

Why making space for marine wildlife?

At the 4th North Sea Conference, Ministers recognised: „General environmental management measures adopted on the level of the North Sea basin as a whole may be insufficient to secure adequate protection for certain species and their habitats. The Ministers therefore agree to develop an integrated view on the specific conservation measures necessary for ecologically important or key biodiversity indicator species and their habitats which are, or may become, threatened or vulnerable in the North Sea, including coastal and offshore areas.“ (§ 9, Esbjerg Declaration, 1995)

Since Esbjerg 1995, important clarification has been provided as to whether existing conservation instruments, such as the European Habitats Directive apply in offshore waters of e.g. the North Sea. Progress has also been made under the OSPAR Convention in terms of adopting Annex V and elaborating the measures required for its implementation, including criteria for the selection of species and habitats, lists of biota under threat or immediate decline, criteria and management guidelines for Marine Protected Areas (MPAs), and classification schemes for coastal and marine habitats.

The 2002 North Sea Progress Report, however, indicates that in reality „only very few protected areas“ occur beyond the 3 nautical miles (nm) limit, the number of marine sites so far considered under the EU Natura 2000 network amounts to 60, mainly located in coastal waters, and the entire process has been „unduly slow“.

At the same time, human pressure on coastal and offshore marine wildlife is dramatically increasing and biodiversity loss in the North Sea basin progressing. Seven years after the Esbjerg Conference, the rapid expansion of offshore human activities gives rise to concern. The North Sea continues to be over-used by human activities. The scale of spatial demand for, *inter alia*, bottom trawling, offshore oil and gas platforms, cables and pipelines, military activities, shipping lanes, windfarms etc. by far exceeds the space required

to safeguard threatened and declining species, habitats and ecosystem functions. Areas which best represent the range of ecological and other relevant character in the North Sea (see Map 2) have become subject to fragmentation by human activities causing pollution, noise, vibrations and other disturbance (see Maps 3, 4, 5 attached). Hence, at the 5th North Sea Conference...

...WWF calls on Ministers to

- **agree** to complete, by 2005, the identification of relevant areas of the North Sea to be designated as marine protected areas (MPAs) belonging to a network of well-managed sites throughout the North Sea, including for offshore areas, and, by 2010, the legal designation and development of management plans for the network of sites.
- **recognise** the importance of spatial planning in the delivery of an ecosystem approach and **agree** to the introduction of spatial planning in the North Sea in a coordinated manner by 2004.

In this context, it will be key for North Sea governments to: (i) identify, designate and establish MPAs up to the limits of their offshore jurisdiction, including sites qualifying under the European Habitats Directive (to become SACs); and (ii) combine Ecological Quality Objectives (EcoQOs) with spatial planning.

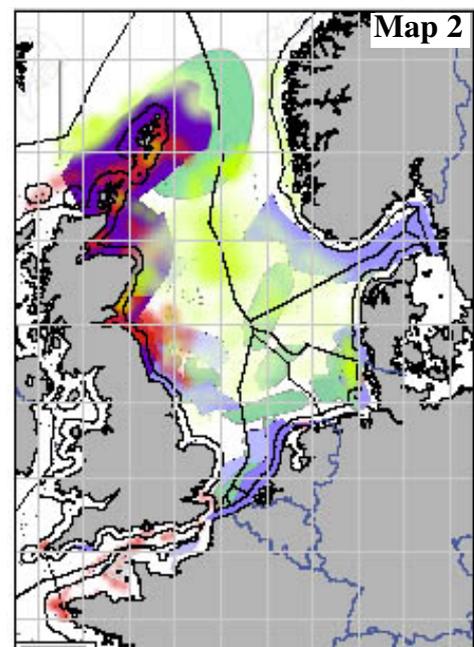
The Need for Marine Protected Areas in the Context of North Sea Wide Spatial Planning

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Human Uses versus Conservation Needs WWF maps presented at the 5th NSC 2002

- 1 Offshore Areas Proposed for Protection
- 2 Examples of Ecologically Important Areas
 - 3 Sediments and Sediment Disturbance
 - 4 Sediment Disturbance by Bottom Trawls
 - 5 Offshore Sources of Pollution and Noise



With regard to the latter, WWF urges North Sea states to: (i) finalise the definitions and concept of EcoQOs for threatened species and habitats and/or benthic communities by 2003 at the latest, followed by immediate implementation; and (ii) implement measures to achieve the EcoQOs set for fishes, marine mammals and seabirds. As a precursor of the MPA network, WWF proposes corridors of sites to be designated for the immediate implementation of measures towards achieving the EcoQOs (see Map 1).

Why is it so important to designate a network of MPAs?

MPAs are regarded as an important tool for ecosystem management. When well managed they: (i) protect the structure, function, and integrity of a segment of the ecosystem; (ii) increase knowledge and understanding of marine ecosystems; and (iii) function as a buffer against human exploitation, mismanagement, pollution, and disruption of ecological integrity. MPAs probably contribute most to ecosystem-based management if they are set up as a well-managed network (which are incorporated into an integrated coastal or large marine ecosystem management plan). This requires transboundary cooperation of nations, which must be guided by intergovernmental bodies. To date, the majority of MPAs have been established close to shore, but many offshore areas are equally diverse, productive, and important.

The legal situation for protecting marine areas is particularly complex, especially offshore. While some activities such as oil and gas exploration are regulated nationally, fishing at EU level is under the competence of the Common Fisheries Policy and shipping at a global level regulated by the International Maritime Organisation (IMO). Designating MPAs in international waters presents particular legal and institutional challenges, as nations can only regulate the activities of their own citizens and flagged vessels in waters beyond their territorial limits or Exclusive Economic Zone (EEZ). The process of identifying, selecting and establishing a truly comprehensive MPA network is a long-term undertaking, and procedures to move towards this goal are urgently needed.

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General Obligations Applying to North Sea States

Convention on Biological Diversity (1992)

... to establish or consolidate representative systems of marine and coastal protected areas, and to enhance linkages and information exchange among the sites. (Jakarta Mandate, 1995)

OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic (1992)

... to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to particular species or habitats. (Annex V, OSPAR Convention, 1998)

..., to protect and conserve the biological diversity of the maritime area and its ecosystems which are, or could be, affected as a result of human activities, and to restore, where practicable, marine areas which have been adversely affected.to promote the establishment of a network of marine protected areas to ensure the sustainable use and protection and conservation of marine biological diversity and its ecosystems. (Sintra Statement, 1998)

Further Reading:

BirdLife (2001): Identification and demarcation of marine IBAs and their relationship to the Birds Directive. BirdLife International.

INA (2001): Application of NATURA 2000 in the Marine Environment. Workshop Report. German Federal Agency for Nature Conservation.

NSC (2002): Progress Report. Fifth International Conference on the Protection of the North Sea, 20-21 March 2002, Bergen, Norway. Ministry of Environment. Oslo.

OSPAR (2000): Development of a System of Marine Protected Areas in the OSPAR Maritime Area. Summary Record. OSPAR Commission Meeting, Copenhagen, June 2000.

WWF (1998): Justification for the potential selection of the Dogger Bank as an offshore marine protected area. WWF NE Atlantic Programme. Bremen.

WWF (2000): Developing a framework for marine protected areas in the NE Atlantic. WWF NE Atlantic Programme. Bremen.

WWF (2001): Implementation of the EU Habitats Directive offshore: Natura 2000 sites for reefs and submerged sandbanks. Vol. II: North East Atlantic and North Sea. WWF UK. Godalming.

WWF (in prep.): Management plans for offshore SACs. Darwin Mounds and Dogger Bank case studies. WWF UK. Godalming.

The Role of the EU Habitats and Birds Directives in the Protection of the North Sea Marine Environment

Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna in conjunction with Council Directive 79/419/EEC on the Conservation of Wild Birds is the main legal tool for the protection of nature and biodiversity within the EU. One fundamental purpose is to establish a coherent system of Special Areas of Conservation (SACs) and/or Special Protection Areas (SPAs) through Community territory. This Natura 2000 network is designed to help maintain or restore both the distribution and abundance of species and habitats in their natural range.

There are two habitats listed in the Directive that occur beyond 12 nm offshore. These are "reefs" (Natura 2000 code 1170) and "sandbanks" (Natura 2000 code 1110). Article 12 of the Habitats Directive (HD) also requires non-site-based protection for migratory species listed in that Directive e.g. all cetaceans. The EU HD is a strong enforceable instrument but its marine categories do not appropriately represent the full range of habitats and species that should be listed to meet conservation objectives. Therefore, the work undertaken to implement the Regional Seas Conventions e.g. OSPAR Annex V is important to draw up complementary provisions and measures.

There has been a lack of clarity for many years as to whether or not the EU HD applies in the marine environment offshore out to the 200 nm Exclusive Economic Zone (EEZ) and/or other national limit of offshore jurisdiction. However, on 5th November 1999, a UK High Court decision following the successful suit of Greenpeace against the UK Government ruled that the HD "applies to the UK Continental Shelf and to the superjacent waters up to a limit of 200 nautical miles from the baseline from which the territorial sea is measured". The geographic coverage of the EU HD in European Union waters was referred to by the European Commission as follows: "The provisions of the 'Habitats' Directive automatically apply to marine habitats and marine species located in territorial waters (maximum 12 miles). However, if a Member State exerts its sovereign rights in an exclusive economic zone of 200 nautical miles (for example, the granting of an operating license for a drilling platform), it thereby considers itself competent to enforce national laws in that area, and consequently the Commission considers in this case that the 'Habitats' Directive also applies, in that Community legislation is an integral part of national legislation". (COM (1999) 363 final Communication from the Commission to the Council and the European Parliament)