A MARINE CADASTRE TO
MANAGE CONFLICT USE
&
FACILITATE MARINE
RENEWABLE ENERGY

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the number and size of MRE farms increase conflict uses of marine space.

Privatization of marine space
NUMBER

In EUROPE

3 344 offshore wind turbines
Hornsea zone:

Dong Energy offshore wind projects (off the coast of Yorkshire in UK)

Hornsea 1: 407 km$^2$
Hornsea 2: 462 km$^2$
Hornsea 3: 696 km$^2$
Hornsea 4: 845 km$^2$
SUCCESS of MRE DEVELOPMENT = good mix between:

1) Exclusivity or priority required by MRE

and

2) marine space legal regime: common use
In order to find this good mix: we need:

1) to identify & list all existing rights in the seaspace

2) to analyse interaction between them (e.g.: freedom of sailing & right to harness MRE)

3) to analyse the legal possibilities to prioritize MRE
1) To identify & list all existing rights in the seaspace:

**MULTIPURPOSE MARINE CADASTRE**: MSP complementary tool to identify rights, restrictions and responsibilities in the seaspace

**PIONEERS**: CANADA, USA, AUSTRALIA

CANADA has the longest coastline in the world

USA: [www.marinecadastre.gov](http://www.marinecadastre.gov) : clearly set up to facilitate OWE
MULTIPURPOSE MARINE CADASTRE:

European countries, Greece, Israel are now studying the concept.

Each country has its own legal regime for seaspace (public or common property), but a common initiative exists coordinated by CGLE.
SPECIAL FEATURES OF MMC by comparison with land cadastre:

4D ASPECTS

TEMPORARY USE

SHARED SOVEREIGNTY:

Respect of innocent passage in territorial sea

Respect of other states rights in ZEE
Marine cadastre is a layer of MSDI

MSDI : Marine Spatial Data Infrastructure including:

seabed topography, geology, marine infrastructure, resources utilisation, administrative and legal boundaries, areas of conservation, marine habitats and oceanography

(International Hydrographic Organization 2011)
2) Building a marine cadastre requires to know the legal grounds of marine space use and to redesign a property rights regime.

In a land cadastre, the main property right is the right to exclude others from property.

In the seaspace, the degree of exclusivity or priority granted to MRE developers differs from one country to another.
► Priority or exclusivity of use granted to MRE farmers exists regarding:

► 1- Other fixed activities: aquaculture, aggregate extraction...

► 2- Nomadic activities: commercial & leisure navigation, fishing.
- **UNCLOS:**

- **TERRITORIAL SEA:** art. 19-22: Innocent passage: Coastal state has to respect it but can restrict it if foreign vessel passage is a threat for the security of MRE installations.

- **ZEE:** art. 60.5: safety zones: 500 m around MRE farms

- Art.60.4: coastal state can take *appropriate measures* in safety zones to ensure security of navigation
In both cases:

- appreciation of degree of security here depends on coastal state discretionary power.
- UNCLOS fixes max size for safety zone: 500 m but is silent about the kind of vessels allowed to cross it.
3) Which priority for MRE?

A-Regarding fixed activities

GERMANY:

Vorranggebiete: Priority zone where exclusivity is granted to offshore wind energy (OWE)

Vorbehaltsgebiete: reserved zone where OWE is more supported than other activities
A- Regarding fixed activities

BELGIUM: Royal decree 20 March 2014: a special zone dedicated to MRE has been selected: MRE has priority.

PORTUGAL: - Law n°57/207 31 August 2007: allows private use of water column in territorial sea for wave energy
- Decree-law n°5/2008 8 January 2008: grants priority to wave energy
B- Regarding nomadic activities:

UK

Section 36 B Electricity Act 1989: respect of public right of navigation and priority granted to main shipping lanes over MRE farms

But Section 36 A: public right can be restricted regarded to MRE farms safety zones.

Safety zones: 500 m during construction & 50 m during exploitation: no vessels access, except if expressively allowed (Art 96 Energy act 2004)
2- Regarding nomadic activities:

**GERMANY**

- Sailing & fishing prohibited during construction in the 500 m safety zone
- During operation: rules vary according to farms. In EnW Baltic 1: only for vessels less 24 m and provided visibility is at least 500 m.
2- Regarding nomadic activities:

**BELGIUM**

Royal decree 11 April 2012

- Defines a 500 m safety zone around 1 or several wind farms
- No vessel access except warships or maintenance
In FRANCE:

- MRE development needs more legal prioritization: eg: creation of a legal consent regime specific to MRE
- Creation of an Energetic Public Domain
CONCLUSION

MARINE CADA斯特RE:

- can be an efficient tool to manage conflict use

- but also to manage economic resources resulting from MRE & other marine activities

- requires to create a new legal property rights regime in the seaspace: why not a right to include more than exclude?