

Transcript of Video 1

Hello and welcome to our short series of videos about the Marine Spatial Planning legal drafting Guide, entitled Designing Marine Spatial Planning Legislation for Implementation: A Guide for Legal Drafters.

This Guide is a product of the Blue Prosperity Coalition. It was prepared by the Environmental Law Institute and Animals | Environment PLLC, and we are very grateful to the Waitt Institute, IUCN, and participants of the Blue Prosperity Workshop on Drafting Legislation to Support Marine Spatial Planning for their input, and to the Waitt Foundation for its generous funding. These videos about the Guide are prepared by the Environmental Law Institute, in collaboration with the Waitt Institute.

This series consists of 9 short videos, in which we summarize the main takeaways of the Guide. The first video will provide an introduction to the Guide and each subsequent video will focus on one of the eight components outlined in the Guide. They are listed here.

As countries are increasingly turning to marine spatial planning as a comprehensive management tool to assess and organize uses of their ocean environments, there is a lot of information out there on how to create a marine spatial plan, but little attention has been given to how countries can give their marine spatial planning initiatives the force of law. This Guide aims to fill that gap.

Specifically, the Guide contains information about essential components and subcomponents of marine spatial planning legislation, describing each and highlighting its role and significance. The Guide also provides examples of textual provisions from existing marine spatial planning laws and regulations, along with sample provisions prepared by the authors, to illustrate how legislative or regulatory language can address each component. In addition, the Guide contains tips for legal drafters.

The primary audience for this Guide are legal drafters from ocean and coastal states that are considering the development of marine spatial planning legislation. These can be busy government lawyers who have been asked to draft a marine spatial law or legal consultants and NGO lawyers working with governments. This Guide is also useful for policymakers and non-lawyer government officials who would like to learn more about how marine spatial planning is incorporated into law.

For marine spatial planning to be effective and enforceable, it must be incorporated into a country's legislative framework. This critical step institutionalizes the process, ensures that all parties are bound by a lawfully adopted plan (and are subject to consequences for violations), provides for consistency of plan implementation and revisions, ensures that all the stakeholders are properly consulted, and places the approval of the national government on the plan.

The number of national and subnational MSP laws is growing around the world, and we have included a list of laws that address marine spatial planning in the Appendix at the end of the Guide. However, differences in national scale, capacity, financial resources, and history of traditional rights should be considered when deciding which of these laws (or parts of laws) are better suited as examples for your specific jurisdiction.

Also important to note here that there is no model marine spatial planning act that will work for every country. An MSP act must be tailored to each country's individual needs and circumstances, taking into account the country's existing legal framework. The task of the legal drafter is to successfully incorporate marine spatial planning into existing law rather than to rewrite that law. And this Guide is

not meant to be a source of “model legislation” that a country can simply adopt, but rather a guide that explains components and options and offers examples.

Prior to drafting marine spatial planning legislation, a legal assessment should be conducted to determine where MSP fits best into the existing legal framework.

Also, useful to keep timing in mind. If a country does not yet have a marine spatial plan, it can create marine spatial planning legislation setting forth the process to create a marine spatial plan, and ensuring that this process fully engages all the stakeholders and incorporates their feedback into the plan. Some countries may have already started developing a marine spatial plan. This does not mean that it’s too late to develop marine spatial planning legislation. On the contrary, those two processes can be done in parallel, and if a country already has a marine spatial plan in place and the plan is good (meaning that it contains all the desired elements and was developed with meaningful participation of stakeholders), it can be incorporated into the marine spatial planning law by reference, and the law will ensure that this existing plan is now enforceable.

Here again we have a list of components of marine spatial planning legislation that are covered in the Guide. When we say “component” we mean a subset of provisions that relate to a single aspect of the overall legislation. All of them are important to consider, but some of these components may not be necessary or relevant in a specific jurisdiction, or they may already be addressed elsewhere in the law. For each of these, the Guide provides a basic description, an explanation of its role and importance, drafting tips, and textual examples.

As mentioned, we will have a separate video on each component. Thank you for joining us!