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Background Information

Basic facts on Marine Waters

- Size of internal waters (to the baseline) and territorial sea (12-nm zone from the baseline) in the Baltic Sea approximately 10,900 km²
- Exclusive economic zone in the Baltic Sea about 4,500 km²
- Size of internal waters (to the baseline) and territorial sea (12-nm zone from the baseline) in the North Sea approximately 12,500 km²
- Exclusive economic zone in the North Sea about 28,500 km²

Maritime Spatial Plan (MSP) authorities and legislation

General

The Federal Ministry of Interior, Building and Community (BMIBH) is responsible for setting up maritime spatial plans for the North Sea and Baltic Sea EEZs. Specific plans have been prepared by the Federal Maritime and Hydrographic Agency (BSH).

Federal Coastal States are responsible for setting up spatial targets and principles for their respective share of internal waters and territorial sea in the North and Baltic Sea.¹

- In Schleswig-Holstein the competent authority is the Ministry of Interior Schleswig-Holstein.
- In Mecklenburg-Vorpommern the responsibility lies with the Spatial Planning Authority in the Ministry of Energy, Infrastructure and Digitization.

¹ This is based on a resolution adopted in 2001 by the Minister Conference for Spatial Planning in Germany (MKRO). It required Germany's coastal Länder to extend the scope of their regional development plans to include Germany's territorial waters (12-nautical mile zone) and to adapt the objectives and principles of spatial planning accordingly and thus take into account the special circumstances at sea. This resolution established an important foundation for coordinating planning of sea and coastal areas that takes account of land space availability and competing use interests.
• In Lower Saxony, MSP is included in the Spatial Development Plan, prepared by Lower Saxony Ministry of Food, Agriculture and Consumer Protection.

Planning on national level

National legal base is the general Spatial Planning Act („Raumordnungsgesetz“ / ROG), which was made applicable to the EEZ in 2004. According to the German Spatial Planning Act the Federal Government is responsible for maritime spatial planning in the German EEZ.2 The amended ROG was decided in 2017 to (inter alia) implement the EU MSP directive.3 In 2019 a first consultation and scoping phase will start to evaluate the two maritime spatial plans in the two EEZs.

National MSP authority

The Federal Ministry of the Interior, Building and Community (BMI) is responsible for setting up maritime spatial plans for the German EEZ in the North and Baltic Sea.

Planning on regional level

- The territorial sea is an integrated part of the (terrestrial) spatial plans of the coastal federal states.
- The ROG and the respective spatial planning law of each federal state provide the legal basis for federal plans and programmes:
  - Schleswig Holstein: The State Development Plan was last amended in 2015. The start of the consultation for this plan was end of 2017.
  - Lower Saxony: The Federal Spatial Planning Program (LROP) contains the regional planning for the state of Lower Saxony. The LROP is based on a 1994 regulation, has since been updated several times, re-publicized in 2008 and last amended in 2017.

Regional MSP authority

Each federal state (Lower Saxony, Schleswig-Holstein, and Mecklenburg-Vorpommern) has authority to develop MSP plans for the territorial sea (12 nm-zone).

Details

The national legal basis for MSP is the general Spatial Planning Act („Raumordnungsgesetz“ / ROG, last amended in 2017).

The guiding principles of spatial plans under the act include:

• Securing and strengthening maritime traffic,
• Strengthening economic capacity through spatial development and optimisation of spatial use,
• Promotion of offshore wind in accordance with Federal Government’s sustainability strategy,
• Long-term sustainable use of properties and potential of EEZ through reversible uses, economic use of space, and priority of marine uses, and
• Securing natural resources by avoiding disruptions and pollution of marine environment.

2 The amendment of the ROG in 2004 extended the scope of spatial planning according to the guidelines of the UN Convention on the Law of the Sea to include EEZ and allocated planning powers for the EEZ in the North and Baltic Seas (beyond the 12-nautical mile zone (territorial waters) outward to up to 200 nautical miles) to the Federal Government. This was the first time the Federal Government was assigned a concrete task in overall spatial planning.

3 Amended by art. 2 para 15 ROG in July 2017 (BGBl. I S. 2808)
Other relevant national legislation includes:

- Federal Maritime Responsibilities Act (SeeAufG), as of 26 July 2002 plus related regulations, incl. Marine Facilities Ordinance (SeeAnlV)
- Federal Mining Act (BBergG) of 13 August 1980
- Renewable Energie Sources Act (EEG)
- Energy Industry Act (EnWG) of 7 July 2005 (and Grid Expansion Acceleration Act (NABEG) of 28 July 2011
- Federal Nature Conservation Act (BNatSchG)
- Federal Water Act (WHG)
- Act on the Assessment of Environmental Impacts (UVPG)

Spatial Planning Legislation in general names requirements, tasks and guidelines of spatial planning, aiming at achieving a balanced structure of settlements and open landscapes as well as the ecosystem, avoiding uncontrolled development and maintaining efficient infrastructures. For the EEZ the maritime spatial plan shall include targets (legally binding) and principles (guidelines that need to be particularly considered in the decision process) of spatial planning with regard to economic and scientific use, with regard to ensuring safety and efficiency of maritime traffic and as well with regard to protection of the marine environment. Respective areas for these uses and functions may be stipulated.

Other developments, initiatives and projects related to MSP:

- The Federal Government has published in 2011 an overall development concept for the sea, which constitutes the strategy for an integrated German maritime policy ("Entwicklungsplan Meer – Strategie für eine integrierte deutsche Meerespolitik").
- An offshore grid plan for the EEZ of the Baltic Sea has been elaborated by BSH in 2013, identifying the electricity connections needed for the offshore wind farms, and the possibilities of having joint converter platforms for several wind farms (clusters), and the cables to be bundled in corridors towards land, including a strategic forward looking approach. A new spatial development plan will be due to the year 2019.
- In 2011 the Federal Agency for Nature Conservation (BfN) started a project with the aim to develop management plans for the Natura 2000 sites in the German EEZ under the EU BIRDS and HABITATS Directives, in close coordination with the Federal Environment Ministry. The management plans will include monitoring and surveillance. The work is done on the basis of existing data and in close cooperation with other research projects in the German EEZ, e.g. projects on monitoring and on the implementation of the MSFD (NaBel-MSP, http://www.io-warnemuende.de/project/112/nabel-msp.html).
- In 2013 the Federal Agency for Nature Conservation (BfN) started a project with the aim to advance environmental approaches for a further development of maritime spatial planning in the German EEZ. One part of the project is to specify the ecosystem approach for an application in the context of MSP.
- Another on-going project (2015-2017) seeks to broaden the knowledge base on the marine environment with regard to upcoming revision of the MSPs. Based on scientific findings, the aim of the project is to integrate nature conservation concerns into MSP processes (FABENA, http://www.io-warnemuende.de/project/126/fabena.html).

Progress

The national Spatial Planning Act has been revised and was implemented in 2016, mainly with regard to the MSP Directive’s requirements for transboundary consultation and coordination in MSP, for taking into account the land-sea interactions and for applying the ecosystem approach.

In 2018 the revision process of the MSPs for the EEZ of the Baltic and the North Sea has started with a planned preliminary draft and consultation (as part of the legislative procedure) in 2019. The final plan is foreseen for 2021 (see Figure 1). Following Interreg projects like BaltSeaPlan and PartiSEApate, BSH had always been very actively involved in new developments with neighboring countries starting national MSP processes, and requirements on EU level (adopted MSP Directive) etc. BSH/Germany is taking part in DG Mare project Baltic SCOPE, and is Lead Partner of Interreg projects NorthSEE and Baltic LINes, which have both been approved in the first calls of the North Sea and Baltic Sea Region Programmes respectively and have started work in 2016.
There are further MSP projects and initiatives on national and international level with a special environmental focus, which UBA and BfN support. BMI/BSH are members in the informal working group set up by the European Commission to discuss all aspects in connection to the implementation of the MSP directive. The “Guiding principles and strategies for the spatial development in Germany” are currently under revision. They include a separate chapter concerning the sustainable use of coastal and marine areas. Likewise, the Federal Spatial Planning Law is under revision, seeking to take on the requirements of the EU Maritime Spatial Planning Directive with regard to consultation and agreements with neighboring Member States, to achieve cross-border coherence of Maritime Spatial Plans.

Figure 1: Preliminary timing of the evaluation of the MSPs in the two German EEZs. Source: BSH

Schleswig-Holstein and Lower Saxony are currently reviewing and updating their respective spatial plans and programmes, taking on new developments and challenges. The Federal Programme for Spatial Development in Mecklenburg-Vorpommern (LEP M-V) came into force through publication in the Legal and Regulatory Gazette of the federal state on 8th of June 2016. It covers the planning of the spatial development in the Territorial Sea.

Overview of MSP-related uses and issues

- MSP drivers: safe and efficient navigation, marine protection, commerce, offshore wind park planning
- Current main uses: Sand and gravel extraction, offshore wind farms, shipping, fishing, nature protection, tourism
- Issues: Planning for offshore wind farm grid connections
- Future uses: Additional offshore wind farms
Maritime Spatial Plans

**Existing Maritime Spatial Plans**

Maritime Spatial Plans exist for the North Sea and Baltic Sea German EEZs (2) and for the territorial sea areas under jurisdiction of the three coastal federal states (Lower Saxony, Schleswig-Holstein, and Mecklenburg-Vorpommern) (3).

Not legally binding:

An area of the Pomeranian Bight has statutory MSPs covering the German part of the pilot area with Mecklenburg-Vorpommern responsible for the 12 nm area and the Federal Maritime and Hydrographic Agency BSH for the EEZ (see BaltSeaPlan report No. 9).

**Specific Maritime Spatial Plan 1**

**Maritime Spatial Plan for the EEZ of the Baltic Sea**

Specific zones for sectors included in the MSP:

- ✔ Shipping
- ☐ Ports
- ✔ Mineral extraction
- ☐ Oil and gas exploitation
- ✔ Offshore renewable energy production
- ✔ Fishing
- ☐ Aquaculture
- ☐ Tourism (incl. recreation and sports)
- ✔ Under water cultural heritage
- ✔ Nature protection
- ✔ Military
- ✔ Scientific Research
- ✔ Submarine cables and pipelines

All other issues mentioned are being shown “for information only”, and/or are being referred to in the text, e.g. no offshore wind energy within Natura 2000 areas, other interests to be considered or excluded within certain zones (military, underwater cultural heritage, no fishery within OWFs).

**Legal basis**

Legal base is the general Spatial Planning Act („Raumordnungsgesetz“/ROG), which was made applicable to the EEZ in 2004 and was amended in 2017. The Federal Ministry of the Interior, Building and Community (BMI) is responsible for setting up Maritime Spatial Plans in the German Exclusive Economic Zone (EEZ) - in the framework of UNCLOS.
Legal impact

The plan sets binding rules and regulations for authorities, mainly with regard to licensing procedures and approval of projects.


Area covered

The plan area covers the German EEZ in the Baltic Sea, though does not cover the charted area showing the northern approaches to the harbours of Świnoujście and Szczecin and anchorage no. 3 because of contradictory legal opinions. According to German opinion this area is part of the German EEZ, whereas in relation to Poland no rights or sovereign powers are exercised. According to Polish opinion this area is part of the Polish territorial sea.

Figure 2: Spatial Plan for the German EEZ of the Baltic Sea. Scale: 1:400,000 Source: BSH

Historic development

The planning process started in 2005 with a questionnaire sent to agencies and NGOs to obtain an overview on activities, licences and interests in the EEZ. A “scoping meeting” took place in 2005 with agencies and NGOs to discuss the scope of the necessary Strategic Environmental Impact Assessment. The Ministry of Transport, Building and Urban Development BMVBS (since December 2013: BMI) and BSH drafted maritime spatial plans, which in conjunction with the SEA report have been given into public participation in 2008; transboundary consultation was conducted and public hearings were held. In December 2009, the Maritime Spatial Plan for the German EEZ in the Baltic Sea was enacted by the Federal Ministry of the Interior, Building and Community (BMI).
Objectives of the plan

The guiding principle for Maritime Spatial Planning in Germany is sustainable spatial development, which brings social and economic demands regarding space in line with the sea’s ecological functions and leads to a permanent, large scale balanced order. In order to co-ordinate the growing conflicts of maritime uses, in particular between space requiring offshore wind farms and marine environmental protection goals as well as traditional maritime uses such as shipping and fisheries, an integrative and sustainable approach is needed for the development of the German Exclusive Economic Zone (EEZ).

5 guidelines:

1. Safeguarding and strengthening maritime traffic;
2. Strengthening economic capacity through orderly spatial development and optimisation of spatial use;
3. Promotion of offshore wind energy use in accordance with the Federal Government’s sustainability strategy;
4. Long-term sustainable use of the features and potentials of the EEZ through reversible uses, efficient use of space, and priority of marine-specific uses;
5. Safeguarding natural environment by avoiding disruptions to and pollution of the marine environment.

Designation

Spatial designations have been made by determining priority areas (planning targets, legally binding) and reservation areas (planning principles) – further regulations have been made in the text, setting binding planning priorities, planning principles, rules and objectives to be followed.

Shipping:

In the priority areas for shipping this activity is granted priority over other spatially significant uses and no permission is given to planning, measures and projects not compatible with the shipping priority. In reservation areas for shipping special consideration is given to shipping interests – a comparative evaluation with other spatially significant planning tasks, measures and projects has to be conducted. In practice reservation areas serve as safety buffers for main shipping routes, thus no activities compromising this function are being eligible within these areas, e.g. fixed constructions such as wind turbines.

Figure 3: Priority and Reservation Routes for Shipping, Source: BSH
Pipelines:
Special consideration is given to the laying, operation and maintenance of pipelines in the reservation areas for pipelines in the Baltic Sea.

Marine scientific research:
Special consideration is given to the conduct of scientific research activities in the reservation areas for research.

Energy production, wind energy in particular:
The production of wind energy is granted priority over other spatially significant uses in the priority areas for wind energy. Offshore wind turbines outside the designated priority areas are not allowed within Natura 2000 areas.

Planning regulations
The Maritime Spatial Plans for the EEZ determine co-ordinated regulations for single uses and functions:
- Shipping,
- Pipelines and submarine cables,
- Marine scientific research,
- Energy production (especially wind energy),

They include regulations determining areas for single uses and functions. Further activities in the EEZ such as military exercises, will find co-ordinated consideration within the regulations mentioned above. Management arrangements are taken in a later stage, for instance at project level dealing with applications for specific activities (e.g. wind farms). For Natura2000 areas management plans are to be developed by the competent Nature Conservation Agency.

Strategic Environmental Assessment
As a basis for description and assessment of any substantial impacts on the marine environment that are likely to be caused by the implementation of the plan, a large scale Strategic Environment Assessment (SEA) has been carried out – for the first time in a sea area distant from the coast. The SEA predicted no significant effect on the marine environment evoked from the implementation of the plan.

Public Participation
Broad public participation was secured through consultations with stakeholders (agencies and NGOs): marine environment and nature conservation, fisheries, energy, sand and gravel, shipping, military, tourism, leisure boating, research.

A public hearing on the draft plan with ca. 80 stakeholders attending - mainly from other planning authorities, industry and NGOs - was held in Rostock in late 2008.

Transboundary Consultation
Consultations with neighboring countries were conducted by
- Notifying about the intention to set up a maritime spatial plan in the initial phase of the planning process and asking about their interest in being kept informed and consulted
- Consultation on the draft maritime spatial plan by written information
- Several face-to-face meetings with neighboring countries’ representatives
• ESPOO consultation in the course of the Strategic Environmental Assessment, asking for potential negative impact of the plan on neighboring countries’ marine environment, the protected areas in particular.

Harmonisation with other plans

The area, which adjoins the German Baltic Sea EEZ, which already featured spatial planning provisions for marine space, was the German territorial sea administered by the federal state of Mecklenburg-Vorpommern. The Spatial Development Program had been enacted in 2005. This plan followed different planning objectives which were distinctly driven by the coastal development - with spatial designations e.g. for nature protection, sand and gravel extraction and tourism, and suitable areas for offshore wind energy which do not allow for any further offshore wind energy development outside of these areas. Shipping was not regulated, the map only depicting some major shipping routes. Thus MSP for the EEZ did not take this plan as a model, and chose another approach, with starting out to secure safe and easy shipping and regulating infrastructure development.

Monitoring & Review

In 2012 an evaluation report was produced by BSH and the Ministry of Transport, which assessed if and how the implementation of the plan had been successful in reaching the target set, focusing mainly on the development of offshore wind energy and the target set for offshore wind energy production by the Federal government. Steering effects were obvious, offshore wind farm applications now being limited to the priority areas for offshore wind energy and areas with no general limitation to offshore wind farm development. Thus adequate space has been secured for medium to long-term development of the sector, as a prerequisite for implementation of the government’s renewable energy strategy.

Electronic resources

MSP for the German EEZ in the North Sea, MSP for the German EEZ in the Baltic Sea:

• Legal Ordinance (English translation),
• Maritime spatial plan with justification (English translation),
• Map (English version) and
• English summary of environmental report.

https://www.bsh.de/EN/TOPICS/Offshore/Maritime-spatial-planning/Maritime-spatial-planning_node.html

Specific Maritime Spatial Plan 2

Maritime Spatial Plan for the EEZ of the North Sea

Specific sectors included in the MSP:

- Shipping
- Ports
- Mineral extraction
- Oil and gas exploitation
- Offshore renewable energy production
- Fishing
- Aquaculture
- Tourism (incl. recreation and sports)
- Under water cultural heritage
Legal basis

Legal base is the general Spatial Planning Act („Raumordnungsgesetz“/ROG), which was made applicable to the EEZ in 2004. The Federal Ministry of the Interior, Building and Community (BMI) is responsible for setting up Maritime Spatial Plans in the German Exclusive Economic Zone (EEZ) - in the framework of UNCLOS.

The legal ordinance of the BMVBS concerning the spatial plan for the German EEZ in the North Sea of 21st of September 2009 (BGBl. I p. 3107) comprises an attachment to the spatial plan (text and map), and entered into force on the 22nd of September 2009.

Legal impact

The plan sets binding rules and regulations for authorities, mainly with regard to licensing procedures and approval of projects.

Germany, resp. the Federal Ministry of Transport, Building and Urban Affairs (new name since December 2013: Federal Ministry of the Interior, Building and Community) adopted and enacted the maritime spatial plan for the EEZ of the North Sea as “Ordinance on Spatial Planning in the German Exclusive Economic Zone in the North Sea (AWZ Nordsee-ROV)” on 21st September 2009, the plan entering into force on 22nd September 2009.

Area covered

Figure 4: MSP for German EEZ. Source: BSH
Historic development

The MSP for the North Sea EEZ was set into force in September 2009.

Objectives of the plan

The North Sea plan balances the needs of safe and efficient navigation, marine protection, commerce and science. In particular, it identifies the following developmental requirements:

- The special importance of shipping, recognising the needs of sea lanes as underlying structure around which other needs must be fitted.
- The development of offshore wind energy utilisation must be supported, the provision of sufficiently dimensioned areas for wind farms and ensuring corridors for transmission remain.
- Uses such as exploitation of non-living resources, laying cables and pipelines as well as research are to be given enough space and security for further development.

At the same time, the Act does include text stating that protection of the marine environment will be undertaken not only through the designation of Natura 2000 sites, but also in the consideration of other spatial demands.

Designation

Priority areas have been designated for shipping, pipelines and cables, and wind energy development; other uses are prohibited in such areas unless they are compatible with the priority uses. The targets of spatial planning are:

- Shipping is granted priority over the other spatially significant uses in the priority areas for shipping as indicated in the map. To the extent spatially significant planning, measures and projects are not compatible with the function of the shipping priority area in these areas they are not permitted.
- After termination of use, structural installations for resource exploitation must be dismantled.
- When exploiting resources, due consideration shall be given to existing pipelines and submarine cables and an appropriate distance from them shall be maintained.
- The operation and maintenance of pipelines is given priority over other spatially relevant uses in the priority areas for pipelines as indicated in the map. Any spatially relevant planning, measures and projects in these areas that are not compatible with the function of the priority area for pipelines are prohibited.
- Submarine cables for the transport of power generated in the EEZ shall cross priority areas for shipping by the shortest route possible if they cannot be run parallel to existing structures.
- When routing new pipelines and submarine cables, due consideration shall be given to existing pipelines and submarine cables and an appropriate distance from them shall be maintained.
- Transition to the territorial sea/ Definition of cable corridors
- Priority areas for wind energy, ensuring navigational safety, references areas, dismantling, height limitations, pipelines/submarine cables

Planning regulations

Priority areas have been designated for shipping, pipelines and cables, and wind energy development; other uses are prohibited in such areas unless they are compatible with the priority uses. The designation of areas for shipping and for cables and pipelines takes account of the principle of international law attributing priority to these uses; recognized shipping routes that are indispensable for international shipping constitute the framework of the overall planning concept. Reservation areas have been designated for shipping, pipeline, and research uses that are considered particularly important when balancing with spatially significant competing uses.

Strategic Environmental Assessment

As a basis for description and assessment of any substantial impacts on the marine environment that are likely to be caused by the implementation of the plan, a large scale Strategic Environment Assessment (SEA) has
been carried out - for the first time in a sea area distant from the coast. The SEA predicted no significant effect on the marine environment evoked from the implementation of the plan.

**Public Participation**

Broad public participation was secured through consultations with stakeholders (agencies and NGOs): marine environment and nature conservation, fisheries, energy, sand and gravel, shipping, military, tourism, leisure boating, research.

**Transboundary Consultation**

Consultations with neighboring countries were conducted by

- Notifying about the intention to set up a maritime spatial plan in the initial phase of the planning process and asking about their interest in being kept informed and consulted
- Consultation on the draft maritime spatial plan by written information
- Several face-to-face meetings with neighboring countries’ representatives
- ESPOO consultation in the course of the Strategic Environmental Assessment, asking for potential negative impact of the plan on neighboring countries’ marine environment, the protected areas in particular.

**Harmonisation with other plans**

N/A

**Monitoring & Review**

In 2012 an evaluation report was produced by BSH and the Ministry of Transport, which assessed if and how the implementation of the plan had been successful in reaching the target set, focusing mainly on the development of offshore wind energy and the target set for offshore wind energy production by the Federal government. Steering effects were obvious, offshore wind farm applications now being limited to the priority areas for offshore wind energy and areas with no general limitation to offshore wind farm development. Thus adequate space has been secured for medium to long-term development of the sector, as a prerequisite for implementation of the government’s renewable energy strategy.

**Electronic resources**

MSP for the German EEZ in the North Sea, MSP for the German EEZ in the Baltic Sea:

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- English summary of environmental report.

https://www.bsh.de/EN/TOPICS/Offshore/Maritime-spatial-planning/National-spatial-planning/National-spatial-planning_node.html

**Specific Maritime Spatial Plan 3**

**Maritime Spatial Plan for the Territorial Sea of the Baltic and North Sea - Schleswig-Holstein**

**Legal basis**

The State Development Plan for Schleswig-Holstein and the three Regional Plans are set up as statutory ordinances in the context of the State Spatial Planning Act, §§ 5 - 9, as of January, 27th, 2014, last amended May, 22nd 2015. It is based on the Federal Spatial Planning Act, §§ 7 - 11.
Legal impact

The plan sets binding rules and regulations for authorities, mainly with regard to licensing procedures and approval of projects.

The actual State Development Plan came into effect in October 2010 as a legally binding plan and was last amended in 2015. The start of the consultation for this plan is anticipated for spring 2019

Area covered

The plan covers the land as well as the marine areas of Schleswig-Holstein as far as the territorial sea border.
Historic development

The actual State Development Plan came into effect in October 2010 as a legally binding plan. A revised plan is currently under preparation and will cover the marine area, too. The start of the consultation for this plan is anticipated for autumn 2017.

Objectives of the plan

The State Development Plan for Schleswig-Holstein regulates the spatial objectives and principles for terrestrial as conclusively for the marine areas.

The guiding principle is sustainable spatial development, which brings the social and economic demands regarding space in line with its ecological functions and leads to a permanent, large-scale balanced order.

The different uses in the coastal zone should be balanced and adjusted to each other. Integrated coastal zone management should play an important role in this.

Designation

The state development plan of Schleswig-Holstein for the territorial areas of the Baltic Sea includes several areas of reservation for nature and landscape, a test field for wind energy turbines and core areas for tourism at the coasts. The territorial areas of the North Sea are dominated by the Wadden Sea National Park.
Planning regulations

The state development plan of Schleswig-Holstein for the territorial areas of the Baltic Sea includes several areas of reservation for nature and landscape, a test field of core areas for wind energy turbines and for tourism at the coasts. The territorial areas of the North Sea are dominated by the Wadden Sea National Park.

Strategic Environmental Assessment

By law, maritime spatial plans are subject to Strategic Environmental Impact Assessments. SEAs have been conducted according to the Environmental Impact Assessment Act (UVPG) of June 25, 2005, resulting in comprehensive environmental reports.

Public Participation

Broad public participation was secured through an online-based consultation and participation procedure, as well as several public stakeholder meetings in different parts of Schleswig-Holstein and public displays.

Transboundary Consultation

Denmark as neighbouring state was also included in the participation and consultation process.

Harmonisation with other plans

N/A

Monitoring & Review

N/A

Electronic resources

Spatial Development Plan (LEP) 2010 for Schleswig-Holstein:

http://www.schleswig-holstein.de/DE/Fachinhalte/L/landesplanung_raumordnung/allgemein/landesplanung_aufgaben_instrumente_raumordnungsplaene.html#doc1461094bodyText1

Specific Maritime Spatial Plan 4

Maritime Spatial Plan for the Territorial Sea of the Baltic Sea - Mecklenburg-Vorpommern

Legal basis

In addition to ROG (see 1.2.2.1 and 5.1) the legal base for spatial planning in Mecklenburg-Vorpommern is the Law on Spatial Planning (“Landesplanungsgesetz, LPlG M-V). Article 6 (1) states, the area the law is covering, is the entire “Land”, including the territorial sea. Presumably, the LPIG M-V will be revised during the next legislative period. It already meets main requirements of the EU MSP Directive whereat already the ROG amendment will implement the EU Directive in national law.

Legal impact

Predominantly, the plan sets binding rules and regulations for authorities, mainly with regard to licensing procedures and approval of projects. In the individual case, aims of spatial planning may influence directly measures of private actors relevant for the space. This is especially true if priority areas for wind power installations exclude the installation of plants outside of these priority areas.
The new programme was adopted by ordinance of the State Mecklenburg-Vorpommern in 2016 and became a legally binding act.

Responsibility for contextual issues is with the Ministry of Energy, Infrastructure and State Development of Mecklenburg-Vorpommern.

Area covered

The programme covers both sea and land, i.e. the whole territory of Mecklenburg-Vorpommern, including shares of inland waters and territorial sea in the Baltic Sea. The following link provides the map of the Spatial Development Programme of whole Mecklenburg-Vorpommern (as well as the translation of the legend in English and Polish): http://www.regierung-mv.de/Landesregierung/em/Raumordnung/Landesraumentwicklungsprogramm/aktuelles-Programm/

Historic development

The Spatial Development Programme (SDP) of Mecklenburg-Vorpommern was extended to the 12-nm zone during the realignment in 2003-2005. Mecklenburg-Vorpommern is the first German coastal state that has integrated designations for single uses in the 12-nm zone into its regional development program. The extended programme was adopted at first time in 2005 and became a legally binding act.

In the years 2013 - 2015 the SDP was being updated. By updating its SDP, Mecklenburg-Vorpommern intends to intensify its comprehensive and multidisciplinary spatial planning. This shall support sustainable future development of the federal state and benefit its inhabitants. The updated Programme reflects current challenges, development trends and framework conditions.

The new SDP was adopted by ordinance of the State Mecklenburg-Vorpommern in 2016 and became a legally binding act, published in the Legal and Regulatory Gazette of the Federal State. Sustainable development as guiding principle of spatial development persists. The Programme aims at building harmonious relations between economy, employment, environmental conservation and development focusing on equivalent living conditions. Considering economic, social and environmental status of the federal state, its priorities include securing high quality jobs and meeting needs for qualified staff while utilizing possibilities created by administrative procedures and interpretation of laws.

Objectives of the plan

The binding Spatial Development Programme Mecklenburg-Vorpommern of the year 2016 aims to implement the principles of sustainable spatial development which may bring social and economic requirements to be met by the territory into harmony with its ecological functions, and which leads to a long-term, large-scale and balanced spatial development.

The applicability of the SDP includes territorial waters (12sm-zone) to ensure a conflict management between the demands of new technologies (offshore wind energy sites), tourism and nature protection, and traditional sectors like shipping, fishing and defense at an early stage.

Sustainable development as guiding principle of spatial development persists. The Programme aims at building harmonious relations between economy, employment, environmental conservation and development focusing on equivalent living conditions. Considering economic, social and environmental status of the federal state, its priorities include securing high quality jobs and meeting needs for qualified staff while utilizing possibilities created by administrative procedures and interpretation of laws.

The binding objectives, principles and other requirements of spatial planning are the framework for further development. This framework may guide those involved in public planning and those representing private interests at an early stage of preparing and implementing measures with spatial impacts.

The Spatial Development Programme M-V has strategic character and outlines the priorities concerning the spatial uses in the coastal waters of Mecklenburg-Vorpommern. The 12th guideline (assurance and use of potentials of the territorial waters) is of special importance regarding maritime spatial planning. Also guidelines 3 (new perspectives especially for young people and families), 4 (extended location for education,
culture and research) and 8 (improved image as country for tourism, health and recreation) contain direct links to the territorial waters.

**Designation**

Spatial designations have been made by determining priority areas and suitable areas (planning targets, legally binding) and reservation areas (planning principles) - see figure 8 - further regulations have been made in the text, setting binding planning priorities, planning principles, rules and objectives to be followed.

**Planning regulations**

Driven mainly by coastal development main areas of intervention in the coastal waters with respective spatial designations are protection of the marine environment, sand and gravel extraction, coastal protection, fisheries and aquaculture facilities, tourism, shipping, areas for offshore wind energy, which do not allow for any further offshore wind energy development outside of these areas, and corridors for linear infrastructure (cables, pipelines).

![Figure 6: MSP designations made by the LEP MV 2016](image)

**Strategic Environmental Assessment**

The SDP has been subject to a strategic environmental assessment as required by European and national legislation.

**Public Participation**

The SDP has been developed in a multi-step process, which included public participation. This wide and transparent involvement should help to gain wide acceptance for the implementation of the programme’s requirements.

For the LEP M-V (2005) as well as for the LEP M-V (2016) two broad participation processes have been conducted including public participation. Additionally, both processes have been accompanied by several regional conferences organised by the responsible ministries.
Transboundary Consultation

Transboundary consultation took part with Denmark, Sweden and - with a special importance - Poland. According to intergovernmental agreements about the SEA, the complete texts of the drafts of the LEP M-V as well as of the environmental report have been translated into Polish and have been forwarded to responsible Polish administration.

Monitoring & Review

According to the LPIG M-V an evaluation of the planning is obtained after 5 years. A monitoring system is under preparation.

Electronic resources

MSP in Mecklenburg-Vorpommern:
http://www.regierung-mv.de/Landesregierung/em/Raumordnung/Landesraumentwicklungsprogramm/aktuelles-Programm/

Map: http://www.regierung-mv.de/Landesregierung/em/Raumordnung/Landesraumentwicklungsprogramm/aktuelles-Programm/

Specific Maritime Spatial Plan 5

The Spatial Planning Programme for the Territorial Sea of the North Sea - Lower Saxony

The spatial planning programme of Lower Saxony (LROP), in its revised version promulgated in May 2008 and with amendments from 2012, includes provisions concerning wind power production and nature conservation, offshore electricity transmission, and shipping. It is the basis for future specific maritime spatial plans.

Legal basis

In addition to the ROG (see above, first chapter) the legal base for spatial planning is the Lower Saxony’s Law on Spatial Planning (Niedersächsisches Gesetz über Raumordnung und Landesplanung, NROG). The NROG covers the entire “Land”, including the territorial sea, the islands and the coastal zone. These areas should be developed through an integrated coastal zone management. Ecological, social, economic and cultural concerns have to be included. Article 4.1 NROG states that additional provisions of content, issue and extent for the regional spatial plans (RROP) can be described in the spatial planning programme of Lower Saxony (Landes-Raumordnungsprogramm, LROP). Section 1.4 LROP refers to an integrated development of coast, islands and the North Sea. In 1.4, sentence 11, it is stated that planning and measures in the coastal sea are not allowed to interfere constantly or severely with the security of shipping. The programme already refers to the following issues, which are also reflected in the requirements of the EU MSP Directive:

- Environment aspects (section 1.4.3 and 1.4.4);
- Socio-economic aspects (section 1.4.3, 1.4.5, 1.4.);
- Safety aspects (1.4.11);
- Co-existence of uses (section 1.4.2, 1.4.9);
- Stakeholders (section 1.4.1);
- Ecosystem-based approach (1.4.4);
- Resilience to climate change (1.4.3, 1.4.12)
The LROP largely fulfills the requirements of the MSP directive. Realistically, the NROG should be adapted after the implementation of the directive into national law or the amendment of the ROG. It has to be waited which regulations will be applied, afterwards it can be decided which additional, Federal State-specific regulations have to be adopted.

Yet, there is no law under revision, aiming at adapting to the requirements of the EU MSP Directive.

**Legal impact**

The programme is a legally binding regulation for authorities, with regard to a proper planning process on land and on sea.

The programme was adopted by the government of Lower Saxony.

**Area covered**

The programme covers both sea and land, i.e. the whole territory of Lower Saxony, including shares of inland waters, the islands of Ostfriesland and territorial sea within the 12 nm-zone in the North Sea.

![Figure 7: Extract from the Spatial Planning Concept of the coastal seas of Lower Saxony; Source: http://www.ml.niedersachsen.de/portal/live.php?navigation_id=1464&article_id=5311&_psmand=7](image)

**Historic development**

Back in 2006, Lower Saxony amended its spatial planning programme to regulate offshore wind energy use in territorial waters and to integrate the wind parks planned in the EEZ into the power grid. The programme takes into consideration the competing interests of nature conservation, tourism, shipping, and fishing. In this process the Recommendation of the European Parliament and of the Council of 30 May 2002, concerning the implementation of Integrated Coastal Zone Management (ICZM) in Europe (2002/413/EC) has already been adopted.

**Objectives of the plan**

Objectives of the LROP that apply to both the territorial sea and coastal zones include sustainable development, consideration of stakeholder perspectives from multiple groups and geographies, and reversible measures.

**Designation**

The LROP includes activities such as coastal protection, sand extraction, nature protection especially in the Wadden Sea, tourism, cultural heritage, shipping, wind energy and submarine cables and special regulations...
Concerning the islands. Such regulations foresee, for example, that a permanent and sustainable settlement has to be assured or that the ferry routes has to be adopted based on demand. Particularly in the space of the Wadden Sea National Park the requirements of the LROP are strongly limiting other uses.

**Planning regulations**

The regulations for the sea and the coastal zone are integrated in different thematic chapters of the LROP (e.g. 1.4, 3.1.4, 3.2.4, 4.1.4, 4.2).

**Strategic Environmental Assessment**

The scope of the LROP includes land and sea, which are both subject to SEAs. According to the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (implemented in national law by the ROG) a Strategic Environmental Impact Assessment will be always conducted in case of an amendment of the LROP.

**Public Participation**

For LROP-amendments, which could also include regulations concerning the sea, a wide participation of public authorities, stakeholders and the general public is designated.

For preparation and realisation of spatial plans and relevant projects and planning public authorities, people of private law including NGOs and people from the economy shall cooperate.

Additionally Lower Saxony established a non-binding statement of planning principles for key stakeholders in 2005 (Spatial Planning Concept for Lower Saxony’s coastal area - ROKK). Formerly they served to implement the EU Recommendation on ICZM.

**Transboundary Consultation**

There exists transnational consultation with the Netherlands. On national level consultation took part with the Federal government and other German Federal States.

**Harmonisation with other plans**

The LROP has been harmonised with the regional spatial plans (RROP) in Lower Saxony as well as the plan for the EEZ.

**Monitoring & Review**

n/a

**Electronic resources**


http://www.ml.niedersachsen.de/portal/live.php?navigation_id=1378&article_id=5062&_psmand=7

Specific Aspects of the MSP process

Sustainable development and growth in the maritime sector

This is included in the guidelines for the EEZ MSPs:

- Strengthening economic capacity through orderly spatial development and optimization of spatial use.
- Long-term sustainable use of the properties and potential of the EEZ through reversible uses, economic use of space, and priority of marine uses

The Federal Government has published in 2011 an overall development concept for the sea ("Entwicklungsplan Meer – Strategie für eine integrierte deutsche Meerespolitik").

Ecosystem-based approach (EBA)

Germany acknowledges the guideline agreed by the HELCOM-VASAB MSP Working Group in October 2015. This guideline is procedurally oriented which will help applying the EBA in MSP in practice. The definition is based on the HELCOM-OSPAR adoption in 2003: “The comprehensive integrated management of human activities is based on the best available scientific knowledge about the ecosystem and its dynamics, in order to identify and take action on influences which are critical to the health of marine ecosystems, thereby achieving sustainable use of ecosystem goods and services and maintenance of ecosystem integrity.”

Germany considers the MSFD is the environmental tool to achieve an EBA in marine area. The German Water Protection Act (revised on 2009 to include marine issues) outlines as objectives the protection and preservation of marine ecosystems, sustainable use of marine areas. The principles of nature conservation are listed in the 1998 National Raumordnungsgesetz. They are only partly applicable to marine areas.

A specific chapter on the Regulations made in the Marine Spatial Plan outlines the efforts with regard to the marine environment. There are two sub-chapters: marine environment and Seascapes open space. The marine environment section outlines two principles: 1) the EEZ should permanently safeguarded and developed as an ecosystem to preserve biological diversity. Negative impacts on the ecosystem should be avoided and minimised in accordance with the precautionary principle and ecosystem-based management; 2) in permanently unused areas, the functions of ecosystems should be restored to their original conditions or should be preserved in a conditions of ecological balance.

In 2013 the Federal Environment Agency (UBA) started a project with the aim to advance environmental approaches for a further development of maritime spatial planning in the German EEZ. One part of the project is to specify the ecosystem approach for an application in the context of MSP (see UBA-MRO: http://www.io-warnemuende.de/project-details/items/398.html).

Co-existence of uses

This is included in the guidelines for the EEZ MSPs:

- Strengthening economic capacity through orderly spatial development and optimization of spatial use.
- Long-term sustainable use of the properties and potential of the EEZ through reversible uses, economic use of space, and priority of marine uses

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Resilience of climate change impacts

This is included in the guidelines for the EEZ MSPs: “Promotion of offshore wind energy use in accordance with the Federal Government’s sustainability strategy,” which considers the Federal Government’s Integrated Energy and Climate Protection Programme (IEKP).

Land-sea interactions

The legal ordinances for maritime spatial planning in the North Sea and in the Baltic Sea do not specifically mention or address land/sea interactions, and land-sea interaction is not one of the 5 principles of MSP in Germany’s EEZs. The EEZ MSP plans were developed with consideration for the territorial sea MSP plans.

Land-sea interactions are considered within the context of the federal state MSP plans, which include terrestrial areas and the 12nm territorial sea. Formal consultations with the Länder (Lower Saxony, Schleswig Holstein and Mecklenburg-Vorpommern) took place; therein the spatial plans of the Länder - comprising of land planning on the coast as well as planning of coastal waters up to 12 nautical miles - were taken into account in the development of the MSP.

Account for multiple aspects

The basic structure of the spatial plans in the EEZs follows the analysis of the ship traffic based on AIS-information provided by the Water- and Shipping Administration. With shipping having special weight according to UNCLOS, the main shipping routes are designated priority areas, which must be kept free from obstacles (e.g. wind farms). This designation is the result of Art. 60 para. 7 UNCLOS which rules that installations may not be established by the coastal State where they are capable of interfering with the use of recognized sea lanes essential to international navigation. The second important regulation is the designation of priority areas for offshore wind energy, which avoids and reduces significant conflicts with other uses and the marine environment. The third important regulation is the protection of the marine environment; one result is therefore that according to the spatial plan no wind turbines are allowed within Natura 2000 areas.

Coherence with other processes

MSFD

At the national level, the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) has the lead government role in implementing the MSFD and is the reporting institution to the EU Commission. Through administrative agreements, a joint committee was established between the federal government and the coastal Länder, i.e. the BLANO (Bund/Länder-Committee North- and Baltic Sea).

The BLANO functions as a steering group for the implementation of the directive, consists of the five Coastal Federal States (Lower Saxony, Hamburg, Schleswig Holstein, Mecklenburg Western Pomerania and Bremen) and the Federal Government represented by BMU as lead, the Ministry for Transport, Building and Urban Development (BMVBS) (now BMI, the lead MSP authority), the Ministry of Education and Research (BMBF) and the Ministry of Food, Agriculture and Consumer Protection (BMELV). The BLANO is supported by the BSH (Federal Maritime and Hydrographic Agency), the lead planning agency for MSP.

ICZM

The Federal Cabinet adopted the National Strategy for Integrated Coastal Zone Management in German (ICZM) in Germany on 22 March 2006 upon recommendation of the Federal Minister for Environment.5 The strategy mentions the relevant policies steering coastal and marine planning but it does not refer to maritime spatial planning as such. In 2011 the Federal Ministry for the Environment (BMU) submitted the national report on the implementation of integrated coastal zone management (ICZM) in Germany.6

At the Länder level, ICZM projects are being continuously carried out under the auspices of spatial planning. In Lower Saxony the establishment of an ICZM information platform was part of the Land strategy. Its objective is to support the players in the coastal region with planning and is intended as an informal means of information

5 http://www.ikzm-strategie.de/dokumente/endbericht_kabinettversion_30032006.pdf
exchange between all the players with activities in the coastal region. It provides information about major projects, plans and processes relevant to ICZM in Lower Saxony’s coastal zone.

**Natura 2000**

Natura 2000 sites are considered in the MSP Plans. As a result, new offshore wind parks are not allowed in Natura 2000 areas in the EEZ. In the Federal States’ legislation of Mecklenburg-Vorpommern the LEP M-V states that Natura 2000 sites are not seen basically as excluding areas for wind power. Instead, wind power parks are restricted zones. This means that the concrete protection regime is relevant for the individual case and for its compatibility with the installation of wind turbines.

**Strategic Environmental Assessment**

When setting up a maritime spatial plan an SEA must be carried out. The likely significant effects on the environment have to be described and evaluated in an environmental report; the results of the SEA and the comments of the participation process have to be taken into account when balancing the different interests (see Spatial Planning Act (ROG) and Environmental Impact Assessment Act (UVPG).

**Stakeholder Involvement**

The public as well as public authorities, which are touched in their interests, must be informed and have the opportunity to comment on the draft before setting the maritime spatial plan into force.

A public comment round on the preliminary scoping report prior to the development of the draft MSP Plans for the EEZ was carried out in 2005. A public hearing and commenting round on the draft Maritime Spatial Plans for the North Sea and for the Baltic Sea took place in 2008 and 2009. The first draft plan and environmental report was submitted for a full consultation in 2008. In 2009 the final draft plan was submitted for consultation before being finalised. The following stakeholder groups submitted positions: 1 Offshore wind energy association, 1 Oil and gas industry association, 2 Fishing associations, 3 Mineral resource associations, 3 Leisure boat associations, 4 Scientific research institutions, 5 Federal bodies, 8 Nature/environment NGOs, 18 Coastal municipalities and 20 Regional and state bodies.

Stakeholders largely focussed on the placement of wind parks and use. Based on discussions with all the stakeholders, exclusive zones were designated where only wind parks could be located with no additional use and zones (nature protection) where wind parks would be forbidden from construction. Prioritisation zones where wind parks could be constructed but where additional users can be found were also identified with stakeholder input.

The stakeholder consultations were considered effective in terms of achieving the main goal of locating wind parks while taking into account other users.

For the plans of the Federal States intense stakeholder involvement was conducted as well (see chapters about public participation of the three Federal Coastal States).

**Trans-boundary cooperation**

Germany is party to the Trilateral Cooperation on the Protection of the Wadden Sea. It is also a member of the Joint HELCOM-VASAB Maritime Spatial Planning Working Group. Germany also has direct cooperation with individual Member States of the Baltic Sea and North Sea. An example is the Polish-German Spatial Planning Committee, which is a collaboration between the German Federal Ministry of Interior, Building and Community and the Polish Ministry of Investment and Economic Development.

**Cooperation with third countries**

Germany is a contracting party to HELCOM, VASAB and OSPAR RSCs. Germany sees VASAB MSP WG as main actor to instigate a structured pan-Baltic Maritime Spatial Planning Dialogue involving policy-makers, institutions, MSP practitioners and stakeholders of all relevant sectors as well as with the help of ad-hoc expert groups.
Germany was and is involved in several projects dealing with cross-border aspects of MSP like BaltSeaPlan, PartiSEApate, Baltic SCOPE, Baltic LINes and NorthSEE. In 2014 UBA together with BfN also initiated an advisory assistance project on Maritime Spatial Planning: “Environmentally sound concepts for spatial use in the Baltic Sea coastal area of the Russian Federation”, with representatives from several relevant authorities and organisations in Germany and Russia involved. The project will be finished early 2017, see http://www.umweltbundesamt.de/sites/default/files/medien/378/publikationen/doku_56_2015_umweltvertragliche_raumnutzungskonzepte_0.pdf

**MSP Review**

An evaluation report for the EEZ MSP Plans was produced in 2012 (see Monitoring descriptions in Plan 1 & 2 above).

The national Spatial Planning Act has been revised and implemented in 2016 mainly with regard to the MSP Directive’s requirements for transboundary consultation and coordination in MSP, for taking into account the land-sea interactions and for applying the ecosystem approach.
Sources

References

- Country fiches on ICZM/MSP/MSFD, DG ENV project - available on request from s.Pro
- Lower Saxony State Development Plan, 2008
- Online-Plattform zur Beteiligung einschließlich Abwägungsdatenbank: http://www.raumordnung-mv.de/pages/Online-Beteiligung_Raumordnung.html
- German-Polish Regional Development Portal: http://kooperation-ohne-grenzen.de/de/zukunftskonzept/
- Marine Data Infrastructure (MDI)-DE: https://www mdi-de.org mdi-portal/ui

Relevant legislative acts

- Spatial Planning Act (ROG)
- Spatial Planning Acts of the "Länder" (NROG)
- Environmental Impact Assessment Act (UVPG)