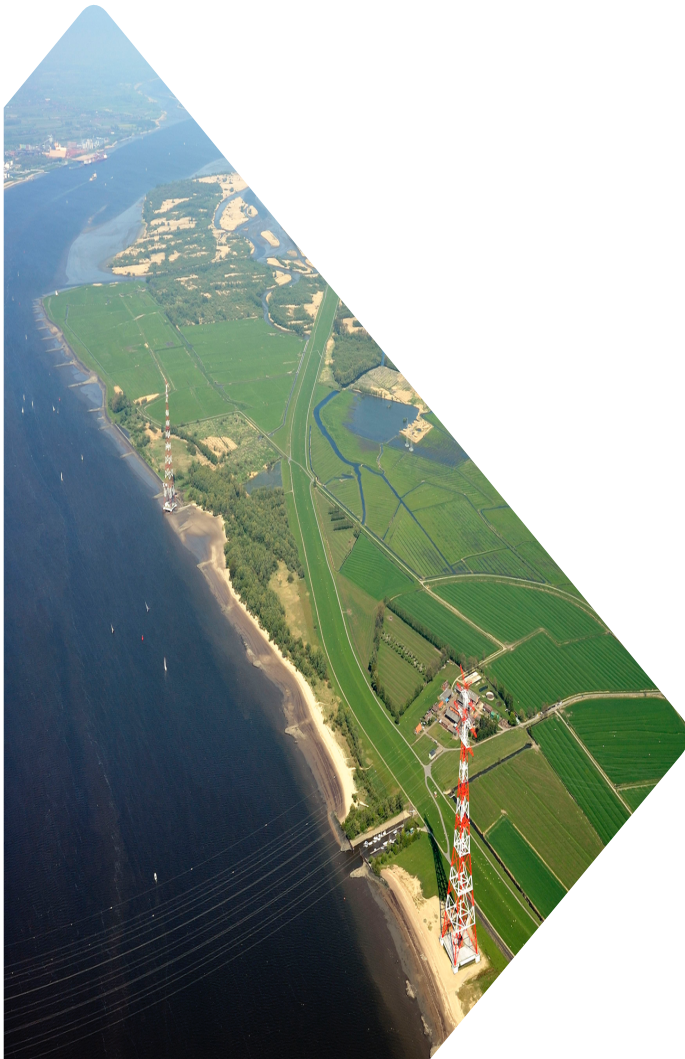


Improving estuary governance: Comparison of the governance of the Elbe, Scheldt and Humber regarding estuary management

Key messages and recommendations on possible actions to decrease barriers



Cover photo: Elbe downstream of the City of Hamburg, Copyright Hamburg Port Authority

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1. Introduction

Context and goal

Together with the partners of the European INTERREG Project IMMERSE (IMplementing Measures for Sustainable Estuaries), Hamburg Port Authority (HPA) is working towards sustainable management of estuaries in the North Sea Region. Governance structures and processes are among other aspects important factors that influence estuary management and the implementation of measures.

At the Elbe estuary, mistrust and different interests across various actors prevent that coordinated action amongst the actors grows towards a more sustainable management of the estuary. As one of the actors, HPA has a strong interest to investigate how the governance of the Elbe can be improved.

Therefore the motivation for HPA was to compare governmental and decision making structures and processes of the three estuaries Elbe, Scheldt and Humber and analyse what valuable lessons can be learned from estuaries with comparable physical, economical and societal characteristics (and hence comparable challenges and tensions between actors and their interests) although if different governance structures and cultures may exist. Barriers on existing governance and political decision-making processes related to estuary management will be analysed and assessed, especially in the Elbe estuary. The study intended to find examples or good practices on three aspects, that could be transferred and translated to the context of the Elbe estuary:

- The interaction between stakeholder platforms and formal decision-making by governmental authorities. How is this organized, what are the benefits and problems?
- Which structures of power are in play and how these influence the interaction between formal and informal decision-making.
- The development of longer-lasting vital networks of stakeholder participation. How can this be done and what are the requirements to do so?

Content

This document summarises the content of the report “*Improving estuary management*” that was set-up by the Dutch consultant WING on behalf of HPA, i.e. the results and conclusions of comparing the governance of the three estuaries on the above mentioned aspects. The document will further provide key messages based on the comparison, and recommendations in order to improve stakeholder involvement in particular for the Elbe estuary.

The report gives an elaborate description of the three estuaries on the following aspects: management responsibilities and environmental legislation framework; tensions (for example conflicting interests), actors (the governmental and non-governmental organisations in play), and processes and events (moments in decision-making that turned out to be important and guiding for future developments).

The research focus was put on actor configurations, the resources of actors, the discourse between them, and the rules of the game (the written and unwritten rules that determine the interactions between actors).

Within the comparison of the three estuaries (1) hierarchy vs. self-organisation, (2) enhancing rule compliance through creating responsibility, (3) extent of fragmentation and coordination, (4) extent of stakeholder involvement (from informing to co-decision-making), (5) structures/measures for dealing with conflict, (6) encouraging adaptation and change were investigated.

2. Results

Before presenting an overview on the main results definitions for key terms used are provided in the table below.

Governance
The manner in which you organise the steering – formal and informal – of a certain theme, subject or issue.
Integrated management
Management taking into account all functions (and functioning) of a natural system.
Actor
Entity (state or non-state) in a decision-making process.
Stakeholder
Actor with an interest in relation to the issue at stake.
Institutions / Institutional context
(Unwritten) rules which determine the acting of people and organisations.
Discourse
A line of ideas, which is unconsciously present and recognizable in language, words and the manner of thinking of actors in governance.
Rules of the game
The rules and regulations (both formal and informal) that influence decision-making and how actors position themselves in relation to each other.

Relevant legislation

Due to the dynamic nature and the considerable ecological values that estuaries host - besides to their economic development -, governance is subject to several EU Directives, such as Natura 2000 (Birds- & Habitat Directive), the Water Framework Directive (WFD), the Marine Strategy Framework Directive (MSFD) and the Flood Risk Management Directive (FD) being the most important ones in the context of this investigation. Although the same legislation is applicable to all three estuaries, implementation by the responsible authorities may be different, as the EU gives its member states the freedom of choosing the way how they implement it in their national legislation. The report is describing the key management plans for each of the three estuaries and the responsible public actors that have to deal with their implementation.

Tensions

The consultant's analyses showed that the governance of **the Elbe estuary** is challenged for several decades by an inherent tension between economic interests (and maintenance dredging as well as the 9th deepening of the Elbe as their prerequisite) and nature conservation, both equally legitimate societal concerns.

Conflicts between the Netherlands and Flanders on the **Scheldt estuary** have a longstanding history and are dominated by the accessibility of the port of Antwerp through the Western Scheldt. Since the end of the 1970s, along with the increased attention for the environment across the globe, environmental concerns regarding deepening and maintenance of the fairway also gained attention. In 1998 Flanders and the Netherlands agreed to work on a joint vision for the Scheldt estuary in 2030 (the LTV) and agreed on three most important user functions: accessibility, water safety and naturalness.

Regarding estuary governance of the **Humber**, over the last twenty years limited or no comparable tensions to those at the Elbe or Scheldt occurred. This can be explained by the following two reasons. First, dredging of the Humber is quite different compared to the Elbe and the Scheldt, because the Humber is largely self-maintaining the navigation channel. Second, the Elbe and Scheldt have ports (Hamburg and Antwerp) that correspond to

Goole for the Humber whereas the ports of Hull, Grimsby and Immingham are in the outer estuary (more similar to Rotterdam). Nevertheless, there is a constant tension between economic development and nature conservation. Besides flood defence and habitat loss/gain, there are no urgent problems or conflicts between sectors, the dynamics between different actors are not offensive nor difficult and the need for more coordination by one single body is low.

Conflict resolution

The Elbe, Scheldt and Humber show similar as well as different approaches for conflict resolution. In all estuaries the legal possibilities (i.e. court appeals) are more or less the same. The way in which the legal possibilities are used are different. Furthermore, also other modes of conflict resolution are used.

In both Scheldt and Elbe court appeals and political deal-making were the dominant modes for conflict resolution. The political deal-making in the Scheldt and Elbe concerns deal-making between nations (as the case in the Scheldt) or federal states (as the case in the Elbe). The political deal-making was in both cases necessary to create possibilities for port / fairway development and regular maintenance under the condition of conflicting interests between the nations / federal states. An important difference between Scheldt and Elbe is the (perceived) mutual dependency between governmental actors involved in estuarine management and more specifically the disposal of sediment. On several issues Flanders is depending on the Netherlands and vice-versa, for example the navigability of the Scheldt, ecological goals and flood protection are strongly connected. This is also the case for the Elbe, however the conflicting interests lead to another configuration of mutual dependencies, where the federal State of Hamburg is dependent on Lower Saxony and Schleswig-Holstein to find an agreement for sediment disposal downstream the state border - otherwise the Port of Hamburg provides benefits for the two states as is a major employer and economic hub. For the Humber mutual dependencies are of less importance as interests of actors are less conflicting. The consultants hypothesise that this has a large impact on the willingness to commence a collaborative approach.

Apparently, the Elbe and Scheldt showed more similarities, therefore the focus of the comparison concentrated on the Scheldt and Elbe. Due to the higher interdependency the collaborative decision-making of governmental actors at the **Scheldt** through the *Vlaams Nederlandse Schelde Commissie* (VNSC) became more valued by actors over time. This helped the VNSC to grow into a **coordinating platform with a strong institutional position which is also perceived legitimate by all important stakeholders**. Initially political deal-making was dominant, however the role of political deal-making in resolving conflicts decreased, when the VNSC became a more accepted part of the governance structure. An explanation for this high (perceived) mutual dependency is the fact that strict European ecological requirements “forced” Flanders and the Netherlands into a mode of collaboration after the political deal about nature compensation and infrastructural development was made. In the Elbe the strict (European) requirements for deepening and the disposal of sediment are in place as well. However, at the Elbe “collaborative decision-making” did not emerge.

Stakeholder participation

An interesting observation is that for the **Scheldt** it took actors up to 10 years to appreciate the governance mode of the VNSC and associated stakeholder participation, as a means to have efficient and less time-consuming decision-making. Stakeholder involvement took place during 2002-2004 and started again in 2014, as with the first evaluation in 2013 it was realised that a stakeholder platform was still needed. This platform was called the Scheldt Council and has an advisory role for the VNSC.

At the **Elbe** estuary the first voluntary stakeholder communication process – besides the official stakeholder participation process in the frame of WFD and Natura 2000 - was initiated in 2013 and followed up in 2016 by the estuary partnership “*Forum Tideelbe*”.

The comparison between the Elbe and Scheldt suggests that stakeholder involvement in the Elbe is currently at a level of involvement that was the case in the Scheldt 10 to 15 years ago.

The **Humber** Nature Partnership was established in 2004. It has come about as a result of commitments made by Government in the Natural Environment White Paper 2011. Thus, long existing partnerships form an adequate basis for coordination between responsible parties.

Conclusions of the comparison

The comparison led to the conclusion that the **governance of the three estuaries show many similarities as well as some important differences**. The most important similarities and differences are summarized below:

	Elbe	Scheldt	Humber
hierarchy vs. self-organisation	Hierarchical, with large role for governmental actors		Hierarchical, with room for bottom-up initiatives
Fragmentation and coordination	High levels of fragmentation		
	coordination is present but not fully developed	coordination is present and further developed	coordination is at a low level
Stakeholder involvement	Overarching stakeholder platform is in place with limited scope	Overarching stakeholder platform is in place with a broader scope	Stakeholder participation is organised at the level of concrete projects
enhancing rule compliance	Formal procedures through permitting is the basis for rule compliance		
	In some cases treaty agreements are closed and some informal meetings exist	Joint development of knowledge enhances ‘voluntary’ compliance	Lower tensions between different activities and ecological goals
structures for dealing with conflict	A combination of court appeals, and political deals are the dominant mode		Bottom-up resolution at level of board of directors
	A broad stakeholder platform is organised with a limited scope	More collaborative mode developed over time based on joint development of knowledge	
encouraging adaptation and change.	No broad long-term vision focus on concrete problems and measures	Broad long-term vision, medium term plan and concrete measures	No long-term vision focus on concrete problems and measures

3. Key messages and recommendations

Key messages

1. Differences in mutual dependencies between actors and cultural differences affect governance modes.

In a hierarchical and fragmented governance mode (as found in all estuaries) **a more collaborative and integrated mode of governance can grow over time**. In the Scheldt appreciation for a collaborative approach grew after jointly drafting a long and medium-term vision by The Netherlands and Flanders. In the Elbe the need for collaboration is also recognised but constrained partly due to the governmental system of powerful federal states. As a result, authorities are hesitant to abandon formal powers and to apply a more collaborative approach. Additionally, it may be part of a strong cultural pattern in Germany that emphasises the importance of formal procedures and planning based on the formal distribution of powers and tasks. **The collaborative approach of the Scheldt fundamentally does not fit the context at the Elbe. Stronger collaboration at the Elbe can only grow over time and above all forms of cooperation, and a mode has to be found that fits the formal and legalistic approach.**

2. Effective stakeholder participation is a chicken-egg problem.

The comparison between the Elbe and Scheldt suggests that stakeholder involvement in the Elbe is currently at a level of involvement that was the case in the Scheldt 10 to 15 years ago during the phase of the joint vision making. In the Scheldt stakeholders experienced a positive impact of the collaboration of the Netherlands and Flanders and of participation through a stakeholder council. For the Elbe this 'proof' of positive impact is not yet available. The stakeholder platform at the Elbe has to 'prove' the value of its existence by showing how decision-making can be improved and made more time efficient. **A more centralised platform for stakeholder participation makes sense for estuaries with higher levels of conflicting interest (Elbe and Scheldt) then for estuaries with lower levels of conflict (Humber).**

3. A joint knowledge base promotes conflict resolution and collaboration.

A focus on having a knowledge base that is based on joint fact-finding (as at the Scheldt) was very effective in reducing and/or preventing conflicts. As actors agree on the knowledge that is used for decision-making possible conflicts about these decisions are better understood amongst actors and therefore also less pronounced. Even more joint development of knowledge helps understand different interests better and hence enhances collaboration between actors. In the Elbe, both the knowledge as well as monitoring are organised more fragmented then in the Scheldt. For both estuaries the implementation of joint fact finding is interesting to explore.

4. Long-term visions can contribute to the integration of policy issues.

The experience with the long-term vision in the Scheldt shows that it is a powerful intervention to create conditions for good governance as it facilitates the integration of issues and creates a basis for actors for a common understanding about conflicting issues such as sediment management or nature development. Another important benefit of the long-term vision has been the joint development of a knowledge base as this also contributed to the conflict resolution between actors. However, long-term visions are not the most obvious interventions for Elbe and Humber at this moment, as actors are not acquainted with this type of visions and associated merits. **Current conditions at the Elbe and Humber are not suitable to commence a process to draft a long-term vision unless certain circumstances are met.** The required circumstances for the Elbe are described as part of the recommendations for the Elbe.

Recommendations for the Elbe estuary to decrease barriers

Reasoning from the perspective of the Elbe estuary, **higher levels of collaboration are desirable**. However, reasoning from the perspective of the actors, a sense of urgency for more collaboration is not present as mutual gains are not easily recognised when multiple actors have different stakes.

- This is why **a structure for collaboration as found in the Scheldt estuary is not directly applicable at the Elbe**.
- Furthermore, the drafting of a **long-term vision for the Elbe is not feasible at this moment** as it does not fit the current political agenda.
- Four other interventions are presented that could increase collaboration of state and non-state actors along the Elbe and can eventually lead to conditions/circumstances in which it is more logical to draft a joint vision. First, the development of a **joint knowledge program about the tidal part of the Elbe may be the way forward to achieve higher levels of collaboration**.

Step 1: Start informal consultations between state actors to develop a joint research agenda for the Elbe estuary.

Step 2: Strengthen the position of the “Forum Tideelbe” by formulating a clear order for the Forum that also addresses the responsibilities of the state actors towards the Forum.

Step 3: Execute the research agenda in the form of a joint knowledge program (as drafted during step 1 and completed during step 2) involving the actors represented in the Forum.

Step 4: Assign “Forum Tideelbe” with a specific task concerning the knowledge program.

The final recommendation considers the **required circumstances to draft a joint long-term vision**. The study conducted by WING showed that **only under the condition that mutual trust between state or main responsible actors and between state and non-state actors is grown, the formulation of a joint long-term vision for the Elbe can be feasible**. Mutual trust however is not the only requirement, commitment to the joint vision is another important factor. The Scheldt case showed that at the beginning one actor (the Netherlands) believed in this approach whilst another important actor (Flanders) did not believe in the success. This led to the situation that the vision at first was met with great hesitation. This situation will also almost certainly occur in the Elbe estuary. **This means that the actor that will promote the idea of a long-term vision, must consider that large investments in time and trust building will be needed to convince other actors to cooperate in the vision making.**