

Transcript of Video 5

Hello and welcome to our 5th video from the series about the Marine Spatial Planning legal drafting Guide, entitled *Designing Marine Spatial Planning Legislation for Implementation: A Guide for Legal Drafters*. This video focuses on the 4th component of MSP legislation, Public Participation & Access to Information.

Effective marine spatial planning depends on successful public engagement. Ocean users will likely have a keen sense of what will work and what will not work, and those who use the ocean are the ones who will be most directly affected by governmental decision-making through the marine spatial planning process. Public engagement is particularly important when there are conflicting uses in the same ocean area. Stakeholder consultations are necessary to understand what uses and restrictions should exist in each zone and how each zone should be delineated. It should be noted here that existing legislation may already define a stakeholder engagement process for the adoption of any government plan, and the legal drafter should have that in mind when drafting MSP legislation.

The starting point is that the marine spatial plan and all relevant data (such as maps, minutes of public meetings, and public comments) are in the public domain, as well as anything on which the coordinating ministry relies to make decisions in the marine spatial planning process.

However, there may be a very small subset of information that the coordinating ministry wants to keep confidential. This could include, for example, a specific description of or GPS coordinates for preferred fishing locations or for the habitat of a threatened or endangered species. These are likely to be rare instances, and the legal drafter could allow for the minister to hold this information in confidence, while describing the nature of the information and the reason for taking this action. Any exception to broad public access to information in the planning process should be narrowly crafted.

Here is an example of what the language might look like. As you can see, here confidential information includes information that will likely cause overfishing or harm threatened or endangered marine species, biodiversity and fish habitat.

The public should have access to the proposed marine spatial plan and be able to discuss it and provide its input before the plan is adopted. This will help ensure that the process is transparent and allow those affected by the plan to voice their opinions. It is useful to specify in the law how and when the proposed plan will be published or otherwise made available for comments, and who will review public comments and incorporate feedback into the plan.

In this example, a proposed plan must be published, there is a commenting period of at least 6 months, and the plan is drafted in consultation with relevant ministries, coastal municipalities, and relevant business and interest organizations.

Following adoption of a marine spatial plan, the coordinating ministry or department should post the plan on its website and make hard copies of the plan and related materials available for inspection on request by any person. The legislation, while it need not be overly detailed, should make the government's obligation clear, as you can see in this example.

There is value in having the government actively disseminate information. Even a modest social media campaign, coupled with some newspaper and radio outreach, public meetings, and notices, can help spread the word in a small country.

Meaningful public participation is fundamental, and it must be incorporated into the processes for adopting, modifying, or revoking a marine spatial plan. The basic legislative procedure should clarify the points at which the public is engaged. Government at its best affirmatively seeks input, assesses and responds to that input, and incorporates it as appropriate. In cases where a country lacks a history of soliciting and responding to public comment, marine spatial planning can spell out these points. It's useful to note here that if people do not believe that they are being heard, they will not participate. And absent broad and meaningful participation, it is difficult to ensure the success of marine spatial planning legislation.

In this example, stakeholder outreach includes communications with the public and persons identified on the Ocean Stakeholder List, and it's done through public meetings, newspaper, radio social media, and other methods devised to ensure broad public participation.

Thank you for your time. In the next video we will discuss sustainable funding.