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Date: 26 October 2004
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**WSF Recommendations:
Maritime Safety and Pollution Prevention of Shipping in the Wadden Sea**

Dear Madam, Sir,

The trilateral Wadden Sea Forum (WSF) adopted recommendations at its last meeting on 16.-17.09.2004 with the aim to improve the maritime safety and the marine pollution prevention in the wider Wadden Sea area. The recommendations are attached.

The WSF was established by the governments of Denmark, Germany and The Netherlands with the task of developing scenarios for sustainable development for the Wadden Sea region. Safety in shipping and ship's safety are extremely relevant for the protection of this sensitive sea area and has been a priority issue for the WSF from the beginning. Simultaneously shipping, offshore and port activities are important factors for the economy of the region.

While acknowledging the high level of safety, which has already been achieved in this area in a global comparison, the WSF is very concerned about the significant socio-economic and ecological effects that marine disasters and shipping in general could have on the Wadden Sea area.

Therefore, the WSF initiated the study "The Wadden Sea - Maritime Safety and Pollution Prevention of Shipping", an analysis of the existing measures and the implementation of agreements regarding maritime safety and the prevention of pollution from ships. Deficiencies and gaps within the already existing comprehensive regime of protection measures in the southern North Sea and the Wadden Sea area were identified by the study, which was supported by further contributions of experts. This led to comprehensive discussions within the WSF on shipping safety resulting in the adoption of the above mentioned recommendations.

Given the urgency of the situation, the WSF would like to stress the need for further adequate protective measures, as outlined in the 35 recommendations adopted by WSF. The WSF calls special attention to the recommendations listed as priority recommendations. These WSF recommendations reflect the special protective requirements of this area, as it is internationally acknowledged through the designation of the PSSA Wadden Sea.

Notwithstanding that the above recommendations will be included in the final report of the WSF which will be submitted to the governments in February next year, the WSF strongly believes that the recommendations need to be brought to the attention of the competent authorities and parliamentary committees in the three countries with a view to their implementation with priority. I therefore urge you

to undertake the necessary steps to this effect. I would appreciate to be kept informed on progress in this regard.

Thank you very much in advance.

Yours sincerely

A handwritten signature in black ink, consisting of a large, sweeping loop on the left side that tapers to a point on the right, with a smaller, more defined loop or flourish below the main curve.

E.H.T.M Nijpels
Chairman

Attachment

WSF Recommendations regarding Shipping Safety adopted at the WSF-meeting on 17.09.2004

Shipping Safety

Introduction

The southern North Sea is intensively used by shipping and the Wadden Sea area is influenced to a major extent by these international activities. Thus safety in shipping and ship's safety are extremely relevant for the protection of this sensitive sea area. Simultaneously shipping, offshore and port activities are important factors for the economy of the region.

The designation of major parts of the Wadden Sea as the world's fifth and Europe's first Particularly Sensitive Sea Area (PSSA Wadden Sea) in 2002 was an important step in the joint Danish-German-Dutch efforts to protect the Wadden Sea in respect of impacts from shipping and offers a good basis for the further development of measures to enhance shipping safety.

While acknowledging the high level of safety which has already been achieved in this area in a global comparison, and acknowledging the value of pilotage in the system of today, the WSF is very concerned about the significant socio-economic and ecological effects that marine disasters and shipping in general could have on the Wadden Sea area. Additionally, the WSF is very concerned about the planned installation of offshore wind farms which requires new considerations for the safety of shipping, especially a concept for an overall spatial planning procedure in the offshore zone.

In order to achieve an overview of the state of implementation and enforcement of international, EC and uni-, bi- or trilateral rules and regulations, the WSF initiated the study "The Wadden Sea - Maritime Safety and Pollution Prevention of Shipping", an analysis of the existing measures and the implementation of agreements regarding maritime safety and the prevention of pollution from ships. A further aim of the study was to identify deficiencies and gaps within the already existing comprehensive regime of protection measures in the southern North Sea and the Wadden Sea area. The study was used by the WSF as a starting point for the discussion and formulation of the following recommendations.

Objectives - Recommendations

To improve the maritime safety and the marine pollution prevention in the wider Wadden Sea area (i.e. the southern North Sea) the WSF underlines the need for further adequate protective measures. The WSF recommendations reflect the special protective requirements of this area, as it is internationally acknowledged through the designation of the PSSA Wadden Sea.

The recommendations by the WSF are covering the following issues:

1. Spatial Planning - Offshore Installations and Shipping
2. Shipping Safety and Ship's Safety
3. Emergency Management
4. Illegal Discharges in the sea
5. Port State Control (PSC)

The full list of recommendations (Rec 1 - 35) by the WSF is given in the Annex.

The recommendations call for national, bi- and trilateral actions, and partly for trilateral initiatives on EC or international level. Therefore, the follow-up of these recommendations or parts of them is considered to be of significance to meet the required level in safety and pollution prevention. Following these recommendations will lead to improved safety in the area.

Recommendations with Priority

The WSF calls special attention to some of the recommendations. The WSF considers measures related closely to the "precautionary principle" as a first step, secondly to the "Principle of avoidance" and in case these fail the "combating control" as most relevant.

Therefore, the implementation of the following recommendations should have priority:

1. SPATIAL PLANNING - OFFSHORE INSTALLATIONS AND SHIPPING

Rec 1. The planned offshore installations require new considerations for the safety of shipping. A trilaterally harmonized spatial planning procedure for the Exclusive Economic Zone (EEZ) shall be initiated and developed in order not to increase the overall risk for man and nature.

- Such offshore installations require a shipping safety concept considering additional stationing of Emergency Towing Vessels (ETV), the installation of a radar supported Automatic Identification System (AIS) as well as Traffic Separation Schemes (TSS) in certain areas.
- Furthermore, the planning process shall include the consideration of traditional shipping routes and shipping activities as well as the enlargement of the safety radius around offshore installations¹ and aerial surveillance.
- Within this joint process the integration of environmental, nature and economic policies as well as the legislation in the Dutch EEZ shall be accelerated.

2. SHIPPING SAFETY

Rec 3. The WSF welcomes the efforts for effective Vessel Traffic Management and Information Systems (VTMIS) and proposes to further develop the systems by integrating the different techniques and co-operating with a view on the wider Wadden Sea region from Rotterdam to north of Blavand (see also 1. Spatial Planning).

- In addition, the WSF emphasizes the importance of a co-ordinated implementation of the EC Directive 2002/59/EC (monitoring and information exchange), Safe Sea Net, AIS network and respective IALA² objectives.

3. PORT STATE CONTROL

Rec. 30. The WSF recommends to intensify the harmonization of Port State Control (PSC) procedures (e.g. checklists, interviews, internal quality standards etc.).

4. MUTUAL ASSISTANCE IN EMERGENCIES

Rec. 13. The Joint Danish-German-Dutch response plan (DenGerNeth-Plan) which will replace the bilateral agreements (DenGer-, NethGer-Plan) shall be signed as soon as possible to have an instrument for trilateral response action in case of incidents involving oil and other harmful substances in the PSSA Wadden Sea and adjacent areas.

Rec 14. The WSF proposes to establish a joint coastguard working group to investigate the option for a trilateral common coastguard.

¹ In Germany the minimum safety distance between the outer boundary of a wind farm and existing TSS is defined 500 m safety radius (acc. to UNCLOS Art. 60) plus 2 nautical miles (corresponding to COLREG, rule 10).

² IALA = International Association of Lighthouse Authorities

5. EMERGENCY MANAGEMENT

Rec. 15. A trilateral strategic emergency towing concept under consideration of the development of shipping and ship dimensions and offshore installations (see also 1. Spatial Planning) shall be established. In this concept, the issue of standardisation (e.g. regarding dimension and manoeuvring qualities) shall be investigated. Furthermore the concept shall include:

- When deploying or developing new Emergency Towing Vessels, an adequate* bollard pull has to be ensured.
- 24-h-availability of adequate* ETV capacities in stand-by mode at strategic sea positions has to be ensured. A maximum response time (time for the ETV to reach the vessels in distress) of 2 hours has to be ensured.

* In Germany adequate bollard pull (bp) is defined: "in accordance with the present performance (at least 160 t bp, 17,5 kn trial speed) and the draft must be reducible to 6 m".

* In the Netherlands: in addition to MS WAKER (large ETV) it is advised to consider supplementary ETV vessels stationed near the Wadden Sea region and the Zeeland estuaries.

* In Denmark: Due to increasing traffic along the Danish west coast, the Danish government is requested to reconsider the stationing of an ETV at the west coast, or to sign a contract to charter specified ETV capacity in case of ship casualties.

- Moreover, the WSF advises to improve coordination with regard to required ETV capacities in a wider perspective. Norway, DK, GER, NL, Belgium and UK shall be called upon to coordinate their respective needs and decide on strategic positioning of ETV in the whole central and southern North Sea.

Rec 22. The WSF welcomes the steps taken in the implementation of the EC Directive 2002/59/EC regarding Places of Refuge (PoR) by the three Wadden Sea States.

- The national concepts concerning the handling of PoR and the necessary equipment shall be trilaterally coordinated and regularly reconsidered and thus further developed.
- Adequate transparency of the concepts and the level of their practical implementation shall be achieved by informing the local authorities and the public concerned.

ANNEX: List of the WSF Recommendations concerning Maritime Safety and Pollution Prevention by Shipping

To improve maritime safety and pollution prevention by shipping in the wider Wadden Sea area (i.e. the southern North Sea) the following recommendations are put forward by the WSF:

1 SPATIAL PLANNING - OFFSHORE INSTALLATIONS AND SHIPPING

Rec 1. The planned offshore installations require new considerations for the safety of shipping. A trilaterally harmonized spatial planning procedure for the Exclusive Economic Zone (EEZ) shall be initiated and developed in order not to increase the overall risk for man and nature.

- Such offshore installations require a shipping safety concept considering additional stationing of Emergency Towing Vessels (ETV), installation of radar supported Automatic Identification System (AIS) as well as Traffic Separation Schemes (TSS) in certain areas.
- Furthermore, the planning process shall include the consideration of traditional shipping routes and shipping activities as well as the enlargement of the safety radius around offshore installations³ and aerial surveillance.
- Within this joint process the integration of environmental, nature and economic policies as well as the legislation in the Dutch EEZ shall be accelerated.

Rec 2. Depending on further development of offshore wind farms off the North Friesian and Danish west coast it might be advisable to establish a routing system and Vessel Traffic Services (VTS⁴) / Vessel Traffic Management and Information System (VTMIS⁵) in the area.

2. SHIPPING SAFETY AND SHIP'S SAFETY

2.1 Navigation

Rec 3. The WSF welcomes the efforts for effective Vessel Traffic Management and Information Systems (VTMIS) and proposes to further develop the systems by integrating the different techniques and co-operating with a view on the wider Wadden Sea region from Rotterdam to north of Blavand (see also 1. Spatial Planning).

- In addition, the WSF emphasizes on the importance of co-ordinated implementation of the EC Directive 2002/59/EC (monitoring and information exchange), Safe Sea Net, AIS network and respective IALA⁶ objectives.

³ In Germany the minimum safety distance between the outer boundary of a wind farm and existing TSS is defined 500 m safety radius (acc. to UNCLOS Art. 60) plus 2 nautical miles (corresponding to COLREG, rule 10). In Deutschland ist der Minimalsicherheitsabstand zwischen der äußeren Begrenzung eines Windparks und eines Verkehrstrennungsgebietes mit einem Sicherheitsradius von 500 m definiert (s. UNCLOS Art. 60) plus 2 Seemeilen (s. COLREG, rule 10).

⁴ Vessel Traffic Services - VTS - are shore-side systems which range from the provision of simple information messages to ships, such as position of other traffic or meteorological hazard warnings, to extensive management of traffic within a port or waterway. Generally, ships entering a VTS area report to the authorities, usually by radio, and may be tracked by the VTS control centre. Ships must keep watch on a specific frequency for navigational or other warnings, while they may be contacted directly by the VTS operator if there is risk of an incident or, in areas where traffic flow is regulated, to be given advice on when to proceed. SOLAS Chapter V (Safety of Navigation) states that governments may establish VTS when, in their opinion, the volume of traffic or the degree of risk justifies such services. [www.imo.org/Safety/mainframe.asp?topic_id=387, cited 06.09.04]

⁵ Vessel Traffic Management and Information System (VTMIS) is a more detailed description of VTS and may include for example Port Information Management Systems etc.

⁶ IALA = International Association of Lighthouse Authorities

Rec 4. Immediate implementation of the ERIKA II-package in respect of VTMS shall be done by the Netherlands.

Rec 5. A trilateral harmonized monitoring system for ships based on AIS shall be established along the trilateral coast in accordance to the deadline decided upon in the Esbjerg Declaration⁷ but not later than stated in the EC Directive 2002/59/EC for all relevant traffic in the wider Wadden Sea region.

- This will allow easier identification of ships for the benefit of shipping safety. In addition violations against mandatory routing systems and restrictions of shipping in the inner traffic zone, respectively, can be identified and corrected.
- The AIS system shall be supported – and integrated with – by means of state of the art systems (e.g. radar) for safety reasons and because not all traffic members are obliged to use AIS.
- The voluntary use of AIS equipment on board ships less than 300 gt shall be stimulated in order to increase safety in shipping.

Rec 6. VTS similar to the VTS German Bight shall be provided in the Netherlands especially including the TSS Off Vlieland. The Dutch Deep Water routes shall be modified completely to TSS routes via the IMO.

Rec 7. Prior to reduction measures regarding aids to navigation (e.g. lateral buoy system to centre-line system) adequate safety assessments / risk analysis shall be commenced.

Rec 8. The WSF proposes to consider bringing in Dutch manned lighthouses, which are not active in VTS, under the umbrella of the Netherlands coastguard. This could assist observation tasks and "on scene" coordination of search and rescue operations when needed.

2.2 Ship Standards

Rec 9. Mandatory basic safety refresher courses shall be introduced by means of a trilateral initiative at EC and IMO level. Such basic safety courses and refresher courses shall be enhanced by elements such as for instance emergency management, emergency towing and pollution response.

Rec 10. Trilateral initiative for an award scheme on EC and IMO level for ships, which demonstrably fulfil ambitious safety and environmental standards.

Rec 11. Immediate ratification of the International Convention on the Control of Harmful Anti-Fouling-systems on Ships (AFS Convention) by Germany and the Netherlands.

Rec 12. Support of the submission MSC8 75/21 within IMO regarding the equipment of all ships down to a size of 300 gt with Emergency Towing Systems (ETS) except certain ships with reduced risk profile.

3 EMERGENCY MANAGEMENT

3.1 Mutual assistance in emergencies

Rec 13. The Joint Danish-German-Dutch response plan (DenGerNeth-Plan) which will replace the bilateral agreements (DenGer-, NethGer-Plan) shall be signed as soon as possible to have an

⁷ Esbjerg Declaration Shipping, para 60, page 18 : "... shall be strived for not later than 1 July 2005"

⁸ MSC = Marine Safety Committee, subgroup of IMO Schiffssicherheitsausschuss, Untergruppe der IMO

instrument for trilateral response action in case of incidents involving oil and other harmful substances in the PSSA Wadden Sea and adjacent areas.

Rec 14. The WSF proposes to establish a joint coastguard working group to investigate the option for a trilateral common coastguard.

3.2 Emergency towing

Rec 15. A trilateral strategic emergency towing concept under consideration of the development of shipping and ship dimensions and offshore installations (see also 1. Spatial Planning) shall be established. In this concept the issue of standardisation (e.g. regarding dimension and manoeuvring qualities) shall be investigated. Furthermore the concept shall include:

- When deploying or developing new Emergency Towing Vessels an adequate* bollard pull has to be ensured.
- 24-h-availability of adequate* ETV capacities in stand-by mode at strategic sea positions has to be ensured. A maximum response time (time for the ETV to reach the vessels in distress) of 2 hours has to be ensured.

* In Germany adequate bollard pull (bp) is defined: "in accordance with the present performance (at least 160 t bp, 17,5 kn trial speed) and the draft must be reducible to 6 m".

* In NL: in addition to MS WAKER (large ETV) it is advised to consider supplementary ETV vessels stationed near the Wadden Sea region and the Zealand estuaries.

* In DK: Due to increasing traffic along the Danish west coast the Danish government is requested to rethink the stationing of an ETV at the west coast, or to sign a contract to charter specified ETV capacity in case of ship casualties.

- Moreover, the WSF advised to improve coordination with regard to required ETV capacities in a wider perspective. Norway, DK, GER, NL, Belgium and UK shall be called upon to coordinate their respective needs and decide on strategic positioning of ETV in the whole central and southern North Sea.

3.3 National pollution response management

Rec 16. The WSF recommends to ensure 24-h-availability of adequate pollution response vessel.

Rec 17. The WSF recommends the immediate ratification of the "International Convention on Oil Pollution Preparedness, Response and Cooperation" (OPRC-HNS Convention) by Germany and Denmark.

Rec 18. The Directorate General for Public Works and Water Management in the Netherlands shall gear its pollution combating organization to a larger discharge of oil than the 30,000 cbm per 3 days.

Rec 19. The WSF welcomes the new Emergency Handling Coordination Plan for the Dutch Wadden Sea for the cooperation in case of emergencies and urges the responsible authorities to implement it. In addition the establishment of an "Air Mobile" fire brigade shall be made available to the Dutch coast guard for quick response purposes.

Rec 20. Denmark shall deploy a pollution response vessel and spill response equipment with a volumetric capacity of more than 1,600 cbm per day.

Rec 21. The WSF recommends the further application of best available pollution combating technology and financing of research.

3.4 Places of refuge

Rec 22. The WSF welcomes the steps taken in the implementation of the EC Directive 2002/59/EC regarding Places of Refuge (PoR) by the three Wadden Sea States.

- The national concepts concerning the handling of PoR and the necessary equipment shall be trilaterally coordinated and regularly reconsidered and thus further developed.
- Adequate transparency of the concepts and the level of their practical implementation shall be achieved by informing the local authorities and the public concerned.

4 ILLEGAL DISCHARGES

4.1 Regulations

Rec 23. The WSF recommends the harmonization in the interpretation of the EC Directive 2000/59/EC on port reception facilities regarding:

- principles of fees (e.g. No Special Fee System)
- parameters for fee calculation (not or not only gt related)
- no limitations in quantities and types of waste
- development of clear definitions for exemptions (e.g. frequent callers).

Rec 24. The designation of areas for ballast water exchange and adequate reception facilities for ballast water and sediments, respectively have to be ensured to avoid invasion of alien species in the wider Wadden Sea region.

4.2 Aerial Surveillance

Rec 25. Instead indenting to reduce aerial surveillance, the WSF underlines the importance of aerial surveillance and urges the three governments to follow the decisions⁹ already agreed upon. Furthermore, the WSF advises that

- the extension of the coverage of aerial surveillance to new routes and offshore installations (e.g. wind farms, platforms) shall be considered;
- state-of-the-art aerial surveillance technology shall be applied (for example LFS, MWR);
- an EC maritime pollution database regarding aerial surveillance shall be introduced;
- national authorities shall provide aerial surveillance raw data compatible to each other for detailed analyses with the aim to develop a maritime pollution database;
- additional to basic statistics, harmonized geo-statistical analysis and tools regarding aerial surveillance shall be introduced.

4.3 Compensation and Liability

The WSF recommends:

Rec 26. An initiative at EC level to set up a temporary International Oil Pollution Compensation Supplementary Fund (COPE-Fund) that could be cancelled as soon as an adequate measure can be put in place at IMO level.

Rec 27. Ratification of the Bunkers Convention by the Netherlands and Germany.

⁹ e.g. 2nd North Sea Conference decisions

Rec 28. Ratification of the Hazardous and Noxious Substances (HNS)-Protocol by the three Wadden Sea states.

Rec 29. Immediate implementation of the EC Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences (2003/0037 COD).

5 PORT STATE CONTROL (PSC)

The WSF recommends:

Rec 30. To intensify the harmonization of Port State Control (PSC) procedures (e.g. checklists, interviews, internal quality standards etc.).

Rec 31. The expansion of human resources for PSC tasks in the Netherlands.

Rec 32. Pilots to inform PSC in case of apparent deficiencies.

Rec 33. Immediate implementation of 2001/106/EC [EC 2001b] on PSC by the Netherlands.

Rec 34. To intensify the exchange of Port State Control Officers (PSCO) to ensure harmonization and consistence of information.

Rec 35. To intensify the development of joint PSCO training and qualification measures in general, and on special issues in particular (e.g. cargo securing, security, forged certificates, etc.).