

KWAZULU NATALSUBSISTENCE FISHERMEN

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KWAZULU NATAL

SOUTH AFRICA



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There are numerous concerns that we have risen regarding the Marine spatial planning bill and find many discrepancies glaring throughout the bill's processes. The bill does not place a responsibility to the departments concerned as per the SA Constitution and rather shares this responsibility to Director Generals of various departments and those individual departments who are not mandated as per the act.

Objects of the act

We are concerned with the clause in paragraph 2(a) as this will allow government, through their international treaties and trade agreements with different countries, to allow for trawlers from different countries to fish our oceans, at the expense of the local fishing population. These international trawlers are moving closer to the South African coastline. (See letters and article in attachments).

Paragraph 2 (b). We are concerned that this allows for oil and gas exploration, sandwinning and other harmful development which undermines the sea shore act of 1952.

Paragraph 2 (d). This will undermine environmental issues and allow for more dumping of chemicals in the ocean. Stronger measures must be put into place to ensure anyone dumping in the ocean (companies and people alike) will be charged accordingly.

Application of act

The bill must not only bind all organs of state and must ensure people are protected as the South African constitution states.

Conflicts with other legislation

The marine spatial bill should not undermine other pieces of legislation which have been put into place for the protection of the South African people such as the constitution.

This act should not be undermined by economic developments such as oil and gas exploration, which should go through the proper legal process.

Principles and criteria for marine spatial planning

[Point 5(f)] The precautionary approach must be applied at all times. The entire Indian and Atlantic Oceans within South African waters should be part of the stringent governance and control and must be protected for present and future generations.

[Point 5(h)] There should not only be reliance on scientific information, indigenous information must be included in the studies as well.

[Point 5(i)] Trading off marine life should not apply when it comes to the ocean.

[Point 5(j)i] “The principle of efficiency, whereby decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts; and” is immediately put to a halt and a thorough investigation conducted.

[Point 5 (j)ii] The principle of efficiency whereby the principle of spatial resilience and flexibility, must not apply as the ocean will be compromised. This must be added in the clause.

[Point 5 (k)] The principle of good accountability is accorded top priority and must include checks and balances with independent auditing done.

[Point 5 (l)] South Africa’s cross border co-operation is fulfilled and implemented.

[Point 5 (2)] Where co-existence is not possible then decision making must revert to the status quo.

Marine spatial planning system

This does not mention or include all the stakeholders who use the ocean.

Knowledge and information system

The knowledge and information system must be developed and must include indigenous knowledge. It must also include each stakeholder to take part in these studies.

Consultation

The bill needs to specify the different groups in the public which will be directly affected by this bill. These are the subsistence fishermen, the tourism industry, fishing clubs and small businesses on the coasts.

The national working group

The national working group must comprise of different stakeholders such as the public and civil society. Stakeholders that participate in the ocean economy such as subsistence fishermen must be included as well as their livelihoods will be affected.

Directors-general committee

No department should have a monopoly over the other. The mineral department which facilitates oil and gas exploration activities, must be equal in status to other departments. No department should have more power than the rest.

Ministerial committee

An independent ombudsman must be appointed so complaints can be logged.

Publication

As subsistence fishermen and the poorer members of the community cannot afford to buy the Gazette, advertisements must be published in local newspapers and electronic media.

Regulations

The department must consult other stakeholders who use the ocean, not just the ministry of South Africa.

Consulted bodies

The KwaZulu Natal subsistence fishing forum and fishing clubs on the coasts were not informed or consulted.

Conclusion

The bill does not give us much information and is very silent on its real purpose of those who will be affected the most with their livelihoods and once again this undermines the SA Constitutional requirement. What it intends to do, it allows for oil and gas exploration to be conducted under the guidance of secret and not been open and transparent as the current status allows. This is also not the best practice as found in other countries where lessons have been learnt in regard to oil and gas exploration where oil corporations have destroyed the oceans and environment.

The passing of this bill will allow multinational companies to conduct oil and gas exploration activities, with the benefit of not being held accountable for disasters in our oceans such as the Gulf of Mexico oil spill.

Desmond D'Sa

Kwa Zulu Natal subsistence fishermens forum