



Netherlands Commission for
Environmental Assessment

Peer–review of the Draft Voluntary Guidelines for the Consideration of Biodiversity in Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) in Marine and Coastal Areas

Memorandum by the NCEA

30 November 2011



**Advisory review by the Secretariat of the Netherlands
Commission for environmental assessment**

To Secretariat of the Convention on Biodiversity

Attn To whom it concerns

From Secretariat of the Netherlands Commission for Environmental Assessment (NCEA) :

Roel Slootweg: Senior expert

Arend Kolhoff: Technical secretary

Advice 2011 - 07

Date November 30, 2011

Subject **Peer-review of the Draft Voluntary Guidelines for the Consideration of Biodiversity in Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) in Marine and Coastal Areas**

5 ***Doc 1: Background on the Development of Voluntary Guidelines for the Consideration of Biodiversity in Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) in Marine and Coastal Areas***

10 The conclusion that the CBD Voluntary Guidelines on EIA are almost exclusively based on EIAs conducted for terrestrial, freshwater and coastal ecosystems is correct.

15 We agree that marine areas beyond national jurisdiction have a number of ecological, governance and practical differences which should be taken into account in applying the Guidelines to these areas.

20 Therefore it is greatly appreciated to have an elaboration of the ecological difference between terrestrial and marine environment which is extremely relevant for a better understanding of the functioning of the marine environment.

The completeness of the overview provided under governance differences is impressive and can be used as an example for future related documents.

The definition of what stakeholder are and how they can be involved in EIAs for marine areas is a particularly difficult and relevant question.

Doc 2: DRAFT Voluntary Guidelines for the Consideration of Biodiversity in Environmental Impact Assessments (EIAs) IN MARINE AND COASTAL AREAS

The approach taken to omit irrelevant sections and add texts related to the topic makes sense and guarantees coherence with the original decision text.

Yet, the challenges to apply EIA in a similar manner in marine areas beyond national jurisdiction are so enormous, that the present document is more an agenda for further work, and not so much a guideline. Nevertheless, the text does provide guidance on what is presently available.

We wonder whether it would be possible to create a short document, based on this text, providing a state of the art description of how to deal with EIA in marine areas beyond national jurisdiction. Such as document would have to be updated regularly (every 3 to 5 years?), thus filling in the existing knowledge/experience gaps identified in the present document.

Page 2 under c) assessment, states that the cost of an EIA may be much higher. Realistic cost estimates for an EIA are considered to be anything between 0.5 and 2% of project costs. In practise, also the costs of a project in/on open sea will be much higher, so it seems logic that the EIA will similarly be higher. We do agree with the emphasis on a precautionary approach and the application of a “test bed” approach (unfamiliar term – maybe explain or find a more suitable synonym).

Under 10: screening mechanisms. Would it be possible to indicate what kind of screening is most suited for the specific circumstances in marine areas beyond national jurisdiction? I think expert judgement is the way forward, as there are still so many uncertainties.

Under 34b: Environmental standards; Would it be possible to include a guideline / sentence that application best practice should be the standard due to the vulnerability of the deep sea ecosystems for environmental impacts in case of accidents.

In addition, it would be useful to start preparing a list of good practice standards.

46: Environmental Management Plan; Would it be possible to require the elaboration of a worst case scenario in the EMP for internal and external risks.

That scenario should be starting point for technical design and environmental management measures. In combination, with best practice guidelines (former point) a maximum safety level can be achieved that is in our view, for those ecosystems even more important than in national jurisdictions.

Doc 3: DRAFT GUIDANCE ON BIODIVERSITY-INCLUSIVE STRATEGIC ENVIRONMENTAL ASSESSMENT IN MARINE AND COASTAL AREAS

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Appendix 1 is a very welcome addition to the available guidance. It gives a good view on the completely different nature of working in the deep seas.

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The original SEA guidance obviously is more generic compared to the EIA guidelines. They consequently provide little opportunity to fill in specific marine issues.

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Yet, we would be interested to know under what circumstances an SEA would be needed, what kind of policies and plans would need to be subject of an SEA, who would be the competent authority, etc.

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These questions are related to the use of the SEA instrument in marine areas beyond national jurisdiction; the role of biodiversity in such SEAs is a next step. It is clear this is a relatively new field of expertise with only very little practical experience.

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The approach we took when elaborating the CBD SEA guidance was to collect as many as possible practical experiences and draw lessons from these. We don't know if it is still too early for such an approach (non-availability of case material?), but we would be interested to see concrete practical evidence how things did, or did not work.