

Declaration regarding the public consultation on the Draft Marine Spatial Plan and the Environmental Impact Report (EIR-plan)

1. Context

1.1 Procedure

The marine spatial plan for the Belgian part of the North Sea is a plan organizing the desired spatial three-dimensional structure and temporal distribution of human activities, based on a long term vision and on formulating clear economic, social and ecological objectives. This plan aims at coordinating decisions having a spatial impact on the Belgian sea areas, and ensures every stakeholder to be involved in the process.

In accordance with article 4, §1 of the Royal Decree of 13 November 2012 on the establishment of an advisory committee, and the procedure for the adoption of a marine spatial plan in the Belgian sea areas, and with article 14 of the law of 13 February 2006 concerning the assessment of the impact of certain plans and programmes on the environment and the public participation in developing plans and programmes in relation to the environment, the public was consulted between 2 July 2013 and 29 September 2013 on the draft marine spatial plan and on the environmental impact report (EIR-plan).

The consultation in accordance with article 4, §1 aims at collecting socio-economic and environment-related information in order to be able to adopt a well-balanced marine spatial plan.

After the consultation and before adopting the plan, the Minister of the North Sea examined and took into account the remarks and advices received, in accordance with article 15 of the above-mentioned law of 13 February 2006 and with article 6, §1 of the above-mentioned Royal Decree of 13 November 2012. The Minister of the North Sea issues a declaration summarizing how the results of the public consultation were taken into account, in accordance with article 16 of the above-mentioned law and with article 6, §2 of the above-mentioned Royal Decree.

The final version of the marine spatial plan, the environmental impact report and the answers to amendment proposals and comments received during the public consultation are available on the portal site of the Federal Public Service Health, Food Chain Safety and Environment, www.consult-leefmilieu.be / www.consult-environnement.be and via www.belgium.be. The answers to amendment proposals and comments are written in the language in which the comments were formulated.

1.2 Environmental assessment

The environmental impact assessment, also called the “strategic environmental assessment” (SEA), was established in accordance with the stipulations of the of 13 February 2006 concerning the assessment of the impact of certain plans and programmes on the environment and the public participation in developing plans and programmes in relation to the environment.

This law contains various obligations:

- establishing a draft register (i.e. scoping document), including the information which the environmental impact report has to contain;
- carrying out an environmental impact assessment (SEA);
- establishing the above-mentioned report;
- Consulting the public;
- consulting the authorities involved (federal public services united into the SEA advisory committee; the Federal Council for Sustainable Development; the regional governments);
- taking into consideration the report as well as the results of the consultations when adopting the plan or program;
- providing information about the adoption of the plan or program, by means of a declaration published in the Belgian Official Journal as well as on the Federal Portal Site;
- monitoring presumable environmental impacts when implementing the plan or program.

The SEA examined the impacts throughout the alternatives proposed. The adopted Marine Spatial Plan constituted the proposed Alternative 1. Based on additional motivations (including notwithheld alternatives) mentioned in the adopted Marine Spatial Plan, an additional alternative (Alternative 2) was defined.

On the one hand the alternatives were examined on a more strategic level, testing the spatial policy options of the different alternatives for compatibility with the 2020 objectives of the Marine Spatial Plan, as formulated in respect with environmental, safety, social, cultural and scientific aspects. On the other hand, the alternatives were assessed in comparison to the baseline situation (zero alternative).

2. Integration of the results of the environmental impact report (EIR-plan) in the Marine Spatial Plan (MSP)

2.1 Environmental Impact Report

2.1.1. Development of the environmental impact report

The strategic environmental assessment integrates environmental considerations (in addition to social and economic considerations) as plans and programmes are prepared and established. First, a draft register (i.e. scoping document) was made, delimiting the environmental impacts and methodological aspects that were to be examined in this assessment . This register was proposed to the SEA advisory committee, which issued its advice on 15 March 2013. The advice

formulated by the SEA Advisory Committee were integrated in the further development of the strategic environmental assessment.

In the EIR-plan, the positive and negative impacts of the alternatives were described, using a scale and detail level relevant for the alternatives that were developed, tailored to the tangibility with which the "to be"-situations were to be formulated.

In total, 11 impacts were defined as possibly significant: seabed disruption (incl. turbidity), processes causing physical state changes (incl. erosion, hydrodynamics), impact on climate, changing noise climate, generation of electromagnetic fields, impact on biodiversity, disruption to seabirds, impact on shipping safety (incl. oil pollution), risks relating to climate change, changing sea-view and pressure on the available free space. For each impact the investigation field was delimited, the present and future situation was described, an impact assessment was carried out and proposals were made for mitigation measures and monitoring.

Because of the diversity of activities and their possible environmental impacts, it is not always easy to make a clear choice between the given alternatives. Depending on the considered impact, a certain alternative may be preferred. Even though the not-withheld alternative 2, for example offers more guarantees in the field of nature conservation by fully preventing seabed disturbing fisheries in the special area for conservation 'Vlaamse Banken', and contributes more to greenhouse gas reduction by providing an additional offshore wind farm zone, choosing for the increase of certain activities within alternative 2 (new offshore wind farm zone, extending dredging locations, new zone for sand extraction, building an offshore port, concession zone for energy-atolls far from the coast) may possibly generate more environmental pressure (more important risks of fauna disruption, collisions, oil pollution, etc.).

As the present assessment concerns an EIR-plan, a detailed environmental impact report and assessment of several new developments (i.e. energy atolls, port expansion) will have to be carried out on a project level (EIR-project). Starting from the precautionary principle and considering all policy options, the present MSP (alternative 1) is more often preferable to the not-withheld alternative 2.

On a strategic level, however, it is possible to make a clear appraisal with regard to the given objectives. Largely speaking there are sufficient safeguards that both alternatives are satisfactory for both the environmental and the safety aspects. As to guaranteeing the necessary space for all economic activities at sea, more important concerns arise for alternative 2. One could wonder if in alternative 2, the fishing prohibition in the entire special area for conservation 'Vlaamse Banken' does not impose the sector with major restrictions, challenging the economic viability of the sector. Nevertheless, this extensive form of restricting seabed disturbing fisheries techniques may offer the only safeguard for the viability of the North Sea ecosystem. Further examination is most certainly appropriate for that matter. Alternative 2 also includes restrictions on touristic and recreational

activities to specific zones. However, more information about the zones is not available (since alternative 2 was not-withhold , it was therefore not further developed). Finally, alternative 2 does not explicitly support the development of the European offshore energy grid. Therefore, alternative 1 is preferable from an economic point of view.

As far as scientific objectives are concerned the present MSP (alternative 1) is preferred, since no restrictions are being imposed and research remains possible in the whole Belgian part of the North Sea (BNS).

2.1.2. Amending the MSP as a result of the Environmental Impact Report

The environmental impact report was taken into account by integrating the adopted marine spatial plan as an alternative within the EIR-plan, and assessing this alternative in comparison to the baseline situation(zero alternative). On the basis of the environmental impact report, the draft plan (alternative 1) as approved by the government, is globally preferred over the not-withheld alternative 2. The present MSP is kept as the basis for the Royal Decree establishing the Marine Spatial Plan.

2.2. The public consultation

2.2.1. Consultation of authorities

In accordance with the above-mentioned law of 13 February 2006, five authorities were consulted: the SEA Advisory Committee, the Federal Council for Sustainable Development, and the regional governments. In addition, in the context of the Marine Spatial Plan and in accordance with article 4§2 of the Royal Decree of 13 November 2012 on the establishment of an advisory committee, and the procedure for the adoption of a marine spatial plan in the Belgian sea areas , the Coast guard was also consulted (by letter of 27/06/2013), as well as every authority considered relevant.

Advices were received from the SEA Advisory Committee (10/09/2013), the Federal Council for Sustainable Development (28/09/2013), the Coast guard (18/09/2013), the Walloon Region (25/09/2013) and the Flemish Region (27/09/2013).

These advices mainly reveal concerns about:

- the selection of the alternatives;
- the lack of specification on the methodology used, e.g. for the quantification of cumulative effects and for reaching a final assessment of the alternatives;
- the need for establishing an acceptable safety level;
- the lack of a detailed examination of certain impacts such as the possible air pollution by shipping; and
- the impacts in relation to new developments (energy atolls, port expansion, high voltage station 'plug at sea').

The advices, reactions and comments, along with the respective answers, are available on the SPF Health, Food Chain Safety and Environment's website – DG Environment - Marine Environment Unit (www.consult-leefmilieu.be / www.consult-environnement.be). The answers to the proposed amendments and comments are written in the language in which the comments were formulated.

2.2.2. Public consultation

In accordance with the Royal Decree of 13 November 2012 on the establishment of an advisory committee, and the procedure for the adoption of a marine spatial plan in the Belgian sea areas and with the above-mentioned law of 13 February 2006, a public consultation on the 'Draft Marine Spatial Plan' and the 'Strategic Environmental Assessment of the draft Marine Spatial Plan' was held from 2 July 2013 till 29 September 2013.

The public consultation regarding the "Draft Maritime Spatial Plan" and the "Strategic Environmental Impact Assessment of the Draft Marine Spatial Plan" was announced as follows:

- Publication in the Belgian Official Journal on 17 June 2013;
- Announcement on the Federal Portal Website as from 17 June 2013;
- Announcement on the website of the FPS Public Health, Food Chain Safety and Environment, DG Environment – Marine Environment Unit, as from 2 July 2013;
- Letters to approximately 35 addressees from the stakeholder databases of the FPS Public Health, Food Chain Safety and Environment, DG Environment – Marine Environment Unit, sent on 2 July 2013.
- In accordance with article 4§3 of the above-mentioned Royal Decree of 13 November 2012, a public consultation meeting was organized on 9 July 2013.

Throughout the public consultation a total of 140 remarks and proposals were submitted by private individuals, authorities, federations and companies.

These reactions mainly express concerns regarding restrictions on fisheries, lack of detailed information on the impact in relation to new developments of activities such as the impact on the sediment transport of the energy atolls, the high voltage station 'plug at sea' and the port expansion, the impact on the sea view and the accessibility and safety of shipping.

The advices, reactions and comments, along with the respective answers, are available on the FPS Health, Food Chain Safety and Environment's website – DG Environment - Marine Environment Unit (www.consult-leefmilieu.be / www.consult-environnement.be). The answers to the proposed amendments and comments are written in the language in which the comments were formulated.

2.2.3. International Consultations

In accordance with the Royal Decree of 13 November 2012 on the establishment

of an advisory committee, and the procedure for the adoption of a marine spatial plan in the Belgian sea areas, with the above-mentioned law of 13 February 2006, and with the advice of the SEA Advisory Committee, other European Member States, parties to the Espoo Convention (25/02/1991), were consulted: the Netherlands, France and the United Kingdom (by letter of 28 June 2013).

The Netherlands (2 October 2013) as well as France (11 October 2013) and the United Kingdom (26 September 2013) submitted remarks.

These advices mainly express concerns regarding lack of detailed information on the impact in relation to new developments of activities such as the impact on the sediment transport of the energy atolls, the high voltage station 'the plug at sea', on port expansion and restrictions on fisheries. Besides the importance of investigating the cumulative effects of offshore wind farms is emphasized.

The advices, reactions and comments, along with the respective answers, are available on the FPS Health, Food Chain Safety and Environment's website – DG Environment – Marine Environment Unit (www.consult-leefmilieu.be / www.consult-environnement.be). The answers to proposed amendments and comments are written in the language in which the comments were formulated.

3. Adapting the Marine Spatial Plan to the advices and reactions resulting from the consultation

Taking into account the results of the consultations, the draft Marine Spatial Plan was adapted.

Regarding shipping and disposal of dredged material, a number of adaptations were carried out based on the public consultation, such as the "upgrading" of the Westpit 2-route.

Concerning the conditions for the use of the reservation zone for dumping dredged material, the formulation was adapted in such a way that only one single zone can be delineated, that the reflow decreases, that the size of the disposal area equals the zone to be replaced, and that the impact on fishing grounds is minimal.

As to energy, cables and pipelines, in case of an overlap between the pipeline and cable corridor and sand extraction, it is specified that the former activity prevails, yet its impact is restricted as much as possible.

The zone for an installation for the transport of electricity ('plug at sea') becomes a concession zone for an installation for the transport of electricity. In other words, a concession can be applied for this installation. Furthermore, the zone where this concession can be applied for is reduced in size.

Concerning the concession zone for an installation for energy storage (energy atoll) near the Wenduine Bank, the zone is moved westward over a distance of

about 1000 meters on the basis of the reactions received, and the zone where the concession can be applied for is reduced in size.

Furthermore, article 7§5 stipulates that installations for energy storage are allowed within the special protection areas (, insofar as active nature conservation measures, as mentioned in article 8, §6 of the Royal Decree establishing the marine spatial plan, take into account the species that have to be protected within the respective special protection areas into consideration. This explicitly expresses the necessity of linking the nature conservation measures to be taken under article 8, to the species that have to be protected in the concerned special protection areas. This is an additional condition to the creation of an energy atoll and constitutes an additional nature conservation measure for the special protection areas.

For recreational fisheries, the exceptions on the prohibition of using seabed disrupting techniques in the entire special area for conservation 'Vlaamse Banken' are extended to:

- Fishing on foot and horseback fishing. Here, seabed disruption is allowed;
- Recreational shrimp fishing using a boat. Authorizations can be granted under conditions (e.g. for maximum 6 years, for 10 times per year).

Finally, for aquaculture the suggestion was made to omit the term "integrated". The biological restoring effect covers everything. This argumentation is followed and the term "integrated" is deleted.

4. Mitigation measures and monitoring the consequences of the implementation of the Marine Spatial Plan

Several measures were proposed in order to mitigate for certain zones the impacts of the Marine Spatial Plan as described in the EIR-plan. This concerns mainly technical adaptations (e.g. ships, using natural materials), as well as used methods (e.g. alternative fisheries techniques, pile drilling procedures), temporary restrictions on certain activities (e.g. prohibiting pile drilling for wind farms, measuring poles and transformer platforms between 1 January and 30 April in order to avoid the disruption of sea mammals). An important cluster of measures aims at monitoring certain environmental impacts (e.g. EMF, noise production, sedimentation, non-indigenous species) in order to confirm or not the results in the EIR-plan or to reduce knowledge gaps.

Part of these measures are already integrated in authorizations procedures in process (e.g. offshore wind farms, dredging activities, sand and gravel extraction). Other measures are part of the present Marine Spatial Plan.

The most important measure is yet the fact that the Marine Spatial Plan has to be reviewed every six years, taking into account possible evolutions that occurred meanwhile, and on the basis of the monitoring programs that are conducted.

The final version of the Marine Spatial Plan, the Environmental Impact Assessment and the advices, reactions and comments received throughout the public consultation, along with the respective answers, are available on the FPS Health, Food Chain Safety and Environment's website - DG Environment - Marine Environment Unit (www.consult-leefmilieu.be / www.consult-environnement.be), as well as on www.belgium.be The answers to proposed amendments and comments are written in the language in which the comments were formulated.