

Toward a More Deliberative Port Planning:
The "Vision and Daring" of Environmental NGOs in Negotiations on the Second
Maasvlakte, Port of Rotterdam, the Netherlands

by

Sarah D. Kelly

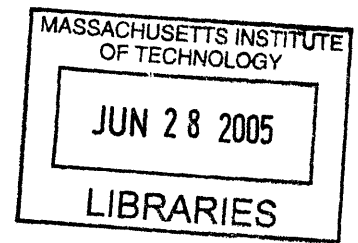
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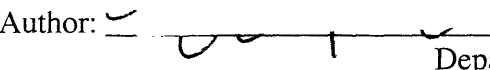
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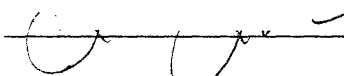
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ABSTRACT

This thesis examines the planning process for a major expansion project in the Port of Rotterdam, the Netherlands (Maasvlakte 2), as a case study of mutual gains-oriented consensus building and interactive problem solving. After years of formal negotiations between a broad range of local, regional, and national stakeholders, the project planning came to an impasse when environmental organizations and port expansion proponents could not reconcile their positions on if and under what conditions the port should be extended. I posit that at this critical juncture certain environmental organizations took an uncharacteristically proactive role in altering the relationships between stakeholders in a way that was crucial to the ultimate achievement of a consensus among them. The case demonstrates how actors other than those who are formally responsible for structuring negotiations can profoundly influence them so as to promote a sense of interdependence and shared vision among even the seemingly most oppositional factions. This conclusion supports the assertion by network theorists that in the modern era effective planning and policy formulation cannot be achieved solely through government decision-making. Instead, they must rely upon more deliberative processes that incorporate a wider range of actors. Based upon this analysis, I prescribe a model of interaction for actors in complex, multi-stakeholder negotiations, which, while particularly relevant to contemporary port planning projects, is broadly applicable to diverse contexts.

Thesis Supervisor: David Laws
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I. INTRODUCTION

Over the past several decades most of the world's largest ports have undertaken major landside expansions and large-scale dredging of their harbors and shipping channels. In case after case, these projects have sparked dramatic conflict. Representatives of national economic interests maintain that this type of development is essential in order for ports to remain globally competitive in the modern era. At the same time, many stakeholders have protested that the economic benefits gained by port expansions are outweighed by the damage caused to the natural environment and the degradation of the quality of life of local communities. Time and time again, these conflicts have polarized pro and anti-port sentiment and triggered long and costly legal battles that only end when one side "wins" at the expense of the other.

In this thesis I examine the planning process for a major development project proposed for the Port of Rotterdam. The project, called Maasvlakte 2, would entail a second large expansion of the port into the North Sea in order to accommodate projected growth in container shipping activity and the chemical industry. A formal planning process, called the Rotterdam Mainport Development Project (Projectorganisatie Mainport Rotterdam, or PMR, in Dutch), was established to determine whether and how this expansion should occur. From the outset, one group of stakeholders, led by the Municipality of Rotterdam and the Rotterdam Port Company, perceived expansion as an essential step for sustaining the economic viability of the port. A second group of stakeholders, led by regional and national environmental organizations, viewed the planning process skeptically; they did not believe the Port could guarantee the realization

of these economic benefits without producing significant negative environmental consequences.

I focus on discrete episode in the fifteen-year planning process for the Second Maasvlakte that begins with a crisis point. The crisis arose when environmental organizations and other NGOs felt that their interests were not being adequately addressed in the formal planning process. The Government Ministry whose mandate it was to organize the process and to see it through to an agreement responded to impasse by restructuring the negotiations in an effort to find an approach that would be acceptable to the NGOs and keep them in the deliberations. At this same moment, a group of key environmental organizations also took an unconventional step to try to re-make the relational dynamics between stakeholders. They attempted this through a number of actions, including the initiation of separate, informal negotiations with the Port Company. In this thesis I address two central questions. *Why did the environmental organizations choose to undertake a parallel process with their most oppositional stakeholder? What impact did their course of action have on the negotiating environment and the way in which a consensus was ultimately achieved between stakeholders?*

I posit that the unconventional actions of the environmental NGOs were essential in fostering an agreement that both the environmental NGOs and the Port Company could endorse. The impasse that had been reached could not be overcome solely by the Ministries' restructuring of the formal planning process. The informal negotiations between the environmental groups and the Port Company, which excluded both the Ministries and other stakeholders, allowed the environmentalists and the Port Company to create a new ad-hoc institution that was critical to their ability to reframe the problem

they were trying to resolve. No longer did the environmentalists and the Port Company see themselves as opponents and proponents of the port expansion, respectively. Instead, they saw themselves as actors who were together seeking out a mutually-beneficial solution founded upon principles of economic growth *and* environmental sustainability. It was this reframing that allowed them to come to an agreement they could both support.

This case study calls into question whether or not it should not always be the responsibility of government to take the initiative to restructure negotiations when they reach a point of impasse. It demonstrates that stakeholders in complex negotiations themselves possess the capacity to fundamentally change the relational dynamics between parties in ways that can change the way in which policy is created. This may mean working within the existing institutional structure but can also entail the creation of new institutions through which to deliberate. This reflection on practice supports the theoretical argument put forth by network theorists and proponents of deliberative democracy that we have entered an era when “old” institutional structures and norms of behavior for actors are insufficient to address many of today’s modern planning and policy dilemmas. Because of this, in many spheres of planning and policymaking there has been a shift from a more reactive, passive role for stakeholders to one that is more proactive, decentralized, and deliberative. An important shift has occurred from a more top-down, government-centered approach to one that is characterized by a more stakeholder-controlled system of *governance*.

The movement of negotiations away from the formal planning process and government and into a realm stakeholder-driven realm has a number of important implications. First, it raises questions regarding the straightforward applicability of some

of the widely acknowledged principles of “best practice” consensus building. The case shows that government alone cannot always be responsible for structuring the environment in which consensus can be achieved. Even beyond this, stakeholders cannot always influence negotiations in order to achieve consensus within the bounds of government-controlled processes. The case presented in this thesis shows that certain conditions that were necessary for consensus building could be achieved in the informal, parallel process that could not be created within the Ministries’ process. Shifting the negotiations partially outside of the formal planning process became then a necessary *precondition* to the effective application of consensus building techniques.

At the same time, shifting negotiations to a forum that is more informal and stakeholder-led poses real dilemmas regarding the legitimacy of the process and the ease with which its outcome can be implemented. The questions regarding the legitimacy of consensus building processes arise from other stakeholders, the government authorities responsible for the formal process, and the constituents who the negotiating parties are supposed to represent. From the perspective of these groups, negotiations that are more decentralized, informal, and driven by stakeholders do not guarantee the same levels of transparency and permeability to diverse interests as formal, government-run processes. Likewise, the fact that such negotiations intentionally exclude certain stakeholders—in this case many stakeholders—creates potentially fatal problems with respect to the ability of stakeholders involved in such processes to implement their agreements.

Beyond what this case highlights with respect to the nature of consensus building in the context of a shift toward governance, it brings to the surface fundamental questions about the extent to which formal representation and electoral politics are appropriate

methods for promoting democracy once this shift has been made. The network society presents a myriad of opportunities for citizens to exert their influence on others. Actors within networks come to think of their interests not as discrete and separate from other actor's, but as interconnected to them. This makes it more difficult for actors to parse out their own distinct interests and less desirable for them to promote them independently through representation in government. The democratic ideal in the network society is, therefore, not equal opportunity to influence government, but a greater interdependence among actors so that the governance that comes out of it incorporates the full range of a society's interests. Following from this, more democratic consensus building processes may not necessarily be those that provide all stakeholders with the same chance to participate in formal government-led negotiations, but rather those that provide them with opportunities to leverage their position in the network to influence the policy that arises from it.

Finally, this case begs the question of whether the shift in the policy-making environment will be ephemeral or lasting, partial or complete, limited to certain circumstances or broad reaching. I conclude that in the long-term this will largely be determined by the willingness of both future stakeholders and governmental authorities responsible for managing such processes to proactively embrace the changing context. If they are aware of both the opportunities and the challenges of a new, more deliberative form of planning and policy making, they will be able to learn from them. They can take advantage of the unique features of this context, preempt its potential problems, and reinforce and build upon new relationships and patterns of interaction.

This thesis first establishes a theoretical framework to be used to understand the case, then describes the case as a multi-perspective account of practice, and finally draws upon these findings in order to formulate broad prescriptions from it. Chapter 2 presents the theoretical framework through a literature review that is divided into two parts; the first part describes emergence of the network society and the rise of deliberative democracy and the second provides a vocabulary for talking about mutual-gains oriented negotiation and consensus building. Chapter 3 provides background that is integral to an understanding the case study. Chapter 4 presents the case study description based on the retrospective accounts of stakeholders and reflection on practice. The fifth and final chapter of this thesis gleans key lessons from the case study and discusses their broader applicability.

The research methodology employed in this case study was interpretive in nature, relying primarily on one-on-one interviews supplemented by primary sources from the negotiation processes and scholarly literature on the subject. Interviews were conducted in the Netherlands from January 2005 through March 2005. The following groups of individuals were interviewed:

- 1) Direct *participants* in the negotiations for the Second Maasvlakte;
- 2) Others who might consider themselves *stakeholders*, but were not involved directly in negotiations;
- 3) Academic *scholars* with knowledge about the negotiations and the wider planning context.

This thesis also relied upon a range of documentation on the Port of Rotterdam generally and on the formal planning for Maasvlakte 2. These documents have been published by the Ministries, the Rotterdam Port Company, and others.

In many ways, the case study illuminates challenges to governance that are distinct to the political, economic and environmental context of the Netherlands in the twenty-first century. Traditionally, policymaking in the Netherlands has been conducted through a corporatist style of government in which individuals are represented by elected representatives in Parliament and through the participation of inclusive interest groups in national and provincial policy-making. This system of ‘double representation’—known as the “polder model”—is breaking down as Dutch society becomes more internally diverse, as stable domestic interests fragment, and as national institutions are forced to acknowledge a globalizing economy and dynamic transnational policy communities. The decline of the polder model has coincided with other factors, such as the rising uncertainty with respect to its global competitiveness of the Port of Rotterdam and a national reconsideration of the meaning of environmentalism. In this light, the actions taken by the environmental organizations must be understood at least in part as a response to a particular set of historical conditions that have created a period of institutional transition and uncertainty in the Netherlands.

But the implications for this case extend far beyond the Netherlands. Around the world, port development projects are facing immense, and in many cases unprecedented, challenges. To remain viable, modern ports must be able to accommodate larger vessels and a much greater volume of throughput, more cheaply and efficiently than ever before. There is an increasing need for larger land area, deeper berths, and improved access to infrastructure, so as to accommodate bigger ships and to take advantage of economies of scale. At the same time, the potential for environmental damage is greater than ever and the local benefits historically linked to port development can no longer be presumed. The

collision of these two realities has resulted in a port planning that is more vitally important to national economies but at the same time poses an unprecedented environmental risks and often promises fewer local benefits. While many port authorities have used economic justifications to push to get projects built whatever it takes. In light of the great potential for social and environmental damage, the old style of top-down, “expert” driven port planning simply isn’t working anymore. The case I present with respect to the Second Maasvlakte, provides a glimpse at what an alternative approach that could prove extremely informative, even instructive to others involved in port planning around the world

Overall, the case I present in this thesis provides evidence of organizations that are trying to resolve planning dilemmas in a new way. Their actions signify a shift from government-centered policymaking to policy formation that is more deliberative and stakeholder-driven. While their “success” may have been incomplete with respect to achieving an outcome that was regarded by all stakeholders as optimal, their approach provides important insight into the way consensus building processes might look in a “post-government” era, in which the traditional institutions through which decisions have traditionally are no longer sufficient to deal with many pressing planning problems. The process that took place in this case was largely experimental, at times even accidental, and was an imperfect solution to the problem-at-hand. Nevertheless, it opened up new opportunities for building agreements that may be instructive for similar port redevelopment projects as well as other complex, high-stakes negotiations. For stakeholders in such processes, this case provides important lessons regarding their capacity to re-shape negotiations and generate alternative solutions. For government

authorities formally responsible for such processes, it describes the emergence of a new political landscape and implores them not to respond with resistance, but to embrace the opportunities it presents to resolve the unprecedented challenges in an uncertain future.

II. LITERATURE REVIEW

This literature review is divided into two sections that describe the two interrelated bodies of literature that provide the analytical framework for the case that I present in this thesis. The first section—on deliberative democracy, networks and the rise of governance—describes a shift in the policymaking environment that is significant both in the context of the Netherlands and with respect to trends worldwide. The second section—on mutual-gains negotiation and consensus building—contains three different subsections: the first provides an overview of the goals of consensus building as articulated by the literature; the second gives a summary of the major strategies prescribed by the literature for achieving those objectives; the third articulates major dilemmas that can arise in employing the prescribed strategies.

A. Deliberative Democracy, Networks, and the Rise of Governance

Over the past decade, the notion of the emergence of a “network society” has arisen concurrently within the diverse disciplines of geography, economics, sociology, political science, and planning. Their interaction has created a multi-disciplinary dialogue central to which is the core concept that formal institutions of government worldwide are no longer capable of addressing modern problems. Rather, politics and policy-making on the local, national, and international scales are increasingly characterized by a need to call into question conventional power relationships and decision-making roles. Because of this, policy analysis must not focus on *government*—which presumes that policy is made and implemented by a centralized and hierarchically structured authority—but should instead concentrate on *governance*—in which policy is made through a more diffuse set of interactions among an interdependent network of actors.

Political scientist Maarten Hajer describes the incapacity of traditional institutions to resolve these dilemmas as an “institutional void” where “there are no clear rules and norms according to which politics is to be conducted and policy measures are to be agreed upon” (Hajer 2003: 176). Because of this, entities that once exercised a broad mandate to create and implement policy now find themselves needing to interact extensively with—and to a certain degree relinquish their authority to—a dispersed network of actors. This deliberation, he argues, is necessary in order to create effective policy. Beyond this, it has lasting impacts on the decision-making context. According to Hajer, “actors not only deliberate to get to favorable solutions for particular problems but *while deliberating* they also negotiate new institutional rules, develop new norms of appropriate behavior and devise new conceptions of legitimate political intervention.” (Hajer 2003: 176). While filling the institutional void, these actors shape the decision-making environment in ways that will influence how policy will be created in the future.

Patsy Healey, likewise, implores a need for innovative forms of governance that reflect the reconfiguration of state-economy-civil relations. She argues that the traditional policy community—clearly differentiated from other spheres of society and serving a distinct function of setting policy agenda—actually impedes policy formation in the modern context. She writes:

It is these divisions, discourses and practices which now seem to trap government in modes of thinking and acting which lack the flexibility to respond to new ways of living, new ways of doing business in a globalizing context and new cultural awareness of the significance of environment and place qualities. As many now articulate, the challenge is to develop relations between the spheres of civil society, the economy and the state which are less hierarchical and less paternalist, which are sensitive to the needs and aspirations of diverse groups (and especially those that tend to be marginalized) and which have a capacity to learn from diverse knowledge resources (Healey 2003: 67).

This is not to say that the old way of doing things can or should be instantaneously shattered. To the contrary, Healey recognizes that the new elements of practice that emerge often coexist and interact with the old in a period of struggle and destabilization. Transformations in discourse can exist indefinitely on a more surface level without penetrating into a “deeper cultural level” (Healey 2003: 69). This idea is similar to one that is articulated by Hajer and Zonneveld who describe a “shadow structure” that often exists parallel to the official planning system (Hajer and Zonneveld 2000). It is not until the new modes of interaction permeate the core infrastructure of relationships and power dynamics that governance—driven by networks and deliberation—can dominate.

Links between notions of deliberative democracy and environmental planning and policy have also emerged. Sabel, Fund and Karkkainen suggest that the environmentalist movement in the United States has embraced “a novel form of democracy that combines the virtues of localism and decentralization with the discipline of national coordination” (Sabel, Fung, and Karkkainen: 1999). They argue that the new environmentalism stands in sharp contrast to the once-dominant NIMBY (for “Not In My Backyard”) behavior characterized by antagonism and positioning against development in one’s immediate vicinity without objection to similar development elsewhere. What Sabel, Fund and Karkkainen present is not just a shift in attitudes about environmentalism but a new type of interaction between spheres of society through which parties can deal with complex environmental dilemmas. This interaction involves the formulation of alliances between parties traditionally viewed as oppositional (such as environmentalists and industrialists) and greater information exchange between levels of government. As a result, top-down

environmental regulation has declined and has made way for a more decentralized approach to policy-making. This kind of policy relies upon the accumulation of knowledge among local actors who together take shared responsibility for generating it.

Networks tend to arise organically, responding to societal needs rather than being constructed deliberately in order to address them. Nevertheless, network management has arisen as a focus for some scholars who claim that networks can be influenced to take on more desirable forms. Network management aims at “coordinating strategies of actors with different goals and preferences with regard to a certain problem or policy measure within an existing network of interorganizational relations” (Kickert, Klijn, and Koppenjan 1997: 10). The potential for networks to be managed signifies that case studies like the one presented in this thesis can be very valuable to practitioners who grasp their logic and potential. They can look to other cases as examples inform the ways in which they try to develop and shape their own networks.

Equally important as developing an understanding the shift from government to deliberative policymaking through governance is determining how to study it. Maarten Hajer and Hendrick Wagenaar put forth that such analysis should be employ an interpretive, as opposed to a positivist, approach (Hajer and Wagenaar 2003). Interpretive methods, which recognize the biases of perspective and aim to understand phenomena rather than explain and evaluate them, are naturally applicable to deliberative policy analysis; they allow us to pursue “a varied search for understandings of society to facilitate meaningful and legitimate political actions, agreed upon by mutual interaction, to improve the collective quality of life” (Hajer 2003). Research should be empirical in nature according to Hajer, although the findings from this research can then be used to

make normative assessments about if and to what extent the new policymaking processes that occur in an network society contribute to outcomes that we perceive to be more democratic, inclusive or legitimate.

Network theory highlights the interdependence between actors in the policymaking environment. Closely related, theories of deliberative democracy describe a distinct shift from policymaking that hinges on the centrality of a formal authority to societal dependence on networks. In this thesis, I describe a scenario in which a planning process the deliberations through which policy was formulated moved partially out of the realm of government to a forum that was controlled by other nongovernmental actors. I present, therefore, an account of practice that can be framed very naturally by these theories. In keeping with Hajer and Wagenaar's approach, my methods are interpretive. I provide a multi-perspective, empirical description that is intended to provide and understanding of a particular case, not an explanation of or judgment on it.

B. Mutual-Gains Negotiation and Consensus Building

The majority of consensus building literature focuses on getting parties who think their interests are at odds over a particular issue or problem to agree to a solution to it that they all feel is advantageous to them. It aims to delineate methods through which the dynamics of negotiations and the relationships between actors can be changed in order to provide these opportunities for them to achieve mutually beneficial outcomes. Howard Raiffa describes this goal as facilitating consensus among "cooperative antagonists" who may naturally be predisposed to be slightly distrustful of each other and likely to indulge in strategic posturing (Raiffa 1982: 18). The goal of mutual gains negotiations is to alter the perceptions of stakeholders that their situation is "zero-sum" in nature, where the

gains by one party necessarily mean the losses of another. In doing so, parties come to feel that their interests are not inherently contradictory, but in fact interdependent. Parties will then come to believe it is possible to achieve “value added” outcomes whereby they will all gain *more* by coming to a consensus than they would by not pursuing and agreement (Raiffa 1982. Lax and Sebenius 1986). This generates a sense of collective interest among stakeholders, allowing them work collaboratively toward a shared vision for of a desirable outcome.

i. Goals

In their seminal book Getting to Yes, Roger Fisher and William Ury describe the standard approach to negotiation as one of as positional bargaining. They argue that this type of interaction does not provide the conditions needed for stakeholders to formulate consensus with which all parties will be satisfied. They advocate instead for a type of “principled negotiation,” which is characterized by certain practices and aims to achieve three goals: the production of more optimal results for all stakeholders; greater efficiency; and the strengthening of, or at least minimization of damage to, the relationship between parties (Fisher and Ury 1982). They emphasize the first goal—to produce outcomes in any given negotiation perceived as beneficial by all parties.

Herbert Kelman, on the other hand, presents the third objective—the strengthening of long-term relationships—as the most important aim of consensus building processes. He states that the goal of any negotiation should be for “a transformation of the relationship between parties.” (Kelman 1996: 99). He emphasizes that negotiations should set an ambitious goal of creating and maintaining “the basis for a stable, long-term peace and cooperative, mutually enhancing relationship that contributes

to the welfare and development of both societies” (Kelman 1996: 104). In this light, the true aim of consensus building is larger than the outcome of any particular process; it is the transformation of relationships themselves, an idea that aligns well with Hajer’s notion that deliberation establishes new norms for future interaction (Hajer 2003).

Other scholars give varying weight to the goals of achieving a mutually desirable outcome for a particular process and changing the relationships between stakeholders. In most instances, the two aims are portrayed as complimentary; the achievement of an outcome for a specific negotiation process that all stakeholders support is indicative of a transformation in how the parties relate to each other. The former is, in effect, a result of the latter. The question that remains is how to *sustain* the new dynamic between stakeholders to ensure that it lasts.

ii. Strategies

The majority of literature in on negotiation and consensus building is prescriptive in nature, providing a “how to” guide either for participants or the managing authority in a negotiation process. James Sebenius describes this as an “asymmetrical descriptive/prescriptive approach” whereby a negotiation analysis seeks to create prescriptive advice for third parties that assumes “intelligent, goal seeking” action by parties, though not perfect knowledge or complete rationality (Sebinus 1996: 20). This literature presents strategies for achieving mutually acceptable agreements, which are then presumed to be generalizable to a broad range of conflicts.

In *The Consensus Building Handbook*, Larry Susskind identifies five specific steps to be followed in reaching a consensus: convening, clarifying responsibilities, deliberating, deciding, and implementing agreements (Susskind 1999). For each of these

steps he prescribes certain actions that should be taken in order to bring parties closer to an agreement. These prescriptions are largely targeted at entities that are responsible for managing negotiation processes. Some of the recommendations are very specific (ie. “establish a mailing list”) while others are broader and are left up to practitioners to interpret (ie. “express concerns in an unconditionally constructive manner”). Combined, the prescribed strategies aim to help parties “do better than what no agreement holds in store for them” (Susskind 1999: 12).

Other scholars put forth different variations on Susskind’s prescriptions. The majority, however, utilize the same approach of advocating for universal strategies that can be employed in a wide range of disparate situations. Below the most common prescriptions for consensus building literature are summarized.

Acknowledge stakeholder differences

Fisher and Ury put forth that the first task in getting parties talking productively with each other is to “separate people from the problem” (Fisher and Ury 1982). This is accomplished when stakeholders actively seek to identify each other’s most fundamental values and viewpoints, however seemingly irrational or emotionally driven they might be. In doing this it becomes easier for stakeholders to empathize with each other while negotiating. Rather than discounting each other’s backgrounds, perspectives and feelings, by acknowledging them they can then determine jointly how both to address them and to divorce them from the “substantive” issues on the table.

A different take on this need to acknowledge the differences between stakeholders is offered by Gurevitch who claims that before seeking to understand each other stakeholders must try to *not* understand each other. He puts forth that parties will

inevitably bring into any negotiation their own assumptions about others. Because of this, participants in a negotiation must first accept their differences, rather than presuming that they already know the perspective of the other. He states, “In a moment of not understanding, what had been considered ‘understood’ is relinquished as mere image.” This is a moment of “making strange” during which the actor is liberated from the image that she has projected onto the other’s experience. (Gurevitch 1989: 162).

Implicit in both the ideas of Fisher and Ury and of Gurevitch is the prescription for a deliberate and straightforward acknowledgement at the start of any process of negotiation of differences between parties’ backgrounds and viewpoints. Beyond this, the aspects of stakeholders’ perspectives that may be perceived as less rational and more influenced by emotions should not be ignored. Rather, they should be identified and ascribed value as motivations that can and should factor into the discussions as they move forward.

Get at interests

Often when stakeholders come to the negotiating table they feel that they have a clear sense of their position on the issue at hand, a position that they believe is immutable. If this position is perceived as inherently contradictory to that of another stakeholder they will enter the debate already convinced that consensus cannot be achieved. Consensus building literature argues that getting at what is *behind* stated positions and focusing on underlying interests is therefore critical.

Fisher and Ury argue that getting at interests provides opportunities for consensus building even in situations where stakeholders may initially have perceived it to be impossible (Fisher and Ury 1982). Kelman explains that any negotiation process must

address parties' innermost needs, which may be independent from their more material, measurable, and quantifiable wants. The unfulfilled needs that cause conflict are, according to Kelman, not just material, but also psychological. While psychological needs may be more difficult to identify initially, they also offer great potential for simultaneous fulfillment for all parties as they are as not inherently zero-sum in nature; no party needs to give up its own psychological needs in order to fulfill another's (Kelman 1996). Susskind and Thomas Larmer put forth that in many circumstances a conflict assessment can be conducted in order to determine who stakeholding interests are and where they agree and disagree (Susskind and Thomas Larmer 1999). But whether interests are material or psychological, and whatever tools are employed to get at them, the lesson remains the same: seeming inherent incompatibilities in positions can be circumvented by getting stakeholders to talk about and address the more basic interests behind them.

Broaden the scope of the debate

Because stakeholders are likely to have a broad range of interests that extend beyond the core focus of any negotiation, one of the most valuable strategies for satisfying participants in a negotiation keep its scope broad. Fisher and Ury refer to this as the need to generate "a variety of possibilities before deciding what to do" (Fisher and Ury 1982). Conversely, it is essential not to eliminate certain ideas and issues before stakeholders have had ample opportunity to explore the full range of solution ideas that are important to them. By prematurely dismissing these ideas, creativity is stunted and the opportunity for concepts that might be desired, but deemed as unfeasible, to be reformed into something that could actually work practically. Only when parties come to

form a common ground about their goals and objectives can they systematically determine their constraints and how to deal with them (Kelman 1996).

Build Trust

Perhaps the most fundamental tenet of consensus building literature is the notion of building trust among stakeholders. Much consensus building literature draws upon game theory in order to explain the notions of the importance of building trust over time (see, for example, Raiffa 1982). They liken the many micronegotiations that take place in a consensus building process to a game that is repeated many times. In order for any player to induce other actors to behave in ways that are advantageous to them, they must show with their actions that they will behave likewise. Simply expressing trustworthiness to the other actors is not enough; trust building must occur in the “sphere of activities, and not of ideas or wills” (Davis, quoting Parker Follett, 1989). The prescription arising out of this is for stakeholders to behave in such a way that demonstrates trust from the beginning, respecting and sticking to agreements and making meaningful concessions, and to maintain this behavior throughout the course of negotiations.

Acquire constituent support

Participants in a negotiation often face what is referred to as a “two-table” problem. This dilemma arises when they need support from their constituency—such as members of an organization or citizens in a politician’s jurisdiction—in order to for other stakeholders to believe that they can and will stand behind agreements made in the negotiation process. Kelman refers to this as the need to create a supportive political environment (Kelman 1982). Laws explains it as a dilemma that arises when

representatives come to find that they cannot negotiate within a process without working to keep their constituents informed about it. He states:

A seamless as it may appear to a representative caught up in the process, it may be jarring to those outside the process who suddenly confront their agents talking about each other and the problem in new terms. Representatives had better be able to explain themselves if they have any hope of getting their constituents to approve.
(Laws 1999: 270).

The prescription for handling this problem involves maintaining a very careful balance between fully dedicating themselves to the collective interest of the participants of the negotiation and ensuring that constituents feel their interests are not compromised in the process.

Come to knowledge jointly

In order for stakeholders to come to a consensus, knowledge—even that which seems to be “purely” of a technical or scientific nature—cannot be imposed upon them. While it is often the immediate reaction of those managing process to look to experts to settle scientific or technical questions, consensus building literature emphasizes the need for stakeholders to take a part in that knowledge formation. Rather than presuming that knowledge is something fixed and certain, it should be considered as inherently subjective and therefore worthy of debate and exploration from multiple perspectives.

The standard prescription put forth to achieve this aim is to initiate a joint-fact finding process. Susskind sets out a procedure in which all participants agree on (a) what information is sought, (b) how it should be generated (ie., by whom and using which methods), and (c) how gaps among technical sources will be handled (Susskind 1999: 46). Ehrmann and Stinson argue that such a process creates a number of advantages including that they provide the opportunity for participants to learn about the scientific

foundations of various arguments, they produce agreements that are “more credible, more creative, and more durable” than they would be otherwise, and they enable parties to build strong relationships (Ehrmann and Stinson 1999). Even if stakeholders interpret the significance of the knowledge differently, they will share a sense that it is legitimate which will allow them to move forward with discussions and they will have strengthened the effectiveness of the process itself in doing so.

iii. Dilemmas

The strategies that are prescribed in order to achieve consensus are not always easy to adopt. Consensus building literature presents a range of potential dilemmas that are likely to arise in the process. Three of the most common dilemmas are presented below.

Commitment

Acquiring commitment from actors that they will stick by the agreements they make in a negotiation process presents one of the most difficult challenges to consensus building. Parties often fail to commit out of fear that others won't. Susskind puts forth that in situations when participatory organizations are more ad hoc and when the structure is one of more dispersed power and responsibility, commitment issues are likely to pose problems. The commitment of parties is likely to be viewed with less skepticism when parties are part of permanent organizations and in hierarchically run organizations because top management will hold participants accountable to their promises (Susskind 1999: 51). But in either situation, if not addressed, the inability to acquire a commitment threatens to erode trust among participants and to unravel the progress made in the process.

Legitimacy

It is argued in the literature that interactive consensus building processes in which the full range of stakeholders are at the table will produce outcomes that are perceived as legitimate. But what happens when stakeholders are not organized enough to participate? Or when stakeholder interests fall too far outside of what is perceived as relevant to the specific issues at hand to be incorporated? Laws states that there are some cases where groups may be unable to participate or unwilling to commit the resources to do so. In such cases, certain stakeholders may be systematically or de facto excluded. While strategies can be employed in which participants can take into account the perspectives of non-present parties, this still can result in a difficult “tension” regarding the legitimacy of the process (Laws 1999: 264).

Consensus building literature also posits that legitimacy is achieved when the facilitator of a negotiation is perceived to be neutral by all parties. Susskind explains that legitimacy is hard to achieve when a party with a stake in the outcome of the process is charged with facilitating it because “in the final analysis, there is reason to worry that a stakeholder might use a facilitative authority to advance his or her own interests at the expense of others” (Susskind 1999: 7). Elliot writes that in *most* cases the facilitator should therefore come from outside a stakeholding organization that is entirely disconnected from interested parties (Elliot 1999:231). But Elliot also identifies four distinct criteria by which a facilitator can be judged—ability to understand the context, ability to design and manage the process, impartiality, and ability to handle sensitive information. His identification of these criteria implores a complex range of factors can and should determine who the facilitator ought to be, making it very possible for

situations to arise when complete independence might be outweighed by other considerations.

Implementation

Even the most broadly accepted consensus, which adheres to all of the best practice tenets as described above, may not be implementable. William Potapchuk and Jarle Crocker explain that there is a correlation between the scope of the problems addressed and the number of stakeholders involved in a process and the implementation challenges it is likely to face; the broader the scope and the larger the number of stakeholders, the more difficult implementation will be. One of the core issues they identify is that “while new ways of making public decisions continue to spread in use and popularity, the mechanisms for their implementation are usually found in traditional institutions and processes” (Potapachuk and Crocker 1999: 529). They argue that the “product” of collaborative decision-making often extends beyond an agreement about a particular issue to include the creation of “new relationships among stakeholders, novel and shared understandings of the problems being addressed, and more constructive norms of behavior of individuals, organizations, and communities (Potapachuk and Crocker 1999: 531). These outcomes are often not well integrated into existing institutions. While an agreement may be made on paper, these agreements may require a change in institutional “ethic” that does not naturally follow.

III. BACKGROUND

A. Brief History of the Port of Rotterdam

The history of the Port of Rotterdam has been one of continual expansion toward the sea. The port's origins date back to the second half of the 13th century, before the City of Rotterdam was founded, when a fishing village arose where the Rotte tributary flowed into the bend in the River Meuze (Maas). Gradually growing over the course of several hundred years, the Port's first harbors were constructed between 1600 and 1620. During the next three-hundred years, it continued to grow into a large-scale bulk cargo port serving Europe. The port's first great boom era occurred in the first half of the 20th century, with the construction of two petroleum storage and distribution facilities and a refinery. While it suffered large-scale destruction during the Second World War, the port was reconstructed in the 1950s and continued to expand. By 1962 the Port of Rotterdam was the largest port in the world.

In the mid-1960s, the port faced enormous pressure not only to expand its land area, but also to deepen its harbor basins in order to accommodate the steady growth in the size of ships being used for transporting container cargo. In order to remain globally competitive, the Government was convinced that the Port of Rotterdam had to deepen its access channel, and it granted permission for companies to engage in a series of dredging projects through the late 1960s and 1970s. These projects opened the way for much larger transatlantic containerships, inspiring the creation of a container transshipment company, Europe Combined Terminals (ECT), and providing the opportunity for the further development of the Port of Rotterdam, now Europe's primary port not only for bulk cargo but also for container handling.

By the 1970s, the Port of Rotterdam had expanded as much as landside constraints would allow, but demand for more container space continued to increase. The First Maasvlakte was the Government's response to this problem. For the first time the port area was built out into the ocean through infill on top of an existing sandbank that extended into the North Sea. The Maasvlakte extended the land area of the Port of Rotterdam by 3,000 hectares to 10,000 hectares total, accommodating a new oil terminal, an ore and coal transshipment company, and a new container terminal.¹ With creation of the first Maasvlakte, container transshipment, which had been increasing steadily for decades, exploded. In 1985, container transshipment in the Port of Rotterdam amounted to 2.7 million TEU (1 TEU = 20 feet container) annually. Ten years later this number had doubled.² Investments in rail and distribution facilities further secured the Port of Rotterdam's position as Europe's unequivocally dominant port.

Today, the Port of Rotterdam spans forty kilometers, running from the city center, along the River Maas and to the North Sea. Its most heavily utilized land areas are the more recently constructed portions, further west, as these are the areas that can best accommodate the large, modern ships and are best connected to intermodal transportation infrastructure. At the same time, many of the older port areas, closer to the city's residential communities, have fallen into decline. Vacant shipyards and contaminated lots now characterize the waterfront in these areas, many of which have been deemed by the Port Company as unsuitable for modern maritime industrial activities. The distinctly different character of the old and new segments of the port, and the discrepancies in

¹ *Transformation of Rotterdam Docklands*, Edward Hupkes, Port of Rotterdam, 2003

² *Transformation of Rotterdam Docklands*, Edward Hupkes, Port of Rotterdam, 2003

opinion regarding the potential for each of the two areas to accommodate new demand, have become central issues in modern debates over the port's future.

B. Economic and Socioeconomic Context

In 2000, the direct gross added value of the Port of Rotterdam and industrial area amounted to 6.2 billion euro, which was 1.7 % of the Dutch Gross National Product.³ Taking into consideration also its indirect economic impacts, the Port of Rotterdam can be considered the economic engine of the national economy. In the report *Port Vision 2020*, the Municipality of Rotterdam in coordination with the Port Company articulated a long-range economic strategy for the port which called for increasing throughput by 40% in the next fifteen years and focusing on the growth sectors of containers, the chemical industry and other new industrial processes.⁴ This anticipated large-scale growth indicates that the Port Company and the Ministries are committed to ensuring that Port of Rotterdam will continue to play a vital role in the economy of the Netherlands.

But in the twenty-first century, many economists worry that global competition, especially from Asia, poses a serious threat to Rotterdam's economic hegemony. While total throughput in the Port of Rotterdam has increased annually over the past decade, the relative share of cargo that will continue to come through the port as compared to total shipping worldwide is less certain. In 2004, the ports of Shanghai and Singapore surpassed the Port of Rotterdam as the largest ports in the world as measured by total tons of cargo handled.⁵ Some theorize that the growth of Asian ports could compliment Rotterdam's port activities and therefore result in a net positive economic impact on it.

³ Port of Rotterdam website, <http://www.portofrotterdam.com/abouttheport/UK/index.asp>, 5 May 2005

⁴ *Port Vision 2020*, the Municipality of Rotterdam and the Port of Rotterdam, <http://www.portofrotterdam.com/organizations/UK/Themes/PortVision2020/Index.asp>, 5 May 2005

⁵ The Associated Press. Port of Rotterdam grows in 2004, but drops claim to 'world's largest' title, 30 December 2004

But as Asian ports continue to reduce import and export dues and offer tax incentives to port industries looking for a place to locate, the reality remains that Rotterdam is beginning to lose its market share of global trade. Beyond this, the psychological impact of losing the status of “largest port in the world” has had a profound impact on many who are concerned with the port’s economic future.

The growth in the port’s contribution to the national economy over the past decades has not been mirrored with respect to local economic impacts. Beginning in the late-1960s, the advent of containers and the adoption of more technologically advanced logistics networks has resulted to a far less labor-intensive transfer of goods even as total port area has expanded. In the last fifteen years, twenty thousand jobs have been lost in the Port of Rotterdam.⁶ Many of these jobs had been held by individuals whose families had been employed in the port for generations. So while the Port of Rotterdam has continued to contribute more and more each year to the national economy of the Netherlands, the impact on the City of Rotterdam and the surrounding region with respect to employment, has steadily declined.

The physical reorientation of the port away from residential areas has had a secondary negative economic impact on the local context. As the old port areas fall into decline, nearby residential neighborhoods once activated by industrial activity, and once attractive to generations of port workers for their proximity to stable employment, are becoming less attractive places to live. Property values have fallen as the physical environment has deteriorated and the public perception of these neighborhoods has worsened. The new residents of these neighborhoods—many of whom are immigrants

⁶ Matthijs van Muijen, “Sustainable Development of Rotterdam Port: Striking a balance between city, harbour, economy and environment” Paper for the European Sea Ports Organization conference on Sustainable Port Development, Genoa, 22 November 2002

with limited Dutch language ability and or marketable skills—face increasingly difficult job prospects. While the sources of the physical decline and rise in unemployment in these neighborhoods must be attributed to a broad range of factors, the combination of the loss of port-related local employment opportunities in combination with physical blight of the abandoned industrial landscape are undoubtedly major contributing factors.

D. Legal Context

i. National Legislation

The Spatial Planning Key Decision (PKB) procedure was introduced in the early 1970s, although it was not integrated into the Spatial Planning Act until 1985. It sets procedural and public participation requirements for any planning project of national impact. It comprises four parts:

- “PKB Part 1 consists of the drafting of the key national planning decision; the government presents its policy plans.”
- “PKB Part 2 consists of responses to the draft key national planning decision, including comments by citizens and social organisations, results of inter-governmental consultation and, if requested, the recommendations of an outside advisory council.”
- “PKB Part 3 is the government position that is submitted to the Lower House for approval; after the Lower House has reviewed it, the policy document – possibly in revised form – is submitted to the Upper House for approval.”
- “PKB Part 4 is the national planning decision approved by both Houses of the States General of the Netherlands.”⁷

These guidelines are designed to protect the right of the public to express its interests with respect to a project of national significance. Any authority drafting such a plan is legally obligated to strictly follow the steps as outlined. To a large degree, the

⁷ Han Frankfort, Ministerie VROM/Rijksplanologische Dienst, “Dutch Government Drafting New Policy on Wadden Sea.” Wadden Sea Newsletter 2000.

second part of the PKB process epitomizes the Dutch polder model in action. It allows groups the opportunity to consult with the government, presumably through their traditional interest-based organizations. While it does not guarantee that the government will incorporate these interests into the submission to the Lower and Upper Houses of Parliament, it does grant these groups the right to negotiate with the Ministries in a highly structured manner at this key stage in the planning process.

ii. European Union Directives

The European Union's Birds and Habitats Directives are designed to protect biodiversity of EU member states by restricting development in designated areas. The Birds Directive was initiated in 1979, and identified 181 species of endangered birds for which EU Member States are required to designate Special Protection Areas (SPAs). The Habitats Directive, which was initiated in 1992, aims to protect wildlife species and their habitats. Member States must identify these areas and to create special management plans to designate them as Sites of Community Importance (SCIs). Development projects are allowed to take place within SPAs and SCIs only if it is demonstrated that the project is deemed to be vital to a State's national interests. Such projects can also only be pursued if certain procedural steps are taken to ensure that the needs of those who claim to be negatively impacted by it are addressed. In the Netherlands, the Minister of Transport, Public Works and Water Management and the State Secretary for Agriculture, Nature Conservation and Fisheries, the bodies responsible for enforcing the Directives.

The Birds and Habitats Directives are relevant to the case that I present in this thesis because three sites in the region of the potential land reclamation area for the

Second Maasvlakte—Voordelta, Kwade Hoek and Voornes Duin—are designated as SPAs and these three sites, in addition to the Kop van Groene, are also SCIs within the framework of the Habitats Directive. Because of this, the PMR's task included compliance not only with national legislation, but also with the EU Birds and Habitats Directives.

IV. CASE STUDY

A. Precedents to the Rotterdam Mainport Development Project (PMR)

By the early 1990s, it was the clear position of the Rotterdam Port Company and the City of Rotterdam that the existing area in the Port of Rotterdam would not be sufficient to handle the projected growth in deep-sea container shipping and other industrial activity in the immediate future. In 1993, in the wake of mounting pressure by these stakeholders, the Government initiated a study to explore the question of whether or not the existing port area in the Port of Rotterdam would need to expand in order to meet this projected demand. Following from this, a national debate was held from the beginning of 1995 through July of 1997, called the Rotterdam Mainport Exploration of Space Shortage (Verkenning Ruimtetekort Mainport Rotterdam, or VERM, in Dutch). Formally, the purpose of this debate was to “map out the problem and to examine the usefulness and need for taking measures.”⁸ This debate concluded with the determination by the Cabinet that there would indeed be a space shortage in the Port of Rotterdam in the immediate future. This prompted the establishment the Rotterdam Mainport Development Project (PMR), a comprehensive planning process to determine how new space for the growing needs of the port would be met.

B. The Actors

Stakeholders and relevant parties in the negotiations on the space shortage and the potential expansion of the Port of Rotterdam included those that follow:

⁸ Rotterdam Mainport Development Project, “PMR On Course,” June 1999, p. 5

Rotterdam Port Company (Havenbedrijf Rotterdam N.V.)

The Rotterdam Port Company has nearly 1,300 employees and the responsibility to manage almost 26,000 acres of industrial area and associated infrastructure and facilities in and around Rotterdam Harbor.⁹ According to the Articles of the Port Company, its objectives are, “to operate the port installations and in such context to strengthen the position of the Rotterdam port and industrial zone within a European perspective, in the short and long term.”¹⁰ During the negotiations that are the focus of this thesis, the Rotterdam Port Company was a private entity, although most stocks were held by governmental agencies, including the Municipality of Rotterdam, the Province of South Holland, and the State. On the first day of January 2004 the Rotterdam Port Company became a government corporation.

The Ministries

Five National Government Ministries were involved in the negotiations that are the focus of this thesis:

- Ministry of Transport, Public Works and Water Management
- Ministry of Housing, Regional Development and the Environment (VROM)
- Ministry of Economic Affairs
- Ministry of Agriculture, Nature, Conservation and Fisheries
- Ministry of Finance

The Ministry of Transport was designated Project Minister for the planning process, providing them with the mandate to organize, manage, and see through to completion the PKB process.

⁹ Port of Rotterdam website,

<http://www.portofrotterdam.com/organizations/UK/CompanyInformation/CompanyProfile/Index.asp>

¹⁰ Unofficial translation of the Articles of Association of Havenbedrijf Rotterdam N.V. with corporate seat in Rotterdam the Netherlands dated 31 December 2003, p. 1

First and Second Chambers of Parliament

The Second Chamber of Parliament is required to approve the Core Planning Decision (PKB). Pending their approval, the First Chamber is also required to approve it.

The Council of State (Raad van State)

The Council of State has two separate functions: it is the Government's chief advisory body, and it is the highest administrative tribunal.

Local, regional, and national government authorities

Several local and regional authorities were part of the formal planning process for the PMR from its outset: the Province of South Holland, the Regional Authority Rijnmond (ROM-Rijnmond), the Municipality of Rotterdam, and several smaller municipalities in the Rotterdam region. The Province of South Holland (one of twelve provinces in the Netherlands) includes the City of Rotterdam in addition to the cities of the Hague (its capital), Delft and Leiden. Provincial authorities are responsible for environmental management, spatial planning, energy supply, social work, sport and cultural affairs within their jurisdictions. ROM-Rijnmond is a partnership between three layers of government—the National Government, the Province of South Holland and Stadsregio Rotterdam, a coalition between seventeen municipalities in the greater Rotterdam region. The Municipality of Rotterdam is the local authority governing the City. Also important to this case, but not formally part of the PMR process, was the statutory agency of the Dutch Fisheries Board (Productschap Vis).

Non-governmental Organizations (NGOs)

Non-governmental organizations and other interest groups were given a consultative role during the PMR process when it was initiated, in keeping with the

requirements of the PKB process. These NGOs included the environmental groups Natuurmonumenten, a national NGO, and Zuid-Hollandse Milieufederatie, a provincial NGO. Also involved was a group of seven environmental organizations organized in 1997 under the name Consept to form an alliance that would speak with a unified voice within the PMR process. A representative from Zuid-Hollandse Milieufederatie, Arno Steeklenburg, acted as spokesperson for their interests throughout the process. Other NGOs that were included in a similar consultative role and eventually were given a more formal role in negotiations through a new process (ONR) that was initiated after the described crisis point in negotiations were:

- The National Driving and Recreation Organization (ANWB)
- The largest trade union confederation in the Netherlands (FNV)
- An association representing the logistics sector in the Netherlands (Nederland Distributieland)
- The Association of Water Boards (UvW)
- The Society for Dutch Enterprises (VNO-NCW)
- The Ports and Industries Association Rotterdam (Deltalinqs)

Two NGOs that also proved to be important stakeholders, although they were not officially represented in the ONR process, were the National Union of Fishers (Vissersbond) and a regional branch of the National farmer's organization (WLTO).

The Facilitator

An independent facilitator, Loek Hermans, was hired to run the formal PMR process. He was replaced by Hans Alders in 2000.

The Consultants

The DHV Group is an international consulting and engineering firm, based in Amersfoort, the Netherlands. DHV was hired by the Ministry of Housing, Spatial Planning and the Environment to assist with the management of the PMR process.

C. The Rotterdam Mainport Development Project (PMR)

The VERM debates had concluded with the determination that new space would have to be found to accommodate the expected growth in port industries. They also had initiated a broad conversation about the impact of potential new port development on the surrounding region and the need to address local environmental, economic, and quality of life issues. For this reason, the Central Government defined a “dual objective” for the PMR process at the outset, which was put forth as:

1. To strengthen the position of the Rotterdam mainport by seeking solutions in the Rotterdam region and in the Southwest Netherlands to the indicated space shortage and industrial activities in the Rotterdam port area;
2. To improve the quality of the living environment in the Rotterdam region by using the potential offered to resolve the space shortage.¹¹

An Inception Note in 1998 established the PMR organization’s mandate to find solutions to both of these issues. It also determined that the PMR would consist of five ministries, ROM-Rijnmond and that the Province of South Holland and that the Ministry of Transport, Public Works and Water Management was given authority to act as the Project Minister for PMR. Another Governmental Deliberation Group (BOM) was also formed as part of the PMR, and included the local governments of the Municipality of Rotterdam and the smaller surrounding municipalities.

With respect to the first objective, to address the space shortage in the Port of Rotterdam, the Ministries put forth at the start of the PMR process three potential options as alternatives worthy of explanation:

- Better utilization of the existing Rotterdam port area;
- Utilization of the port areas of Moerdijk, Vlissingen and Terneuzen (ports in Zeeland, in the southwest Netherlands);

¹¹ Rotterdam Mainport Development Project, “PMR On Course,” June 1999

- Expansion of the existing port by adding a new stretch of land (Maasvlakte 2) into the North Sea, to the west of the current Maasvlakte.

But while formally the question of whether or not the Port of Rotterdam should expand was left open, the perception among many stakeholders was that the idea to expand the port with a Second Maasvlakte was already deeply embedded in the Ministries' minds as the preferable choice. While formally three alternatives were placed on the table, according to many the burden of proof rested on those who argued against expansion.

Fred Heuer, who was from the Ministry of Transport, Public Works and Water

Management and acted as Chairman of the Ministerial Board for PMR explained:

The idea to expand the port of Rotterdam was already a long-existing idea. And the vision of the Port, over there, was to expand it with another 2,000 hectares. And when they wrote down this ambition it was rather straightforward for them that that would happen and it would happen smoothly and easily. And the central government would hardly interfere with it. They would just give them money for the basic infrastructure and that's it.¹²

With respect to the second objective of the PMR, a working group was formed, which was given the responsibility of determining how to interpret and assign various indicators for the notion of improving the “quality of the living environment” in the Rotterdam region. This working group comprised members of the Ministries of Housing, Spatial Planning and the Environment, Transport and Public Works and Economic Affairs, as well as the Province of South Holland and the Rijnmond Environmental Department.¹³ But the meaning of the second target, at the start, was not very well defined. Harry van Huut, a civil servant from the Ministry of Housing who was responsible for coordinating the group, explained, “It has to do something about safety of

¹² Interview with Fred Heuer

¹³ A.F.L. Slob and H.R. van Huut, “Sustainable Development in the Port of Rotterdam,” Contribution to the 7th Sustainable Cities Ports International Conference,” 6-9 December 2000, Marseille.

within the town, or living environment...Could mean anything. So it was very difficult to...fill in this second target.”¹⁴ While fairly early on in the process it had been agreed with the NGOs that some component of this objective would include 750 hectares of new nature and recreation space in the region, the exact details of where and how this space would be built were not defined and little else with respect to what the second objective would entail had been discussed.

Initially, the environmental organizations felt that the Project Director, Huub van Zwam and the consultant team he hired from DHV had designed an effective way to engage them as consultative parties. At van Zwam’s direction, DHV initiated a series of in-depth interviews with the non-governmental stakeholders in order to construct a sense of their collective interests. This entailed building up one central document, to which stakeholders had the opportunity to add their comments and suggestions in a series of rounds. Through that process, Arno Steeklenburg—who negotiated on behalf of Zuid-Hollandse Milieufederatie (the provincial environmental NGO) and Consept (the alliance of seven environmental NGOs)—said that through the DHV process “we learned a lot about our own position, about the positions of others, but also about how do you bridge, how do you find connections with other interests.”¹⁵ The consultative role that the NGOs were given at the outset of the PMR process was in keeping with past planning processes undertaken by the Port Company and others in which they were accustomed to participate. While they were not given the power at this stage in the process to make any decisions with respect to what would or would not be included in the first stage of the PKB, they could offer their advice and the Ministries would commit to “consider it.”

¹⁴ Interview with Harry van Huut

¹⁵ Interview with Arno Steeklenberg

Van Zwam made a conscious effort to maintain his position as a neutral organizer of the process, as opposed to a representative of his Ministry's interests. While members of the Ministry served on the steering committee for the project, Van Zwam considered his role to be entirely separate from theirs. Heuer explained, "my project director said I don't care what the outcome is, whether it's port expansion or not. I don't care. It's not my job to expand the port. It's my job to organize a smooth, open decision-making process."¹⁶ An independent facilitator was also brought in to assist in creating a sense among participants that all points of view were welcomed into discussion, regardless of whether or not they aligned with the Ministries'.

But while the representatives from NGOs acknowledged that Van Zwam and the consultant team had taken specific actions in order to bring them into the process in a consultative capacity, some still felt doubtful about the extent to which the concerns they raised would truly influence the actual decision-making by the Ministries. As Steekelenberg explained, "They [the Ministries] had their own steering group [the BOM] and then connected to the steering group was... sort of response group...when everything is ready they show it to you and then you have to applaud."¹⁷ Coupled with the lack of clarity on the meaning of the second objective, the fact that Ministry of Transport made no commitment to incorporating the interests of the NGOs, caused many in these organizations to question whether or not their participation in the process would in the end have a real impact on its outcome.

Their skepticism derived in part from their recent experience in interacting with the Ministries in a consultative capacity in other large-scale projects throughout the

¹⁶ Interview with Fred Heuer

¹⁷ Interview with Arno Steekelenberg

Netherlands, one in particular—the construction of the Betuwe Freight Line, a train line from Rotterdam to the border of Germany. This project originally had been put forth by the Ministries as an environmentally-focused initiative that would transfer much of the freight being transported by truck on the roads to trains. As the process developed and new studies were released, however, certain groups came to believe that in fact the project would not produce the positive environmental impacts that had initially been touted. Feeling that the Ministries had misrepresented the project from the outset and had not allowed them to participate in such a way that might have produced a more environmentally desirable result, some environmental organizations that originally had supported the project, took a strong position against it. Their trust, they felt, had been violated. As the PMR process got underway, this breach was still fresh in their minds.¹⁸

The historic relationship between the port development projects and the participating environmental organizations also contributed to the sense of unease about the extent to which the Ministries were committed to integrating their interests into their actual decisions. The development of the First Maasvlakte in the 1960s, which took place before the PKB process was in place, had been deemed by the Government absolutely essential to the national economy, and was pushed forward under these auspices. As a result, consideration of negative impacts to the environment and efforts to mitigate these effects were minimal. The recollection of this destruction was deeply embedded in the organizations' institutional memories. Van Huut characterized it:

Voornes Duin, the coastal area in the Rotterdam area, is very important, especially for Natuurmonumenten. It is an icon for them and the realization of the First Maasvlakte more or less was the birth of our first

¹⁸ Interview with Harry van Huut

environmental group. So they have a lot of history in this area [because] a very beautiful nature area was removed, flattened.¹⁹

Because of this legacy, the environmentalists felt a heightened sense of responsibility coming into the process to ensure that the mistakes made in the construction of the First Maasvlakte would not be permitted again. As Wilfred Alblas, who negotiated on behalf of Natuurmonumenten, explained:

I was very insecure. The point is this area was one of the best nature reserves the Netherlands ever had. And the former generation remembers very well how they watched the birds here and they saw the harbor taking [more land]...And I also found some old letters in the archives on the subject and...the hard-core conservationists, the old members of our union, [were concerned because this was] a very sensitive area.²⁰

As with the Betuwe Line, the planning for the First Maasvlakte had allowed the environmental NGOs a consultative role of the conventional polder model variety that in the end proved not to be enough for their interests to be incorporated into policy. There was a historical precedent of a lack of commitment by the Ministries to respond to their concerns in their decision making. For this reason, they were doubtful that the Ministries could be held any more accountable in the planning process regarding the potential construction of a Second Maasvlakte.

At the same time, the Ministries themselves were not in agreement on what they aimed to achieve through the PMR. It was unusual for five Ministries to be involved in such a planning process, although it had been deemed necessary due to the very broad scope and of impacts anticipated for this project. Certain participants from VROM, for example, who believed their responsibility was to “organize a smooth, open decision-making process,” often felt their efforts were thwarted by other Ministries who had an

¹⁹ Interview with Harry van Huut

²⁰ Interview with Wilfred Alblas

interest in a particular outcome (financial, environmental, agricultural, etc.).²¹ While some Ministries felt it was necessary to keep moving the process forward, as Heuer described it others “tried to twist your arm, a little bit more for the environment, a little bit more for agriculture, a little bit more for farmers. So on the level of the cabinet it was very difficult to ask them to narrow down [the alternatives being discussed].”²²

The nuances in the internal strife among the Ministries, were not transparent to the NGOs. The same internal negotiations that the Ministries may have viewed as necessary in order to determine their own role *prior* to engaging NGOs seemed from the outside to be a decision-making process that they were left out of. As Alblas described it:

*The formal process [that was] taking place in the Hague, in the National Government, was a process where we were not taken seriously. And the departments, the Ministries, were having a debate all the time it seemed to be without the interest that is important to come to some conclusion.*²³

The competing Ministries, in their inability to present a unified front with respect to this very large and complex project, could not, therefore, effectively demonstrate their neutrality. The Ministries were in a difficult position. On the one hand, the complexity and size of the project and implored the involvement of all five ministries, each of which had a different stake in its outcome. On the other hand, they were unaccustomed to such a situation and as a result could not agree among themselves how they could serve as both neutral managers of the process while still advocating for their own interests.

In spite of these difficulties, the PMR process proceeded without major upset during its first year. In 1998, a new Minister of Transport, Public Works and Water Management was elected. She took two actions that in the eyes of the NGOs dramatically

²¹ Interview with Fred Heuer

²² Interview with Fred Heuer

²³ Interview with Wilfred Alblas

changed the structure of the negotiations. First, certain technical and scientific studies that were no longer made available to them. According to Van Huut:

From the beginning...we had an open and transparent planning process...so if we did any survey, the results of the survey would be published at once, not at the end of the project, but once the survey was ready we would publish it at once and discuss the results with the stakeholders. And at one point the then new Minister of Transport said well I don't like this, I would like to make up my mind first and then I will publish these surveys, so we were no longer allowed to publish research and survey results.²⁴

This meant that the scientific studies that were supposed to inform the Ministries' decisions were kept secret; the NGOs had no way to know the scientific or technical basis of such decisions.

The second action that raised serious concerns by the NGOs was that the option of expanding in Zeeland was suddenly discarded. The Minister declared that it had been determined that the port areas to the southwest did not possess the geographic characteristics required for the types of activities that would need to be located there. While the environmental NGOs did not necessarily disagree with this assessment in principle, they did not feel that adequate study had been conducted on this option to make a determination. The Ministry had not come to this decision jointly with the NGOs, but had conducted its own evaluation based on its own studies and had made the determination that Zeeland was infeasible unilaterally. This action, in combination with the refusal to reveal studies that served as the foundation for this and other decisions, proved to the NGOs what they had feared all along: although the Ministries would seek their advice, they were not committed to incorporating it into their decision-making.

²⁴ Interview with Harry van Huut

It was at this time that the new Minister of Transport, Public Works, and Water Management also asked for a statement from the NGOs, in the form of a signed contract, indicating their support for the decisions that had been made so far in the process, including the elimination of Zeeland as an option. The environmental organizations refused. Their mounting sense of insecurity regarding the process had given way to a feeling that the Minister was going to continue to do whatever it took to push the project through. They knew that they had the power to go to the media with the news that she had been keeping vital information from them, which might very well turn public sentiment against the project. And if this didn't have an impact they could take the Minister to court for failing to fulfill her legal obligations to run an open PKB process. They also had in their possession extremely critical letters from highly regarded economists questioning the assumption that expansion would produce the economic benefits that were being claimed. While they felt that the content of the letter might not be enough to stop the project, as politics, not economics, would ultimately drive the decision on whether or not to expand, the fact that the Minister had kept this letter a secret could have serious political and legal repercussions. Zuid-Hollandse Milieufederatie and Natuurmonumenten had built up a strong reputation for bringing negotiations to this point and for using this type of information to stop projects in their tracks, and they knew they could do the same in this case. Suddenly, the environmental organizations felt the power balance had shifted. They were in a position to obstruct.

D. The Ministerial Response: From PMR to ONR

Van Zwam knew that drastic actions had to be taken quickly or the entire project risked being derailed. In spite of his loyalties to the Minister, he was certain that he had to find a way to prevent the environmental NGOs from going to the press or taking legal action. According to Steeklenburg, it was at this moment that Van Zwam took the “daring step” to initiate a new process, one that would formally incorporate NGOs and provide them with a sense of security that their interests would be listened to. This process, Deliberation of Non-Governmental Parties (Overleg Niet-Rijspartijen , or ONR, in Dutch), gave thirteen NGOs a more formal seat at the decision-making table. It set new playing rules for the region, which included that the Minister could not make any decisions before getting the advice of the ONR Board and that if she did make decisions that went against the recommendation of the Board she would have to “give reasons” why.²⁵

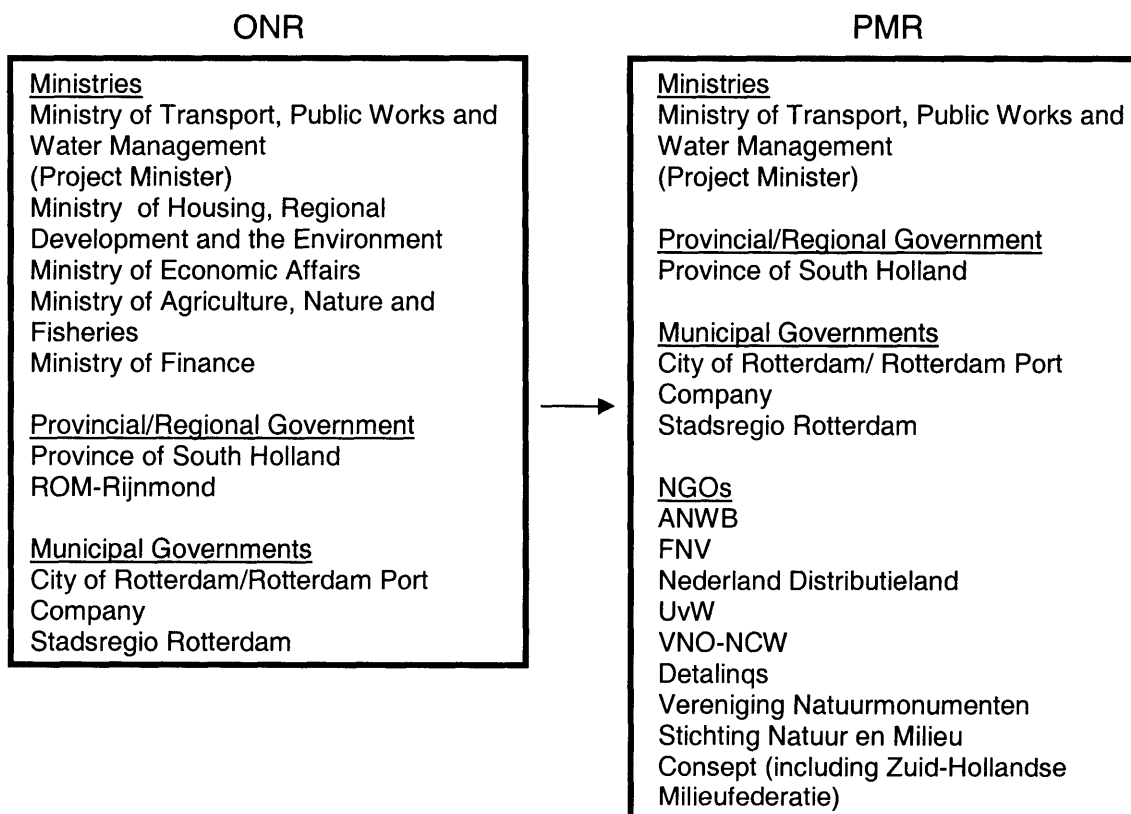
A new mediator, Hans Alders, was chosen to run this process. He was a well-trusted individual who was known by the NGOs as well as the Ministries. Theo Klink of DHV noted, “He has very special qualities. All people trust him...very nature-minded, from the Ministry of [Housing, Spatial Planning and] Environment and still very accepted by the employer’s organization.” As Van Huut explained it, “He was a former Minister...so he was very acquainted with the political process, with decision-making and he had access to the political arena in Den Haag, Ministry of Transport, Ministry of Housing...” While the previous mediator for the PMR had been perfectly acceptable to leaders of the NGOs, Alders had a long-standing personal relationship with them and therefore was trusted on a deeper level. Steeklenberg stated “Frans [Evers of

²⁵ Interview with Harry van Huut

Natuurmonumenten] had worked under him when he had been working with the Environmental Ministry, so he knew him closely, and I had met him a few times and had found that we could exchange in a good way. And Alders did a great job. He did a very important job.”²⁶

The Ministry selected the stakeholders who would participate carefully. Harry van Huut said “We kept it a little bit small because a large board, the problem is they become too large and consultations become very hard.”²⁷ Even within the group that existed, it was not always easy to negotiate. On specific issues, smaller sub-groups were to be convened by Alders. A balance had to be struck, they felt, between incorporating all of the relevant points of view and ensuring that the group was of a manageable size.

FIGURE 1: Decision-making tables for PMR and ONR processes



²⁶ Interview with Arno Steeklenburg

²⁷ Interview with Harry van Huut

The ONR process incorporated a firm commitment by the Ministries to new playing rules, the installation of a facilitator who was respected and known personally by many of the stakeholders, and a structural reorganization that included all of the parties that were believed by the Ministries to represent key stakeholding interests. In combination, the Ministries believed that these elements would create the conditions that would allow them to rebuild trust between the NGOs and themselves and to continue to move the process forward. The ONR would create a more inclusive process that, they felt, would finally generate the conditions needed to formulate a consensus among the stakeholders.

E. “Vision and Daring”: The Initiative of Environmental NGOs

While the Ministries were structuring the ONR process, the environmental organizations were grappling with two questions. First, they wondered if they would gain more from stopping the project than they would from a negotiated agreement. In considering this, they determined that while they had very little to lose by defecting from the process entirely, they also had little to gain by doing so. If they could not negotiate an agreement, they would be left with the status quo: areas of severely damaged environment due to past port development projects, an unmet need for recreation areas for a region without the financial capital or political support to invest in large-scale recreation projects otherwise, and an uncertain quality of life for the many residential areas that had fallen into decline with the changing port economy.

Over the course of the PMR process, the environmental organizations had come to the determination that in fact participating in the negotiations might provide an

opportunity for them to acquire a package of compensation measures that could potentially address all of these needs. As Alblas explained it:

We said we want to defend the nature reserve that we are responsible for and we want to create more space for nature and recreation near the city of Rotterdam because there is a high shortage of green surroundings, the city has no central part, so to say...And when we could get the Harbor Authorities and the City of Rotterdam behind our ideas of nature development in and around the city of Rotterdam we would have power and money on our side, while we are powerless and moneyless.²⁸

This redefinition was a fundamental reframing of the problem they were seeking to address. They felt they needed to think about environmental protection and quality of life improvements as not inherently antithetical to economic objectives. In fact, with such a large-scale planning process there were ways in which these objectives could in fact reinforce each other.

Having agreed among themselves that indeed they still wished to seek out a consensus, they turned to a second question: would the new playing rules established by the Ministry would be sufficient to ensure that their interests would now have an influence on the outcome of the process? The Ministries claimed that the new rules for the ONR process would create a forum where all the stakeholders could express their core interests, where no options were removed from the table without the stakeholders' consent, and where an open and transparent process would help to build trust between all stakeholders. But the environmental organizations felt that the restructured ONR process did not provide enough assurance that these conditions would be achieved. The legacy of mistrust between the Ministries and the environmental NGOs and the environmentalists' doubt about the Ministries commitment to responding to their interests still overshadowed the process; the extreme polarization between the interests of the Port

²⁸ Interview with Wilfred Alblas

Company and the environmentalists still posed a daunting challenge; the inter-Ministerial conflicts still raised questions with respect to the Minister of Transport, Public Works and Water Management's capacity to facilitate the process neutrally. The ONR process simply didn't look different enough from the PMR process to convince the environmental NGOs that they could achieve a more desirable outcome from it.

Based on this assessment, the environmental organizations made a decision: they would participate willingly in the ONR, but they would initiate a series of interventions, both inside *and* outside of the formal planning process, in order to foster the conditions they felt were necessary to achieve a consensus. To begin with, they felt that additional guarantees needed to be established within the ONR process in order to ensure that it would be more responsive to them. In spite of their frustrations, they knew they needed the Minister's support in order for their suggestions to be accepted. Placing blame on her for what they felt had gone wrong in the PMR process, they felt, would be counterproductive, only serving to exacerbate the cleavage between them. As Steeklenberg explained it, "we [the environmental NGOs] together already accepted that we could not get out of this conversation while the Minister has got to tell, well, I was wrong. But what we could do was get an impartial negotiator to negotiate the terms for us to return to the process."²⁹ They refocused their energies on ensuring that the Minister would bring a neutral person in to take over and rather than pushing for a particular person at the time, they made sure that they first got a commitment from her to find someone for that role. In doing this they were able to push for Alders, someone they knew and trusted. Perhaps even more importantly, however, they were able to rebuild some trust with the Minister. At this moment they had the opportunity to further escalate

²⁹ Interview with Arno Steeklenberg

the conflict and to and exacerbate the antagonism between them. By choosing not to attack her for her past actions but to focus on constructive actions they could take to begin the ONR process, they could start build a new relationship with her

The other major modification to the ONR process that the environmental groups insisted upon was that the Ministries give all parties the opportunity to critique scientific studies conducted by the government and, where appropriate, to offer alternative expertise. One of the measures they proposed for achieving this involved convening a body of experts on subjects of importance to the project. The expert group would be agreed upon by all stakeholders and could be called upon when any questions arose regarding technical or scientific information.³⁰ They could give an impartial judgment on the quality of research done by the Ministries and, where they deemed it to be necessary, provide their own studies. Beyond this, they insisted that an independent cost/benefit analysis for the project be made by a neutral quasi-governmental agency.

The purpose of the expert group and the cost/benefit analysis was not to challenge the studies that had already been conducted and to provide definitive evidence to counter them. Rather, the aim was to change the *role* of expertise in the process. As Alblas described it:

*The point of these elements was that there was uncertainty involved, especially ecologically in coastal ecosystems there's a lot of uncertainty and what you do with conservation on the list it is you blow up the uncertainties because these are arguments against something. And the trick of Port Authorities is you hire consultants who say these are not big risks. And then you start to struggle. And the main point is how you deal with uncertainty...And you can address it instead of translating it into an opinion and then struggle about opinions.*³¹

³⁰ Interview with Matthijs van Muijn

³¹ Interview with Wilfred Alblas

Rather than allowing port expansion advocates to use science to bolster their positions, they felt that the fact that no knowledge is complete had to be acknowledged by all stakeholders. Instead of fighting the expertise of their opposition with alternative expertise, they sought to bring to the surface the reality that with respect to certain issues it would not be possible to know for certain what the environmental impacts would be. Starting from the presumption of uncertainty, they felt, they could begin to have an open conversation about how environmental risk could be minimized. It was, in essence, an attempt to create a way for stakeholders to come to knowledge jointly. While not as structured as an official joint-fact finding process, it provided opportunities for stakeholders to learn about scientific or technical matters together. This would both give them a common starting point for certain discussions and would foster trust between them that would likely carry over into the rest of the process.

Through both of these actions—not pushing the Minister to admit the mistake they believed she had made and pushing for a more participatory process of scientific and technical inquiry—the environmental organizations were able to shape the formal ONR process. Rather than relying on the Ministries, they took the initiative to patch “holes” they saw in the restructured negotiations. In doing so, they felt, they could alter the relationships between stakeholders in such a way that would help to foster the necessary conditions they needed to create in order to bring about a consensus.

But the environmental organizations did not feel that working within the ONR process alone was going to be sufficient. Something more, something different, also had to be done. The way the ONR process was structured each stakeholder would be given equal opportunity to advocate for their interests to the Ministries. There were a number of

problems with this style of consultative process, even with more of a guarantee that the Ministries were committed to incorporating their interests and with the new playing rules in place. First, the Ministries themselves seemed too divided in interests to be able to respond effectively to these interests. Beyond this, two groups of stakeholders—the Port Company and the environmental organizations—had reached an extreme state of polarization that was difficult to address within the web of other interests represented in the ONR and in what had become such a high-profile, high stakes setting. Finally, and perhaps most importantly, the environmentalists’ reframing of their own interests no longer fit neatly within the specific interest group role they were expected to play within the process; as they had redefined their position, they were no longer representing “environmental protection.” They now sought to find solutions to the issues raised by the complex interplay between the environment, industry and society in the context of port expansion.

For all of these reasons, the environmental NGOs decided to try to initiate a series of negotiations outside of the formal process with the Municipality of Rotterdam and the Port Company. To begin with, Frans Evers of Natuurmonumenten made a phone call to the Mayor of Rotterdam and the City Alderman of Port and Economic Affairs. In this conversation, he asked a question through which he aimed to inspire the Mayor to think about reframing his *own* interests: “Don’t you think it’s strange,” he asked, “that you, as a local government, are only addressing issues of the economy and industry and we as NGOs are only addressing issues of nature and the environment when I would think these are concerns you also share?”³² The phone call was a gesture that indicated that the environmental groups were wanted to start a new type of discussion with the City and the

³² Interview with Frans Evers

Port Company. They asked the Port Company if they would undertake a series of meetings outside of the formal planning process through which they could try to talk about their interests in the terms as Evers had reframed them—all of them working together to devise an economically, socially, *and* environmentally advantageous outcome.

It was an unusual proposition. These discussions would be held entirely independent of other stakeholders and of the Ministries. But the environmental organizations, the Municipality, and the Port Company saw distinct advantages to this.³³ To begin with, while the Environmental NGOs and the Port Company viewed themselves as the most oppositional actors in a spectrum of viewpoints, they had found it very difficult within the formal process to obtain a clear understanding of what their most fundamental differences in perspectives really were; the complexity of interests represented by all of the other stakeholders often made it difficult for them to parse out the core issues on which they disagreed. By speaking directly, both sides could temporarily suspend any consideration of others' interests and could focus on where their own interests aligned or converged.

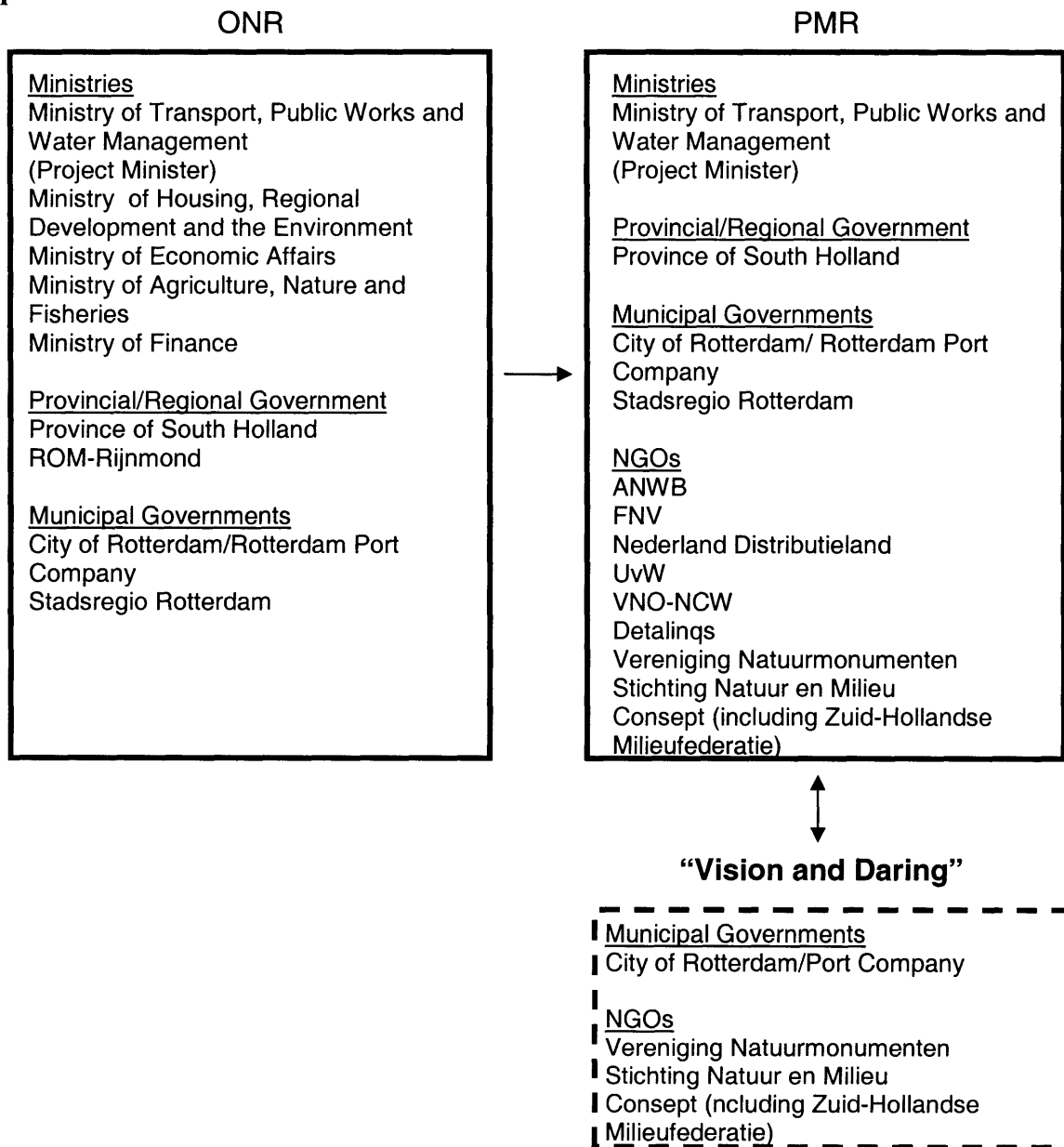
Beyond this, there was a strategic advantage to coming to an agreement among themselves independently of the other participants in the ONR. If they were able to come to a consensus, both parties knew that it would be very difficult for other stakeholders or for the Ministries to object to this agreement because it would signify that the greatest differences in interests had been resolved, which would be an enormous achievement.

Politically, this would put a great deal of pressure on the Ministries. They would then be

³³ While original contact was made to the Municipality, Albert Doe from the Port Company ended up as the primary negotiator representing Municipality and Port interests, which were presumed to be aligned. This presumption was likely a carry-over from the PMR and ONR processes, which tended to treat the interests as one-in-the same. In conversation, and in printed documentation from the formal processes, representation from the Port and Municipality was often considered interchangeable in spite of the fact that during the time of negotiations the Port Company was technically an autonomous private entity.

placed in a position of seeming to hold up the process if they did not accept the solution that had been created. If this unlikely alliance could be formed between the environmental groups and the Port company, the bargaining power of both parties would be strengthened; they would be collaborators working together to put pressure on the Ministries, and any other dissenting stakeholders, to support the particular package of measures they had agreed upon.

FIGURE 2: Decision-making tables for PMR, ONR and “Vision and Daring” processes



The environmental organizations felt that these informal negotiations had to be managed very carefully if they were going to foster the necessary conditions for producing a consensus. Before negotiations could take place, the first step they felt the environmental groups needed to take was to be sure that their goals were all aligned with each other's. According to Alblas:

Even before the talks started we were with Arno [Steeklenberg] and Matthijs van Muijen [of Zuid-Hollandse Landschap, another NGO that was a part of Consept]...so it was a small group of us and we discussed what would be the core components of a deal and it then became clear that if we could combine several aspects we would have a package which would be in our opinion profitable for nature.³⁴

Bolstering the strength of this already-existing alliance had two purposes. First, it gave them a stronger bargaining position. They supported each other as discussions ensued with the Port Company. Second, it allowed them to operate as part of a team of individuals who brought different skills to the table—strategic thinking, networking and lobbying, writing—and to combine them to the greater benefit of them all.³⁵

When the talks between the environmental NGOs and the Port Company were first initiated, the structure was left intentionally very flexible. Unlike the ONR process, which was highly structured and geared toward a specific end-goal of creating a document to which all parties could agree, in these informal negotiations there was no set agenda and the end product was undefined. At the start, Alblas explained, “There was a lot of talking and talking and talking, which is actually nothing but seeing whether people could gain some trust.”³⁶ The environmental organizations felt that they should not come into the negotiations with a formula for coming to an agreement. Rather, they felt it was

³⁴ Interview with Wilfred Alblas

³⁵ Interview with Matthijs van Muijen

³⁶ Interview with Wilfred Alblas

crucial that they and the Port Company determine both the process and the desired end product of the negotiations jointly. This removed a certain amount of pressure from such a high-stakes situation and better allowed all parties to speak more freely about their intentions and desires than they could in the ONR setting in which they felt that they had less room to make errors.

Through these initial consultations it was agreed that they would aim to create single document among them, a short statement that would try to first find some key points of agreement. This document would provide them with an understanding of where they shared interests, not considering points of contention for the time being. As Steeklenberg described it, “In the ditches we had laid and shot our ammunition toward each other and now we had to work together and it would be wise if there was an overall document that was short, but concrete, to give an impression to all partners, what about do we agree, where do we work towards together.”³⁷

But although the participants were committed to this ideal, achieving it in practice proved more difficult than they had anticipated. The environmentalists began by bringing to the table a discussion paper that outlined their major goals and objectives on which they requested comments and reactions by the Port Company. When the next meeting was convened, however, the Port Company arrived not with modifications to this paper, but with their own document expressing their own interests. The environmental organizations were frustrated that they had not received feedback on their paper. At the following meeting they responded to the paper put forth by the Port Company, but the Port Company felt that these comments did not take into consideration what they had written and were simply a reiteration of the points the environmentalists had put forth in

³⁷ Interview with Arno Steeklenberg

their original paper. The exchange that ensued during the first several meetings did not seem to be making much progress with respect developing common objectives. If anything, they risked damaging their relationship even further. Unlike in the formal ONR process, there was no neutral party to mediate and to prevent such a situation from escalating.

Both sides were feeling discouraged. After four or five meetings Albert Doe of the Port Company announced that he would no longer participate. Somebody else from the Port Company, he said, might be better suited to the negotiations. The person he suggested, while perceived by the environmental organizations as perfectly competent and capable of participating in the discussions, did not have the same authority at the Port Company as Doe. Steekelenburg refused to negotiate with him. As he explained it, "I said, well, I won't accept this. Then I won't come anymore because when I get you, Albert, half an inch I get the whole of the Harbor Company half and inch, but when I get [the person who would replace you] ten yards I won't get half an inch of the Harbor Company." To Steeklenburg there was little value in holding negotiations with somebody who did not have the authority to make the commitments they felt they needed on behalf of the Port Company. A lower level civil servant, however attuned he or she might be to their interests, would not guarantee that the Port Company would in the end stand behind the agreement. With this urging, Doe agreed to continue the negotiations. But as the papers continued to be passed back and forth, each side making comments and modifications with each successive round unclear if they were truly coming any closer to an agreement.

And then Alblas made a mistake. The environmentalists had been emailing among themselves a version of a discussion paper and had been making candid comments about specific parts of it. After successive rounds of edits a final version was completed and Alblas agreed that he would email it to the Port Company. The version that he accidentally emailed, however, included the full range of comments they had all made. This mistake had the potential to be disastrous. The Port Company now knew that many of the positions the environmentalists had been taking weren't nearly as firm as they had seemed. Beyond that, their united front was revealed as not entirely solid.

But Alblas wasn't going to let this mistake ruin the progress they had made. After consultation with Steeklenberg, he came into the next meeting with a bold proposition: to stop any conversation about whether or not there should be a Second Maasvlakte, to suppose that the expansion *will* occur and talk about what conditions would be acceptable to all parties if it is to move forward. He asked that they start with this and then, if it seemed that they could not all agree, they could have a conversation about whether or not it was a good decision to expand. No longer, he promised, would they make any arguments against the potential expansion; instead, they would seek to discuss only their underlying interests with respect to the future of the Port and the Rotterdam region and the ways in which an expansion might promote those interests.

This mistake, and Alblas' reaction to it, did a few things for the discussion at what had become a critical point. First, it brought a new candor or straightforwardness into the debate. Though much was different with respect to the characteristics of the informal negotiations in comparison to the ONR process, many norms of behavior had carried over. One of these norms was an opaqueness regarding the range of outcomes that parties

would find acceptable (known as a Zone Of Possible Agreement, or ZOPA, in consensus building literature). Alblas' challenge to this norm, albeit inadvertent, presented a new opportunity for a different kind of discussion based on the potential to then speak more candidly about the range of acceptable outcomes that would be acceptable to stakeholders. It also may have reminded participants *more generally* that in this new forum for negotiation they had the opportunity to challenge the conventional norms for how they should behave in consensus building processes. While the environmental organizations clearly had had likely been conscious of this from the outset, the mistake was a reminder that it was indeed within their power to set new norms and rules for negotiation.

With respect to the substantive issues of the debate, Alblas' statement after the mistake also made the reframed position of the environmental organizations the focal point in the discussion once again, perhaps for the first time since Evers' initial phone call. Having redefined their objectives through the PMR process from protection of the natural environment in the Rotterdam region in its current state to the enhanced sustainability and improvement of the quality of life in the region, it was time, they felt, to be very clear about their belief that opposition to the expansion was, simply, contrary to their interests:

If we had continued debating the issue "Is Maasvlakte 2 necessary?" which we did already for ten years we would still be talking now because that is something you never agree on. You only can try to come to [an] agreement when at some point in the process the problem was redefined...[We] defined the question if the Parliament decides there should be a Maasvlakte 2, what kind of a position should [we take]?"³⁸

³⁸ Interview with Wilfred Alblas

As Steeklenberg put it “If you want to have new nature, stagnation is very negative. So it starts when you as a party, your position is that you want something instead of you don’t want something.”³⁹ They felt that “a discussion which is exclusively geared toward land reclamation yes or no, stands in the way of a discussion on joint ambitions for qualitative development of Rotterdam as a whole.”⁴⁰

Once the environmentalists’ ZOPA was on the table and the discussion was framed in terms of “yes, there can be an expansion, as long as particular conditions are met,” it took on an entirely new dynamic. The Port Company and the environmentalists were able to see themselves as collaborators working toward the same desired outcome: an agreement on a port expansion that would also create opportunities to enhance the natural environment and provide the region with much-needed social and recreational opportunities. By working together to determine what would be acceptable to them both, they could then exert pressure on the Ministries to accept it.

Perhaps the best example of this concerned discussions over where the southernmost edge of the new extension would be. The environmentalists wanted to see the development moved further to the North in order to minimize negative impacts to the coast that might occur due to change in currents that would be caused otherwise. During the PMR process, the Port Company had maintained a position against moving the extension farther north because this would have involved filling in deeper areas of the sea and would have been more costly. But in the negotiations outside of the formal planning process, with the Ministries absent, it became clear that this position had been taken largely due to pressure by the Ministry of Finance, who was concerned about the overall

³⁹ Interview with Arno Steeklenberg

⁴⁰ “Vision and Daring,” May 2000

project costs. The Port Company, itself, had little to lose or gain either way. Thus, they were able to come to an agreement; the environmental organizations would commit to supporting an extension of the size that was desired by the Port Company if the Port Company would agree to reorient the extension so that it was farther north. The additional cost that would be incurred would then be presented to the Ministry as something that was necessary in order for both the Port Company and the environmental groups to agree.⁴¹ While the Ministry might normally have challenged this proposal, agreement among the environmental groups and the Port Company would place great pressure on them to accept it.

Adopting this approach, it was not long before the environmentalists and the Port Company were able to come to an agreement about what criteria needed to be met and what compensation measures needed to be included in order for them both to support the construction of the Second Maasvlakte. They had developed a shared text that articulated their consensus called “Vision and Daring.” This document was not legally binding; it was simply a report to the BOM that formally stated that “the City of Rotterdam and the nature and environment organizations...want to commit themselves jointly together for an integral improvement of the Rotterdam region,” including “a stronger and more differentiated economy, more nature, and a flourishing city.”⁴² But to the parties involved it was viewed as a binding contract because it was founded a trustful relationship and a strong sense of interdependence. “Vision and Daring” had accomplished what years of formal negotiations been unable to achieve: a consensus among the Port Company and

⁴¹ Interview with Albert Doe

⁴² “Vision and Daring,” May 2000

the major environmental organizations and a commitment from both sides that they would stand behind this agreement.

G. “Vision and Daring” Challenged

i. Issues of Legitimacy

When the environmental organizations chose to initiate informal negotiations directly with the Port Company, they knew they were taking a risk. The idea that the organizations would be working toward consensus with stalwart supporters of the port’s expansion was not likely to be immediately understood by members of the organizations or the larger environmentalist community. Many would fear that too much would have to be compromised by the environmental organizations.

Because of this, Alblas and Steeklenburg took specific precautions in an attempt to ensure that they would not make concessions that would be unacceptable to their memberships. Throughout the time that the meetings were taking place, Steeklenburg kept two of his staff members fully informed about what, specifically, he was trying to achieve on particular issues. These staff members were responsible for identifying potential problems and critiquing interim agreements made with the Port Company. In this way, Steeklenburg was able to continuously check back with people who could tell him if his concessions to the Port Company would be perceived as too great by members of his organization.

They also “rang the bell inside the network of environmental organizations” to alert other groups about the talks and to ask them what issues were of most important to

them.⁴³ Several other environmental organizations had not made a commensurate shift in reframing their position on the Second Maasvlakte and still stood firmly against it. For this reason, Steeklenburg recalled, “In the broader environmental movement, the day that this news [about the Vision and Daring agreement] was in the paper I got maybe 300 very angry emails: What are you doing? You are selling out the environment.”⁴⁴ These organizations were not convinced that Natuurmonumenten and Zuid-Hollandse Milieufederatie were making agreements that would best protect the environment.

Steeklenburg was anticipating this response and felt confident that if they needed make clear to the other organizations a distinction between having endorsed the Second Maasvlakte and having operated under the premise that if it were to move forward, what could they gain from it by carefully negotiating a better package of environmental compensation measures than could have been achieved if they were successful in stopping the project. Steeklenburg explained:

Well, I personally responded to each one of them with an explanation of how we did weigh this compromise. I also stated that nothing in the [news]paper says that we agree with the Second Maasvlakte. I cannot prohibit that papers write this down. If I was a journalist maybe I would write the same thing, but it's nowhere in this paper, really not. We accept this decision trail that is ahead. And almost nobody protested in return. Some gave positive response.”⁴⁵

Once the broader environmental community was appeased, another challenge remained: the group had to convince the ONR to accept the “Vision and Daring” agreement. To a certain extent, the environmentalists had tried to keep the Ministries up to speed throughout the negotiations. While the Ministries were aware that these meetings were occurring, they did not fully understand their purpose or what precisely

⁴³ Interview with Arno Steeklenburg

⁴⁴ Interview with Arno Steeklenburg.

⁴⁵ Interview with Arno Steeklenburg

their intentions were. Van Huut explained that he wondered “why two stakeholders could move out of ONR and have this document.” and felt they “didn’t show much of what they were doing.”⁴⁶ And the other NGOs were not pleased by the fact that these negotiations had been taking place. Their frustration stemmed not from the content of the document as much as it did from the fact that the agreement had been made without their input. They felt that an agreement that was achieved between two parties outside of the formal process was little more than backroom dealing. In their view—steeped in the classic polder model mentality—such deals warped the way in which interests were negotiated in a way that could give unfair advantage to certain stakeholders.

The “Vision and Daring” document itself was virtually identical to the draft ONR advice document, which was in its last week of review when “Vision and Daring” was submitted to the ONR. Some simply claimed that “Vision and Daring” was redundant, a reflection of the consensus that had been achieved in the formal ONR process. Others sharply criticized the legitimacy of this document and the environmental organizations’ decision to hold discussions without the full consultation of the other ONR members.. As Alblas said it, “They hated us. When we evaluated the whole process later on, the other parties stated that they were still very angry about this deal.”⁴⁸

The environmental organizations knew they had to be very strategic about how they responded to the criticism they had received. Their approach was not to engage in a debate about the role that the talks had played, but rather to express stress the importance of all stakeholders in supporting the ONR agreement.⁴⁹ When it came time to present the

⁴⁶ Interview with Harry van Huut

⁴⁸ Interview with Wilfred Alblas

⁴⁹ Interview with Maarten Hogeboom

results of the ONR to Parliament, Steklenberg and Evers did not try to take credit for their work outside of the process. In doing so they aimed to alleviate what Evers referred to as the “not invented here” syndrome, which arises when stakeholders feel compelled to reject a certain outcome if they feel that they were not responsible for it.⁵⁰ The environmentalists had no reason not to allow the membership of the ONR and the Ministries who organized the process to take full credit for the agreement that had been reached; their interest was in the outcome itself, not in claiming credit for it. The environmental organizations were in this way able to ameliorate some of the animosity of the other NGOs. Together, and now with the support of the Port Company, they were able to appeal directly to the Parliament with a unified voice. In spite of this, many other stakeholders still felt that something had happened that wasn’t quite right or fair, even if they couldn’t name what that “thing” was.

ii. Issues of Implementation

The Appeal of the Fishers

In June 2004, the Minister of Transport with the support of the ONR, submitted the PKB Part 3 to the Lower House for approval. In January 2005, the Council of State, the highest administrative course of the Netherlands, made a decision on the PKB. The Council of State’s decision stated that the search for alternatives that minimized damage to the environment had been sufficient, the compulsory reasons for the construction of the Second Maasvlakte were sufficiently demonstrated, and the compensation measures were adequate in kind and amount for the damage anticipated with the port expansion. But the Council had “destroyed” (rejected) all eight of the concrete policy decisions in the PKB.

⁵⁰ Interview with Frans Evers

This was largely due to appeals that were made by, and granted to, two parties:

Vissersbond (the National Union of Fishers) in collaboration with Productschap Vis (the Dutch Fish Product Board) and WLTO (the Union of Farmers branch for the Western part of the Netherlands).⁵¹

While Vissersbond/Productschap Vis made several appeals regarding the PKB, only one was upheld by the Council of State. It concerned the claim that there had not been sufficient study of the effect of the land reclamation on marine life in the Waddenzee, to the North, which is protected by the EU's Birds and Habitats Directives. This area is also extremely important to the flow of larvae that then grow into fish and are caught offshore. While the location where the reclamation was to occur fell outside of the boundaries of the protected area, the Council of State supported the claim that the study of the potential negative impacts of the extension on the Waddenzee contained enough uncertainty that it was not possible to be "reasonably sure" that they would not be severe.⁵²

Throughout the PMR processes, Productschap Vis felt completely alienated. When the process began, they felt many of the same frustrations as the NGOs who were not convinced that their consultative role would have real, direct impacts on the Ministries' decision-making process. It had been argued by the Ministries that fishing could be represented adequately by the Employer's Organization, but to Productschap Vis, the entire industry could not be represented by this organization. Many of the employers' represented by it had a very strong pro-port position and would therefore not

⁵¹ The decision also found certain procedural problems with the PKB process, including that a PKB needs a specific duration time, which was not specified and that a planned sea reserve that was one of the compensation measures needed to be in place before they can start building the Second Maasvlakte.

⁵² Interview with Jozja Bechinka

necessarily push for the same for conditions for development that the fishing industry desired. Beyond this, the entire supply chain for the fishing industry and the many people whose livelihood depended on it included interests that fell outside of those generally covered by the Employers Organization.

Once the ONR process was initiated, they were still not invited to the table. In part, this was due to the fact that Productschap Vis was a statutory organization and not an NGO. This meant that they could make their comments known, but they were not invited to regular meetings. At the same time, they were not given the same rights they felt they would have had if they had been a government body. Under the PKB legislation, governmental organizations are entitled to special consultation in a project of national significance, which normally takes the form of a public hearing. But upon making a request for a hearing, Productschap Vis received no reply from the Ministry. Denied any access to top-level negotiations, the only channel through which they could express their objections was to write letters as is allowed of any individual or group from the public. Letters were written and the major concerns that were expressed regarding the marine reserve and the Waddenzee were again, according to Productschap Vis, not addressed.

Traditionally in such cases the fishing industry and the environmentalists would ally themselves against the project. They would frame the conflict as one in which development stood in direct conflict with the protection of vulnerable coastal ecosystems and they would position themselves in support of the protection of these environments. But this time, the fishing industry felt they had no support from the environmental organizations. Nathalie Steins, who made the appeal for Productschap Vis, iterated:

We could not understand that the environmental groups, who normally also are very much focused on sustainable fisheries management in the

*North Sea, that they just basically didn't do anything and would allow it. Also because they were always the ones who always say, well the precautionary principle, in case you don't know for certain you shouldn't do it.*⁵³

By formulating a consensus with the Port Company independently the environmental organizations broke from their usual alliances. While Productschap Vis recognized that the environmental NGOs had acquired a large package of compensation measures, these measures were not aligned with the interests of the fishing industry. In fact, they felt one in particular—the designation of a protected marine reserve where no fishing would be allowed—was entirely contradictory to their interests.

Feeling that they had been blatantly neglected in the formal planning process and abandoned by the environmental organizations, Productschap Vis felt they had no choice but to appeal. The fact that they were not an independent organization, but rather a statutory agency, complicated this matter as was unclear to them at the start whether as part of the government an appeal would be legally permissible. For this reason, they initially operated through Vissersbond, financing and organizing their activities and making the appeal under the name of “Vissersbond and others.” Only later did the Council of State rule that Productschap Vis could legally appeal, and their name was added.

This was the first time Productschap Vis had gone to court, and they did so only because they felt as if they had no other choice. Had they been included in the Ministries' process, they insisted that they would not have had to make the appeal. Steins explained:

A lot of people think that the fishing industry is opposed to the whole idea of expanding the harbor and reclaiming the land and that is not the case

⁵³ Interview with Nathalie Steins

because the harbor, and everybody who works in the harbor, they are entrepreneurs, and the fishing industry is also entrepreneurs so we know that this is very important to the Dutch economy so there is no way that we want to stop the whole project. But what we felt was that the interests of the fishing industry from the start had not been taken seriously and that was the whole reason and not only from the beginning but also from the rest of the process we felt that that was really bad...And I'm sure that when everybody else signed a deal if there had been a plan for us for how to compensate the industry, those people who lost their fishing opportunities, not only in the land reclamation area but also in the marine reserve, and if there would have been a discussion on what are your objectives for the marine reserve and which fisheries fit in those objectives, maybe with some extra management rules, and which ones don't, if that discussion would have been there, I think we probably would have signed the deal as well.⁵⁴

While they had not interpreted their interests as inherently antithetical to the construction of the Second Maasvlakte at the beginning, the failure of the Ministries to fully assess the potential impacts of the project on their industry had left them with no other option.

A role shift had taken place. The groups representing fishing interests had taken the type of action that conventionally would have been pursued by environmental organizations. Beyond the fact that they took unprecedented action to appeal, the argument that they used and was upheld in court that scientific evidence was insufficient to demonstrate that minimal damage would be inflicted and was the type of argument normally used by environmentalists. In this case, the environmental organizations had dealt with what they perceived to be the inherent uncertainty of certain scientific studies by making the argument that the decision on whether or not to build the Second Maasvlakte was, ultimately, not going to be founded in scientific reasoning, but would be political. Given this understanding, they aimed to broaden the scope of issues on the table in order to minimize to the greatest extent possible negative environmental impacts and to maximize compensation for an *overall* package of measures where they felt they

⁵⁴ Interview with Nathalie Steins

would achieve net gain. The fishing industry had a similar understanding of the politics of the situation, but the scientific uncertainty fell within their more narrow scope of interests. While the environmental organizations might have been willing to accept a disturbance in the environment in a particular area as long as it was compensated elsewhere, as the fishing industry had defined their interests as tied specifically to the area that threatened to be disturbed, they did not have that flexibility. Like the environmental organizations had done many times in the past, the fishing industry now maintained that as long as there was uncertainty in the environmental impact, the project must not move forward.

The Appeal of the Farmers

The second major appeal that was upheld by the Council of State, was made by WLTO, representing farmers in the region. The appeal was made on the grounds that there had not been enough consideration of their interests when the decision was made to designate 750 hectares in the Rotterdam region as new nature/recreation space as part of the package of compensation measures committed to in the PKB. Of the 750 hectares, 600 hectares would be located in IJsslemonde, just below the southernmost boundary of the Municipality of Rotterdam. This location had been identified by the Province of South Holland as an ideal place to address the need for more nature and recreational space in the region. The farmers' organization, however, insisted that the plan for the 600 hectares, which called for part it to remain in the possession of farmers and part to be used for recreational purposes, would change the character of the land in such a way that would make it unsuitable for farming. Beyond this, they maintained that the lack of specification in the PKB regarding how and when the government would purchase

farmland for conversion a made for an extremely uncertain future for them; this uncertainty in itself would seriously damage their quality of life.

The farmers had faced similar challenges to participation in the formal planning process as the fishing industry; they found it extremely difficult to acquire direct access to top-level negotiations during the PMR process and they were not invited to the table during the ONR negotiations. Claims had been made by the Ministries that the interests of the farmers could be represented by the Municipality of Albrandswaard, under whose jurisdiction the land that was to be converted fell. But the farmer's organization did not agree with this. They felt very strongly that their interests did not necessarily align with those of the Municipality, as the majority of residents in this town were not farmers. What the Municipality of Albrandswaard characterized as efforts to reach out to the farmers to determine how they could best represent their interests, the farmer's organization looked upon resentfully as attempts to persuade them hand over their fate to them.

For these reasons, when the PKB was submitted calling for a plan for a new nature and recreation area in IJsslemonde, which would allow some to stay and did not specify precisely what the compensation would be for those who would be displaced, the farmers felt they could not accept it. They made their successful appeal on the grounds that their economic future was not sufficiently accounted for. The farmers knew exactly what they wanted. Although development was not anticipated for several years they were insistent that the government should buy all of their land at once. Some farmers who would be interested staying on their land might have the option to do so until the recreation area was be built, but they would at the very least know for certain that the

government would pay them all an agreed upon sum upfront for their land. Furthermore, the timing of their relocation would not occur at the whim of the government and none would be “left behind” with the difficult task of farming lands as they were encroached upon by recreation.

Like the fishers, the farmers believed that the process could have been constructed in such a way that would have led to an outcome they could have supported. There is nothing inherent in the Second Maasvlakte project or the conception that there should be environmental compensation measures for it that they felt was inherently contradictory to their interests. Unlike the fishers, the farmers did not expect the environmental organizations to be their allies, but they did believe that had the environmental NGOs acted differently they might have been able to help each other promote their interests. Leonie Claessen, who conducted a large part of the negotiations on behalf of WLTO, insisted that the farmers and the environmentalists normally have “different goals, but similar strategies.”⁵⁵ It is her belief that the farmers and the environmentalists, although they are often at odds with respect to their substantive objectives, have similar needs with respect to how formal planning processes need to be structured in order for them to have some influence on its outcome. Historically, according to Claessen, the farmers and the environmental groups have sometimes been able to work together to ensure that these conditions are met.

In this case, however, the environmental groups did not actively pursue that objective with the vigor they may have employed in the past. By acting outside of the formal planning process, they did not have to fight as hard for certain conditions within it. Rather, they were able to formulate a new dynamic between themselves and the Port

⁵⁵ Interview with Leonie Claessen

Company that in effect reduced their need to demand as much from the formal process. As with the fishers, the farmers felt they were thus left to fight this battle largely on their own. Finding they were unable to win it, they saw an appeal as their only viable course of action.

The Appeals Considered

The success of both the farmers' and the fishers' appeals raises an important question regarding the decision that was made by the environmental NGOs to take the initiative to alter the environment of the negotiations. Did their actions make it more difficult to implement the consensus that was achieved? In the aftermath of the Council of State's decision, which was a surprise to many who felt that they would be strongly influenced by political pressure to push the project through, the media largely portrayed the failure as that of the Ministries. Given the Ministries' formal responsibility for the process, and the environmentalists' efforts to avoid the "not invented here" problem, it is not surprising that the Ministries would be blamed.

The actions of the environmental organizations removed the consensus formulation from the institutional and political structures that normally ensure that the agreement is also one that can be implemented. Steeklenburg and the environmentalists do not necessarily see the appeals as detrimental threatening to ultimate realization of the plan in the long run; in fact, he argues, the appeals, if they can subsequently be adequately addressed, will only make the end outcome more solidly reflective of a broad spectrum of interests. As Steeklenberg noted, "we have never suggested that our process should prohibit successful appeals; we think that the possibility to appeal is an integral

part of any serious process.”⁵⁶ Nevertheless, at the time this thesis was completed it was anticipated that the process will extend for at least another year, while studies are conducted on the impacts of the project on the Waddenzee and negotiations with the fishers and farmers continue. This is not the most desirable outcome for either the Port Company or the environmental NGOs, both of whom would prefer to see the project and its compensation measures implemented sooner rather than later.

But at the same time the decision to uphold the appeals cannot be constituted as a complete failure on behalf of the NGOs. Representatives of the stakeholder groups that appealed indicated that they did not come out of the process feeling that their interests were inherently irreconcilable with the project. Rather, they simply felt that they were not provided sufficient opportunity to influence the process, and they could not rely on their traditional allies to support them. This means that the environmental organizations could likely have taken steps that would have integrated their concerns into the Vision and Daring negotiations.

The success of the appeals are line with what has been suggested by Potapachuk and Crocker regarding institutional incapability in the age of governance: policy often does not exist for implementing the types of consensuses formed through interaction among broad networks of stakeholders. Popular sentiment was that the Ministries were to blame. This was in essence the flip-side of their taking the credit for he consensus that was achieved and the environmental NGOs protecting against the “not invented here” problem. But difficulty in implementation in this case could also be interpreted as a mandate for the environmental organizations to broaden their role even further to prevent such groups from being left out. Viewed in this light, the environmental NGOs, in

⁵⁶ Email to author by Arno Steeklenburg, 22 February 2005

transforming their roles, didn't go far enough. In order to address the implementation "gap," they would have take a more active role in insuring that certain interests, that may be less accommodated due in part to their operations outside of the decision-making process, are addressed in some other way. This may involve pushing the Ministries to include the full spectrum of stakeholders or putting themselves in the position of central broker between these organizations and the government. In this case, however, this was not achieved. Their relationship to other actors and their creation of new norms of interaction was only partial; an ideally functioning new institution had not been created to entirely fill the "voids" of the old one. The environmental NGOs were operating in an unknown sphere where they were still seeking to re-make their roles not knowing for certain what the end outcome would be.

V. CONCLUSION

In the twenty-first century, the world's largest ports must possess very specific physical characteristics in order to remain globally competitive—ports need more land area, deeper berths, and more direct and efficient connections to landside transportation infrastructure than ever before. In order to meet these demands, ports are moving closer to the sea and farther away from existing communities and their historic geographies, in many cases dramatically transforming the physical environment to accommodate their needs. At the same time, in seeking to improve the efficiency with which goods are transferred through ports, the authorities that oversee them are rapidly adopting more advanced technology and streamlining logistics networks. This has resulted in a significant decrease in demand for labor and large-scale, local job losses. All of these factors combined have contributed to a port planning around the world that is increasingly characterized by disconnectedness with the local context, a prioritization of moving the process forward over facilitation of a diverse range of stakeholder participation, and a “top-down” orientation where the scope of options for redevelopment or expansion is predetermined by experts who are perceived to possess the technical knowledge needed to make it work. As a result, in case after case—from Long Beach to Shanghai—protests have arisen by local communities and environmentalists, leading to drawn-out legal battles, intractable disputes and, ultimately, outcomes in which one party achieves its desired goal and the other suffers tremendous losses.

One approach to resolving this dilemma would be for the entity responsible for port planning—most often a governmental or quasi-governmental agency—to take the initiative to restructure their planning process to try to avoid such conflict. This was what

the Ministry of Transport, Public Works and Water Management attempted with the creation of the ONR process. A pure application of standard “best practice” consensus building might call upon the government to initiate a new process that would create the conditions through which stakeholders could begin to think more in terms of interests rather than positions, build trust between each other, and come to feel a sense of interdependence and a shared vision for the future. The case study presented in this thesis, however, suggests that perhaps the traditional institutions through which this process would usually be carried out are no longer capable of addressing the problems of port planning in the contemporary world. The nature of the problem has changed in such a way that requires something *more* than the application of certain guidelines within the existing institutional context.

When the planning process for the Second Maasvlakte reached a state of crisis, the Ministries responded in a way that in many ways aligned with the fundamental principles of mutual gains-oriented consensus building. They initiated a new process that in which the Ministries committed to certain “playing rules” that were clearly articulated; they gave the nongovernmental stakeholders the opportunity to review all documentation of significance; and they brought in a neutral facilitator to run the process that all stakeholders respected and trusted. But even in taking these measures, certain issues had not been resolved for the environmental organizations. They still did not feel entirely trustful of the Minister’s commitment to incorporating their interests into policy; the multiplicity of stakeholders created a complex web of interests that made it hard to focus on the most dramatic schisms between themselves and the Port Company; the sense of

formality and “publicness” of the ONR made it difficult for them (and the Port Company) to reframe their interests in the way they needed in order to have a productive dialogue.

What the environmental organizations attempted to do was to seek out ways to fill the “voids” in the existing institutional framework themselves. Some of this they accomplished by placing new demands on the formal structure of negotiations, for example in insisting on an impartial body of experts that could be called upon to give advice. Largely, however, they felt they had to work outside of this process to alter their relationship to both their most oppositional actor and to the Ministries and pursue their reframed interests. This decision, made possible also by the willingness of the Port Company to do the same, created a *new* ad hoc, informal institution that established another set of implicit playing rules for the marco-level negotiation. Within the new institution, some of the strategies the environmental NGOs employed for reaching consensus seemed to mimic what had been tried in the ONR process. These included the building up of a common text or and the emphasis on the need for commitment by all parties—seemingly standard consensus-building techniques. Other aspects of the “Vision and Daring” process, however, took on a new look and feel—the setting was more informal, there was no pre-established end-goal, there was an openness regarding each others’ ZOPAs. Through this combination of tactics the environmental NGOs and the Port Company were able to reframe the problem they were dealing with, and their relationship to it, in a way they had been unable to achieve in within the ONR process. The issues that arose regarding the legitimacy and implementation of the consensus that was ultimately achieved demonstrated that the environmental organizations were not able to fully transform their relationship to the problem to achieve the most desirable

immediate outcome. In spite of this, their actions can be interpreted as a significant step in a longer-term process of creating something new, something with the potential to “work better,” than the old way.

As a multi-perspective, descriptive account, this case is extremely informative for stakeholders trying to influence or manage similar networks. Framing the characteristics of modern port planning with respect to institutional incapacity, the case demonstrates that stakeholders can indeed create the conditions for new forms of deliberation that can lead to mutually beneficial policy outcomes. From the perspective of a stakeholder seeking change, this case study provides evidence that in such situations they do not have to choose between working within the existing structure and defecting and protesting. They have a third option. By stepping outside of conventional roles and by challenging existing institutions—not directly through protest, but by realigning the relationships between actors—they have the potential to change the negotiation environment in ways that will bring about outcomes they otherwise could not have achieved.

These insights are equally important to governmental entities that are responsible for managing planning processes for major port development projects. The case study presented is not intended to be a criticism of the Dutch Ministries involved in the Second Maasvlakte negotiation or of government-organized negotiations more generally, nor is it meant to advocate for a completely decentralized type of planning that is entirely stakeholder-driven. But the case study calls attention to the limitations of government in these processes that might not be recognizable to practitioners embedded in them. These limitations do not absolve them of responsibility, but should cause them to reconsider how they might structure processes that encourage deliberation among a wider spectrum

of stakeholders to their advantage. Experimentation with ideas such as encouraging certain stakeholders to engage in parallel processes while keeping those involved in the formal process abreast of their discussions or allowing stakeholders to determine jointly who should be at the decision-making table and what roles they should play, may provide opportunities for governments to allow for more deliberative processes, while still maintaining some control over them with respect to aspects they need to manage (such as keeping them on schedule and keeping costs down). These “mixed” process might provide authorities the opportunity to preempt stakeholders’ potentially destructive behavior with respect to their process and to encourage a more constructive relationship. From this perspective, the potential more central roles of stakeholders in planning processes are not inherently undermining to their authority, but are necessary if they are to unprecedented challenges they face in the modern era.

Certain aspects of this case are unique to the Netherlands—the central role of Ministries in national planning projects, the specific ways in which the notion of environmentalism has evolved within the country, and, of course, the deep tradition of a very particular type of consensus-based policy-making through the polder model. For this reason, it may be easier to directly apply some of the lessons learned from this case in the Netherlands—for example the need to address the unique position of statutory entities like *Productschap Vis* who have an unclear role in polder model-based negotiations because they “fit” neither as NGOs nor as government bodies. But many other lessons—from the importance of recognizing the role that informal processes can play in influencing the formal to the need to question the presumption that establishing new playing rules for a negotiation will negate long-standing feelings of mistrust—are

broadly applicable to a wide range of contexts. In fact, it is in foreign contexts that the case may be most valuable as an instructive example.

Finally, beyond its implications for practice, the case study presented in this thesis makes a noteworthy contribution to the way in which scholars can think about consensus building in the emerging network society. At first consideration, the dominant theories of mutual gains-based negotiations—which tend to be prescriptive in nature and aim to provide strategies that call for highly structured consensus-building processes—and the approaches taken in understanding deliberative democracy and the rise of governance—which tend to be non-evaluative and emphasize the need for a multiplicity of complex, formal and informal interactions between actors in generating policy—are not easily reconcilable. This case study, however, presents an opportunity to consider the way in which some of the most elementary principles of consensus building are both challenged by and hold up against the shift from government-based to governance-based policy formulation.

Various interpretations of whether or not the environmental NGOs in this case were successful in their negotiations, as measured either by the outcome of this process or by the long-term impact of their actions on the relationships between actors, can be drawn from this case. The fact that no national environmental organization appealed the decision on such a large, high-stakes project represents a consensus that was able to overcome not only vast cleavages between environmentalists and port expansion advocates, but also a multiplicity of sub-interests among environmental organizations. It is even possible to frame the legitimacy and implementation challenges that arose out of the unconventional actions of the environmental organizations in terms of difficulties that

could have been avoided with the conscientious application of certain “checks” throughout the process. The actions of the environmental organizations do not represent a perfect solution to the voids in the existing institutions that they felt prevented a consensus form being achieved. But even if they did not find the complete “right” alternative, the generation of *more* alternatives that could potentially fill the “void” as it exists must be lauded as a success in and of itself.

On the one hand, it seems likely that the actions of the environmental organizations in this case established precedents for future processes, new norms for interaction that will remain in place so as to help facilitate the generation of similar consensuses in the future. On the other hand, not long after “Vision and Daring” was completed, negotiators in the process have already indicated that the “energy” and “commitment” among parties has waned. The appealing parties, similarly, are not convinced that any sort of learning process has been internalized by the environmental organizations or the Ministries that would cause them to better incorporate their interests if a similar planning process were to be initiated in the future. At the time that this thesis was completed, the case seemed to rest firmly in the realm of Hajer and Zonneveld’s “shadow structure;” while real transformations in the existing institutions are evident, it has yet to be seen whether or not these changes signify a lasting new paradigm for decision-making. The extent to which the shift will endure will depend on the ability of participants in it—whether they are government agencies, non-governmental organizations, or private citizens—to identify the ways in which their roles and relationships in micro-level negotiation processes have changed. Only with this knowledge will they have the guidance they need to create new institutional arrangements

that will take advantage of the opportunities for the creation of more effective and equitable policy through governance.

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