

THE IMPLEMENTATION OF INTERNATIONAL NATURE CONSERVATION AGREEMENTS IN EUROPE: THE CASE OF THE NETHERLANDS



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Nature conservation policy in European countries is increasingly determined by the requirements of a wide range of international agreements. The most important are two EU directives (the Birds Directive and the Habitats Directive) and four conventions (the Ramsar Convention, the Bern Convention, the Bonn Convention and the UN Convention on Biological Diversity). The main foci of these instruments are habitats and species that are of international importance or require international cooperation to secure their effective conservation. Despite the importance of these habitats and species, implementation of the instruments has been uneven. The Netherlands provides a interesting example of implementation issues. The legislation necessary to enable the government to legally designate areas that have to be protected under the Birds Directive was only adopted in 1998, 17 years after the deadline fixed by

the directive. This legislation has enabled the government to nominate areas for designation under the Birds and Habitats Directive. However, not all the sites that fall under the criteria of the Directives have been included in the list, and the legislation does not include the required provision concerning compensation for areas that are protected under the Habitats Directive and then damaged by activities that are authorized in the public interest. In the case of the Ramsar Convention, the government is planning to increase the number of designated sites, but the total number of sites will still represent inadequately the types of wetland of international importance that are found in the Netherlands. Despite this uneven implementation, the instruments – particularly the EU Directives – are having far-reaching effects on nature conservation in Europe. The most important consequences are that ecological considerations are the sole and absolute criteria for determining whether a site should be protected under the EU Directives and that many areas that until now only enjoyed limited protection under the spatial planning system now have to be legally

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protected from virtually all forms of damage. However, in practice many development plans take only limited account of the biodiversity conservation requirements implied by international conventions. Copyright © 2001 John Wiley & Sons, Ltd. and ERP Environment.

INTRODUCTION

One of the most important developments in nature conservation policy over the past 30 years has been the increasing extent to which countries have recognized the need to take coordinated international action in order to arrest the decline in biodiversity. This has particularly been the case in Europe, a continent characterized in recent decades by a patchwork of relatively small countries, environmentally damaging economic development and the rise of new international institutions. These factors have combined to create both the need for and the means to develop new forms of international cooperation in the field of nature conservation. Indeed, Europe is unique in the extent to which the conservation of biodiversity is dependent on the application of international instruments. It is therefore of some importance to determine how these instruments are implemented and their impact in practice.

An opportunity to study the implementation of the most important international instruments in one country arose with the preparation of the *Nature Balance* in 1999 and 2000, an independent 'state of nature' assessment that is drawn up each year for the Dutch government by the National Institute of Public Health and Environment (Rijksinstituut voor Volksgezondheid en Milieu and Dienst Landbouwkundig Onderzoek – Instituut voor Bos- en Natuuronderzoek, 1999). The Netherlands, like virtually all Western European countries, is bound by formal obligations under two main kinds of international nature conservation instrument:

- (i) EU directives, most importantly the Birds Directive and the Habitats Directive, and

- (ii) international conventions, those of European importance being the Ramsar Convention, the Bern Convention, the Bonn Convention and the Convention on Biological Diversity.

THE EU DIRECTIVES

The EU Birds Directive (*Official Journal of the European Communities*, 1979) and the Habitats Directive (*Official Journal of the European Communities*, 1992) aim to conserve not only species but also the habitats on which they depend. The Birds Directive introduced a general system of protection for all species of wild birds found in Europe, including controls on hunting, killing and the removal of eggs and nests and requirements concerning the provision of sufficient diversity and area of habitat. The Habitats Directive (which essentially transposed the Council of Europe's Bern Convention into Community law) extended this approach to habitat types and species other than birds of Community importance with the aim of securing for them a 'favourable conservation status'. The areas to be protected under the two Directives – Special Protection Areas (SPAs) under the Birds Directive and Special Areas of Conservation (SACs) under the Habitats Directive – will together form Natura 2000, which the Habitats Directive describes as a 'coherent European ecological network'.

In order to meet these objectives, the member states are required to adopt appropriate legal measures, including those necessary to establish protected areas. In addition, Articles 6(2), (3) and (4) of the Habitats Directive (which also apply to SPAs) require member states:

- (i) to take steps to prevent the deterioration of these areas and the disturbance of the respective species,
- (ii) to carry out an 'appropriate assessment' of plans or projects that may have a significant effect on an area, and only to approve such a plan or project if it will not adversely affect the integrity of the respective area, and

- (iii) to take necessary compensatory measures where such a plan or project must be carried out for 'imperative reasons of overriding public interest'.

INTERNATIONAL CONVENTIONS

Several international conventions impose obligations on signatory states that have important implications for nature conservation. The Convention on Wetlands of International Importance Especially as Waterfowl Habitat (the 'Ramsar Convention', 2 February 1971, ratified by all 15 EU member states) aims to stem the progressive loss of wetlands and to encourage their wise use. Signatory states are obliged to designate at least one national wetland and to formulate and implement plans to promote their conservation and wise use.

The Convention on the Conservation of European Wildlife and Natural Habitats (the 'Bern Convention', 19 September 1979, ratified by all EU member states and the EU itself) aims to conserve wild flora and fauna and their natural habitats. In particular, the 36 signatory states are required to take steps to ensure the protection of species listed in the annexes to the Convention, namely 'strictly protected plants', 'strictly protected animals' and 'protected animals'. In addition, under a recommendation adopted by the Convention's standing committee, signatory states should designate Areas of Special Conservation Interest (ASCIs) as a means of achieving the Convention's objectives. Areas that are designated by EU member states under the Birds and Habitats Directives automatically become ASCIs.

The conservation of animal species that migrate across national boundaries is the subject of the global Convention on the Conservation of Migratory Species of Wild Animals (the 'Bonn Convention', 23 June 1979, ratified by all EU member states with the exception of Austria and by the EU). Although the Convention lists 76 species of endangered migratory animal species and about 150 migratory animal species or groups of species that have an 'unfavourable conservation status', it is

only a framework agreement: actions to conserve specific species and their habitats are negotiated by the respective 'range states' in separate agreements. Seven such agreements have been adopted by groups of range states in Europe. These concern the slender-billed curlew (10 September 1994), the Siberian crane (13 December 1998), African–Eurasian migratory water birds (16 June 1995), European bat species (4 December 1991), cetaceans in the Black Sea, the Mediterranean Sea and the Contiguous Atlantic area (24 November 1996), small cetaceans in the Baltic and North Seas (17 March 1992) and seals in the Wadden Sea (16 October 1990).

The final convention of European importance is the United Nations Convention on Biological Diversity (22 May 1992, ratified by all EU member states and the EU), which aims to conserve biodiversity and to promote the sustainable use of its components and the fair and equitable sharing of the benefits that arise out of the utilization of genetic resources. Signatory states are obliged to develop national strategies, plans or programmes for these purposes and to integrate the conservation and sustainable use of biodiversity into the relevant sectoral and cross-sectoral plans, programmes and policies.

IMPLEMENTATION: THE CASE OF THE NETHERLANDS

Strictly speaking, EU directives are binding on the member states with respect to the results that must be achieved but leave the choice of form and method to each individual member state. In practice, however, most environmental directives severely limit the discretion of the member states in choosing the appropriate implementing instrument. The Birds and Habitats Directives are no exception to this practice. In essence, the Directives require the member states to:

- (i) classify the most suitable territories of the 181 vulnerable species listed in Annex I of the Birds Directive and regularly occurring migratory species as SPAs for their conservation,

- (ii) take appropriate steps to avoid pollution or deterioration of the SPAs,
- (iii) ensure that the bird species that may be hunted and the methods that may be used conform with the provisions of the Birds Directive,
- (iv) identify the sites where habitats of Community importance (SCIs) can be found and, after the European Commission has drawn up a definitive list of SCIs, designate these sites as SACs,
- (v) establish the conservation measures necessary to conserve SACs, and
- (vi) ensure that SACs and SPAs are protected from damage and deterioration as provided for by Article 6 of the Habitats Directive.

In order to comply with these obligations, member states have to introduce control and management arrangements that ensure that these measures are taken and, if necessary, enforced. This implies the nomination of a competent authority and the adoption of appropriate laws, regulations and administrative arrangements. The deadlines for compliance with the main obligations of both Directives are listed in Table 1.

The original intention of the Dutch government was to provide for compliance with the Birds Directive – and subsequently the Habitats Directive – through limited amendments

to the existing Nature Protection Act, the appropriate management of publicly owned nature reserves and spatial planning measures. However, this strategy was thwarted on two fronts. First, Parliament rejected the proposed amendments to the Nature Protection Act, which eventually led to several years' delay in adopting the new legislation. Second, a judgement in July 1998 in a case concerning the legality of drilling for natural gas in the Wadden Sea found that the spatial planning measures on which the government was relying – primarily the Green Space Structure Plan and the Wadden Sea Planning Decision – were not of sufficient legal compulsion to ensure compliance with the Directives.

This caused serious problems for the government's strategy, since the 29 sites that had been classified under the Birds Directive and the 27 sites that were listed as potential SCIs under the Habitats Directive were clearly inadequate to ensure compliance with the directives – and the Commission had informed the Dutch government accordingly. Indeed, the Netherlands had already been condemned four times by the European Court of Justice for failing to implement the Birds Directive and the European Commission had initiated infringement proceedings under the Habitats Directive against the Netherlands (and eight other member states) for failure to provide the Commission with adequate information on progress made in implementing the Directive.

In May 1998 the amended Nature Protection Act was adopted by Parliament. The new provisions enabling the government to designate areas for protection in order to comply with international agreements were given prompt effect, following which the procedure was initiated to designate an additional 57 sites under the Birds Directive and to submit to the European Commission a list with a further 62 sites under the Habitats Directive. However, the inclusion of 37 of these sites was conditional on further consideration by the Dutch government, an approach which received a critical response from the Commission. In February 1999 the list was consolidated and confirmed by the government, although due to changes in delineating and combining certain sites, the number of

Table 1. The deadlines for meeting the main obligations under the EU Birds and Habitats Directives

Obligation	Birds Directive	Habitats Directive
Legal compliance by member states	6 April 1981	5 June 1994
Classification of SPAs by member states	6 April 1981	–
Submission list of potential SCIs by member states	–	5 June 1995
Establishment list of SCIs by European Commission	–	5 June 1998
First implementation report by member states	6 April 1984	5 June 2000
Designation of SACs by member states	–	5 June 2004

potential SCIs on the consolidated list totalled 76 sites. It is now the task of the Commission to assess the national lists and to establish an EU-wide list of SCIs. In the first phase of this process, which started in 2000, the European Commission initiated discussions with the member states concerning the representation of the sites on the national lists with reference to the respective biogeographical regions. One of the conclusions of these discussions was that the Dutch list was substantial but still incomplete (although the lists of five member states were regarded as 'notably insufficient', and none of the 15 national lists was regarded by the Commission as complete – see Table 2).

In March 2000, the Dutch government 'provisionally' classified the additional SPAs under the Birds Directive pending possible objections from interested parties, although the number of additional sites was reduced from 57 to 49. In the new list, the boundaries of a number of areas had been corrected, seven areas were omitted as a result of shifting bird populations and a further area was to become the subject of a new designation procedure due to an inappropriate delineation of the biotope.

The implementation of the Ramsar Convention carries special significance in the Netherlands, a country located on the delta of four major rivers and steward of Europe's most important wetland: the Wadden Sea. In the period up to 1995, the Dutch government had designated 18 sites under the Convention, equivalent to 32% of the total surface area of wetlands in the Netherlands. However, it was generally recognized that considerably more areas fell within the scope of the Convention; the Bird Protection Society, for example, maintained that 67 sites meet the respective criteria (BirdLife and Vogelbescherming Nederland, 1999). The government accepted the need to increase the number of Ramsar sites and in 1999 announced its intention to designate a further 27 sites during the period 1999–2000. By March 2000, eight of these additional sites had been designated.

However, even with these additional designations, the implementation of the Convention in the Netherlands will remain unbal-

anced. In the first place, more than three-quarters of the designated sites are located in the Wadden Sea (which is not designated in its entirety). In the second place, the selected sites are not representative of either the types of wetland that are found in the Netherlands or their international importance. Wetland types that are under-represented include river systems (of which only 8% in area are designated), coastal wetlands (3% designated) and saline lakes (none designated). It is also notable that only a small number of the Ramsar sites are protected in provincial and municipal structure and development plans.

The remaining three international instruments – the Bern Convention, the Bonn Convention and the Convention on Biological Diversity – have had less effect on Dutch nature conservation policy and practice. In retrospect, the main impact of the Bern Convention was as precursor to the Habitats Directive, which is evidenced by the difficulties currently being experienced by the Netherlands in providing for the protection of SACs under the Directive.

With regard to the Bonn Convention, the obligations stemming from the four agreements to which the Netherlands is party – concerning African–Eurasian migratory water birds, European bat species, small cetaceans in the Baltic and North Seas and seals in the Wadden Sea – have been complied with satisfactorily through the amended Nature Protection Act and the new Flora and Fauna Act. However, the effect of these measures in practice is very limited since they require little additional protection in comparison to autonomous Dutch nature conservation policy. The potential added value offered by coordinated conservation actions of the range states has also to a large extent failed to materialize due to less than optimal cooperation between the countries.

Finally, there is the Convention on Biological Diversity which was, in the opinion of the government, already legally complied with by existing Dutch law and policy at the time of ratification. However, the government felt that the aims of the Convention were not in all respects adequately reflected in national policy. It accordingly formulated the *Strategic*

Table 2. Progress in implementing the EU Birds and Habitats Directives

Member state	Birds Directive				Habitat Directive			
	Number of sites	Total area (km ²)	Percentage of territory	Assessment of progress	Number of sites	Total area (km ²)	Percentage of territory	Assessment of progress
Austria	73	11 931	14.2	Incomplete	127	9 066	10.8	Substantial list
Belgium	36	4 313	14.1	Largely complete	102	913	3.0	Notably insufficient
Denmark	111	9 601	22.3	Largely complete	194	10 259	23.8	Substantial list
Finland	440	27 500	8.1	Incomplete	1381	47 154	13.9	Substantial list
France	115	8 127	1.5	Notably insufficient	1028	31 440	5.7	Notably insufficient
Germany	577	16 264	4.6	Incomplete	1495	14 406	4.0	Notably insufficient
Greece	52	4 965	3.8	Incomplete	234	26 522	20.1	Substantial list
Ireland	109	2 236	3.2	Incomplete	267	3 091	4.4	Notably insufficient
Italy	268	11 279	3.7	Incomplete	2507	49 364	16.4	Substantial list
Luxembourg	13	160	6.2	Incomplete	38	352	13.6	Substantial list
Netherlands	79	10 000	24.1	Largely complete	76	7 330	17.7	Substantial list
Portugal	47	8 468	9.2	Incomplete	65	12 150	13.2	Substantial list
Spain	181	34 934	6.9	Incomplete	867	88 076	17.4	Substantial list
Sweden	304	23 787	5.3	Incomplete	1962	50 996	12.4	Substantial list
United Kingdom	202	8 524	3.5	Incomplete	340	17 628	5.5	Notably insufficient

Source: European Commission (2000a). Reproduced by permission of the European Commission.

Action Plan for Biodiversity (Ministerie van Landbouw, Natuurbeheer en Visserij, 1995) with the objective of strengthening policy in five respects, namely

- (i) formulating operational biodiversity conservation objectives,
- (ii) broadening the concept of biodiversity,
- (iii) strengthening Dutch capacity with regard to the conservation of global biodiversity, particularly available expertise,
- (iv) adapting the policy context in such a way that it provides greater encouragement for the conservation of biodiversity, and
- (v) increasing political and administrative awareness of biodiversity.

The Plan has had a positive impact on Dutch policy. For example, cooperation between government departments with respect to conserving biodiversity has been improved through the Interdepartmental Biodiversity Group. However, a recent evaluation (Romijn *et al.*, 1998) has shown that interdepartmental coordination and the integration of biodiversity conservation objectives into other government policies is still inadequate.

IMPLEMENTATION ISSUES

The Birds and Habitats Directives require member states to identify sites that are eligible to be designated as SPAs and SACs solely on the basis of the ecological criteria set out in the Directives. In other words, the value of other forms of land use and the implications for land users of legally protecting an area may not be taken into account in deciding whether a site falls within the scope of the Directives. This requirement has created considerable difficulties in the member states, including the Netherlands. To be sure, for many years there has been throughout Europe a broad consensus on the concept of sustainable development and the need to integrate environmental objectives into other sectoral policies; indeed, both goals have been included in Dutch environmental policy since 1989 (see, for example, Arts and Van der Zouwen, 1999) and also as legal obligations in

the EU treaty since 1992 and 1987 respectively. But that is not to say that substantial progress has been made in the member states in implementing policies that infer a high level of environmental protection at the cost of economic forms of land use, particularly where the task involves the implementation of EU policies.

A particular difficulty in the Netherlands concerns the prominent role that lower authorities enjoy in implementing national protected areas policy, a role that cannot be reconciled with the requirements of the Birds and Habitats Directives. As adopted, the Directives formally recognize the primacy of ecological criteria in determining the location, the size and the delineation of the areas to be protected, and under EU law it is the national government which is responsible for this task. However, protected areas policy in the Netherlands involves a two-stage approach to identifying sites with the purpose of respecting the interests of the many local actors affected by any such decision. In the first stage, the national government identifies indicative 'search areas'; in the second, the provincial authorities delineate the specific sites within these larger areas, taking into account the interests of the local actors. Inevitably, this second stage evolves into a negotiation process between provincial governments and the respective land users, but this approach is inappropriate for implementing the Birds and Habitats Directives, which do not permit the intrusion of economic variables into the ecological calculus of site identification and delineation.

The Dutch government certainly underestimated the risks that this procedure would cause in securing formal compliance with the Directives. It had, after all, in the early 1990s just embarked on an ambitious new nature conservation strategy involving the creation of a national ecological network in which 'core areas' – which were assumed to be extensive enough to include all potential SPAs and SCIs – were to be interlinked with corridors. For land owners and users in the potential SPAs and SCIs – which were in large part the same areas as covered by national nature conservation policy – negotiation with the

implementing agencies was no longer possible, particularly following the judgements in the 1996 UK Lappel Bank case (Case C-44/95) and in the 1998 case against the Netherlands (Case C-3/96). These judgements clearly established that member states are obliged to classify as SPAs all sites that appear to be most suitable for conserving the species in question and that economic arguments may not influence the delineation of an SPA.

This is not to say that all forms of economic land use are prohibited within an SPA or a SAC. Many sites that are designated as SPAs are already used for economic purposes, such as grazing or forestry. Indeed, Article 2 of the Birds Directive explicitly provides that the overall objective is to be achieved 'taking account of economic and recreational requirements', while Article 6(3) of the Habitats Directive lays down a procedure for assessing proposals for activities in SPAs and SACs. The crucial distinction, which was not clearly understood by the Dutch and many other governments, is that between, on the one hand, the peremptory nature of the obligation on member states to identify and delineate sites on the basis of explicit criteria and, on the other hand, the discretionary nature of the provisions that permit existing or new forms of land use in the designated areas to the extent that they do not significantly jeopardise the conservation status of the sites.

Not surprisingly, the decision to consult with land users in the Netherlands triggered a large number of objections. For example, in the process of identifying SPAs under the Birds Directive, the Ministry of Agriculture, Nature Management and Fisheries received over 5000 reactions from interested parties. The main objections raised concerned the haste with which the list of sites was drawn up, the strict application of ecological criteria in determining whether a site should be selected and uncertainty over the implications for land users inferred by designation. For example, when is the disturbance of a SAC 'significant', when is a plan or project likely to have a 'significant effect' on a SAC and what are 'reasons of overriding public interest'? Dutch legislation does not include any provisions to determine how such questions should

be answered. In fact, most of the legislation that prescribes the grounds on which permits may be granted by provincial and municipal authorities for various forms of land use and industrial installations does not recognize nature conservation as a legitimate reason for refusing a permit. Moreover, not all activities that have the potential to damage SPAs and SACs require prior permission. The lack of clear legislative provisions in this regard raises the possibility that, in the event of litigation concerning the legitimacy of undertaking certain activities that would affect a SAC, the court will base its judgement on an interpretation of the text of the Directive itself, as occurred in the 1998 Wadden Sea case mentioned above.

This uncertainty raises the prospect that the way in which SACs are protected and managed could become a matter of dispute, not only in the Netherlands but in all the member states. It is for this reason that the European Commission has published a management guide for Natura 2000 sites with the aim of clarifying many of these issues (European Commission, 2000b). The Dutch government is also preparing a comparable guidebook for use by competent authorities and site managers in the Netherlands.

In contrast to the reactions of many land users, nature conservation organizations were of the opinion that too few sites had been selected. A study carried out in 1998 by the Dutch Bird Protection Society (Vogelbescherming Nederland, 1998, letter to the European Commission) showed, however, that important parts of several valuable areas in the Westerschelde, the Veluwe and the floodplains of the rivers Rhine, Waal and Yssel had not been included in the list of sites drawn up to implement the Directives by the Dutch government. These omissions were subsequently acknowledged by the Secretary of State for Nature Management during a parliamentary debate on the implementation of the Birds and Habitats Directives, but explained on the grounds that the areas in question were subject to intensive use by agriculture, recreational activities, shipping and military training exercises. The Secretary of State did not, however, give any arguments to justify

this decision in relation to the criteria laid down by the directives. At the request of Parliament, she agreed to review the matter and subsequently submitted a revised list of sites for designation under the Birds Directive. Importantly, those areas that had previously been omitted due to intensive land use were now included, to the satisfaction of the Bird Protection Society. However, despite the positive reaction of the society, the Netherlands is still one of 13 member states – the exceptions are Belgium and Denmark – that 21 years after the adoption of the Birds Directive still have to submit a complete national list of sites to the European Commission.

For an EU member state, an EU directive is of significantly greater importance than an international convention since the obligations imposed on the member state can be legally enforced and financial sanctions can be imposed. However, legal action as a means of enforcing compliance with EU directives carries certain disadvantages, particularly where recourse is to the European Court of Justice. Most judgements are made only after a process lasting several years, and even then many are not promptly effected by the respective member state. The Netherlands, for example, has been condemned four times by the Court of Justice for failing to comply with the provisions of the Birds Directive, and a further infringement procedure is under way for failure to comply with a previous judgement concerning the designation of Special Protection Areas. But if the efficacy of the mechanisms for enforcing compliance with EU directives is somewhat limited, the means for enforcing international conventions are bound by even greater constraints: recourse to the two forms of redress – international arbitration or the International Court of Justice – requires in both cases the consent of the prospective defendant. Not surprisingly, no dispute involving the implementation of a nature conservation convention has ever been resolved through either of these two mechanisms.

A final implementation issue of broad interest concerns the role of spatial planning as a means of protecting sites of special value. The planning mechanism has the potential to be

particularly useful in implementing international conventions since, in contrast to EU directives, these do not necessarily require a signatory state to adopt binding legislation as a means of complying with the respective obligations. However, the experience of the Netherlands in this respect is not encouraging. In a recent highly publicized case concerning the development of a new industrial estate in the province of Limburg, environmental groups pointed out that the development threatened one of the last remaining habitats in the Netherlands of the European hamster (*Cricetus cricetus*), a species protected under both the Habitats Directive and the Bern Convention. The local planning authority nevertheless approved the proposals. Appeals by the environmental organizations, which led to the highest Dutch court annulling the local planning permission, resulted in considerable delay in construction.

The shortcomings of lower authorities in this respect were confirmed in a recent evaluation of the implementation of the Ramsar Convention by the Dutch Court of Auditors (Algemene Rekenkamer, 1999): it was found that the procedure through which provinces and municipalities were required to ensure that spatial plans took account of international nature conservation obligations functioned very poorly. The Court of Auditors could not establish to what extent the Ministry of Agriculture, Nature Management and Fisheries fulfilled its obligation to assess provincial structure plans with regard to national policy on the conservation of Ramsar wetlands. Some of the regional inspectorates of the Ministry of Housing, Spatial Planning and Environmental Protection did give attention to wetlands in their assessments of municipal development plans, although it is uncertain to what extent Ramsar wetlands are protected under these plans.

The low level of attention accorded to the role of spatial planning is of special concern given that the issue had already been highlighted by nature conservation organizations in an earlier report on wetlands in the Netherlands (WWF, 1998). There are, however, signs that the persistent problems concerning implementation of these international

agreements, and particularly in regard to the Birds and Habitats Directives, are after many years encouraging public authorities to pay more serious attention to the issue. For example, the municipalities in the Wadden Sea region have decided to incorporate the assessment procedure for new proposals that might affect SACs, as laid down in Article 6(3) of the Habitats Directive, in their local development planning systems. These municipalities are, of course, well aware of the European importance of the Wadden Sea and of the need to comply with international requirements concerning its conservation. However, while this step offers for the first time in the Netherlands the possibility that lower authorities will explicitly apply the criteria laid down in the Habitats Directive to their own land-use planning decisions, it is also important to recognize that development planning is not by itself an adequate instrument to deal with all potential threats to designated sites. The intensification of certain forms of land use, such as changing agricultural practices and the growth in tourism, and the need to actively manage many sites in order to maintain their natural quality, require a broader range of instruments if the objectives of international nature conservation agreements are to be fully achieved (Ligthart and Neven, 2000; WaddenAdviesRaad, 2000).

CONCLUSIONS

International agreements are taking on increasing importance in efforts to conserve biodiversity in European countries. EU measures such as the Birds and Habitats Directives impose binding obligations on member states to protect internationally important sites and species populations, and various international conventions require the formulation of strategic biodiversity conservation policies and the adoption of measures to protect specific types of species and habitat. Some of the effects of these instruments are profound. They are, for example, serving to extend and upgrade existing national nature conservation regimes and to impose international conservation priorities

that limit and are superior to national policies concerning the trade-off between conservation and other land uses: indeed the EU Directives are responsible for introducing a radical innovation in biodiversity conservation policy in Europe, namely that sites which meet certain ecological criteria shall be mandatorily designated, regardless of the value attributed to competing land uses.

However, despite the significance of international instruments for conserving biodiversity in Europe, the implementation of both EU directives and international conventions suffers – if the example of the Netherlands is at all representative – from serious problems: implementing legislation is both late and inadequate, the criteria for identifying sites of international importance are applied inconsistently both within and between countries and little effort is made to ensure that the sites are protected in regional and local land-use plans. The way in which the provisions are being implemented in practice determines to an important extent their value for biodiversity conservation. There is a demonstrable need to ensure that the conservation criteria that underlie the objectives of each agreement are consistently and rigorously applied throughout the implementation process and that governments are pro-active in ensuring that the implementing measures taken by the management authorities in each country are effective in meeting the respective biodiversity conservation objectives.

These shortcomings are the focus of intensifying efforts by the European Commission, national agencies and environmental NGOs to improve the implementation of the EU Directives. However, the efforts will only be successful if mechanisms are developed that are of sufficient substance and compulsion to ensure that the competent authorities at national, regional and local level which are responsible for spatial planning and the environmental impact of agriculture, forestry, hunting, energy, industry, transport and recreation are both equipped with sufficient powers and compelled to exercise those powers in a consistent and efficacious manner.

REFERENCES

- Algemene Rekenkamer. 1999. *Naleving in Internationale Afspraken over Wetlands*. SDU: The Hague.
- Arts B, Van der Zouwen M. 1999. Policy arrangements in nature conservation: the case of the Netherlands in the European context. Paper presented at the conference *Environmental Policy in Europe: Visions for the New Millennium*, London, 1999.
- BirdLife and Vogelbescherming Nederland. 1999. *National Inventory of Ramsar Sites in the Netherlands: Wetlands of International Importance Under the Wetlands Convention*, National Report of the Kingdom of the Netherlands. Vogelbescherming Nederland: Zeist.
- European Commission. 2000a. *Natura Barometer*. *Natura 2000 Newsletter* September: 6–7.
- European Commission. 2000b. *Managing Natura 2000 Sites: the Provisions of Article 6 of the Habitats Directive 92/43/CEE*. Office for Official Publications of the European Communities: Luxembourg.
- Ligthart SSH, Neven MGG. 2000. *Implementatie van de Habitat- en Vogelrichtlijn op de Waddeneilanden: Naar een Procesmethodiek op Maat*, Report 030. Alterra: Wageningen.
- Ministerie van Landbouw, Natuurbeheer en Visserij. 1995. *Strategisch Plan van Aanpak Biologische Diversiteit*. Ministerie van Landbouw, Natuurbeheer en Visserij: The Hague.
- Official Journal of the European Communities*. 1979. Council Directive 79/409/EEC of 2 April 1979 on the Conservation of Wild Birds; OJ L103 25.4.79. As amended by Directives 81/854/EEC; OJ L319, 7.11.81. 85/411; OJ L233, 30.8.85. 86/112/EEC; OJ L100, 16.4.86. 91/244/EEC; OJ L115, 8.5.91. 94/24/EC; OJ L164, 30.6.94. 97/49/EC; OJ L223, 13.8.97.
- Official Journal of the European Communities*. 1992. Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora; OJ L206, 22.7.92. As amended by Directives 97/226/EC; OJ L107, 24.4.97. 97/62/EC; OJ L303, 8.11.97.
- Rijksinstituut voor Volksgezondheid en Milieu and Dienst Landbouwkundig Onderzoek–Instituut voor Bos- en Natuuronderzoek. 1999. *Natuurbalans 99*. Samsom HD (ed.). Tjeenk Willink: Alphen aan den Rijn.
- Romijn B, Kessler B, Kessler JJ, Boland M, Stalenhoef M, Kriesch M, Terwan P. 1998. *Strategisch Plan van Aanpak Biodiversiteit: Evaluatie*. AIDEnvironment: Amsterdam.
- WaddenAdviesRaad. 2000. *Advies over de Implementatie van het Afwegingskader van de Habitatrichtlijn op de Waddeneilanden*. WaddenAdviesRaad: Leeuwarden.
- WWF, Vogelbescherming Nederland, BirdLife International. 1998. *Nederlandse Wetlands 1997*. Vogelbescherming Nederland: Zeist.