Convention on Biological Diversity [1]. The introduction of this form of marine protected area (MPA), as a consequence of EU conservation directives, introduced new legal obligations in waters long exploited by inshore fishing communities. Although the Habitats and Birds Directive have been in place since 1992 and 1979 respectively (the 1979 Directive updated in 2009), it has not been until more recently (2014) that ongoing inshore fisheries activities in England, which predate designation of sites, have been systematically assessed and managed, for their impact in protected sites. In practice it was assumed by many MPA practitioners that at the time of designation of EMS, ongoing activities would be compatible with the conservation objectives of these sites. This paper illustrates the introduction of a general and systematic “revised approach” to managing fisheries in all English EMSs, and how this represented a change in government policy which can be traced directly to a legal campaign between 2008 and 2012 by two UK environmental Non-Governmental Organisations (eNGOs). The paper elucidates this iterative marine policy process analysing the dialogue between government bodies and eNGOs and show how the resulting interpretation of conservation law, has sought to resolve the tensions between the precautionary approach as emphasised by the eNGOs and the Government's desire for proportionality of response.

1. Introduction

Conventional approaches to the management of marine fisheries have emerged through policy processes largely distinct from those addressing the general protection of the marine environment [13]. While both are preoccupied with the conservation of natural marine resources, the emergence of ecosystem protection, as exemplified by the European Union Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC), is in contrast to the traditional single species measures used for fisheries management [14]. Nevertheless, both approaches are rational when measured against their goals and challenges. Many commercial fish species for example have wide ranging and/or migratory distributions and most are at risk primarily from overfishing. Conversely more general conservation of the marine environment must address a wide variety of risks, not least in rapidly degrading coastal seas. There is, arguably, a more fundamental

difference: while fisheries management has traditionally had an exclusively anthropocentric motivation being essentially socio-economic in nature (protecting food supply, national economies and livelihoods), the underlying motivations of the general conservation movement (while wide ranging and to an extent unresolved) are rooted nearer the eco-centric end of the spectrum. Such that in practice human benefit is best served by a general principle in which the natural world should not be degraded.

In policy terms the two traditions are not necessarily incompatible, to the extent for example that there is now a widespread recognition of the “sustainable development” goal which explicitly recognises conservation, social and economic imperatives. This is also encompassed in ecosystem-based management, where individual aspects of resource extraction are considered for their wider ecosystem impact ([12,23] beyond such broad commitments lies the challenging process of resolving differences of emphasis and detail at the points of policy

* Corresponding author. Tel.: +01 202 721373

E-mail addresses: robert.clark@southern-ifca.gov.uk (R. Clark), jhc@jhc.org.uk (J. Humphreys), Jean-Luc.Solandt@mcsuk.org (J.-L. Solandt), cweller@clientearth.org (C. Weller).

<http://dx.doi.org/10.1016/j.marpol.2016.12.021>

Received 19 October 2016; Received in revised form 21 December 2016; Accepted 21 December 2016

0308-597X/ © 2017 Elsevier Ltd. All rights reserved.

implementation; where the two traditions intersect; where case law is still emerging; and where stakeholder priorities differ. These generally are manifest within Marine Protected Areas where eco-centric goals are explicit. Yet increasing numbers and coverage of MPAs has made this a challenging time for implementing effective protection measures (e.g. [33]).

2. Statutory framework for the protection of EMSs

The term ‘EMS’ (EMS) describes Special Areas of Conservation (SACs), and Special Protection Areas (SPAs) that protect some of the most important marine and coastal habitats and species. SACs contain animals, plants and habitats that are considered rare, special or threatened within Europe while SPAs protect important bird species and their supporting habitats. SACs and SPAs are designated under the European Union (EU) Habitats and Birds Directives respectively, and form part of the European-wide Natura 2000 network of internationally important sites. EMS are an important component of the Marine Protected Area (MPA) network in the UK which also includes designations under national legislation and wider international treaties. There have been various tranches of designation of EMS, most notably in 2000, 2005, and 2010–12. In English Coastal Waters (to 6 nm) there are 89 EMS, covering some c.11,500 km² which is over a third of this total inshore area (2015 data).

The overall conservation concept of a EMS appears in the sixth recital of the Habitats Directive which requires the restoration or maintenance of designated natural habitats and species at a “favourable conservation status”. The conservation status of a natural habitat is taken as ‘favourable’ when: its natural range and areas are stable or increasing, and the ecological structure and functions necessary for its long-term maintenance are likely to continue to exist for the foreseeable future. ‘Typical species’ associated with the habitat must also be at favourable conservation status. Favourable status for a species is similarly dependent on (inter alia) maintenance of range and long term viability.

The area of contention, which is the focus of this paper, relates to Article 6 of the Habitats Directive which defines how Natura 2000 sites are managed and protected. Articles 6(1) and 6(2) are concerned with the general regimes for the Natura 2000 sites and Articles 6(3) and 6(4) with the procedures for new developments. These are summarised in Table 1.

The implementation of Article 6(1) is central to achieving the objectives of the Habitats Directive since it is the primary clause for introducing positive measures to help maintain or restore favourable conservation status. Article 6(2) requires that Member States avoid damaging activities that could cause deterioration. Articles 6(3) and 6(4) set out the procedures to be followed where a ‘plan or project’ is proposed in or near a SAC or SPA and therefore are engaged in relation to new developments. All these provisions apply in both the marine and terrestrial context.

Whilst the provisions of Article 6(1) technically apply specifically to SACs, analogous provisions apply to SPAs by virtue of Article 4.1 and 4.2 of the Birds Directive which require that Member States ensure the specified (Annex 1) species are subject to special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. Further, by virtue of Article 7 of the Habitats Directive, the provisions of Articles 6(2), 6(3) and 6(4) apply directly to SPAs. This means that SPAs are subject to virtually the

same protection regime as SACs.

The Conservation of Habitats and Species Regulations 2010 as amended, transpose the Directives requirements for the management of EMS into English Law and place duties on regulators to exercise their functions in order to achieve the objectives of the Directives.

In practice this creates a general requirement for a “competent authority” to manage ongoing activities and, before giving consent for a new development, which is likely to have a significant effect on an EMS, to subject that “plan or project” to an “appropriate assessment” of the implications for that site in view of its conservation objectives.

In the UK, as with many other EU Member States, the process for consent for new developments: (i.e. plans or projects) under Article 6(3) and exceptionally 6(4) has been systematic and attracted a developed body of case law to support interpretations of the Directive. In contrast, “activity” within EMSs refers to an ongoing use, and the management of such activities (under Article. 6(2)) did not evolve at a similar pace to that for plans or projects. How long-established fishing activity is interpreted in this context (as an activity or a plan or project) was the particular subject of contention.

3. The issue of commercial fishing activity

In England in 2014 the fishing industry had 3128 registered fishing vessels of which 2573 were less than 10 m in length. Although not all active, the number of smaller vessels in the English fishing fleet is indicative of the scale and relative importance as a component of commercial fishing in England. Whilst information on the location of inshore fishing activity in Europe is very limited (as there is no statutory satellite monitoring of smaller vessels (15 m length before 2012, 12 m thereafter). Breen et al. [6] shows how heterogeneous the distribution of fishing activity is within English Coastal waters.

Mobile demersal fishing gear towed across the sea bed will have an impact on the sea bed and is likely to influence associated biological communities. The scale of influence varies depending on the nature and scale of fishing, the substrate type and the exposure of the seabed to other natural or human induced factors, for example sheer stress. The environmental impact of fishing with such mobile gear ranges from high levels of bycatch [15], reduced benthic community biomass and productivity [17], reduced benthic species richness [8] and direct physical impacts on benthic habitats [21]. In temperate seas, areas protected from bottom towed gear fishing in inshore waters regularly recover benthic species richness [4,5] and reproductive potential of commercial species ([16]; [22]) in both reef and sedimentary habitats [32].

The regulation of marine inshore fisheries in England is ultimately the responsibility of the Government’s Department for Environment, Food & Rural Affairs (DEFRA), which superseded the Ministry of Agriculture Fisheries & Food (MAFF) in 2002. DEFRA delegates regulatory responsibilities to the Marine Management Organisation (MMO), which licences commercial fishing boats, and ten Inshore Fishery and Conservation Authorities (IFCAs) who regulate their areas through local byelaws and other management measures. This combination of central and local governmental organisations was a consistent feature of inshore fisheries regulation over the period in question, although the names, scope and powers of the organisations changed over time to reflect new statutes, demands and responsibilities. In particular the MMO replaced the earlier Marine & Fisheries Agency (MFA) and the IFCAs replaced Sea Fisheries Committees (SFCs).

The UK Government’s international commitments under the EU’s

Table 1
Summary of the requirements of Article 6 of the Habitats Directive.

Article 6	General Regime for all Natura 2000 Sites	6(1) Positive and proactive Conservation Measures
	Procedures for new developments	6(2) Avoidance of habitat deterioration and significant disturbance of species. 6(3) Step-by-step procedures for development plans and projects affecting EMS 6(4) Imperative reasons of overriding public interest

متن کامل مقاله

دریافت فوری ←

ISIArticles

مرجع مقالات تخصصی ایران

- ✓ امکان دانلود نسخه تمام متن مقالات انگلیسی
- ✓ امکان دانلود نسخه ترجمه شده مقالات
- ✓ پذیرش سفارش ترجمه تخصصی
- ✓ امکان جستجو در آرشیو جامعی از صدها موضوع و هزاران مقاله
- ✓ امکان دانلود رایگان ۲ صفحه اول هر مقاله
- ✓ امکان پرداخت اینترنتی با کلیه کارت های عضو شتاب
- ✓ دانلود فوری مقاله پس از پرداخت آنلاین
- ✓ پشتیبانی کامل خرید با بهره مندی از سیستم هوشمند رهگیری سفارشات