



The Wadden Sea area: nature conservation, nature management and spatial planning



The Wadden Sea area: nature conservation, nature management and spatial planning

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Executive summary

Certain aspects of the Dutch government's policies on nature conservation and spatial planning have gradually been decentralised in recent years. The rationale for doing so was the belief that it would be better to plan and implement such policies at a local level. But is this assumption correct? To find out, we audited the government's policies on the Wadden Sea area.

Main conclusion

The recent decentralisation of government policy on nature conservation and also of certain funds set up for boosting the ecology and economy of the Wadden Sea area has not yet helped to streamline the management of the area. Both nature management in the region and the procedures for licensing commercial activities are complex. Even after the partial decentralisation, there still remains a tangled jumble of actors and government tiers. The inefficiencies created by this situation are conducive neither to the management of the fragile natural environment nor to economic activities in the Wadden Sea area.

Government policy on the Wadden Sea area needs to be managed and coordinated in a more focused and consistent manner by the minister responsible for coordinating policy on the Wadden Sea area, i.e. the Minister of Infrastructure and the Environment. Also, the funds available for the Wadden Sea area need to be clearly aligned with the aims of government policy on the area.

There is a need for standardising both the way in which the area is managed and the way in which the relevant authorities report on their management activities. This should improve the way in which policy is monitored: at present, this is fragmented and incomplete. Monitoring needs to be improved in order to raise the quality of the natural environment in the Wadden Sea area. The latter has remained more or less unchanged ever since 1984, which implies that the government has achieved the first main objective of its policy on the Wadden Sea area, i.e. the protection of the natural environment on a long-term basis. However, the government has not achieved its second principal objective, which is to develop the natural environment in the Wadden Sea area. For this aspect in particular, monitoring activities in the Wadden Sea area need to be properly coordinated.

The main conclusion outlined above is based on three research findings, which are summarised below.

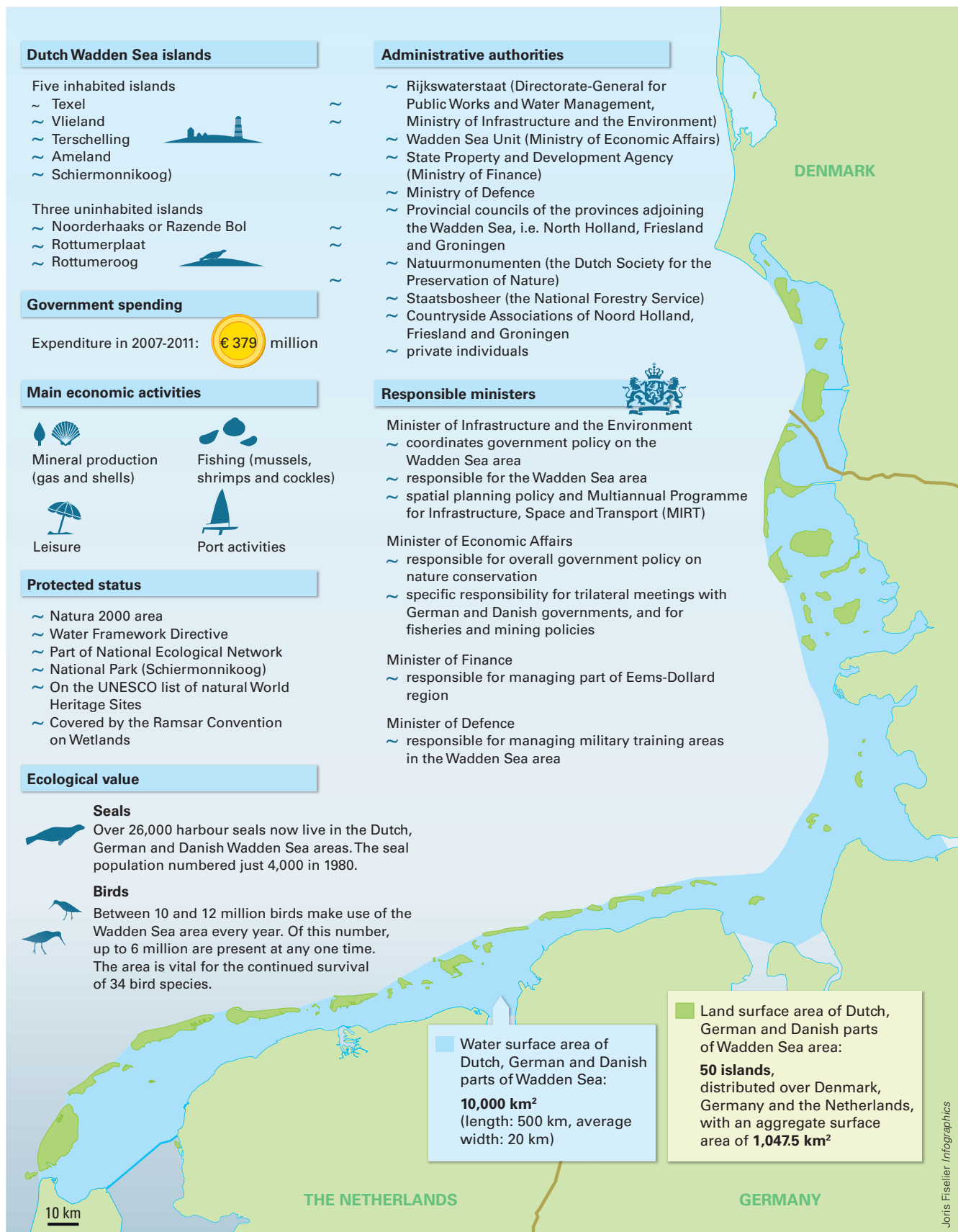
Research findings

Natural environment and landscape under pressure; economic operators face bureaucracy

Together with the Danish and German regions of the Wadden Sea, the Dutch part of the Wadden Sea area is one of the largest tidal regions in the world, accommodating a rich variety of fauna in both the wet and dry parts of the region. Despite the strict nature protection laws to which the area is subject, it is the scene of many different types of human activity, such as fishing, gas production, dredging, military exercises, port expansion, the construction of dykes and dams, and so on. Many species of flora and fauna are much less prevalent in the area than they would be in an environment in which these activities did not take place. The open nature of the landscape in the area has also been adversely affected over the years.

At the same time, actors wishing to undertake economic and other activities in the area face all sorts of obstacles. Fishermen, gas production companies and dredgers all need to apply for permits and cannot operate without them.

Figure 1 Key data for the Wadden Sea area



Licensing procedures are time-consuming and complex. A wide variety of criteria are applied and parties seeking to obtain a permit must apply to a wide variety of authorities. In virtually every instance, the applicant faces a costly procedure with an uncertain outcome.

Large number of managing authorities; inefficient use of resources from Wadden Sea Fund

Thirteen different managing authorities are active in the Wadden Sea area. This situation has not been altered by the recent decentralisation and the simplification of the management structure for the area. Cooperation between the 13 authorities is not of a consistently high standard, causing poor communication and information-sharing, as well as operational inefficiencies. Without the presence of a single authority responsible for nature management throughout the area, the implementation of government policy on the Wadden Sea area is not monitored and evaluated in a consistent manner. For this reason, it is not clear whether the government has made any progress in meeting its policy objectives for the region.

Apart from the complex management structure, the way in which resources from the Wadden Sea Fund are spent also contributes to the problems surrounding the implementation of nature management policy in the Wadden Sea area. These resources are not always deployed efficiently and in conjunction with other policy instruments. Only a small proportion of the millions of euros set aside for the Wadden Sea area in 2007-2011 was actually spent on nature conservation.

Lack of policy coordination and supervision in the Wadden Sea area, even after the recent decentralisation

The recent partial decentralisation of nature management policy and of certain resources available for spending on the Wadden Sea area cannot solve all the problems facing the area. For example, it is not clear from the new management structure which tier of government (i.e. central government, provincial councils or local authorities) is specifically responsible for policy on the Wadden Sea area. Similarly, the problems surrounding nature management and policy monitoring in the area have yet to be resolved.

Recommendations and potential solutions

Recommendations

We urge the Minister of Infrastructure and the Environment and the Minister of Economic Affairs not to change the current set-up for the time being and instead to consider what exactly the government's remaining aims are for the Wadden Sea area and what policy instruments the government intends to use to achieve these aims, against the background of the recent decentralisation and the current debate on the 'core responsibilities' of the provincial councils and local authorities adjoining the Wadden Sea.¹

This policy review should also include a re-examination of the responsibility for policy coordination. Government policy on the Wadden Sea area must be directed and coordinated by the minister responsible for policy coordination (currently the Minister of Infrastructure and the Environment) in a more consistent manner.

Potential solutions

Once a decision has been taken and clarity has been provided on the above issues, the next step is to simplify the management structure in the Wadden Sea area itself. Powers and responsibilities should be clearly distributed over the various government tiers and an efficient system of accounting and reporting put in place, without creating

¹ The final step in the decentralisation process was taken in 2011 and 2012, when responsibility for and control of the Wadden Sea Fund and the Countryside Investment Budget was transferred to the councils of the three provinces adjoining the Wadden Sea, i.e. Groningen, Friesland and North Holland.

any overlaps in reporting requirements. Our audit report contains four suggestions for practical solutions.

There is a common theme in all four options, which is the principle that one single body should be responsible for coordinating government policy on nature management. The four options are as follows:

1. designating Rijkswaterstaat (the Directorate-General for Public Works and Water Management) or a number of merged departments at the Ministry of Economic Affairs (such as the National Forestry Service) as the central managing authority;
2. placing responsibility for nature management in the hands of a consortium of existing managing authorities;
3. creating a regional executive agency for the Wadden Sea;
4. devolving all powers and duties to the three provincial councils.

The above scenarios range from centralised management by a central government department to local management under the auspices of the provincial councils. We do not have a preference for either central or local management. Rather, we believe that each of the four scenarios could improve the complex management structure in the Wadden Sea area.

All four options can be implemented without requiring any radical changes to the current administrative structure.

Response of the Minister of Infrastructure and the Environment

The Minister of Infrastructure and the Environment responded to our audit report on 13 November 2013. The Minister and the State Secretary for Economic Affairs are planning to give priority to improving the management of the Wadden Sea area and are planning to present a plan of action early in 2014.

The Minister also wrote that a number of projects had been launched to improve the natural environment in the Wadden Sea area and that the initial results of these projects were promising. However, she said that the ultimate impact would not be felt until the longer term.

The Minister did not respond to our request not to launch any new initiatives. We therefore repeat our recommendation that the Minister should undertake an overarching review of all government aims and policy instruments for the entire Wadden Sea area by 2015.

I Introduction

I.1 Background and audit questions

For a number of years now, the way in which nature conservation and spatial planning policies are designed and implemented in the Netherlands has been the subject of wide-ranging decentralisation. In 2011, the then centre-right government under the leadership of Prime Minister Rutte transferred most of the responsibilities associated with nature conservation and spatial planning policies to the provincial councils. Since then, the role played by central government has been limited to monitoring a limited number of national interests and international commitments.

The thinking behind the decentralisation of nature conservation and spatial planning policies is that such policies are better suited to local planning and implementation. The present centre-left government, also under Prime Minister Rutte, feels that provincial councils and local authorities are better able to coordinate practical policy delivery and hence do more for less money (2012 coalition agreement, p. 40). But is this assumption correct? This report seeks to answer this question in relation to the Wadden Sea area. We examined the problems affecting the area, both in relation to the natural environment and in relation to people undertaking activities in the area, and sought to ascertain whether these problems can be solved by the partial decentralisation of government policy on the Wadden Sea area.

As far as policy on the Wadden Sea area is concerned, it would be more accurate to describe the situation as one of ‘partial decentralisation’, given that the government’s policy and policy aims as set out in the third policy document on the Wadden Sea (*Derde Nota Waddenzee*, Ministry of Housing, Spatial Planning and the Environment, 2007) remain in place. The third policy document on the Wadden Sea has now been subsumed into the government’s long-term strategy for infrastructure and spatial planning policy (*Structuurvisie Infrastructuur en Ruimte*, Ministry of Infrastructure and the Environment, 2012). Moreover, policies on certain specific aspects of the Wadden Sea, such as water safety, water quality, fisheries and gas production, have not been decentralised. The main focus of the recent decentralisation was nature conservation policy and its funding through the Countryside Investment Budget (ILG) and the Wadden Sea Fund. The licensing procedure under the Nature Conservation Act was already decentralised in 2005, when the provincial councils were made responsible for the issuance of permits.

I.2 The Wadden Sea area:² a protected nature reserve

The Wadden Sea and the surrounding coastline have been formally classified as a nature reserve since 1980, since when they have enjoyed statutory protection. The ‘key planning decision’ in which this status is enshrined (Ministry of Housing, Spatial Planning and the Environment, 1980) defined its main objective as being ‘the long-term protection and development of the Wadden Sea as a nature conservation area and the preservation of its unique, open landscape’. This is also the chief objective of the government’s third policy document on the Wadden Sea.

2

Under the definition given in the third policy document on the Wadden Sea, the Wadden Sea area consists of the Wadden Sea islands, the tidal inlets between the islands, the North Sea coastal zone up to three nautical miles from the coast, and the territories of the mainland municipalities adjoining the Wadden Sea.

3
The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a UN organisation whose mission includes protecting world heritage sites.

4
The Minister of Housing, Spatial Planning and the Environment originally performed this coordinating role. Chapter 4 contains a detailed discussion of the reasons behind the decision taken in 1980 to make the Minister of Housing, Spatial Planning and the Environment responsible for coordinating government policies on the Wadden Sea.

5
This report refers to the Minister of Economic Affairs as the responsible minister. In practice, however, the Minister of Economic Affairs has delegated responsibility for nature management and conservation to the State Secretary for Economic Affairs.

6
Responsibility for nature management and conservation in the Wadden Sea area previously lay with the Ministry of Agriculture, Nature and Food Quality. At the end of 2010, this ministry was subsumed into the Ministry of Economic Affairs, Agriculture and Innovation, which was renamed the Ministry of Economic Affairs in 2012.

The statutory protection afforded to the natural environment in the Wadden Sea area is based on the 1979 EU Birds Directive and the 1992 EU Habitats Directive. In the Netherlands, these directives were transposed into the 1998 Nature Conservation Act. The restrictions imposed under this act on economic activities performed in nature conservation areas apply equally to the Wadden Sea area. Specifically, this means that a fishing company wishing to fish for cockles in the Wadden Sea needs more than just a fishing permit, a gas company planning to drill for gas needs more than a mining permit, and a dredging company that wants to deepen a fairway needs more than a water permit. In all three cases, the businesses in question also need to obtain a permit under the Nature Conservation Act before they can proceed.

Those responsible for assessing permit applications for activities in the Wadden Sea area are also required to take account of the potential impact such activities are likely to have on the natural environment. The aim is to preserve the open landscape that is unique to the area, one of the principal objectives of the government's policy on the Wadden Sea. The outcome of this latter aspect of the assessment is not legally binding, however. It is a judgement that spatial planners refer to as a 'material decision'.

The status of the Wadden Sea area as a nature conservation area was consolidated in 2009, when UNESCO³ added the Dutch and German parts of the Wadden Sea area to the list of natural World Heritage Sites.

The area has also been formally included as part of the European *Natura 2000* network. Together with the other EU member states, the Dutch government has pledged to protect the European *Natura 2000* network and to safeguard biodiversity by preserving and restoring valuable habitats and species.

The Wadden Sea area is also subject to the Water Framework Directive. This EU directive seeks to achieve a 'good chemical and ecological status' of water and sets a number of standards to this end. The Water Framework Directive has been enshrined in national legislation in the Netherlands in the form of the 2009 Water Act.

1.3 Responsible ministers

Since the end of 2010, when the policy fields that were previously the domain of the former Ministry of Housing, Spatial Planning and the Environment were transferred to the Ministry of Infrastructure and the Environment, the Minister of Infrastructure and the Environment has been responsible for coordinating policies on the Wadden Sea.⁴ The Ministry of Infrastructure and the Environment is represented in the Wadden Sea area by Rijkswaterstaat, i.e. the Directorate-General for Public Works and Water Management, which is the managing authority in charge of the Wadden Sea.

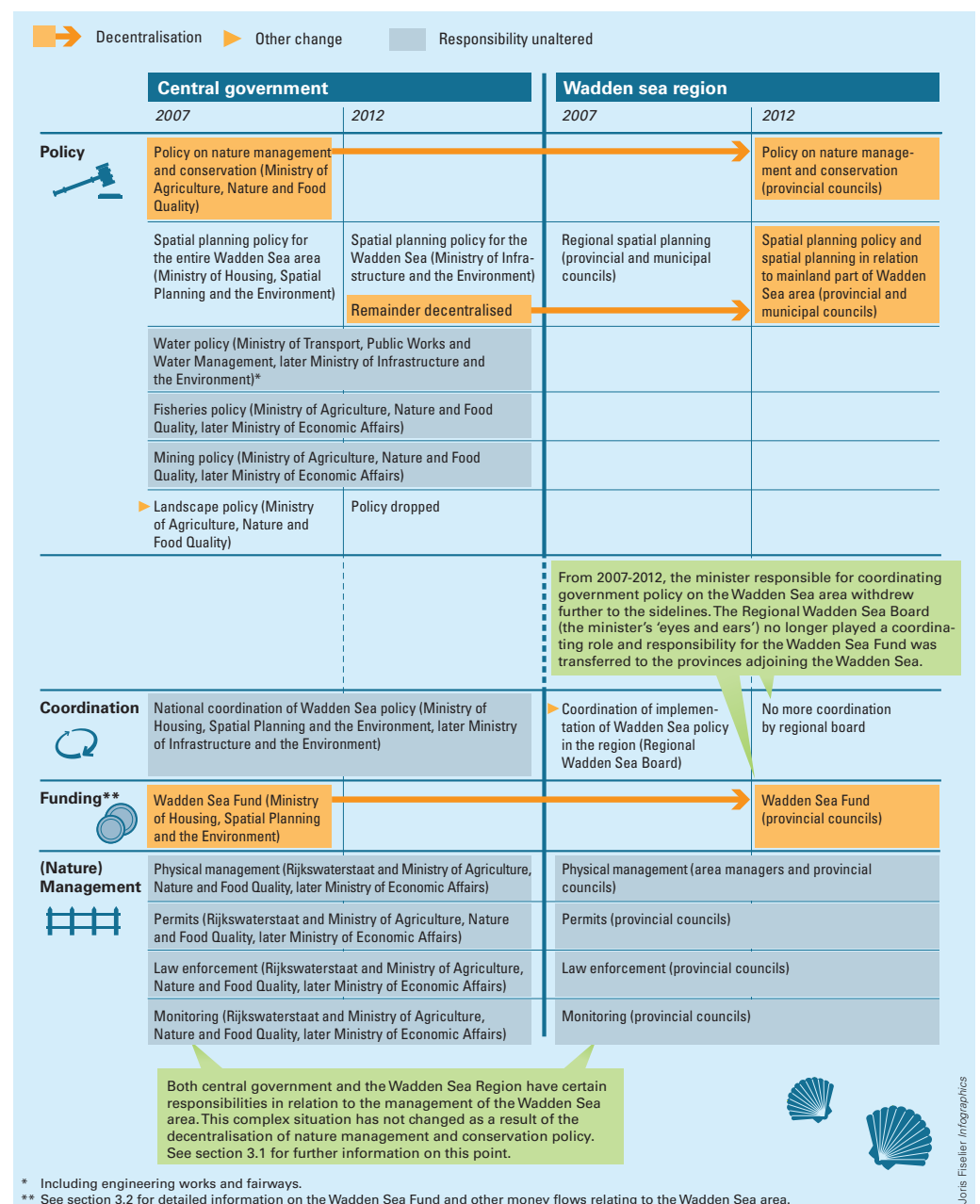
Since the end of 2010, the Minister of Economic Affairs⁵ has been responsible for nature management and conservation in the Wadden Sea area.⁶ Although the Minister of Economic Affairs has delegated responsibility for the practical implementation of these policies to local authorities (see below), the minister remains responsible for the impact of policy and also for reporting on policy results to the EU. The Minister of Economic Affairs also holds meetings with German and Danish government representatives on the Wadden Sea. The minister traditionally plays a decisive role in issuing permits for fisheries, gas production and (sustainable) energy production in the Wadden Sea area.

1.4 Decentralisation

The recent decentralisation of nature management and conservation policy in 2011 is in line with the governance philosophy introduced by the Minister of Housing, Spatial Planning and the Environment in 2004, in a policy document on spatial planning (Nota Ruimte): 'Policies that can be pursued locally should be devolved to local authorities. Policies that need to be pursued by central government should be pursued by central government.' In other words, there was a need for policy delivery to be tailored more to regional and local needs.

Since then, various powers and responsibilities have been transferred to local and provincial authorities.

Figure 2 Impact of the partial decentralisation of Wadden Sea policy on the division of responsibility between the various tiers of government
In 2007 and 2012



In 2005, for example, the provincial councils in the Wadden Sea area were made responsible for issuing permits under the Nature Conservation Act in relation to a large number of activities. This meant an extension of their role: the provincial councils were now responsible for deciding whether or not certain economic activities (such as the construction of wind turbines on the edge of the Wadden Sea, and the organisation of guided walks across the mud flats and seal-spotting cruises) would be permitted.

In 2007, the provincial councils were also made responsible for the practical implementation of government policy on nature management and conservation in the Wadden Sea area. This meant a further extension of their managerial responsibilities. The final step in the decentralisation of nature management and conservation policy took place in 2011 and 2012, when responsibility for the management of the Wadden Sea Fund and the Countryside Investment Budget (ILG) was transferred to the provincial councils.

1.5 Central government investment

We analysed central government expenditure in the Wadden Sea area during the period under review, i.e. 2007-2011; see figure 1. We decided to concentrate on this period in the light of the creation of the Wadden Sea Fund in 2007 and the decision to decentralise the Fund on 1 January 2012. The resultant statement of expenditure (and also the breakdown of expenditure items shown in figure 7 in chapter 3) is restricted to central government spending only.⁷

Figure 3 **Central government expenditure in the Wadden Sea area**
In 2007-2011



⁷ Aggregate government expenditure in the Wadden Sea area in 2007-2011 included, in addition to central government spending, expenditure by the provincial and municipal councils adjoining the Wadden Sea. We decided not to include the latter in the above statement of expenditure because the financial reports issued by the provincial and municipal councils are not sufficiently detailed for this purpose.

The statement shows that a total of € 379 million was spent in the period from 2007 to 2011. The three main sources of funding for policy on the Wadden Sea area are the Wadden Sea Fund, the Infrastructure Fund and the Countryside Investment Budget (ILG).

The Wadden Sea Fund was set up in 2007 by the then Minister of Housing, Spatial Planning and the Environment (Ministry of Housing, Spatial Planning and the Environment, 2006). The main purpose of the fund, the size of which was set at €800 million for the period from 2007 to 2026, was to offset the damaging effects of gas production on the natural environment. A secondary aim was to 'green' the regional economy and hence to reduce the threats posed to flora and fauna in the Wadden Sea area.

At the request of the Dutch House of Representatives, the resources from the Wadden Sea Fund are evenly distributed over ecological and economic projects.⁸ On 1 January 2012, the provincial councils of North Holland, Groningen and Friesland took over responsibility for the management of the Fund. The government applied an efficiency discount of € 75 million when the management of the Fund was decentralised. The remaining € 562 million was transferred to the councils of the three provinces adjoining the Wadden Sea (i.e. Groningen, Friesland and North Holland) in 2012.

Wadden Sea Fund: budget and expenditure (2007-2011)

| Wadden Sea Fund | Expenditure | Balance remaining |
|---|---|-------------------|
| 2007: Original budget | | € 800 million |
| Compensation scheme for cockle-fishers (in relation to 2005-2006) | € 122 million | |
| 2007: Wadden Sea Fund Act | | € 678 million |
| Efficiency discount under 2010 coalition agreement | € 75 million | |
| 2007-2026: Additional resources available for ecological projects | | € 603 million |
| Administrative expenditure and programme spending (2007-2011) | € 405 million (including € 6 million in administrative expenditure) | |
| 2012: Transferred to Provinces Fund | | € 562 million |
| Already allocated to projects currently in progress | € 69.1 million | |
| Amount still available to the provinces for developing and restoring the natural environment in the Wadden Sea area | | € 492.9 million |

The Infrastructure Fund is part of the central government budget and is used to pay for the maintenance, management and construction of trunk roads, railway lines and waterways. The Infrastructure Fund is managed by the Ministry of Infrastructure and the Environment. The funding of construction projects is linked to the Multiannual Programme for Infrastructure, Space and Transport (MIRT) and runs to the year 2028.

The Countryside Investment Budget (ILG) was set up by the Minister of Agriculture, Nature and Food Quality in 2007 as a grant scheme for projects (to be performed by the provincial councils) aimed at safeguarding the beauty and vitality of the countryside. One of the principal facets of the ILG was the construction of a National Ecological Network.⁹ Although the original intention was for the ILG to operate from 2007 to 2013, it was terminated on 1 January 2011. Only a relatively small sum from the ILG has been spent on the Wadden Sea area (i.e. € 13 million during the period from 2007 to 2010) as the construction of the National Ecological Network has had a very limited impact on the Wadden Sea area.

1.6 Guide to the report's contents

The body of the report commences (in chapter 2) with an outline of the specific problems affecting the area, in relation both to the natural environment and to the people using the area. Chapter 3 highlights two factors that have a bearing on these problems: the way in which the Wadden Sea area is managed and the way in which the resources from the Wadden Sea Fund are used. We then go on to examine the underlying problems in chapter 4: the government's supervision and coordination of

8

The 50-50 distribution between ecological and economic projects applies to a sum of € 678 million. This was the amount remaining after the government had bought out the mechanical cockle fisheries. This cost € 122 million and was funded from the Wadden Sea Fund (see also figure 1).

9

The Ministry of Economic Affairs recently changed the name of the scheme from the 'National Ecological Network' to the 'National Nature Network'.

management activities in relation to the Wadden Sea area during the period between 2007 and 2011. Our aim is to ascertain whether the recent partial decentralisation of government policy on the Wadden Sea, which has involved simplifying supervision and coordination and/or transferring these responsibilities to the provinces adjoining the Wadden Sea, can help solve these problems. A series of recommendations for the responsible ministers, together with four potential solutions, are presented in chapter 5.

Finally, the response we received to our report from the Minister of Infrastructure and the Environment is summarised in chapter 6. We have formulated a brief afterword in relation to a number of the points raised by the Minister.

2 The battle for space in the Wadden Sea area

The Dutch, German and Danish Wadden Sea areas together form one of the largest tidal regions in the world. Thanks to the constant alternation between wet and dry, the Wadden Sea is a unique natural environment. The sand flats provide a habitat for plants such as the glasswort, which is highly resistant to salt and flooding. The presence of this type of plant results in the formation of salt marshes,¹⁰ which themselves provide a habitat for other plant varieties. Millions of birds spend either all or part of the year in the Wadden Sea area.

The waters of the Wadden Sea are also home to a wide variety of fauna, ranging from plankton to seals. As we wrote in the introduction to this report, all these flora and fauna are protected by a stringent legal regime, encompassing the government's third policy document on the Wadden Sea (*Derde Nota Waddenzee*) and the Nature Conservation Act, as well as the designation of the area as part of the *Natura 2000* network and its inclusion on UNESCO's list of natural World Heritage Sites.

In spite of its strictly protected status, the Dutch part of the Wadden Sea area is the scene of considerable human activity, including fishing, gas production, dredging, military exercises, recreation, port expansion, passenger transport to and from the islands, and so forth. In short, the natural environment in the Wadden Sea area has to compete with all sorts of human activities on a daily basis. However, there is also a daily battle from the opposite perspective: anyone wishing to undertake activities in the Wadden Sea area has to observe all manner of different rules and apply for the necessary permits from a range of authorities. Licensing procedures, including objections and appeals, are extremely time-consuming.

The problems are analysed in this chapter from both perspectives.

2.1 Problems confronting the natural environment and the landscape

2.1.1 Factors that have a disruptive effect on the natural environment

Since 1980, government policy on the Wadden Sea area has been geared towards the long-term protection and the natural development (or at least as natural as possible) of:

- the tidal movements and the resultant movement of sand and silt;
- the quality of the water, seabed and air;
- the flora and fauna.

Human intervention has caused a number of problems in the Wadden Sea area. For example, there has been a sharp decline in the size of the mussel beds and fields of sea grass in the Wadden Sea. The decline has been caused, among other factors, by shellfish and shrimp fishing, dredging and the closure of the former *Zuiderzee* (leading to the formation of a freshwater lake known as the *IJsselmeer*). Mussel beds in the Wadden Sea are a key source of nutrients for birds, not just for those birds that feed on mussels, but also for birds searching for worms, shrimps and small fish among the mussels. There is also a good supply of food for birds close to the mussel beds, as a result of the high silt content there. The fields of sea grass in the Wadden Sea are an important breeding ground for various species of fish and shellfish, thanks to their ability to 'break' the current and hence retain silt.

¹⁰

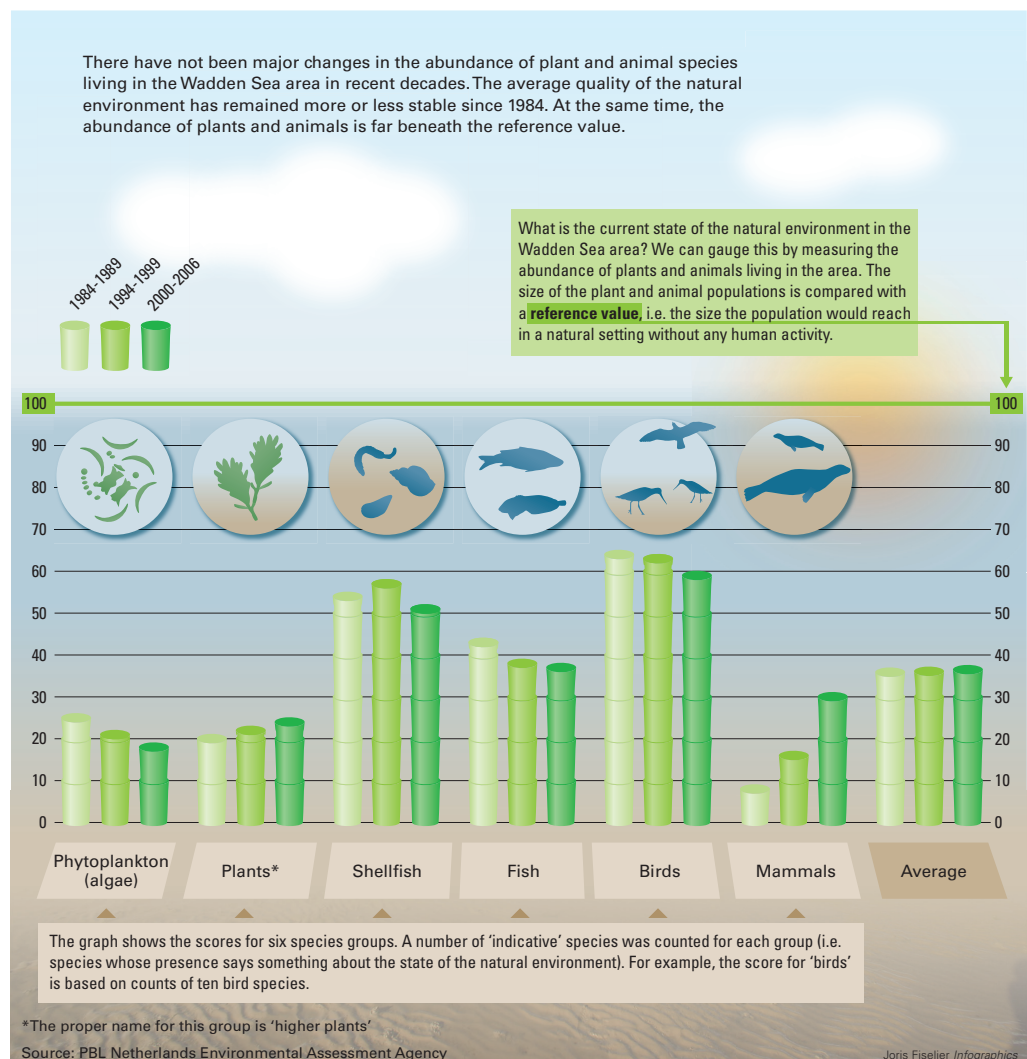
These are areas of relatively high-lying land were formed thanks to plants enabling sand deposits to build up.

However, the water gets cloudy if there is too much silt suspended in it, for example as a result of shellfish fishing or dredging. Murky water is harder for sunlight to penetrate, which reduces the volume of oxygen-producing algae. In turn, lower levels of oxygen in the water cause fish, shellfish and worms to die.

Other factors that have a disruptive effect on the natural environment are the construction of dykes, dams and locks. These form a barrier to fish, which are no longer able to swim upstream. Dykes, dams and locks also tend to make the water movements less dynamic, in turn lessening the bio-diversity of the salt marshes. This makes them less suited as breeding grounds for certain bird species.

The scale of the problems is clear from a report recently published by the PBL Netherlands Environmental Assessment Agency. In 2010, the PBL Netherlands Environmental Assessment Agency amalgamated data on the flora and fauna in the Wadden Sea area and used the results to compile a report on the quality of the natural environment in the Wadden Sea (PBL Netherlands Environmental Assessment Agency, 2010). The data paint a clear picture of the current state of the natural environment as compared with a reference value, which is the situation that would apply without any human activities (see figure 4).

Figure 4 **Changes in the natural environment in de Wadden Sea area**
Changes in the abundance of plant and animal species over time



The graph shows that, across the board, the natural environment in the Wadden Sea area is not in a good state: the average quality of the natural environment is way below the reference value. At the same time, it is clear that the situation is not of recent origin. The average quality of the natural environment in the Wadden Sea area has barely changed since 1984. This means that the government has achieved the first principal objective of its policy on the Wadden Sea area, i.e. the protection of the natural environment on a long-term basis (see section 1.2). However, this is not true of the second principal objective, which is to develop the natural environment in the Wadden Sea area. No progress has yet been made in attaining this objective. It is worth pointing out that the situation of a number of key animal species has improved since the previous review period (i.e. 2000-2006). For example, the size of the cockle population reached a record high in 2012. Similarly, the surface area covered by the mussel beds on the sandbanks has reverted to its previous situation (Ende et al., 2012).

2.1.2 Factors that affect the open landscape

As we have already mentioned, the primary objective of Dutch government policy on the Wadden Sea includes not simply protecting and developing the natural environment in and around the Wadden Sea, but also retaining the area's 'unique open landscape' (Ministry of Housing, Spatial Planning and the Environment, 2007). This term is defined in the third policy document on the Wadden Sea as 'preserving and protecting landscape-related characteristics such as peace and quiet, vastness, an open horizon and darkness at night'.

So how open is the landscape in the Wadden Sea area? This is an aspect on which information may be found in a publication called *Compendium voor de Leefomgeving*,¹¹ which contains monitoring data on the openness of the main Dutch waters. The Compendium defines the openness of the main Dutch waters as the result of two factors, i.e. (a) the dimensions of the water, and (b) the visible, man-made objects positioned around it (Statistics Netherlands, PBL Netherlands Environmental Assessment Agency, Wageningen UR, 2012).

The data in the *Compendium* shows that the openness of the Wadden Sea was almost halved during the period between 2002 and 2012. This was due in part to the construction of wind turbines, scattered over a wide area of the Frisian and Groningen coastal zones. The power stations built in the Eems estuary and close to Harlingen have also reduced the openness of the area. The structures interfere with the sense of vastness evoked by the landscape and interrupt the open horizon in parts of the Wadden Sea.

2.2 Problems caused by human activity

The Dutch policy on the Wadden Sea area leaves space for a large number of human activities in the area. Such activities are permitted provided that they are consistent with the principal objective of government policy as set out in the first policy document on the Wadden Sea, published in 1980.

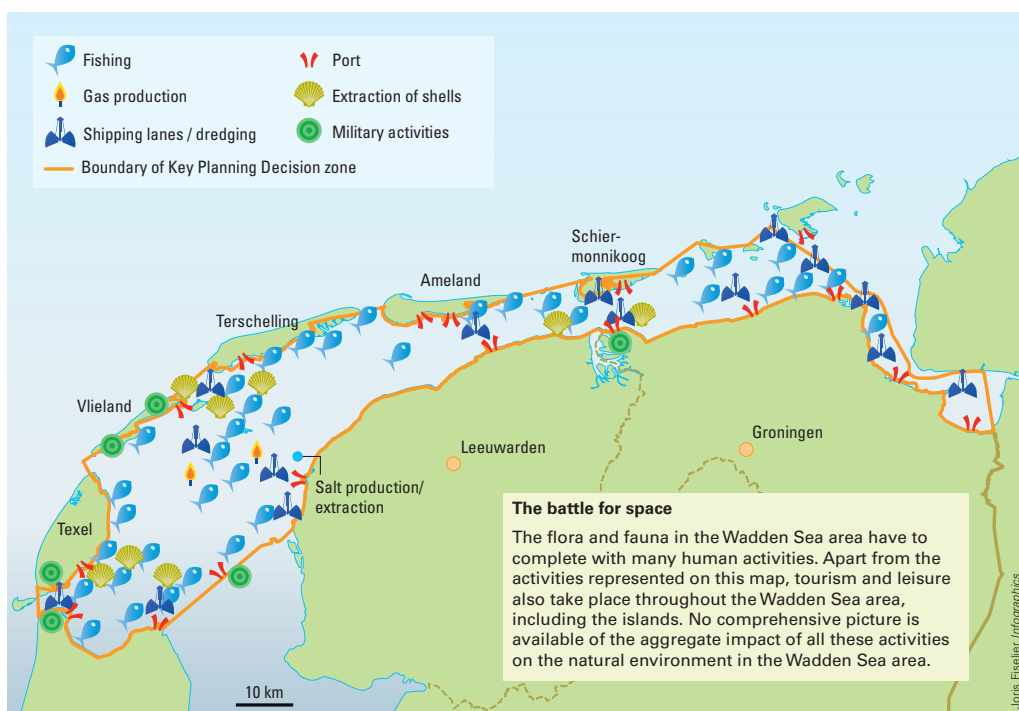
Fishing - mainly of shellfish and shrimps - is one of the main economic activities in the Dutch part of the Wadden Sea. To give an idea of the scale of this industry, 89 Dutch fishing vessels fish for seed mussels, compared with around 13 German vessels. There is hardly any shellfish fishing in Denmark (Common Wadden Sea Secretariat, 2008, p. 64).

11

The *Compendium voor de Leefomgeving* is a website with facts and figures on the natural environment, flora, fauna and physical space in the Netherlands. It is published by Statistics Netherlands, PBL Netherlands Environmental Assessment Agency and Wageningen University and Research Centre (Wageningen UR).

Figure 5 visualises the battle for space in the Wadden Sea area, based on the main activities taking place in the area for which permits need to be issued.

Figure 5 Main activities in the Dutch part of the Wadden Sea for which permits are required



In addition to the activities shown on the map, the entire area is also the scene of economic activity in the form of leisure and tourism. More pleasure yachts sail in the Dutch part of the Wadden Sea than in the German and Danish parts.

There is likely to be a further increase in human activity in the Wadden Sea area in the near future. Various plans have already been committed to paper, such as those for an expansion of gas production, the construction of offshore wind parks and the extension of the Eemshaven port. As we have already made clear, many of these activities are subject to a strict legal protection regime under which prospective economic operators are required to apply for, and be in possession of, various types of permit. In practice, this causes a wide range of problems for those making use of the area, given that licensing procedures are both time-consuming and complex (see section 2.2.1).

2.2.1 Licensing procedures: a wide range of criteria

In no other wildlife area in the Netherlands is there such an obvious competition between the economy and environmental concerns as in the Wadden Sea. This is illustrated by the fact that the largest number of applications for dispensation under the Nature Conservation Act are made in relation to the Wadden Sea area. Of all the requests for dispensation received between 2005 and 2008, 20% related to the Wadden Sea area. Equally, no other wildlife area in the Netherlands is the scene of such a wide variety of human activity. As the competent authorities need to take account of other planned activities every time an application is made for a permit under the Nature Conservation Act (see below, under ‘Cumulative test’), the licensing procedures are both time-consuming and complex. Applicants are also required to satisfy different sets of criteria for one and the same activity and must apply to a range of authorities to be issued with different types of permit.

Impact on natural environment assessed by means of habitat test and cumulative test

Under the government's third policy document on the Wadden Sea, all plans, projects and activities in the Wadden Sea area must meet the requirements of the 'habitat test' as prescribed by the Nature Conservation Act.¹² The habitat test states that activities are permitted if they do not have a material impact on an area's natural values and characteristics. What exactly 'material' means in this context is determined by an 'appropriate individual assessment' by the competent authorities, i.e. either the relevant provincial council or the Ministry of Economic Affairs.

A 'cumulative test' is a compulsory part of the habitat test. The rationale behind this test is to try and ascertain whether, in reaching their decision, the competent authorities have taken account of the impact of the applicant's own activities in conjunction with that of other activities and plans.

Assessment of impact on landscape

Under the third policy document on the Wadden Sea, the competent authorities are required to perform an extra test, in addition to the habitat test (including the cumulative test), in order to assess the likely impact of the planned activities on the area's unique open landscape. However, there are no statutory criteria for this test, which means that it cannot be enforced by law.

Water Framework Directive

Any planned activities on or in the water of the Wadden Sea are also subject to the requirements laid down in the Water Framework Directive. The aim of this EU directive is to ensure that European waters are and remain of high quality.

One of the results of the cumulative nature of testing is that, more or less every time a business applies for a permit, the applicant is faced with a lengthy and costly process the outcome of which is not guaranteed.

2.2.2 Permit applications: lots of government counters

Licensing procedures in the Wadden Sea area are extremely complex. Permits for fishing, water management and shipping in the Wadden Sea are granted by central government: Rijkswaterstaat is the licensing authority for permits or dispensations for the discharge of chemicals in the water and for construction work close to a dyke or a pumping station; the Ministry of Economic Affairs is the licensing authority for permits for the production of minerals such as salt or gas, for military activities, and for shrimp-fishing.

As we have already mentioned, companies wishing to perform any of the above activities (which are potentially capable of having an adverse material impact on the natural environment in the Wadden Sea area) are also required to apply for a permit under the Nature Conservation Act. The latter permits are granted by the council of the province where the activity is due to take place, i.e. the provincial council for North Holland, Groningen or Friesland. The provincial council of Friesland is the licensing authority for activities encompassing the entire Wadden Sea.

¹²

The habitat test is part of the assessment framework under the European Birds and Habitat Directive. In the Netherlands, the resultant obligations are laid down in the Nature Conservation Act and the Flora and Fauna Act.

Confederation of Dutch Industry: too many counters

According to Jan Willem Loobeek, the secretary of the northern branch of the VNO-NCW (the Confederation of Netherlands Industry and Employers), many companies have no idea as to where they should apply for their permits. “The competent authorities are too fragmented, and this leads to confusion among businesses. Take the construction of a coal-fired power station in the Eemshaven area. Should the builders apply for planning permission to the local authority or the provincial council?” In his view, the creation of a new licensing body is not the answer to the problems. He suggests making the new regional executive agency responsible for coordinating licensing procedures in the Wadden Sea area. “That would concentrate licensing procedures and expertise in a single body, and would be good news for business.”

(Source: NRC, 19 October 2012)

2.3 Conclusion

Although the natural environment in the Wadden Sea area is well protected on paper, this does not necessarily mean that it is in good condition in practice. Many plant and animal species are present in the area in much smaller numbers than would be the case in a natural situation without any human activity.

The quality of the natural environment has remained virtually unchanged since the 1980s. This means that the government has achieved one of its principal policy objectives for the Wadden Sea area as laid down in the third policy document on the Wadden Sea, i.e. the protection of the natural environment on a long-term basis. However, the government has not managed to achieve its second principal objective since 1984, which is to develop the natural environment in the Wadden Sea area. The achievement of another aim of government policy, i.e. the preservation of the area’s unique open landscape, is also under threat. The construction of wind turbines and power stations has had a particularly powerful impact on the open landscape.

Compared with other Natura 2000 areas in the Netherlands, the Wadden Sea area is the scene of countless human activities. Many of these are subject to a whole series of permits. Applicants need to deal with a range of competent authorities applying different sets of assessment criteria. As a result, prospective economic operators in the area are forced to undergo a costly process the outcome of which is often unsure for a long time.

3 The management of the Wadden Sea area and expenditure of the Wadden Sea Fund

The previous chapter described the problems affecting the natural environment in the Wadden Sea area, as well as the openness of the landscape and people undertaking economic and other activities in the region.

This chapter attempts to explain the problems in greater depth. We are particularly interested in those factors that were open to influence by the responsible ministers. Starting from this perspective, we examine in the following sections the way in which the Wadden Sea area is managed, and the way in which resources from the Wadden Sea Fund were spent between 2007 and 2011.

3.1 The management of the Wadden Sea area

3.1.1 Many different managing authorities

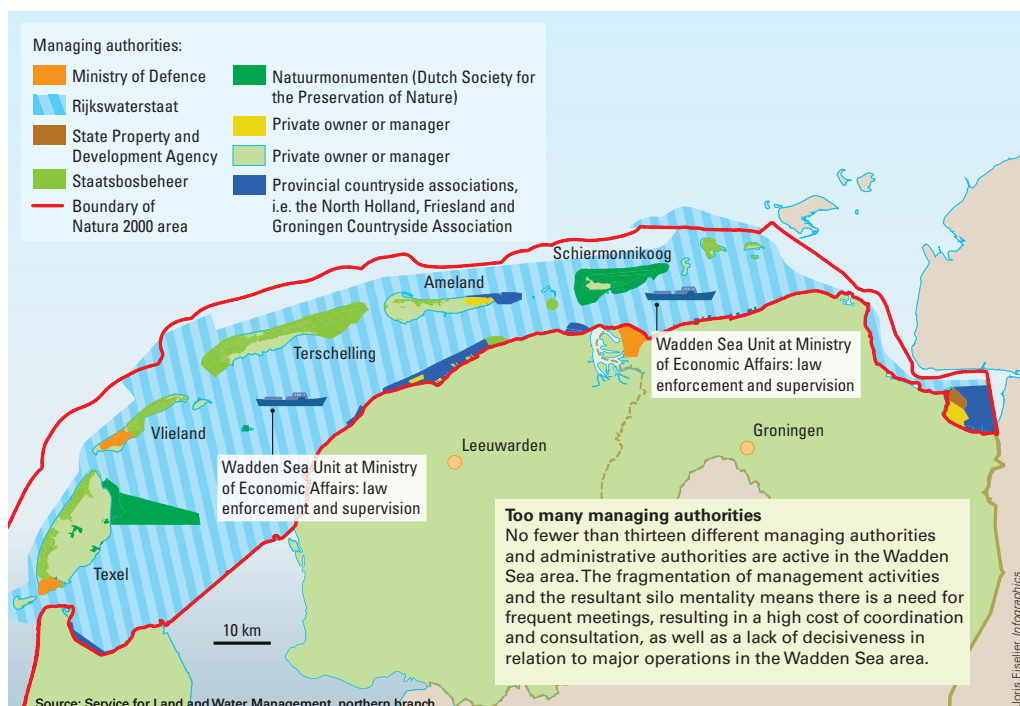
As applies to every nature conservation area, the Wadden Sea area is managed. Broadly speaking, the management of the Wadden Sea area involves a variety of tasks:

- *physical management*: maintenance (such as haymaking, turf-cutting, cutting down shrubs and trees, undertaking nature restoration, controlling populations of unwanted animal species, etc.)
- *licensing*: dealing with permit applications for activities in the area;
- *supervision and law enforcement*: patrolling recreational areas and checking permit-holders to ensure that they are complying with the terms of their permits;
- *monitoring*: performing measurements so as to track changes in the state of the natural environment in the area.

In many nature conservation areas, these tasks are not performed by a single body. In many cases, certain management tasks are performed by government bodies, whereas others are performed by area managers, either public corporations or private-sector organisations.

The situation in relation to the Wadden Sea area is highly unusual, however, in that no fewer than *thirteen* separate managing authorities have certain tasks and responsibilities for the area. Five of these organisations are central government bodies, i.e. the Wadden Sea Unit at the Ministry of Economic Affairs, Rijkswaterstaat (the Directorate-General for Public Works and Water Management), Staatsbosbeheer (the National Forestry Service), the Ministry of Defence and the State Property and Development Agency. The eight remaining managing authorities consist of local authorities and private-sector area managers. The situation is visualised in figure 6.

Figure 6 The (nature) management of the Dutch Wadden Sea area



Roles of the various managing authorities

Just about all the managing authorities listed in figure 2 are involved in the physical management (i.e. maintenance) of the area. A number of the authorities are also empowered to decide on permit applications.

- The Wadden Sea Unit at the Ministry of Economic Affairs is responsible for enforcing the nature conservation laws in the Wadden Sea and, in this context, is also involved in the physical management of the area: it divides the area into sections for shellfish fishing purposes and keeps watch over mud-flats when they are closed to the public in order to allow birds to nest or seals to be with their pups in peace.
- Rijkswaterstaat is responsible for the physical management of the national waters on behalf of the Ministry of Infrastructure and the Environment, focusing specifically on shipping, water and coastal safety. For example, it ensures that fairways are maintained at the correct depth and takes any remedial action required under the Water Framework Directive. Rijkswaterstaat is also involved in licensing activities involving water and water safety.
- The three provincial councils in the Wadden Sea area are responsible for issuing the majority of permits under the Nature Conservation Act in relation to activities performed in the Wadden Sea area. The provincial councils have also managed the Wadden Sea Fund since 2012. This fund is used to finance nature restoration projects in the Wadden Sea area.
- Area managers such as Natuurmonumenten (the Dutch Society for the Preservation of Nature) and Staatsbosbeheer (the National Forestry Service) do most of the physical maintenance work on the Wadden Sea islands. They perform nature restoration projects and also work on public information and awareness-raising.
- The main job of the provincial nature conservation bodies is managing the salt marshes on the periphery of the Wadden Sea. Their work is broadly the same as that performed by the area managers (see above).

- As the body responsible for managing the government's property holdings, the State Property and Development Agency at the Ministry of Finance¹³ acts as the administrator of part of the Dollard region.
- Finally, the Ministry of Defence is responsible for managing the military training areas in the Wadden Sea area, i.e. Hors on Texel, Vliehors on Vlieland and the Marnewaard training area near Lauwersoog. The management activities performed by the Ministry of Defence are comparable with those performed by area managers and provincial nature conservation bodies.

Central government also involved in management

For example, the Minister of Economic Affairs is responsible for the 'Management Board', the members of which include both area managers and the authorities responsible for managing the Wadden Sea area. The Board's job is to raise the efficiency of management activities performed by all those involved in the management of the area (see below).

In addition, the Ministry of Economic Affairs is the competent authority for dealing with applications for certain permits under the Nature Conservation Act. For example, the Ministry decides whether to license fishing, gas production and energy production in the area. Finally, the Ministry of Economic Affairs is running a nature restoration project called the 'Rich Wadden Sea Programme' and has launched a 'Delta Programme for the Wadden Sea' that takes a comprehensive approach to safety in the area.

Inefficiencies resulting from complex management situation

The fact that a large number of managing authorities are active in one and the same nature conservation area is not a problem in itself. We do need to bear in mind, however, that the various types of management activity in the Wadden Sea area all affect and encroach on one another. This creates a need for a clear form of supervision, coordination and cooperation. Unfortunately, it is precisely this aspect that is missing in relation to the Wadden Sea area: there is hardly any coordination of management activities (see chapter 4).

This has been a problem for many years now and is indeed recognised as such. A Wadden Sea Management Board was formed in 2006 with the aim of coordinating cooperation between the various authorities and arriving at a comprehensive form of management for the entire area. In 2009, the Board published a memorandum listing a number of management problems, including:

- the absence of a joint management programme containing clear arrangements for each body's role and task; all the various bodies operate independently of each other;
- the fact that, in certain places, a number of bodies are responsible for the same task;
- gaps in management;
- differences in terms of culture and expertise between the various management bodies;
- the fact that no proper arrangements have been put in place for managing the boundary areas between the sea and the land.

These problems remain relevant in 2013. There is no comprehensive form of management. Different parties are responsible for different aspects of nature management (i.e. physical management, licensing and law enforcement) in a range of fields (i.e. nature conservation, maritime management, water management and coastal management). Management is both compartmentalised and fragmented (Van Es, 2012).

In practice, this situation creates disruptive inefficiencies in nature conservation. These are best illustrated by a series of specific examples.

Case study 1: Management gaps lead to lack of action on kite surfers

In 2012, a study was made of management activities in relation to a sandbar near Texel known as 'Razende Bol'. The study showed that more than ten managing authorities were active there. For example, the Wadden Sea Unit at the Ministry of Economic Affairs was responsible for designating 'special protection areas' for seals and nesting birds; and the Ministry of Defence organised rubbish clean-ups during the breeding season (as part of its previous responsibility for artillery exercises). In spite of the presence of the ten active managing authorities, no single agency had been formally appointed as being responsible for law enforcement in the area. As a result, kite surfers have rarely been prevented from making use of what is a fragile nature reserve. No single authority was responsible for tackling the problem.

Case study 2: Problems surrounding fish trap caused by poor communication

In 2012, the Wadden Sea Society applied for a permit to install a fish trap for measuring purposes. In the words of chairman Arjan Berkhuisen, the club was sent from pillar to post before it finally emerged that permission needed to be given by both the Ministry of Economic Affairs in The Hague and the State Property and Development Agency in Zwolle (as the formal owner of the particular part of the Wadden Sea where the club wanted to place the fish trap). "These people had the final say in deciding whether we, acting in conjunction with a team of scientists and local residents, were allowed to install a fish trap on the mud flats near Terschelling in order to measure the fish population."

In the spring of 2013, the fish trap was suddenly found to be missing. After making inquiries, the Wadden Sea Society found out that the Wadden Sea Unit at the Ministry of Economic Affairs had removed it. "The islanders involved in the project wondered why on earth the Ministry simply didn't give them a ring. Even though the Ministry of Economic Affairs had a decisive say in whether or not the permit should be granted, the Wadden Sea Unit at the same ministry didn't know anything about it and was unable to find out who had put the fish trap there in the first place," Arjan Berkhuisen explained.

The complex management situation in the Wadden Sea area also causes 'behind the scenes' inefficiencies which are generally less obvious to members of the general public. The lack of coordination among the various licensing authorities and law enforcement agencies results in many unnecessary meetings and superfluous checks. For example, there are separate procedures for licensing many of the different types of fishing, requiring the various parties involved to hold a series of meetings.

Case study 3: Different licensing procedures for fishing in the Balgzand area

There are various types of fishing in the Balgzand area. The Ministry of Economic Affairs is responsible for licensing shrimp fishing, the provincial council of Friesland decides on permit applications from (non-mechanical) cockle fishers, and the provincial council of North Holland issues worm-fishing permits. Many meetings need to be held before a permit can be granted. Most of these are attended by representatives of the same nature conservation bodies and fishing industry associations. In other words, the same people come together at different times. If the licensing procedures were better coordinated, such meetings would only have to be held once.

A lack of coordination is also the reason why fishing vessels operating in the Wadden Sea undergo repeated checks by different enforcement agencies, i.e. the Food and Consumer Product Safety Authority, the Wadden Sea Unit, Rijkswaterstaat and the police.

3.1.2 No uniform system of monitoring disruptive effects

One of the effects of the fragmented management situation that we want to dwell on for a moment is the system of monitoring in the Wadden Sea area. We are particularly interested in monitoring activities aimed at identifying the impact of individual activities in the area, i.e. specific-purpose monitoring.

Problems with measurement networks

Measuring networks are used in the Wadden Sea area to collect data on the physical, chemical and biological condition of the water, and on the size of the shellfish, fish, bird and seal populations. Programmes are in operation that have been designed specifically for measuring emissions of pollutants in salt water, surface water and the air. A trial is also being held for measuring the impact of leisure activities in the Wadden Sea area. All these programmes and measurement networks generate a vast quantity of monitoring data.

The government's third policy document on the Wadden Sea describes the basic criteria that monitoring activities in the Wadden Sea must meet: "All forms of monitoring must be performed in accordance with predetermined, verifiable procedures. The measurements must be clear, consistent and easy to distribute." In practice, however, these basic criteria are extremely difficult to satisfy in the Wadden Sea area, with its multiplicity of managing authorities.

Inconsistent measurement data on mussel population

As an animal species, mussels are key to the biodiversity in the Wadden Sea area, which is why the monitoring of mussel beds is a critical activity. This type of monitoring takes a variety of forms in the Wadden Sea. On dry sandbars, where mussel-fishing is forbidden, the mussel population is measured by the Ministry of Economic Affairs, which is particularly interested in the size of new mussel beds and is less interested in the quantity of mussels in terms of fishable kilos. In other words, the mussel population on dried-up sandbars in the Wadden Sea is measured in terms of the size of mussel beds expressed in hectares.

Underwater stock-taking is carried out by the Dutch Mussel Producers' Organisation. For their part, the mussel-fishers are particularly interested in the size of the stocks in terms of fishable kilos. In other words, the underwater measurement are expressed in kilos.

As a result, data on the mussel populations in the dry and wet areas of the Wadden Sea does not lend itself to comparison and cannot be totalled to paint a picture of the aggregate mussel population in the Wadden Sea.

Problems in monitoring and evaluation of policy implementation

The monitoring and evaluation of the way in which the government's policy on the Wadden Sea is implemented is regularly impeded by the fact that different bodies are responsible for the Wadden Sea area rather than there being one single responsible authority. Coordination and consultation are both problematic.

Monitoring of oyster-fishing experiment halted before time

Late in 2008, the Ministry of Economic Affairs launched a four-year experiment with manual oyster harvesting in the Wadden Sea. The participants had applied for and had been granted both permits required for the trial, i.e. a fishing permit from the Ministry of Economic Affairs and a permit under the Nature Conservation Act issued by the provincial council of Friesland. The extension of the permit issued under the Nature Conservation Act would, it was said, depend on the experiment's environmental impact. It was agreed that the Ministry of Economic Affairs would monitor this impact. However, when the time came to decide whether or not to continue with the trial, the Ministry of Economic Affairs had already transferred responsibility for nature conservation policy to the provincial councils and had therefore ceased monitoring the environmental impact of the oyster-fishing experiment in the Wadden Sea. The provincial council of Friesland had not been informed about this. As a result, the provincial council no longer has any information at its disposal that it can use as a basis for a well-founded decision on whether or not to renew the permits issued to those taking part in the oyster-fishing experiment.

Effects on monitoring of policy aims defined in third policy document on Wadden Sea

If there are problems with the specific-purpose monitoring of individual activities in the Wadden Sea area, this affects overall monitoring in the area. The aim of overall monitoring is to give the responsible ministers and the House of Representatives a comprehensive picture of the general condition of the Wadden Sea area, and hence of the government's success in achieving the objectives set out in its third policy document on the Wadden Sea.

Despite all the monitoring activities in the Wadden Sea area, no comprehensive picture is available of the state of the natural environment in the Wadden Sea. Nor is there a cumulative picture of all adverse environmental impacts. This makes it difficult to gain a clear impression of whether or not the government has succeeded in achieving its general nature conservation policy aim as set out in the third policy document on the Wadden Sea.

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Expenditure by the provincial and municipal councils adjoining the Wadden Sea did not fall within the scope of our audit. This means that we cannot give any indication of the extent of such expenditure between 2007 and 2011.

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In 2005, in the wake of a ruling by the European Court of Justice, the then Dutch government decided to ban mechanical cockle-fishing in the Wadden Sea. As cockle-fishing involves churning up the sea-bed, it poses a threat to the fragile ecological balance in the Wadden Sea. The cockle-fishers were paid compensation for the forced closure of their businesses.

3.2 The spending of public funds

The problems described in chapter 2 are not due simply to the fragmentation of management. The spending of the Wadden Sea Fund is another contributor to the operational problems. This fund was set up by the then government for a period of 20 years in 2007, the idea being that it should be used for 'additional investments' in the Wadden Sea area.

We have compiled a diagram showing the central government budget funds spent on the Wadden Sea area in 2007-2011; see figure 7. The figures are for all forms of central government spending, i.e. not just spending from the Wadden Sea Fund. This diagram is a more detailed version of figure 3 (see the following page); here too, the figures relate solely to central government spending.¹⁴

Interestingly, of the hundreds of millions of euros that were available for spending on the Wadden Sea area in 2007-2011, only a small proportion (i.e. €20 million) was spent directly (in the form of project finance) on local nature conservation and landscape protection. The biggest items of expenditure in the Wadden Sea area in 2007-2011 were safety, shipping and the economy. The second largest expenditure item shown in the diagram is the €92 million from the Wadden Sea Fund that was spent buying out the mechanical cockle-fishers.¹⁵ The main beneficiaries were fishermen from the province of Zeeland, although there was an indirect, beneficial impact on the natural environment in the Wadden Sea area, which is no longer adversely affected by cockle

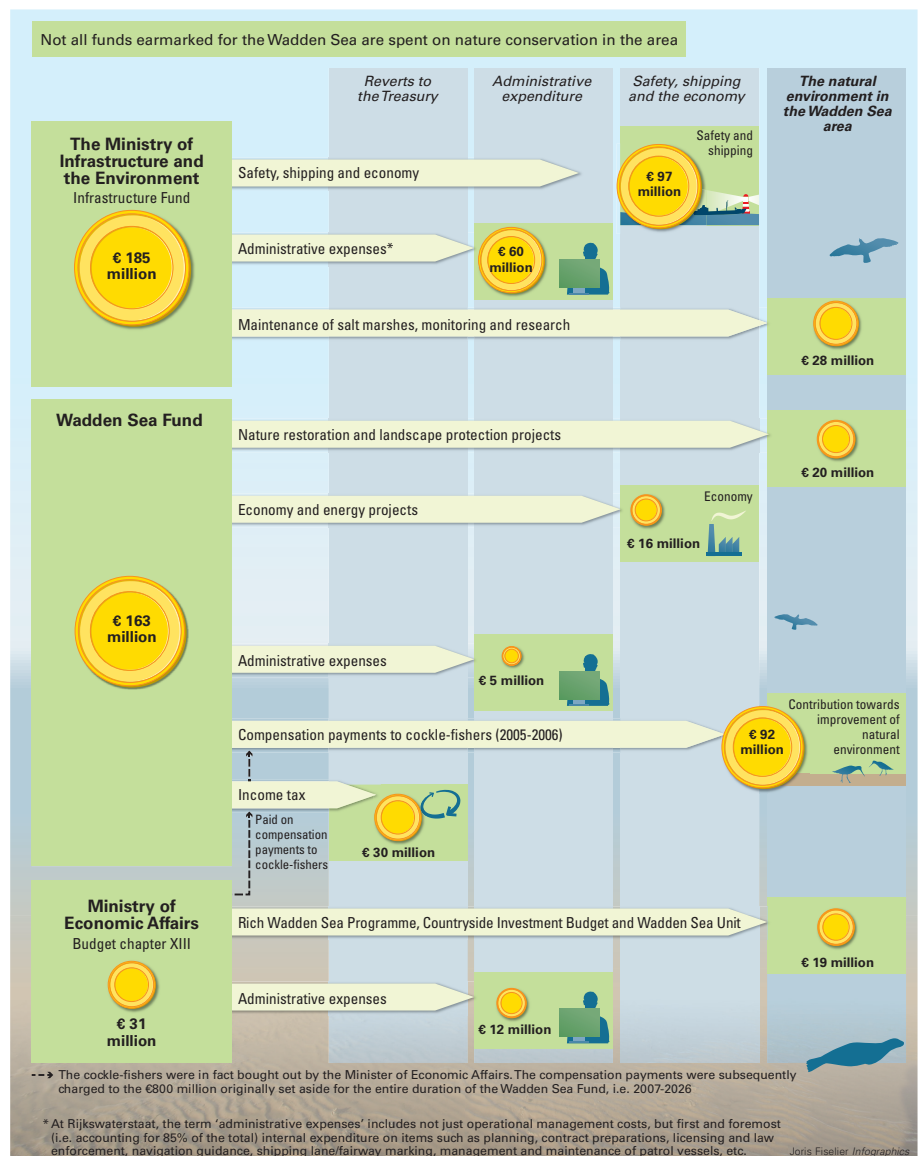
fishing. Despite being paid in 2005-2006, the compensation was in fact charged to the Wadden Sea Fund, which was set up in 2006.

The purpose of the Wadden Sea Fund

In 2004, acting on the recommendation of the Advisory Group on Wadden Sea Policy,¹⁶ the then government decided to set aside a sum of € 800 million for the restoration of the natural environment in the Wadden Sea. The idea was that creating a ‘robust’ natural environment in the Wadden Sea area would make the area better suited to economic activities.

The Wadden Sea Fund was formed in 2006 as a € 800 million central government budget fund that was to remain in existence from 2007 to 2026. The fund was managed by the Minister of Infrastructure and the Environment (formerly known as the Minister of Housing, Spatial Planning and the Environment). At the request of the House of Representatives, it was agreed that the resources from the fund should be evenly divided over ecology (i.e. the restoration of the natural environment) and the economy (i.e. ‘greening’ the economy).

Figure 7 Breakdown of central government spending in the Wadden Sea area 2007-2011



16

In 2005, in the wake of a ruling by the European Court of Justice, the then Dutch government decided to ban mechanical cockle-fishing in the Wadden Sea. As cockle-fishing involves churning up the sea-bed, it poses a threat to the fragile ecological balance in the Wadden Sea. The cockle-fishers were paid compensation for the forced closure of their businesses.

Right from the very outset, the Wadden Sea Fund was designed as a means of subsidising certain activities (other than routine investments or management and maintenance activities) in order to help:

- enhance and strengthen the natural and landscape values of the Wadden Sea area;
- reduce or eliminate external threats to the diversity of the natural environment in the Wadden Sea area;
- promote the sustainable economic development of the Wadden Sea area (including the development of a sustainable form of energy management);
- develop a sustainable network of expertise on the Wadden Sea area.

Expenditure on the Wadden Sea area in 2007-2011

In 2011, as part of our annual regularity audits of the ministry annual reports, we analysed the expenditure of resources from the Wadden Sea Fund in 2007-2011, to ascertain whether the money had been spent in a lawful manner. We found that just ten of the 54 projects had been completed in 2011 and that, because no proper evaluations were performed when the projects were completed, little was known about the impact the projects had had on the natural environment in the Wadden Sea area (Netherlands Court of Audit, 2012).

The Wadden Sea Fund was established in 2007 by the then Minister of Housing, Spatial Planning and the Environment. Interestingly, there was no link between the Wadden Sea Fund and the government's third policy document on the Wadden Sea, which was published in the same year. The Wadden Sea Fund was not designed as a financial instrument for achieving the objectives set out in the third policy document. Rather, the fund was intended for funding 'additional' projects. The problem is that no formal definition has ever been given of the term 'additional': in practice, it has been interpreted as meaning 'additional to the routine work performed by Rijkswaterstaat'. In part as a result, the fund has been used to finance a wide variety of broadly unrelated projects.

Decentralisation of Wadden Sea Fund

The government decentralised the Wadden Sea Fund on 1 January 2012, when the three provincial councils adjoining the Wadden Sea were made responsible for managing and spending the fund's resources (Ministry of Infrastructure and the Environment, 2012). A € 75 million 'efficiency discount' was applied when the fund was decentralised. The Minister of Infrastructure and the Environment agreed to transfer the resources for the period from 2012 to 2026 to the provincial councils by adding the amount in question to the Provinces Fund. An annual efficiency discount of € 5 million is applied to this figure each year between 2012 and 2026, bringing the aggregate efficiency discount to a total of € 75 million.

The aims of the Wadden Sea Fund have not been altered by the decentralisation, which only affects the way the fund is spent. Whereas the central government preferred to finance projects on the basis of a tendering system, the provincial councils believed that they could make more efficient use of the fund by adopting a programme-based approach. The 50:50 balance of spending between ecology and the economy remains intact, however.

3.3 Conclusion

Many of the problems identified in chapter 2 (particularly the failure to develop the natural environment in the Wadden Sea area and the difficulties encountered by economic operators wishing to undertake activities in the area) result from poor coordination among the many managing authorities active in the area. This leads to poor communication and information-sharing, as well as operational inefficiencies. The Management Board, chaired by the Minister of Economic Affairs, has not been able to improve this situation and put in place a comprehensive management system for the entire Wadden Sea area. Without the presence of a single umbrella authority, the implementation of government policy on the Wadden Sea is not monitored and evaluated in a consistent and uniform manner. As a consequence, it is difficult to say whether the government has achieved its policy aims for the area.

A second factor contributing to the problems described above relates to the way in which the funds available for the Wadden Sea area in 2007-2011 were spent. The resources from the Wadden Sea Fund were not used for the purpose of implementing the government's policy on the Wadden Sea as set out in the third policy document on the Wadden Sea. As a result, the Wadden Sea Fund has been used to finance a range of disparate projects. Because the projects were not evaluated, nothing is known about their impact. More might have been achieved if the money had been used in a more carefully targeted manner.

The underlying cause of the problems would appear to lie in the fact that government policy on the Wadden Sea is not properly directed and coordinated. This aspect is discussed in more detail in chapter 4.

4 Supervision, coordination and decentralisation

We have already noted the fragmented nature of the management situation in the Wadden Sea area in the previous chapter. We also pointed out that the resources from the Wadden Sea Fund were not used to achieve the government's policy aims as set out in the third policy document on the Wadden Sea, and also that there is no proper monitoring to ascertain whether the government has achieved its policy aims. This chapter discusses what appears to be the underlying cause of the problems, i.e. the problems surrounding the coordination and supervision of the government's policy on the Wadden Sea. We go on to examine whether the recent partial decentralisation of government policy on the Wadden Sea area could help to solve the problems. In doing so, we also seek to ascertain whether this partial decentralisation (including a simplification of the management structure) satisfies the conditions for a successful decentralisation set out in the 'decentralisation letter' we sent to the Minister of the Interior and Kingdom Relations in May 2013 (Netherlands Court of Audit, 2013).

4.1 Central government supervision and coordination of Wadden Sea policy

Ever since the government first formulated an official policy on the Wadden Sea area in its first policy document on the Wadden Sea published in 1980, the Minister of Housing, Spatial Planning and the Environment has been responsible for coordinating policy on the Wadden Sea. This decision was based on the principle that a minister who was not directly involved was best placed to coordinate the policy pursued by the specialist ministers who were directly involved in the implementation of policy (and who may to a certain extent be regarded as each other's competitors). The following ministers were the specialist ministers involved at the time:

- the Minister of Agriculture, Nature and Food Quality (as the minister responsible for the countryside, fisheries and the natural environment in the Wadden Sea area);
- the Minister of Transport, Public Works and Water Management (as the minister responsible for managing the Dutch national waters, deepening the fairways, and taking action on water safety);
- the Minister of Economic Affairs (as the minister responsible for energy management and gas production in the area);
- the Minister of Defence (as the minister responsible for the military training areas on Texel, Vlieland and in the Marnerwaard area).

In later years, the portfolios of certain specialist ministers were extended to include compliance with European commitments in relation to the Wadden Sea area.¹⁷

Certain ministries have recently been merged in the wake of the restructuring of government ministries. For example, following the merger of the former Ministry of Agriculture, Nature and Food Quality with the Ministry of Economic Affairs, the current Minister of Economic Affairs is now responsible for both the former ministries' tasks in relation to the Wadden Sea. In 2011, the Minister of Infrastructure and the Environment was designated as being responsible for coordinating

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For example, the Minister of Agriculture, Nature and Food Quality was also made responsible for the nature conservation measures the government was obliged to take once the Wadden Sea area was included in the Natura 2000 network, and the Minister of Transport, Public Works and Water Management was given a number of extra responsibilities for the enforcement of the European Water Framework Directive.

government policy on the Wadden Sea area. In this capacity, she is required not just to coordinate the policies pursued by the specialist ministers, but also to supervise operational matters in the region. However, given that Rijkswaterstaat also falls under her ministry, the Minister of Infrastructure and the Environment is now directly involved and no longer holds the neutral position previously held by the Minister of Housing, Spatial Planning and the Environment.

The Wadden Sea Governing Body was originally set up (under the name of the Regional Wadden Sea Board) with the aim of performing the minister's coordinating role. The idea was that the Governing Body, which was made up of representatives of central government, local and provincial authorities, district water boards, private-sector companies and nature conservation bodies, would play a pivotal role in the implementation of government policy, by performing the following tasks (Ministry of Housing, Spatial Planning and the Environment, 2007, p. 29):

1. preparing and implementing a comprehensive management and development plan for the Wadden Sea area;
2. coordinating physical management and law enforcement, among other activities;
3. acting as a platform for all matters concerning the Wadden Sea.

Although the Wadden Sea Governing Body did indeed draw up a management and development plan for the Wadden Sea area (Regional Wadden Sea Board, 2008), coordinating management and law enforcement proved more difficult in practice. The Governing Body did not succeed in coordinating the activities of all the parties involved in management and law enforcement in the area.

Ultimately, the coordinating role entrusted to both the Minister of Housing, Spatial Planning and the Environment (and later the Minister of Infrastructure and the Environment) and the Wadden Sea Governing Body did not produce the degree of policy and management cohesion as had been hoped. Between 2007 and 2011, the government was urged on a number of occasions - and for a number of reasons - to transfer responsibility for policy coordination to the Minister of Agriculture, Nature and Food Quality (now replaced by the Minister of Economic Affairs).¹⁸

The inadequate coordination of policy implementation by the various specialist ministers has led to a fragmentation of the management situation in the Wadden Sea area in relation to the natural environment, water, fisheries, leisure, gas production, fairways, etc.

This was also the conclusion drawn by Berenschot, a firm of consultants which assessed the management structure in the Wadden Sea area in 2010. Berenschot concluded that the role played by central government was not always clear and that the lack of clarity about tasks, roles and responsibilities was a prime cause of the management problems in the area (Berenschot, 2010a, 2010b).

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"Because the main thrust of the activities in the Wadden Sea area relate to the natural environment" (Regional Wadden Sea Board, 2010); "In the light of its responsibility for nature conservation, leisure and fisheries" (Berenschot, 2010); "[As] the emphasis now lies on policy implementation, it [is] no longer self-evident that [the Minister of Housing, Spatial Planning and the Environment] should play a coordinating role. We propose transferring the responsibility for policy coordination to the Minister of Agriculture, Nature and Food Quality" (Wadden Sea Team, in response to Berenschot's 2010 report).

Two practical examples of lack of coordination of Wadden Sea policy

Eems estuary

The provincial water boards are in the process of preparing a series of plans designed to improve the ecological condition of the Eems estuary. Concurrently with this, Rijkswaterstaat is pressing on with its programme of extending, deepening and canalising the fairways leading to the ports in the estuary. It is performing this work alongside the studies it is required to perform, under the EU's Water Framework Directive, into the improvement in water quality.

Fishing permits in a fragile area

The Fisheries Department at the Ministry of Agriculture, Nature and Food Quality issued fishing permits for mechanical cockle-fishing in the Wadden Sea until 2004, and still issues permits for seed mussel fishing in the Wadden Sea, despite indications that these forms of fishing are detrimental to the natural environment in the area. The Regional Affairs Department at the same ministry assessed the fishing activities to see whether they complied with the terms of the Nature Conservation Act. Although the latter department inevitably granted the necessary dispensations, the situation created tensions at the ministry. In both cases, the Council of State was required to pass judgement on the matter before a lasting solution could be found.

The lack of coordination and the fragmentation of responsibilities at central government level is reflected by the day-to-day management situation as described in chapter 2 (Management Board, 2010-2013). As long as this situation persists, the Wadden Sea area will continue to be plagued by problems caused by lengthy decision-making procedures and a multiplicity of licensing authorities, supervisors and law enforcement agencies as described above. This poses a risk to the efficient application of funds and manpower, and ultimately represents a threat to the natural environment and the sustainable economic development of the Wadden Sea area.

In the light of the government's plans for the area in terms of gas production, wind parks, sustainable fisheries and port development, it is absolutely vital that a comprehensive management system be put in place for the Wadden Sea area.

4.2 The decentralisation of policy on the Wadden Sea

A number of years ago, certain aspects of government policy on the Wadden Sea area were decentralised, and the provincial councils were given greater powers in relation to spatial planning and nature conservation. At the same time, the government's policy on the Wadden Sea, as set out in the third policy document on the Wadden Sea, remains the preserve of central government, even in the new situation. It is now part of the 'long-term strategy for infrastructure and spatial planning policy' (*Structuurvisie Infrastructuur en Ruimte*, Ministry of Infrastructure and the Environment, 2012).

The Wadden Sea Fund and the Countryside Investment Budget were transferred to the three provincial councils adjoining the Wadden Sea on 1 January 2012. The provincial councils had already been made responsible for licensing under the Nature Conservation Act in 2005.

The three provincial councils are expected to use the Wadden Sea Fund and the Countryside Investment Budget in the coming years to achieve many of the national and international objectives set for the natural environment in the Wadden Sea area. The transfer of budget responsibility to the provincial councils also includes the responsibility for public reporting and auditing.

When the Wadden Sea Fund was decentralised, the Minister of Infrastructure and the Environment simplified the management structure as described in the third policy document on the Wadden Sea. This section of the report examines whether these measures are capable of solving the problems surrounding the compartmentalisation and fragmentation of policy on the Wadden Sea. We seek to ascertain whether this decentralisation of Wadden Sea policy satisfies the conditions for a successful decentralisation set out in the ‘decentralisation letter’ we sent to the Minister of the Interior and Kingdom Relations on 15 May 2013 (Netherlands Court of Audit, 2013).

4.2.1 **New division of powers and responsibilities**

As we wrote in our ‘decentralisation letter’, decentralisation should mean giving powers, responsibilities, and the duties of reporting and auditing to the tier of government with the greatest degree of involvement. So is this what actually happened in the decentralisation of policy on the Wadden Sea area?

By simplifying the management structure, the Minister of Infrastructure and the Environment wished to ensure that policy implementation in the Wadden Sea area was both more effective and more efficient. One of the aspects of the simplification was a severe restriction in the range of tasks performed by the Wadden Sea Governing Body. Although the Governing Body had been formed for the purpose of coordinating policy cohesion, policy management and operational management in the region, it was precisely this coordinating task (plus the relevant powers) of which the minister decided in 2012 that the Governing Body should be stripped. In doing so, the Minister of Infrastructure and the Environment also restricted her own role in coordinating the implementation of the government’s third policy document on the Wadden Sea. This was because the Governing Body (in which the provincial and local authorities and the district water boards were also represented, alongside central government) had been set up for the very purpose of playing a coordinating role on the minister’s behalf. The text of the minister’s decision does not explain what guarantees have been put in place to ensure that central government programmes for the Wadden Sea area are directed and coordinated in a coherent manner.

The new management structure for Wadden Sea policy still fails to make clear which government tier is primarily responsible for the Wadden Sea area. There is also still scope for improving the coherence of supervision and coordination. The first prerequisite of a successful decentralisation is the compilation of full and up-to-date information on all central government programmes, future government aims (both general and sector-specific) and current government action in the Wadden Sea area, indicating the relationship between all these and describing how they can help the government to achieve the aims set out in its third policy document on the Wadden Sea.

4.2.2 **A comprehensive management system**

As we wrote in chapter 2, the management of the Wadden Sea area encompasses a wide range of activities (i.e. physical management, licensing, law enforcement and monitoring) performed by many different managing authorities. This creates all manner of problems, such as too many counters, red tape, duplication of efforts and poor communication. So has the simplification of the management structure improved this situation?

In the previous situation, the Wadden Sea Governing Body was responsible for coordinating physical management and law enforcement. The Governing Body did not play any role in coordinating monitoring and licensing. In the new situation, the Regional and Spatial Economy Department at the Ministry of Economic Affairs is responsible for coordinating the physical management of the natural environment. The ‘regional ambassador’ at this department plays a key role in this connection. At the time we performed our audit, no information was available on how the ‘regional ambassador’ was planning to perform his coordinating role. Nonetheless, it is clear that the changes mean that, on balance, less manpower will be available for coordinating management activities in the region. The regional departments¹⁹ at the Ministry of Economic Affairs have been disbanded, and the regional ambassadors from the same ministry will be performing their remaining tasks without much support in the region.

Our audit showed that, in the previous situation, both monitoring and licensing in the Wadden Sea area were poorly coordinated and that this situation has not changed. Even after the simplification of the management structure in the region, there is still no single body that coordinates the issuance of permits or keeps a comprehensive record of all permits that have been issued.

In our ‘decentralisation letter’ of May 2013, we stressed the importance of preventing the management structure from becoming so complex after decentralisation as to create unnecessary duplications in reporting requirements. The horizontal reporting information gathered at local level (i.e. based on audits by local councils and audit offices) and the vertical information that is relevant at national level (i.e. based on audits by the ministry, parliament and the Netherlands Court of Audit) must be collected with a minimum of duplication. This is a particular concern in relation to the Wadden Sea area, where management is highly fragmented.

With the ‘regional ambassador’ at the Ministry of Economic Affairs now responsible for physical management and enforcement, there is an excellent opportunity to restructure the management system in the Wadden Sea area. In chapter 5, we will be making a number suggestions for possible ways of creating a more comprehensive system of management with just one single umbrella authority responsible for managing nature conservation.

4.2.3 Regular monitoring by central government

We stressed in our decentralisation letter that decentralisation operations require not simply a new structure of authority, but also a new arrangement for information on the implementation of policy, i.e. monitoring information. In the light of the problems surrounding monitoring in the Wadden Sea area (see chapter 3, section 3.1.2), there is clearly a need to review the current information arrangements for the area.

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The Northern Regional Affairs Department used to be responsible for the regional implementation of national and EU policies on nature conservation and agriculture and was also involved in licensing procedures under the Nature Conservation Act.

In her letter to the House of Representatives in 2011 on the new management structure for the Wadden Sea area, the Minister of Infrastructure and the Environment did not explain how information on operational issues would be passed from one management layer to another (Ministry of Infrastructure and the Environment, 2011b). As a result, it is not clear how the minister is planning to comply with her reporting obligations to parliament.

The Minister of Economic Affairs is currently in talks with the provincial councils on the subject of the monitoring of the Dutch government's international obligations in relation to nature conservation (as part of its Natura 2000 commitments). It is not clear how the new monitoring arrangements will affect the Wadden Sea area and how these will tie in with current monitoring activities in the area.

The Wadden Sea Fund has been a source of funding for the Walter (Wadden Sea Long-Term Ecosystem Research) project since 2010. The aim of the project is to create a comprehensive measurement network for key issues affecting the Wadden Sea area. The network is intended not just to provide information for decision-making purposes, but also to promote the correct interpretation of data. It should help bring the current research and measurement programmes closer into line with each other and also to fill gaps in the current measurement network and enable wider use to be made of the available data. The project may fill the current monitoring gap in the Wadden Sea area. However, it is unclear at present exactly how the data will be distributed in the future, given that the project funding is of a temporary nature.

4.2.4 Linkage between funding and policy aims

As we said in chapter 3 (see section 3.2), there was little or no linkage, in the years between 2007 and 2011, between the money from the Wadden Sea Fund and government policy on the Wadden Sea area as set out in the third policy document on the Wadden Sea.

Following the decentralisation of the Wadden Sea Fund and the Countryside Investment Budget, the responsibility for achieving, funding and managing the aims of nature conservation policy in the Wadden Sea area was transferred to the three provincial councils adjoining the Wadden Sea.²⁰

The provincial councils have decided to adopt a programme-based approach to the way in which the Wadden Sea Fund is spent. For example, they have decided to focus spending of the funds available for 2012 and 2013 on the periphery of the Wadden Sea area. This is where fragile transitional zones are to be found, such as salt marshes, boundary areas between saltwater and freshwater, brackish zones, etc. A 'strategic' approach to the spending of nature conservation funds may prove to be a more efficient way of solving problems.

At the same time, this programme-based approach means that the decentralisation of funding is unlikely to create a closer linkage between the various investments in the area. This risk is inherent to any decision to decentralise policy, as we have also pointed out. Decentralisation operations entail a risk that confusion about the precise scope of the minister's overall responsibility creates so much latitude as to make it impossible to decide whether the funds in question have been well spent or whether the relevant aims have been achieved.

4.3 Conclusion

Although the recent decentralisation of policy on the Wadden Sea area does not provide a solution to all the problems affecting the area, it does create a number of opportunities. The biggest opportunities for improving the current situation are to be found in the way in which nature conservation policy is directed, monitored and funded. Decentralisation offers an opportunity for the coordinating minister to create cohesion in the government's remaining policy ambitions (both general and sector-specific) for the Wadden Sea area, in government programmes and action, and in the

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Central government remains responsible for policy on nature conservation and fisheries, and for fairway and water management in the Wadden Sea itself.

way in which these can help the government to achieve the principal objectives of its policy on the Wadden Sea area. Producing a comprehensive picture of all these elements could help in this respect.

Following the decentralisation, two ministers remain responsible for the bulk of policy and management activities in relation to the Wadden Sea area: the Minister of Infrastructure and the Environment and the Minister of Economic Affairs. In this sense, the partial decentralisation that has just taken place does not offer a solution to the complex management structure at central government level.

The management structure in relation to the Wadden Sea area remains complex, and the three provincial councils adjoining the Wadden Sea are acquiring more and more responsibilities for coordinating nature conservation policy in the area. Since the decentralisation of the Wadden Sea Fund and the Countryside Investment Budget, the provincial councils have been responsible for achieving, funding and supervising both national and international policy aims in relation to nature conservation. It has not been clear to date how much the local authorities themselves (i.e. both municipal and provincial) actually invest in the Wadden Sea area. In order to obtain a clear picture of the extent to which the objectives of nature conservation policy have been achieved, it is important to have access to full information on all investments in the Wadden Sea area. This means counting all forms of government investment, and not simply central government expenditure.

5 Recommendations and potential solutions

5.1 Recommendations

We have seen that the supervision and coordination of nature management in the Wadden Sea area has not been of the highest possible standard since certain responsibilities were transferred to the provincial councils. All sorts of divergent interests are at play in the area, and these are still reflected by the differing policies pursued by the ministers responsible for the sectors in question. The failure of the Regional Wadden Sea Board to properly coordinate the implementation of sector policies has led to a fragmentation in management activities in the Wadden Sea area in relation to the natural environment, water, fisheries, recreation, gas production, fairways, etc.

Government policy on the Wadden Sea area needs to be supervised and coordinated by the minister responsible for coordinating policy on the Wadden Sea area (i.e. the Minister of Infrastructure and the Environment) in a more carefully targeted and consistent manner. Also, the resources available for the Wadden Sea area should be matched more closely with the policy objectives for the area.

Against this background, the time would appear to be ripe for reviewing the way in which policy is coordinated. We urge the Minister of Infrastructure and the Environment and the Minister of Economic Affairs to arrive at a clear position on this. To this end, we recommend that they mark time and answer the following questions before making any further changes:

- In the light of the responsibilities that have already been decentralised, what exactly are the government's remaining aims for the Wadden Sea area?
- What instruments can the government deploy in order to achieve these aims?
- Which ministers are responsible for the achievement of which aims?

In order to answer these questions, the government needs to have access to comprehensive and up-to-date information on all government programmes, future government aims (including in relation to specific sectors) and current government action in the Wadden Sea area. The ministers should use this information to make a clear record of how the various measures affect each other and how they can help the government to achieve the main aims of the third policy document on the Wadden Sea (*Derde Nota Waddenzee*).

There is also a need for the ministers to define the nature of the guarantees that will be put in place to ensure that the divergent sector-specific interests at play in the area are coordinated from a neutral perspective and are brought together in the form of a coherent and consistent policy. In this connection, we recommend that the ministers make use of the outcome of the policy review and debate on 'core responsibilities' that is currently taking place among the local and provincial councils adjoining the Wadden Sea.

Once a decision has been reached on the above points and clarity has been provided, the next step should be to create a clear governance structure for the Wadden Sea area itself, in which powers and responsibilities are clearly distributed and management

and accountability (including responsibility for reporting on the progress made in achieving the European targets under the Natura 2000 programme) are both properly regulated, without creating any overlaps in reporting requirements. To this end, a number of possible practical solutions are presented in the next section.

5.2 Potential solutions

The following section outlines four options for solving the problems affecting the management of the Wadden Sea area. These are based on ideas suggested to us by managing authorities in the Wadden Sea area with whom we spoke during the course of our audit.

There is a recurring theme in the suggestions made by the interviewees: they all insisted that there should be a single nature conservation entity. In other words, a single authority should be entrusted with overall responsibility for managing the protection of the natural environment in the Wadden Sea area.

This same theme is common to all four options discussed below. We decided to present a number of relatively straightforward scenarios that do not entail a great deal of change in the current administrative configuration of powers and responsibilities. In all four scenarios, the provincial councils retain their responsibility for nature conservation budgets in the Wadden Sea area.

The scenarios presented below range from centralised coordination by a central government entity to a decentralised form of coordination by the provincial councils. We do not have a preference for either a centralised or a decentralised solution: we believe that each scenario is capable of simplifying the management of the Wadden Sea area.

Our scenarios should not be regarded as turnkey solutions. They are designed to promote debate on the administrative organisation in the Wadden Sea area.

5.2.1 Management by central government in accordance with German and Danish models

Together with the German and Danish parts of the Wadden Sea area, the Dutch part of the Wadden Sea area forms part of the European Natura 2000 network. Both Germany and Denmark have decided to adopt an administrative model in which the Wadden Sea area is accorded the status of a national park. This means that the area is governed by national legislation and that one single authority is responsible for nature conservation.

Administrative responsibility for the Dutch part of the Wadden Sea area is divided over central government, the councils of the three provinces adjoining the Wadden Sea, and a number of private-sector parties. In practice, this fragmentation has created coordination problems and a resultant high level of cost, as well as a process that users of the area perceive as being opaque (Van Es, 2012).

It would seem logical and efficient for all central government responsibilities in the Dutch part of the Wadden Sea area to be vested in a single government agency. Policy on the Wadden Sea area and all relevant legislation are already central government matters. In other words, the only need is to appoint a central managing authority for nature conservation and to supply this authority with the necessary resources. The question is which party would be willing and able to take on this role. The situation created by the recent partial devolution of government policy on the Wadden Sea area

to the provincial councils provides a number of useful starting points, given that a large number of central government entities continued to be involved in the management of nature conservation activities.

The Directorate-General for Public Works and Water Management (*Rijkswaterstaat*) would be an obvious choice. As the body responsible for managing the Dutch national waters, *Rijkswaterstaat* is already the main authority in charge of the Wadden Sea itself and will remain a key presence in the area for the foreseeable future. *Rijkswaterstaat* currently has plenty of staff, responsibilities and money at its disposal for performing both administrative and practical duties in the area. However, there is a potential problem in that *Rijkswaterstaat* does not feel naturally at home in nature conservation.

Another form of centralised management could be achieved by merging the members of the current Management Board (for which the Minister of Economic Affairs is responsible) to form a single organisation that would be made responsible for managing the Wadden Sea area. The members in question are:

- the northern regional ambassador of the Ministry of Economic Affairs;
- the National Forest Service (*Staatsbosbeheer*);
- the Wadden Sea Unit; and
- the departments at the Ministry of Economic Affairs in charge of the Rich Wadden Sea Programme and the Wadden Sea Delta Programme.

With a new remit, this organisation could become the main coordinator of nature conservation activities throughout the Dutch part of the *Natura 2000* area. Law enforcement could then be conducted in collaboration with the Wadden Sea Unit at the Ministry of Economic Affairs. One of the disadvantages of the latter aspect of this model is that there would still be two large government entities with administrative responsibilities for the Wadden Sea area. This would not help to achieve the desired simplification in the administrative organisation.

A third possibility is *closer cooperation in terms of law enforcement and monitoring, with coordination at central government level*, as is already the case in relation to the North Sea. The current trilateral partnership between Germany, Denmark and the Netherlands in relation to monitoring could be extended to cover a wider territory.

Good example of cooperation between managing authorities in relation to the North Sea

As is the case in the Wadden Sea area, a large number of managing authorities work in close cooperation in policy planning, law enforcement and service delivery in relation to the North Sea. This partnership has been institutionalised in the form of the North Sea Administrative Network, which is coordinated by *Rijkswaterstaat*. The Administrative Network's main responsibilities are knowledge and information management and reducing the administrative burden placed on those using the area, i.e. dredging companies, fishermen, offshore mining companies, incident response organisations, wind energy companies, etc. As part of its activities in the latter area, the government is planning to expand its on-line information desk for North Sea-related issues (www.noordzeeloket.nl) to include the latest news on licensing procedures and conditions. This information will also raise the effectiveness of enforcement activities, given that the authorities responsible for enforcing the law in relation to the North Sea will have access to more comprehensive information on the situation in other parts of the area. The administrative burden has been reduced by streamlining and harmonising the licensing system. (Source: All-round Management Plan for the North Sea, 2015)

5.2.2 Consortium of existing managing authorities

Another solution to the problem of coordinating nature conservation in the Wadden Sea area would be the formation of a *consortium of managing authorities*. The authorities currently involved in managing nature conservation in the Wadden Sea area are *Natuurmonumenten* (the Dutch Society for the Preservation of Nature), *Staatsbosbeheer* (the National Forest Service), the North Holland Countryside Association, the Friesland Countryside Association and the Groningen Countryside Association. These organisations could join forces to form a consortium that would coordinate nature conservation in the Wadden Sea area. Other parties, such as the Wadden Sea Society, could also be brought in. The government would act as the contracting authority, resulting in a centralised solution. Another possibility would be for the councils of the Wadden Sea provinces to act as the contracting authority, in which case the consortium would represent a decentralised solution. Clear arrangements would need to be made in advance as to how the consortium would report on the spending of public funds.

The consortium could also be made responsible for monitoring activities in the Wadden Sea area, in which case no changes would need to be made to current enforcement activities and licensing procedures.

The management of nature conservation on the Rottum islands is a good example of how a consortium of managing authorities might operate in practice.

Good practice: the management of nature conservation on the Rottum islands

The proposed consortium of existing managing authorities, i.e. *Natuurmonumenten*, *Staatsbosheer* and the provincial Countryside Associations, could take their lead from the arrangements made for the management of nature conservation on the Rottum islands. These arrangements provide for a clear division of roles, duties and responsibilities between *Staatsbosheer*, *Rijkswaterstaat* and the Wadden Sea Unit at the Ministry of Economic Affairs. For example, *Rijkswaterstaat* monitors the coastal defences and handles disaster response, the Wadden Sea Unit supervises sea-related activities (such as seals, shipping, fishing and monitoring), *Staatsbosheer* makes sure that bird protection inspectors are stationed on the islands during the breeding season (the inspectors are responsible for supervision, monitoring, mapping flora, and guiding walkers and other day-trippers), plans the zoning (i.e. making sure that walking routes avoid nesting grounds), arranges day trips (approximately 750 people a year) and handles requests for information from the media (about 200 a year). Together, *Rijkswaterstaat*, the Wadden Sea Unit and *Staatsbosheer* report any new developments and formulate research topics for research institutes. The provincial councils are responsible for issuing permits under the Nature Conservation Act, but act on the advice of *Staatsbosheer*.

5.2.3 Regional executive agency for the Wadden Sea

The Ministry of Infrastructure and the Environment recently began work on a system of ‘area agencies’. These ‘regional executive agencies’, as they are also termed, are responsible for a number of practical services in relation to the law on the physical environment.²¹ It might be possible to take this system as a starting point for setting up a regional executive agency for the Wadden Sea that would be tasked with enforcing the law on nature conservation and managing nature conservation in the Wadden Sea area. The director of the regional executive agency for the Wadden Sea could be mandated to issue permits on behalf of all parties involved in the area. This would enable all licensing activities to be brought under the same roof and would therefore guarantee a more comprehensive licensing system. A sizeable proportion of enforcement and monitoring activities in the area relate to permits and dispensations.

5.2.4 Local management by provincial councils

The final option discussed here is based on the complete devolution of all the present duties, responsibilities and powers in relation to nature conservation in the Wadden Sea area from central government to the provincial councils. This would be consistent with the current decentralisation of policy and financial resources for nature conservation in the Wadden Sea area. It would entail transferring all the remaining nature management activities, such as the law enforcement work currently performed by the Wadden Sea Unit at the Ministry of Economic Affairs, to the provincial councils.

In this scenario, the provincial councils would formulate policy and inform the central government about issues on which the government is required to report to the European authorities and the House of Representatives. Information, reporting and control would all be the responsibility of the Provincial Executive.

This option has the advantage that the three Wadden Sea provinces already manage the bulk of the financial resources allocated to nature conservation in the Wadden Sea area, i.e. the Wadden Sea Fund and the Countryside Investment Budget (ILG). If the provincial councils were also made responsible for policy, it would mean that the same authority would be in charge of both policy-making and funding.

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The ‘law on the physical environment’ is a branch of law concerning the use and protection of the physical environment, and includes aspects such as land-use plans, construction law, environmental law, nature conservation, water law and maritime law.

Having said that, this option does have the drawback of requiring the formation of a ‘partnership of provincial councils’. Such partnerships are usually based on a ‘joint scheme’,²² as in the case of the Wadden Sea Fund. The auditing of spending by joint schemes is a shared responsibility; in this particular case, responsibility would be shared among the three provincial councils. This is also an aspect on which agreement would need to be reached.

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A ‘joint scheme’ is a partnership between government bodies formed in accordance with the Joint Regulations Act.

6 Response of the Minister of Infrastructure and the Environment and Court afterword

On 13 November 2013, the Minister of Infrastructure and the Environment responded to our audit report, also writing on behalf of the State Secretary for Economic Affairs. The main points of her response are summarised in the table at the end of this chapter. We have posted the full text of the Minister's response on our website (www.rekenkamer.nl).

The Minister of Infrastructure and the Environment writes that our report will be of great use in further improving the management of the Wadden Sea. She also says that she values the potential solutions we propose in our report and will discuss these with the parties concerned, together with the State Secretary for Economic Affairs. The Minister of Infrastructure and the Environment and the State Secretary for Economic Affairs are planning to give priority to improving the management of the Wadden Sea area so that further progress can be made in restoring the natural environment and in ensuring that the commercial exploitation of the Wadden Sea takes place in a sustainable manner. The Minister is planning to present a plan of action for improving the management of the Wadden Sea area at the beginning of 2014. In this light, we would like to highlight three particular aspects of the Minister's response.

1. The Minister consistently uses the term 'Wadden Sea' in her response. Our report is about the 'Wadden Sea area', however, which covers a larger surface area than the Wadden Sea alone. The Wadden Sea area includes the Natura 2000 area that the Dutch government is committed to protect and manage in accordance with its international obligations. The importance of this distinction lies in the fact that the Minister writes that government policy (i.e. on the Wadden Sea) is properly coordinated and that there is a clear division of duties and responsibilities between the two ministries, i.e. the Ministry of Infrastructure and the Environment and the Ministry of Economic Affairs. The Minister ignores the tangled jumble of powers and responsibilities that exists in relation to the Wadden Sea area. It was against this background that we asked the Minister not to launch any new initiatives and instead to undertake a comprehensive review of all government programmes, the government's aims for the coming years (both general and sector-specific) and all forms of government action currently in operation throughout the Wadden Sea area. The minister ignores this point in her response. We would therefore reiterate our recommendation to include, in the review of government aims, the government's aims and policy instruments for the entire Wadden Sea area, and to do so by the end of 2015.
2. Our second point relates to the achievement of the main objective of government policy on the Wadden Sea area, i.e. the conservation and development of the natural environment in the area. Although our report shows that the quality of the natural environment in the Wadden Sea area is not deteriorating, it is clearly not improving either. The Minister writes that a number of projects have been launched in recent years to promote the development and improvement of the natural environment in the Wadden Sea area. She says that, although the initial results

have been promising, their ultimate impact on the recovery of the Wadden Sea area will not be felt until the longer term.

We would ask the Minister to combine, publish and coordinate the current research and monitoring programmes for the Wadden Sea area, so that all parties concerned are informed about the results of government policy in a uniform, transparent manner. In other words, we urge the Minister to adopt an ‘open data policy’, so that everyone can see for themselves whether the policy instruments employed by the government are actually leading to an improvement in the quality of the natural environment in the Wadden Sea area.

3. Our final point concerns the Minister’s comment that, although just €20 million from the Wadden Sea Fund was spent on nature conservation projects during the period under review, the total value of commitments in this policy field is much higher, at €62.5 million. We would like to point out that the Court always examines actual expenditure rather than future commitments, as there are no guarantees that the amounts in question will actually be spent on the projects concerned. This is particularly pertinent to projects in the Wadden Sea area, given that a number of these are already subject to major delays and will probably have to be wound up prior to completion.

List of main conclusions, recommendations and responses

| Main conclusion | | |
|---|--|--|
| | Recommendations | Response of Minister of Infrastructure and the Environment |
| Since the partial devolution of Wadden Sea policy to the provincial councils, nature management in the Wadden Sea area has not been supervised and coordinated as it should have been. Separate, sector-specific policies pursued by the relevant specialist ministers continue to cater for a wide range of interests. | Improve the supervision and coordination of the government's policy on the Wadden Sea. Take a clear decision on which minister is responsible for coordinating government policy on the Wadden Sea. To this end, make an inventory of the government's policy aims and policy tools (at both central and regional levels). | Policy coordination between the Ministry of Infrastructure and the Environment and the Ministry of Economic Affairs is good. The new Wadden Sea Governing Body provides a forum for harmonising regional and central government policy aims for the Wadden Sea. The Governing Body should be given an opportunity to prove its worth. |
| A lack of coordination in the implementation of the government's policy on the Wadden Sea has led to the fragmentation of operational management. | We make four suggestions for practical solutions: (1) designate Rijkswaterstaat, or a number of merged departments at the Ministry of Economic Affairs, as the central managing authority in charge of nature management; (2) place responsibility for nature management in the hands of a consortium made up of the current area managers; (3) create a regional executive agency for the Wadden Sea; (4) designate the three provincial councils adjoining the Wadden Sea as the central managing authority in charge of nature management. The common theme in all the above scenarios is that one single body is responsible for coordinating nature management. | Improving the way in which the management of the Wadden Sea is organised is indeed an ongoing task. Together with the State Secretary for Economic Affairs and the Wadden Sea Governing Body, the minister is seeking to gradually improve the situation, taking account of the current division of responsibilities among government bodies and area managers. The minister expects to present a plan of action for improving the (nature) management of the Wadden Sea area early in 2014. In preparing this plan, she will make use of the scenarios presented by the Court of Audit. |
| Sub-conclusions | | |
| The quality of the natural environment in the Wadden Sea area has remained stable since the 1980s. This means that the government has achieved the first main objective of its policy on the Wadden Sea area, i.e. the protection of the natural environment on a long-term basis. However, it has not achieved its second principal objective, which is to develop the natural environment in the Wadden Sea area. | | In the context of the Wadden Sea Fund, the Water Framework Directive and the Rich Wadden Sea Programme, a large number of parties are working on projects designed to develop and improve the natural environment in the Wadden Sea. Major progress has been made in terms of nature restoration. |
| The preservation of the area's unique, open landscape is under threat from the construction of wind parks and power stations. | | This policy aim is relatively new and was introduced in the government's long-strategy for the Wadden Sea, published in 2007. The examples cited illustrate the conflict between different policy aims, on which the government will decide on a case-by-case basis, if necessary after obtaining a court ruling. |
| The Wadden Sea area is the scene of numerous human activities. These are all subject to permits. Economic operators have to apply to a wide range of licensing bodies all of whom apply different criteria in assessing permit applications. As a result, applicants face a time-consuming and costly process with an uncertain outcome. | See the suggestions included in our recommendation in relation to the second main conclusion. | There is a clear division of responsibilities among the competent authorities for the Wadden Sea. The minister supports the principle of further simplification and the reduction of bureaucracy, referring in this connection to the Environment and Planning Act and to the formation of regional executive agencies. The government is already trying to make the licensing procedures more transparent. |

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| A large number of managing authorities are active in the Wadden Sea area. Cooperation between them is not always of a high standard, resulting in poor communication and information-sharing. The Management Board set up by the Minister of Economic Affairs has not been able to improve this situation. | See the suggestions included in our recommendation in relation to the second main conclusion. | The new Wadden Sea Governing Body is currently compiling a management agenda, which will provide input for the Management Board (on which all parties involved in the management of the Wadden Sea are represented). |
| As no single body is responsible for nature management, the implementation of government policy on the Wadden Sea is not monitored and evaluated in a consistent and uniform manner. As a result, no clear information is available on whether the government has achieved its policy aims. | See the suggestions included in our recommendation in relation to the second main conclusion. | The government is already working on this point. It will be included in the follow-up activities launched in response to the second main conclusion. |
| The resources from the Wadden Sea Fund are not deployed in line with government policy. As a result, the Fund is used to finance a wide range of disparate projects. Because these projects have not been evaluated, nothing is known about their impact. Only a small proportion of the millions of euros earmarked for the Wadden Sea area in 2007-2011 were actually spent on nature conservation. More might have been achieved if the money had been used in a more carefully targeted manner. | The resources available for the Wadden Sea area should be matched more closely with the policy objectives for the area. | The Investment Plan and the Wadden Sea Fund Deployment Plan have both helped to streamline expenditure from the Fund. The Court of Audit claims that 'only' €20 million from the Wadden Sea Fund was spent on nature conservation during the period under review. The total value of the commitments in relation to these projects is however much higher, at €62.5 million. |
| The recent partial decentralisation of government policy on the Wadden Sea opens up opportunities for improving nature management, monitoring and funding, and for creating greater cohesion in the government's remaining policy aims for the Wadden Sea area. | Improve the supervision and coordination of government policy on the Wadden Sea. Make an inventory of the remaining government policy aims and instruments in relation to the Wadden Sea. | See the response to the first main conclusion. |
| Two ministers (i.e. the Minister of Infrastructure and the Environment and the Minister of Economic Affairs) remain responsible for policy and management activities in relation to the Wadden Sea area. The management structure remains complex. | Take a clear decision on which minister is responsible for coordinating government policy on the Wadden Sea. To this end, make an inventory of the government's policy aims and tools. | See the response to the first main conclusion. |
| The three provincial councils adjoining the Wadden Sea are acquiring more and more responsibilities for coordinating nature conservation policy in the area. | In deciding which minister should be responsible for policy coordination, the government should make use of the policy review and the debate on 'core responsibilities' currently taking place among the local and provincial councils adjoining the Wadden Sea. | See the response to the first main conclusion. |

Glossary

Wadden Sea area and Wadden Sea

The difference between the ‘Wadden Sea’ and the ‘Wadden Sea area’ is explained in the third policy document on the Wadden Sea (*Derde Nota Waddenzee*, Ministry of Housing, Spatial Planning and the Environment, 2007). The difference is a matter of boundaries. Both terms are used in this report.

The Dutch part of the Wadden Sea includes the sea from Den Helder to the national border with Germany in the Dollard area and the Eems estuary. The southern border consists roughly of the sea dykes. The sea dykes on the islands form the northern border, while between the islands the border follows the pattern of the tidal inlets. On those parts of the islands where there are not any sea dykes, the salt marshes and mud flats along the Wadden Sea coast are also regarded as forming part of the Wadden Sea.

The third policy document defines the ‘Wadden Sea area’ as comprising the Wadden Sea, the Wadden Sea islands, the tidal inlets between the islands, the North Sea coastal zone up to a distance of three nautical miles from the coast, and the territory of the mainland municipalities adjoining the Wadden Sea, plus part of the area shared with Germany (also known as the ‘Eems-Dollard region’).

Regional Wadden Sea Board and Wadden Sea Governing Body

In order to avoid any confusion, we have decided to restrict ourselves in this report to the term ‘Wadden Sea Governing Body’. In fact, however, the Governing Body was not formed until November 2012, before which it was known as the Regional Wadden Sea Board.

The third policy document on the Wadden Sea introduced the Regional Wadden Sea Board as the linchpin of the government’s policy on the Wadden Sea. The Board was given a range of powers, made responsible for law enforcement and entrusted with various coordinating duties.

In a letter sent by the Minister of Infrastructure and the Environment to the House of Representatives on 21 March 2011, she announced a simplification of the management structure in the Wadden Sea area. This also involved transforming the Board into a governing body with a limited number of members and no responsibility for coordination. The new Wadden Sea Governing Body provides a forum for the parties concerned to discuss policy, management issues and investments.

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