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Background

According to the [Regional Baltic Maritime Spatial Planning Roadmap 2013-2020](#), guidelines on the transboundary consultations and cooperation, public participation and ecosystem approach are to be drafted and adopted by 2015 and applied by 2018.

[HELCOM-VASAB MSP WG 10-2015](#) (29-30 January 2015) agreed to work on the guidelines on transboundary consultations and cooperation, and public participation as one document and welcomed the renewed offer by Poland to lead the work on the guidelines. The Meeting agreed on the following general principles for the guidelines:

- the PartiSEApate report on MSP governance will be the basis for the guidelines,
- the guidelines are to be developed for the planners/planning authorities and policy makers responsible for MSP,
- the guidelines should be as short and concise as possible and include practical and concrete guidance on how to carry out the processes concerned,
- a checklist will be added to the end of the guidelines,
- planning practice/culture in the Baltic Sea should be reflected in the guidelines.

According to an agreed procedure, a first draft of the guidelines on transboundary consultations and cooperation and public participation, drafted by a Task Force under the lead of the Lead Country Poland, was circulated among the official contacts of the HELCOM-VASAB MSP WG on 25 May 2015 for comments by 1 July 2015.

The attached document contains a second draft of the guidelines based on the comments received. The HELCOM and VASAB members are invited to conduct national consultations and provide possible comments and feedback to Jacek Zaucha (jzaucha@im.gda.pl) **at the latest by 16 September 2015 with the view of endorsement at HELCOM-VASAB MSP WG 11-2015**. A further elaborated version of the guidelines might be submitted to the meeting after the deadline depending on the received feedback. Poland will not be in the position to continue the leadership for the guidelines beyond HELCOM-VASAB MSP WG 11-2015.

Action required

The HELCOM and VASAB members are invited to conduct national consultations and provide possible comments and feedback to Jacek Zaucha (jzaucha@im.gda.pl) at the latest by 16 September 2015.

The Meeting is invited to consider the guidelines and the level of agreement needed and endorse the guidelines, if possible.

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Guidelines on transboundary consultations public participation and co-operation

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1 Introduction

7 The Regional Baltic Maritime Spatial Planning Roadmap 2013-2020 adopted by the HELCOM
8 Ministerial Meeting in 2013 and welcomed by the VASAB Ministerial Conference in 2014 calls for the
9 development of guidelines regarding: a) Transboundary consultations and cooperation in the field of
10 MSP and b) Public participation for MSP with transboundary dimensions.

11 In view of the inter-relationship between these two different aspects, it has been decided by the
12 Joint HELCOM-VASAB Maritime Spatial Planning Working Group (HELCOM-VASAB MSP WG), that
13 both topics will be covered by one guideline document.

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15 The guidelines presented in this document have been prepared in order to assist maritime spatial
16 planners and the authorities they work for.

17 Transboundary cooperation and consultations for maritime spatial planning (MSP) takes place in
18 different formats depending on the topics to be consulted or cooperated on.

19 In general terms consultation and co-operation could be defined as follows:

20 Consultation of more practical topics arising in the course of elaboration of maritime spatial plans,
21 e.g. transboundary impacts of the plan, or transboundary coherence of the planning provisions.
22 This usually takes place in bilateral or trilateral interactions (cross-border interactions). In this
23 case consultation refers to the formal process, which takes place between affected Baltic Sea
24 Region (BSR) countries and their authorities on specific provisions foreseen in a given Maritime
25 Spatial Plan.

26 Cooperation on maritime spatial planning and similar documents is understood as a more open
27 and preparatory process with focus on information and knowledge exchange as well as
28 development of common understandings.

29 Co-operation and consultation at pan-Baltic level concern strategic and far sighted decisions on e.g.
30 joint directions or joint guidelines and principles for development of marine areas, sensitive political
31 questions e.g. breadth of exclusive economic zone and its limits, ways of settling disputes.

32 Both types of cooperation and consultation at transboundary scale relate mainly to the structured
33 and organised interaction between various government bodies.

34 Stakeholder involvement and public participation (including municipalities, groups of professional
35 like e.g. fishermen and other formal and informal groups) is, however, often part of both processes
36 with public participation being broader in scope as it involves methods which engage the general
37 public as opposed to working only via a selected range of targeted stakeholders.
38

39 The guidelines cover the following aspects:

- 40 i) **Consultations** between MSP authorities of neighbouring countries and/or those countries
41 directly affected by MSP and the related **public participation** process that should take place
42 concerning transboundary aspects during the process of drafting a maritime spatial plan.
- 43 ii) **Cooperation** between MSP authorities at pan-Baltic scale on issues affecting most or all of
44 the Baltic Sea and/or the level involving most or all BSR countries as well as the process
45 foreseen to ensure effective **stakeholder engagement** at a more strategic level.

46 Consultation processes should be in line with the common approaches decided in pan-Baltic co-
47 operation. Both processes should ensure that maritime spatial plans are coherent across the Baltic
48 Sea-basin scale to avoid costly misalignments and negative environmental impacts as well as
49 promoting efficiency gains and synergies. The purpose of public participation or at least
50 stakeholder engagement is to ensure that stakeholder voices are heard, not only from within
51 the country developing the plan but also across the borders and on pan-Baltic scale.

52 **2 Glossary**

53 **2.1 Definitions used in this set of guidelines:**

54 **Competent authorities (authorities responsible for MSP):** the authorities preparing and/or
55 approving maritime spatial plans.

56

57 **National MSP contact points:** The chosen authority in charge of MSP in each BSR country, which shall
58 represent the country's interest and thus act as the "focal points" for transboundary as well as pan-
59 Baltic MSP cooperation. Ideally this should be one institution (one contact person) only, which in turn
60 will consult with the other authorities in its own country as to provide one national position.

61 **Consultation:** In this document the formal process which takes place between competent national
62 authorities usually from 2-3 BSR countries to discuss practical topics arising in the course of
63 elaboration of maritime spatial plans, e.g. transboundary coherence of the planning provisions.

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65 **Cooperation:** In this document more open, informal and often preparatory process of information
66 and knowledge exchange which involves a larger number of competent authorities and stakeholders.

67 **Public participation** is the process by which an organization consults with interested or affected
68 individuals, organizations, and government entities before making a decision. Public participation is
69 two-way communication and collaborative problem solving with the goal of achieving better and
70 more acceptable decisions. Public participation prevents or minimizes disputes by creating a process
71 for resolving issues before they become polarized. Thus, public participation is very broad by
72 engaging general public in addition to the more institutionalised stakeholders. Widespread public
73 participation will ensure a wider acceptance for the planning solution.

74 **The Aarhus Convention** (the Convention on Access to Information, Public Participation in Decision-
75 making and Access to Justice in Environmental Matters). The Aarhus Convention grants the public
76 rights regarding access to information, public participation and access to justice, in governmental
77 decision-making processes on matters concerning the local, national and transboundary
78 environment.

79 **The Espoo (EIA) Convention** – the United Nations convention that sets out the obligations of Parties
80 to assess the environmental impact of certain activities at an early stage of planning and lays down
81 the general obligation of States to notify and consult each other on all major projects under
82 consideration that are likely to have a significant adverse environmental impact across boundaries.

83 **Pan-Baltic (scale/level):** affecting most or all of the Baltic Sea countries, and/or the level involving
84 most or all BSR countries. The pan-Baltic level mainly deals with strategic issues, such as achieving
85 coherence or providing general guidelines.

86

87 **Cross-border issues:** Issues which are relevant to two or more countries only, but not necessarily
88 only immediate neighbours as impacts may extend further.

89 **Transboundary issues:** both pan-Baltic and cross-border issues

90 **Stakeholder involvement:** Processes which deals with concerns and issues raised at stakeholder
91 and/or expert level. Unlike **public participation** these processes do not necessarily involve the
92 general public.

93 **Spatial Subsidiarity:** The principle as developed in the BaltSeaPlan project – BaltSeaPlan Vision 2030
94 Towards the sustainable planning of Baltic Sea Space, which stipulates that spatial challenges should
95 be dealt with at the lowest most appropriate spatial level.

96 **Consultation steps** in these guidelines are understood in the following way:

- 97 a) **informing** in a targeted way about relevant aspects of the MSP process (e.g. commencement
98 of MSP, entering new phase of MSP, availability of materials for consultations etc.),
- 99 b) **screening** the resources of stakeholders available at public domain (e.g. website, reports,
100 available data and information etc.) in order to use them in the MSP,
- 101 c) **asking stakeholders for inputs** to the MSP process in order to identify existing practice and
102 interests of various stakeholders, e.g. identification of development plans towards a certain
103 sea space, identification of areas of the most intensive use of the sea space, identification of
104 an exclusive possession of the stakeholder, etc.,
- 105 d) **asking stakeholders for opinions and reflections** on a draft proposal of the maritime spatial
106 plan (goals, methodology and proposed solutions/preferences)
- 107 e) **preparing jointly with stakeholders new** body of knowledge, new know how, tentative
108 solutions of the problems etc.

109 The steps a) – d) are sub-steps within the consultation process. Consultation forms can vary:
110 sometimes opinions should be extracted and sought actively, and sometimes it is sufficient to screen
111 available materials and information.

112

113 3 Recommendations for transboundary consultation and 114 cooperation for a specific MSP process:

115 3.1 Broadening the scope of transboundary dialogue: Building on the Espoo Convention 116 while strengthening the scope of consultations

117 The Espoo (EIA) Convention and the subsequent protocol on Strategic Environmental Assessment
118 (SEA) to the Espoo convention provides a framework for facilitating formal transboundary
119 consultation between affected states with focus on environmental impacts only. But full-scale
120 consultation should deal with a broader range of MSP issues, in particular socio-economic issues. As
121 a result of voluntary compliance of the responsible authorities in the BSR consultations will be
122 extended to: encompass not only potential conflicts but also synergies, in particular socio-economic
123 opportunities. Whereas co-operation will cover general approaches to planning, such as the overall
124 aims and objectives of maritime spatial plans.

125 Therefore MSP needs a broader scope of consultations and co-operation and their earlier start than
126 it is required by the Espoo (EIA) Convention. At least the wider scope (covering socio-economic
127 concerns) consultations will start at least together with the Espoo consultations. This will be
128 achieved through voluntary compliance of the responsible authorities in the BSR, as a result of
129 adoption of these recommendations. This is in line with the spirit of of DIRECTIVE 2014/89/EU OF
130 THE EUROPEAN PARLIAMENT AND OF THE COUNCIL – Article 1.

131 3.2 Establishing a formal process of transboundary information exchange and 132 consultation early in the MSP process

133 Timing of formal transboundary consultations remains a critical issue. In order to give
134 neighbouring countries a chance to understand the essence of the envisaged plan, and a real
135 chance to contribute not only to the planning provisions/solutions but also to the planning process,
136 it is necessary to start consultations before the maritime spatial plan is fully drafted. The following
137 steps are proposed:

- 138 a) All Baltic Sea States will start consulting neighbouring countries at the early stage of
139 preparation of a maritime spatial plan as a part of the routine MSP process. If the impact of
140 the plan is of pan-Baltic nature all BSR countries will be informed and the relevant pan-Baltic
141 organizations. This applies to all national, but also to sub-national maritime spatial plans
142 if these are expected to have cross-border impacts.
- 143 b) The competent authorities will inform their neighbouring counterparts of their intention to
144 begin a MSP process. This will be done in a form of formal letter/e-mail in English (or national
145 language of the addressees). The information will be sent to the countries affected, and to
146 the relevant pan-Baltic organisations if such a plan can have pan-Baltic impact.
- 147 c) The competent authorities clearly state the intention and the nature of the maritime spatial
148 plan, so other countries can understand the possible influence of the plan and the
149 consequences.
- 150 d) The competent authorities then ask for relevant documents and any other information if
151 available (or public sources of such information) from the neighbouring countries which
152 could have an impact on the development of the envisaged plan such as environmental data
153 and information on human uses of the sea, in particular with cross-border elements
154 (e.g. issues suggested under Article 8 of DIRECTIVE 2014/89/EU OF THE EUROPEAN
155 PARLIAMENT AND OF THE COUNCIL).
- 156 e) The competent authorities also inform the neighbouring countries once the stakeholder
157 process begins in order to give the neighbouring country the option of installing a
158 parallel domestic stakeholder process (or public participation) on issues of cross-border

159 significance. It is suggested that the information have the form of a letter/e-mail in English
160 (or national language of the addressees) describing the location of the plan, its main
161 objectives and possible cross-border impacts.
162

163 3.3 Organising stakeholder involvement in the transboundary consultation process

164 The decision on how to organise the transboundary stakeholder process is a responsibility of the
165 BSR neighbouring countries approached by the competent authorities from another country.
166 Stakeholder involvement is best organised at this level, as each country has a different culture and
167 legislation (regulations) on **public participation** and different settings on how stakeholders are
168 organised. It therefore needs to find its own way of involving stakeholders and engaging them in MSP
169 process. The following steps are proposed:

- 170 a) **The authorities of the BSR neighbouring countries [National MSP contact points]** when
171 requested by the competent authorities from a country which started elaboration of the
172 maritime spatial plan might initiate and run a stakeholder involvement process within the
173 territory of their state immediately after obtaining the request and in line with information
174 received (on the intention and the nature of the plan). The process might vary and will be
175 shaped in line with the nature of the problems to be discussed, ranging from asking selected
176 stakeholders for opinion up to full-scale public participation.
- 177 b) **[National MSP contact points]** They ensure the necessary comprehensive participation of
178 stakeholders in line with information received from the neighbouring country. They sort out
179 which type of input can be obtained via screening the available national resources and which
180 information can be extracted via asking stakeholders for inputs or opinions and to what
181 extent involvement of general public is necessary. They prioritise the results of the
182 stakeholder process, if necessary.
- 183 c) **[National MSP contact points]** They then communicate the results of the stakeholder process
184 to the neighbouring country i.e. the country drafting the maritime spatial plan.
- 185 d) The competent authorities inform in due time the relevant **authorities of the BSR**
186 **neighbouring countries [National MSP contact points in other countries]** who run the
187 consultation process how and to what extent their remarks have been taken into
188 consideration in the process of drafting the plan and, in case the remarks have not been taken
189 into account, provide a justification.

190
191 The competent authority, if appropriate, might also consider engaging well organised stakeholder
192 groups existing at pan-Baltic level and also consulting existing transboundary expert groups (e.g.
193 established by the HELCOM-VASAB MSP WG) on particular topics (see recommendations below).
194

195 3.4 Developing a transboundary consultation strategy

196 Apart from the step-by-step approach, appropriate consultation and communication formats have to
197 be found within a transboundary consultation process. Whereas each strategy will depend on the
198 specificities of an individual maritime spatial plan, as a minimum the following features of the
199 consultations format will be taken care of in the early planning phases:

- 200 a) Direct communication at the level of the competent authorities is essential for building up
201 a capital of trust, so networking between the competent authorities and MSP
202 practitioners will be encouraged (see below).
- 203 b) Written information alone is often not sufficient; face to face meetings with the
204 neighbouring countries are encouraged, to present and discuss the planned MSP process.
- 205 c) Direct communication on the planned undertaking to stakeholders is also important both in
206 the country itself and in the neighbouring countries. The competent authorities will

207 therefore be prepared to travel to the neighbouring countries in the early stages of
208 elaboration of a maritime spatial plan and explain their plans and intentions, if asked by
209 the National MSP contact points of the countries influenced by the plan.

210 d) Language is a critical issue in this process:

211 a. The MSP technical language needs to be explained. To avoid misunderstanding the
212 different stages of MSP, the respective aims, outputs and tools need to be clearly
213 explained.

214 b. The competent authorities will be ready to make available relevant information in
215 English, and preferably also in the languages of the neighbouring countries.

216 3.5 Strengthening informal transboundary cooperation processes

217 In parallel with a described above processes of informing neighbouring countries, informal
218 processes of co-operation i.e. exchanging information and experience will be strengthened.

219 a) Informal routes of communication will be established between the relevant authorities
220 before a maritime spatial plan is drafted, as this can facilitate the informal supply of
221 information outside the confines of (potentially restrictive) formal channels.

222 b) Informal discussions can be initiated as a useful vehicle for brokering common solutions.

223 c) Informally agreed solutions then need to be endorsed through the formal channels e.g. to
224 the extent to which remarks and suggestions raised in the consultation process will be taken
225 into consideration.

226 d) The authorities responsible for MSP will be in regular contact with each other, in order to
227 build trust and also to know who to communicate with during formal processes.

228 4 Recommendations for transboundary pan-Baltic 229 cooperation on MSP:

230 4.1 Continuing policy guiding at pan-Baltic level

231 It is recommended that VASAB (CSPD/BSR) and HELCOM HoD will continue their role as a facilitator
232 of pan-Baltic MSP development by providing a forum for:

- 233 • Exchange on MSP strategies and policies of their Member States
- 234 • Exchange on political decisions on transboundary consultation in principle.

235 Practical cooperation in this field will be steered by the HELCOM and VASAB Working Group on
236 Maritime Spatial Planning (HELCOM-VASAB MSP WG). The HELCOM-VASAB MSP WG concentrates
237 mainly on practical issues and preparation of decision-making of pan-Baltic scope and relevance.

238 4.2 Creating and facilitating Expert Groups for pertinent MSP topics and issues and 239 implementing their results

240 It is recommended that the key point of pan-Baltic co-operation is in presentation of actual MSP
241 plans (or outcomes from the practitioners forum/projects) in order to present way of solving
242 different issues The issues requiring the Policy support will be brought to Policy level (VASAB CSPD
243 and HELCOM HoD).

244

245 If the need to support the work of the HELCOM-VASAB MSP WG arises, it is recommended that the
246 expert groups are established by the decision of HELCOM and VASAB with concrete mandate to deal
247 with pertinent specific topics and issues related to MSP development within the BSR. The expert
248 groups are expected to work within a given timeframe towards clearly defined outputs to be
249 presented for decision-making to the HELCOM-VASAB MSP WG. They will work on issues that need
250 expert support to become solved (using existing HELCOM-VASAB framework).

251 The expert groups will meet following requirements:

- 252 a) They will represent a broad range of relevant perspectives for a given topic.
- 253 b) The BSR countries shall be consulted in nominating relevant experts. National MSP contact
254 points in each country (if existing) will be involved in such consultations.
- 255 c) Nominees will not be seen as political representatives, but are expected to act in their
256 personal capacity as experts in their field.
- 257 d) Expert group topics will be selected based on the following criteria:
 - 258 • The urgency of the issue for all BSR countries,
 - 259 • Manageability of the task and achievement of a clear output,
 - 260 • Inability to be solved under existing frameworks,
 - 261 • Willingness of sectors and stakeholders to become involved.
- 262 e) A close liaison will be provided of the groups' work with other important pan-Baltic
263 processes such as actions of the EU Strategy for the Baltic Sea Region, in particular Horizontal
264 Action Spatial Planning), and with the work of the EU Member States Expert Groups on ICM
265 and MSP.

267 4.3 Engaging and cooperating with other pan-Baltic organisations on a continuous basis

268 Cooperation with sectors is a prerequisite of proper and successful MSP. Sectors will in future
269 become increasingly involved in transboundary as well as pan-Baltic MSP processes through active
270 co-operation at national and pan-Baltic level. Furthermore they may also be represented within
271 expert groups.

272 Therefore it is recommended that HELCOM-VASAB MSP WG:

- 273 a) will prepare development and ensure update of the list of relevant sectors that might be
274 involved in pan-Baltic co-operation on MSP, and identify their formal roles, responsibilities
275 and mandates in concrete MSP relevant fields/policies,
- 276 b) will run the process of recognition of each other competences (sectors and MSP WG) and a
277 concrete cases/issues to be jointly discussed (identification of common goals/interests),
- 278 c) monitors on a regular basis major changes in the work of those sectors relevant for Baltic
279 MSP,
- 280 d) will prepare and ensure update of the communication strategy of engagement of different
281 types of sectors into MSP at pan-Baltic level,
- 282 e) assigns the responsibility to the VASAB and/or HELCOM Secretariat of co-operating on
283 concrete issues with sectors at pan-Baltic level (establishing Baltic MSP permanent
284 communication channels for sectors of pan-Baltic scope and magnitude) and monitor the
285 results.

286 **4.4 Promoting informal pan-Baltic co-operation of MSP practitioners**

287 In parallel to the HELCOM-VASAB MSP WG as well as the EU Member States MSP Expert Group, it is
288 suggested to promote an informal discussion platform on MSP issues for those responsible for
289 developing and implementing maritime spatial plans in their countries (practitioners' level).

290 The VASAB Secretariat will engage with this platform, as well as given projects and other MSP
291 initiatives on MSP at various levels: regional, national, transboundary and even outside the BSR if
292 appropriate.

293 To promote pan-Baltic co-operation on MSP VASAB Secretariat will facilitate an ongoing, structured
294 process of conducting regular events to foster information and knowledge exchange and create trust
295 among Baltic Sea MSP practitioners across different initiatives, thereby enhancing future
296 transboundary MSP processes.