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# EBA Position Statement
# Secondary use of wind farm areas

## Executive Summary

The European Boating Association[1] (EBA) seeks to ensure that safe passage at sea is safeguarded for recreational boating[2] by clear and uniform regulations and is currently concerned that recreational boating safety is being put at risk by restrictions on passage-making through operational wind farms adopted in some Coastal States.

In line with its position statements on Marine Aquaculture and Offshore Wind Farms it is the EBA's strong belief that safety at sea is best served by allowing passage through wind farms for vessels up to 24 metres in length and by avoiding a mix of very different national regulations in adjoining sea areas.

The EBA is particularly concerned that, instead of being permitted to make passage through wind farms, recreational boats of up to 24 metres in length[a] could be required to share dedicated shipping lanes with commercial vessel traffic, which would be cause for concern about navigational safety.

## Background

Whereas the United Nations Convention on the Law Off the Sea (UNCLOS) clearly defines the sovereignty of a Coastal State reference its territorial sea and Exclusive Economic Zone (EEZ), the unilateral decision by a Coastal State to prohibit navigation through extensive sea areas appears to the EBA to be an unjustified constraint on the exercise of the right of innocent passage.

In general offshore renewable energy installations up to now are realised with wind turbines. Development of wind turbines has been such that with the current installed generating power and rotor diameter the span between turbine installation has increased to about 1000 metres. This leaves an extensive sea area in between individual turbine installations.

Current practice in both the Baltic Sea and the North Sea is that projected wind farm areas are closed for passage during construction and are (gradually) opened for passage of vessels with a length of less than 24 metres as the wind farms become operational. Known exceptions are the sea areas off Denmark, where no maximum length limit is specified and the sea area off Belgium where no shipping is allowed inside the wind farms other than work vessels.

[a] 24 metres in length is an internationally-accepted parameter for distinguishing between "large" and "small" vessels which is drawn from the International Load Line Convention 1966.



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Within the busy waters of the English Channel and approaches, the North Sea and the Baltic Sea the International Maritime Organisation (IMO), in good consultation with Coastal States, has established a system of sea lanes (clear-ways) and traffic separation schemes (TSS) that allow for both safe navigation and optimum space for wind farm development.

Recent increased demands for renewable energy result in an ever-expanding claim on the space available for further (wind farm) developments. All available sea area not taken up by shipping lanes, anchorages, nature conservation zones, military exercise areas and existing pipe- and cable zones are considered to be "search area" for new wind farm development.

To make better use of the unoccupied sea area within wind farm boundaries innovations are being encouraged to look at secondary usage of the available space, which includes:

- nature conservation
- food production
- renewable energy installations other than wind turbines

## Possible Consequences for Navigation

The increased footprint of wind farm areas has a negative consequence for free sea room available to shipping. Whereas shipping lanes are defined with sufficient sea room allocated, this is not the case for smaller vessels including recreational craft.

Various studies covering safety concerns around the interactions between shipping traffic and windfarms at sea investigated, amongst other things, the possible consequences of collisions with individual wind turbines. The general consensus is that vessels smaller than 24 metres in length are unlikely to cause damage to the windfarm installations. At the same time it was concluded that the manoeuvrability of these vessels is such that a collision is highly unlikely.

These "Safety Assessments" are an element in the EBA's position that allowing passage through windfarms for vessels up to 24 metres in length improves the safety at sea.

Secondary usage of (all) the available sea room inside both the current and the projected wind farms may result in all navigation / passage inside these wind farms being prohibited with the exception of dedicated corridors or shipping lanes. This creates a further concern about the safety of shipping in view of concentration of various vessels inside these corridors or shipping lanes, with different speeds, courses and ship sizes.

A direct consequence will be that a concentration of small ships will be found at the edges of the shipping lanes and the wind farms. The density of shipping will increase in these areas which may have negative effects on safety for shipping.

The EBA Position Statement on offshore wind farms states:

*"Squeeze into commercial routes*



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*"Small craft routes differ from commercial routes as small craft essentially aim to keep out of the major commercial navigation routes by travelling in the shallower adjacent waters or taking entirely different routes. As a result, the examination of commercial routes through AIS plotting alone will not ensure the safe positioning of wind farms; small craft navigation must also be taken into account when assessing the impact on navigational risk. This may require routes through large developments to be identified or inshore routes for smaller craft to be safeguarded. The cumulative impact of all marine developments is becoming increasingly important when assessing these issues of squeeze."*

A further negative consequence is that freedom of choice of best course in given circumstances will no longer be available. The course will be dictated by the heading of the corridor or the heading of the shipping lane borders. Good seamanship with small craft at sea includes adapting the course and destination when circumstances change.

## Legal situation

UNCLOS article 56 (1) clearly defines the rights of a Coastal State as:

*1. In the exclusive economic zone, the coastal State has:*

*(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;*

*(b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:*
*(i) the establishment and use of artificial islands, installations and structures;*
*(ii) marine scientific research;*
*(iii) the protection and preservation of the marine environment;*

However in the same article 56 (2) it is stated:

*2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.*

## Current situation with wind farm regulations on the North Sea

An inventory of current regulations with regards to passage through windfarms on the North Sea provides the following overview:

Belgium - all windfarms are closed for passage.

Denmark - passage through windfarms is allowed ; no restrictions

Germany - passage through windfarms will be allowed after completion of successive fields for vessels up to 24 meters with a requirement for active AIS and currently up to Bft 6 and a visibility of 1000 meters



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Netherlands - intention is to close all windfarms and restrict passage to corridors only. Inside corridors passage allowed for vessels up to 46 meter length , by day and by night with requirement for active AIS and VHF.

UK - There is no general prohibition on vessels navigating through operational wind farms in UK waters. As several other European nations have decided to allow small craft (<24m) to navigate through windfarms (and the EU is, or at least was, considering adopting this approach) so the 24m parameter was chosen by the EBA for its position to be consistent with the rules in these nations and is as such advised for passage through UK windfarms.

## The EBA Position on secondary use of wind farm areas

Whilst recognising the rights of Coastal States to impose regulations in their own territorial waters and EEZ, it is in the EBA's opinion that:

- recreational vessels do not need to be prohibited from navigating through a wind farms for safety reasons – there is no evidence to suggest that a recreational vessel of less than 24 metres in length navigating through a wind farm is inherently unsafe, either for the vessel or for the individual turbines.
- it is unnecessary to close all wind farms for through-passage by recreational vessels of less than 24 metres in length for any other reason – offshore renewable energy generation, food production and nature conservation can all reasonably co-exist with the passage of small craft.
- it is likely to be detrimental to the safety of navigation of small craft if different regulations are applied in adjoining sea areas. EBA strongly advocates all Coastal States permitting recreational vessels of less than 24 metres to navigate freely through wind farms.
- if, despite the above, a Coastal State considers it necessary to impose restrictions on navigation through wind farms by recreational vessels of less than 24 metres then that State should pay particular attention to communicating these restrictions to all recreational vessels which may wish to navigate in the relevant sea areas.

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Notes

[1] **European Boating Association**

The European Boating Association, Europäischer Sportschifffahrtsverband, Association Européenne de Navigation de Plaisance, is a civil, not for profit association of recreational boat users' organisations, founded in 1982, and established as an Unincorporated Association whose members agree to be governed by its constitution. The EBA member organisations (see http://www.eba.eu.com/participantorgs) collectively represent in excess of 1.5 million recreational boaters and an estimated 20 million active participants.



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The purpose of the EBA is to represent the mutually agreed common interests of national recreational boat users' organisations in Europe, and in particular to:

- Coordinate and develop recreational boating activities in Europe by exchange of information, and action on matters of mutually agreed common interest.
- Promote the practice of all activities on the water, promoting and exchanging knowledge and experience between recreational boat users' organisations in Europe.
- Represent EBA members in environmental, regulatory and technical matters affecting their safe enjoyment of recreational boating activities on the water.
- Encourage the safe, unhampered and environmentally sustainable use of recreational boats on all European waters.
- Provide the link between the European institutions and EBA Members for consultation and information on proposed EU directives and regulations.
- Provide the link between other relevant global and regional organisations and EBA Members.

## [2] Recreational Boating

The EBA is the European representative organisation for recreational boating.

There is no general consensus as to the terminology used to describe the types of boat used for "recreational boating", with expressions such as "recreational craft" or "private pleasure craft" being used to describe only subsets of such types of boat for the purposes of specific pieces of EU legislation. "Recreational boating" also includes the use of beach- or slipway-launched water toys such as wind surfers, sailing dinghies, inflatable boats and personal watercraft.

Boats used for "recreational boating" may be small or large, propelled by sail and/or power and used on inland waters and/or at sea. "Recreational boating" at sea can range from close-to-shore to trans-oceanic.

"Recreational boating" also includes the use of such boats privately owned and operated by the owner, hired (on bareboat or skippered charter) or used to provide a service (such as training or race participation).

In the context of this document, therefore, the EBA considers "recreational boating" to mean using boats that are designed or adapted for sport or leisure, whether propelled by sail and/or power, for the purposes for which they are designed or adapted.



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