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Necessary common minimum requirements for
Maritime Spatial Planning (MSP) in the Baltic Sea

Contribution to the PLAN BOTHNIA work package "Region-wide recommendations on
minimum requirements for MSP systems" (component 5.2.4.)

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Contents

1.   Introduction and purpose of this report

Plan Bothnia is an applied MSP project funded by the EU Commission DG MARE over a period of two years. It brings together seven partners comprising Swedish and Finnish authorities, HELCOM and VASAB, for the purpose of testing ecosystem-based, transboundary spatial planning in the Bothnian Sea. A key output of the project will be a pilot maritime spatial plan developed together by the partners, but Plan Bothnia also aims to instigate wider regional Baltic Sea co-operation, which will be an important prerequisite for the implementation of MSP. The PLAN BOTHNIA project thus has a work package "Region-wide recommendations on minimum requirements for MSP systems", to which this report contributes.

In order to deliver wise planning of Baltic Sea space, it is essential that different MSP systems in Baltic Sea states can work together. Building on the existing pan-Baltic agreement on common principles for MSP (HELCOM-VASAB MSP Principles), agreement is needed on MSP content (e.g. transnational MSP topics), tools (shared information and data) and modes of co-operation together with the necessary structures of decision-making. Establishing such a compatible, integrated system calls for common denominators for MSP systems in all Baltic Sea countries so that MSP can be delivered at various spatial levels and everyone is pulling in the same direction.

This report sets out common minimum requirements for transboundary co-operation as an essential prerequisite for MSP, irrespective of whether MSP encompasses a single BSR country or many. The common minimum requirements are based on the relevant international and EU regulations and the findings of several transnational projects in the Baltic Sea, as well as the joint HELCOM-VASAB Baltic Sea Broad Scale Maritime Spatial Planning Principles which are used as a yardstick.

Specifically, the report deals with the following topic areas for transboundary co-operation:

- Common minimum requirements for the necessary preparation tools (e.g. data harmonization and maps for stocktaking and the identification of key transnational topics),

- Common minimum requirements for the content and scope of MSP (focusing on the designation of areas that need transnational co-operation)

- Common minimum requirements for the institutional framework (e.g. legal provisions to facilitate MSP at the national level, the interplay of planning and management systems, the institutional set-up required for MSP both nationally and internationally),

- Common minimum requirements for the necessary supporting measures (e.g. training).

For transnational co-operation in MSP to be successful, these minimum requirements should be understood as agreements between all partners.

Importantly, this report is not a handbook containing all the desirable elements of an MSP process. Rather, it concentrates on those elements of MSP that require transnational binding agreement to ensure effective transnational co-operation on MSP in the Baltic Sea Region.

2   Motivation for MSP in the transboundary setting – why a transboundary approach is necessary

A transboundary approach to MSP is important as some activities such as shipping are transnational and the marine environment knows no administrative borders. But there are

> **What do we mean by common minimum requirements in this report ?**
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> This report is concerned with the minimum transnational co-operation that is necessary to successfully instigate and implement MSP in the Baltic Sea. Given the transboundary implications of planned sea uses and the vulnerability of the Baltic Sea ecosystem as a whole, transnational co-operation is needed with respect to the tools, measures and processes required for MSP. Using the established MSP cycle as a starting point, this report asks what transnational action is essential at which stage of the cycle in order to facilitate the production and implementation of a maritime spatial plan that is in line with the joint HELCOM-VASAB Baltic Sea Maritime Spatial Planning Principles. It sets out those transnational elements that MSP cannot do without, indicating also other elements that are desirable but not absolutely essential. The advantage of this "minimalist" approach is to show the basic structure and workings of MSP in pan Baltic co-operation, highlighting the fact that much can be done by simply adding some jointly agreed elements to the different national MSP processes without the need to install one unified system for MSP in the whole Baltic Sea.

numerous challenges to transboundary MSP in the Baltic Sea. One lies in the very nature of the sea and the transboundary character of physical conditions, biological processes, habitats and species life cycles. The fluidity and changeability of the marine environment requires adaptability across borders, meaning that planners need to be able to respond to change in a manner that is coherent across spatial levels. This has consequences for the nature of the planning process and of course for monitoring.

The second challenge is the 'classic' spatial planning challenge of bringing together competing uses within limited, ecologically valuable and vulnerable sea space. In case of the Baltic Sea, competing uses include shipping, fisheries, mariculture, nature conservation, offshore wind farming and other offshore industry, cables and pipelines, sediment extraction, military defense and training and recreational activities, and also discharges from sewage systems. Nearly all of these are relevant at the transnational scale and must be regarded in this context. How can a fair mix of uses be achieved without endangering the integrity and health of the Baltic marine environment?

This leads to the third challenge, which is to overcome the inadequacies of the current situation with respect to MSP. Presently, there is no adequate pan-Baltic solution to MSP and a splintering of approaches in the different countries. Rather than strive for an overarching "fits all" MSP approach, transboundary MSP aims to get MSP systems to work together irrespective of their

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status or tradition, although transboundary MSP only makes sense if its actions and principles can actually be transferred and implemented in each country.

Transboundary MSP also has the practical challenge of data availability and compatibility. Most importantly perhaps, there is the question of how to organize a joint planning process that will lead to decisions on directions of regional spatial development and to the production of a transboundary maritime spatial plan or at least a national or subregional maritime spatial plan that has undergone transnational concertation. The minimum requirements set out here should therefore be seen as facilitating an emerging process of co-operation between the BSR countries, a process that goes beyond just consultation and leads to a coherent pan-Baltic approach to MSP.

The fourth challenge, one that extends beyond the scope of spatial planning alone, is to take account of the international framework of agreements that exists for the Baltic Sea. Among others, this includes the UN Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its amendment with the Protocol on Strategic Environmental Assessment (Kyiv, 2003), which obliges Baltic Sea States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries. The EU SEA Directive makes a similar stipulation in that Member States drafting a plan or programme with potentially significant effects on the environment must consult the other Member State(s). These conventions set a precedent for the exchange of information which can be built upon during the transnational MSP process.

Here, the additional question is how MSP can contribute to implement existing environmental targets agreed under HELCOM or EU Directives such as the Marine Strategy Framework Directive and Natura 2000. How it can help to take account of pan-Baltic topics such as transport or energy targets?

For MSP to become a living practice throughout the Baltic, solutions need to be found for all these challenges. This report sets out some minimum requirements for doing so.

3. Minimum requirements I: A common understanding of key principles

An important minimum requirement is to agree on the role and scope of MSP within the transboundary setting. What does MSP set out to do, and how does it contribute to achieving the wider aims and objectives for the Baltic Sea region?

Although the purpose and basic idea of MSP is widely shared, different cultural, legal and environmental contexts have led to many definitions and interpretations of MSP. Whilst successful transnational MSP does not depend on a universal, once-and-for-all definition of MSP, it is important to agree on common principles upon which the transnational MSP process will be based. Although this may repeat what is already understood, the following describes basic characteristics of MSP the transnational process should be based on.

3.1. Characteristics of MSP in the transnational context

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a) MSP is about four dimensions of sea space

MSP thinks about the sea in place-based dimensions, dealing with spatially relevant aspects related to the sea floor, the water column, the sea surface or the space above the surface. MSP covers both fixed structures such as offshore wind farms or temporary uses such as spawning areas to take account of the variety and (spatial and temporal) variability of sea-based resources and human uses of the sea.

MSP is no panacea for everything that goes on in the sea as certain factors cannot be addressed by MSP (e.g. eutrophication from land-based sources). MSP needs to be complemented by other tools of Baltic Sea governance, such as pollution/water quality management, or policies for dealing with climate change. MSP can be imagined as one of a number of tools available in ensuring that human use of the Baltic is sustainable.

b) MSP is about balancing interests, promoting compatibility among uses and contributing to environmental goals

The primary goal of MSP is to set out a framework for sustainable marine development by promoting efficient use of space and by balancing economic, ecological and social aspects (HELCOM HOLAS Report (BESP No. 122), p. 48). Both HELCOM and the EU emphasize that MSP also specifically contributes to reaching environmental goals, such as protecting the marine ecosystems in which human activities take place and safeguarding marine biodiversity.

Multiple existing uses (e.g., commercial fishing, recreational fishing and boating, subsistence uses, marine transportation, sand and gravel mining, and oil and gas operations) and emerging uses (e.g. offshore renewable energy and aquaculture) are managed in a manner that reduces conflict and enhances compatibility among uses. MSP also provides for public access, and increases certainty and predictability for economic investments.

c) MSP promotes spatial efficiency

Recognizing that sea space is finite, MSP uses sea space sparingly and actively encourages co-use. Rather than breaking fresh ground, planners do their best to promote the use of "used" sea space. This means making good use of synergies and considering options for multiple use of sea space wherever this is possible.

MSP also achieves more efficient sea use by establishing better connections between offshore and onshore activities.

d) MSP is a constant process of negotiation

Nationally and transnationally, MSP is a process which analyzes and allocates parts of three-dimensional marine spaces to specific uses (Douvere 2008). The continuous cycle of analysis, planning, implementation, monitoring and evaluation requires appropriate mechanisms and practices, and may need to include a special range of stakeholders in the offshore environment.

e) Different spatial scales of MSP must form a coherent whole

MSP takes place at various spatial levels, and the scale for addressing particular aspects always depends on the issues in question. The transnational perspective addresses those topics that

cannot be tackled by individual countries alone. Nevertheless, the different spatial scales of MSP must form a coherent whole, guided throughout by a pan-Baltic perspective on maritime space.

Irrespective of the scale considered, implementation of MSP remains in the hands of national or sometimes sub-national authorities which draw up legally binding maritime spatial plans. Pan-Baltic agreements on space, or even a pan-Baltic maritime spatial plan would still need to be translated into national (or sub-national) maritime spatial plans in order to be implemented and become binding by law.

f) MSP is embedded in a framework of national and international goals for the BSR region

Numerous goals and targets have been formulated for the Baltic Sea environment and the wider Baltic Sea region; these are set out in various agreements or strategic documents (e.g. the HELCOM Baltic Sea Action Plan). There are also a number of (binding) EU Directives that apply to the Baltic Sea (such as the 2010 Marine Strategy Framework Directive, or the 2000 Habitats Directive, or the EU Strategy for the Baltic Sea Region). MSP has to take account of the existing international and national policy framework and priorities for the sea and its use.

3.2 The HELCOM-VASAB MSP principles

Various sets of MSP principles have been proposed by various organisations and institutions, including the EU, the US Government, or the recent EU-funded project BaltSeaPlan. As set out in the TORs for this report, the Joint HELCOM-VASAB Baltic Sea broad-scale Maritime Spatial Planning Principles are used as the basis for constructing minimum requirements in this study.

HELCOM and VASAB have both adopted the following ten principles for MSP, which are designed to provide guidance for achieving better coherence in the development of Maritime Spatial Planning systems in the Baltic Sea Region:

1. **Sustainable management.** Maritime Spatial Planning is a key tool for sustainable management by balancing between economic, environmental, social and other interests in spatial allocations, by managing specific uses and coherently integrating sectoral planning, and by applying the ecosystem approach. When balancing interests and allocating uses in space and time, long-term and sustainable management should have priority.

2. **Ecosystem approach.** The ecosystem approach, calling for a cross-sectoral and sustainable management of human activities, is an overarching principle for Maritime Spatial Planning which aims at achieving a Baltic Sea ecosystem in good status -a healthy, productive and resilient condition so that it can provide the services humans want and need. The entire regional Baltic Sea ecosystem as well as sub-regional systems and all human activities taking place within it should be considered in this context. Maritime Spatial Planning must seek to protect and enhance the marine environment and thus should contribute to achieving Good Environmental Status according to the EU Marine Strategy Framework Directive and HELCOM Baltic Sea Action Plan.

3. **Long-term perspective and objectives.** Maritime Spatial Planning should have a long term perspective in relation to the goals it seeks to attain and to its environmental, social,

economic and territorial effects. It should aim for long-term sustainable uses that are not compromised by short term benefits and be based on long term visions strategies and action plans. Clear and effective objectives of Maritime Spatial Planning should be formulated based on these principles and national commitments. The establishment of a legal basis for Maritime Spatial Planning in the Baltic Sea countries should be investigated including vertically and horizontally well coordinated decision making processes concerning sea space uses to ensure efficient implementation of maritime spatial plans and to provide for an integrated sea space allocation process when such plans do not yet exist. "

4. **Precautionary principle.** Maritime Spatial Planning should be based on the Precautionary Principle. This implies planning has an obligation to anticipate potential adverse effects to the environment before they occur, taking into account Article 3 of the Helsinki Convention, and take all precautionary measures so that an activity will not result in significant harm. A similar, but distinct, forward looking perspective should be applied with respect to the economic and social dimensions.

5. **Participation and transparency.** All relevant authorities and stakeholders in the Baltic Sea Region, including coastal municipalities as well as national and regional bodies, should be involved in maritime spatial planning initiatives at the earliest possible stage and public participation should be secured. Planning processes should be open and transparent and in accordance with international legislation.

6. **High quality data and information base.** Maritime Spatial Planning should be based on best available and up to date comprehensive information of high quality that to the largest extent possible should be shared by all. This calls for close co-operation of relevant GIS and geo-statistical databases, including the HELCOM GIS, monitoring and research in order to facilitate a trans-boundary data exchange process that could lead to a harmonised pan-Baltic data and information base for planning. This base should cover historical baselines, present status as well as future projections of both environmental aspects and human activities. It should be as comprehensive, openly accessible and constantly updated as possible and compatibility with European and Global initiatives should be ensured."

7. **Transnational coordination and consultation**. Maritime spatial planning should be developed in a joint pan-Baltic dialogue with coordination and consultation between the Baltic Sea states, bearing in mind the need to apply international legislation and agreements and, for the HELCOM and VASAB EU member states, the EU acquis communitaire. Such dialogue should be conducted in a cross-sectoral context between all coastal countries, interested and competent organizations and stakeholders. Whenever possible maritime spatial plans should be developed and amended with the Baltic Sea Region perspective in mind.

8. **Coherent terrestrial and marine spatial planning**. Spatial planning for land and for the sea should be tightly interlinked, consistent and supportive to each other. To the extent possible legal systems governing spatial planning on land and sea should be harmonised

to achieve governance systems equally open to handle land and sea spatial challenges, problems and opportunities and to create synergies. Synergies with Integrated Coastal Zone Management should be strengthened in all BSR countries and in a cross-border setting.

9. **Planning adapted to characteristics and special conditions at different areas**. Maritime spatial planning should acknowledge the characteristics and special conditions of the different sub-basins of the Baltic Sea and their catchments. Consideration should be taken of the need for separate sub-regional planning adapted to such areas including sub-regional objectives supplementing regional objectives specified in principle 3. In general maritime spatial plans should seek coherence across ecosystems.

10. **Continuous planning.** Maritime spatial planning should reflect the fact that planning is a continuous process that will need to adapt to changing conditions and new knowledge. Monitoring and evaluation of the implementation of maritime plans and its environmental, as well as socio-economic, effects should be carried out with a view to identify unforeseen impacts and to improve planning data and methods. This monitoring and evaluation should, particularly in its trans-boundary dimensions and in addition to national and transboundary monitoring schemes, build on, and if possible be part of, regional monitoring and assessments carried out by regional organisations.

Although they have been phrased differently, and also come in a different order, we find these principles similar to what is put forward by the EU[1]. The ecosystem approach, taking a long-term perspective, defining objectives to guide MSP, participation and transparency in the MSP process, transnational coordination and consultation, coherence with terrestrial spatial planning, incorporating monitoring and evaluation in the MSP process, and adapting MSP to the type of sea and range of activities are all featured across both sets of principles; similar principles were also set out by the US Government[2]. The VASAB-HELCOM principles therefore represent a good consensual footing for MSP to be placed upon.

4.   Minimum requirements II: The planning process and plan content

To define common minimum requirements for MSP at the transnational level the entire MSP planning cycle needs to be analyzed. The key question is where the national MSP process needs to be supplemented by a transnational element in order to implement the HELCOM-VASAB MSP principles and arrive at holistic spatial management for the Baltic Sea.

Numerous previous projects have elaborated MSP planning cycles or drawn up handbooks for MSP, including the BaltCoast project (2005), the PlanCoast project (2008), the Balance project (2009), or the UNESCO MSP handbook (2009). The Balance project has elaborated an all-embracing MSP process cycle which can serve as a useful basis to show the various steps involved (Fig. 1).

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[1] 17 December 2010, COM (2010) 771
[2] www.whitehouse.gov/administration/eop/oceans/cmsp, accessed 8 July 2011

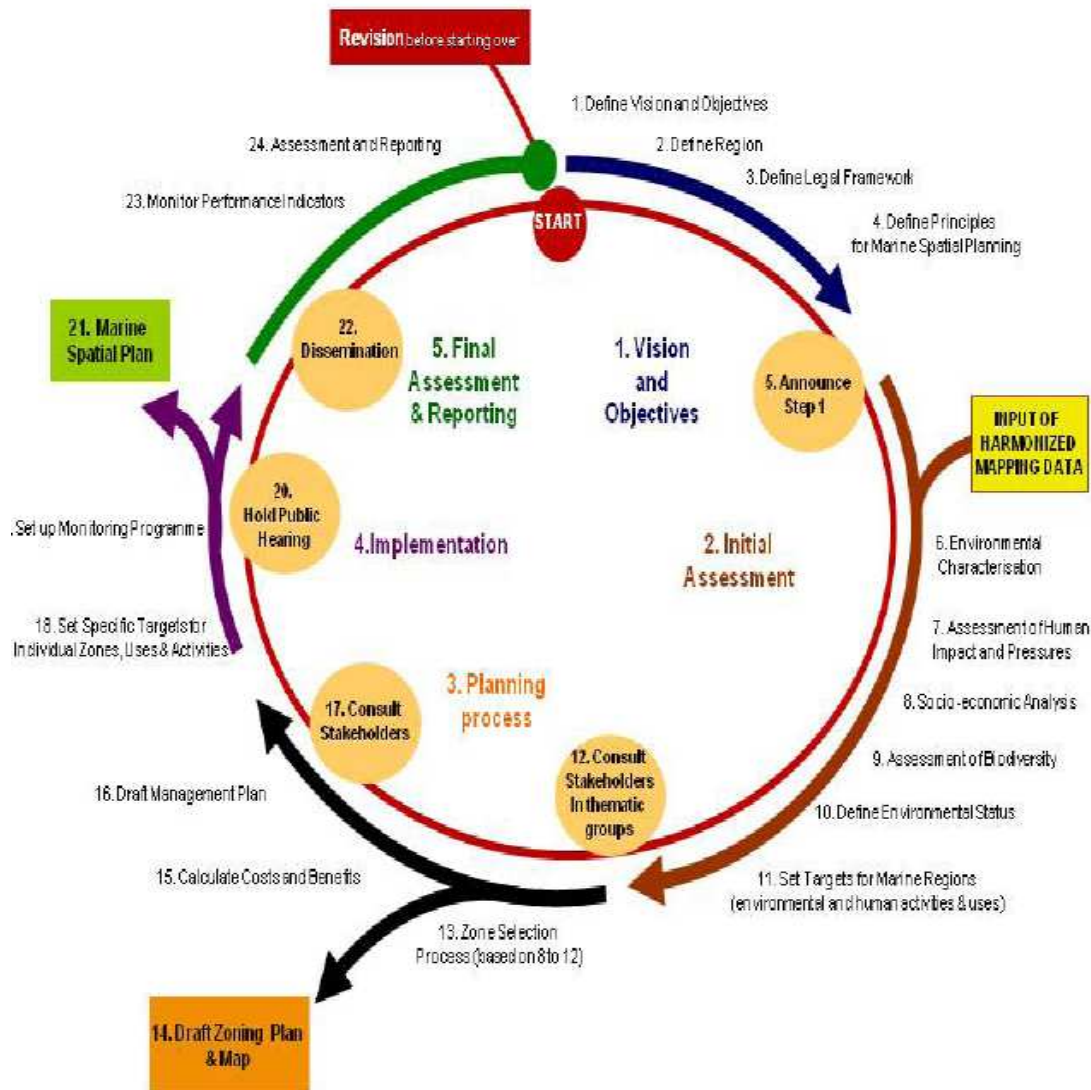*Fig. 1: The MSP planning cycle according to Balance (Balance Technical Report 4, no date)*

Although it would be worth analyzing each of the steps shown in some detail, a simpler planning cycle is sufficient for the purpose of drawing up minimum requirements. The BaltSeaPlan vision 2011 (www.baltseaplan.eu) has defined a simpler planning cycle that is limited to the core elements of the MSP process (Fig. 2):

1: Preparation phase
- Assessing needs based on environmental requirements and user interests;
- stocktake according to needs

2. Elaboration and consultation phase
- Working out of draft spatial plan (MSP) and environmental report (SEA)
- Consultation of all relevant stakeholders
- amending draft MSP
- second consultation
- compilation and approval of the final MSP

3. Post-approval phase
- Application of MSP regulations
- Implementation of management measures
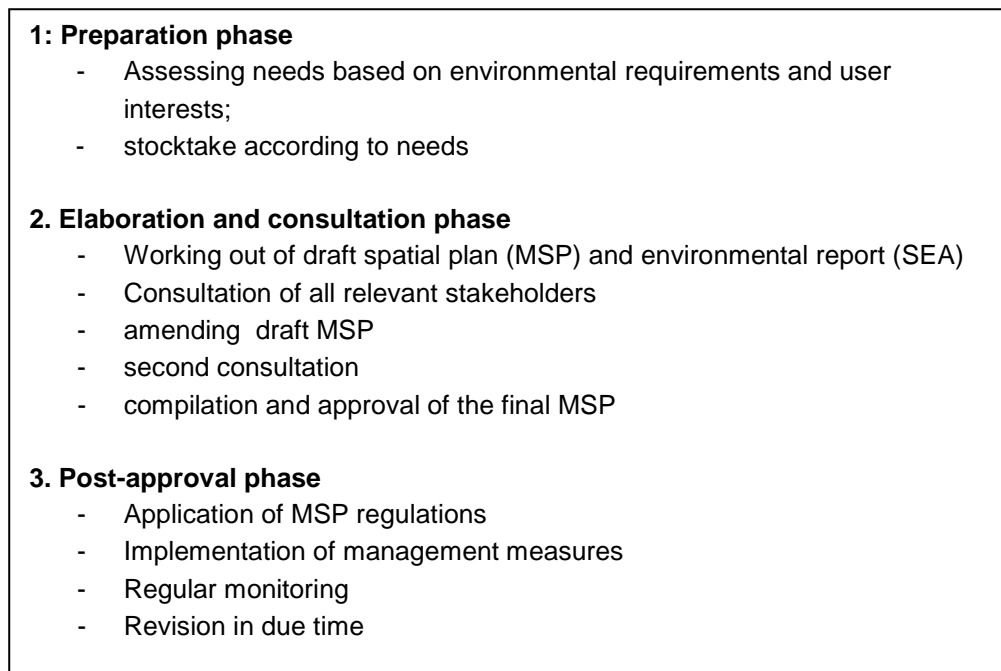- Regular monitoring
- Revision in due time

Fig. 2: The MSP process according to BaltSeaPlan (BaltSeaPlan Vision 2030: Towards the sustainable planning of Baltic Sea space (2011), download from www.baltseaplan.eu)

These two descriptions of the MSP process guide the development of common minimum requirements for the transnational MSP process in this report. The joint HELCOM-VASAB principles are taken into account each step of the way.

4.1 Entering the MSP process: The necessary preparation tools

4.1.1 Supporting an inclusive approach throughout

An important prerequisite for MSP is that each planning stage should be as inclusive of all relevant sectors and interests as possible. A common minimum requirement is to make use of existing networks and precedents for cross-border co-operation (e.g. the EU requirements for transboundary consultation, see 4.1.4) to support such an inclusive approach.

4.1.2 Vision and objectives

The need for the elaboration of a maritime spatial plan is in most cases determined in response to actual pressures or conflicts. From a practical point of view maritime spatial plans should only be drawn up for those areas where spatial conflicts are imminent or can be expected to arise due to current trends. The issues at stake also determine the scope of MSP, including the need for transnational coordination and concertation.

Whatever scope and scale is chosen for the maritime spatial plan, it should be guided by a pan-Baltic perspective. Such a perspective considers common spatial aims and objectives for Baltic

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Sea space as a whole, acknowledging in particular the issues that need to be tackled at a pan-Baltic level.

An area-specific vision is clearly the desirable option at this stage. The advantage of a fully developed vision is that it concerns long-term spatial needs and solutions, giving Baltic Sea countries the opportunity to actively set the agenda rather than just responding to external developments. A vision would implement HELCOM-VASAB MSP principle no. 3, which states that MSP should have a long term perspective in relation to the goals it seeks to attain and the environmental, social, economic and territorial effects it has. It also states that MSP should be based on long term visions, strategies and action plans. If, on the other hand, a set of common principles has been identified upon which a maritime spatial plan for a certain part of the Baltic Sea is based (see chapter 3), it is not a minimum requirement to develop these into a specific vision for this part of the Baltic Sea.

With or without a common vision, clearly defined objectives are a must for any maritime spatial plan and successful MSP process. These objectives need to define the planning area, the issues to be resolved, responsibilities, the regulations needed and the management tools available including finances. In doing so, they need to take into account the transnationally agreed principles for MSP and reflect existing national commitments.

4.1.3   General information needs for the preparatory stocktake

The preparatory phase of transnational MSP calls for detailed general information on the following topics:

- the physical and environmental characteristics of the sea area in question and wider sea environment,
- the human uses of that area (drivers and pressures, activities in the sea and on land),
- the socio-economic situation on land (demography, economy etc)
- the relevant policy and legal background affecting the sea and sea space.

The objective should be to draw a comprehensive picture of the sea area in question. This should first set out the major characteristics of sea space, the key sensitivities and values of the marine environment, which is a prerequisite for implementing HELCOM-VASAB MSP principles no. 2 (the ecosystem approach) and 9, which states that MSP should acknowledge the characteristics and special conditions of the different sub-basins of the Baltic Sea and their catchments. Ecological analysis should be accompanied by analysis of the current and expected pressures affecting sea space (possibly using scenarios as an aid). It should also take a look at what creates these pressures or is likely to do so in the future (e.g. trends and developments in key sectors, political priorities, economic and demographic developments). Last not least, it is important to set out the existing qualitative or quantitative targets for the most important topic areas, such as energy targets. The EU and HELCOM have defined a series of environmental targets such as water quality targets which need to be taken into account.

It is evident that the better the knowledge of the marine environment and planning area in question, the better the planning process can be carried out and the better the balance that can be

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struck between the different interests. This means that every MSP process effectively begins with a dilemma. On the one hand, the marine environment is often little known, research is complex and expensive, and the available data has not always been translated into spatially relevant information. On the other hand, the political decision to draft a maritime spatial plan is usually driven by the need or desire to resolve a set of spatial conflicts within a given timeframe, which limits the possibility of engaging in extensive research. Availability of spatial information is thus a major difference between MSP and spatial planning on land: On land, spatial information is usually better and more readily accessible. Despite this, it is crucial to strike the right balance here between decision-making in due time and improving the information base available. The MSP process can be used to fill information gaps and to then develop the plan accordingly.

In terms of the MSP process, the responsibility for collating this information should be clearly assigned. The resulting preparatory stocktake should be agreed by all partners involved. A good example of a stocktaking report at the transnational level is the Plan Bothnia assessment.

4.1.4   Topics with transnational relevance in maritime spatial plans

For the preparatory exchange of information between countries, topics then need to be identified that are of transnational or cross-border significance, which include:

- nature conservation,
- fisheries,
- shipping including fairways
- cables and pipelines,
- offshore wind farming,
- sand and gravel extraction,
- oil and gas extraction,
- military use
- protection of underwater cultural heritage
- recreational activities

The necessary information on these topics (e.g. current status, intensity and speed of expected developments, likely spatial needs, environmental impact etc.) is likely to be patchy. A minimum requirement is to pull together whatever is available, noting any gaps for future research. A conflict matrix for these topics should then be drawn up for the specific planning area and scale in question. This should then be translated into stocktake maps that show where the main areas of conflict lie and where competing spatial claims meet (including conflicts with important environmental parameters).

Mapping data harmonized between all Baltic Sea countries on the topics listed here would be a key common requirement for compatible maritime spatial plans of high quality, which would effectively mean full implementation of the EU INSPIRE Directive. At present, this ideal solution seems unrealistic but it does deserve further attention. It is therefore suggested as common minimum requirement that each Baltic Sea country draws up an inventory of all their available mapping data. This would be exchanged among all Baltic Sea countries and updated on a regular basis. To facilitate cross border co-operation a common legend (common symbols and

colors) of the most important topics with transnational or cross border significance should be elaborated.

4.1.5 Transnational co-operation in the preparatory phase

In summary, in the preparation phase (assessing the needs for MSP based on environmental requirements and user interests, as well as stocktaking according to needs) the following transnational and cross-border co-operation needs can be identified:

- information on planning intentions with possible cross border effects
- information exchange on cross border user interests
- information exchange on cross border environmental requirements
- exchange of available relevant data on the ecosystem, uses and projects.

Concerning the information exchange, EU regulations (SEA Directive) exist that have to be applied properly and in good time. Therefore no additional procedural minimum requirements are necessary except the ones mentioned above.

4.2 The planning and consultation phase

VASAB 2010 (Tallin 1994, see www.vasab.org), the first land-oriented common spatial planning concept for the BSR, divided mapped content into the following three categories: pearls, strings and patches. A spatial plan for the sea applies these same categories. However, they each carry different weight. The BaltSeaPlan vision puts "linear elements … at the heart of transnational MSP thinking in that they truly connect the Baltic Sea states across national borders. Infrastructure such as cables and pipelines represent obvious linear elements, as do shipping lanes which are not hard infrastructure. Blue corridors for living species also count as linear elements: These are instrumental in ensuring connectivity between habitats, making sure that nursery areas, feeding areas or spawning grounds are linked to one another."

4.2.1 Minimum requirements for the designation of sea areas (zoning)

As explained in 3.1.b the maritime spatial plan regulates human uses in the sea in order to achieve sustainable marine development and to contribute to environmental goals, such as protecting marine ecosystems. Most of its regulations do not apply to the entire sea but have to be area-specific. All areas that need the same type of regulation can be grouped as one type of designated areas (also called zones).

> **Zones or areas?**
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> There is some debate over the term of "zoning". This report uses the term analogous to "designated area", understanding **zoning** as a spatial planning tool that allows certain activities to be restricted or encouraged in specified designated areas. Zoning is thus a means of exerting area-based control and of separating conflicting uses. We prefer the term zone since area is not specific and could refer to any area of sea. Different types of zones (or designated sea areas) are suggested as minimum requirements and described below. For a definition of zoning see the 2008 Balance report on MSP p. 8.

In order to draft a maritime spatial plan a set of common types of zones is therefore required with clear definitions of their legal implications (see below). This is a must because once it is approved, the statutory maritime spatial plan is binding, at least for the public authorities that grant permits for sea uses. The BALANCE project recommends the following 4 zones:

a) The General Use Zone

The General Use Zone is by far the largest of the four zones, and it covers all marine areas not covered by the other three zones. It is the least restrictive of all the zones, where most human activities are allowed.

b) The Targeted Management Zone

The Targeted Management Zone is applied for areas where the use is restricted further, where an authorisation (permit, licence) has been granted for one or several activities or where the area includes nature conservation targets that require that the use of the area to be regulated, either permanently or temporarily.

c) The Exclusive Use Zone

The Exclusive Use Zone shows the extent (cover) of the marine area reserved exclusively for a single use, which prevents the sea area to be used by most other types of sea use. Examples of exclusive sea use in this zone are, *e.g.* wind energy parks, harbours, aquaculture (fish farms, mussel farms), marine aggregate extraction sites or areas set aside for nature protection e.g. vulnerable Habitat Directive Annex 1 habitats or nationally important areas for bird protection (often identified by several protection measures such as the Birds Directive, IBA, Ramsar, HELCOM or national programmes).

d) The Restricted Access Zone

The restricted access zone is, as the name implies, the zone subject to the most rigorous regulations. The purpose is similar to the Exclusive Use Zone but the main difference is the very strict restricted access (BALANCE Interim Report No. 40, p.48 – 50).

The BaltSeaPlan vision report also suggests 4 types of zones (there called areas):

a) Priority areas, where no use is allowed that would significantly constrain the use that is given priority in this area. Strict priority areas could be shipping lanes, nature protection

areas, offshore wind farm sites, fish spawning and nursery areas, raw material resources, marine archaeological sites, or areas important for tourism.

b) reservation areas, where a certain use is given special weight in the process of balancing the competing interests in the area. The difference to priority areas is that it is not certain that the use receiving specific attention has absolute priority.

c) No go areas, where certain uses (e.g. wind farms, shipping, fishing) or all uses are prohibited.

d) Open use areas, where no uses have priority.

Both concepts are similar with respect to the following three zones:

- General use zone – open use area,
- Exclusive use zone – priority area,
- Restricted access zone – no go area.

As a minimum requirement, the proposal is to limit zoning to these 3 basic zones using the following terms and definitions:

- **General use zone**, where no use is given priority or restricted by the rules of the spatial plan. This is a "white" area where no specific additional zoning is necessary. Naturally, any uses are still subject to the international and national legal restrictions for sea uses. White areas such as the general use zone are an important reserve of space that can be made available to future sea uses.

- **Priority use zone**, where no use is allowed that would significantly constrain the use that is given priority in this zone. Priority use zones could be shipping lanes, nature conservation areas, offshore wind farm sites, fish spawning and nursery areas, material resources, marine archaeological sites, or areas important for tourism.

- **Restricted access zone** where certain uses are prohibited. A restricted access zone is the opposite of a priority use zone, in that it does not give a privilege to a certain use but prohibits it. That can apply to wind farms, shipping, fishing etc.

Two types of zones are not similar in the BALANCE report and the BaltSeaPlan vision, namely "reservation area" and "targeted management zone". With respect to its legal implications, the reservation area of the BaltSeaPlan vision is an intermediate zone between the General use zone and the Priority use zone. Whilst it is a useful option for zoning, it is not needed as a minimum requirement.

The BALANCE Targeted Management Zone – as implied by its name - contains specific management regulations for a specific area. This is a necessary supplement to the three basic zones in that it represents an optional addition or overlaying zone. A targeted management zone can thus span just one or several of the other three zones, or parts of these zones. Its main purpose is to define detailed regulations, which can be applied to any of the three basic zones or parts of it and can be permanent or temporary. The most prominent case for these concrete

management regulations are the Natura 2000 area management plans, see 4.3.2. Therefore we need as an additional minimum requirement a

- **Targeted Management Zone** where the underlying basic zone needs to be complemented by detailed management regulations.

Any element that does not need a designation with regulatory content can be added to the plan, but this is for information only. The clear distinction between designated elements and elements for information is crucial to avoid confusion in applying and implementing the plan after its approval.

4.2.2 Minimum requirements for MSP zoning maps

The need for a common legend (common symbols and colours) for the most important topics with transnational or cross-border significance and its role in facilitating cross-border co-operation during the preparatory stocktake of mapped information was explained in 4.1.3. For MSP zoning maps the need for a common legend is even more obvious because the regulations stipulated in these maps may directly affect neighbouring countries.

The content of a MSP zoning map can be divided into two groups: designations and information only. Designations are those areas where the maritime spatial plan imposes restrictions or gives privileges to certain sea uses. All other items shown in the map, in particular physical objects, are shown for information only.

A common legend defining the minimum content of any MSP zoning map is a necessary minimum requirement to enable the transnational or cross-border co-operation in the MSP process.

Elements contained in the common legend could comprise the following:

Shipping

Priority Use Zone Shipping:

- Clearway,
- Traffic separation system
- Anchorage area
- Roadstead

Reservation zone shipping (optional)

Nature Conservation:

Priority Use Zone Nature Conservation

- Designated Natura2000 Areas
- Natura2000 to be designated
- BSPA not included in Natura 2000

Reservation Zone Nature Protection (optional)

- Other areas of possible great ecological value

Wind energy:

- Priority Use Zone wind energy
- Reservation Zone wind energy search area (optional)

For information:

- Approved
- Under construction / Operational

Submarine linear infrastructure:

- Priority Use Zone corridor/gate for pipelines, cables

For information:

- Pipelines
- Cables

Military Area (for information only)

Extraction

- Priority Use Zone sand, gravel or aggregate extraction
- Reservation Zone sand, gravel or aggregate extraction (optional)

Platforms (for information only)

A common standardized graphic design has to be attributed to these elements of the MSP zoning map.

4.2.3   The issue of common scales

A sometimes controversial question is whether the scales of MSP zoning maps should be standardized. There is an obvious need to standardize scales in the case of pan-Baltic sea maps; such maps, however, will primarily be analytical and/or informative maps rather than actual zoning maps. For transnational information-bearing maps, a joint scale should be agreed as a necessary minimum requirement.

The need for a common scale is also obvious for cross-border maritime spatial plans. The scale chosen, however, may differ depending on the size of the plan area (e.g. the Pomeranian Bight pilot case of the BaltSeaPlan project, where four countries (SE, DK, PL, DE) co-operate, needs a different scale for their cross-border maritime spatial plan than the Curonian Lagoon area, where a bilateral co-operation of Russia and Lithuania would be adequate). It therefore makes no sense to fix one scale for all cross-border maritime spatial plans. The suitable scale should be agreed by the parties involved on a case by case basis.

4.2.4 Transnational information and co-operation needs during plan elaboration

National spatial plans and programmes might affect the spatial development of the seas of neighbouring countries. Their development therefore needs cross-border co-ordination even though they exclusively cover national areas (HELCOM-VASAB MSP principle no.7, which states that whenever possible, maritime spatial plans should be developed and amended with the Baltic Sea Region perspective in mind).

For the elaboration and consultation phase the following transnational and cross border co-operation needs can be identified:

- Co-ordination/reconciliation of planned designations of areas/regulations with possible transnational or cross border effects.

- Elaboration of a joint (transnational) plan where necessary (e.g. for cross border linear infrastructure, although this may be better decided on a case by case basis)

For the **consultation process** EU regulations exist concerning public participation linked to the strategic environmental assessment (SEA). These are binding to all Baltic Sea countries except Russia and would need to be negotiated with Russia to cover the whole Baltic Sea.

The socio-economic analysis in the consultation process is not regulated by the EU. A useful additional minimum requirement might be to make it compulsory to include the socio-economic analysis in the consultation process, even though this may be obvious (minimum requirement).

4.3 Minimum requirements in the post-approval phase

The main activities in this last part of the planning cycle are the following:

- Application of MSP regulations
- Implementation of management measures
- Regular monitoring
- Revision in due time.

The question is what kind of requirements will be needed to ensure effective transnational co-operation in these four fields of activity.

4.3.1 Application of MSP regulations

A main purpose of the maritime spatial plan is to grant or deny permits to private or public sea uses based on the regulations set out in the plan (e.g. for a cable, a wind farm, dredging). If the proposed sea use has potential transnational or cross-border implications, consultation with the countries concerned is a minimum requirement.

In addition for most large scale planned investments a project related EIA is compulsory according to EU law. This analysis should be extended to all relevant social and economic aspects of the project in the form of a Territorial Impact Assessment (TIA), as proposed by the BaltSeaPlan vision report.

4.3.2   Implementation of management measures

Maritime spatial plans need to be complemented by a variety of management measures. For Natura 2000 areas, EU regulations stipulate a management plan which sets out concrete management measures related to the specific protection objectives of the area.

Management plans accompanying the different zones specified in the maritime spatial plan need to be implemented, meaning enforcement of the (temporary) rules that apply. Depending on the type of zone (and on the management objective) these rules may be strict.

A different form of management is called for in case of specific projects that might have been foreseen in a maritime spatial plan (e.g. cables for a Baltic Sea Supergrid). Although the implementation of such a structure is in the hands of the private or public investor, it is subject to supervision according to the regulations of the plan (see 4.3.1). If that structure has transnational or cross-border implications specific agreement is required among the countries concerned, not least with respect to the precautionary principle set out in HELCOM-VASAB MSP principle no. 4.

4.3.3   Monitoring, evaluation and revision

"The processes of monitoring, evaluation, and reporting are fundamental components of effective spatial management as they provide insight into the effectiveness of the plan and facilitate adaptive management. Monitoring is essential to assess the state of ecosystems and the services they provide, the impact of human disturbances, and responses to restoration efforts." (Nordic Forum on MPAs in Marine Spatial Planning, 2009). Monitoring, however, should not be restricted to the natural environment, but also include the socio-economic environment, with particular focus on existing marine uses and the trends that drive developments in sea use. Monitoring and evaluation should also include MSP process itself to establish how effective it is in responding to the issues at hand. Due to the complexity of the marine socio-ecological system in question, monitoring is a difficult issue, and performance indicators need to be carefully selected. Prior agreement is necessary on what is to be evaluated. This particularly applies to any indicators describing the quality of the MSP process itself.

Monitoring and evaluation must be done on a regular basis. In order to benefit MSP, monitoring results need to be translated into spatially relevant information. The indicators used should be appropriate, which means they need to have bearing on space and relate to the objectives set out in the spatial plan. Ideally, they should also be cost-effective (HELCOM-VASAB MSP principle no. 6, a high quality data and information base). The results should be reported in a manner that is understandable and usable to all parties involved.

In defining common minimum requirements, we are confronted with the same problem as in the stocktaking phase (see 4.1.2, 4.1.3). Harmonized performance indicators between all Baltic Sea countries on all topics relevant to the objectives of the MSP would clearly be desirable, but such detailed agreement seems unrealistic. Therefore the same common minimum requirement is suggested as in the stocktaking phase with respect to mapped information: Each Baltic Sea country draws up an inventory of all their available data that are needed to define the appropriate

indicators. This inventory would be updated on a regular basis and exchanged among all Baltic Sea countries.

Furthermore a common timetable should be agreed for updating and revision of the maritime spatial plan (minimum requirement). The BALANCE project suggests 6 years as an appropriate time span for revision. This would implement HELCOM-VASAB MSP principle no. 10, which emphasizes that MSP is a continuous process.

5. Minimum requirements III: Legal provisions and institutions

To identify legal minimum requirements for MSP we first need to take a look at the existing legal framework on the international pan Baltic and national level. In what way does this framework restrict or encourage MSP?

5.1 International law and EU regulations

The sources of the Law of the Sea include customary international law as well as a range of conventions, treaties and agreements, the most important of which is the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Other worldwide rules with relevance to MSP include the regulations of the International Maritime Organisation (IMO), which is responsible for traffic separation schemes, and the International Convention for the Prevention of Pollution from Ships (MARPOL) which defines special areas where mandatory methods for pollution control are required.

A recent EU report concludes that the EU-Member States encounter relatively few constraints under international or EU law with regard to MSP in their internal waters and territorial seas as long as the innocent passage of foreign vessels is respected. MSP may involve the prohibition of fishing as well as the regulation of navigation subject to consultation with IMO. Consultation with neighbouring states will also be necessary in cases where plans or projects may result in significant adverse environmental impacts across borders.

According to the EU, MSP may be undertaken within the EEZ with regard to most marine-related activities including the exploration, exploitation, conservation and management of living and non-living natural resources. Constraints on MSP derive from the freedom of navigation as well as the laying of submarine cables and pipelines (Legal aspects of MSP, summary report, EU 2009).

The recent EU documents related to Maritime Policy explicitly encourage MSP by the Member States. The Natura 2000 Directives, the Water Framework Directive as well as the SEA, EIA and their cross-border consultation requirements established under EU law have implications as to how MSP should be undertaken in the Baltic Sea. However, they do not apply to Russia. HELCOM and VASAB as pan-Baltic bodies endorse MSP and give guidelines as to how it should be conducted (see chapter 3).

Looking at the legal framework available in the Baltic Sea states, the current picture is heterogeneous. Not all countries have established a legal basis for MSP as yet.

The above leads to two conclusions for common legal minimum requirements:

- The existing international legal framework, especially UNCLOS, is a precondition which needs to be taken into account when conducting MSP.

- It is imperative that all Baltic Sea countries possess a national legal basis for MSP.

5.2 Minimum requirements for the legal framework in the Baltic Sea states

National law on MSP should have the following minimum content:

- Designation of the responsible authority:

    o for MSP in the EEZ,
    o for MSP in territorial waters,
    o for ICZM.

- Specification of the issues to be regulated in the plan,

- the legal effect of the plan (whether the law is binding to public authorities only or to private persons too)

- basic requirements for the participation process,

- requirements for transnational and cross-border co-operation beyond the existing international and EU regulations

- Monitoring requirements

- The maximum period for updating and revision of the plan.

5.3 Requirements for transnational institutions

The EU Baltic Sea Strategy 2009 recommends no new institutions. "The Baltic Sea Region has many cooperative structures: we should not create new ones that could impose added administrative overhead without contributing to effective action"[3].

Nevertheless, to achieve a pan-Baltic agreement on minimum requirements for MSP, a formal ministerial coordinating body for pan-Baltic MSP issues is needed (formed by the national Ministers responsible for spatial planning). As a minimum requirement, this body has to agree on the common principles to be applied and to approve the jointly agreed methods and contents for maritime spatial plans. This ministerial coordinating body could be linked to the Council of Baltic Sea States (CBSS). CBSS should ensure that agreed pan-Baltic MSP strategies are incorporated into the overall BSR development concepts as well as in the EU-Northern Dimension policy.

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[3] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS concerning the European Union Strategy for the Baltic Sea Region , Brussels, 10.6.2009

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Common methods and contents need to be prepared by a transnational coordinating body at the technical level, which is another minimum requirement. This transnational coordinating body should bring together representatives from the national planning authorities plus other relevant institutions and stakeholders (including Russia) and the sectoral national agencies concerned. It is important that this body represents all relevant stakeholders as this ensures implementation of HELCOM-VASAB MSP principle no. 6 on participation and transparency for the transnational level, as well as principle no. 8 on coherence between terrestrial and maritime spatial planning.

Both bodies need to be accountable and work in a transparent manner.

Importantly, this does not mean new institutions. HELCOM and VASAB have formed a common working group for MSP that could be further developed and strengthened to fulfill the requirements of the coordinating body at the technical level mentioned above. The ministers of both, HELCOM and VASAB, could form a corresponding decision making body whose task it is to approve the proposals of the coordinating body at the technical level.

6. Learning and training requirements

6.1 A new understanding of the MSP process

The MSP process is an open one, and solutions may break with long-held "do's and don'ts". As such, all those participating in this process may need to break with long-held ideas and concepts of planning and management. Rather than dismiss contradictory perspectives of the world, the MSP process incorporates multiple viewpoints into the same problem-solving process, focusing on quality of information and subjective value judgements as much as on hard scientific fact.

An important requirement is to understand MSP as a constant process of learning that requires learning institutions. Learning at the content level means regular assessment of the national and international policy context in which the common spatial vision is placed, and to take note of the results of socio-economic and ecological monitoring when drawing up new MSP content. Learning at the process level means applying indicators for progress in MSP in line with EU requirements. The MSP process should be subject to regular monitoring just as much as marine space itself, to make sure the process yields the intended results (such as participation and transparency). Process targets should be drawn up and agreed for transboundary MSP processes.

The MSP process relies on informed stakeholders. Mechanisms need to be implemented to ensure the regular involvement of the necessary stakeholders at the transboundary level.

There is a need to train and inform politicians of the need and benefits of transnational MSP, such as the economic benefits it can yield.

Planners themselves also need training in the specifics of maritime spatial planning and how this is different from land-based spatial planning.

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7.   Summary of common minimum requirements

This report sets out minimum requirements for transnational maritime spatial planning through successful co-operation between countries around the Baltic Sea. It is based on the relevant international and EU regulations as well as the joint HELCOM-VASAB Baltic Sea Broad Scale Maritime Spatial Planning Principles, which are used as a yardstick to the recommendations. As the study focuses on transnational co-operation the proposals are limited to those items that should be included in agreements between the Baltic Sea states to facilitate successful co-operation across national borders. "Minimum requirements" are not understood as minimum standards for MSP, but a minimum "package" of elements that need to be brought together.

7.1   Minimum requirements for the legal framework in the Baltic Sea states

All Baltic Sea countries require **national legislation on MSP.** This should have the following minimum content:

- Designation of the responsible authority:

    o   for MSP in the EEZ,
    o   for MSP in territorial waters,
    o   for ICZM.

- Specification of the issues to be regulated in the plan,

- the legal effect of the plan (whether the law is binding to public authorities only or to private persons too)

- basic requirements for the participation process beyond the EU regulations for SEA requirements for transnational and cross-border co-operation beyond the existing international and EU regulations

- Monitoring requirements

- The maximum period for updating and revision of the plan.

7.2   Minimum requirements for transnational institutions

- To achieve a pan-Baltic agreement on minimum requirements for MSP, a formal ministerial coordinating body for pan-Baltic MSP issues is needed. This body has to agree on the common principles to be applied and to approve the jointly agreed methods and contents for maritime spatial plans.

- Common methods and contents including an integrated vision for the Baltic Sea as a whole need to be prepared by a transnational coordinating body at the technical level.

This does not mean new institutions. HELCOM and VASAB have formed a common working group for MSP that could be further developed and strengthened to fulfill the requirements of the coordinating body at the technical level mentioned above. The ministers of both, HELCOM

and VASAB, could form a corresponding decision making body, that has to approve the proposals of the coordinating body at the technical level.

7.3   Minimum requirements for plan preparation

- Clearly defined objectives are a must for any maritime spatial plan and successful transnational MSP process. These objectives need to define the planning area, the issues to be resolved, responsibilities, the regulations needed and the management tools available including finances.

- Transnational and cross-border co-operation requirements in the preparatory phase (assessing the needs for MSP based on environmental requirements and user interests, as well as stocktaking according to needs) are the following:

    o   information on planning intentions with possible cross border effects
    o   information exchange on cross border user interests
    o   information exchange on cross border environmental requirements
    o   exchange of available relevant data on the ecosystem, uses and projects

- an agreement on general information needs for the preparatory stocktake has to include:

    o   the physical and environmental characteristics of the sea area in question and wider sea environment,
    o   the human uses of that area (drivers and pressures, activities in the sea and on land),
    o   the socio-economic situation on land (demography, economy etc)
    o   the relevant policy and legal background affecting the sea and sea space.

- The agreement on the main topics with transnational relevance in maritime spatial plans should include the following items:

    o   nature conservation,
    o   fisheries,
    o   shipping including fairways
    o   cables and pipelines,
    o   offshore wind farming,
    o   sand and gravel extraction,
    o   oil and gas extraction,
    o   military use
    o   archaeology and cultural heritage
    o   recreational activities.

- Mapping data harmonized between all Baltic Sea countries would be a key common requirement for compatible maritime spatial plans of high quality.

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- At present, this ideal solution seems unrealistic. It is therefore suggested as common minimum requirement that each Baltic Sea country draws up an inventory of all their available mapping data.

- To facilitate the cross border co-operation a common legend (common symbols and colors) of the most important topics with transnational or cross border significance has to be elaborated.

7.4 Minimum requirements for the planning and consultation phase

The designation of areas, where the maritime spatial plan imposes restrictions or gives privileges to certain sea uses, is the core of any maritime spatial plan. A full set of possible designated areas (here called zones) is not needed as a common minimum requirement, but an agreement on at least the following 3 basic types of zones should be reached to facilitate the transnational co-operation:

- **General use zone**, where no use is given priority or restricted by the rules of the spatial plan. This is a "white" area where no specific additional zoning is necessary. Naturally, any uses are still subject to the international and national legal restrictions for sea uses.

- **Priority use zone**, where no use is allowed that would significantly constrain the use that is given priority in this zone. Priority use zones could be shipping lanes, nature conservation areas, offshore wind farm sites, fish spawning and nursery areas, material resources, marine archaeological sites, or areas important for tourism.

- **Restricted access zone** where certain uses are prohibited. A restricted access zone is the opposite of a priority use zone, in that it does not give a privilege to a certain use but prohibits it. That can apply to wind farms, shipping, fishing etc.

In addition there is a need for an additional type of zone as a minimum requirement:

- **Targeted Management Zone** where the underlying basic zone needs to be complemented by detailed management regulations.

The main purpose of the Targeted Management Zone is to define detailed regulations, which can be applied to any of the 3 basic zones as an overlaying designation. Its regulations can be permanent or temporary and it can cover a whole basic zone or parts of it only. The most prominent case for these concrete management regulations are the Natura 2000 area management plans, see 4.3.2.

Transnational co-operation during plan elaboration in form of information and concertation is needed for planned designations of areas/regulations with possible transnational or cross border effects. The joint elaboration of a transnational plan or parts of it is needed, where information and concertation is not sufficient (e.g. for cross border linear infrastructure).

7.5   Minimum requirements for the post-approval phase

- A main purpose of the maritime spatial plan is to grant or deny permits to private or public sea uses based on the regulations set out in the plan (e.g. for a cable, a wind farm, dredging). If the proposed sea use has potential transnational or cross-border implications, consultation with the countries concerned is a minimum requirement.

- Monitoring: If a maritime spatial plan contains infrastructure projects with transnational or cross-border implications the management of such a project requires a specific agreement among the countries concerned. Harmonized performance indicators between all Baltic Sea countries on all topics relevant to the objectives of the MSP are desirable, but such detailed agreement seems unrealistic.

- Minimum requirement: Each Baltic Sea country draws up an inventory of all their available data that are needed to define the appropriate indicators. This inventory would be updated on a regular basis and exchanged among all Baltic Sea countries.

- Consultation with the countries concerned is needed for updating and revision of the plan using the same standards as for plan elaboration.

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