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Natural Authority

summary

The Wadden Sea is the largest continuous nature conservation area in western Europe and one of the largest tidal areas in the world. Recognition of the Wadden Sea as a unique nature conservation area has been incorporated politically and administratively into strategic policy and legislation at both national and international level. The main aim of national strategic policy on the area is to protect and develop it permanently as a nature conservation area. The European Birds and Habitats directives provide the relevant framework and system of standards.

The spatial planning framework

The way the Wadden Sea area is managed has been the subject of attention for more than thirty years. Initially, it was decided that policy on the area should be within the context of spatial planning, with the main administrative instrument being that of the "Key Planning Decision". The underlying idea was that spatial planning would provide the framework for balancing various functions – whether economic or nature-related – within the area, so that all were on an equal footing. Sectoral legislation provides a framework for decision-making within the context of each separate function, meaning that balancing up the best interests of the different functions requires a great deal of coordination and consultation. This takes place within the Coordination Board for the Wadden Area [*Coördinatiecollege Waddengebied, CCW*] and the Regional Coordination Board for the Wadden Area [*Regionaal Coördinatiecollege Waddengebied, RCW*].

The existing administrative system for the area is characterised by vertical and horizontal coordination and consultation between the various authorities concerned. This is essentially a spatial planning model in which all the various interests are considered to be on an equal footing. It is constantly necessary to weigh up the various different interests, an approach that can lead to the creation of ad hoc policy that is unpredictable and inconsistent. This administrative model therefore provides insufficient guarantees for effective and timely action that is in the best interests of nature conservation. This kind of policy also leads to only negative involvement on the part of individuals, businesses, interest groups and pressure groups, and the public at large.

From spatial planning to nature conservation

The Wadden Sea has increasingly become the subject of nature conservation measures, above all in the light of the EU Birds and Habitats directives. One might even speak of a paradigm shift. The legal obligation to manage the Wadden Sea area as a nature conservation area is a given, and arises directly from the two EU directives. It is in the interests of the natural environment to impose limits on

economic and other activities. The way the area is administered must therefore comply with the paradigm shift: *form must be based on content*.

No systematic nature management

Currently, there is nobody with final responsibility for nature conservation within the whole of the Wadden Sea area, a situation that is reflected in the kind of measures actually taken: the natural environment of the Wadden Sea area is not systematically managed or monitored. In many cases, the management tasks that are in fact implemented – for example by the Directorate-General for Public Works and Water Management [*Rijkswaterstaat*] – cannot be classed as nature management and display little cohesion.

Towards a new administrative model

The fact that the paradigm for the Wadden Sea has shifted in the light of the Birds and Habitats directives and the expressed need for a body to undertake nature management for the area as a whole mean that a new administrative model needs to be developed for the Wadden Sea, based on the best interests of the natural environment rather than coordination. The coordinating bodies CCW and RCW can be dispensed with. The primacy of nature conservation must find expression in an overall strategic approach and operational policy. The current model based on spatial planning will therefore need to be abandoned.

Nature conservation imposes two main requirements. In the first place, an overall strategic approach to planning the future of the Wadden Sea must be defined, together with related strategic policy. Secondly, nature conservation as actually practised must be proactive, effective, and cohesive.

In addition to the demands imposed by nature conservation on the administrative model, there are also a number of principles and practical requirements from the perspective of constitutional democracy. These are associated with the need to ensure democratic legitimacy and support for Wadden Sea policy, with respect for the main administrative structure and the position of local and regional authorities.

Strategic policy at national level

Setting out the overall approach and formulating strategic policy are the responsibility of national government. It is at that level that the policy frameworks must be defined within which the other authorities exercise their power. In the view of the two Councils, it is an obvious step to put the minister with primary responsibility for nature conservation in overall charge of Wadden Sea policy. The remit of the minister currently responsible already includes the task of coordinating Wadden Sea policy at international level. The appropriate point for the allocation of such political responsibility would be when the next Government is formed.

Operational policy and management at regional level

It is important that strategic policy on the Wadden Sea area should then be supported by the relevant local and regional authorities, which should bear part of the responsibility for achieving the main aims of Wadden Sea policy. Moreover, nature conservation has clear points of interaction with other responsibilities and powers of local and regional authorities, meaning that their administrative involvement is not merely desirable but also essential.

The proposed system of co-operation between the provinces and municipalities can best be given shape in the form of a construction subject to the Joint Regulations Act

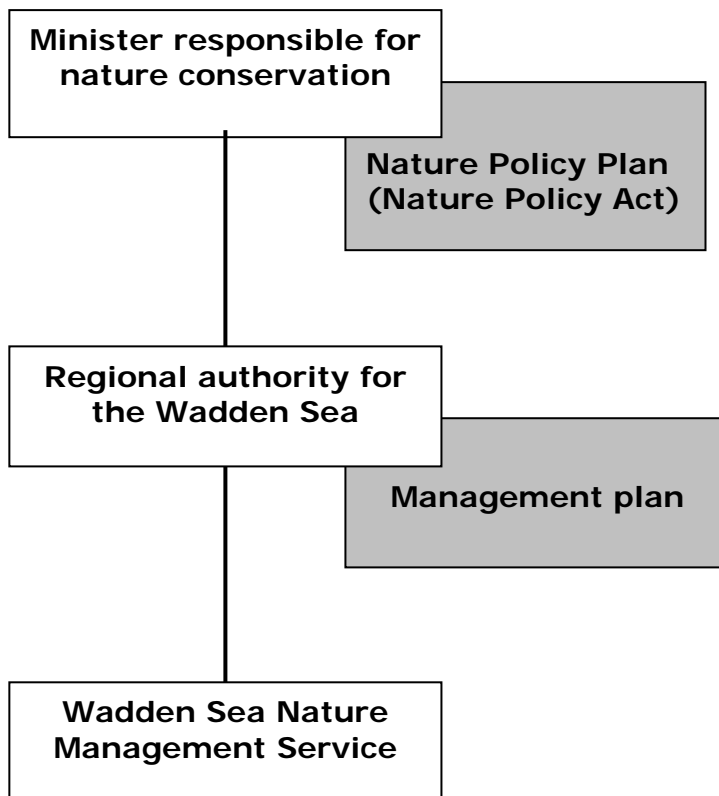
[*Wet gemeenschappelijke regelingen, Wgr*]. The powers of national government and the provinces to adopt management plans and issue permits in respect of the Wadden Sea will need to be transferred to the regional authority. Here too, the necessary arrangements could be made when the next Government takes office, with considerable weight being given to the opinion of the region itself.

The regional authority would be responsible for implementing nature conservation measures by means of active management. With that in mind, a separate management organisation will need to be set up; this will report directly to the regional authority. The management organisation will be responsible solely for activities relating directly to the preservation, protection, and remediation of the area. Consideration can be given at a later date to whether effective and efficient governance require other tasks and powers to be transferred from the provinces, municipalities and national government to the regional authority for the Wadden Sea.

Unified Wadden Sea Inspectorate

National government is responsible for supervising the activities of the regional authority for the Wadden Sea. The existing inspection duties that relate directly to nature conservation in the area need to be concentrated. In the initial phase, this will primarily involve monitoring compliance with the 1998 Nature Conservation Act, but the duties of the Inspectorate will need to change along with the tasks and powers of the regional authority.

Administrative model for the Wadden Sea



Support for a new administrative model

Given the broad support for prioritising nature conservation, the two Councils expect that the various different authorities and other parties concerned will be able to achieve consensus from that perspective. That is also likely to apply to the other stakeholders with an economic and/or recreational interest in the Wadden Sea. The law requires that activities that have a negative impact on the natural environment must be excluded, but at the same time it is essential for every business and other user that a well-defined and predictable authority can indicate – from a long-term perspective – what activities are in fact permitted or prohibited.