

Transcript of Video 6

Hello and welcome to our 6th 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 5th component of MSP legislation, Sustainable Funding.

Effective management of zoned ocean areas requires a sustainable stream of funding. The task of the legal drafter is to ensure the existence of a workable mechanism for receiving and directing funds that become available—from the full range of potential sources.

A common approach in sectoral legislation is to establish a government-controlled special fund (as distinct from the national consolidated fund) that the ministry can draw down for a defined category of projects or activities. This approach has limitations, however. First, control and administration of money in a special fund typically lie with the ministry, which faces competing priorities and staffing pressures. Second, there is a risk that a ministry's annual appropriations will be adjusted downward by the legislature, resulting in no net benefit for the ministry seeking to fund ocean management. Special funds in some countries are underutilized or go entirely unused, which could be for these reasons stated above or simply due to a lack of staffing or revenue.

Another approach is to establish, legislatively, a new sustainable funding mechanism that exists partially or entirely outside of government— in the form of a conservation trust fund.

Key considerations for such a mechanism include: the ability to accept funds from both within and outside of government; criteria governing the specific purposes for which funds can be dispersed; provisions describing and governing the entity charged with administering the fund, including, if the entity is new, its membership and operations; and recordkeeping, reporting, and auditing requirements, as well as any other financial controls.

We should note here that The legal drafter should exercise caution to ensure that any new funding mechanism under consideration conforms not only with the country's constitution and public finance legislation, but also with any unwritten norms and expectations within government as to how public funds are to be collected, held, transferred, and disbursed. Consulting with the ministry of finance is essential. In countries with a national trust or similar institution, consider the feasibility of establishing an ocean trust fund within that institution—potentially reinforced with a reference in new marine spatial planning legislation.

Here we have an example of language creating a new fund for the management of ocean resources. The language identifies the entity that will administer and manage the fund, and provides information about its members and length of membership.

We also have language explaining where the funds come from. So, as you can see, here we have appropriations, ocean-related fees, ocean-related fines, conservation-related fees, liability mechanisms, donations, and other sources.

And here you can see language identifying specific purposes for which funds can be spent (including creation of a marine spatial plan, informing the public, consultations, training of enforcement officers, education, data collection, monitoring, and other purposes listed here).

Thank you for your time. We hope you have enjoyed the video. In the next video, we will discuss Enforcement & Compliance.