

## OSPAR CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC

## WORKSHOP ON SPATIAL PLANNING IN THE NORTH SEA

THE HAGUE: 2-3 FEBRUARY 2005

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**WORKSHOP REPORT**

0.1 A second OSPAR Workshop on Spatial Planning in the North Sea (SPINS) was held in the Hague on 2 - 3 February 2005, by the kind invitation of the Netherlands Ministry of Housing, Planning and Environmental Management and the Netherlands National Institute for Coastal and Marine Management.

0.2 The workshop was chaired by Mr Chris Vivian (UK), and was attended by representatives of:

**Contracting Parties:** Germany, Ireland, the Netherlands and the United Kingdom of Great Britain and Northern Ireland (United Kingdom); and

**Observer Organisations:** Europêche (through the Productschap Vis), the InterReg IIIB North Sea Secretariat, Seas at Risk (through Stichting Noordzee), and the Worldwide Fund for Nature (WWF).

BirdLife International apologised for their absence and submitted two documents. A full list of those who attended is at Annex 1.

**Agenda Item 1 - Terms of Reference and Adoption of Agenda**

1.1 The Secretariat presented the terms of reference for the workshop. A more ambitious programme of work had been recommended by BDC 2004 and adopted by OSPAR 2004. However, both the delay in sending material on the national spatial planning systems and spatial control systems to the OSPAR Secretariat in summer 2004 (as agreed at the SPINS 2004 workshop), as well as the cancellation of the NORATLAS project, were signs of limited support. When the workshop came to be arranged in detail, it became clear that there was a lack of support for a workshop with such a wide programme. Revised terms of reference, focusing on transboundary and cumulative impacts and practical matters, were developed. These were approved by HOD November 2004, and were as follows:

“The workshop will focus on the aspects of spatial planning systems and other spatial control systems relevant to transboundary and cumulative impacts.

On the basis of a review of the draft Description of North Sea Spatial Control Systems, the workshop will be invited to consider how the existing systems deal with:

- a. enabling those in other countries who may possibly be affected by proposed uses of parts of the maritime area, or who have another interest in the impacts of such proposals, to discover the existence of such proposals;
- b. arranging for inputs from other countries to be taken into account in the decision-making process on such proposals;
- c. identifying, and taking into account, the cumulative and transboundary effects of proposed uses of parts of the maritime area. (In this context, cumulative effects need to be considered both within the framework of other similar uses of the maritime area and from the point of view of the cumulative impacts of uses of different types);
- d. enabling everyone to find out what authorisations have been given for uses of parts of the maritime area.

In the light of the discussions on these questions, the workshop will be invited to consider whether guidance on good practice on these issues would be helpful and, if so, to make proposals for such guidance.”

1.2 The workshop adopted its agenda on the basis of document SPINS 05/1/1. This agenda and a list of the documents presented are at Annex 2.

## **Agenda Item 2 - Presentations on the issues identified in the terms of reference**

2.1 The Secretariat presented document SPINS 05/2/1, which attempted to set the background for the workshop. It set out the reasons why the main responsibilities lay with individual Contracting Parties, the need for added value from any further work to be undertaken by OSPAR, the aspects already covered by the Espoo Convention and the EC Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (EIA) Directives, examples of approaches adopted by Contracting Parties and further issues which needed to be considered.

2.2 Europêche and Seas At Risk gave a joint presentation, based on work by the Netherlands, showing how much of the Netherlands EEZ was committed to wind energy, land reclamation, sand extraction, cables, pipes and platforms and shipping lanes, and how little in consequence remained for fishery. They argued the need for proper advance consideration of the relative claims of the fishing industry and nature reserves, rather than leaving them as the residuals after all other demands had been met.

2.3 The United Kingdom gave a presentation highlighting its approach to developing spatial management in its waters. There are a wide range of activities to be considered – the main ones are oil and gas, fishing, mariculture, shipping and ports, offshore wind-energy installations, pipelines and cables and dredging. All these activities are subject to controls, and it was an important task to keep others informed and involved. There was much consultation locally, and it was necessary to work closely with the three devolved administrations. For international work, however, it is important to consider the extent to which developments in UK waters are capable of affecting other countries. A high proportion of the activities are in the coastal zone. For the rest, the UK has taken initiatives when it is aware of potential conflicts: the recent consultation over the proposed dredging in the Median Deep in the English Channel was an example. The EC EIA and SEA Directives and the Aarhus Convention appear to cover most other legitimate concerns.

2.4 Nevertheless, the UK was aware of the need to develop thinking on marine spatial management, especially on transboundary and cumulative effects. There had been a national workshop in December 2003 on “Practical implementation of marine spatial planning – understanding and addressing the cumulative effects”. There was now a pilot project on Marine Spatial Planning in the Irish Sea. This pilot project, which would involve Ireland and observer organisations, was starting with a literature and evidence review, and would simulate the development of a marine spatial plan for the UK part of the Irish Sea. The project would build on the classification developed by the Joint Nature Conservation Committee of the Irish Sea into “marine landscapes”.

2.5 The UK maintained registers on licences and permissions that were granted, especially on those under the Food and Environmental Protection Act 1985 (FEPA), which (subject to specified exceptions) covered nearly all activities in UK waters. The website of the Department of Environment, Food and Rural Affairs should soon provide a facility to obtain an electronic copy of all FEPA consents since 1985.

2.6 On OSPAR’s role, the United Kingdom doubted that the time was ripe to give guidance on good practice, but stressed the need for a forum in which to exchange information as understanding progressed. When more progress had been made, it might be useful to ensure that the OSPAR website had a portal to sites of national governments giving details of permits and licences that had been granted.

2.7 In an oral presentation, Germany gave an overview of the current status of offshore wind-farm applications. A total of 27 applications have been received for wind farms in Germany’s EEZ in the North Sea, seven of which have been approved so far by the Federal Maritime and Hydrographic Agency (BSH) as the competent approval authority. As some of the projects may have transboundary impacts, concrete bilateral co-ordination has taken place with respect to practical implementation of the EC Environmental Impact Assessment Directive / ESPOO Convention (e.g. number of copies of the environmental impact study, language requirements, participation of the public). Furthermore, the procedure for designating areas

that are potentially suitable for wind energy production according to the Marine Facilities Ordinance (Seeanlagenverordnung) was briefly presented. Due to their low conflict potential, two potentially suitable areas have been identified by the competent Federal Departments in the EEZ of the North Sea (north of the island of Borkum and west of the island of Sylt). The official designation process for these areas is currently under way at the BSH, involving a variety of stakeholders (e.g. local and federal authorities, NGOs) as well as competent ministries/authorities in the neighbouring countries. As the designation is considered a plan, the EC Strategic Assessment Directive is applicable. Areas to be designated as suitable for wind energy production under the Marine Facilities Ordinance by 31 December 2005 will be as legally binding as objectives within the meaning of the spatial planning legislation, i.e. they will be priority areas.

2.8 For Germany, there is an important division between the territorial waters (12 nautical miles zone), which is the responsibility of the Federal States, both for legislation and implementation, and the Exclusive Economic Zone (EEZ), for which the Federation (Bund) is responsible. It is also important to consider spatial planning and specific projects (eg. application for a wind farm) separately.

2.9 Since July 2004, an amendment of the German Spatial Planning Act (*Raumordnungsgesetz* (ROG)) has been in force. This gives a legal base for spatial planning in the EEZ consistent with the framework of the UN Convention on the Law of the Sea (UNLOS). A Strategic Environmental Assessment and participation of the public are both mandatory. This extension of the scope of the ROG into the EEZ was in particular needed to give an integrated approach to growing conflicts between uses in this area. The spatial planning work is required to seek sustainable development, in terms of a balance between social and economic demands for the use of sea-areas and the ecological functions of those areas.

2.10 In Germany, responsibility for spatial planning in the German EEZ lies with the Federal Ministry for Transport, Building and Housing (*Bundesministerium für Verkehr, Bau- und Wohnungswesen* (BMVBW)). The BMVBW draws up spatial planning objectives and principles for economic and scientific use, aimed at safeguarding safety and efficiency of navigation and the protection of the marine environment. The spatial planning objectives and principles are established by a statutory instrument in consultation with all the relevant Federal Ministries. The Federal Maritime and Hydrographic Agency (*Bundesamt für Seeschifffahrt und Hydrographie* (BSH)), in consultation with the BMVBW carries out the preparatory procedure steps for the compiling spatial planning objectives and principles - in particular, the necessary environmental assessment and public participation. The BMVBW bring in the other relevant Federal Ministries and establishes agreement with neighbouring countries.

2.11 Germany drew attention to the INTERRG IIIB Baltic Sea project "BaltCoast" ([www.baltcoast.org](http://www.baltcoast.org) and [www.eucc-d.de/ikzmdokumente](http://www.eucc-d.de/ikzmdokumente)) for further information concerning co-ordinated use of offshore areas and the role of spatial planning in the role of Integrated Coastal Zone Management.

2.12 In Germany, there are several authorities responsible for the approval of specific projects. For example, the BSH is responsible for offshore wind-farms, and the Mining Office (*Landesbergamt*) at Clausthal-Zellerfeld for exploration for, and exploitation of, oil and gas. In the case of offshore wind-farms, the approval procedure is based on the EIA Directive, thus ensuring transboundary consultation and public participation.

2.13 In discussion of these presentations, the following main points were made about the substantive issues:

- a. spatial planning involved more than just the accumulation of the impacts of the various projects. Hence there could be a gap between SEA and EIA. Relying on case-by-case decisions could also result in a sub-optimal allocation of the available maritime area;
- b. the EC EIA and SEA Directives were concerned with environmental impacts. Spatial planning had to be concerned as well with the other two components (economic and social aspects) of sustainable development;
- c. spatial planning processes were being used by sectoral interest-groups as a new tool to promote their sectoral interests;
- d. there was, however, a general increase in the use of the sea. This inevitably led to a heightened awareness of competition between the various sectors. Spatial planning could help resolve this

in the interest of the community as a whole by ensuring that all aspects were considered, not just those that got there first.

2.14 The following points were made on procedural issues:

- a. transboundary consultation on proposals could be difficult to organise. There could be as many as 50 – 70 agencies involved in controlling the use of maritime areas in a single Contracting Party. A 1992 report of a UK Parliamentary Committee identified over 80 Acts and 30 Government Departments, Agencies and Statutory Bodies dealing with activities in the coastal zone. It is not reasonable to expect authorities in another Contracting Party to identify which should be consulted about any particular project or proposal;
- b. there is therefore the need for agreement on how to handle such transboundary consultation. There is much to be said for EIA/Espoo approach of a single contact point, with that contact point bearing the responsibility for identifying what other authorities and stakeholders needed to be involved;
- c. since many proposals and projects have no transboundary implications, there are arguments for developing criteria to pick out those where consultation is worthwhile;
- d. bilateral agreements are often needed on issues such as the languages in which consultation material is to be provided, the numbers of copies to be provided, and the deadlines for comment. The latter point was particularly important, since practices differed substantially between Contracting Parties on the expected speed of licensing processes.

2.15 In the light of the discussion, the Workshop agreed that it was important to establish a clear terminology. There was a major difference between the (positive) work in guiding developments to areas suitable for them, and the (negative) task of preventing developments in areas unsuitable for them. The former was the task of marine spatial planning, properly so called. The latter was provided by the various project control-systems, and was better described as marine spatial control. The two aspects together could well be described as marine spatial management.

### **Agenda Item 3 - Need for guidance on good practice**

3.1 In the light of the presentations and the subsequent discussion, the Workshop concluded that it was premature to develop guidance on good practice. More time was needed to accumulate and assess experience with the new techniques and procedures that were being developed. Nevertheless, there were a number of tasks which could be undertaken to help clarify the issues where guidance on good practice might be needed, and to assist generally the tasks of marine spatial management.

3.2 The workshop reviewed the various elements that had emerged from the discussion, and agreed on the drafting of a working document to capture them.

3.3 The workshop then reviewed the working document. In the course of the discussion the following points were made:

- a. the EC EIA Directive concentrated on “adverse impacts”. There were advantages in ensuring that positive effects were also considered - for example, ensuring that marine nature reserves in adjoining EEZs were contiguous could greatly increase their effectiveness. The workshop should allow for this in its conclusions;
- b. the European Spatial Planning Observation Network (ESPON) had set out to provide a lot of information on how national spatial planning systems could more effectively work together. The experience of this network might offer suggestions on how OSPAR could assist in the very different area of the marine environment;
- c. it is not necessary for all material, even on one Contracting Party, to be gathered in a single information source. The concept of a “portal” which guided the reader to specific sites of interest, perhaps through the intermediary stage of other portals, might be more effective;
- d. there is the opportunity to use activities being undertaken for other purposes to gather information for planning and project-control purposes. One example is that OSPAR is

collectively making suggestions to the International Council for the Exploration of the Sea (ICES) for items for consideration in ICES's scientific programme. The study of some planning issues could be helped through scientific input from this kind of source. OSPAR would also be invited to look at the possibility of improving the coordination of research-vessel cruises. Planning issues could perhaps be taken forward through this means also

- e. it is important to find methods whereby authorities in one country can alert authorities in neighbouring countries to proposals and projects which might have transboundary or cumulative significance. Criteria are needed to help identify which proposals or projects would be significant, since there is otherwise a risk that too many minor cases might be notified;
- f. it is also necessary to establish the basis on which agreements can be made about how to notify cases where transboundary comments might be appropriate. Bilateral agreements are likely to be needed, but guidance on the issues that these should cover would facilitate arrangements;
- g. there was scope for exchanging views on what should be covered by strategic environmental assessments in the maritime area, and how such assessments can be done.

3.4 In the light of the discussion, the Workshop revised the working document and agreed on the suggestions for future work on marine spatial management set out in Annex 3. BDC should be invited to consider and approve these suggestions.

#### **Agenda Item 4 - Any other business**

4.1 The Interreg IIB North Sea Secretariat drew attention to the availability of funding for suitable projects under the Interreg IIIB Programme. It was likely that the management committee would open a call in November 2005 for smaller projects designed to provide the basis for major projects to be funded in the next funding period (2007 - 2013). The Interreg Programmes could provide 50% matching funding, and contributions in kind (such as staff time) could be considered in assessing the funding that was being matched. There were a number of Interreg IIIB projects already in existence which were relevant to marine spatial management in the North Sea: these included the "Power Project" on offshore wind-energy and the "Safety at Sea Project" dealing with the risk assessment of the interaction between offshore wind-farms and shipping.

4.2 The Workshop agreed to call the attention of the Biodiversity Committee to the likely forthcoming call for projects, and to suggest that Contracting Parties should be encouraged to see whether any consortiums could be created to take forward any of the suggested work with Interreg funding.

#### **Agenda Item 5 - Report of the workshop**

5.1 The Workshop agreed that a fairly full report of its proceedings was needed, so that the Contracting Parties who were not present could understand what was being proposed.

5.2 The Workshop agreed this report by a written procedure.